

**AGENDA**  
**SPECIAL PLANNING, BUILDING AND ZONING COMMITTEE**  
**Village of Hoffman Estates**  
**January 18, 2010**

**7:45 P.M. - Board Room**

**Members: Gary Pilafas, Chairperson**  
**Karen Mills, Vice Chairperson**  
**Ray Kincaid**

**I. Roll Call**

**NEW BUSINESS**

1. Request approval of a contract with New Era Tickets, Exton, PA, to provide ticketing services at the Sears Centre Arena.
2. Request approval of a resolution allowing Global Spectrum to sign Sears Centre Arena event licenses on behalf of the Village.

**II. Adjournment**

**COMMITTEE AGENDA ITEM  
VILLAGE OF HOFFMAN ESTATES**

NB1

**SUBJECT:** Request approval of a contract with New Era Tickets to provide ticketing services at the Sears Centre Arena

**MEETING DATE:** January 18, 2010

**COMMITTEE:** Special Planning, Building and Zoning

**FROM:** Arthur L. Janura/Mark Koplin

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**REQUEST:** Request approval of a contract with New Era Tickets to provide ticketing services at the Sears Centre Arena.

**BACKGROUND:** On October 13, 2009, the Village received proposals for management services at the Sears Centre Arena (SCA). The proposal from Global Spectrum included the services of three of its affiliate companies, all part of Comcast Spectator. New Era Tickets is a national ticketing company, similar to Ticketmaster, who is currently providing such services at the SCA.

In November 2008, MadKatStep/CCO brought in Ticketmaster to replace Paciolan as the ticketing system for the SCA. Ticketmaster had an eight year deal but MadKatStep terminated that contract, as requested by the Village in the Deed in Lieu of Foreclosure Agreement. The Village is currently working on a month-to-month contract with Ticketmaster to continue selling tickets for the events currently on sale (the January, February, and early March events). Ticketmaster is and will continue to cooperate in a smooth transition that will allow new events to go on sale via New Era at such time as they have installed their equipment in the building replacing Ticketmaster's equipment. Thus, Ticketmaster will gradually phase out.

**DISCUSSION:** As consultant to the Village, IFG conducted an analysis of the proposal from New Era and assisted the Village in negotiating some of the points. Arnstein & Lehr, along with IFG, negotiated the contract terms. A copy of the proposed contract is attached to this agenda item. A summary sheet shows a comparison of the revenues from ticketing that will accrue to the Village/SCA and New Era, as compared with the current Ticketmaster deal, using Global Spectrum's projections for events and ticket revenues from 2010 through 2013. The agreement details the various fees attached to the various forms of purchasing tickets. The chart clearly shows that the Village/SCA will receive far more revenues (nearly twice as much) under the New Era proposal as with Ticketmaster. Driving more ticket revenue to the building supports the building and helps the bottom line.

**DISCUSSION:** (Continued)

The New Era deal runs for three years, with New Era owning the ticketing equipment in the building. The term of the agreement reflects that the first renewal of two years is at the Village's discretion. All renewals at the conclusion of the first renewal term will be by agreement of the parties. The typical New Era contract is five years, so New Era required a rebate to New Era of \$.50 per ticket sold to compensate for the initial investment in the equipment and startup costs, but only if the New Era contract is not renewed after three years. However, the Village is able to acquire such equipment at the end of the term for \$1.00.

The language regarding Ticketmaster clarifies that if Ticketmaster has sold tickets to any event, it will continue to sell all tickets to such events (or groups of events, i.e. the Slaughter games) up through and including the date of the last event. At the Village's option, New Era could pickup ticket sales already on sale if the transition was seamless. Arnstein & Lehr modified indemnity language and Limit of Liability section. A bond requirement was set at \$500,000.

Shifting from Ticketmaster to New Era provides several advantages, including allowing the building to set its own convenience fees and to realize a higher percentage of those fees. Using Global Spectrum's attendance forecasts, the venue should realize almost twice as much net income in this important department. Additionally, the Sears Centre Arena Ticket Manager has significant experience with the New Era system and platform.

The current draft was submitted to New Era with a final set of Village edits for their review. If New Era has any comments, these will be presented Monday night at the Special Planning, Building and Zoning Committee meeting.

**RECOMMENDATION:**

Recommend approval of a contract with New Era Tickets to provide ticketing services at the Sears Centre Arena.

Attachments

cc: Joe Briglia (IFG)

Sears Centre Arena  
 New Era Ticketing Costs  
 Proposal Negotiation

		2010	2011	2012	2013	2014	Total	
Tix Sold per GS proforma		312,370	434,478	488,015	551,572	606,729	2,393,164	
						(reflects 10% incr from 2013)		
Sold Via Box Office	50%	156,185	217,239	244,008	275,786	303,365	1,196,582	TRUE
Sold Remotely	50%	156,185	217,239	244,008	275,786	303,365	1,196,582	TRUE

*Original Proposal - Annual  
 Cost (Based on per Tix Cost to  
 NE all remote tix sales*

\$3.25	\$507,601.25	\$706,026.75	\$793,024.38	\$896,304.50	\$985,934.95	\$3,888,891.83	TRUE
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*Revised Proposal - Annual NE  
 Cost (based on scale of  
 over/under 110k tix sold  
 remotely)*

Tix Sold 1 - 110,000	\$3.25	\$357,500.00	\$357,500.00	\$357,500.00	\$357,500.00	\$357,500.00	\$1,787,500.00	TRUE
Tix Sold 110,001 + over	\$2.75	\$127,008.75	\$294,907.25	\$368,520.63	\$455,911.50	\$531,752.65	\$1,778,100.78	TRUE
<b>Total Annual Cost per Revised Proposal</b>		<b>\$484,508.75</b>	<b>\$652,407.25</b>	<b>\$726,020.63</b>	<b>\$813,411.50</b>	<b>\$889,252.65</b>	<b>\$3,565,600.78</b>	<b>TRUE</b>

<b>Sears Centre Savings based on Revised Proposal</b>		<b>\$23,092.50</b>	<b>\$53,619.50</b>	<b>\$67,003.75</b>	<b>\$82,893.00</b>	<b>\$96,682.30</b>	<b>\$323,291.05</b>	<b>TRUE</b>
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**Sears Centre Arena**

12/21/2009

**CLIENT REVENUE COMPARISON**

YEAR	Total Tickets	Contract Life		Variance
		NEW ERA	Total TM	
Year 1 - 2010	312,370	\$893,378.20	\$440,441.70	\$452,936.50
Year 2 - 2011	434,478	\$1,241,795.70	\$612,213.96	\$629,581.74
Year 3 - 2012	488,015	\$1,382,366.10	\$688,740.71	\$693,625.39
Year 4 - 2013	551,572	\$1,562,073.70	\$778,277.00	\$783,796.70
Year 5 - 2014	634,308	\$1,700,066.07	\$856,104.70	\$843,961.37
<b>Total - 5 Years 2010 thru 2014</b>	<b>2,420,743</b>	<b>\$6,779,679.77</b>	<b>\$3,375,778.07</b>	<b>\$3,403,901.70</b>
				TRUE

**SERVICE AND USAGE AGREEMENT**

Organization Name:	<b>The Village of Hoffman Estates</b>	(hereinafter referred to as "Customer")
Mailing Address:	<b>1900 Hassell Road Hoffman Estates IL 60169</b>	
Installation Address:	<b>Sears Centre Arena 5333 Prairie Stone Parkway Hoffman Estates, IL 60192</b>	

hereby contracts for, and agrees to accept, and Patron Solutions, L.P., d/b/a New Era Tickets, a Pennsylvania limited partnership, (hereinafter referred to as "NE") by its acceptance, as evidenced by its execution of this Service and Usage Agreement (the "Agreement"), agrees to provide, subject to the attached terms and conditions, the Hardware, Software, and services listed below, at the below listed fees. The attached Addenda are an integral part of this Agreement and this Agreement shall be of no force or effect unless the Agreement and each Addendum are signed by the parties hereto.

**Hardware, Software and/or supplies provided by NE:**

Qty.	Description	Qty.	Description
<b>As Needed</b>	Ticket Stock	<b>1</b>	Box Office Scanner(s)
<b>10</b>	PC Workstation(s)	<b>1</b>	Report Printer(s)
<b>10</b>	Credit Card Swipe(s)	<b>1</b>	Access Control Server(s)
<b>10</b>	Ticket Printer(s)	<b>30</b>	Access Control Reader(s)
<b>1</b>	Concurrent Report Writer Users	<b>10</b>	Concurrent Box Office Users

**Schedule of fees payable to NE by Customer:**

**General Services**

Event setup (Per Event):	No Charge
Processing fee for all sales paid via credit card:	2.7%
Optional Consumer Survey Fee (per Event):	n/a

**e.Venue Services**

Print-at-home and/or Electronic Ticket delivery:	\$1.00 per order.
On-Line Combo sales and renewals:	The greater of 50% of the fees established by Customer for On-Line Combo sales and renewals or \$5.00 per order.
Primary Auction:	Standard fee for Tickets sold via the Internet, as outlined herein, plus 10% of the gross amount over the established Ticket price and any Convenience Fees built into the starting bid price.
Secondary Auction or Ticket Marketplace:	The greater of 10% of the gross amount over the starting bid value or \$5.00 per order.
Ticket Forwarding:	The greater of 50% of the fees established by Customer for Ticket forwarding or \$1.50 per order.
On-line check payment:	\$6.00 per transaction.

**Primary Ticket Sales**

Method of Sale	Year 1 (0-110,000 tickets)	Year 1 (110,001+ tickets)	Year 2 (0-110,000 tickets)	Year 2 (110,001+ tickets)	Year 3 (0-110,000 tickets)	Year 3 (110,001+ tickets)	Year 4 (0-110,000 tickets)	Year 4 (110,001+ tickets)	Year 5 (0-110,000 tickets)	Year 5 (110,001+ tickets)
Sold at Box Office (per Ticket):	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge
Sold as Combos (per Ticket at the Box Office):	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge
Sold or issued at Customer established Outlets (per Ticket):	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Complimentary Tickets issued at the Box Office (per Ticket):	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge
Tickets sold or issued via the Internet (per Ticket):	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75
Tickets sold or issued at NE Call Center (per Ticket):	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75	\$3.25	\$2.75
Telephone and/or Internet Fulfillment fee (per Ticket):	\$0.80	\$0.80	\$0.80	\$0.80	\$0.90	\$0.90	\$0.90	\$0.90	\$1.00	\$1.00
Two (2) day express shipping (per order): (The express shipping fee is subject to automatic increases due to increases in the fuel surcharge rates imposed on NE by the delivery services that NE utilizes.)	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00

*\*\*Please note the above Tiered pricing is as follows: Ticket Fees for Tier One (0-110,000 Tickets) applies to Tickets sold via the Phone/Internet. Once any combination of Phone and/or Internet Sales reaches the 110,000 sold mark during any given contract year, then Tier Two Pricing begins immediately. Tier Two pricing is not retroactive.*

**Miscellaneous Item Sales**

Method of Sale	Year 1	Year 2	Year 3	Year 4	Year 5
Sold at Box Office (per Miscellaneous Item):	No Charge	No Charge	No Charge	No Charge	No Charge
Sold via the Internet (per Miscellaneous Item):	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
Sold at NE Call Center (per Miscellaneous Item):	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
Note – Fulfillment and express shipping fees quoted separately.					



**Refunded Credit Card Sales:** Processing fees for refunded credit card sales are \$0.75 per order plus the fees outlined above.

**Remote Sale Prohibitions:** Pursuant to Section II, NE is prohibited from conducting the following types of Remote sales: N/A.

**Term:** Pursuant to Section III, the Initial Term (as defined herein) of the Agreement will commence on January \_\_\_\_, 2010 and continue for Three (3) years through December 31, 2013.

**Settlement:** Pursuant to Section IV (e), Settlement shall occur Friday of each week for all sales that occurred the Monday through Sunday of the preceding week.

**Annual Ticket Sales Minimums:** Pursuant to Section V (b), Customer agrees to sell a minimum of 50,000 Remote Tickets per year through the System. If Customer fails to sell the minimum number of Tickets, NE has the right to request that Customer pay the Deficiency Amount to NE. The Deficiency Amount shall be determined by multiplying \$\_\_\_\_\_ by the difference between 50,000 and the number of Tickets sold. The Village will only be in default of this provision if it fails to pay NE the Deficiency Amount within 30 days of NE's proper written request to the Village.

**Marketing Database:** Pursuant to Addendum B, Section VIII, Customer agrees the Marketing Database shall not exceed 150,000 contacts.



**THIS AGREEMENT** is made on the date of the last signature set forth on the last page of this Agreement.

IN CONSIDERATION of the mutual covenants contained herein being kept, paid and performed, the parties hereto agree as follows:

**I. DEFINITIONS.** As used throughout this Agreement:

- (a) ACCESS CONTROL shall mean the ability to monitor attendance and validate Tickets in order to control admission to a Facility by reading bar coded Tickets with electronic scanners.
- (b) ATTRACTION shall mean a theatrical production, leisure or educational activity, concert, motion picture, sporting event, permanent or temporary exhibit or any other activity for which Tickets are sold, and as to which Customer or Client has the right to sell such Tickets. An Attraction may only be one Event, if only one Event is presented, or may encompass a series of Events. An Attraction does not include a consumer show or exhibition so long as no other computerized ticketing company or system is used.
- (c) BOX OFFICE shall mean a physical location where Ticket sales are conducted using Customer or Client staff.
- (d) CLIENT shall mean an organization that presents an Event at a Customer managed or owned Facility and/or contracts with Customer for Ticket sales.
- (e) COMBO shall mean a collection of Tickets for multiple Events or a series of Events (for example, Season Tickets) that are packaged together and sold as a single item. For settlement purposes, sales of Combos are coded as "C" in the System.
- (f) COMPLIMENTARY TICKETS shall mean Tickets processed and printed at the Box Office by Customer or Client which are accounted for in the Settlement at no dollar value.
- (g) CONVENIENCE FEES shall mean additional money charged by Customer or Client to Ticket Buyers in excess of the established Ticket price. The Convenience Fees shall be set by Customer in its sole discretion. Except as otherwise expressly set forth herein, Customer shall be entitled to retain 100% of the Convenience Fees. Notwithstanding anything contained herein to the contrary, Customer shall pay to NE any and all fees due to NE hereunder regardless of the Convenience Fees charged by Customer.
- (h) EVENT shall mean an individual presentation of an Attraction.
- (i) E.VENUE shall mean the Software programs provided by NE which enable Customer to sell and support the sale and/or resale of Tickets, Miscellaneous Items, and/or Combos, print Tickets from home and send communications via the Internet.
- (j) FACILITY shall mean the theater, arena, stadium, concert hall or other premises where an Event is to be performed.
- (k) FULFILLMENT shall mean the printing and delivery of Tickets, via US mail, to Ticket Buyers.
- (l) GROUP SALES shall mean the sale of Tickets to fifteen (15) or more individuals who intend to attend the Attraction as a group, not individually.
- (m) GROUP TICKET WINDOW shall mean the online group ticket manager that enables Customer and/or Clients to conduct Group Sales.
- (n) HARDWARE shall mean the equipment provided to Customer by NE as set forth on the front of this Agreement.
- (o) MISCELLANEOUS ITEM shall mean any unit of merchandise, added worth, product, property, parking pass, or other service sold by or on behalf of Customer or Client through the System. For settlement purposes, sales of Miscellaneous Items are coded as "M" in the system.
- (p) OPEN SEATS shall mean seats for an Event which are available for sale on the System.
- (q) PRIMARY AUCTION shall mean any bidding process for Tickets and/or Miscellaneous Items conducted by Customer or any Client in which Tickets are offered for sale for the first time (as opposed to being resold via a Secondary Auction or Ticket Marketplace).
- (r) REMOTE shall mean any method of Ticket sale where the sale originates anywhere other than in person at the Box Office and Tickets are authorized for sale for Events. A Remote can include a computer terminal location away from the Box Office (i.e., an Outlet), a telephone call center ("Call Center"), an Internet web site, an interactive television channel, a self-service kiosk, a personal digital assistant, a cell phone or any other means or methods, whether now existing or hereinafter developed, to transact Ticket sales or distribute Tickets from anywhere other than in person at the Box Office.
- (s) SECONDARY AUCTION and/or TICKET MARKETPLACE shall mean a secondary market service, established either by Customer or Client, where a Ticket Buyer can re-sell Tickets and/or Miscellaneous Items to another individual.
- (t) SOFTWARE shall mean those computer programs provided by NE to Customer or Client used to conduct Ticket sales.
- (u) SYSTEM shall mean the Hardware, Software, personnel and procedures established and maintained by NE for the purpose of selling, auditing and maintaining control of Tickets for Events.
- (v) TICKET shall mean any form of evidence of the right to occupy space, or obtain entry to an Event, that has been issued and accounted for by the System and/or authorized as valid by the System. For settlement purposes, sales of Tickets are coded as "S" in the System.
- (w) TICKET BUYER shall mean those persons that buy Tickets for Events by means of the System.
- (x) TICKET FORWARDING shall mean the ability to enable one individual to transfer Ticket(s) to another individual by means of the System.
- (y) VALUE PACKAGE shall mean a combination of a Ticket and/or a Combo plus a Miscellaneous Item, all of which are packaged together and sold as a single unit. For each Value Package sold, Customer shall pay NE a fee equal to the sum of the individual fees of each of the items comprising the Value Package.

- II. AUTHORIZATION.** NE hereby grants to Customer a non-exclusive, non-transferable, revocable right and license to use the System for all Events, and Customer hereby agrees to use the System for all Events as set forth herein. Customer hereby grants to NE the exclusive authority to sell, on behalf of Customer, Tickets through the System, for all Events for any Attraction produced or presented in whole or in part by Customer, and/or held at a Customer managed or owned Facility and made generally available to the public, and/or for which Customer has the authority to sell Tickets. Furthermore, except for those Remotes noted on the front of this Agreement after the heading "Remote Sales Prohibition," Customer agrees that it will not use any other method of sale or any secondary market service during the Term (as defined below) of this Agreement and that, consistent with the foregoing, Tickets sold at the Box Office will be sold using the System exclusively. Customer further agrees that the exclusive rights granted to NE hereunder extend to both Primary Auctions and Secondary Auctions of any Tickets and/or the sale of any Miscellaneous Items and shall include any and all future technologies, means and/or methods developed for Ticket sales or distribution. Customer also acknowledges that the authorization outlined in this Section II extends to all Clients of Customer and that all Tickets sold for an Event, regardless of how sold (including Client Ticket sales and Combos), will be considered processed by the System and subject to the fees contained herein. The parties acknowledge that NE does not guarantee that any minimum or fixed number of Tickets will be sold through the System for any Event.

Notwithstanding the foregoing, the parties acknowledge that Customer has an ongoing relationship with Ticketmaster and that Tickets for certain Event(s), including the sale of season tickets and individual game tickets to the "Slaughter" football games, are currently on sale through Ticketmaster and will continue to be sold through Ticketmaster after the Effective Date of this Agreement. The parties further acknowledge that to the extent Tickets to any Event (including the sale of season tickets and individual game tickets to the "Slaughter" football ) have gone on sale through Ticketmaster that Ticketmaster has and will continue to have the exclusive right to sell Tickets to said Events. The parties acknowledge that Customer's use of the Ticketmaster ticketing system to sell Tickets for such Events shall not constitute a breach of this Agreement. At its option, Customer has the sole right to request that NE accommodate the transfer of the sale of any such event from Ticketmaster to New Era. If Customer makes such election, the parties agree to work together in good faith to facilitate the transfer of any such event.

- III. TERM.** This Agreement shall commence, and will continue in full force and effect, for the term set forth as outlined on the front of this Agreement (the "Initial Term"). This Agreement can be renewed by Customer for an additional two (2) year Renewal Term upon thirty (30) days written notice to NE prior to expiration of the Initial Term. Prior to the expiration of the first Renewal Term, the parties may mutually agree to renew the Agreement for additional three (3) year terms (or other mutually agreed upon period of time). If the parties do not mutually agree to renew the Agreement, it will expire at the end of the applicable Interim Term or Renewal Term, as the case may be. The Initial Term and the Renewal Term, if any, shall be collectively referred to as the "Term." All Attractions that go on sale during the Term of this Agreement will be governed by this Agreement."

The Village of Hoffman Estates is an Illinois home rule municipal corporation. As such, notwithstanding any provisions of this Agreement to the contrary, all financial obligations of Customer hereunder beyond the current year are subject to annual budget approvals and annual appropriations and all obligations of the Customer hereunder are controlled by the Illinois Municipal Code.

In the event this Agreement is terminated prior to the end of the Term, Customer shall promptly pay NE all fees due NE up to the date of termination, including [LIST OF FEES] for the year in which this Agreement expires or is terminated, computed on a pro-rata basis (if applicable). Additionally, in the event this Agreement is terminated prior to the expiration of the Initial Term for any reason (including without limitation by reason of Customer failing to budget or appropriate sufficient funds, as set forth above other than breach of this Agreement by NE), Customer shall reimburse NE for any reasonable actual ordinary and necessary expenses, if any, incurred by NE in withdrawing from the provision of services hereunder following such termination, as well as pay NE as an agreed-to contract break-up fee (and not as a penalty) within thirty (30) days after the effective date of termination of the Agreement, an amount equal to fifty cents (\$.50) for each Ticket sold through NE's ticketing system whether via the internet or by telephone. NE shall likewise be entitled to the break-up fee of fifty cents (\$.50) for each Ticket sold through NE's ticketing system whether via the internet or by telephone, if Customer elects not to renew this Agreement for one additional two (2) year term at the conclusion of the Initial Term.

- IV. SERVICES PROVIDED BY NE.** The responsibilities of NE shall be limited strictly to maintaining and operating the System, and providing the following services:
- (a) Providing the means for total Event setup for Customer Attractions in accordance with Customer's reasonable needs and System capabilities not requiring Software programming changes. Before Tickets to an Attraction are sold through the System, Customer must approve the Event setup, Ticket pricing and Convenience Fees for such Attractions. In the event standard Ticket stock is provided by NE, Customer retains the right to approve (such approval not to be unreasonably withheld) any advertising on the back of Tickets for Tickets sold at the Box Office, Call Center and by Internet (but not at any NE Remote). NE shall have no liability to Customer on account of any advertising or other content on the back of Tickets, whether sold at the Box Office, a Call Center or by Internet or any NE Remote.
  - (b) Selling Tickets for an Attraction upon instructions from Customer at the fees payable to NE as outlined on the front of this Agreement.

- (c) Providing access to Event and operator reports based upon System transactions and access to sales distribution reports if, and as reasonably, requested by Customer.
- (d) At its discretion, promoting and advertising Customer's use of the System. Customer shall procure for the benefit of NE all consents and approvals which are necessary to permit NE to use any name, logo or other mark associated with or otherwise referring to Customer, Client or the Facility.
- (e) Collecting all money received from sales managed by NE for Customer and holding all monies, including applicable taxes, less amounts due NE, in trust for the benefit of Customer and, where applicable, Event promoters and Clients. NE will make such funds available to Customer by ACH Transfer, less any amounts due NE by Customer according to the schedule stated on the front of this Agreement or as otherwise reserved as provided in Section VI (the "Settlement"). Each dispersal of funds to Customers shall be accompanied by a System report. System reports will form the basis for determining the gross receipts and deductions for Customer sales and shall be conclusive as to all amounts contained therein. At all times during the Term of this Agreement and for one (1) year thereafter, but no more than once per year, Customer shall have the right, at its own expense and on reasonable prior notice, to audit sales managed by NE for Customer. NE agrees to obtain a bond in the amount of \$500,000.00 (Five Hundred Thousand Dollars and No Cents) for the benefit of Customer (and provide proof thereof to Customer) as security for those funds held in escrow by NE and to maintain such bond for the Initial Term and any Renewal Terms of this Agreement. At the beginning of each Renewal Term, the amount of this bond is subject to adjustment based on the historical performance of Remote Ticket sales at the Facility. It is the intention of the parties that the bond shall be in an amount equal to the total amount of Ticket sales held by NE between settlements on Customer's behalf at any point during the applicable Term of the Agreement.
- (f) Providing to Customer the Hardware as listed on the front of this Agreement. Such Hardware shall remain the exclusive property of NE, and Customer shall have no right therein. Customer shall not remove or otherwise alter any label affixed to the Hardware which states that the Hardware is owned by NE. NE shall place the Hardware in the location(s) reasonably requested by Customer and Customer hereby agrees that it will not remove the Hardware from such location(s) without reasonable prior notice to NE. The maintenance and upkeep of the Hardware will be the responsibility of NE except to the extent that such maintenance is necessitated by the negligent acts or omission of Customer (in which case, Customer shall be responsible for the repairs). Customer authorizes NE to file such financing statements pertaining to the Hardware, with or without Customer signature, as NE determines necessary to indicate NE's continuing ownership therein. In the event Customer fails to pay any sum hereunder when due, then, subject to the notice and cure provisions of Section VIII, NE may, in addition to all other rights and remedies to which NE is entitled at law or in equity, at the option of NE: (i) cease delivery or any other service until paid in full, and/or (ii) enter upon Customer premises, with prior written notice, and take possession of and remove the Hardware. At the end of this Agreement, and provided all terms and conditions of this Agreement have been met, including but not limited to attainment of required minimum sales as set forth on the front of this Agreement, title to the Hardware shall be immediately conveyed to Customer for One Dollar (\$1.00), free of all claims or liens.
- (g) Operating the System in accordance with NE's normal business hours as outlined in Addendum A.
- (h) If authorized by Customer to conduct telephone sales on its behalf, establishing a staff and maintaining, at its expense, a Call Center on behalf of Customer with respect to Attractions and, in that regard, receiving telephone calls for Ticket and Miscellaneous Item sales. Such Call Center will be adequately staffed to perform ongoing licensed user assistance with respect to Ticket and Miscellaneous Item sales during NE's normal business hours.
- (i) Maintaining, at its sole expense, a central computer facility at such location or locations as NE deems necessary for the operation of the System. The central computer facility will be in operation during NE normal business hours and will be adequately staffed to perform all ongoing licensed user assistance, maintenance and repair services required to be performed by NE under this Agreement.
- (j) Providing Customer with the ability to process payment for all sales with Visa, MasterCard, Discover, and American Express credit cards. Processing fees charged to Customer by NE are set forth on the front of this Agreement and are subject to increase due to increases imposed on NE by its merchant bank upon NE providing written documentation evidencing same to Customer. Customer also agrees to pay all credit card fees relative to the purchase price of such sales, any additional Convenience Fees that Customer may add to the sale, taxes or any other charges added to the price, and all fees imposed by the merchant bank or any credit card network or association for refunds that Customer may make or authorize NE to make. Customer is responsible for all costs or expenses related to fraudulent credit card use, charge-backs or disputes, and any other fees associated therewith (individually and collectively "Charge-Backs"). NE will make every reasonable effort to document the Charge-Backs with its merchant bank and to rectify the Charge-Backs with purchasers. Any unresolved Charge-Backs will be documented to Customer and deducted at Settlement.
- (k) Training a sufficient number of Customer employees who shall be responsible for the initial staffing of the Box Office and for the operation of the System. NE agrees to provide additional training to other employees of Customer to the extent such training is necessary as a consequence of changes in, or a modification of, the System, or NE's method of operation. To the extent of any change in personnel by Customer in connection with Box Office staff or staff at another location designated by Customer, requiring additional training beyond that initially contemplated hereunder, Customer agrees to absorb all of the expenses thereof.
- (l) Creating and maintaining a Customer-branded Internet site hosted by NE at a URL to be designated by NE (the "Site"). The Site will provide to Customer the functions reasonably required for Customer to transact to the public its Tickets, Miscellaneous Items, payments, subscription orders and other items of value directly from the

Site using e.Venue. NE will take the commercially reasonable steps to ensure that the Site is secure, functional, and continually available to Customer and the public (subject to network interruptions and reasonable downtime for maintenance, upgrades and repairs). As part of a private label offering for Customer employing the System, NE shall, at its sole cost and expense, among other matters to be undertaken, brand the graphical user interface to the Site with Customer's logo and trademarks and service marks, so that the Site and any other products or services visible to Customer's patrons shall have the "look and feel" of Customer. NE may subcontract any portion of the Site contemplated herein, provided that NE shall be responsible for the conduct and performance of each subcontractor as if NE had performed all of the subcontracted services.

**V. OBLIGATIONS OF CUSTOMER.** The responsibilities of Customer shall be as follows:

- (a) Paying NE all compensation and fees as outlined on the front of this Agreement, without deduction or set-off of any kind or nature. NE's compensation and fees will be invoiced to Customer or withheld from Settlement. NE's compensation and fees are due and payable for all sales processed or considered processed through the System, including Combo and Ticket sales for cancelled Events.
- (b) Selling the minimum number of Remote Tickets as set forth on the front of this Agreement.
- (c) Assuming responsibility for the input and accuracy of all data necessary for Event setup.
- (d) Using the System exclusively to issue Tickets, and honoring or causing to be honored all Tickets properly issued for all Events.
- (e) Allowing the sale of all Open Seats for each Event at all Remotes unless otherwise noted on the front of this Agreement. The availability and selection of seats shall be the same for all Remotes engaged in Ticket transactions for each Event.
- (f) In all advertising or other promotional material which it creates, causes to be produced, controls or recommends, promoting the fact that Tickets are available via the Call Center and the Internet and including and featuring the Call Center telephone number and Internet URL where consumers can purchase Tickets.
- (g) Paying any and all amusement, sales, admission, or other taxes based on this Agreement on all sales. Customer is not responsible for any taxes based on the net income of NE.
- (h) Unless otherwise noted in this Agreement, paying for the costs of all supplies which it uses for the operation of the System, including printer paper, toner, and ribbons.
- (i) At Customer's expense, (i) preparing the site, and all Customer managed Outlet locations, if any, so all facilities including, without limitation, space, electrical power, air conditioning, cabling, and telephone circuits are in accordance with installation specifications provided by NE; (ii) installing all cabling for Access Control; and (iii) expanding the Customer-owned PC network and/or telephone system as may be required by NE. Furthermore, Customer is responsible for the installation and monthly costs of all communication line connections between Facility(ies), Customer managed Outlets and the NE computer center.
- (j) Informing NE of all major on-sale dates and/or advertising campaigns.
- (k) Paying a reasonable fee to NE to procure services, equipment, and supplies needed to meet Customer requests for System changes. NE shall obtain the approval of Customer before incurring any fee. Customer understands that System changes may require services, supplies, or equipment of third parties, and they may not be readily available to NE; however, NE will use commercially reasonable efforts to obtain such services, supplies, or equipment upon request of Customer.
- (l) Staffing a Box Office at its Facility(ies), or other location(s) that it designates for the sale of Tickets and Miscellaneous Items, with either its employees or the employees of a Client, which employees shall be responsible for the proper operation of (including the sale of Tickets and Miscellaneous Items through) the System.
- (m) At its own expense, providing and maintaining at all times during the term hereof insurance or a program of self-insurance in an amount equal to the replacement cost of the Hardware as determined by NE and documented to the Customer by NE to protect NE against the loss or damage of the Hardware located at the Customer Facility(ies) as a result of fire, vandalism, malicious mischief, theft or any other cause. Should the Customer become unable to provide or maintain the required insurance coverage or a program of self-insurance the Customer shall promptly notify NE in writing prior to the expiration of any such coverage or a cessation of such self-insurance program and, thereafter, NE shall have the right, but shall not be obligated, to provide insurance coverage for the occurrences specified above and charge the Customer the costs of such insurance coverage.

Customer hereby acknowledges that its rights to the System are as a licensee, and that no rights in the System, including, but not limited to the Software, shall vest in Customer, other than the Hardware to the extent conveyed upon termination at the end of the Term in accordance with Section IV(f). The license granted herein shall automatically terminate upon notice from NE to Customer upon any default by Customer hereunder, subject to the notice and cure provisions of Section VIII.

**VI. CANCELLED EVENTS.**

- (a) Customer acknowledges and agrees that in the case of any cancellation of an Event for which NE processes payment via credit card, NE is obligated to make refunds to those Ticket Buyers that paid for Tickets via credit card, within two (2) business days of the time of Customer's announcement of the cancellation of the Event. Customer authorizes NE to refund the Customer established Ticket price and Convenience Fee(s) and shall (i) promptly and effectively advertise to the general public its policy and procedures on refunds to Ticket holders

and, (ii) within two (2) business days of Customer's announcement of the cancelled Event, provide NE with sufficient funds, based on the System reports, to make such refunds, provided that NE may withhold funds from the sale of Tickets to other Customer Events to the extent of any deficiency in funds to make refunds. Any failure by Customer to timely remit the required funds as requested by NE shall entitle NE to terminate this Agreement in addition to any other right to which NE may then be entitled. Notwithstanding the cancellation of any Event, NE shall be entitled to all fees as stated on the front of this Agreement with respect to the sale of Tickets to the cancelled Event, in addition to all credit card fees.

- (b) As a condition to any termination of this Agreement by Customer, whether upon expiration of the Term or otherwise, Customer shall be required to remit to NE funds equal to the Ticket price and Convenience Fees for all Tickets sold via credit card for Events of Customer scheduled to occur after the date of termination (each a "Post Termination Event"), which NE shall deposit in an interest bearing segregated account and from which NE shall be entitled to pay refunds on account of any Post Termination Event which is cancelled. Upon the occurrence of any Post Termination Event, NE shall remit to Customer, within two (2) business days from the date of such Post Termination Event, an amount equal to the Ticket Price and Convenience Fees sold via credit card for such Post Termination Event held in the NE segregated account, together with interest earned thereon, less any amounts due NE from Customer.

**VII. INDEMNITY.** Customer shall indemnify and save harmless NE and its affiliates against and from all claims, actions, demands, costs, damages, losses or expenses of any kind whatsoever (including, without limitation, reasonable attorneys fees and expenses) resulting from or in connection with the operation of the System under this Agreement. Customer shall further provide NE with a Certificate of Insurance and endorsement naming NE as an additional named insured on Global Spectrum L.P.'s insurance policies as provided in Customer's agreement with Global Spectrum L.P. Customer shall provide NE with such certificate and endorsement on the Effective Date of this Agreement. NE shall indemnify and save harmless Customer and its affiliates against and from all claims, actions, demands, costs, damages, losses or expenses of any kind whatsoever, including, without limitation, reasonable attorney fees and expenses, arising out of any third party claims of infringement of intellectual property rights with respect to Customer's use of the System or any component thereof. Nothing in this paragraph is intended to, nor shall it, limit the parties' respective rights to recover any and all covered damages pursuant to any applicable insurance and up to the applicable limits as set forth therein.

**VII. PREMATURE TERMINATION BY EITHER PARTY.** Either party hereto may terminate this Agreement in the event that the other party (i) fails to timely account for and make payment of all amounts hereunder when due, and such failure is not cured within fifteen (15) days after written notice thereof is sent to the other party, or (ii) fails to perform any other obligations required of it hereunder, and such failure is not cured within thirty (30) days after written notice thereof is sent to the other party. Such termination shall be effective upon the notifying party mailing a notice to the other party declaring its election to terminate. In addition, this Agreement shall automatically terminate in the event that either party liquidates, whether voluntarily or involuntarily, suffers the appointment of a receiver for all or a substantial part of its assets or business, or otherwise takes advantage of or is subject to any other law relating to bankruptcy, insolvency, or relief from the claims of creditors. No premature termination of this Agreement shall affect any right of either party accruing prior to such termination, whether such right is conferred by the terms of this Agreement or arises under general principles of law.

**VIII. CONFIDENTIALITY.** Each party will preserve as confidential the proprietary information of the other party, including business practices, products, technology (including, without limitation, any information, design specifications programs and any other supporting or related materials or information whatsoever relating to the System, the Hardware and the Software), customer lists, know-how, and any other information that is treated as confidential and is of value to the other party; provided, however, that the foregoing shall not apply to any information which becomes a matter of general knowledge within the public domain or if the recipient of such information is obligated to disclose the same by reason of any court order, Illinois attorney general public access determination, or requests pursuant to the Illinois Freedom of Information Act. Customer retains the exclusive rights to all Ticket Buyer information with respect to those persons who purchase Tickets for Customer Events, including name, mailing address, email address, and telephone number.

**X. LIMITATION OF LIABILITY.** NE will not be liable for any claims, actions, suits, proceedings, costs, expenses, damages or liabilities arising out of NE's performance under this Agreement except to the extent that it has been finally and judicially determined. Operation of the System and the use of the Hardware and any other products and services identified in this Agreement are the sole responsibility of Customer. NE's obligations and liability under this Agreement extend solely to Customer. NE's liability hereunder for damages, regardless of the form or nature of the action, shall not exceed the fees or other charges paid to NE by Customer under this Agreement. NEITHER NE NOR ANY MANUFACTURER OR SOFTWARE PROVIDER FOR THIS SYSTEM SHALL IN ANY EVENT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST INCOME, LOST REVENUE, OR LOST PROFIT, WHETHER SUCH DAMAGES WERE FORESEEABLE OR NOT AT THE TIME THAT THIS AGREEMENT WAS ENTERED INTO AND WHETHER OR NOT SUCH DAMAGES ARISE OUT OF BREACH OF WARRANTY, A BREACH OF THIS AGREEMENT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY. FURTHERMORE, EXCEPT AS EXPRESSLY STATED HEREIN, THERE ARE NO WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PURPOSE OR OTHER WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING. Provided however that this provision SHALL NOT: (1) limit NE's liability for direct damages to Customer for breach of this agreement [not to exceed the total fees or other charges

paid to NE by Customer under this Agreement]; (2) limit NE's obligation (or Customer's right to enforce such obligation) to remit ticket proceeds to Customer as required herein, and (3) limit NE's indemnity obligations pursuant to the terms of this Agreement.

- X. **FORCE MAJEURE.** In the event that a party is prevented or delayed in the performance of any of its obligations under this Agreement (not including any payment obligation hereunder) due to circumstances beyond its control, including but not limited to strikes, lockouts, or other differences with workers or unions, lightning, weather, fire, flood, acts of God, hostilities, civil commotion, nuclear incidents, government acts, orders or regulations, failure of technical facilities or other reason of a like or similar nature, then performance hereunder by the affected party shall be excused for the period of delay.
- XI. **COMPLIANCE WITH LAW; GOVERNING LAW.** The parties hereto (i) are duly organized and in good standing under the laws of the State indicated as its State of organization, (ii) have the power to enter into and perform the duties outlined in this Agreement, and (iii) shall each comply with all laws and regulations respectively applicable to each party in connection with the operations contemplated hereunder. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, notwithstanding conflict of laws provisions to the contrary. NE agrees and submits to the exclusive jurisdiction of the state and federal courts sitting in Cook County, Illinois, agrees that venue would be proper in such jurisdiction and waives any objection that such court would be an improper or inconvenient forum for the resolution of any such dispute.
- XII. **RELATIONSHIP.** This is not an agreement of lease, partnership, or employment of NE or any of NE's employees by Customer. NE shall not order any merchandise or equipment, incur any indebtedness, enter into any undertaking, or make any commitment in the name of Customer, except as required to advertise, publicize, sell, or do all things pursuant or incidental to the purposes and intents of this Agreement.
- XIII. **NOTICE.** All notices, approvals or requests in connection with this Agreement shall be in writing and deemed given when deposited in the United States mail, certified, return receipt requested, or on the next business day if sent by a nationally recognized overnight courier. Notices shall be sent to the parties at their respective addresses set forth in this Agreement. Either party may change the address to which notices are to be sent by notice to the other party.
- XIV. **ASSIGNMENT.** Neither this Agreement nor any proceeds of the sale of Tickets and/or Miscellaneous Items may be assigned by either party without prior written consent of the other, except to a successor (by merger, purchase of assets or stock, consolidation, etc.) to all or substantially all of the assets of the assignor. To the extent that an assignment is so permitted, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of either party. Any other assignment, or purported assignment, of this Agreement or the proceeds of Ticket and/or Miscellaneous Item sales shall be null and void.
- XV. **SEVERABILITY PROVISIONS.** In the event that any provision hereof shall be deemed in violation of any law or held to be invalid by any court in which this Agreement shall be interpreted, the violation or invalidity of any particular provision shall not be deemed to affect any other provision hereof; and this Agreement shall be thereafter interpreted as though the particular provision so held to be in violation or invalid were not contained herein.
- XVI. **AMENDMENT.** This Agreement contains all the terms agreed to between the parties. No statements or representations not included herein shall be binding upon the parties, and modifications or amendments of any of the terms hereof shall not be valid or binding unless made in writing and signed by NE and Customer.
- XVII. **ANTI-DISCRIMINATION.** In performing under this Agreement, neither party will discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, age, handicap or national origin or otherwise commit an unfair employment practice. Each party will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment, without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be duly executed in duplicate (each of which shall be deemed an original).

<b>AGREED TO:</b> The Village of Hoffman Estates	<b>ACCEPTED BY:</b> <b>PATRON SOLUTIONS, L.P.</b>
Authorized Signature _____ Date _____	Authorized Signature _____ Date _____
Typed or Printed Name _____	Typed or Printed Name <b>Fred Maglione</b>
Title _____	Title <b>President and CEO</b>

**ACCEPTANCE OF THIS AGREEMENT IS CONTINGENT UPON ACCEPTANCE BY PATRON SOLUTIONS, L.P.**

Should you have any questions concerning this Agreement, please contact:  
 Patron Solutions, L.P. · 930 East Lincoln Highway · 2<sup>nd</sup> Floor · Exton, PA 19341 · Telephone: 484-875-7300 Fax: 484-875-7358

**ADDENDUM A**

The following additional terms and conditions are hereby incorporated into the Agreement between Patron Solutions, L.P. and Customer to which this Addendum A is attached:

**New Era Tickets Hours of Operation**

		<b>Weekdays</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Holidays</b>
A	Administrative Office	9 am – 5 pm EST	Closed	Closed	Closed (See note for holiday schedule**)
B	Client Support	9 am – 11 pm EST	9 am – 5 pm EST	Closed	Closed (See note for holiday schedule**)
C	Technical Support (Emergency)	All event days/nights	All event days/night	All event days/nights	All event days/nights
D	Phone Reservation Center	8:00 AM – 9:00PM	8:00 AM – 9:00PM	8:00 AM – 9:00PM	Closed (See note for holiday schedule**)
E	Internet Ticket Sales	24/7	24/7	24/7	24/7
F	Access to the System	24/7	24/7	24/7	24/7

A	Administrative Office available for sales, marketing, operations and accounting inquiries
B	Client Support includes non-emergency advice, maintenance and other technical inquiries
C	Technical support includes emergency only advice on days and nights of Events (up to 1 hour after the Event starts). Non-emergency inquiries subject to additional fees.
F	Access to the System (for Ticket sales and report generation) subject to occasional downtime, due to maintenance and network interruptions. To the extent possible, routine maintenance and System upgrades are scheduled during low-peak periods to minimize Customer interruption.
**	Holidays Schedule: New Year's Eve, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve and Christmas Day.

**Hours are subject to change upon reasonable notice.**

AGREED TO:	ACCEPTED BY:
The Village of Hoffman Estates	<b>PATRON SOLUTIONS, L.P.</b>
Authorized Signature _____ Date _____	Authorized Signature _____ Date _____
Typed or Printed Name _____	Typed or Printed Name _____
Title _____	<b>Fred Maglione</b> Title <b>President and CEO</b>





**ADDENDUM B**

**DATABASE MARKETING SOFTWARE AND SERVICES -TERMS AND CONDITIONS**

- I. DEFINITIONS.** As used throughout this Addendum B:  
 CONTACT DATA shall mean all personally identifiable information uploaded into the Marketing Database.  
 MARKETING DATABASE shall mean the storage of Ticket Buyer Data and Contact Data in the Platform Application.  
 PLATFORM APPLICATION shall mean the online application provided to Customer by NE at <http://now.eloqua.com>.  
 TICKET BUYER DATA shall mean any personally identifiable information about the Ticket Buyer that is stored in the Software.  
**TICKETING FEED** shall mean the automatic transfer of Ticket Buyer Data from the Software to the Marketing Database.
- II. DATABASE SOFTWARE.** NE shall provide Customer with one Marketing Database and access to the Platform Application that is solely dedicated and used by Customer.
  - (a) Functionality includes: (i) internet-based, database marketing solution that allows Customer to send targeted, personalized email promotional messages to fans, patrons, and visitors; (ii) dynamic registration interface which includes landing pages with customizable text and graphics and registration page with customizable newsletter signup, topics, and demographical questions; (iii) outbound email transmission to targeted segments of the Marketing Database; (iv) automated, multi-touch email campaigns; (v) deduplication of email addresses; (vi) activity-based email customization; and (vii) website integration, statistics and analysis.
  - (b) Ticket Buyer Data will be automatically fed into the Platform Application, via the Ticketing Feed, on a nightly basis.
- III. DATA.** Customer retains all right, title and interest in and to its Ticket Buyer Data and Contact Data. NE shall not access a Customer's account, including Ticket Buyer Data and Contact Data, except to respond to service or technical problems, or at the Customer's request.
- IV. SUPPORT and APPLICATION SETUP.**
  - (a) NE supports Customer in their use of the Platform Application Monday through Friday, 8:00AM to 6:00PM Eastern Standard Time.
  - (b) NE will set up Customer's Platform Application to include the following: (i) Two (2) email templates; (ii) Five (5) user logins; (iii) Files provided to NE with Contact Data will be uploaded to the Marketing Database, including opt outs from previous email marketing system, cyber club/VIP club sign up lists, enter to win lists, etc.; (iv) Logos for confirmation pages loaded into Platform Application; (v) Headers and Footers for emails.
  - (c) NE will provide Customer with two (2) custom templates.
  - (d) NE will re-create and integrate all existing forms on Customer's website.
- V. TRAINING.** NE will train up to five (5) users on the Platform Application using a series of online web based training classes (WBT). NE will train Customer on how to create and deploy email campaigns. NE will provide additional WBT as needed or requested by Customer. If Customer wishes to have advanced training on site Customer will be billed one hundred fifty dollars (\$150.00) per hour for travel and training time plus NE travel, meal, and lodging expenses.
- VI. PROGRAM AUTOMATION.** Part of the Platform Application is a robust engine that automates communications. NE will work with Customer and create one (1) program which will include working with Customer to create the program flow, logic, and emails to be inserted into the program. NE will create reports to measure the success of the program.
- VII. EMAIL TESTING.** NE will provide one (1) email testing review. Customer will pick one email that they wish to improve, such as an e-newsletter, and NE will conduct a thorough analysis, to include testing frequency of email sends, layout of email, placement of links, list segmentation, and overall message content.
- VIII. MARKETING DATABASE LIMITS.** Marketing Database size can not exceed the number of contacts as set forth on the front of this Agreement. If Marketing Database exceeds the limit as set forth on the front of this Agreement, Customer will be charged an incremental monthly fee

AGREED TO: The Village of Hoffman Estates		ACCEPTED BY: <b>PATRON SOLUTIONS, L.P.</b>	
Authorized Signature	Date	Authorized Signature	Date
Typed or Printed Name		Typed or Printed Name <b>Fred Maglione</b>	
Title		Title <b>President and CEO</b>	

**ADDENDUM C**

The following additional terms and conditions are hereby incorporated into the Agreement between Patron Solutions, L.P. and Customer to which this Addendum C is attached:

1. NE and Customer acknowledge that Customer has the right to sell the naming rights for the System and the advertising space on the Tickets (collectively, the "Advertising Rights") and the right to collect the proceeds from the sale therefrom.
  
2. NE shall pay the Customer twenty thousand dollars (\$20,000) in year one and five thousand dollars (\$5,000) in each subsequent year of the Agreement for print, radio, television, or other mutually agreed upon advertising medium in vehicles of the Customer's choosing ("Advertising Allowance"). NE shall pay the Advertising Allowance within sixty (60) days of the beginning of the applicable Agreement year. NE requires that such advertising incorporate the telephone number and URL where Tickets can be purchased. At the end of each Agreement year, the Customer will provide NE a detailed listing of placements and costs, along with accompanying back-up documentation as requested by NE.

AGREED TO: The Village of Hoffman Estates		ACCEPTED BY: <b>PATRON SOLUTIONS, L.P.</b>	
Authorized Signature	Date	Authorized Signature	Date
Typed or Printed Name		Typed or Printed Name <b>Fred Maglione</b>	
Title		Title <b>President and CEO</b>	

**COMMITTEE AGENDA ITEM  
VILLAGE OF HOFFMAN ESTATES**

NB2

**SUBJECT:** Request approval of a resolution allowing Global Spectrum to sign Sears Centre Arena event licenses on behalf of the Village

**MEETING DATE:** January 18, 2010

**COMMITTEE:** Special Planning, Building and Zoning

**FROM:** Arthur L. Janura/Mark Koplin

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**REQUEST:** Request approval of a resolution allowing Global Spectrum to sign Sears Centre Arena event licenses on behalf of the Village.

**BACKGROUND:** IFG previously created Term Sheets for Sears Centre Arena events in 2010 as part of the transition process. These events were not licensed via CCO. The Term Sheets were issued to the event promoters for approval. At this time, the terms of the agreement need to be formalized into a standard event license (essentially a contract).

**DISCUSSION:** Arnstein & Lehr reviewed Global Spectrum's standard license form and language, and with the input from Ben Gibbs and Mike Scanlon, along with Arnstein & Lehr's expertise, revised the language to protect the Village's interest, as well as the Sears Centre Arena's and Global Spectrum's. With a standard event license form, the Village now needs to proceed with obtaining signed licenses with the upcoming events. While the Village could sign these licenses directly, or request IFG to sign the licenses on behalf of the Village, it is more appropriate for Global Spectrum to sign as the interim operator. This approval for executing Sears Centre Arena event licenses expires on July 1, 2010, as we expect a long term agreement with Global Spectrum to be in place in the next 30-60 days. The Village will indemnify Global Spectrum under these licenses and events, but only for this interim period.

**RECOMMENDATION:** Recommend approval of a resolution allowing Global Spectrum to sign Sears Centre Arena event licenses on behalf of the Village.

Attachments

cc: Ben Gibbs (Global Spectrum)

RESOLUTION NO. \_\_\_\_\_ - 2010

VILLAGE OF HOFFMAN ESTATES

A RESOLUTION AUTHORIZING  
GLOBAL SPECTRUM, L.P. TO EXECUTE  
LICENSE AGREEMENTS FOR THE SEARS CENTRE ARENA

WHEREAS, the Village of Hoffman Estates owns the Sears Centre Arena; and

WHEREAS, Global Spectrum is the interim operator of the Sears Centre Arena; and

WHEREAS, it is in the interest of the Village of Hoffman Estates to authorize Global Spectrum, L.P. to execute License Agreements on behalf of the Village to engage others for the purpose of holding and presenting certain events at the Arena.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Hoffman Estates, Cook and Kane Counties, Illinois, as follows:

Section 1: Global Spectrum, L.P. is hereby authorized to sign on behalf of the Village of Hoffman Estates License Agreements (in substantially the form as set forth in the document attached hereto as Exhibit "A") for the sole purpose of licensing to others the rights to use the Sears Centre Arena for the purpose of holding and presenting certain events.

Section 2: This authority will terminate on July 1, 2010.

Section 3: This Resolution shall be in full force and effect immediately from and after its passage and approval.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010

VOTE	AYE	NAY	ABSENT	ABSTAIN
Trustee Karen V. Mills	_____	_____	_____	_____
Trustee Cary J. Collins	_____	_____	_____	_____
Trustee Raymond M. Kincaid	_____	_____	_____	_____
Trustee Jacquelyn Green	_____	_____	_____	_____
Trustee Anna Newell	_____	_____	_____	_____
Trustee Gary J. Pilafas	_____	_____	_____	_____
Mayor William D. McLeod	_____	_____	_____	_____

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

**WITNESSETH:**

WHEREAS, Licensor is the owner of a multi-sports and entertainment facility in the **LICENSE AGREEMENT**

**SEARS CENTRE ARENA**

**THIS LICENSE AGREEMENT** (the "Agreement") is made and entered into this [\_\_\_\_\_] day of [\_\_\_\_\_], 2010, by and between the Village of Hoffman Estates, an Illinois Home Rule municipal corporation (hereinafter "Licensor"), and [FULL LEGAL NAME OF LICENSEE], a [TYPE OF ENTITY] organized under the laws of the State of [\_\_\_\_\_] (hereinafter "Licensee").

Village of Hoffman Estates located at 5333 Prairie Stone Parkway, Hoffman Estates, Illinois 60192 known as the Sears Centre Arena; and

WHEREAS, Global Spectrum, L.P. is the interim operator of the Sears Centre Arena.

WHEREAS, International Facilities Group ("IFG") is the interim Owner's Representative of the Village of Hoffman Estates for the Sears Centre Arena and is executing this Agreement on behalf of Licensor and is not responsible for or guaranteeing performance under the terms of this Agreement.

WHEREAS, the Village of Hoffman Estates for the purposes of this Agreement is defined to include, its elected and appointed officials, employees, and agents.

WHEREAS, Licensor has the power and authority to license the use thereof to others for the purpose of holding and presenting certain events; and

WHEREAS, Licensee desires to license the use of the Sears Centre Arena and its facilities from Licensor, and Licensor desires to license the use thereof to Licensee, for the purpose of holding and presenting [DESCRIBE EVENT] (the "Event"), all subject to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Grant Of License; Licensed Premises. Licensor hereby grants to Licensee license to use, and Licensor shall make available to Licensee, that portion of the Sears Centre Arena and its facilities as may be necessary for the presentation of the Event (the "Arena"), including the Arena's floor, seating facilities, access areas, public address and scoreboard, sound systems, dressing rooms, press rooms, corridors, stairways, walks and lavatories in or about the Arena, and such other areas or parts of the Arena as may be necessary for the presentation of the Event, all upon the terms and conditions set

forth herein. The License granted hereby does not extend to or include the parking areas or non-public areas in and around the Arena, unless otherwise specifically designated by Licensor. Licensee hereby agrees to, and shall, use the Arena to hold and present the Event as contemplated by this Agreement.

2. Term.

A. Term of Use. Unless this Agreement is earlier terminated pursuant to the provisions hereof, the Event shall commence on [Date] at [Time] and shall expire on [Date] at [Time]. In addition to the period set forth in the preceding paragraph, Licensee shall have access to the Arena for (i) preparation of the Event and delivery, move-in and set-up of Licensee's freight and other properties prior to the Event on [Date] beginning at [Time] and (ii) load-out immediately following conclusion of the Event on [Date], ending at a mutually agreed time but in any event no later than 11:59 p.m. on [Date]. The periods of use described above in this Subsection 2.A. are referred to collectively in this Agreement as the "Term." If the Event (or any session thereof) shall run beyond 11:59 P.M. on any of the Event nights, or if load-out shall run beyond the mutually agreed upon time, Licensee shall be liable for any additional expenses incurred by Licensor, including but not limited to payments to union labor, if applicable.

B. Doors Open. Licensor agrees to open the Arena to the public at least one (1) hour before the Event (or each session thereof).

3. Duties of Licensee. In connection with the presentation of the Event, Licensee shall, at Licensee's cost, provide (or cause to be provided) and/or procure the following:

A. Performers and Staffing; Equipment and Other Items.

(1) All participants and staff required for the proper presentation of the Event, including but not limited to [DESCRIBE ANY SPECIFIC PARTICIPANTS], performer medical staff, and any other staff required for the proper presentation of the Event and, where specified by Licensee, sound system, lighting, staging, technical, catering and set-up personnel regularly employed by Licensee in presenting the Event, together with Workers' Compensation Insurance with respect to such personnel; and

(2) All tangible items of property necessary for the proper presentation of the Event, including but not limited to [\_\_\_\_\_]; and

(3) [LIST ANY OTHER LICENSEE RESPONSIBILITIES]

B. Licenses and Permits. In accordance with Section 9 below, all licenses and permits, including ASCAP, BMI, SESAC and similar performance licenses, required for the use of copyrighted or licensed music in connection with the presentation of the Event, and otherwise required in connection with the use of the Arena for the Event, all of which shall be procured by Licensee prior to commencement of the Term and presented to Licensor upon request;

C. Promotion. The advertising, promotion and publicity campaign necessary and desirable to promote the Event. Licensor shall not have any responsibility whatsoever for the advertising campaign unless otherwise agreed to by the parties in writing;

D. Licensor Tickets. Complimentary tickets for each session of the Event, in accordance with Subsection 8.B. below; and

E. Event Delivery and Move-Out Coordination. Coordination of any and all deliveries for the Event (or each session thereof) and timely move-out following the Event.

4. Duties of Licensor. In connection with the presentation of the Event, Licensor shall provide (or cause to be provided) the following. Unless otherwise expressly indicated, Licensor's cost of providing the below items and services shall constitute a reimbursable expense, payable by Licensee in addition to the Base License Fee (as defined in Subsection 6.A.(1) below):

A. Arena Premises. The Arena, including the general concourse area, public address systems and such other parts or areas of the Arena as may be necessary for Licensee to present and produce (if applicable) the Event (the costs of which shall be included within the Base License Fee);

B. Utilities. Electricity and other utilities for lighting, heating, air conditioning and other services used in conjunction with the Event and the set-up and removal related thereto;

C. Cleaning. Cleaning and janitorial service during and after the Event;

D. Support Personnel. All necessary support services, including, but not limited to, all ancillary staff necessary to hold the Event at the Arena (other than those being provided by Licensee pursuant to Subsection 3A(1) above), including ushers, doormen, emergency medical technicians (for patrons only), security guards and supervisors (including overnight security), change-over and set-up crew, house plumber, heating and air conditioning superintendent, electrician, carpenter, telephone operator, ticket takers and box office services for the day or evening of each session of the Event;

E. Additional Requested Items and Sources. Additional items, personnel and services, other than those set forth above, which Licensee requests to be provided in connection with the Event and which Licensor is reasonably able to provide, such as stagehands for set-up, take down and productions, additional production requirements, catering, and lighting and/or sound equipment other than the current sound or lighting system in Arena, all of which shall be subject to the approval of Licensor;

F. Parking. [ \_\_\_\_\_ ] ([ \_\_\_\_\_ ]) parking passes to Licensee, at no charge, for each session of the Event; and

5. Event Marketing and Sponsorships.

A. Marketing Campaign.

(1) Licensee, at its expense, shall provide the necessary personnel to, and shall use its reasonable best efforts to, market and promote the Event.

(2) All advertisements for the Event shall be developed by Licensee (including, but not limited to, all advertising publicity material, promotions material, press releases, posters, flyers and handbills) and shall be produced at the sole cost and expense of Licensee.

(3) Licensee shall make mention of the name "Sears Centre Arena" as the site of the Event in connection with any advertising or promotion thereof. All promotional materials shall contain the standard "Sears Centre Arena" logo positioned full width across the bottom.

(4) All advertisements for the Event presented pursuant to the provisions of this Agreement (including but not limited to, all advertising, publicity material, promotions material, press releases, posters, flyers, handbills and radio and television commercials) shall be submitted by Licensee to Licensor for its prior approval before use.

(5) If Licensee seeks the assistance of Licensor with respect to group sales for the Event, Licensee shall pay Licensor a [\_\_\_\_\_] [(\_\_\_\_)%] percent commission for all group sales tickets sold by Licensor's Group Sales Department, plus approved expenses. Said commission shall be calculated upon the gross ticket price less applicable sales or amusement taxes.

(6) Licensee acknowledges and agrees that, notwithstanding any marketing or other related assistance which may be provided to Licensee by Licensor (although Licensor is not obligated to provide same), Licensor has made no and disclaims any purported or actual representation or warranty as to the results or success which can be expected from the Event, including without limitation, ticket sales or the profitability of the Event, and thus Licensee acknowledges and agrees that Licensor shall in no way be responsible for the actual results from or success of the Event.

B. Advertising and Sponsorships.

(1) Without the prior written approval of Licensor, which approval may be withheld in Licensor's sole discretion, Licensee shall not permit any commercial banner, signage, advertisement, promotional announcement, or inflatables to be posted, made or displayed outside or inside the Arena. Licensee will not permit the sale or distribution of helium balloons or other inflatable items, bumper stickers or any other items with adhesive surfaces at, in or near the Arena.

(2) Subject to the provisions of Subsection 5B(1) above, Licensee shall have the right to sell sponsorship for the Event. All revenues generated from the sale by Licensee of such sponsorship shall be retained by Licensee, provided that all such sales shall be subject to the prior written approval of Licensor.



(3) Licensor hereby retains the right to sell sponsorships for the Event (in addition to Licensee), for which Licensor shall receive a commission of [\_\_\_\_\_] [(\_\_\_\_)%] percent on gross sales revenues from such sales. All remaining revenues shall be paid to Licensee at the time of settlement in accordance with Subsection 6.D.

6. Compensation.

A. License Fee. In consideration of the license granted hereby and Licensor's agreement to provide the items set forth in Paragraph 4 hereof, Licensee shall pay Licensor the following sums (collectively, the "License Fee"):

***[OPTION 1 – DELETE IF USING OPTION 2 BELOW]***

(1) A flat fee of [\_\_\_\_\_] Dollars (\$\_\_\_\_\_) (the "Base License Fee"); plus

(2) Reimbursable expenses as listed in Subsections 4B through 4E, inclusive, and any and all other costs and expenses arising hereunder which are due and payable to Licensor.

***[OPTION 2 – DELETE IF USING OPTION 1 ABOVE]***

(1) A base license fee (the "Base License Fee") equal to [\_\_\_\_\_] Percent ([\_\_\_\_\_]%) of Net Proceeds (as defined herein) for the Event. The term "Net Proceeds" as used herein means gross proceeds from sales of tickets for admission to the Event, less applicable city and state amusement, sales, and similar taxes; plus

(2) Reimbursable expenses as listed in Subsections 4B through 4[\_\_\_\_], inclusive.

B. Non-Refundable Deposit. A non-refundable deposit in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) is due and payable to Licensor upon execution of this Agreement. Such deposit shall be credited to the Base License Fee at settlement. Licensee shall not be entitled to the payment of any interest whatsoever on the deposit paid to Licensor.

C. Minimum Rent: Additionally, Licensee acknowledges that the Non-Refundable Deposit is considered Minimum Rent held in consideration of Licensor entering into this Agreement and holding the Facilities available for the Event as set forth herein and that the Minimum Rent is fully earned as of the date hereof; provided, however, *if fourteen (14) days out from the event, if there are not sufficient funds being held to cover the bldg expenses as defined in \_\_\_\_\_, Licensee will be required to deposit the shortfall, as calculated by Licensor, as additional Minimum Rent. The Licensor shall retain the right to postpone or cancel the Event if the additional Minimum Rent is not promptly deposited and provide Licensee with as much prior notice of such postponement or*

**cancellation as is reasonably practicable under the circumstances.**

D. Settlement. Upon conclusion of the Event (or each session of the Event, if applicable), Licensor and Licensee shall conduct a settlement respecting all items of income and expense which are the subject of this Agreement. At such settlement, Licensor and Licensee shall account to the other for all items of income and expense which are the subject of this Agreement, and make payment to the other (if applicable) of any and all sums due to the other in accordance with this Section 6. In the case of a multi-session Event, in addition to settlement following each session of the Event, a final settlement shall be made by the parties within seven (7) business days following the expiration of the Term. Any amounts due and payable to Licensor which are not paid within two (2) business days after the conclusion of an Event shall accrue interest from the date due until paid at the highest rate allowed by the laws of the State of Illinois. Any net payment that may be due and owing to Licensee shall be made by way of check, draft, or wire transfer.

E. Licensor Reserved Revenues. Licensee acknowledges that use of all Suites and other Premium Seating areas in the Arena are not hereby licensed or provided by Licensor to Licensee and agrees that any revenue derived from the utilization or license of such Suites and other Premium Seating areas in connection with the Event shall be for the sole account of Licensor.

F. No Set-Off. Licensee shall pay Licensor the License Fee and any and all additional amounts due hereunder without abatement, deduction or set-off.

7. Concessions; Merchandising; Programs.

A. Concessions Reserved to Licensor. Licensor specifically reserves to itself, and to its assigned or designated concessionaires and agents, the right to sell, and proceeds from the sale of, food, refreshments and beverages, parking privileges, novelties, and all other concessions at the Event (except as otherwise provided in Subsection 8B below). Licensee shall not sell or distribute, whether or not on a complimentary basis, any food, beverage or other merchandise and shall have no right to operate a concession during the Event, without obtaining Licensor's prior written approval.

B. Souvenir and Merchandise Concessions. With respect to souvenir and merchandise concessions, including programs, Licensor, or persons designated by it, shall sell such merchandise, at mutually agreed-upon prices, and all proceeds from the sale thereof, after deduction of applicable taxes and city licenses and inspections charges, shall be divided [\_\_\_\_\_] ([\_\_\_\_\_]%) percent to Licensee and [\_\_\_\_\_] ([\_\_\_\_\_]%) percent to Licensor. Prior to the commencement of the Term, Licensee shall deliver, or cause to be delivered, all souvenirs and merchandise to be sold by Licensor hereunder. Licensee shall insure against and bear the risk of damage, theft or other loss of such merchandise, whether or not such merchandise is in the possession or control of Licensor at the time of such loss, and shall be responsible for all freight and transportation of such merchandise to and

from the Arena. Contents of any programs Licensee wished to provide for sale at the Event shall be subject to Licensor's reasonable approval.

8. Ticket Sales.

A. Generally.

(1) Licensee has no right by virtue of this license to sell or distribute tickets to the Event, it being understood that Licensor retains the sole right to control the means and manner of sale and distribution of tickets. Licensee acknowledges the exclusive nature of the contract between Licensor and its ticket sales company for the sale and distribution of all tickets for events at the Arena, including without limitation, the Event. Licensor shall be solely responsible for paying and remitting to the ticketing company all "inside" charges imposed by the ticketing company upon the event promoter or venue at the prevailing rate.

(2) Licensor shall not permit tickets or passes in excess of the seating capacity of the Arena to be sold or distributed. Licensor agrees that any seat with limited or impaired vision shall not be placed on sale unless written approval is received from Licensee and, if permission is granted, such tickets shall be clearly marked accordingly as "OBSTRUCTED."

(3) During the Term hereof, all admittance into the Arena shall be by ticket only. The Arena will be reserved seating, unless otherwise agreed by Licensor in writing, and all registrants will be registered to a designated seating level based upon available seating after all production seating holds (if applicable) have been determined. The form and content of the tickets shall be in accordance with any and all Licensor rules and regulations.

(4) Licensee shall have the right to review the seat allocation for all reporters, critics, reviewers and other working press personnel which have been made by Licensor.

(5) No interruption or malfunction of the computerized ticket system or the ticketing company's services shall be deemed a breach of this Agreement by Licensor or render Licensor liable for damages or entitle Licensee to be relieved of any obligations under the terms of this Agreement; provided, however, Licensor agrees that it shall in good faith exercise all remedies available to Licensor to enforce the terms of its agreement with the ticketing company in the event of a breach thereof by the ticketing company which negatively affects Licensee's ability to offer for sale tickets to the Event, and shall coordinate with Licensee to take appropriate remedial action in the event of any interruption or malfunction of the computerized ticket system or the ticketing company's services, if any, which negatively affects Licensee's ability to offer for sale tickets to the Event.

B. Box Office Services.

(1) Licensor shall provide box office services to Licensee at the Arena box office location for the Event.

(2) Licensee shall reimburse Licensor for the costs of any and all bank or merchant fees on tickets to the Event sold at the Arena box office and paid for by credit card, charge card or debit card.

C. Complimentary Tickets. Licensee agrees to provide Licensor, at no cost or expense to Licensor, with [ ] complimentary tickets for each session of the Event, with locations of seats to be in the highest priced category available for sale to the general public, and, at seated events, Licensor's tickets shall consist of multiples of four (4) contiguous seats.

D. Application of Receipts and Licensor's Privilege to Withhold Funds. Licensor shall act as the custodian of all box office receipts, and Licensor or its concessionaire shall act as the custodian of all receipts from concessions. All such receipts (net of taxes) may be applied by Licensor towards the payment of the License Fee and as otherwise necessary to discharge Licensee's obligations to Licensor hereunder, including, without limitation, any claims or damages for which Licensee may be liable to Licensor under Section 13 or otherwise. Licensee hereby grants Licensor a first lien upon and security interest all such receipts to secure Licensee's obligations to Licensor hereunder and hereby waives all of its rights to any box office and concessions receipts that are necessary to pay to Licensor the sums due to Licensor pursuant to this Agreement.

E. Cancellation of Event by Licensee. If the Event is cancelled for any reason, other than by Licensor, Licensee shall be responsible for any fees or charges incurred and charged to Licensor by the ticketing company due to the sale of tickets for said Event. Licensee shall reimburse Licensor for such fees or charges within two (2) business days of the cancellation of the Event.

## 9. Permits and Licenses.

A. Governmental Permits. Licensee shall secure in advance, prior to commencement of the Term, all licenses, permits and approvals that may be required in connection with the use of the Arena for the Event, including, without limitation, those required by ordinances, rules, regulations of governmental authorities. In the event that any minor or foreign national is scheduled to appear in the Event which is the subject of this Agreement, Licensee shall, in advance of such Event, obtain all necessary Employment Certificates and other permits and authorizations as may be required by any governmental authority.

B. Music Performance Licenses. Licensee shall procure, in advance, all licenses required by any music performance societies, such as ASCAP, BMI and SESAC, for music or other works to be utilized or displayed in connection with the Event. Licensee agrees to make direct payment and accounting to ASCAP, BMI, SESAC and any other similar organizations for the use of musicians and/or musical works in the Event and at the request of Licensor to furnish proof of payment.

C. Performer Releases and Employment. Licensee shall not use the name, likeness or image of any player, performer or other attraction in connection with the Event or the advertising

thereof unless Licensee shall have entered into a license or similar agreement with such party respecting such rights. Licensee shall furnish Licensor with evidence satisfactory to Licensor of Licensee's employment of the Performer(s) at least thirty (30) days prior to the Event Date. If, on the Event Date, Licensor has a reasonable basis to believe that the Performer(s) will not appear at the Event at any time prior to the time when spectators are scheduled to be permitted to enter the Facilities for the Event, Licensor may deny spectators admission to the Facilities and cancel the Event. If Licensor cancels the Event pursuant to this Section \_\_\_\_, then the rights and obligations of Licensor shall be as set forth in Article \_\_\_\_ hereof.

10. Broadcasting and Recording. Subject to Licensor's prior written approval to the extent of Licensor's rights therein, and subject further to any third parties with which Licensee contracts to transmit or broadcast the Event securing in advance and maintaining insurance acceptable to Licensor, Licensee may film, videotape, broadcast or transmit the Event in any and all media from the Arena (the "Media Rights"), but excluding the use of the image of the Arena, the Arena's name or logo or Licensor's name or logo, unless expressly approved by Licensor in writing. Licensee shall be solely responsible for all costs and expenses related to the use or exercise of the Media Rights. A location/origination fee, in an amount to be determined by Licensor in its sole discretion, may be charged by Licensor to Licensee for the Media Rights, which fee shall be payable in advance. Licensee shall cause all entities with which Licensee contracts to broadcast the Event to arrange with Licensor in advance of the Term the terms and conditions (which must be satisfactory to Licensor in its sole discretion) under which such entities may have access to, and the use made by such parties of, the Arena.

11. Insurance.

A. CGL Coverage. Licensee shall obtain, at its own cost and expense, commercial general liability insurance in the name of Licensee that names the Village of Hoffman Estates, Global Spectrum, L.P, and IFG as named insureds as to the ownership, management, and operations of the Sears Centre Arena, and which insures all operations of Licensee (including the operations of Licensee contemplated by this Agreement), and Licensee's contractual undertaking of the liability of another and Licensee's assumption of liability, as set forth in this Agreement. Such insurance shall be written with a limit of at least Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury, property damage and personal injury. Licensee shall cause such insurance to be endorsed with an endorsement that the insurance issued to the Village of Hoffman Estates, Global Spectrum, L.P, and IFG shall be primary to and not contributory with any insurance coverage or self-insured program of the Village of Hoffman Estates, Global Spectrum, L.P., IFG or any of the other additional named insureds, and include a waiver of subrogation, and that such insurance shall be excess to any insurance issued to Licensee. Insurance effected or procured by Licensee hereunder will not reduce or limit Licensee's contractual obligation to indemnify and defend the Village of Hoffman Estates, Global Spectrum, L.P., and/or IFG pursuant to Section 12 hereof.

B. Workers' Compensation Coverage. Licensee shall also maintain, at its own cost and expense, workers' compensation insurance in respect of all employees, players, performers and any

borrowed, leased or other person to whom such compensation may be payable by Licensee.

C. Certificates of Insurance. Licensee, at least thirty (30) days prior to the commencement of the Term (or immediately upon execution hereof, if less than thirty (30) days remain before the Term's commencement), shall provide to Licensor evidence of the insurance required (including certificates of insurance and endorsements) pursuant to Subsections 11.A. and 11.B. above. The policies shall also provide, and the certificate shall so note, that the coverages may not be canceled or that a major change in coverage may not be implemented without at least thirty (30) days' prior written notice given to Licensor. 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 of Illinois 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.

D. Failure to Obtain Insurance. Licensor shall also have the right to prohibit Licensee or any subcontractor of Licensee from entering the Arena until such certificates or other evidence that insurance has been obtained in complete compliance with this Agreement is received by Licensor. Licensee's failure to maintain the insurance required herein may, at the sole discretion of Licensor, result in termination of this Agreement. IN THE EVENT OF SUCH TERMINATION BY LICENSOR, THERE SHALL BE NO FURTHER LIABILITY OF ANY KIND OR NATURE WHATSOEVER BY THE VILLAGE OF HOFFMAN ESTATES, GLOBAL SPECTRUM L.P., or IFG TO LICENSEE, AND LICENSOR SHALL RETAIN THE RIGHT TO PROCEED WITH A LEGAL ACTION AGAINST LICENSEE TO RECOVER ANY AND ALL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS) SUSTAINED BY LICENSOR BY REASON OF LICENSEE'S DEFAULT HEREUNDER.

E. Coverage by Licensor. In the event that Licensee fails to procure and present the aforesaid insurance, Licensor shall have the right, but not the obligation, to do so on Licensee's behalf and at Licensee's expense and shall be entitled to reimbursement for the costs thereof as part of the License Fee due and payable hereunder.

F. Spectator Security: Before any spectators are admitted to the Facilities on the Event Date, (i) all security personnel to be provided for the Event shall be at the Facilities and (ii) all security related plans shall have been approved by Licensor and implemented. If the foregoing requirements are not complied with, Licensor may deny spectators admission to the Facilities and cancel the Event. If Licensor cancels the Event pursuant to this Section, then the rights and obligations of Licensor shall be as set forth in Paragraph \_\_\_ hereof.

## 12. Indemnity; Release of Liability.

A. Indemnification. Licensee hereby agrees to indemnify, defend, save and hold harmless the Village of Hoffman Estates, Global Spectrum, L.P., IFG, and their respective successors and assigns, and each of their respective partners, agents, officers, directors, employees and representatives (collectively, "Indemnitees") from and against any and all claims, suits, losses, injuries, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees

and expenses ("Claims or Costs"), occasioned in connection with, arising or alleged to arise from, wholly or in part, (i) any breach of this Agreement by Licensee, or (ii) the exercise by Licensee of the privileges herein granted, or (iii) the acts or omissions, or violation of any applicable law, rule, regulation or order, of or by Licensee or any of its agents, owners, officers, directors, members, managers, representatives, contractors, exhibitors, employees, servants, players, guests, or invitees, participants or artists appearing in the Event (including support personnel in connection with the presentation of the Event), persons assisting Licensee (whether on a paid or voluntary basis) or any person admitted to the Arena by Licensee, during the Term or any other time while the Arena (or any part thereof) is used by or are under the control of Licensee. It is further the intent of this Agreement that this indemnity provision shall apply to any claims made by employees of Licensee against Licensor, and this Agreement is deemed a written agreement for indemnity under the Illinois' Workers' Compensation laws. The provisions of this Section 12 shall survive any expiration or termination of this Agreement.

B. Condition of Licensed Premises. Except as expressly set forth herein, Licensor makes no warranty or representation to Licensee of any kind (express or implied) regarding the suitability of or compliance with applicable laws by the Arena, or any portion thereof, as built, for any aspect of the use Licensee expects or intends to make of the Arena. Accordingly, Licensee acknowledges and agrees that it has made an adequate investigation and inspection of the Arena and has made its own determination regarding the suitability of the Arena for Licensee's proposed use and is satisfied with the condition, fitness and order thereof. Licensee further agrees that the Arena shall be delivered by Licensor to Licensee "AS IS", "WHERE IS" and "WITH ANY AND ALL FAULTS" and without warranty, express or implied, as to the merchantability or fitness for the use thereof for any particular purpose. Licensee hereby waives any claims against Licensor and the Indemnitees for defects in the Arena, including latent defects. Commencement of the use of the Arena by Licensee shall be conclusive that the Arena was in good repair and satisfactory condition, fitness and order when such use commenced.

C. Liens and Encumbrances. Licensee acknowledges and agrees that Licensee has no authority to, and that Licensee shall not, cause or permit any lien or encumbrance of any kind (including material men's or mechanics' liens) to attach to the Facilities or any other property of LICENSOR or the City. If any such lien shall so attach, Licensee shall promptly cause such lien to be released, or shall obtain a commitment from a title insurance company designated by, and in form satisfactory to, LICENSOR to protect LICENSOR and the City against loss by reason of such lien. If any such lien shall so attach, Licensee shall also indemnify and reimburse LICENSOR and the City for all expenditures by LICENSOR and the City in discharging such lien, including all costs and attorneys' fees associated therewith.

D. Risk of Loss. Licensor, Global Spectrum L.P., IFG, nor any of their respective officers, partners, employees or agents shall be responsible or liable for any loss or damage to the personal property of Licensee or its employees, players, performers or agents in connection with Licensee's use of the Arena hereunder. Licensee acknowledges and agrees that all of its property or property of others in the Arena shall be used and/or stored in the Arena at the sole risk of Licensee, and Licensee hereby waives and releases Licensor and the Indemnitees from any and all Claims or

Costs related thereto to the fullest extent permitted by law.

13. Default; Remedies Upon Breach.

A. Default by Licensee. The following events shall constitute a "Default" by Licensee under this Agreement:

(1) breach by Licensee of any material representation, warranty, covenant, condition or obligation set forth in this Agreement and not otherwise specifically addressed in subsections 13.A(2) through 13.A(10) below, which breach is not cured within ten (10) days following notice to Licensee of such breach, provided that in the event Licensor may suffer irreparable harm as a result of Licensee's breach, it shall not be required to give notice or wait any period of time before pursuing any remedies hereunder or under applicable law;

(2) material violation of the Arena's rules and regulations;

(3) any misrepresentation by Licensee to Licensor regarding the subject matter of the Event or materials used in connection with the Event;

(4) partial or total abandonment by Licensee of the Arena, or failure of Licensee to use the Arena on a performance day as contemplated herein;

(5) failure of Licensee to obtain the insurance or any license or permit required hereunder;

(6) the return of any Licensee check for insufficient funds;

(7) cessation by Licensee of its business as a going concern, or the insolvency or bankruptcy of Licensee or the initiation of any bankruptcy or other insolvency proceedings by or against Licensee, or the appointment of a receiver or trustee for Licensee or Licensee's property; or

(8) any attempt by Licensee to assign this Agreement in violation of Subsection 19.C. below.

In the event of a Default by Licensee, Licensor may terminate this Agreement upon notice to Licensee, and all monies held hereunder may be applied by Licensor for the payment of the License Fee, sales or amusement taxes, or other charges due and payable to Licensor at the date of the Default. Licensor may, after the occurrence of an event of Default, enter and remove all persons from the Arena and all or any property therefrom, and sell such property as a setoff against monies owed to Licensor hereunder. In the event of a breach or threatened breach by Licensee of any of its agreements or obligations hereunder, Licensor shall have the right of injunction and the right to invoke any other remedy allowed at law or in equity. Licensor's rights and remedies set forth in the paragraph in connection with a Licensee Default shall be cumulative, and shall be non-exclusive of all other right and remedies under this Agreement, at law or in equity, including without limitation



the right to recover all damages suffered by Licensor.

B. Default by Licensor. In the event that Licensor fails to perform or observe any of the covenants, conditions or obligations in this Agreement, Licensee shall provide Licensor with written notice specifying the failure with particularity, and Licensor shall have at least ten (10) business days from its receipt of such written notice to cure such failure. If such failure is not cured within such ten (10) business day period, Licensee's sole and exclusive remedy shall be to seek an action for actual damages (but not special, incidental, consequential, punitive, or exemplary damages or lost profits) in an amount not to exceed the License Fee paid to Licensor hereunder, together with reasonable attorney's fees and court costs.

14. Compliance With Laws and Arena Rules.

A. Legal Compliance. Licensee shall fully abide by, conform to and comply with, and shall cause every person under its direction or control who is connected with the performance of any aspect of this Agreement to fully abide by, conform to and comply with all applicable laws, rules, regulations and ordinances of the United States of America, the State of Illinois, the Village of Hoffman Estates, and their respective agencies, as well as all rules and regulations of Licensor for the use, occupancy and operation of the Arena. If Licensee is controlling any sale or distribution of tickets, Licensee will comply with all federal, state and municipal laws, statutes, ordinances or regulations relating to the payment of taxes or charges on tickets, admissions or reservations, and file returns and pay all such taxes or charges immediately when due.

B. Morals Clause. Licensee shall not use or attempt to use any part of the Arena for any use or proposed use which would be contrary to law, common decency or good morals or otherwise improper or detrimental to the reputation of Licensor.

C. Non-Discrimination. Licensee agrees not to discriminate against any employee or any applicant for employment for any reason prohibited by law, and further agrees not to discriminate against any person relative to admission, services or privileges offered to or enjoyed by the general public for any reason prohibited by law.

15. Use of Premises.

A. Return of Premises. Licensee agrees not to do any act or suffer any act to be done during the Term of this Agreement which shall mar, deface or injure any part of the Arena. Upon expiration of the Term, Licensee shall deliver up to Licensor the premises in as good condition and repair and in the condition received at the beginning of the Term, excepting usual wear and tear.

B. No Combustibles. If Licensee brings into the Arena any displays, props, decorations, materials or other personal property, it must fully comply with the Fire Code of the Village of Hoffman Estates, *i.e.*, all wiring on booths or display fixtures must meet the rules and standards of the Village of Hoffman Estates Fire Department. Among other precautions, cloth, paper decorations, pine boughs, leaves, tree branches and all other decorations must be flameproofed. Use of

combustible material is forbidden.

(1) Licensee understands that approval and permits from the Fire Department must be obtained before bringing into the Arena explosives, gasoline, kerosene, acetylene or other fuel or combustibles. Such a permit shall be submitted for review to Licensor upon receipt and prior to the commencement of the Term.

(2) Licensee understands that the fire fighting equipment in the buildings, such as fire extinguishers and fire hose cabinets and exits, shall not be covered or concealed in any manner whatsoever from public view or access.

C. Hazardous Substances. Licensee, its employees and agents, and any exhibitors, patrons, invitees or other participants in the Events covered by this Agreement are prohibited from allowing any hazardous substance to be brought into the Arena or surrounding property. If any governmental authority or other third party demands that a cleanup plan be prepared and that a cleanup be undertaken because of any release of hazardous substances that occurs as a result of Licensee's use of the Arena or entry on the surrounding property, Licensee shall, at Licensee's expense, prepare and submit the required plan and all related bonds and other financial assurances, and Licensee shall carry out all such cleanup plans. Licensee agrees to indemnify Licensor and the Indemnities against any claims, costs and expenses of any kind, whether direct or indirect, incurred voluntarily or pursuant to any state or federal law, statute, regulation or order, for the cleanup, extraction, detoxification or neutralization of any release of any hazardous substance associated with or arising from the Licensee's use of the Arena or entry onto the surrounding property. Licensee's obligations under this paragraph survive termination or expiration of this Agreement.

D. No Vehicles or Live Animals. No gasoline motor driven vehicles will be permitted to enter into the building, and no live animals will be permitted to enter or remain in the Arena (other than a properly and safely muzzled "seeing eye" dog accompanying a blind person), except at Licensor's discretion.

E. Duty of Care. Licensee shall use the Arena in a safe and careful manner.

F. Licensor Access.

(1) Licensor and its authorized representatives shall have the right at all times to enter upon and have access to the Arena.

(2) A duly authorized representative of Licensee shall be in attendance at the Arena when the doors are opened and throughout the Event scheduled hereunder. Licensee shall provide all of its representatives and working personnel to be admitted to any part of the Arena with distinctive, visual identification which shall be approved by Licensor prior to the commencement of the Term.

G. Licensor Control. In licensing the use of the Arena to Licensee, it is understood that

Licensor does not relinquish the right to control the management thereof and to enforce all necessary rules and regulations. The decision of Licensor's representative as to the number of persons that can safely and freely move about in the Arena shall be final.

H. Entrances, Etc. All portions of the sidewalks, entries, doors, passages, vestibules, halls, corridors, stairways, passageways and all ways of access to public utilities of the Arena shall be kept unobstructed by Licensee and not used for any other purpose other than ingress or egress.

I. Disorderly Persons. Licensor reserves the right at all times to control any and all employees, agents and contractors of Licensee, and Licensee hereby appoints Licensor, or any servant, employee or agent of Licensor, Licensee's agent to refuse admission to or to cause to be removed from the Arena any disorderly or undesirable person, including Licensee's employees, agents and contractors, as determined by Licensor in its sole discretion, and in the event of the exercise of such authority, Licensee hereby waives any and all claims for damages against Licensor and the Indemnitees on account thereof. If the Event is cancelled by Licensor, in its sole discretion, as a result of the disorderly conduct of the artist, participant, performer or other person appearing at the Event, or for any of such party's refusal to perform (except in cases where the immediate safety of such parties is concerned), Licensee shall be in breach of this Agreement. **Licensee shall be solely responsible to Licensor for the (i) conduct and activities of artists, participants, performers or exhibitors participating in the Event which, for purposes of this Agreement, shall be deemed to be the conduct and activities of Licensee, and (ii) for any and all Claims or Costs arising as a result of any such conduct or activity or refusal to perform (except in cases where the immediate safety of such parties is concerned).**

J. No Solicitations. No collections, solicitations, raffles or lotteries, whether for charity or otherwise, shall be made, attempted, authorized, conducted or announced, as applicable, by Licensee at or around the Arena without the prior written consent of Licensor, which consent Licensor may withhold in its sole discretion.

K. Safety Precautions. Licensee acknowledges and agrees that Licensor shall have the power to extinguish all utilities and order the evacuation of all or any portion of the Arena, or cause to be removed therefrom any person or group of persons, any materials, equipment or other items if, in its sole judgment, danger is imminent or dangerous circumstances have already occurred and such action is necessary to secure the safety and welfare of persons or property. **In such event, Licensee hereby waives and releases Licensor and the Indemnitees from any and all Claims or Costs related thereto, irrespective of whether such Claims or Costs arise out of the negligence (whether ordinary or gross) of Licensor or the Indemnitees.**

L. Assurance of Compliance. Not less than seven (7) days prior to the Event Date, Licensee shall submit to Licensor satisfactory evidence that all of the arrangements made and contemplated for the Event and called for in this Agreement (unless greater or lesser notice is specifically required by any of the provisions of this Agreement) have been accomplished or provided for as required herein, including the Licensee's financial ability to pay for the Event Costs as described herein. No approval or acceptance by Licensor of any such arrangements, whether

pursuant to this Section or any other provision herein, shall in any way constitute an opinion, representation or warranty of or by Licensor with respect to the quality, design, safety or fitness for any particular purpose of any aspect of such arrangements; nor shall any acceptance or approval constitute a waiver of, or diminish, the obligations of Licensee set forth in this Agreement and Licensor's right to insist on strict performance thereof.

16. Arena Marketing. Licensee shall cause each performer or artist appearing at the Event (each referred to herein as a "Performer") to grant to Licensor and the Arena, and their respective successors and assigns (collectively, "Arena Marketing Entities") the worldwide, perpetual, and irrevocable right and permission to use or appropriate the Performer's name, likeness, signature, photograph, voice, performing persona, or other "indicia of identity" for the purpose of (i) providing information about events at the Arena, (ii) to advertise and promote the performance of Performer at the Arena, and to sell, solicit or promote the purchase of tickets for such performance or any merchandise, goods, or services associated with such performance, and (iii) general promotion of the Arena Marketing Entities, such as in providing information about past, as well as future, performances at the Arena.

17. Loss of Use of Arena; Force Majeure.

A. Casualty Loss or Force Majeure Affecting the Arena or Licensor. Should the Arena or any material part thereof be destroyed or damaged by fire or by any other cause, or if any Event of Force Majeure (defined below) shall render the fulfillment of this Agreement by Licensor impracticable, this Agreement shall cease and terminate and Licensor shall not be liable or responsible to Licensee for any damage or loss caused thereby. In such event, and provided that such casualty loss of Event of Force Majeure was not caused by an act or omission of Licensee or its employees, agents, representatives or affiliated parties, Licensor shall return the Deposit to Licensee, less any out-of-pocket costs incurred by Licensor in connection with the Event (for which Licensee shall remain liable). **Licensee hereby waives and releases Licensor and the Indemnitees from any and all Claims or Costs on account of such termination; irrespective of whether such Claims or Costs arise out of the negligence (whether ordinary or gross) of Licensor or the Indemnitees.**

B. Force Majeure Affecting Licensee. Should Licensee be unable to take possession of the Licensed Premises or present the Event due to an Event of Force Majeure, without limiting the terms of Section 17.A above, neither Licensor nor Licensee shall have any liability under the Agreement and Licensee, as its sole remedy and relief, shall receive a refund of any uncommitted or cancelable advance payments with the exception of the Deposit, which is nonrefundable.

C. Definition of Event of Force Majeure. The term "Event of Force Majeure" shall mean any and all acts of God, strikes, lock-outs, other industrial disturbances, acts of the public enemy, laws, rules and regulations of governmental or quasi-governmental entities, wars or warlike action (whether actual, impending, or expected and whether de jure or de facto), arrest or other restraint of government (civil or military), blockades, insurrections, riots, vandalism, terrorism, epidemics, lightning, earthquakes, hurricanes, storms, floods, washouts, fire or other casualty, civil disturbances,

explosions, breakage or accidents to equipment or machinery, threats of bombs or similar interruptions, confiscation or seizure by any government or public authority, nuclear reaction, radioactive contamination, accidents, or any other causes, whether of the kind herein enumerated or otherwise that are not reasonably within the control or caused by the party claiming the right to delay the performance on account of such occurrence; provided, however, in no circumstances shall the monetary inability of a party to perform any covenant, agreement or other obligation contained in this Agreement be construed to be an Event of Force Majeure. Upon removal or cessation of the Event of Force Majeure, the parties' respective rights and obligations hereunder shall be reinstated for any and all subsequent sessions of the Event remaining in the Term (if any).

18. Miscellaneous.

A. Entire Agreement. This Agreement (including any and all exhibits hereto) reflects the entire agreement between the parties respecting the subject matter hereof and supersedes any and all prior agreements, understandings or commitments, written or oral, between the parties hereto. No representation, inducements or agreements, oral or otherwise, between the parties not contained, expressly incorporated or embodied herein shall be of any force and affect. In the event of a conflict between the terms of this Agreement and the terms set forth in any exhibits, the terms of this Agreement shall govern. This Agreement may only be modified or amended by a subsequent written agreement signed by both parties hereto.

B. Notices. Notices by Licensor and Licensee to each other shall be deemed duly given if (i) delivered personally with a signed receipt evidencing such delivery, (ii) transmitted by telecopier with confirmation of transmission, (iii) mailed by certified mail, return receipt requested, postage prepaid, or (iv) delivered by duly recognized air courier service to the following addresses:

Licensee: [ \_\_\_\_\_ ]  
[ \_\_\_\_\_ ]  
[ \_\_\_\_\_ ]  
Attn: [ \_\_\_\_\_ ]  
Fax: [ \_\_\_\_\_ ]

Licensor: The Village of Hoffman Estates  
1900 Hassell Road  
Hoffman Estates, Illinois 60169  
Attn: Arena Contract Administrator  
Fax: 847- 781-2623

With Copy to:

Sears Centre Arena  
5333 Prairie Stone Parkway  
Hoffman Estates, Illinois 60192  
Attn: Ben Gibbs, General Manager  
Fax: 847-649-2338

D. Assignment. This Agreement shall not be assigned nor shall Licensee's right to use the Arena be sublicensed by Licensee without the prior written consent of Licensor in each instance, which may be withheld in Licensor's sole discretion. Any attempt by Licensee to assign this Agreement or sublicense its right to use the Arena without the prior written consent of Licensor shall be null and void and shall constitute a Default by Licensee under this Agreement. In the event that Licensor permits such an assignment or sublicense, Licensee shall cause the assignee or sublicensee to enter into an agreement, acceptable to Licensor, whereby such assignee or sublicensee agrees to abide by all the terms, obligations and conditions of this Agreement. The term "assignment" or "sublicense" as used in this Agreement shall include any and all transfers of Licensee's interest in this Agreement, whether voluntary or involuntary. Licensor may assign this Agreement at any time and without the prior consent of Licensee, to any party including, without limitation, any operator, or successor owner of the Arena.

E. No Agency. The relationship between Licensor and Licensee is that of independent contractors and not agents or employees. Under no circumstances shall this license be considered a contract of partnership or joint venture. Neither party shall be liable for any of the debts, accounts, obligations or other liabilities of the other party, its agents or employees, and neither party shall have any authority to obligate or bind the other party in any manner except as may be expressly provided herein. Further, no agent, servant or employee of Licensee or any of its subcontractors shall under any circumstances be deemed an agent, servant or employee of Licensor.

F. Attorneys Fees. In case any suit or action is instituted by Licensor to enforce compliance with this Agreement, including all appeals, Licensor shall be entitled to recover reasonable attorney fees and expenses from Licensee, in addition to the costs and disbursements provided by statute.

G. Governing Law and Choice of Forum. This Agreement is entered into in the State of Illinois and, in the event of any controversy or litigation, shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to its principles of conflicts of laws. Any action arising out of or in connection with this Agreement or the conduct, acts or activities of the parties hereunder shall be brought in the federal or state courts located in Cook County, and the parties hereby submit to the exclusive jurisdiction of those courts and consent to venue in those courts for any such actions or proceedings.

H. Waivers. No waiver shall be effective unless in writing and executed by the party to

be charged with such waiver. No waiver shall be deemed a continuing waiver in respect of any subsequent breach or default, whether similar or dissimilar nature, unless expressly so stated in writing.

I. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

J. Headings. Any headings preceding the text of the several sections, paragraphs or subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

K. No Third Party Beneficiaries. Any agreement to pay an amount and any assumption of liability herein contained, expressed or implied, shall be only for the benefit of the undersigned parties and their respective successors and permitted assigns (as herein expressly permitted), and such agreements and assumptions shall not inure to the benefit of the obligee or any other party whomsoever (except for the Indemnitees), it being the intention of the undersigned that (except with respect to the Indemnitees), no other party shall be or be deemed to be a third party beneficiary of this Agreement.

L. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one and the same instrument.

M. Power and Authority. Licensee represents and warrants to Licensor that it has the full right, power and authority to enter into and perform this Agreement, and that the person whose signature appears below is duly authorized to execute and deliver this Agreement on behalf of Licensee.

N. Withholding. Licensee acknowledges that, in the event Licensor believes, in its sole discretion, that any of the artist(s) or performer(s) that are the subject of the Event may be “non-resident aliens” (as defined in Section 7701(b)(1)(B) of the United States Internal Revenue Code (“IRC”)), then Licensor shall have the right, notwithstanding any provision of this Agreement to the contrary, to withhold up to thirty percent (30%) of any amounts owed by Licensor to Licensee hereunder, for purposes of remitting such amounts to the United States Treasury in compliance with IRC Section 1441; provided, however, Licensor shall not withhold any amounts in the event either (i) Licensee provides to Licensor prior to the Event a written certification, in a form acceptable to Licensor in its sole discretion, that there are no “non-resident aliens” (as defined under the IRC) performing at the Event, and Licensor has no reasonable basis to believe otherwise, or (ii) such artist(s) or performer(s) have, prior to the Event, entered into a Central Withholding Agreement (“CWA”) with the IRS and a withholding agent, and Licensor has been provided with a copy of the CWA prior to the Event

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement the day and year first above written.

Licensee:

[\_\_\_\_\_]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Licensor:

**THE VILLAGE OF HOFFMAN ESTATES**

By: \_\_\_\_\_

International Facilities Group, its  
Owner's Representative