



U N I V E R S I T Y O F
SOUTH CAROLINA

AMENDMENT NO. 2 TO SOLICITATION

TO: ALL VENDORS

FROM: Charles Johnson, Procurement Manager

SUBJECT: SUBJECT: SOLICITATION NUMBER: USC-RFP-2045-CJ
MANAGEMENT OF THE UNIVERSITY OF SOUTH CAROLINA AIKEN CONVOCATION CENTER

DATE: October 7, 2011

This Amendment **No.2** modifies the Request for Proposals only in the manner and to the extent as stated herein.

BIDDER SHALL ACKNOWLEDGE RECEIPT OF AMENDMENT **NO. 2** IN THE SPACE PROVIDED BELOW AND RETURN IT WITH THEIR BID RESPONSE. FAILURE TO DO SO MAY SUBJECT BID TO REJECTION.

Authorized Signature

Name of Offeror

Date

THE UNIVERSITY OF SOUTH CAROLINA WAS ABLE TO LOCATE A COPY OF ITS SIGNED CONTRACT WITH GLOBAL SPECTRUM.

PRE-OPENING SERVICES AND MANAGEMENT AGREEMENT

This Pre-Opening Services and Management Agreement (this "Agreement") is entered into on the 8th day of December, 2006, by and between the University of South Carolina Aiken, an educational institution and agency of the State of South Carolina ("University"), and Global Spectrum, LP, a Delaware limited partnership ("Manager").

RECITALS

WHEREAS, the University owns the University of South Carolina Aiken Convocation Center (the "Facility") on the University's Aiken campus, which Center is more fully described in the University's Request for Proposals No. 0795-TLW ("RFP"); and

WHEREAS, on June 14, 2006, Manager submitted its response to Request for Proposals No. 0795-TLW ("Manager's Response"); and

WHEREAS, pursuant to the provisions of the South Carolina Consolidated Procurement Code, the University selected Manager to provide pre-opening and management services at the Facility in accordance with the terms and conditions of the RFP, as amended by Amendment One and Amendment Two, and Manager's Response, as such documents were subsequently modified by mutual agreement, as set forth on Exhibit E attached hereto;

WHEREAS, the University desires to engage Manager to provide pre-opening services and to manage and operate the Facility following its opening, on behalf and for the benefit of the University, and Manager desires to accept such engagement, pursuant to the terms and conditions contained herein, and in the RFP and Manager's Response, as set forth herein;

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

ARTICLE 1 THE FACILITY

Section 1.1 Description of the Facility. All references to the Facility in this Agreement shall be deemed to include, and Manager's duties hereunder shall cover, the arena, meeting rooms, common areas, lobby areas, executive and other offices, storage and utility

facilities, box offices, and the entrances and any other spaces in the Facility as shown in the basic floor plans of the Facility as provided in the RFP as Appendix C. It is understood and agreed that all references to the Facility in this Agreement shall not include, and Manager's duties hereunder shall not cover, the following Facility areas: athletic offices, weight room, training room, or other exclusive USCA athletic spaces, unless otherwise agreed to in writing.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1. Engagement.

(a) University hereby engages Manager during the Term (as defined in Section 4.1) to provide the pre-opening services described on Exhibit A hereto up until the date on which the Facility first opens for business ("Facility Opening Date), and, following the Facility Opening Date, to act as the sole and exclusive manager and operator of the Facility, subject to and as more fully described in this Agreement. Manager shall have the right to exercise, or delegate the exercise of, all rights, powers and duties conferred or imposed on Manager in this Agreement, subject only to the limitations expressly set forth in this Agreement.

(b) As more fully described in Article 10 below, Manager's obligations under this Agreement are contingent upon and subject to the University making available, in a timely fashion, the funds budgeted for and/or reasonably required by Manager to carry out such obligations during the Term. Manager shall not be considered to be in breach or default of this Agreement, and shall have no liability to the University or any other party, in the event Manager does not perform any of its obligations hereunder due to failure by the University to timely provide such funds.

Section 2.2 Duties of Manager. Manager's obligations hereunder following the Facility Opening Date shall include, but not be limited to, the following obligations, all of which are subject to the prior approval of the University and the terms hereof (including without limitation the terms of Sections 2.3 below):

(a) Manage all aspects of the Facility in accordance with the terms of this Agreement, including but not limited to managing purchasing, payroll, fire prevention, security, crowd control, routine repairs, preventative maintenance, event janitorial services, Facility and event promotions and sponsorships, athletic advertising and sponsorships, event concessions, energy conservation, box office, ticket sales, admission procedures, and general user services. Manager may license or otherwise exploit Facility advertising, sponsorship and naming rights, and revenue generated therefrom shall be part of Facility Revenue, with the exception of the naming rights already procured by the University, as shown on Exhibit B. Revenue from those University naming rights as shown are specifically excluded from Facility revenues.

(b) Establish and adjust prices, rates and rate schedules for user, license, occupancy, entertainment suite leasing, and Facility and non-University event advertising agreements, and booking commitments.

(c) Procure, negotiate, execute, administer and assure compliance with service contracts on behalf of the University pursuant to this Agreement (including where appropriate contracts for ticketing, maintenance, staffing personnel including event guards and ushers, and other services which are deemed by Manager to be either necessary or useful in operating the Facility), vendor agreements, user/rental agreements (excluding user/rental agreements pertaining to University events), booking commitments, licenses, and all other contracts or agreements required in the ordinary course of business in operating the Facility. Manager shall obtain the prior written approval of the University before entering into any such contract (i) with Manager's parent, affiliates, or related entities, or (ii) with a term longer than the Term of this Agreement, or (iii) where compensation payable to a third party is based on a net calculation of revenues less expenses.

(d) Require that all material vendors and licensees of the Facility execute vendor/license agreements containing indemnification and insurance obligations in favor of the University of South Carolina, its Board of Trustees, officers, servants, agents, and employees, on the part of each such vendor/licensee, including the requirement that the University of South Carolina be named as an additional insured on any liability insurance policy, and provide the University with a copy of all such agreements within ten (10) business days of their date of execution.

(e) Operate and maintain the Facility, including such equipment approved by the University and utilized in connection with their operation and any improvements made during the Term of this Agreement, but excluding concessions equipment owned or used by the University's concessionaire, in the condition received, normal wear and tear excepted.

(f) Arrange for and otherwise book events at the Facility in accordance with a booking schedule to be developed by Manager in full consultation with and approved by the University.

(g) Hire or otherwise engage, pay, supervise, and direct all personnel Manager deems necessary for the operation of the Facility in accordance with Article 6 herein, and conduct staff planning, retention and training programs as determined to be necessary by Manager in its sole discretion; provided, however, Manager in consultation with the University shall be responsible for ensuring that the Facility is appropriately staffed at all times.

(h) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles, which records shall be made available to the University upon request, in accordance with Section 12.1 of this Agreement.

(i) Submit to the University financial and other reports detailing Manager's activities in connection with the Facility in a timely manner, as set forth in Section 12.2 of this Agreement.

(j) Prepare a proposed annual operating budget and submit such proposed budget to the University for approval, in accordance with Article 8 below.

(k) Pay all Operating Expenses (as defined in Section 9.1(b) below) and all other expenses incurred in connection with the operation, maintenance, supervision, and management of the Facility from the Facility Operating Account (as defined in Section 11.2 below).

(l) With the prior approval of the University and at the University's sole cost and expense, institute, defend, and settle in good faith any and all legal actions or proceedings concerning the operation of the Facility, including without limitation actions or proceedings to collect charges, rentals or other income generated by the Facility and due to the University, or to cancel or terminate any agreement pertaining to the Facility, pursuant to the terms thereof, for the breach or default thereunder by the other party.

(m) Secure, or assist the University (or any other University approved third party, as applicable) to secure, licenses and permits necessary for the operation and use of the Facility for the specific events to be held therein, and for the general occupancy of the Facility. The University shall cooperate in this process to the extent reasonably required, and any costs associated with this process shall be an Operating Expense of the Facility.

(n) Collect, deposit and hold in escrow in the Event Operating Account (as defined in Section 11.1 below) any ticket sale revenues which it receives in the contemplation of or arising from an event pending the completion of the event, as more fully described in Section 11.1 below.

(o) Collect in a timely manner and deposit in the Facility Operating Account all Revenue (as defined in Section 11.2 below).

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

(q) Establish a relationship with various local boards and committees and departments of the University and of the City of Aiken and Aiken County, as directed by the University.

(r) Plan, prepare, implement, coordinate and supervise public relations and other promotional programs for the Facility in consultation with and approval of the University.

Furthermore, it is understood that all press releases regarding the Facility must be approved by the University except for routine event/booking information relative to non-University events. However, all press releases will recognize the University and Manager.

(s) Prepare, maintain and implement on a regular basis, subject to the University's prior written approval (except for non-material changes which Manager may make from time to time in consultation with the University), a management and/or a marketing plan for the advertising and promotion of the Facility and events of the Facility, which plans may contain but not be limited to the following elements: (i) market research, (ii) market position, (iii) marketing objectives, (iv) marketing strategies, (v) booking priorities, (vi) targeted events - local, regional, national and international, (vii) targeted meetings, conventions and trade shows, (viii) industry advertising campaign, (ix) internal and external support staff, (x) advertising opportunities at the local, regional and national level, (xi) attendance at various trade shows, conventions and seminars, (xii) incentive formulas for multiple event presenters, (xiii) event sponsorships, (xiv) a plan regarding national, regional and local public relations and media relations, (xv) development of an in-house advertising agency, and (xvi) policies regarding the use of trade/barter.

(t) Purchase, in the most efficient manner possible by using University approved vendors or other sources, on behalf of the University as a University approved Operating Expense, and maintain during the Term, all materials, tools, machinery, equipment and supplies necessary for the operation of the Facility; provided, however, Manager must obtain the approval of the University prior to making purchases exceeding \$750 in value, subject to the provisions of Section 13.1 herein.

(u) Manage risk management and insurance needs of the Facility, as more fully described in Article 16 below.

(v) Make, and be responsible for, all routine and minor repairs, maintenance, preventive maintenance and equipment servicing; provided, however, Manager must obtain the approval of the University prior to making purchases exceeding \$500 in value, subject to the provisions of Section 13.1 herein. Manager shall be responsible for ensuring that all repairs, replacements, and maintenance shall be of a quality and class at least equal to that of the item being repaired, replaced or maintained. Any replacement of an item in inventory, or any new item added to the inventory, which is paid for by the University, shall be deemed the property of the University, and shall be subject to the University's procedures and controls regarding inventory, as set forth in Article 7 below.

(w) Provide, for the consideration and approval of the University, standard form user/rental agreements and license agreements for use at or with respect to the Facility. The parties acknowledge that such form contracts will require review by University counsel or other local counsel, and that, other than as set forth in Section 2.2(l) herein, Manager's sole responsibility with regard to providing legal advice or assistance hereunder shall be to provide such standard form contracts.

(x) Implement such other normal and customary practices and things to be done in and about the Facility as determined by Manager in its reasonable discretion and in consultation with an approval of the University to be necessary for the operation, control, supervision, direction and maintenance of the Facility.

Section 2.3 Duties of the University. Notwithstanding the provisions of Section 2.2 herein, the parties acknowledge that the University may choose to provide certain services at the Facility. In such event, the costs of such services shall be at standard and customary rates, within the guidelines of the Operating Budget (as defined in Section 9.1 herein), and charged as an Operating Expense of the Facility. In no event shall Manager have liability for such services or the level of performance of such services unless the University employees performing such services are under the direct supervision of Manager and that direct supervision is deemed to be negligent.

Section 2.4 Compliance with Laws. In connection with Manager's performance of its duties hereunder, Manager shall comply with all applicable statutes, ordinances, laws, rules, regulations and requirements under Federal, State, City and other local authorities having jurisdiction with respect to the use or manner of use of the Facility.

ARTICLE 3 COMPENSATION

Section 3.1 Management Fee. As consideration for the performance of its obligations hereunder, following the Facility Opening Date Manager shall be entitled to receive during the Term a fixed management fee ("Fixed Management Fee") equal to Seven Thousand Dollars (\$7,000.00) per month for the first Operating Year as defined in Section 4.1 herein, increasing in each succeeding Operating Year by the percentage increase in the Consumer Price Index for the local Aiken, South Carolina area, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index ("Local CPI"), not to exceed three (3%) percent per year. The Fixed Management Fee shall be payable to Manager in advance, on the first day of each month during the Term, and shall be prorated with respect to partial months. Manager may pay itself such Fixed Management Fee from the Facility Operating Account. Additionally, Manager shall be entitled to receive each full or partial Operating Year during the Term a management incentive fee ("Incentive Fee"), computed as follows:

**April 1, 2007 thru June 30, 2008
(15 Months)**

IF MANAGER ACHIEVES GROSS REVENUE OF:	MANAGER RECEIVES AN INCENTIVE FEE OF:
Less than \$1,030,000	\$0
\$1,030,000	\$25,000
\$1,130,000	\$50,000
\$1,230,000	\$75,000
\$1,350,000	\$105,000

Effective July 1, 2008

IF MANAGER ACHIEVES GROSS REVENUE OF:	MANAGER RECEIVES AN INCENTIVE FEE OF:
Less than \$903,400	\$0
\$903,400	\$25,000
\$1,003,400	\$50,000
\$1,103,400	\$75,000
\$1,149,500	\$86,525

The benchmarks for the 2008-09 Operating Year shall be increased by the percentage change in local CPI for each subsequent Operating Year. Manager must fully achieve each benchmark to be entitled to the corresponding Incentive Fee (as opposed to the dollar amounts being computed on a sliding scale). The benchmarks for the initial Operating Year as set forth above contemplate a Facility Opening Date of April 1, 2007. In the event the Facility Opening Date occurs after that date, the benchmarks for the initial Operating Year shall be pro-rated to take into account a shortened first (1st) Operating Year. If any other Operating Year is less than a full twelve (12) months, the above benchmarks shall likewise be pro-rated to take into account a shortened Operating Year. The Incentive Fee shall be payable to Manager no later than sixty (60) days following the end of each Operating Year.

Section 3.2 Pre-Commissioning Operations. Manager shall not be entitled to compensation for services rendered by it between the Effective Date and December 31, 2006. Commencing January 1, 2007 and continuing until the Facility Opening Date, Manager shall be paid a fixed fee of Four Thousand Dollars (\$4,000) per month (pro-rated as necessary for any partial months). Such fee shall be paid to Manager on or before the first (1st) day of each month during such period.

ARTICLE 4

TERM AND TERMINATION

Section 4.1 Term; Operating Year. The initial term of this Agreement shall begin on January 1, 2007 ("Effective Date") and, unless sooner terminated pursuant to the provisions of Section 4.2 below, shall expire at 11:59 p.m. on the day immediately preceding the third (3rd) anniversary of the Facility Opening Date ("Initial Term"); provided, however, the University shall have the right to extend the Initial Term for an additional two (2) year period commencing at the end of the Initial Term by providing notice to Manager at least ninety (90) days in advance of the end of the then current term. The Initial Term, together with any such renewal period, shall not exceed five (5) years and is referred to herein as the "Term." The period beginning on the Effective Date and ending on the Facility Opening Date is sometimes referred to herein as the "Pre-Opening Period". The (approximately) fifteen (15) month period commencing on the Facility Opening Date and ending on June 30, 2008, and each successive twelve (12) month period commencing on July 1 and ending on the following June 30 (except for the final Operating Year, which shall end upon expiration of the Term) is sometimes referred to herein as an "Operating Year". Once the Facility Opening Date is established, the parties shall document such date in a writing signed by each of the parties hereto.

Section 4.2 Termination.

(a) This Agreement may be terminated (i) by either party if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not commenced to be cured within ten (10) days after receipt of written notice thereof and has not been cured within twenty (20) days of written notification, or (ii) by either party immediately by written notice upon the other party being judged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of the other party shall be appointed and shall not be discharged within one hundred twenty (120) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors or shall file a voluntary petition in bankruptcy or insolvency, or shall apply for bankruptcy under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State or otherwise, or if such petition shall be filed against either party and shall not be dismissed within one hundred twenty (120) days after such filing, (iii) by the University upon sixty (60) days' notice in the event Manager fails to achieve at least ninety percent (90%) of the mutually agreed upon bottom-line net revenue number projected in its Operating Budget for the 2008-09 Operating Year, unless Manager's failure to achieve such revenue figure is due to reasons outside its reasonable control, such as, for example, a substantial increase in expenses outside Manager's reasonable control, or (iv) by the University at any time upon sixty (60) days written notice to Manager.

(b) In the event this Agreement expires or is terminated prior to the end of the Term, the University shall promptly pay Manager all fees due Manager up to the date of termination or expiration. Additionally (and without limiting the foregoing), in the event this Agreement is terminated by the University pursuant to Section 4.2(a)(iv), the University shall, upon such termination, pay to Manager Eighty Four Thousand Dollars (\$84,000) as liquidated damages and this amount shall serve as the Manager's sole legal remedy for termination.

(c) Upon termination or expiration of this Agreement for any reason, Manager shall (i) promptly discontinue the performance of all services hereunder, and (ii) deliver or otherwise make available to the University all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials as may have been accumulated by Manager in performing its obligations hereunder, whether completed or in process, unless such information constitutes proprietary or confidential information of Manager, as determined by Manager in its reasonable discretion. With respect to any such proprietary or confidential information of Manager, Manager shall advise the University of the general nature of such information and shall provide the University with an explanation of why it reasonably considers the information to be proprietary.

ARTICLE 5 OWNERSHIP; USE OF THE FACILITY

Section 5.1 Ownership of Facility, Data, Equipment and Materials. The University shall at all times retain ownership of the Facility, including but not limited to real estate, technical equipment, furniture, displays, fixtures and similar property, including improvements made during the Term, at the Facility. Any data, equipment or materials furnished by the University to Manager or acquired by Manager as an Operating Expense, to be used at the Facility, shall remain the property of the University, and shall be returned to the University when no longer required by Manager to perform its duties under this Agreement. Notwithstanding the above, the University acknowledges that it shall not have the right to any third party software licensed by Manager for general use by Manager at the Facility and other facilities managed by Manager, the licensing fee for which is proportionately allocated and charged to the Facility as an Operating Expense; such software may be retained by Manager upon expiration or termination hereof.

Section 5.2 Use by Manager. The University hereby gives Manager the right and license to use the Facility, and Manager accepts such right and license of use, for the purpose of performing the services herein specified, including the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance and management of the Facility. The University shall provide Manager with a sufficient amount of suitable office space in the Facility and with such office equipment as is reasonably necessary to enable Manager to perform its obligations under this Agreement. In addition, the University shall make available to Manager's full time employees, at no cost, parking spaces in locations determined by the University, as well as additional parking spaces to be mutually agreed upon for event related requirements.

Section 5.3 Observance of Agreements. The University agrees to pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any leases, bonds, debentures, loans and other financing and security agreements to which the University is bound in connection with its ownership of the Facility.

Section 5.4 Use by the University. The University shall have the right to use the Facility or any part thereof without the payment of any rental or use fee, provided that the University shall reimburse the Facility Operating Account for any pre-agreed upon direct out-of-pocket expenses incurred by the Manager connected with such use. University use of the Facility shall not compete with, nor conflict with, paying events previously booked by Manager, and shall be booked in advance upon reasonable notice to Manager; provided, however, it is understood and agreed that the University's use of the Facility for annual University events shall be given first priority in scheduling. Upon request of the University, Manager shall provide to the University a list of available dates for University use of the Facility. Booking of the Facility for University use shall be in accordance with the procedures established in the booking schedule.

ARTICLE 6 PERSONNEL

Section 6.1 Generally.

(a) All personnel engaged or hired by Manager at the Facility shall be employees, agents or independent contractors of Manager (or a subsidiary or affiliate thereof), and not of the University. Manager shall select the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment relating to such employees; provided, however, Manager shall receive prior approval from the University for hiring of the General Manager. Manager shall use reasonable and prudent judgment in the selection and supervision of such personnel. The University shall have no right to supervise or direct the hiring or firing of any such personnel but, in the event that the University notifies Manager that it desires the removal from the Facility of any Manager employee and sets forth in such notice the specific reasons for such request, Manager shall meet with representatives of the University to discuss the matter. Any decision to remove the individual shall be made by Manager, but in making such decision Manager shall take into account the views expressed by the University.

(b) All personnel engaged or hired by the University at the Facility shall be employees, agents or independent contractors of the University, and not of the Manager. The University shall cause all such personnel to reasonably comply with all rules and regulations of Manager to the extent not inconsistent with applicable University personnel rules and regulations. In the event Manager notifies the University that it desires the removal from the Facility of any University employee and sets forth in such notice the specific reasons for such request, the University shall meet with representatives of Manager to discuss the matter. Any decision to remove the individual shall be made by the University, but in making such decision the University shall take into account the views expressed by Manager.

Section 6.2 General Manager. Personnel supplied by Manager will include an individual with managerial experience in similar facilities to serve at the Facility as a full-time on-site general manager of the Facility (the "General Manager"). Hiring of any General Manager by Manager shall require the prior approval of the University. The General Manager will have general supervisory responsibility for Manager and will be responsible for day-to-day operations

of the Facility, supervision of employees, and management and coordination of all activities associated with events taking place at the Facility. The General Manager shall also serve as Manager's representative in connection with Manager's performance of this Agreement, as described in Section 14.2 below.

Section 6.3 Non-Solicitation. During the Term and for a period of one (1) year after the end of the Term, the University shall not, without Manager's prior written consent, intentionally solicit for employment by the University, or encourage to cease rendering services to Manager, any executive level employee of Manager, including the General Manager, Assistant General Manager, Business Manager, Director of Operations or Director of Sales/Marketing; provided, however, Manager understands and agrees that as a state agency and public employer, the University cannot preclude any individual from applying for employment at any time and that applicants are considered for employment based upon their qualifications and experience.

ARTICLE 7 INVENTORY

Section 7.1 Inventory. Immediately prior to the Facility Opening Date, Manager shall cause a written inventory to be taken of all furniture, fixtures, office equipment, supplies, tools and vehicles at the Facility. Manager shall deliver a written report of the foregoing to the University. Manager shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by Manager, and Manager shall promptly notify the University of such damage or loss. Manager shall adhere to the University's established procedures and controls regarding inventory, such as tagging certain inventory above a predetermined dollar amount.

ARTICLE 8 PRE-OPENING EXPENSES

Section 8.1 Pre-Opening Expense Budget. Attached hereto as Exhibit C is the "Pre-Opening Expense Budget", which details the projected expenses to be incurred by Manager during the Pre-Opening Period, including Manager's labor expense (salary, benefits, 401(k) employer matching contributions, relocation, bonus and related costs), insurance costs, and other operating costs and expenses of Manager, as well as all out-of-pocket travel costs (airfare, ground transportation, meals and lodging) of Manager personnel, in connection with its obligations hereunder during the Pre-Opening Period (collectively, the "Pre-Opening Expenses").

Section 8.2 Funding of Expenses During Pre-Opening Period. The University shall pay for Pre-Opening Expenses incurred by Manager in accordance with this Section. Upon execution of this Agreement, the University shall transfer an amount equal to projected Pre-Opening Expenses for the first month of the Term into the Facility Operating Account. Prior to the start of each succeeding month during the Pre-Opening Period, the University shall transfer to the Facility Operating Account an amount equal to the projected Pre-Opening Expenses for such month, as set forth in the Pre-Opening Expense Budget. Manager may access the Facility

Operating Account periodically for the purpose of withdrawing funds to pay Pre-Opening Expenses.

ARTICLE 9 OPERATING BUDGET

Section 9.1 Establishment of Operating Budget.

(a) Manager agrees that prior to the Facility Opening Date with respect to the first Operating Year, and not later than sixty (60) days prior to the commencement of each subsequent Operating Year with respect to such year, Manager will prepare and submit to the University a line item budget for the Facility (as approved by the University pursuant to Section 8.2 herein, the "Operating Budget"). Each annual Operating Budget shall include, at a minimum, a projected income and expense statement and projected year-end balance sheet and statement of projected sources and applications of funds. Additionally, each annual Operating Budget shall include but not be limited to the following projections, presented on a monthly and annual basis: (a) gross revenues, (b) operating expenses, and (c) cash flow budget. The Operating Budget shall serve as an estimate of expected revenue and expenses for the Facility. The University agrees to provide Manager with all information in its possession necessary to enable Manager to prepare the Operating Budget.

(b) The projected expenses in each annual Operating Budget ("Operating Expenses") shall include, but not be limited to, the following expenses on a line item basis, all of which shall be payable by the University pursuant to the terms hereof: (i) employee payroll, benefits, and mutually agreed upon relocation costs, bonuses and related costs, (ii) cost of operating supplies (including general office supplies), (iii) advertising, marketing, group sales, and public relations costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions and membership costs, (vii) Taxes, (viii) the Fixed Management Fee and the Incentive Fee; (ix) printing and stationary costs, (x) postage and freight costs, (xi) equipment rental costs, (xii) minor repairs, maintenance, and equipment servicing, not including expenses relating to performing capital improvements, (xiii) security expenses, (xiv) telephone and communication charges, (xv) travel and entertainment expenses of Manager employees, (xvi) cost of employee uniforms and identification, (xvii) exterminator, snow and trash removal costs, if applicable (xviii) computer, software, hardware and training costs, (xix) parking expenses, (xx) utility expenses, (xxi) office expenses, (xxii) audit, accounting and legal fees, (xxiii) all bond and insurance costs, including but not limited to personal property, liability, and worker's compensation insurance, and (xxiv) expenses relating to merchandising and concessions (e.g. commissions and all other fees payable to third parties performing such services), if applicable. The parties agree that the Operating Expenses of the Facility shall not include Capital Expenditures (as defined in Article 12) and debt service.

Section 9.2 Approval of Operating Budget.

(a) Each annual Operating Budget shall be subject to the review and approval of the University. Any submitted Operating Budget that exceeds five (5%) percent of the previous year's expense budget must be accompanied with an itemized detailed explanation justifying such an increase. In order for the University to fully evaluate and analyze such budgets or any other request by Manager relating to income and expenses, Manager agrees to provide to the University such reasonable financial information relating to the Facility as may be requested by the University from time to time, and, in the event the University reasonably requests any meeting with Manager to discuss budget related issues, Manager shall ensure that its representative(s) are present at such meeting. If extraordinary events occur during any Operating Year that could not reasonably be contemplated at the time the corresponding Operating Budget was prepared, Manager may submit an amendment to such budget for review and approval or denial by the University.

(b) In the event the University withholds its approval of any proposed Operating Budget or amendment thereto, the University shall provide Manager the specific reasons therefor and its suggested modifications to Manager's proposed Operating Budget or amendment in order to make it acceptable. The parties shall then engage in good faith discussions and use reasonable commercial efforts to attempt to resolve the matter to the mutual satisfaction of the parties; provided, however, if the matter is not resolved to the satisfaction of Manager (as determined by Manager in its sole discretion), Manager may terminate this Agreement without liability to Manager, upon one hundred twenty (120) days written notice to the University (during which period Manager shall continue to perform its duties hereunder in accordance with the operating budget designated by the University). A failure by Manager to perform its obligations under this Agreement shall not be a breach of or default under this Agreement if such breach or default is directly or indirectly caused by the University's failure to appropriate sufficient funds for the management, operation and promotion of the Facility.

Section 9.3 Adherence to Operating Budget. Manager shall use all reasonable efforts to manage and operate the Facility in accordance with the Operating Budget, but shall have no liability for failing to achieve such estimated amounts. Without the prior consent of the University, Manager shall not exceed, commit or contract to expend any sums in excess of the aggregate amounts allowed in the Operating Budget or otherwise approved by the University, except as specifically set forth herein. Manager agrees to report in writing to the University any significant change or variance in the Operating Budget from that provided for in the Operating Budget.

ARTICLE 10 FUNDING

Section 10.1 Source of Funding. During the Term following the Facility Opening Date, Manager shall pay all items of expense for the operation, maintenance, supervision and management of the Facility from the funds in the Facility Operating Account, which Manager may access periodically for this purpose. To ensure sufficient funds are available in the Facility Operating Account, the University will transfer to and/or retain in the Facility Operating

Account, on the first (1st) business day of each month, the budgeted employee salary and benefits costs, and other approved expenses, for such month.

Section 10.2 Failure to Provide Funds. As set forth above, all amounts reasonably required by Manager for the operation and maintenance of the Facility shall be generated by the operation of the Facility, or otherwise made available by the University. To the extent Manager is unable to perform under this Agreement due to the fact that sufficient funds are not generated from the operation of the Facility or otherwise made available by the University in a timely manner, Manager will not be considered in breach or default of this Agreement.

Section 10.3 Advancement of Funds. Under no circumstances shall Manager be required to pay for or advance any of its own funds in connection with the performance of its obligations hereunder. Notwithstanding the foregoing, if Manager at any time advances Manager's own funds in connection with the performance of any of its obligations hereunder, Manager shall first obtain the University's approval for such advancement, and the University shall promptly reimburse Manager for the full amount of such advanced funds, plus interest at a rate to be mutually agreed upon.

ARTICLE 11 PROCEDURE FOR HANDLING INCOME

Section 11.1 Event Operating Account. Manager shall deposit as soon as practicable following receipt, in an interest-bearing account in a local qualified public depository to be designated by the University in writing ("Event Operating Account"), all revenue received from ticket sales and similar event-related revenues at the Facility which Manager receives in contemplation of, or arising from, an event, pending completion of the event. Such monies will be held in escrow for the protection of ticket purchasers, the University and Manager, to provide a source of funds as required for payments to performers and for payments of direct incidental expenses in connection with the presentation of events that must be paid prior to or contemporaneously with such events. Promptly following completion of such events, Manager shall transfer all funds in the Event Operating Account into the Facility Operating Account. Interest accrued on amounts in the Event Operating Account shall be part of the operating income of the Facility and shall be transferred to the Facility Operating Account, unless Manager is required to pay such interest to the promoter of an event pursuant to its respective license agreement with the promoter. Bank service charges, if any, on such account(s) shall be deducted from interest earned.

Section 11.2 Facility Operating Account. Except as provided in Section 11.1, all Revenue derived from operation of the Facility shall be deposited by Manager into an interest-bearing account in a local qualified public depository to be designated by the University in writing ("Facility Operating Account") as soon as practicable upon receipt (but in any event within two (2) business days of receipt). As provided in Section 10.1, Manager shall have the right to withdraw and use the funds in the Facility Operating Account to pay the Operating Expenses of the Facility as set forth in Section 9.1(b). "Revenue" shall mean all revenues generated by Manager's operation of the Facility, including but not limited to event ticket

proceeds income, rental income, equipment rental fees, box office income, catering and food and beverage income, ticket rebate income, novelty income, parking income, facility surcharge, leasing income, gross service income, advertising and sponsorship (including naming rights) revenue, merchandise, novelty and concessions and catering net income, premium seating income (if any) and miscellaneous operating income; provided, however, Revenue shall not include (i) any revenue directly related to a University men's or women's basketball game, (ii) amounts collected from the University-sold naming or sponsorship rights described on Exhibit B hereto, or (iii) monies collected (or to be collected) for the benefit of and paid to third parties (for example, event promoters).

Section 11.3 Authorized Signatories. The Facility Operating Account, Event Operating Account, and any other account established hereunder or in the Operations Manual shall be in the University's name and have two authorized University signatories, provided that Manager shall have access to such accounts in order to perform its duties under this Agreement. Manager shall designate up to four (4) Manager employees to be authorized signatories on such accounts.

Section 11.4 Bank Statements. Manager shall submit to the University, or shall cause the applicable public depository utilized by Manager to submit to the University, on a monthly basis, copies of all bank statements concerning the Event Operating Account and the Facility Operating Account.

Section 11.5 Cash Control. It is the intent of the parties to employ strict cash control methods with respect to operations at the Facility through a combination of rigid accounting procedures and internal audit tests, as well as an annual audit by an independent public accounting firm as set forth in Section 11.3 below. The procedures include but are not limited to the following: (a) payrolls shall be processed through a separate bank account in the name of Manager, reconciled monthly and tested via internal audit procedures, (b) each event at the Facility shall be accounted for using an event accounting system, with budgets and final reports prepared for each event, and reimbursable expenses for each event coded for accurate accumulation to ensure all applicable costs are paid by the users of the Facility, (c) users of the Facility shall be required to make advance deposits to cover rentals and estimated costs, in an effort to minimize collection efforts, and (d) Manager shall check credit references of any new or questionable users of the Facility.

ARTICLE 12 FISCAL RESPONSIBILITY; REPORTING

Section 12.1 Records. Manager agrees to keep and maintain, at its office in the Facility, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Facility. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of Manager under this Agreement. The University or its authorized agent shall have the right to audit and inspect such records from time to time during the Term, upon reasonable notice to Manager and during Manager's ordinary business hours.

Section 12.2 Monthly Financial Reports. Manager agrees to provide to the University, within thirty (30) days after the end of each month during the Term, financial reports for the Facility including a balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such month and year to date in accordance with generally accepted accounting principles. In addition, Manager agrees to provide to the University a summary of bookings for each such month, and separate cash receipts and disbursements reports for each event held at the Facility during such month. Manager agrees to meet with University personnel from time to time to answer the University's questions, if any, relating to the operation of the Facility and the financial reports provided by Manager. Furthermore, Manager will promptly upon request by the University provide information on the Event Operating Account, Facility Operating Account and any other accounts maintained in connection with this Agreement.

Section 12.3 Audit. Manager agrees to provide to the University, within one hundred twenty (120) days following the end of each Operating Year, a certified audit report on the accounts and records as kept by Manager for the Facility. Costs associated with obtaining such certified audit report shall be an Operating Expense of the Facility. Manager shall utilize an external auditor of national or regional recognition approved by the University to conduct such audit, which shall be conducted in accordance with generally accepted auditing standards. A letter from such accounting firm expressing its opinion as to the effectiveness of internal controls and a management letter will accompany the audit report. At the option of the University and at its expense, additional audits may be performed from time to time.

Section 12.4 Additional Statements and Reports. In the event the University reasonably requests from time to time additional financial or statistical reports with respect to the Facility, Manager agrees to use reasonable efforts to promptly provide such reports. Any costs of Manager associated with the preparation or provision of such reports shall be included as an Operating Expense of the Facility.

ARTICLE 13 CAPITAL IMPROVEMENTS

Section 13.1 Schedule of Capital Expenditures. Manager shall annually, at the time of submission of the annual Operating Budget to the University, provide to the University a schedule of capital improvements necessary at the Facility and requiring a Capital Expenditure (as defined below), for the purpose of allowing the University to consider for inclusion such projects in its budget for the ensuing year and to prepare and update a long-range capital expenditure budget. For purposes of this Section, "Capital Expenditures" shall mean all expenditures for building additions, alterations, or improvements and for purchases of additional or replacement furniture, machinery, or equipment, where the cost of such expenditure is greater than \$5,000 and the depreciable life of the applicable item is, according to generally accepted accounting principles, in excess of five (5) years.

Section 13.2 Responsibility for Capital Expenditures. The University shall be solely responsible for all Capital Expenditures at the Facility; provided, however, the University shall

be under no obligation to make such Capital Expenditures. Manager's failure to list particular items or projects in the schedule referenced in Section 13.1 above shall not be deemed a waiver of University's responsibility, if any, to make such Capital Expenditures. Notwithstanding the foregoing, Manager shall have the right to make Capital Expenditures at the Facility for Emergency Repairs (defined as the repair of a condition which, if not performed immediately, creates an imminent danger to persons or property and/or an unsafe condition at the Facility threatening persons or property), and shall be promptly reimbursed by the University for any such expenditures; provided, however, to the extent reasonably feasible, Manager agrees to contact the University and seek University approval prior to making any Capital Expenditure for Emergency Repairs.

ARTICLE 14 AGREEMENT MONITORING AND GENERAL MANAGER

Section 14.1 University Contract Administrator. The University shall monitor Manager's compliance with the terms of this Agreement through the "University Contract Administrator," who shall be the University's Vice Chancellor for Business and Finance or her designee. Any and all references in this Agreement requiring University participation or approval shall mean the participation or approval of the University Contract Administrator. The University Contract Administrator shall be the liaison between Manager and the University on all matters relating to this Agreement, shall ensure that any information supplied by Manager is properly distributed to the appropriate University Departments, and shall be responsible for the monitoring and assessment of contract compliance by Manager; provided, however, no act or omission by the University Contract Administrator shall relieve Manager of its obligation to comply with its duties and responsibilities under this Agreement.

Section 14.2 Manager Representative. Manager shall monitor the parties' compliance with the terms of this Agreement through the General Manager. The General Manager shall be approved by the University per the terms of Section 6.2 above. Such General Manager shall be the day-to-day liaison between the University and Manager on all matters relating to this Agreement, and shall ensure that any information supplied by the University is properly distributed to the appropriate Manager officials.

ARTICLE 15 INDEMNIFICATION; RESPONSIBILITY

Section 15.1 Indemnification by Manager. Manager agrees to defend, indemnify and hold harmless the University and its agents, servants and employees against any claims, causes of action, costs, expenses (including reasonable attorneys' fees) liabilities, or damages (collectively, "Losses") suffered by such parties, arising out of or in connection with any (a) negligent act or omission, or intentional misconduct, on the part of Manager or any of its employees or agents in the performance of its obligations under this Agreement, or (b) breach by Manager of any of its representations, covenants or agreements made herein.

Section 15.2 University Responsibility. The University agrees to be responsible for the actions of its employees while acting within the scope of their official duties to the extent consistent with the waiver of immunity provided by the South Carolina Tort Claims Act, Section 15-78-10 et seq. of the Code of Laws of South Carolina (1976), as amended.

Section 15.3 Conditions to Indemnification. The obligations and liabilities of Manager under Section 15.1 will be subject to the following terms and conditions:

(a) If the University seeks indemnification (the "Indemnified Party"), it shall give prompt written notice ("Indemnification Claim Notice") to Manager (the "Indemnifying Party") of each claim for indemnification under this Agreement, specifying the amount and nature of any such claim. In the event of any claim for indemnification hereunder resulting from or in connection with any claim or legal proceedings by a third party, such notice shall specify, if known, the amount or an estimate of the amount of liability arising therefrom. The Indemnified Party shall not settle or compromise any claim by a third party for which it is entitled to indemnification hereunder without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that if suit shall have been instituted against the Indemnified Party and the Indemnifying Party shall not have taken control of such suit after notification thereof as provided in Section 15.3(b) hereof, the Indemnified Party shall have the right to settle or compromise such claim upon giving notice to the Indemnifying Party, as provided in Section 15.3(b) hereof.

(b) In connection with any claim which may give rise to indemnity hereunder resulting from or arising out of any third party claim or legal proceeding, the Indemnifying Party, at its sole cost and expense may, upon written notice to the Indemnified Party, assume the defense of any such claim or legal proceeding if the Indemnifying Party acknowledges to the Indemnified Party in writing the obligation of the Indemnifying Party to indemnify the Indemnified Party with respect to all elements of such claim. If the Indemnifying Party assumes the defense of any such claim or legal proceeding, the Indemnifying Party shall select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claim or legal proceeding and at the sole cost and expense of the Indemnifying Party shall take all steps necessary in the defense or settlement thereof. The Indemnifying Party shall not consent to a settlement of, or the entry of any judgment arising from, any such claim or legal proceeding, without the prior written consent of the Indemnified Party. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its own expense. If the Indemnifying Party does not assume the defense of any such claim or litigation resulting therefrom within fifteen (15) days after the date of the Indemnification Claim Notice:

(i) the Indemnified Party may defend against such claim or litigation in such manner as it may deem appropriate, including, but not limited to, settling such claim or litigation, after giving notice of the same to the Indemnifying Party, on such terms as the Indemnified Party may reasonably deem appropriate, and all costs of litigation incurred by the Indemnified Party shall be included in the calculation of the Losses of the Indemnified Party which are the subject of such claim or litigation; and

(ii) the Indemnifying Party shall be entitled to participate in (but not control) the defense of such action, with its counsel and at its own expense. The Indemnifying Party thereafter shall have no right to question the manner in which the Indemnified Party defended such third party claim or the amount or nature of any such settlement.

Section 15. Survival. The obligations of the parties contained in this Article 15 shall survive the termination or expiration of this Agreement and continue on indefinitely.

ARTICLE 16 INSURANCE; BONDS

Section 16.1 Types and Amount of Coverage. Manager agrees to obtain insurance coverage in the manner and amounts as set forth in Exhibit D, attached hereto, and shall provide to the University a certificate or certificates of insurance evidencing such coverage. Manager shall maintain such referenced insurance coverage at all times during the Term, and will not make any material modification or change from these specifications without the prior approval of the University. Each insurance policy shall include a requirement that the insurer provide Manager and the University at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy. The cost of all such insurance shall be an Operating Expense of the Facility.

Section 16.2 Rating; Additional Insureds. All insurance policies shall be rated no less than A VIII in the most recent "Bests" insurance guide, shall be issued by insurance companies licensed in the State of South Carolina or as otherwise agreed by the parties, and shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. The commercial general liability policy, automobile liability insurance policy and umbrella or excess liability policy to be obtained by Manager hereunder shall name University as an additional insured. The workers compensation policy to be obtained by Manager hereunder shall contain a waiver of all rights of subrogation against the University. Manager shall require that all users of the Facility, including without limitation licensees, ushers, security personnel and concessionaires, provide to the University and to Manager certificates of insurance evidencing insurance appropriate for the types of activities such user is engaged in and naming the University as an additional insured. If Manager subcontracts any of its obligations under this Agreement, Manager shall either: (a) cover all subcontractors under its policies of insurance, or (b) require each subcontractor not so covered to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name Manager and the University as additional insureds.

Section 16.3 Bonds. Those employees of Manager who have access to or are responsible for the funds generated under this Agreement shall be bonded by a fidelity bond in form and amount as set forth on Exhibit D.

ARTICLE 17 COMPLIANCE WITH EQUAL OPPORTUNITY LAWS

Section 17.1 No Discrimination. Manager agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age.

ARTICLE 18 NAME AND LOGOS

Section 18.1 Free Use of University and Facility, Names and Logos. Subject to the prior approval of the University, Manager shall have the right to use throughout the Term (and permit others to use in furtherance of Manager's obligations hereunder) and for no charge, the name and all University approved logos of the Facility, as well as any University logos, on Manager's stationary, in its advertising of the Facility, and whenever conducting business of the Facility; provided, that Manager shall take all prudent and appropriate measures to protect the intellectual property rights of the University relating to such logos. All intellectual property rights in any Facility logos developed by Manager or the University shall be and at all times remain the sole and exclusive property of the University. Manager agrees to execute any documentation requested by the University from time to time to establish, protect or convey any such intellectual property rights.

ARTICLE 19 COMPLIMENTARY TICKETS

Section 19.1 Complimentary Tickets. Manager may issue a reasonable amount of complimentary tickets to entities directly related to the promotion, advertising and show production for non-University events, with the exception of governmental agencies. Manager must receive prior approval from the University for the issuance of all other complimentary tickets. Manager agrees to keep a daily log of complimentary tickets issued and to provide such upon request by the University.

ARTICLE 20 MISCELLANEOUS

Section 20.1 Confidentiality. The parties agree to keep the economic terms of this Agreement strictly confidential to the extent authorized by the South Carolina Freedom of Information Act, Section 30-4-10 et seq. of the Code of Laws of South Carolina (1976), as amended. Disclosure by each party to its employees, attorneys, accountants, or tax advisors, as necessary, or as may be required by law, shall not be construed as a breach of this Agreement.

Section 20.2 Force Majeure. Except as otherwise provided herein, neither party shall be obligated to perform, and neither party shall be deemed to be in default of its performance, if

performance is prevented by: (a) fire, earthquake, hurricane, wind, flood, act of God, riot, or civil commotion occurring at the Facility, or (b) any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, war, or governmental law and regulation, or (c) labor dispute which results in a strike or work stoppage affecting the Facility or services described in this Agreement.

Section 20.3 Assignment. Neither party may assign this Agreement without the prior written consent of the other; however, Manager may, without the prior written consent of the University, assign this Agreement to an affiliate, parent or subsidiary of Manager where such assignment is intended to accomplish an internal corporate purpose of Manager as opposed to materially and substantially altering the method of delivery of services to University. Any purported assignment in contravention of this Section shall be void.

Section 20.4 Notices. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, three (3) days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services.

If to the University:

University of South Carolina Aiken
c/o Ms. Virginia S. Hudock
471 University Parkway
Aiken, SC 29801

If to Manager:

Global Spectrum, L.P.
Attn: Chief Operating Officer
3601 S. Broad Street
Philadelphia, PA 19148-5290

With a copy to:

Walter H. Parham, Esq.
General Counsel
109 Osborne Administration Bldg.
University of South Carolina
Columbia, SC 29208

With a copy to:

Philip I. Weinberg, Esq.
Comcast Spectacor, L.P.
3601 South Broad Street
Philadelphia, PA 19148-5290

Theresa L. Watts
Procurement Department
University of South Carolina
1600 Hampton Street, Suite 606
Columbia, SC 29208

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

Section 20.5 Severability. If a court of competent jurisdiction or an arbitrator determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 20.6 Agreement. This Agreement (including this document and the exhibits and schedules referenced herein, Request for Proposals No. 0795-TLW and the Amendment thereto, and Manager's Response to Request for Proposals No. 0795-TLW, dated June 14, 2006, as such documents were modified by mutual agreement as set forth on Exhibit E hereto) incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements or understandings, whether oral or written. In resolving any inconsistencies relating to the Agreement, the following order of precedence shall be followed: (a) first, the terms contained in the main body of the Agreement; (b) second, the terms contained in any schedules, exhibits and attachments to the Agreement, provided that no order of precedence shall be given among them; (c) third, Request for Proposals No. 0795-TLW, as modified per Exhibit E; and (d) fourth, Manager's Response to Request for Proposals No. 0795-TLW, as modified per Exhibit E.

Section 20.7 Governing Law; Venue.

(a) This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of South Carolina, without regard to its conflict of laws principles.

(b) Any dispute, claim or action brought under the Agreement shall be resolved in accordance with the procedures and terms set forth in the S.C. Code Ann. §11-35-4230, and the South Carolina Consolidated Procurement Code.

(c) Manager agrees that any act by the University regarding this Agreement is not a waiver of either the University's sovereign immunity or the University's immunity under the Eleventh Amendment of the United States Constitution.

Section 20.8 Amendments. Neither this Agreement nor any of its terms may be changed or modified, waived, or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by an authorized representative of the party against whom the enforcement of the change, waiver, or termination is sought.

Section 20.9 Waiver; Remedies. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent

to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 20.10 Relationship of Parties. Manager is engaged by the University hereunder as an independent contractor to perform the services described herein, and nothing contained in this Agreement shall be deemed to create, whether express or implied, a partnership, joint venture, employment, or agency relationship between the University and Manager, except as otherwise expressly set forth in this Agreement.

Section 20.11 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on behalf of such party by an authorized representative on the dates below indicated.

ATTEST:

Meritt R. Mitnaul
Name:

UNIVERSITY OF SOUTH CAROLINA AIKEN

By: Walter H. Parham
Name: Walter H. Parham
Title: Assist. Secretary
USC, Board of Trustees
Date: 12-19-06

ATTEST:

[Signature]
Name:

GLOBAL SPECTRUM, L.P.

By: [Signature]
Name: [Signature]
Title: Vice-President, Global Spectrum, Inc., the General Partner
Date: 12/7/06

APPROVED BY THE EXECUTIVE COMMITTEE OF THE UNIVERSITY OF SOUTH CAROLINA BOARD OF TRUSTEES, ON BEHALF OF THE BOARD OF TRUSTEES, ON December 18, 2006.

By: Walter H. Parham
Walter H. Parham
USC Board of Trustees

[SIGNATURE PAGE TO PRE-OPENING SERVICES AND MANAGEMENT AGREEMENT]