

## **IMPACTED LIVE ENTERTAINMENT VENUE AGREEMENT**

This Impacted Live Entertainment Venue Agreement (the "Agreement") is entered into as of the 30<sup>th</sup> day of January, 2013 (the "Effective Date"), by and between the Massachusetts Performing Arts Coalition, Inc., 2 Southbridge Street, Worcester, MA 01608 ("MPAC") and Wynn MA, LLC, 3131 Las Vegas Blvd., South, Las Vegas, NV 89109 ("Wynn"). (MPAC and Wynn are hereinafter referred to from time to time each as a "Party" and collectively as the "Parties.")

### **RECITALS**

**WHEREAS**, Massachusetts General Laws chapter 23K (the "Gaming Statute") has been enacted in part to protect the cultural activities and institutions operated by municipally-owned and not-for-profit theatres from the adverse impacts of expanded gaming activities in the Commonwealth;

**WHEREAS**, MPAC represents the interests of certain non-profit and municipally-owned theatres in Massachusetts listed in Exhibit A attached hereto and made a part hereof, each of which may suffer a materially adverse impact from the development of gaming facilities in Massachusetts;

**WHEREAS**, Wynn has submitted a so-called "Phase 2 Application" with the Massachusetts Gaming Commission (the "Commission") for a gaming license to operate the proposed facility at a site in Everett, Massachusetts as identified in the Phase 2 Application (the "Casino Site");

**WHEREAS**, Wynn's proposed facility does not now but could in the future include a live entertainment venue whose development and operation may pose the potential for a materially adverse impact on MPAC's members and their sustainability as non-profit or municipally-owned live performance venue;

**WHEREAS**, the Parties wish to set forth certain terms and conditions governing the relationship between Wynn and MPAC should the Casino obtain a gaming license to operate a facility at the Casino Site;

**NOW THEREFORE**, in furtherance of the foregoing and in consideration of the agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **AGREEMENTS**

#### **1.0 Casino Site Capacity and Performances**

1.1 Wynn agrees that it does not currently plan to build, restore, operate or manage an indoor or outdoor, permanent or temporary live entertainment venue on or independent of the Casino Site in the Commonwealth of Massachusetts seating more than 1,000 persons, notwithstanding the fact that the Gaming Statute permits such venues seating more than 3,500 persons. The Parties acknowledge and agree that bars, lounges, common areas, hotel ballroom or other multi-use or meeting space within the gaming establishment or elsewhere at the Casino Site may be used for events, meetings or celebrations that include live entertainment.

1.2 In the event Wynn decides to build a live entertainment venue of the size or type described in 1.1 above at the Casino Site, it will, prior to taking substantial steps toward doing so, notify MPAC in writing describing its planned entertainment venue and promptly engage in good-faith discussions with MPAC and MPAC member venues to ensure compliance with the Gaming Statute.

## 2.0 Collaborative Efforts by Wynn, MPAC and MPAC Venues.

Wynn and MPAC agree to pursue some or all of the following initiatives with respect to MPAC Venues:

2.1 Wynn and one or more MPAC Venues may collaborate on reasonable "show your ticket stub" promotions, mutual member or patron discounts or other collaborative efforts to encourage visitation by MPAC Venue customers to the Casino Site and visitation by Wynn customers to the MPAC Venue.

2.2 Such other collaborative marketing and cross-promotional efforts as may be determined from time to time by and between Wynn and the MPAC Venue.

## 3.0 Enforcement.

3.1 The Parties agree that in the event of any uncured material breach of this Agreement by Wynn, MPAC may petition or otherwise communicate to the Commission its good-faith belief that such a material breach has occurred and seek enforcement by the Commission against Wynn under the provisions of the Gaming Statute, including but not limited to sections 23(b), 35 or 36 of the Gaming Statute.

3.2 The provisions of this Article 3 shall survive any termination or expiration of this Agreement.

#### 4.0 Term and Termination.

The term of this Agreement shall commence on the Effective Date and shall continue until the earlier of (i) the mutual written agreement of all of the Parties or (ii) the date on which Wynn ceases gaming operations at the Casino Site.

#### 5.0 Notices.

All notices or other communications required or permitted to be given under or by reason of this Agreement shall be in writing and shall be deemed to have been duly given on the date of personal delivery to or on the date of receipt at the addresses set forth in this Section 5.0 or at such other address that may be specified from time to time in writing the Party to whom notice is to be given. If mailed by first-class, postage prepaid, certified mail, return receipt requested, or if sent by a nationally recognized, overnight, express courier service providing evidence of receipt, such written notices shall be deemed to have been received (i) if sent by certified mail, as of the date set forth on the return receipt, (ii) if sent by overnight courier, as of the date of evidence of receipt. Notices, demands, and communications will, unless another address is specified in writing, be sent to the persons and at the addresses indicated below:

In the case of MPAC, to:

Massachusetts Performing Arts Coalition, Inc.  
2 Southbridge Street  
Worcester, MA 01608  
Attn.: Troy Siebels, President

Copy to:

Peter J. Martin, Esq.  
Bowditch & Dewey, LLP  
311 Main Street  
P. O. Box 15156  
Worcester, MA 01615-0156

In the case of Wynn, to:

Wynn MA, LLC  
c/o Wynn Resorts, Limited  
3131 Las Vegas Blvd. South  
Las Vegas, NV 89109

Attn: Kim Sinatra  
Senior Vice President and General Counsel

6.0 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns as permitted hereunder.

7.0 Choice of Law.

This Agreement shall be governed by, and construed according to, the laws of the Commonwealth of Massachusetts, without regard to any choice of law provisions thereof which would require application of the laws of another jurisdiction.

8.0 Execution in Counterparts.

This Agreement may be signed upon any number of counterparts with the same effect as if the signatures on all counterparts are upon the same instrument.

9.0 Severability; Captions.

In the event that any clause or provision of this Agreement should be held to be void, voidable, illegal, or unenforceable, the remaining portions of this Agreement shall remain in full force and effect. Headings or captions in this Agreement are added as a matter of convenience only and in no way define, limit or otherwise affect the construction or interpretation of this Agreement.

10.0 Interpretation.

Whenever a provision of this Agreement uses the term "include" or "including", that term shall not be limiting but shall be construed as illustrative. This Agreement shall be given a fair and reasonable interpretation of the words contained in it without any weight being given to whether a provision was drafted by one party of its counsel.

11.0 Entire Agreement; Amendment.

This Agreement contains all of the terms, promises, conditions and representations, made or entered into by and among the Parties, supersedes all prior discussions, agreements and memos, whether written or oral between and among the Parties, and constitutes the entire understanding of the Parties and shall be subject to modification or change only in writing and signed by all

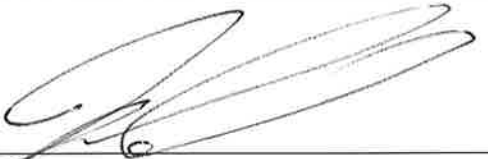
Parties. Notwithstanding the foregoing, in the event Wynn or any Affiliate of Wynn (as defined in the Gaming Statute) expands the existing Casino Site or adds another facility in the Commonwealth of Massachusetts, such expanded or additional site automatically and without further action by any Party shall be construed to be a Casino Site as defined herein and shall be subject to the terms of this Agreement.

### 13.0 Authority.

Each Party represents and warrants to the other Party that it has full power and authority to make this Agreement and to perform its obligations hereunder and that the person signing this Agreement on its behalf has the authority to sign and to bind that Party.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date first set forth above.

**MASSACHUSETTS PERFORMING ARTS COALITION, INC.**

By:   
Troy Siebels, President

**WYNN MA, LLC**

By:   
Its: SVP, Authorized Signer

**EXHIBIT A**  
**MPAC VENUES**

Symphony Hall, Springfield

The Hanover Theatre, Worcester

Lowell Memorial Auditorium

Cape Cod Melody Tent, Hyannis

South Shore Music Circus, Cohasset

Lynn Auditorium

Zeiterion Theatre, New Bedford