THIEF RIVER FALLS CITY COUNCIL
AGENDA
Monday, June 24, 2024

COUNCIL CHAMBERS
CITY HALL – 405 3RD STREET EAST
5:00 PM

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVE AGENDA - ***Council members may add items to the agenda for discussion purposes or staff direction. The Council will not normally take official action on items added to the agenda.***

5. NEW BUSINESS

5.1. Approve contract with Oak View Group for management services of the Ralph Engelstad Arena, Huck Olson Memorial Civic Center, MEC, and the Tourist Park

6. UPCOMING MEETINGS

6.1. 6.1. City Council Meeting - July 2nd at 5:30 p.m.

6.2. Public Utilities Committee - July 8th at 7:00 a.m.

6.3. Public Safety/Liquor Committee - July 8th at 4:30 p.m.

6.4. Administrative Services Committee - July 9th at 4:30 p.m. Room 201 City Hall

6.5. Public Works Committee - July 10th at 4:30 p.m.

6.6. City Council Meeting - July 16th at 5:30 p.m.

7. ADJOURNMENT

City of Thief River Falls complies with the ADA. Individuals with disabilities requiring special aids should contact the City Administrator, 405 Third Street East, Thief River Falls, MN 56701, 218-681-2943, 48 hours prior to the scheduled meeting.

City of Thief River Falls

405 Third Street East • PO Box 528
Thief River Falls MN 56701-0528

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Request for Council Action

DATE: 6/24/2024

SUBJECT: Approve a contract with Oak View Group for management services of the Ralph Engelstad Arena, Huck Olson Memorial Civic Center, MEC, and the Tourist Park

RECOMMENDATION: It is respectfully requested that the Council consider the following recommendation.

MOTION TO: To approve the management agreement between the City of Thief River Falls and Global Spectrum LP d/b/a Oak View Group. The contract would be effective starting July 1st, 2024 until June 30, 2030. Authorize the City Administrator and Mayor to execute the agreement.

BACKGROUND: On December 19th, 2023, the City of Thief River Falls acted on their 4th year opt-out clause and was authorized by council to send a 180-day termination letter to Venuworks. After the RFP process was completed on May 7th, 2024 Council approved staff to commence negotiations with Oak View Group on a contract for management services of these 4 facilities.

KEY ISSUES:

FINANCIAL CONSIDERATIONS:

LEGAL CONSIDERATION: The contract has been reviewed by our City Attorney, Delray Sparby.

DEPARTMENT/RESPONSIBLE PERSON: Angela Philipp, City Administrator

ATTACHMENTS:

1.	OVG360 Thief River Falls Management Agr (OVG 6-20-24 - Clean Copy)

MANAGEMENT AGREEMENT

between

City of Thief River Falls, MN

and

GLOBAL SPECTRUM, L.P.
d/b/a Oak View Group

Dated: June [___], 2024

MANAGEMENT AGREEMENT
Effective Date: June [___], 2024

This Management Agreement is made effective as of the Effective Date by and between City of Thief River Falls, MN, a political subdivision of the State of Minnesota with an address at 405 3rd Street East, PO Box 528, Thief River Falls, MN 56701 Attn: City Administrator ("**Owner**"), and Global Spectrum, L.P., a Delaware limited partnership d/b/a Oak View Group ("**OVG**"). Owner and OVG are sometimes referred to herein as the "**Parties**".

RECITALS

WHEREAS, Owner is currently owns and operates the (i) *Ralph Engelstad Arena*, (140,000 sq. feet for multi-sport activities, shows, events, concerts, etc.) (ii) *Multi-Events Complex (MEC)* (7 softball fields; 1 baseball field; concession stand and restroom facility) (iii) *Huck Olson Memorial Civic Center (HOMCC)* (2,500 seat arena), and (iv) *Tourist Park* (72 sites; 16 full hook-up and 56 electric, with amenities) located at Highway 32 South and Oakland Park Road, (collectively, (i) through (iv) the "**Facility**");

WHEREAS, Owner desires to engage OVG to manage and operate the Facility, as agent on behalf and for the benefit of Owner, and OVG desires to accept such engagement, pursuant to the terms and conditions contained herein; and

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement, the following terms have the meanings referred to in this Section:

Advanced Funds: shall have the meaning given to such term in Section 10.2 of this Agreement.

Affiliate: A person or company that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person or company.

Agreement: This Management Agreement, together with all schedules and exhibits attached hereto, each of which are incorporated herein as an integral part of this Agreement.

Base Management Fee: The fixed fee Owner shall pay to OVG under this Agreement, as more fully described in Section 3.1 of this Agreement.

Buyout Amount: shall have the meaning given to such term in Section 12.4 of this Agreement.

Capital Expenditures: All expenditures for building additions, alterations, repairs or improvements and for purchases of additional or replacement furniture, machinery, or equipment, where

the cost of such expenditure is greater than $5,000 and the depreciable life of the applicable item is, according to generally accepted accounting principles, is in excess of one year.

Commencement Date: shall have the meaning given to such term in Section 4.1 of this Agreement.

Commercial Rights: Naming rights, sub-naming rights, entitlement rights, pouring rights, branding rights, advertising, sponsorships, premium seating (including luxury suites, club seats, loge boxes and party suites, as applicable) and similar commercial rights at or with respect to the Facility.

Commercial Rights Fee: shall have the meaning given to such term in Section 3.3 of this Agreement.

Commercial Rights Revenue: shall mean all revenue (including Operating Revenue and Non-Operating Revenue) derived from the sale of Commercial Rights.

CPI: "Consumer Price Index" for the local Thief River Falls, MN area, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index.

Effective Date: shall have the meaning given to such term in the opening paragraph of this Agreement.

Emergency Repair: The repair of a condition which, if not performed immediately, creates an imminent danger to persons or property and/or an unsafe condition at the Facility threatening persons or property.

Events: Any event held at the Facility for which a Revenue Generating Contract (typically, an event license agreement) is executed.

Event Account: A separate interest-bearing account in the name of Owner and under Owner's Federal ID number in a local qualified public depository, to be designated by Owner, where advance ticket sale revenue and rental deposits for any Events are deposited by OVG.

Event of Force Majeure: An act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, accident to machinery or equipment, pandemic or epidemic, any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, war or hostilities, a labor dispute which results in a strike or work stoppage affecting the Facility or services described in this Agreement, or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

Existing Contracts: Service Contracts, Revenue Generating Contracts, and other agreements relating to the day-to-day operation of the Facility existing as of the Commencement Date, as set forth on Schedule 14.1, attached hereto, which shall be updated by Owner prior to the Commencement Date.

Facility: shall have the meaning given to such term in the Recitals to this Agreement, and shall be deemed to include the entire complex, including but not limited to the arena, suites, locker rooms,

meeting rooms, box office, common areas, lobby areas, executive and other offices, storage and utility facilities, as well as the entrances, ground, sidewalks and parking areas immediately surrounding the Facility and adjacent thereto, as identified on **Schedule 1.1**, attached hereto.

FF&E: Furniture, fixtures, and equipment to be procured for use at the Facility.

Food and Beverage Services: shall have the meaning given to such term in Section 2.1(b) of this Agreement.

Food and Beverage Fee: shall have the meaning given to such term in Section 3.4 of this Agreement.

General Manager: The employee of OVG acting as the full-time on-site general manager of the Facility.

Gross Event Revenue: Sum of all gross Revenue derived from any Events held at the Facility during any Operating Year without deductions of any kind.

Incentive Fee: The contingent fee Owner shall pay to OVG under this Agreement, if earned, as more fully described in Section 3.2 of this Agreement.

Investment: shall have the meaning given to such term in Section 11.3 of this Agreement.

Laws: federal, state, local and municipal laws, statutes, rules, regulations and ordinances.

Management-Level Employees: The General Manager, Assistant General Manager, Business Manager (or employees with different titles performing similar functions), and any department head employed by OVG to perform services at the Facility (including, if applicable, employees performing the function of the Director of Operations, Director of Sales and Marketing, Director of Security, Finance Director, Event Manager and Director of Food and Beverage).

Marketing Plan: A plan for the advertising and promotion of the Facility.

Monthly Accounting Period: shall mean each approximately 4 or 5 week period during each Operating Year, ending on the last Wednesday of each month, except for December which shall end on December 31.

Net Operating Income/Loss: The amount by which Revenue exceeds Operating Expenses (Net Operating Income), or by which Operating Expenses exceeds Operating Revenue (Net Operating Loss), for the relevant time period.

Net Operating Loss Benchmark: $663,000, which the parties agree is the average annual Net Operating Loss prior to the Effective Date and, for the avoidance of doubt, excludes payment of the Base Management Fee.

Net Operating Revenue/Loss: The amount by which Revenue exceeds Operating Expenses (Net Operating Revenue) or the amount by which Operating Expenses exceed Revenue (Net Operating Loss), for the appliable time period.

Operating Account: A separate interest-bearing account in the name of Owner and under Owner's Federal ID number in a local qualified public depository, to be designated by Owner, where Revenue is deposited and from which Operating Expenses are paid.

Operating Budget: A line-item budget for the Facility that includes a projection of Revenues and Operating Expenses, presented on a monthly and annual basis.

Operating Expenses: All expenses incurred by OVG in connection with its operation, management, staffing, promotion and maintenance of the Facility, including but not limited to the following: **(i)** employee payroll, benefits, relocation costs, severance costs, bonus and related costs, **(ii)** cost of operating supplies, including general office supplies, **(iii)** advertising, marketing, group sales, and public relations costs, **(iv)** cleaning expenses, **(v)** data processing costs, **(vi)** dues, subscriptions and membership costs, **(vii)** printing and stationary costs, **(viii)** postage and freight costs, **(ix)** equipment rental costs, **(x)** repairs, maintenance, and equipment servicing, **(xi)** security expenses, **(xii)** telephone and communication charges, **(xiii)** travel and entertainment expenses of OVG employees, **(xiv)** cost of employee uniforms and identification, **(xv)** exterminator, snow and trash removal costs **(xvi)** computer, software, hardware and training costs, **(xvii)** parking expenses, **(xviii)** utility expenses, **(xix)** office expenses, **(xx)** audit and accounting fees, **(xxi)** legal fees and costs outside of those costs set forth in Section 16.4 of the indemnification clause, **(xxii)** all bond and insurance costs (including but not limited to personal property, liability, and worker's compensation insurance, as well as the other insurance coverages required hereunder), including, without limitation, the cost of any coverage deductibles, coinsurance penalties, or self-insured retention under insurance policies, **(xxiii)** commissions and all other fees payable to third parties (*e.g.* commissions relating to food, beverage, and merchandise concessions services and commercial rights sales), **(xxiv)** cost of complying with any Laws, **(xxv)** costs incurred by OVG to settle or defend any claims asserted against OVG arising out of its operations at the Facility on behalf of Owner, including as set forth in Section 16.4; **(xxvi)** costs incurred under Service Contracts, Revenue Generating Contracts (including for Events) and other agreements relating to Facility operations, **(xxviii)** Taxes, **(xxviii)** the Base Management Fee, **(xxx)** cost to OVG for managing and/or performing the Food and Beverage Services, and **(xxxi)** cost incurred in connection with the marketing and sale of Commercial Rights.

The term "Operating Expenses" does <u>not</u> include debt service on the Facility, Capital Expenditures, Start-Up Expenses, property taxes, property insurance on the Facility itself or the contents within the Facility owned by Owner, or the Incentive Fees, all of which costs shall be borne by Owner and, if incurred by OVG, shall be promptly reimbursed to OVG by Owner.

Operating Year: Each 12-month period during the Term, commencing on January 1 and continuing through December 31 of the same year; <u>provided</u> that for purposes of this Agreement there shall be a "**Stub Operating Year**" defined as the Commencement Date through December 31, 2024.

Operations Manual: Document to be developed by OVG which contains detailed terms regarding the management and operation of the Facility, including detailed policies and procedures to be implemented in operating the Facility, as agreed upon by both Owner and the OVG.

OVG: shall have the meaning given to such term in the opening paragraph to this Agreement.

Owner: shall have the meaning given to such term in the opening paragraph to this Agreement.

Revenue: All revenues generated by OVG's operation of the Facility, including but not limited to event ticket proceeds income, rental and license fee income, merchandise income, gross food and beverage income, gross income from any sale of Commercial Rights, gross service income, equipment rental fees, box office income, and miscellaneous operating income, but shall not include Event ticket proceeds held by OVG in trust for a third party and paid to such third party.

Revenue Generating Contracts: Vendor, concessions and merchandising agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements generating revenue for the Facility and entered into in the ordinary course of operating the Facility.

Service Contracts: Agreements for services to be provided in connection with the operation of the Facility, including without limitation agreements for ticketing, web development and maintenance, computer support services, FF&E purchasing services, engineering services, electricity, steam, gas, fuel, general maintenance, HVAC maintenance, telephone, staffing personnel including guards, ushers and ticket-takers, extermination, elevators, stage equipment, fire control panel and other safety equipment, snow removal and other services which are deemed by OVG to be either necessary or useful in operating the Facility.

Start-Up Expenses: all reasonable out-of-pocket expenses incurred by OVG in preparing to commence operations at the Facility, including, without limitation, reasonable travel costs, expenses related to staffing the Facility for the provision of services (including Food and Beverage Services) prior to the first Facility Event under this Agreement, obtaining liquor and other required licenses and permits, and otherwise preparing to provide services hereunder.

Taxes: Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of **(i)** activities conducted on behalf of Owner at the Facility, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excise taxes, occupancy taxes, employment taxes, and withholding taxes), or **(ii)** any payments received from any holders of a leasehold interest or license in or to the Facility, from any guests, or from any others using or occupying all or any part of the Facility.

Term: shall have the meaning given to such term in Section 4.1 of this Agreement.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Engagement.

(a) Owner hereby engages OVG following the Commencement Date to act as the sole and exclusive manager and operator of the Facility, subject to and as more fully described in this Agreement, and, in connection therewith, to perform the services described in Schedule 2.1(a), attached hereto.

(b) Owner hereby engages OVG (or its designee) following the Commencement Date to act as the sole and exclusive food and beverage provider of the Facility, subject to and as more fully described in this Agreement, and in connection therewith, to perform the services described in Schedule 2.1 (b) (collectively, the "**Food and Beverage Services**"), attached hereto. Owner specifically agrees that pursuant to Section 5.5, OVG shall be permitted to assign, subcontract or otherwise sublicense all or any portion of their rights and obligations in respect of the provision of such Food and Beverage Services, including, without limitation, to an Affiliate.

(c) OVG hereby accepts such engagement, and shall perform the services described herein, subject to the limitations expressly set forth in this Agreement and in the Operations Manual.

Section 2.2 Commercial Rights Sales. In addition to OVG's other rights and duties hereunder, OVG shall act as the sole and exclusive third party representative for marketing of the Commercial Rights. OVG will keep Owner apprised of its sales prospects and the status of any potential sales of Commercial Rights, which shall be subject to Owner's prior approval in each instance. Owner hereby acknowledges and agrees that OVG is not guaranteeing any level of purchase of, or the receipt of payment for, any Commercial Rights marketed by OVG pursuant to this Agreement.

Section 2.3 Limitations on OVG's Duties. OVG's obligations under this Agreement are contingent upon and subject to Owner making available, in a timely fashion, the funds budgeted for and/or reasonably required by OVG to carry out such obligations during the Term. OVG shall not be considered to be in breach or default of this Agreement and shall have no liability to Owner or any other party, in the event OVG does not perform any of its obligations hereunder due to failure by Owner to timely provide such funds.

ARTICLE 3
COMPENSATION

Section 3.1 Base Management Fee. In consideration of OVG's performance of its management services following the Commencement Date, including the Food and Beverage Services, hereunder, Owner shall pay OVG a "**Base Management Fee**" as follows. Beginning on the Commencement Date and continuing through the end of the Stub Operating Year (*i.e.*, through December 31, 2024) the Base Management Fee shall be equal to US $130,000 per year, payable in equal monthly installments (*e.g.*, the monthly fee for such Stub Operating Year shall be $10,833.33 each month). Beginning in the first full Operating Year (*i.e.*, January 1, 2025 through December 31, 2025) (and for all subsequent Operating Years), the Base Management Fee shall be increased over the Base Management Fee from the previous Operating Year (or, as applicable Stub Operating Year) either **(i)** in accordance with the percentage increase in the CPI over such Operating Year (*i.e.*, the difference, expressed as a percentage, between the value of the CPI published most recently prior to the commencement of the preceding Operating Year and the value of the CPI published most recently prior to the commencement of the Operating Year for which the CPI adjustment will apply); or **(ii)** by an amount equal to 4% of the Base Management Fee from the previous Operating Year (or, as applicable Stub Operating Year), whichever is less. The General Manager shall communicate the basis for and percentage of the increase of the Base Management Fee to Owner once determined and reasonably in advance of implementing such increase. The Base Management Fee shall be payable to OVG in advance, beginning on the Commencement Date, and payable on the first day of each month thereafter (prorated as necessary for any partial months). For avoidance of doubt, the Base Management Fee shall constitute an Operating Expense which may be deducted from the Operating Account, in accordance with the foregoing.

Section 3.2 Incentive Fee. In addition to the Base Management Fee, OVG shall be entitled to receive an incentive fee for each full or partial Operating Year of the Term (excluding the Stub Year) (the "**Incentive Fee**"). OVG shall be entitled to receive a percentage, as set forth below, of the amount by which Net Operating Revenue/Loss improves over the Net Operating Loss Benchmark (the "**Improvement**"). For any Operating Years of less than a full 12-months, the Net Operating Loss Benchmark shall be prorated based on the actual number of days elapsed in such Operating Year out of 365. There shall be no cap or maximum limit on the amount of the Incentive Fee. The percentage of the improvement in Revenue to be paid to Manager over the Revenue Benchmark is as follows:

Improvement	**Percentage of Improvement to be paid to OVG:**
First $100,000 in Improvement	20%
Improvement in excess of $100,000	25%

The Incentive Fee shall be paid to OVG no later than 60 days following the end of each Operating Year and shall be paid by OVG out of the Operating Account upon providing documentation of such Incentive Fee to Owner. By way of example only, if during any full Operating Year, the Net Operating Loss is equal to ($150,000), and there is therefore a total Improvement of $513,000 over the Net Operating Loss Benchmark, OVG shall be due an Incentive Fee equal to $123,250 ($20,000 (20% of first $100,0000 in Improvement) plus $103,250 (25% of $413,000 Improvement).

Section 3.3 Commercial Rights Fee. In consideration for OVG's marketing of the Commercial Rights as described in Section 2.2, OVG shall receive 20% of all Commercial Rights Revenue (including cash and trade, with such trade valued at its retail price in an arms-length transaction) generated from the sale of Commercial Rights (the "**Commercial Rights Fee**"). The Commercial Rights Fee shall be paid to OVG for all years of each Commercial Rights agreement secured by OVG, including any years that extend beyond the end of the Term. The Commercial Rights Fee due to OVG following the conclusion of the Term is referred to herein as the "**Trailing Commercial Rights Commissions**". The Commercial Rights Fee shall be paid to OVG on a bi-annual basis, on or about the last day of June and December each Operating Year, and OVG shall be entitled to pay itself such amount from the Operating Account upon providing documentation of such Commercial Rights Fee to Owner. The parties shall also hold a settlement at the conclusion of the Term, at which time Owner shall pay to OVG any portion of the Commercial Rights Fee due to OVG but not yet paid to OVG as of such date (other than Trailing Commercial Rights Commissions). Following the conclusion of the Term, Trailing Commercial Rights Commissions shall be paid to OVG within 30 days of receipt by Owner of the corresponding Commercial Rights Revenue arising from any Commercial Rights agreements which were secured by OVG. In connection with the Trailing Commercial Rights Commissions, Owner agrees **(i)** to maintain books and records in accordance with generally accepted accounting practices, and **(ii)** to permit OVG to audit and inspect such books and records during normal business hours and on reasonable advance notice, to confirm amounts due hereunder, including, following the conclusion of the Term (as it relates to Trailing Commercial Rights Commissions). To the extent any such audit reveals an underpayment Owner shall promptly pay OVG the amount of the underpayment, and if such underpayment to OVG is greater than two percent (2%) of amounts owed to OVG, Owner shall reimburse OVG for the reasonable costs of such audit. The terms in this Section 3.3 shall survive termination or expiration of this Agreement.

Section 3.4 Food and Beverage Fee. In consideration for OVG's provision of the Food and Beverage Services, OVG shall be entitled to receive a "**Food and Beverage Fee**" equal to 20% Net

Operating Income from the Food and Beverage Services (*i.e.*, the Food and Beverage Revenue minus the Operating Expenses directly relating to the Food and Beverage Services) each Operating Year, which shall be paid to OVG no later than 60 days following the end of each Operating Year and shall be paid by OVG out of the Operating Account upon providing documentation of such Food and Beverage Fee to Owner.

Section 3.5 Monthly Payment Terms. On or about the 20th day following the end of each Monthly Accounting Period, OVG shall remit to Owner Revenue remaining following deduction by OVG of Operating Expenses, the Base Management Fee, any Advanced Funds, and any other amounts due to OVG hereunder) from such Monthly Accounting Period.

Section 3.6 Start-Up Expenses. Owner shall reimburse OVG for all Start-Up Expenses within 30 days of submission by OVG of an invoice to Owner for such Start-Up Expenses. Each such invoice shall include reasonable back-up documentation evidencing the incurrence of all Start-Up Expenses.

Section 3.7 Late Payments. OVG shall have the right to assess interest on any payments of the fees described in this Section that are not made when due. Such interest shall accrue at the rate of 8% per annum.

ARTICLE 4
TERM; TERMINATION

Section 4.1 Term. The initial term of this Agreement shall begin on July 1, 2024 (the "**Commencement Date**"), and, unless sooner terminated pursuant to the provisions of Section 4.2 below, shall conclude June 30, 2030 (the "**Initial Term**"). Notwithstanding the foregoing, the parties shall have the option to renew through June 30, 2035 (the "**Renewal Term**"), with either party to issue written notice of its intent to renew this Agreement at least 180 days prior to the conclusion of the Initial Term and thereafter the party receiving such notice shall either agree to such Renewal Term or decline such Renewal Term within 30 days' of such party's receipt thereof. The Initial Term and Renewal Term (as applicable) shall be referred to herein as the "**Term**".

Section 4.2 Termination. This Agreement may be terminated:

(a) by either party upon 30 days written notice, if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not cured during such 30-day notification period, provided, however, if such failure cannot reasonably be cured within such 30-day period, then a longer period of time shall be afforded to cure such breach, up to a total of 90 days, provided that the party in default is diligently seeking a cure and the non-defaulting party is not irreparably harmed by the extension of the cure period;

(b) by either party immediately by written notice upon the other party being judged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of the other party shall be appointed and shall not be discharged within 120 days after appointment, or if either party shall make an assignment of its property for the benefit of creditors or shall file a voluntary petition in bankruptcy or insolvency, or shall apply for bankruptcy under the bankruptcy or insolvency Laws now in force or hereinafter enacted, Federal, State or otherwise, or if such petition shall be filed against either party and shall not be dismissed within 120 days after such filing; or

(c) by Owner, for 60 days following conclusion of the Third Operating Year, in the event that the Net Operating Revenue during the preceding 3 consecutive Operating Years (excluding the Stub Operating Year) is 20% or more below the agreed and projected Net Operating Revenue from any applicable Operating Budget set by the parties for such period, upon 60 days written notice to OVG; provided that the foregoing shall not apply to the extent that OVG can reasonably demonstrate that such reduction (in any Operating Year) was reasonably due to circumstances outside of its control, including without limitation, any Force Majeure Event which results in a material impact on projected Revenue. For avoidance of doubt, the foregoing termination right shall only apply for 60 days following the conclusion of the Third Operating Year and if not exercised during such time period shall be deemed to have been waived by Owner.

Section 4.3 Effect of Termination. Upon expiration or termination of this Agreement, the following shall apply:

(a) OVG shall promptly discontinue the performance of all services hereunder, and make available to Owner all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials with respect to the Facility as may have been accumulated by OVG in performing its obligations hereunder, provided that **(i)** OVG shall own and may retain all employment files/records relating to employees of OVG during the Term, and **(ii)** OVG may retain copies of all materials pertinent to its operation of the Facility during the Term, such as materials documenting its performance and those relating to claims or potential claims that have been or may be asserted related to OVG's operation of the Facility, including contracts and event incident reports.

(b) Owner shall promptly pay OVG **(i)** all fees due OVG up to the date of termination or expiration, including a pro-rated portion of the Incentive Fees for the last Operating Year if not a full 12-months, **(ii)** the Buyout Amount, and **(iii)** all Operating Expenses incurred by OVG through the end of the Term that have not previously been paid by Owner or reimbursed to OVG, including the cost of accrued but unused vacation time to the extent due under OVG's policies to any employees whose employment is ceasing with OVG as a result of expiration or termination of this Agreement.

(c) Following the termination of this Agreement, Owner shall reimburse OVG for reasonable costs actually incurred by OVG in withdrawing from the provision of services hereunder, such as those incurred in connection with the termination and/or assignment of Service Contracts, Revenue Generating Contracts, or other contracts or leases entered into by OVG pursuant to this Agreement. If the Agreement is terminated as a result of an uncured breach by Owner, Owner shall also reimburse OVG for direct damages associated with **(i)** to the extent any Management-Level Employee's employment with OVG will cease as a result of the termination or expiration of this Agreement, Owner shall reimburse OVG for any severance paid to such employees, not to exceed 4 months' salary for each Management-Level Employee, and **(ii)** reasonable household relocation expenses for OVG's Management-Level Employees, to the extent any such individuals had previously relocated to the Facility (or its surrounding areas) in connection with this Agreement. Owner's payment of such expenses will occur only after OVG has provided reasonable evidence of the incurrence of such expenses.

(d) Without any further action on part of OVG or Owner, Owner shall, or shall cause the successor Facility manager to, assume all obligations arising after the date of such termination or expiration, under any Service Contracts, Revenue Generating Contracts (including any related to any future Events), and any other Facility agreements entered into by OVG in furtherance of its duties hereunder.

(e) Any obligations of the parties that are specifically intended to survive expiration or termination of this Agreement shall survive expiration or termination hereof.

ARTICLE 5
OWNERSHIP; USE OF THE FACILITY; CONCESSION AREAS

Section 5.1 Ownership of Facility, Data, Equipment and Materials. Owner will at all times retain ownership of the Facility and all Facility FF&E. Any data, equipment, supplies, and materials furnished by Owner to OVG or acquired by OVG as an Operating Expense shall remain the property of Owner and shall be returned to Owner when no longer needed by OVG to perform under this Agreement. Notwithstanding the above, Owner recognizes that OVG intends to license certain third party software for use with respect to OVG's obligations at the Facility, the costs of which are paid on a monthly basis, and upon expiration or termination of the Term such software licenses shall remain with OVG. Furthermore, Owner recognizes that the Operations Manual to be developed and used by OVG hereunder is proprietary to, and shall be owned by, OVG, but Owner may retain a copy thereof for its own use following the end of the Term.

Section 5.2 Right of Use by OVG. Subject to Owner's rights to use the Facility set forth in Section 5.4, Owner hereby gives OVG the right and license to use the Facility, and OVG accepts such right of use, for the purpose of performing the services herein specified, including the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance, and management of the Facility. Owner shall provide OVG, at no cost to OVG, a sufficient amount of suitable office space in the Facility and with such office equipment as is reasonably necessary to enable OVG to perform its obligations under this Agreement. In addition, Owner shall make available to OVG, at no cost, designated parking spaces in the parking lots adjacent to the Facility, further depicted on Schedule 1.1, for all of OVG's employees, including for any event staff.

Section 5.3 Observance of Agreements. Owner agrees to pay, keep, observe, and perform all payments, terms, covenants, conditions and obligations under any leases, use agreements, bonds, debentures, loans and other financing and security agreements to which Owner is bound in connection with its ownership of the Facility. OVG acknowledges that Owner has existing lease agreements which impact OVG's use of the Facility and ability to perform the services hereunder. Owner represents that Owner has identified such existing lease agreements in the 'Existing Contracts' in Schedule 14.1 and provided copies thereof to OVG.

Section 5.4 Use by Owner. Owner shall have the right to use the Facility or any part thereof rent-fee for meetings or other internal non-commercial uses, provided that Owner shall promptly reimburse OVG or deposit into the Operating Account, any out-of-pocket expenses incurred by OVG in connection with such use (such as the cost of ushers, ticket-takers, set-up and take-down personnel, security expenses, and other expenses). Such non-commercial use of the Facility by Owner shall **(i)** not compete with or conflict with the dates previously booked by OVG for paying events, and **(ii)** be booked in advance upon reasonable notice to OVG pursuant to the Facility's approved booking policies and subject to availability. Owner hereby reserves priority scheduling rights at the Facility, or the specific portion of the Facility as indicated, on the dates and for the general purposes set forth on Schedule 5.4 attached hereto. Owner agrees to promptly notify OVG in the event that Owner will not use all or any portion of the Facility on any such date(s) so that OVG may license the Facility for other revenue

generating events. Upon request of Owner, OVG shall provide to Owner a list of available dates for Owner's use of the Facility. To the extent that OVG has an opportunity to book a revenue-producing event on a date which is otherwise reserved for use by Owner, OVG may propose alternative dates for Owner's event, and Owner shall use best efforts to reschedule its event to allow OVG to book the revenue-producing event. Additionally, Owner shall have the priority right to use the Facility during an emergency for purposes of preserving or ensuring public safety, so long as Owner uses best efforts to (i) notify OVG of any such emergency prior to entering the Facility or, if prior notice is not reasonably practical, as soon as reasonably practical thereafter, (ii) minimize interference with OVG's operation of the Facility then being conducted pursuant to the terms of this Agreement, and (iii) limit Owner's activities to those reasonably necessary to safeguard lives, public health, safety, and the environment. An "emergency" for purposes of this Section means an event, or imminent threat of an event, of substantially harmful or catastrophic impact to persons or property, whether resulting from natural or human causes. OVG shall have no liability in the event that Owner utilizes the Facility for an emergency pursuant to this Section and Owner shall indemnify OVG from claims relating thereto and shall promptly return the Facility into the state of repair which existed at the time Owner initiated any use pursuant to this Section.

Section 5.5 Subcontractors; Concession Areas. OVG may engage sub-contractors to perform the Food and Beverage Services as set forth herein. Upon Owner's request, OVG may, from time-to-time, and in its sole discretion, agree to allow third-party caterers into the Facility to provide catering services in connection with a specific event, subject to (i) the payment of a "catering buyout fee" that is acceptable to OVG for each such event, and (ii) a written insurance and indemnification agreement in favor of OVG executed by any such caterers, which includes appropriately required insurance naming OVG as an additional insured. In addition, Owner shall indemnify and hold OVG harmless from any claims and/or damages arising out of or relating in any way to the acts and/or omissions of any such caterers. Owner agrees that it will not, without the prior written consent of OVG, grant to any party other than OVG or a sub-contractor mutually agreed by Owner and OVG, the right to perform any Food and Beverage Services at or upon the Facility. OVG shall have the exclusive right to use (or permit a third party to use, as applicable) the concession stands, novelty stands, customer serving locations, food preparation areas, vendor commissaries, kitchen and warehouse facilities, and other food service related areas of the Facility, together with the improvements, equipment and personal property upon or within such areas, for the purpose of providing the Food and Beverage Services (and providing other duties required of OVG hereunder). Prior to the Commencement Date, and subject to the Improvements and Equipment that will be purchased with the Investment for the "Caterer's Kitchen" identified on Schedule 1.1, Owner shall, at no cost to OVG, provide for use by OVG a turnkey operation for the provision of Food and Beverage Services, equipped with equipment, smallwares, and other tools of the trade reasonably required by OVG to provide the Food and Beverage Services at the level required by this Agreement.

ARTICLE 6
PERSONNEL

Section 6.1 Generally. All Facility staff and other personnel shall be engaged or hired by OVG, and shall be employees, agents, or independent contractors of OVG (or an Affiliate thereof), and not of Owner. OVG shall select, in its sole discretion but subject to the approved Operating Budget, the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment (including without limitation termination thereof) relating to such employees. Owner agrees that such personnel shall include at a minimum the positions set forth on the Personnel Staffing Chart included as Schedule 6.1, attached hereto, with such positions

hereby approved by Owner. OVG agrees to use reasonable and prudent judgment in the selection and supervision of such personnel. Owner specifically agrees that OVG shall be entitled to pay its employees, as an Operating Expense, bonuses, and benefits in accordance with OVG's then current employee policies, which may be modified by OVG from time to time in its sole discretion. A copy of OVG's current employee policies related to bonus and benefits shall be provided to Owner upon request.

Section 6.2 General Manager. Personnel engaged by OVG will include a qualified individual to serve as a General Manager of the Facility. Hiring of the General Manager shall require the prior approval of Owner, which approval shall not be unreasonably withheld or delayed; provided, however, in the event of a vacancy in the General Manager position, OVG may temporarily fill such position with an interim General Manager for up to 90 days without the necessity of obtaining Owner's approval. The General Manager will have general supervisory responsibility for OVG and will be responsible for day-to-day operations of the Facility, supervision of employees, and management and coordination of all activities associated with events taking place at the Facility.

Section 6.3 Non-Solicitation/Non-Hiring. During the Term and for a period of one year after the end of the Term, neither Owner nor any of its Affiliates shall directly solicit for employment, or hire, any of OVG's Management-Level Employees. Owner acknowledges that OVG will spend a considerable amount of time identifying, hiring, and training individuals to work in such positions, and that OVG will suffer substantial damages, the exact amount of which would be difficult to quantify, if Owner were to breach the terms of this Section by hiring, or soliciting for employment, any of such individuals. Accordingly, in the event of a breach or anticipated breach of this Section by Owner, OVG shall be entitled (in addition to any other rights and remedies which OVG may have at law or in equity, including money damages) to equitable relief, including an injunction to enjoin and restrain Owner from continuing such breach, without the necessity of posting a bond.

ARTICLE 7
INTENTIONALLY DELETED

ARTICLE 8
OPERATING BUDGET

Section 8.1 Establishment of Operating Budget. OVG agrees that at least 30 days following the Commencement Date in respect of the Stub Operating Year, and no less than 60 days prior to the commencement of each subsequent Operating Year in respect of such Operating Year, it will prepare and submit to the Owner its proposed Operating Budget for such Operating Year. Each Operating Budget shall include OVG's good faith projection of Revenues and Operating Expenses, presented on a monthly and annual basis, for the upcoming Operating Year, or Stub Operating Year, as applicable. Owner agrees to provide OVG with all information in its possession necessary to enable OVG to prepare each Operating Budget.

Section 8.2 Approval of Operating Budget. Each Operating Budget shall be subject to the review and approval of Owner, which approval shall not be unreasonably withheld or delayed. In order for Owner to fully evaluate and analyze such budgets or any other request by OVG relating to income and expenses, OVG agrees to provide to Owner such reasonable financial information relating to the Facility as may be requested by Owner from time to time. If events occur during any Operating Year that could not reasonably be contemplated at the time the corresponding Operating Budget was prepared, OVG may submit an amendment to such budget for review and approval by Owner, which approval shall not be

unreasonably withheld or delayed. If Owner fails to approve any Operating Budget (or any proposed amendment thereto), Owner shall promptly provide OVG the specific reasons therefor and its suggested modifications to OVG's proposed Operating Budget or amendment in order to make it acceptable. The parties shall then engage in good faith discussions and use reasonable commercial efforts to attempt to resolve the matter to the mutual satisfaction of the parties.

Section 8.3 Adherence to Operating Budget. OVG shall use all reasonable efforts to manage and operate the Facility in accordance with the Operating Budget. However, Owner acknowledges that notwithstanding the OVG's experience and expertise in relation to the operation of facilities similar to the Facility, the projections contained in each Operating Budget are subject to and may be affected by changes in financial, economic, and other conditions and circumstances beyond the OVG's control, and that OVG shall have no liability if the numbers within the Operating Budget are not achieved. OVG agrees to notify Owner within 30 days of any material negative variance in the bottom-line figure in the Operating Budget, and any material increase in total Facility expenses from that provided for in the Operating Budget. For purposes of this Section 8.3, a material variance or increase shall mean a variance or increase of more than 10%. In either such case and if requested by Owner, OVG agrees to work with Owner to develop and implement a plan (or changes to the then current plan) to limit Operating Expenses to be incurred in the remaining months of such Operating Year with the goal of achieving the Operating Budget.

Section 8.4 Food and Beverage Revenue and Expenses. All Food and Beverage Revenue shall be calculated separately each Monthly Accounting Period solely for purposes of payment of the Base Food and Beverage Fee, and shall be deposited by OVG into the Operating Account thereafter. All expenses incurred in connection with the provision of the Food and Beverage Services shall be Operating Expenses, payable by OVG with funds from the Operating Account.

ARTICLE 9
PROCEDURE FOR HANDLING INCOME

Section 9.1 Event Account. To the extent the Facility hosts a ticketed event and collects advance ticket sale revenue and/or admissions tax, OVG shall deposit as soon as practicable following receipt, in the Event Account, all revenue received from ticket sales and similar event-related revenues which OVG receives in contemplation of, or arising from, an event, pending completion of the event. Such monies will be held in escrow for the protection of ticket purchasers, Owner and OVG, to provide a source of funds as required for payments to performers and for payments of direct incidental expenses in connection with the presentation of events that must be paid prior to or contemporaneously with such events. Promptly following completion and settlement of such events, OVG shall transfer all funds remaining in the Event Account, including any interest accrued thereon, into the Operating Account. Bank service charges, if any, on such account(s) shall be deducted first from interest earned.

Section 9.2 Operating Account. Except as provided in Section 9.1, all Revenue derived from operation of the Facility shall be deposited by OVG into the Operating Account as soon as practicable upon receipt (but not less often than once each business day). The specific procedures (and authorized individuals) for making deposits to and withdrawals from such account shall be set forth in the Operations Manual, but the parties specifically agree that OVG shall have authority to sign checks and make withdrawals from such account, subject to the limitations of this Agreement, without needing to obtain the co-signature of an Owner employee or representative.

ARTICLE 10
FUNDING

Section 10.1 Source of Funding. OVG shall pay all items of expense for the operation, maintenance, supervision, and management of the Facility from the funds in the Operating Account, which OVG may access periodically for this purpose. The Operating Account shall be funded with amounts generated by operation of the Facility (as described in Article 8 above), or otherwise made available by Owner. To ensure sufficient funds are available in the Operating Account, Owner will write a check quarterly upon OVG's request at the Administrative Services Committee (which is on the 2nd Tuesday of each month) which shall be based on maintaining a balance in the Operating Account to cover all anticipated Operating Expenses through the next Administrative Services Committee (plus one additional month). After the request is made in January, April, July, and October, funds are available for pickup the day after the applicable Administrative Services Committee. OVG shall have no liability to Owner or any third party in the event OVG is unable to perform its obligations hereunder, or under any third party contract entered into pursuant to the terms hereof, due to the fact that sufficient funds are not made available to OVG to pay such expenses in a timely manner.

Section 10.2 Advancement of Funds. Under no circumstances shall OVG be required to pay for or advance any of its own funds to pay for any Operating Expenses. In the event that, notwithstanding the foregoing, OVG agrees to advance its own funds to pay Operating Expenses, Owner shall promptly reimburse OVG for the full amount of such advanced funds (the "**Advanced Funds**"), plus interest at the rate of 8% or the highest rate permitted by law, whichever is less.

ARTICLE 11
FISCAL RESPONSIBILITY; REPORTING

Section 11.1 Records. OVG agrees to keep and maintain, at its office in the Facility, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Facility. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of OVG under this Agreement. Owner or its authorized agent shall have the right to audit and inspect such records from time to time during the Term, upon reasonable notice to OVG and during OVG's ordinary business hours.

Section 11.2 Monthly Financial Reports. OVG agrees to provide to Owner, within 30 days after the end of Monthly Accounting Period, financial reports for the Facility including a balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such month and year to date in accordance with generally accepted accounting principles, provided however the first financial statement OVG shall provide shall be within 30 days following the second month of the Term, and shall cover the first 2 months of the Term. In addition, starting with the second month of the Term, OVG agrees to provide to Owner a summary of bookings for each such month, and separate cash receipts and disbursements reports for each event held at the Facility during such month. Additionally, OVG shall submit to Owner, or shall cause the applicable public depository utilized by OVG to submit to Owner, on a monthly basis, copies of all bank statements concerning the Event Account and the Operating Account.

Section 11.3 Audit. Owner agrees to arrange to provide to OVG, within 180 days following the end of each Operating Year, a copy of the certified city audit report on the accounts and records as kept by OVG for the Facility, which shall be conducted in accordance with generally accepted auditing standards. Within 90 days after the end of any operating year, OVG shall permit Owner to audit and inspect such books and records necessary to perform such audit during normal business hours and on reasonable advance notice, including, following the conclusion of the Term. Additionally, OVG may arrange to perform an independent certified audit following the end of any Operating Year, if deemed necessary in OVG's sole discretion at its own cost and expense. Any such independent audit shall be performed by an external auditor approved by Owner and shall be conducted in accordance with generally accepted auditing standards.

ARTICLE 12
CAPITAL IMPROVEMENTS; OVG CONTRIBUTION

Section 12.1 Schedule of Capital Expenditures. OVG shall annually, at the time of submission of the annual Operating Budget to Owner, provide to Owner a schedule of proposed capital improvements to be made at the Facility, for the purpose of allowing Owner to consider such projects and to prepare and update a long-range Capital Expenditure budget.

Section 12.2 Responsibility for Capital Expenditures. Owner shall be solely responsible for all Capital Expenditures at the Facility; provided, however, Owner shall be under no obligation to make any Capital Expenditures proposed by OVG and provided further that OVG shall have no liability for any claims, costs or damages arising out of a failure by Owner to make any Capital Expenditures. Notwithstanding the foregoing, OVG shall have the right (but not the obligation), upon notice to Owner, to make Capital Expenditures at the Facility for Emergency Repairs. In the event that Emergency Repairs are required, OVG shall use commercial best efforts to obtain Owner's prior written consent to make Capital Expenditures for such Emergency Repairs; provided, however, in situations where prior consent is made impossible or inadvisable because of the occurrence of some exigent circumstances, OVG shall not be required to obtain consent, but shall promptly notify Owner of the nature of such Emergency Repairs and the amount of Capital Expenditures expended on such Emergency. In such event, Owner shall promptly reimburse OVG for the cost of such Capital Expenditure.

Section 12.3 OVG Contribution. OVG shall make a capital contribution of up to US $50,000 (the "**Investment**") on or around July 15, 2024 (exact timeline to be mutually agreed) in connection with various leasehold improvements and/or capital equipment dedicated to the Facility, including the Food and Beverage Services at the Facility, as mutually agreed by the parties, including, without limitation, for smallwares and other necessary equipment and related tangible personal property located at the Facility (collectively, the "**Improvements and Equipment**"). Owner and OVG shall mutually agree upon the specific Improvements and Equipment to be purchased or made with the Investment, as well as the location for such improvements or installation of such equipment. Once identified, the specific Improvements and Equipment to be purchased with the Investment shall be set forth in a writing to be signed by the parties and updated by the parties from time to time as necessary to reflect any replacements or substitutions thereof. All Improvements and Equipment, including any replacements or substitutions thereof, shall be owned by OVG until payment of the Buyout Amount (as described below), and Owner agrees to execute such documents as OVG shall reasonably request evidencing OVG's ownership interest in such Improvements and Equipment, including financing statements. For the sake

of clarity, nothing in this paragraph shall be construed as requiring OVG to replace any equipment or other personal property at its own cost.

Section 12.4 Buyout Amount. The Investment shall be amortized monthly on a straight-line basis over a five-year period (at a rate of 1/60 per month), commencing on the Commencement Date. Within 5 days of the expiration or early termination of this Agreement (for any reason whatsoever, including without limitation, if either party issues notice of non-renewal pursuant to Section 4.1, or if due to a breach, default, or bankruptcy event by or affecting OVG), Owner shall immediately pay to OVG the unamortized amount of the Investment (the "**Buyout Amount**"). In the event that Owner fails to pay OVG the Buyout Amount when due, the Buyout Amount shall accrue interest at the rate of 1.5% per month, or the highest rate permitted by law, whichever is less. In such event, and without limiting any other rights or remedies available to it, OVG may reenter the Facility, with or without process of law, and remove in a commercially reasonably manner the Improvements and Equipment purchased with the Investment and retain or dispose of such Improvements and Equipment as OVG sees fit. In such event, OVG shall retain its right to receive the Buyout Amount, but any proceeds from the sale of such Improvements and Equipment, less the cost to OVG of removing, storing, and selling such Improvements and Equipment, shall reduce the Buyout Amount.

Section 12.4 Title to Improvements and Equipment. Owner covenants and agrees not to permit any liens or encumbrances to attach to the leasehold Improvements and Equipment purchased with the Investment, and hereby waives any right to attach any claim, lien, or attachment to such Improvements and Equipment. Once the Investment is fully amortized or the Buyout Amount is paid in full to OVG, title to the Improvements and Equipment purchased with the Investment will become vested in Owner, and OVG agrees to execute all necessary documents to evidence same. The rights of OVG set forth in this Section shall be in addition to any other rights of OVG at law or in equity.

ARTICLE 13
LICENSES; ALCHOLIC BEVERAGES; TAXES

Section 13.1 Permits and Licenses. OVG shall use reasonable commercial efforts to secure and maintain throughout the Term all licenses and permits necessary for the operation of the Food and Beverage Services, including those required for the sale of alcoholic beverages at the Facility. Owner shall cooperate with OVG in connection with filing applications for, and securing and maintaining in good standing, any and all licenses and permits and renewals thereof needed by OVG to fulfill its obligations hereunder. In the event that OVG is unable to secure or maintain the necessary licenses or permits to sell alcoholic beverages at the Facility for any reason, unless caused by the negligence or intentional misconduct of OVG, or if OVG is prevented or limited from selling alcoholic beverages at the Facility for any reason, unless caused by the negligence or intentional misconduct of OVG, at OVG's request the parties shall renegotiate in good faith the economic terms of this Agreement so that the economic benefits provided to OVG hereunder are maintained. If, despite such good faith negotiations, the parties are unable to come to agreement on the revised economic terms of this Agreement, either party may terminate this Agreement, without liability to either party, upon 60 days written notice to the other party.

Section 13.2 Alcoholic Beverages. In connection with the sale of alcoholic beverages hereunder by OVG, OVG agrees to strictly comply with the laws of the state where the Facility is located regarding the sale of such beverages to minors. OVG agrees to adopt an identification policy to verify the age of potential purchasers of alcoholic beverages. OVG further agrees that it will implement appropriate

training programs to ensure its employees do not sell alcoholic beverages to customers who are visibly intoxicated. OVG will institute and conduct training programs for OVG employees at the Facility on the proper standards to use to avoid selling alcoholic beverages to customers who are or who appear to be intoxicated.

Section 13.3 Taxes. OVG shall collect and pay all Taxes imposed upon the sale of concession items hereunder, as required by Federal, State or local law. OVG shall be responsible for and pay all social security, unemployment insurance, old age retirement and other federal and state taxes that are measured by the wages, salaries, or other remuneration paid to persons employed by OVG. Owner shall be responsible for and hold OVG harmless from any and all possessory interest or leasehold taxes which may be levied or are in effect during the Term.

ARTICLE 14
FACILITY CONTRACTS; TRANSACTIONS WITH AFFILIATES

Section 14.1 Existing Contracts. Owner shall provide to OVG, on or before the Commencement Date, copies of all Existing Contracts a list of which is included as Schedule 14.1, attached hereto. OVG shall administer and use commercially reasonable efforts to assure compliance with such Existing Contracts.

Section 14.2 Execution of Contracts. OVG shall have the right to enter into Service Contracts, Revenue Generating Contracts and other contracts related to the operation of the Facility as agent on Owner's behalf and all such contracts shall be entered into by OVG, as agent on behalf of Owner. Any material contract shall contain indemnification and insurance obligations on the part of each vendor, licensee, or service provider, as is customary for the type of services or obligations being provided or performed by such parties, naming each of OVG and Owner as indemnified parties and additional insureds, respectively. OVG shall obtain the prior approval of Owner (which approval shall not be unreasonably withheld or delayed) before entering into any such contract with a term that expires after the Term of this Agreement, unless such contract, by its express terms, can **(i)** be assigned by OVG to Owner or any subsequent manager of the Facility, or **(ii)** be terminated by OVG or Owner following expiration of the Term without any penalty.

Section 14.3 Transactions with Affiliates. In connection with its obligations hereunder relating to the purchase or procurement of services for the Facility (including without limitation the Food and Beverage Services, ticketing services, Commercial Rights sales, web design services and graphic design services), OVG may purchase or procure such services, or otherwise transact business with, an Affiliate of OVG, provided that the prices charged and services rendered by such Affiliate are competitive with those obtainable from any unrelated parties rendering comparable services. OVG shall, at the request of Owner, provide reasonable evidence establishing the competitive nature of such prices and services, including, if appropriate, competitive bids from other persons seeking to render such services at the Facility.

ARTICLE 15
AGREEMENT MONITORING

Section 15.1 Contract Administrator. Each party shall appoint a contract administrator who shall monitor such party's compliance with the terms of this Agreement. OVG's contract administrator shall be its General Manager at the Facility, unless OVG notifies Owner of a substitute contract

administrator in writing. Owner shall notify OVG of the name of its contract administrator within 30 days of execution hereof. Any and all references in this Agreement requiring OVG or Owner participation or approval shall mean the participation or approval of such party's contract administrator.

ARTICLE 16
INDEMNIFICATION

Section 16.1 Indemnification by OVG. OVG agrees to defend, indemnify and hold harmless Owner, its Affiliates, and each of their respective directors, officers, employees, agents, successors and assigns (collectively, "**Owner Indemnified Parties**") against any third-party claims or causes of action, and all costs, expenses (including reasonable attorneys' fees) liabilities, or damages relating to such third party claims (collectively, "**Losses**") suffered by any of the Owner Indemnified Parties, arising out of or in connection with **(i)** negligent act or omission, or intentional misconduct, on the part of OVG or any of its employees or agents in the performance of its obligations under this Agreement, or **(ii)** breach by OVG of any of its representations, covenants or agreements made herein, except to the extent such Losses are claimed to arise from the act or omission of an Owner Indemnified Party.

Section 16.2 Indemnification by Owner. Owner agrees to defend, indemnify and hold harmless OVG, its Affiliates, and each of their respective directors, officers, employees, agents, successors and assigns (collectively, "**OVG Indemnified Parties**"), against any third-party Losses suffered by any of the OVG Indemnified Parties, arising out of or in connection with **(i)** any negligent act or omission, or intentional misconduct, on the part of Owner or any of its employees or agents in the performance of its obligations under this Agreement, or failure to comply with Laws **(ii)** a breach by Owner of any of its representations, covenants or agreements made herein, including without limitation Owner's obligation to pay any budgeted or otherwise approved expenses in a timely manner, **(iii)** failure by Owner to pay any amounts due by Owner or to otherwise perform any obligations of Owner under any third party contracts, licenses or agreements entered into by OVG in furtherance of its duties hereunder as authorized hereby; **(iv)** any environmental condition at the Facility or on or under the premises on which the Facility is located not caused by OVG, its employees or agents, **(v)** any structural defect with respect to the Facility, **(vi)** the fact that any time prior to, as of, or after the date hereof the Facility is not or has not been in compliance with all Laws, including, but not limited to, the Americans With Disabilities Act as it now exists and as it may be amended in the future by statute or judicial interpretation, **(vii)** any act or omission carried out by OVG at or pursuant to the direction or instruction of Owner, its agents or employees, and **(viii)** any claims relating to the Facility or its operations accruing or caused by occurrences prior to the Effective Date or following termination or expiration of this Agreement.

Section 16.3 Conditions to Indemnification. With respect to each separate matter brought by any third party against which a party hereto ("**Indemnitee**") is indemnified by the other party ("**Indemnitor**") under this Article 16, the Indemnitor shall be responsible, at its sole cost and expense, for controlling, litigating, defending and/or otherwise attempting to resolve, through counsel of its choice, any proceeding, claim, or cause of action underlying such matter, except that **(i)** the Indemnitee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; **(ii)** the Indemnitee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly and diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnitee hereunder in connection therewith; and **(iii)** neither Indemnitor nor Indemnitee shall agree to any settlement without the other's prior written consent (which shall not be unreasonably withheld or delayed), unless such settlement contains a complete release of,

and requires no action be taken by, the other party. In any event, Indemnitor and Indemnitee shall in good faith cooperate with each other and their respective counsel with respect to all such actions or proceedings, at the Indemnitor's expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnitee shall promptly give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

Section 16.4 Legal Costs. Notwithstanding the other provisions of this Agreement, if legal costs are being incurred by OVG or Owner except those directly covered by an applicable insurance policy, for a third party claim in respect of which Owner is claiming indemnity from the OVG, such legal costs will be considered an Operating Expense unless and until liability of the OVG pursuant to this Agreement is conclusively established by a court of competent jurisdiction with respect to the underlying claim on which the OVG's obligation to indemnify is based. In the event that the liability of the OVG is so conclusively determined, then such legal costs shall be considered as costs of the OVG (and not Operating Expenses) and covered by the indemnity given by the OVG to Owner hereunder and the parties shall adjust between them in respect of such legal costs.

Section 16.5 Survival. The obligations of the parties contained in this Article 16 shall survive the termination or expiration of this Agreement.

ARTICLE 17
INSURANCE

Section 17.1 OVG Insurance. OVG agrees to obtain insurance coverage in the manner and amounts as set forth in Schedule 17.1, attached hereto, and shall provide to Owner promptly following the Commencement Date a certificate of certificates of insurance evidencing such coverage. OVG shall maintain such referenced insurance coverage at all times during the Term and will not make any material modification or change from these specifications without the prior approval of Owner. The cost of all such insurance, including, without limitation, the cost of any coverage deductibles, coinsurance penalties, or self-insured retention under insurance policies, shall be an Operating Expense.

Section 17.2 Owner Insurance. Owner agrees to obtain insurance coverage in the manner and amounts as set forth in Schedule 17.2, attached hereto, and shall provide to OVG promptly following the Effective Date a certificate of certificates of insurance evidencing such coverage. Owner shall maintain such referenced insurance coverage at all times during the Term and will not make any material modification or change from these specifications without prior notification to the OVG. The Owner shall provide to the OVG at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy. Nothing herein is to be construed as a waiver of the Owner's statutory liability limits und Minnesota Statutes Chapter 466 and the same are fully reserved.

Section 17.3 Rating; Additional Insureds. All insurance policies shall be issued by insurance companies rated no less than A VIII in the most recent "Bests" insurance guide and licensed in the State or Commonwealth in which Facility is located, or as otherwise agreed by the parties. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. The commercial general liability policy, automobile liability insurance policy and umbrella or excess liability policy to be obtained by OVG hereunder shall name Owner as an additional insured. The workers compensation policy to be obtained by OVG hereunder shall contain a waiver of all rights of

subrogation against Owner. OVG shall require that all third-party users of the Facility, including without limitation third-party licensees, ushers, security personnel and concessionaires, provide certificates of insurance evidencing insurance appropriate for the types of activities in which such user is engaged. If OVG subcontracts any of its obligations under this Agreement, OVG shall require each such subcontractor to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name OVG and Owner as additional insureds.

ARTICLE 18
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 18.1 OVG Representations and Warranties. OVG hereby represents, warrants, and covenants to Owner as follows:

(a) that it has the full legal right, power, and authority to enter into this Agreement and to grant the rights and perform the obligations of OVG herein, and that no third party consent or approval is required to grant such rights or perform such obligations hereunder; and

(b) that this Agreement has been duly executed and delivered by OVG and constitutes a valid and binding obligation of OVG, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar Laws affecting creditors' rights generally or by general equitable principles.

Section 16.2 Owner Representations, Warranties and Covenants. Owner represents, warrants, and covenants to OVG as follows:

(a) that it has the full legal right, power, and authority to enter into this Agreement and to grant the rights and perform the obligations of Owner herein, and that no other third party consent or approval is required to grant such rights or perform such obligations here under.

(b) that this Agreement has been duly executed and delivered by Owner and constitutes a valid and binding obligation of Owner, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar laws affecting creditors' rights generally or by general equitable principles.

(c) that the Facility will be, as of the Commencement Date, in compliance in all respects with all applicable Laws relating to the construction, use and operation of the Facility (including, without limitation, Title III of the American with Disabilities Act), and that there exist no structural defects or unsound operating conditions at the Facility.

(d) Owner represents that it has never participated in, and will not during the term of this Agreement become a participant to, any multiemployer pension plans as such term is defined the Employee Retirement Income Security of 1974 (as amended).

ARTICLE 19
MISCELLANEOUS

Section 19.1 PCI Compliance. OVG agrees to comply with all current Payment Card Industry Data Security Standards ("**PCI Standards**") and guidelines that may be published from time to time by Visa, MasterCard or other associations as they relate to the physical storage of credit card data. For PCI Standards compliance purposes, Owner will provide on a segmented network, an appropriate number of wired data connections to the Internet for point of sale devices to be used by OVG and any contractors at the Facility. Owner shall be responsible for the security of its network, including, without limitation, applicable PCI-DSS compliance, and for procuring and installing point of sale (POS) payment systems that are compliant with the latest PCI-DSS requirements. If at any time either party determines that card account number or other information has been compromised, such party will notify the other immediately and assist in providing notification to the proper parties as deemed necessary.

Section 19.2 No Discrimination. OVG agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age.

Section 19.3 Use of Facility Names and Logos. OVG shall have the right to use throughout the Term (and permit others to use in furtherance of OVG's obligations hereunder), for no charge, the name and all logos of the Facility, on OVG's stationary, in its advertising of the Facility, and whenever conducting business of the Facility; provided, that OVG shall take all prudent and appropriate measures to protect the intellectual property rights of Owner relating to such logos. All intellectual property rights in any Facility logos developed by the OVG or Owner shall be and at all times remain the sole and exclusive property of Owner. OVG agrees to execute any documentation requested by Owner from time to time to establish, protect or convey any such intellectual property rights.

Section 19.4 Facility Advertisements. Owner agrees that it will endeavor in all advertisements placed by Owner for the Facility or events at the Facility, whether such advertisements are in print, on radio, television, the internet or otherwise, to include a designation that the Facility is a "Managed by OVG360."

Section 19.5 Force Majeure; Casualty Loss.

(a) Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party within thirty (30) days of the date on which such party gains actual knowledge of such Event of Force Majeure. Notwithstanding the foregoing, in no event shall a party's failure to make payments due hereunder be excusable due to an Event of Force Majeure.

(b) In the event of damage or destruction to a material portion of the Facility by reason of fire, storm or other casualty loss that renders the Facility (or a material portion thereof) untenantable, Owner shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the Facility (or a material portion thereof) untenantable for a period estimated by an architect selected by Owner at OVG's request, of at least one 180 days from the date of such fire, storm or other casualty loss, either party may terminate this Agreement upon written notice to the other, provided that **(i)** Owner shall pay to OVG its costs of withdrawing from services hereunder, as described in Section 4.3 above, and **(ii)** in the event the Facility

once again becomes tenable at any time during the Term, this Agreement shall, at the option of OVG, once again become effective and OVG shall manage and operate the Facility under the terms hereof, except that the Term shall be extended for a period of time in which the Facility was closed.

Section 19.6 Assignment; Binding on Successors and Assigns. Neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed, except that either party may, without the prior written consent of the other party but upon at least 30 days' written notice to the other party, assign this Agreement in connection with a sale, merger or other business combination involving all or substantially all of its assets or equity interests, and OVG may further assign this Agreement to an Affiliate where such assignment is intended to accomplish an internal corporate purpose of OVG as opposed to materially and substantially altering the method of delivery of services to Owner. Any purported assignment in contravention of this Section shall be void. This Agreement is binding on successors and permitted assigns of the parties.

Section 19.7 Notices. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, 3 days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services. A courtesy copy of notices shall be sent electronically to the email addresses included below.

If to Owner: The City of Thief River Falls, MN 405 3rd Street East PO Box 528 Thief River Falls, MN 56701 Attn: City Administrator	If to OVG: Oak View Group 5050 S. Syracuse Street, Suite 800 Denver, CO 80237 Attn: CEO
	With a copy to: OVG360 Legal 5050 S. Syracuse Street, Suite 800 Denver, CO 80237 Attn: Legal Department Email: OVG360Legal@oakviewgroup.com

The designation of the individuals to be so notified and the addresses of such parties set forth above may be changed from time to time by written notice to the other party in the manner set forth above.

Section 19.8 Severability. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 19.9 Entire Agreement. This Agreement (including the exhibits attached hereto) contains the entire agreement between the parties with respect to the subject matter hereof, and

supersedes and replaces all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements or understandings, whether oral or written.

Section 19.10 Governing Law. The Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State or Commonwealth in which the Facility is located, without regard to its conflict of laws principles.

Section 19.11 Amendments. This Agreement may not be amended except by an instrument in writing signed by an authorized representative of each of the Parties.

Section 19.12 Waiver; Remedies. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 19.13 Relationship of Parties. OVG and Owner acknowledge and agree that they are not joint venturers, partners, or joint owners with respect to the Facility, and nothing contained in this Agreement shall be construed as creating a partnership, joint venture or similar relationship between Owner and OVG. In operating the Facility, entering into contracts, accepting reservations for use of the Facility, and conducting financial transactions for the Facility, OVG acts on behalf of and as agent for Owner (but subject to the limitations on OVG's authority as set out in this Agreement), with the fiduciary duties required by law of a party acting in such capacity.

Section 19.14 No Third Party Beneficiaries. Other than the indemnitees listed in Sections 16.1 and 16.2 hereof (who are third party beneficiaries solely with respect to the indemnification provisions in such sections), there are no intended third party beneficiaries under this Agreement, and no third party shall have any rights or make any claims hereunder, it being intended that solely the parties hereto (and the aforementioned indemnitees with respect to the indemnification provisions hereof) shall have rights and may make claims hereunder.

Section 19.15 Reserved..

Section 19.16 Limitation on Damages. Except with respect to any indemnification obligations hereunder, in no event shall either party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages (including, without limitation, lost profits) whether based upon breach of contract or warranty, negligence, strict tort liability or otherwise, and each party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other party.

Section 19.17 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted

by electronic transmission, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

Section 19.18 Mediation. Any dispute, controversy or claim arising out of or relating to this Agreement, or the interpretation, breach, termination or validity hereof, shall first be subject to resolution through good faith negotiations of the parties. If within 30 days following the commencement of such negotiations the dispute cannot be resolved, the dispute may be submitted by either party to mediation in Thief River Falls, Minnesota. The parties shall select a mutually agreeable mediator and shall share the cost of the mediator equally; provided, however, that each party shall bear its own costs in connection with such mediation. The mediation shall be administered by the American Arbitration Association Mediation Rules or as otherwise agreed. The outcome of mediation proceedings is non-binding and either party may proceed to litigation regardless of the outcome of mediation.

ACCEPTED AND AGREED as of the Effective Date:

CITY OF THIEF RIVER FALLS, MN	**GLOBAL SPECTRUM, L.P., d/b/a Oak View Group**
By: _____ Name: _____ Title: _____	By: Global Spectrum, LLC, its general partner By: _____ Brian Rothenberg President

SCHEDULE 1.1

FACILITY DEFINED

SCHEDULE 2.1 (a)
MANAGEMENT SERVICES

OVG's management obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof and the controls and restrictions in the Operations Manual:

(a) Manage all aspects of the Facility in accordance with the Operations Manual and the terms of this Agreement, including but not limited to managing purchasing, payroll, fire prevention, security, crowd control, routine repairs, preventative maintenance, janitorial services, promotions, advertising, energy conservation, security, box office, admission procedures, parking (if applicable), and general user services.

(b) Establish and adjust prices, rates and rate schedules for user, license, concessions, occupancy, and advertising agreements, and booking commitments. OVG may deviate from the established rate schedule when entering into any such agreements if determined by OVG, using its reasonable business judgment, to be necessary or appropriate with respect to the specific situation.

(c) Procure, negotiate, execute, administer and assure compliance with Service Contracts, Revenue Generating Contracts, and other contracts related to the operation of the Facility.

(d) Require that all material vendors and licensees of the Facility execute vendor/license agreements containing standard indemnification and insurance obligations on the part of each such vendor/licensee.

(e) Provide standard form advertising and sponsorship contracts and user/rental agreements for use at or with respect to the Facility. OVG shall submit such form agreements to Owner for review and comment, and the parties shall work together to finalize such forms. Once finalized, OVG shall use such forms in furtherance of its duties hereunder, and shall not materially deviate from the terms contained in such forms without obtaining the prior approval of Owner (which shall not be unreasonably withheld). OVG's sole responsibility with regard to providing legal advice or assistance hereunder shall be to provide such standard form contracts.

(f) Operate and maintain the Facility, including the equipment utilized in connection with its operation and any improvements made during the term of this Agreement, in the condition received, normal wear and tear excepted.

(g) Arrange for and otherwise book events at the Facility in accordance with a booking schedule to be developed by OVG.

(h) Hire or otherwise engage, pay, supervise, and direct all personnel OVG deems necessary for the operation of the Facility in accordance with Article 6 of the Agreement, and conduct staff planning, retention and training programs as determined to be necessary by OVG in its sole discretion.

(i) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles, which records shall be made available to Owner upon request, in accordance with Section 11.1 of the Agreement.

(j) Submit to Owner in a timely manner financial and other reports detailing OVG's activities in connection with the Facility, as set forth in Section 11.2 of the Agreement.

(k) Prepare a proposed annual Operating Budget and submit such proposed budget to Owner, both in accordance with Article 8 of the Agreement.

(l) Pay all Operating Expenses and other expenses incurred in connection with the operation, maintenance, supervision and management of the Facility from the Operating Account or with funds otherwise made available by Owner.

(m) Secure, or assist Owner (or any other third party, as applicable) to secure, all licenses and permits necessary for the operation and use of the Facility for the specific events to be held therein, and for the general occupancy of the Facility, including without limitation all necessary food and liquor licenses, and renewals thereof. Owner shall cooperate in this process to the extent reasonably required. All costs associated with this process shall be Operating Expenses.

(n) Collect, deposit and hold in escrow in the Event Account any ticket sale revenues which it receives in the contemplation of or arising from an event pending the completion of the event, as more fully described in Section 9.1 of the Agreement.

(o) Collect in a timely manner and deposit in the Operating Account all Revenue, as more fully described in Section 9.2 of the Agreement

(p) Subject to Owner making available sufficient funds in a timely manner, pay all Taxes.

(q) Assist in the preparation, maintenance, and implementation of a marketing plan for the Facility, as requested and subject to Owner's approval.

(r) Assist in the planning, preparation, and implementation of all public relations and other promotional programs for the Facility, as requested.

(s) Manage and oversee the sale of Commercial Rights, including naming rights, at or in connection with the Facility.

(t) On an annual basis, cause a written inventory to be taken of all FF&E, supplies, tools and vehicles at the Facility, and deliver a written report of the foregoing to Owner. OVG shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by OVG, and OVG shall promptly notify Owner of any such damage or loss.

(u) Purchase, on behalf of Owner and with Owner funds, and maintain during the Term, all materials, tools, machinery, equipment and supplies necessary for the operation of the Facility.

(v) As agent for Owner, manage risk management and Facility insurance needs, as more fully described in Article 17 of the Agreement.

(w) Make and be responsible for all routine and minor repairs, maintenance, preventative maintenance, and equipment servicing. OVG shall be responsible for ensuring that all repairs,

replacements, and maintenance shall be of a quality and class at least equal to that of the item being repaired, replaced, or maintained. Any replacement of an item in inventory, or any new item added to the inventory, which is paid for by Owner, shall be deemed the property of Owner.

(x) Cause such other acts and things to be done with respect to the Facility, as determined by OVG in its reasonable discretion to be necessary for the management and operation of the Facility following the Commencement Date.

SCHEDULE 2.1(b)
FOOD AND BEVERAGE SERVICES

OVG's food and beverage obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof and the controls and restrictions in the Operations Manual:

(a) Develop and implement all necessary policies and procedures for the food and beverage operations;

(b) Engage and oversee employees necessary to perform the food and beverage services at the Facility;

(c) Manage the food and beverage services in compliance with and subject to all federal, state and local laws, ordinances and regulations (including, without limitation, health and sanitation codes and regulations with respect to the sanitation and purity of the food and beverage products for sale);

(d) Arrange for all minor repairs and routine maintenance to the equipment used in the operation of the food and beverage services;

(e) Keep the food and beverage facilities and equipment neat, clean and in a sanitary condition;

(f) Undertake appropriate advertising, marketing and promotion of the food and beverage offerings at the Facility;

(g) Develop menus, portions, brands, prices, themes and marketing approaches. OVG (or its designee concessionaire, as applicable) shall be entitled to set the prices for such items for sale; and

(h) Order, stock, prepare, pay for (as an Operating Expense) and sell appropriate foods and beverages.

SCHEDULE 5.4
OWNER FACILITY USE DATES

- **[Owner to Provide]**

SCHEDULE 6.1
PERSONNEL STAFFING CHART

SCHEDULE 14.1
EXISTING CONTRACTS

[Owner to attach current list and to update prior to the Commencement Date]

SCHEDULE 17.1
INSURANCE

At all times during this Agreement, OVG shall maintain the following insurance coverage:

(a) commercial general liability insurance, including products and completed operations, bodily injury and property damage liability, contractual liability, independent contractors' liability, and personal and advertising injury liability against claims occurring on, in, or about the Facility, or otherwise arising under this Agreement;

(b) umbrella or excess liability insurance;

(c) commercial automobile liability insurance, including coverage for the operation of owned, leased, hired and non-owned vehicles;

(d) workers compensation and employer's liability insurance as shall be required by and be in conformance with the laws of the State or Commonwealth in which the Facility is located;

(e) professional liability insurance and self-insured employment practices liability coverage;

(f) employment practices liability insurance;

(g) pollution liability; and

(h) crime coverage.

Such liability insurance shall be maintained in the following minimum amounts throughout the Term:

Commercial General Liability
$1,000,000 per occurrence
$1,000,000 personal and advertising injury
$1,000,000 products-completed operations aggregate

Umbrella or Excess Liability
$5,000,000 per occurrence and aggregate

Automobile Liability
$1,000,000 per accident (PI and PD combined single limit)
$1,000,000 uninsured/underinsured motorist

Workers Compensation
Workers Compensation: Statutory
Employer's Liability: $100,000 each accident-bodily injury by accident

$500,000 policy limit-bodily injury by disease
$100,000 each employee-bodily injury by disease

Professional Liability/Errors & Omissions (Claims Made basis)

$1,000,000 each occurrence/aggregate

Employment Practices Liability Insurance (Claims Made basis)
$1,000,000

Pollution Liability (Claims Made basis)
$1,000,000

Crime Insurance
Coverage on all on-site OVG employees. Limit: $500,000

SCHEDULE 17.2
OWNER INSURANCE

At all times during this Agreement, Owner shall maintain the following insurance coverage:

(a) Commercial Property Insurance
   i. All-risk property insurance on the Facility and the Owner's business property and equipment providing coverage to a limit of not less than the full replacement cost, including explosion, collapse and underground, earthquake and flood. Such insurance will be written to include replacement cost value. All premium, deductibles, taxes and fees and/or self-insured retentions are the responsibility of the Owner.

(b) Worker's Compensation and Employer's Liability Insurance; as shall be required by and be in conformance with the laws of the State or Commonwealth where Facility is located.
   i. Workers Compensation: Statutory
   ii. Employer's Liability: $1,000,000 each accident-bodily injury by accident; $1,000,000 policy limit-bodily injury by disease; $1,000,000 each employee-bodily injury by disease

Additional Terms:

- All policies shall be issued by insurance companies authorized by the state or commonwealth where the Facility is located and have an A.M. Best rating of at least A VIII or better for the duration of the contract and any extensions thereof.
- All policies shall include a waiver of subrogation in favor of the OVG and be primary and non-contributory with any available insurance policies and programs of self-insurance of the OVG.