

AGREEMENT

BETWEEN

THE CITY OF MIAMI BEACH, FLORIDA

AND

OUTFRONT MEDIA GROUP LLC

**FOR THE CONSTRUCTION, INSTALLATION, OPERATION AND MAINTENANCE OF
BUS SHELTERS AND OTHER STREET FURNITURE AT DESIGNATED LOCATIONS
WITHIN THE CITY PURSUANT TO INVITATION TO NEGOTIATE NO. 2020-239-KB**

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THIS AGREEMENT ("Agreement") is made this _____ day of September, 2021 ("Effective Date") by and between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation of the State of Florida (the "City"), and **OUTFRONT MEDIA GROUP LLC**, a Delaware limited liability company, whose principal place of business is located at 405 Lexington Avenue, New York, New York 10174 ("Outfront").

RECITALS

WHEREAS, on October 21, 2020, the Invitation to Negotiate (ITN) 2020-239-KB for the "Revenue Sharing Agreement for the Construction, Operation, and Maintenance of Bus Shelters and other Street Furniture", together with all amendments thereto, if any (the "ITN") was issued by the City in contemplation of this Agreement; and

WHEREAS, on March 17, 2021, the Mayor and City Commission, adopted Resolution No. 2021-31644, which accepted the recommendation of the City Manager, pursuant to the ITN No. 2020-239-KB, and authorized the Administration to enter into negotiations with Outfront, as the sole proposer; provided, however, that: 1) the final negotiated Agreement shall be the subject to the prior approval by the City Commission; and 2) if the City Commission approves the Agreement the proposed bus shelter design shall also be subject to the prior approval of the City Commission; and

WHEREAS, accordingly, the City and Outfront have negotiated the foregoing Agreement wherein the City agrees to allow Outfront the exclusive right to construct, install, operate and maintain Bus Shelters and Other Street Furniture (as defined in Sections 2.3 and 2.12, respectively), and display and sell advertising upon a Display Panel (as defined in Section 2.8), within the Sites (as defined in Section 4.2), based upon the conditions of the Sites, pursuant to the terms and conditions set forth in the Agreement (the "Program"); and

WHEREAS, pursuant to the Program, Outfront will be permitted to initially sell advertising on the static Display Panels of the Existing Bus Shelters until Outfront may secure the approvals and install the new Bus Shelter Structures, in a phased approach, and sell advertising space upon the Display Panel of each new Bus Shelter Structure installed, based upon a revenue sharing arrangement, as more particularly described herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, City and Outfront hereby agree as follows:

SECTION 1. RECITALS

The above recitals are true and correct and are incorporated herein by reference as part of this Agreement.

SECTION 2. DEFINITIONS

2.1 "Auditor" refers to member(s) of the City's accounting staff, an inspector general retained or appointed by the City, or professionally qualified consultants employed by the City to conduct an audit.

2.2 "Bus Benches" shall mean bus benches without a covering canopy or any other surrounding structure, to be used exclusively by the Program.

2.3 "Bus Shelter" shall mean a structure used to shelter passengers while waiting for a bus, which, at minimum, provides seating for the public and may, contain, subject to securing all necessary governmental approvals, as may be required under this Agreement, Technological Equipment, , public information, transit operations, public safety information, public events information, maps and routes, and other similar amenities to be used exclusively by the Program.

2.4 "Bus Shelter Structures" shall collectively refer to Bus Shelters and Other Street Furniture, and "Bus Shelter Structure" shall individually refer to either a Bus Shelter or one of the categories of Other Street Furniture.

2.5 "City" shall mean the City of Miami Beach, a Florida municipal corporation having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida 33139.

2.6 "City Manager" shall mean the Chief Administrative Officer of the City. The City Manager shall be considered to include any duly authorized designee(s), including City's Contract Manager, and shall serve as the City's representative to whom administrative requests for approvals shall be made and who shall issue authorizations (exclusive of those authorizations reserved to the City Commission and Outfront).

2.7 "City's Contract Manager" shall mean the individual appointed by the City Manager who shall be the City's authorized representative to coordinate, direct, and review on behalf of the City, all matters related to the Project, except as otherwise provided herein. For purposes of this Agreement the City's Contract Manager shall be the Transportation Department Director and/or Transportation Manager.

2.8 "Display Panel" shall mean a double-sided static or digital display for the Existing Bus Shelters or new Bus Shelters, incorporated and installed on the Bus Shelter, which includes all necessary computers, cellular modems, audio interface, and power supplies attached to the Bus Shelter. Display Panels are anticipated to accommodate static and digital advertising displays measuring approximately 75" diagonally (approximately 4.5 feet

wide and 7 feet high), subject to approval of final designs in accordance with this Agreement. The Display Panel may be used: (1) by Outfront to sell advertising space, (2) by the City as a Self-Promotional Space (as described in Section 18(3), or (3) by the City to display ETA signage (as described in Section 2.9) or combination thereof.

2.10 "ETA sign" shall mean electronic device that displays estimated time of arrival (ETA) of one or more bus routes expected to arrive at a certain bus stop. ETA signs may be installed as a stand-alone solar powered device on a separate pole, incorporated and installed on the Bus Shelter, or displayed on a portion of the Display Panel, at the City's discretion

2.11 "Existing Bus Shelters and Benches" – shall mean as defined in Section 4.2, the Existing Bus Shelters and Existing Benches being operated and maintained during a portion of the Term of this Agreement, until they are replaced by the new Bus Shelter Structures. Each may be referred to as an Existing Bus Shelter and/or Existing Bench. Any references to "Bus Shelters", "Other Street Furniture", and collectively Bus Shelter Structures, shall refer to the new Bus Shelters and Other Street Furniture which will be constructed, installed, operated and maintained under this Agreement.

2.12 "Advertising Freestanding Kiosk" shall mean a freestanding structure designed to sell advertising space.

2.13 "Other Street Furniture" shall mean bus benches, leaning rails, freestanding ETA signs, freestanding CCTV equipment, and bike racks approved by the City to be installed in the Sites. Bike racks shall be installed in close proximity to the Bus Shelter, subject to the City's approval.

2.14 "Outfront" shall mean Outfront Media Group LLC, a Delaware limited liability company, having its principal place of business at 405 Lexington Avenue, New York, New York 10174. When the term "Outfront" is used in this Agreement, it shall be deemed to include any subconsultants, subcontractors, and any other person or entity acting under the direction or control of Outfront.

2.15 "Proposal Documents" shall mean the Invitation to Negotiate No. 2020-239-KB entitled, "Revenue Sharing Agreement for the Construction, Operation, and Maintenance of Bus Shelters and other Street Furniture" issued by the City in contemplation of this Agreement, together with all amendments thereto, if any (the "ITN"), and Outfront's proposal in response thereto (Proposal), which is incorporated by reference in this Agreement and made a part hereof; provided, however, that in the event of an express conflict between the Proposal and this Agreement, this Agreement shall prevail.

2.16 "Public Right-of-Way" shall mean any street, sidewalk, street corner, curb, bicycle path, or pedestrian walkway in the City of Miami Beach.

2.17 "Sidewalk" shall mean that area reserved for the public use by pedestrian traffic within the City's zoned rights-of-way, including the area(s) above, over, and under such area(s).

2.18 "Street" shall mean all that area reserved for the public use and/or for public right-of-way purposes and shall include highways, avenues, roads, drives, lanes, boulevards, courts, bridges, cul-de-sacs, and roadways.

2.19 “Technological Equipment” shall mean Wi-Fi services, CCTV Equipment, Display Panels and ETA Signs.

SECTION 3. TERM

This Agreement shall be for an initial term of twenty (20) years, commencing on October 1, 2021 (“Commencement Day”), and expiring on September 30, 2041, unless earlier terminated, as herein provided. At any time prior to the expiration of the initial term, this Agreement may be extended for one (1) five (5) year renewal term upon mutual agreement between the parties hereto and pursuant to the terms and conditions of this Agreement. The City’s agreement to such extension may be authorized by the City Manager, provided that the contract terms remain the same. Parties should communicate their desire to extend the Agreement for an additional 5 years by providing a written notification to other party no later than 180 days prior to the expiration of the initial term. The initial term and the renewal term, if pursued, shall be collectively referred to herein as the “Term”.

A Contract Year shall mean October 1st through September 30th of each year during the Term.

SECTION 4. EXCLUSIVITY. SITE(S) AND SERVICE ZONE.

Pursuant to the Program, the City hereby grants to Outfront the exclusive right, during the Term of this Agreement to, (1) operate and maintain the Existing Bus Shelters and Benches (as defined in Section 4.2) at its sole cost and expense, during specific phases of the Agreement, as described in Exhibit “B”; (2) construct, install, operate and maintain new Bus Shelter Structures, at its sole cost and expense, generally, in the Service Zone (defined below) and, specifically, upon the following Sites (defined below) (hereinafter such areas shall be referred to individually as a Site, or collectively as the Sites), and (3) sell and display outdoor advertisement on the Display Panels.

The City will not permit the installation of an Advertising Freestanding Kiosk within any area of the Public Right-of-Way located within 250 feet from the closest edge of any Bus Shelter (the “Exclusivity Zone”). This limited exclusivity is intended to solely limit Advertising Freestanding Kiosks within the Exclusivity Zone. For the sake of clarity and without modifying the foregoing limited exclusivity, the City or a City’s contractor shall not be prohibited from displaying advertising on any other type of temporary or permanent structure within the Exclusivity Zone including, without limitation, water fountain, garbage cans, ashtrays, kiosks related to a rental sharing program for bicycles or other mobility devices, bicycles or any other mobility devices, special events related kiosks, tables, stands, etc., or property owned or controlled by the City including, without limitation, parking facilities, buildings, Parks, or other similar facilities. Moreover, notwithstanding the foregoing limited exclusivity, the City, on its own or through a separate provider, reserves the right to place Advertising Freestanding Kiosk on any portion of Lincoln Road, even if certain parts of Lincoln Road fall within the Exclusivity Zone.

4.1 Service Zone.

The Service zone shall be defined as the geographical scope of the Program, which is

deemed to be City-wide, and shall include all the Sites, as defined below and in **Exhibit A**, within the city limits of the City of Miami Beach.

4.2 Site(s), Existing Bus Shelters and Benches.

The Sites shall be defined as the City properties where a Bus Shelter Structure and its related components, which may sometimes be referred to as “Site Improvements”, to be used exclusively for the Program, may be installed (individually referred to as a “site” or collectively as “sites”), as more particularly delineated in **Exhibit A** incorporated herein by reference and attached hereto. Any modification to the Sites shall be subject to the prior written approval of the City, in the City Manager’s or Contract Manager’s sole and absolute discretion. The sites set forth in **Exhibit A** include 95 pre-existing Bus Shelters and approximately 160 Bus Benches installed as of the Commencement Date of this Agreement (“Existing Bus Shelters and Benches”). Outfront accepts the Existing Bus Shelters and Benches “AS IS”, “WHERE IS” and “WITH ALL FAULTS” existing as of the Commencement Date. The City, at the City Manager’s sole discretion, reserves the right to remove some of the existing Sites depicted in **Exhibit A** once a determination is made by parties as to the final number of Bus Shelter Structures which will be approved and installed. Outfront shall have the right to sell and display advertising on all Display Panels affixed to the Existing Bus Shelters as of the Commencement Date of this Agreement and all future Display Panels affixed thereto within the Sites. Subject to the Capital Budget as described below, Outfront shall construct, install, operate and maintain the agreed-upon Site Improvements (a minimum of 200 and maximum of 250 Bus Shelters and ETA signs, one hundred (100) bike racks, and up to one hundred (100) bus benches/leaning rails) within the Sites, which will be permitted to be installed, as designated by the City Manager or City’s Contract Manager, in his or her sole discretion. Upon installation of all the Bus Shelter Structures, the parties shall amend **Exhibit A** to the Agreement to incorporate site plans for all Sites, including a sketch of the Exclusivity Zone.

4.3 Capital Budget.

Subject to the budget tiers and agreed upon schedule set forth in **Exhibit B** hereto, Outfront agrees to perform the construction, installation, procurement, operation and capital improvement commitments described in this Agreement, at a capital expenditure of \$25,000,000 (the “Capital Budget”) over the initial twenty (20) year term of the Agreement. A copy of the initial Capital Budget is incorporated herein by reference and attached hereto as Exhibit C. If the parties mutually agree during Phase 1, Phase 2 or Phase 3 of the deployment to extend the term of the Agreement for the additional five (5) year renewal term pursuant to Section 3, then the Capital Budget will automatically increase by Two Million Dollars (\$2,000,000) to a total of \$27,000,000 over the twenty-five (25) year total term. The Bus Shelter design shall include design options that respect the vision of the City’s initial designs developed by ACAI/Pininfarina design team and included in the ITN. The City reserves the right to require Outfront to secure third party cost estimates in connection with the manufacturing and construction of the approved bus shelter design.

In the event, that upon full deployment of the new Bus Shelter Structures, the City has not utilized all of the total allocated Capital Budget related to the installation of the new Bus Shelter Structures (excluding amounts allocated to hardware refresh or

refurbishment of the Technological Equipment, and for removals, re-installations and relocations of Bus Shelter Structures), at the City's option, the City and Outfront may seek to spend the unspent portion of such allocation ("Unspent Installation Capital") on mutually agreed additional Bus Shelter Structures that may benefit the Program; or the City may request that Outfront increase each subsequent quarterly guarantee payment described in Section 6.12 below by fifty percent (50%) of the amount of the Unspent Installation Capital divided by the number of quarterly MG payments remaining in the initial term. By way of illustration, if the Unspent Installation Capital is \$4,000,000 and forty (40) future quarterly MG payments remain during the initial term, at the City's request, each subsequent quarterly MG payment during the initial term shall be increased by \$50,000 to a total of \$116,000 per quarter.

Additionally, at any time during the Term, the City may request that any unused capital expenditures delineated in the Capital Budget toward the removal, re-installation and/or relocation costs of the new Bus Shelter Structures (described in Section 5.9) be paid to the City. Upon such payment, the City shall be responsible for the costs of all subsequent removals, re-installations, and relocations of Bus Shelter Structures (as described in Section 5.9), whether performed by Outfront or by the City through its third party contractor.

SECTION 5. USE(S).

5.1 Bus Shelter Structure Services.

The City will approve (a) the type of Display Panels to be installed by the Outfront on Existing Bus Shelters and new Bus Shelters and (b) the type of Bus Shelter Structures, which are permitted for the operation of the Program. Notwithstanding the foregoing, the City and Outfront hereby acknowledge and agree that the City's approval in Section 4 above, as to any new Sites and the type of Bus Shelter Structures and Display Panels is given by the City solely in its proprietary capacity, and not in its regulatory capacity. **Notwithstanding such proprietary City approval, Outfront acknowledges and agrees that proposed sites of any new Site or the location of a Bus Shelter Structure within an agreed upon Site may also trigger and require review and approval by one (or more) of the City's regulatory bodies. Accordingly, in such circumstances, Outfront shall be required, at its sole cost and expense, to obtain any and all required final, non-appealable development approvals and/or orders for such Bus Shelter Structure, prior to implementation of said Bus Shelter Structure in the approved Site.**

5.2 Design, Permitting, Delivery, Acceptance and Installation of Bus Shelter Structures.

5.2.1 Outfront shall provide, at its sole cost and expense, any and all design services including, but not limited to, architectural and engineering services, as reasonably required in connection with the design, permitting, approval, and installation of the Bus Shelter Structures. Outfront herein warrants and represents to the City that any architects utilized by Outfront in connection with this Agreement shall be duly licensed and admitted to practice architecture in the State of Florida pursuant to Chapter 481, Florida Statutes, and additionally possess the requisite

occupational licenses from the City and the County. Any and all engineers required herein shall also be duly licensed and certified by the State of Florida to engage in the practice of engineering in Florida.

5.2.2 Outfront agrees to secure, at its sole cost and expense, all required approvals from all governmental authorities having jurisdiction over the Program, in connection with the design, permitting, installation, operation and maintenance of the Bus Shelter Structures.

5.2.3 Outfront agrees to install the Bus Shelter Structures in accordance with the City's plans and specifications for Bus Shelter Structures.

5.3 All technical standards governing design, construction, reconstruction, installation, operation, maintenance, dismantling, removal, testing, repair, and use of the Bus Shelter Structures provided herein shall be in accordance with all applicable federal, state, and local laws and regulations, including but not limited to the most recent editions of the South Florida Building Code, National Electrical Code and the National Electrical Safety Code.

Outfront shall prepare the sites and install Bus Shelter Structures at the existing sites and at new sites approved by the City in accordance with the installation and site preparation details contained herein. All materials, incorporated into the work, shall be new and in compliance with specifications of the construction documents. A schedule of Bus Shelter Structure installation shall be provided to the City for approval to ensure that the public is protected, and that time needed for removal of an Existing Bus Shelter and installation of the new Bus Shelter Structure is minimized.

Any preparation of the site required to provide a clean, stable and secure foundation for the Bus Shelter Structures shall be performed at Outfront's expense, including ensuring ADA compliance. Any necessary adjustments to the sites shall also be performed at Outfront's expense. Whenever possible, the installation of the Site Improvements, including Bus Shelter Structures, Display Panels, Other Street Furniture, Technological Equipment and materials will take place during hours of minimum passenger activity.

Before beginning construction operations, Outfront shall verify with the various utility companies that its operations are not in such proximity to utility facilities, or other property, that damage to same may result in expense, loss, disruption of service, or undue inconvenience to the public or the owner. Work shall not commence until all the arrangements necessary for the protection thereof are made. Outfront shall be solely and directly responsible to the owner of such facilities and properties for any damage, injury, expense, loss, inconvenience or delay caused by its operations.

All electrical service lines to/from the Site shall be underground and shall originate from a point-of-service designated by the City or other agency. Electrical service to every Bus Shelter Structure must always be maintained in a safe working order. Any required coordination with the electric service provider and all costs associated with the electric service (service drop, disconnect, etc.) will remain the sole responsibility of Outfront.

Outfront shall not remove any Bus Shelter Structure installed at a Site during the contract term without first having obtained written consent of the City's Contract Manager.

All liability related to operation, placement, construction, installation, removal, relocation, operation and maintenance of Bus Shelter Structures shall be the sole responsibility of Outfront.

All properties, on public or private land, which are damaged or removed for the installation of a Bus Shelter Structures shall be repaired, restored or replaced by Outfront, at no cost to the City, prior to the final acceptance of the work.

Any sidewalk or pavement restoration shall be performed in accordance with the standards, specifications, and regulations of the City of Miami Beach Public Works Department or other agency that has jurisdiction over the right-of-way. All restoration of landscaping and sodding shall conform to the standards and regulations of the City of Miami Beach.

Each Bus Shelter Structure shall be cleaned-up immediately upon completion of work at that site. All scraps, debris, excess of excavated materials, packing materials, barricades and every other kind of trash or surplus material shall be picked-up and hauled away, leaving the site neat, clean, safe, and ready for use by the public.

- 5.4 A permit shall be obtained for the placement of each Bus Shelter Structure under this Agreement. Permits for the placement of the Bus Shelters Structures, requiring a permit, shall be obtained from the City of Miami Beach Public Works, Planning and Building Departments, and/or any other agencies having jurisdiction over the proposed site. Only one Bus Shelter shall be permitted at each approved site, except as otherwise designated by the City. Locations of high ridership may have more than one Bus Shelter side by side.

Any Bus Shelter Structure permit issued by the City in accordance herewith and as part of this Agreement shall be issued for the duration of the Agreement or for as long as the Bus Shelter Structure is in place. The permit shall be for the use of the streets or sidewalks within the City for the erection, construction, reconstruction, installation, operation, maintenance, dismantling and removal, testing, repair, and use of the Bus Shelters, the Technological Equipment and Other Street Furniture.

Application for permitting and approval of a Bus Shelter Structure installation requiring a permit from the City shall be coordinated with the City of Miami Beach Transportation and Mobility Department. Permit application shall be addressed to the City of Miami Beach Public Works Department.

A detailed engineering site drawing showing utility easement(s), pavement details, existing street furniture, utility connections and poles, overhead details such as building overhangs, entrances and awnings, demarcation of zone areas and rights-of-way, and ownership indications shall be prepared by Outfront at its expense. Drawings shall

accurately show the location of the proposed Bus Shelter Structures requiring a permit in relation to the back of existing concrete curb or edge of the pavement of the adjacent street and in relation to the center line and outer limits of the right-of-way of the adjacent roadway. Such drawing shall also show the location of all curbs and sidewalks, if any. Furthermore, the drawing shall accurately show width of path along the sidewalk parallel to the roadway (ADA), measured from the back of the curb. It shall also show the electrical connections and services provided to the shelters or applicable components which shall comply with all local, state and federal codes. Building electrical right-of-way, and structural permits/reviews will also be needed (as applicable). Building permit application shall include information regarding electrical and structural diagrams and calculations, product specifications, and product approvals if needed. All electrical components need to be listed. The engineering drawing shall be signed and sealed by a State of Florida Registered Professional Engineer.

Outfront shall obtain permits, approvals, agreements, easements, and any other instrument necessary to establish clear legal right to enter upon the selected sites and make required preparations and/or alterations thereto, in order to build, operate and maintain Bus Shelter Structures throughout the Term. This includes Planning Board(s) approvals (as required), right-of-way permits, Lane Closure/Maintenance of Traffic (MOT) permits, and all other required permits and approvals (i.e. building, electrical, etc.) from the appropriate jurisdictional agency, including coordination and communication with adjacent property owners.

Upon receipt of all City required approvals and permits, Outfront may proceed to install the Bus Shelter Structures in accordance with the application drawing. Successful Proposer shall be required to complete the installation of new shelters within 30 days of receipt of all necessary permits.

5.5 Any contractor or subcontractor retained by Outfront to perform work in connection with the services under this Agreement shall be subject to the prior approval of the City Manager or City Manager's designee.

5.6 Prototype Bus Shelter.

Prior to the initial installation of an approved type of Bus Shelter (and thereafter during the introduction of any other type of Bus Shelter (the "Prototype Bus Shelter"), Outfront shall provide the City's Contract Manager with a demonstration of the Prototype Bus Shelter and its related components. The purpose of this demonstration is to observe the Prototype Bus Shelter in an operational environment and to verify its capability, suitability and adaptability in conjunction with performance requirements stipulated in the ITN and as set forth herein. The Prototype Bus Shelter Structure used for the demonstration shall create an expressed warranty that the type of Bus Shelter to be provided during the Term shall conform to the Prototype Bus Shelter used in the demonstration. The acceptance of the Prototype Bus Shelter shall be at the City Manager's sole and absolute discretion. Acceptance by the City of the Prototype Bus Shelter Structure shall not be construed as a waiver by the City of any claims relating

to design and construction defects of the Bus Shelter Structures or serve to modify Outfront's obligations to maintain the Bus Shelter Structures in accordance with Section 11.

5.7 Project Schedule.

The Program will proceed in phases as described in the high-level project schedule set forth on **Exhibit B** hereto. Within thirty (30) days from the Commencement Date, Outfront and the City shall mutually agree upon a detailed written schedule for (a) the retrofitting of Display Panels and other improvements to certain Existing Bus Shelters and (b) the design, fabrication, construction, permitting, and installation of the new Bus Shelter Structures and their related components. At a minimum, the schedule shall specify (and include specific milestones and timelines for) the permitting phases; fabrication time; commencement and completion of construction of site work and improvements at the Sites; commencement and completion of installation; and implementation and set-up date for each Prototype Bus Shelter Structure and rest of installation of approved Bus Shelter Structures. Said schedule, when completed, shall be incorporated as a part of **Exhibit B** hereto (as approved, the Project Schedule). The Project Schedule, or specific dates and/or milestones therein, may be extended by the City Manager or City's Contract Manager, in writing, in his or her sole discretion, upon the written request from Outfront, which notice shall state the reason for the request and the anticipated period of time requested.

5.8 Additional Bus Shelter Structures.

Outfront shall not install, operate, or maintain additional Bus Shelter Structures(s), nor identify additional or alternate sites for same, without first obtaining the prior written authorization of the City Manager or City's Contract Manager. The City shall be solely responsible for determining the need (if at all) for installation of additional Bus Shelter Structures on the City's property. In the event the City determines that there is a need to install additional Bus Shelter Structures on the City's property, in order to provide appropriate coverage, Outfront and the City shall mutually cooperate to seek and identify suitable sites. The City Manager or City's Contract Manager shall make the final determination as to the type of Bus Shelter Structure and its location, and **Exhibit A** hereto shall be amended accordingly to identify any such additional Site.

5.9 Removal or Relocation of Bus Shelter Structures at Request of City.

Notwithstanding the approval of the installation of any Bus Shelter Structure, within a designated Site, the City Manager may request that Outfront, at Outfront's sole cost and expense, remove and/or relocate up to fifty percent (50%) of the Site Improvements, including Bus Shelter Structures, in the event (i) Miami-Dade County Department of Transportation and Public Works (DTPW) relocates or eliminates a bus stop and/or (ii) a FDOT, County, or City-initiated roadway construction project impacts the use of the designated Site.

In the event of a relocation or elimination of a bus stop by the Miami-Dade County Department of Transportation and Public Works (DTPW), Outfront shall be responsible for relocating or removing the Bus Shelter Structure at its own expense as part of the

Capital Budget, up to a total of fifty percent (50%) of the Site Improvements. An alternate site may be identified by Outfront for consideration and subject to review and approval by the City's Contract Manager and DTPW. Re-installation of a Bus Shelter Structure at a new or alternate site will be solely at Outfront 's expense as part of the Capital Budget.

In the event that an FDOT, County, or City-initiated roadway construction project impacts an existing Site, necessitating the removal of a Bus Shelter Structure or any of its related components, Outfront shall be responsible for any required alteration or the removal of the existing Bus Shelter Structure and installation of a temporary Bus Shelter Structure, pursuant to the City's adopted design, for the duration of the roadway construction project, if requested by the City. Outfront is responsible for removal of the temporary Bus Shelter Structure and re-installation of an original size Bus Shelter once the roadway construction project is completed. All costs associated with the removal of the existing Bus Shelter Structure, installation of a temporary Bus Shelter Structure, removal of the temporary Bus Shelter Structure, and installation of a replacement Bus Shelter Structure shall be borne by Outfront up to a total of fifty percent (50%) of the Site Improvements.

Except in the case where exigent circumstances exist, which in the City Manager's reasonable discretion require a shorter response time, the City shall provide Outfront with thirty (30) days written notice of such request ("Request for Removal"). Upon receipt of a Request for Removal, Outfront shall remove said Bus Shelter Structure in conformance of the terms set forth in this Agreement.

In connection with the City's request for the removal, replacement and/or relocation of any Site Improvements, including Bus Shelter Structure, the City, reserves the right, but not the obligation, to perform the work through a City approved contractor, at its expense, instead of requiring Outfront to perform the work.

5.10 Temporary and Permanent Installations of Bus Benches.

Notwithstanding Section 5.9 or any other provision to the contrary, at City's discretion, Outfront shall provide, at no cost to the City, Bus Benches at Bus Structure Sites where Bus Shelters temporarily cannot be installed for any reason including, without limitation, due to construction activities; where Bus Benches are temporarily required in advance of placing the Bus Shelter, so that seating is available for passengers until such time as Outfront is able to install all of the approved Bus Shelters; or where it is not possible to install a Bus Shelter including, without limitation, due to the limitations of a Site vs the requirements of the approved Bus Shelter design. The designs of the Bus Benches shall be reviewed and approved by the City Manager prior to installation. Bus Benches shall be provided with dividers to prevent sleeping on the benches, unless otherwise approved by the City Manager.

5.11 Additional Digital Display Panels.

Any increase in the number of digital Display Panels at Bus Shelters, above the 40 initially approved for the Program, shall require City Manager's prior written approval.

5.12 Repair of Damaged or Vandalized Bus Shelters and Other Street Furniture.

Outfront shall:

- A. Secure the site, in case damage or vandalism is of an emergency or hazardous nature (for example, broken glass or damaged and protruding components), within three (3) hours of notification, and the final repair shall be performed within 24 hours of its discovery by Outfront, or after receipt of notice of such vandalism or damage from the City or the public;
- B. Remove damaged Bus Shelter Structures that cannot be repaired on-site within 48 hours:
 - 1. Reinstall repaired Bus Shelter Structures within 30 calendar days of removal, or provide written notice to the City's Contract Manager within 14 calendar days of removal if the damaged Bus Shelter Structure cannot be repaired and reinstalled within the required 30 day period, and stating the reasons for the additional time, subject to City approval. Any additional time, if granted at all, shall be at the City's Contract Manager's sole discretion. The City reserves the right to require Outfront to install a temporary Bus Shelter within five (5) days at the specified site until a permanent Bus Shelter Structure can be installed by Outfront;
 - 2. Ensure that replacement Bus Shelter Structures comply with all requirements for Bus Shelter Structure installation standards;
 - 3. Outfront shall be responsible for the lawful removal of the Bus Shelter Structure and any associated disposal fees for destroyed/damaged components of the Bus Shelter Structure;
- C. Repair Bus Shelter Structure damages that are hazardous (posing danger to the public) and repair/replace malfunctioning Bus Shelter Structure lighting systems or technological Equipment caused by damage or vandalism within 24 hours of discovery by Outfront or upon notice from the City or the public;
- D. Provide a written monthly report to City's Contract Manager of Bus Shelter Structures, that have been subject to repeated vandalism or frequent homeless activity requiring deep cleaning/sanitizing;
- E. Obtain all necessary approvals and permits and be responsible for paying any applicable fees as required by the City and any other agencies to properly remove and replace damaged Bus Shelter Structures;
- F. Outfront hereby agrees that the City may collect a performance penalty fee as detailed in Section 20 "Penalty for Failure to Perform" of the Agreement for failure to perform required services for the City, in accordance with the timeframe as set forth in this Agreement.

All Bus Shelters, Other Street Furniture, and component removals, replacements, repairs, and spare parts shall be provided and installed at Outfront's sole expense.

5.13 Placement Conditions

The installation of Bus Shelter Structures or other applicable component under this Agreement within the public rights-of-way and in any manner connected with the streets and sidewalks within the City shall be subject to approval by the City and shall conform to the following requirements:

- It shall be free of interference with the flow of pedestrians, bicycles, wheelchairs, or vehicular traffic;
- It shall conform to City standards for objects within the rights-of-way and will accommodate access to City facilities, whether said facilities were installed pre or post Bus Shelter Structure construction (in cases where conflicts are unavoidable, the Bus Shelter Structure will be relocated at Outfront's sole expense);
- It shall allow ingress and egress from any place of business;
- It shall be free of interference with the function of traffic signs or signals, hydrants, mailboxes, or any Other Street Furniture;
- It shall comply with all requirements of the Americans with Disabilities Act (ADA) for pathway clearances and maneuverability. The required dimensions shall be shown in the permit submittal engineering drawing;
- Bus Benches and Bus Shelters shall be placed in accordance with the clear sight distance and line of sight standards as defined by State, County and City standards (as applicable);

Bus Shelter Structures shall be placed or otherwise secured to prevent them from being blown away or around the street or sidewalk area and in compliance with the South Florida Building Code for resistance to hurricane force winds.

Bus Shelter Structures shall be placed, installed, used, or maintained so as to comply with the Code of the City of Miami Beach and shall not be located within five (5) feet of any pedestrian crosswalk, taxi stand, or counter window or within fifteen (15) feet of any fire hydrant, fire call box, police call box, or other emergency facility or within four (4) feet of the curb unless specifically approved by the City.

The City reserves the right to reject a site if it deems it necessary because the placement might create a public nuisance or hazard.

5.14 Ownership of Bus Shelter Structures. The Existing Bus Shelters and new Bus Shelter Structures shall be the sole and exclusive property of Outfront during the Term of this Agreement. At the end of the Term of the Agreement, or in case of termination by the City for Outfront's uncured default or other permitted termination under the Agreement, the City shall retain ownership of all Existing Bus Shelters or new Bus Shelter Structures existing at that time as more particularly described in Section 15.8.

5.15 Ownership of Documents and Bus Shelter Design. Any and all reports, photographs, warranty documentation, schematics, drawings, designs, architectural and engineering maps or drawings, plans, surveys, and other data and documents provided or created for the City in connection with this Agreement ("City's Materials") are and shall remain the property of the City, except for any Pre-Existing Materials incorporated therein. Outfront and its licensors own all right, title and interest in and to all know-how, designs, methodologies, software and other materials provided by or used by Outfront in connection with its performance under this Agreement, in each case developed or acquired by Outfront prior to the commencement of this Agreement or independent of this Agreement, including all intellectual property rights therein ("Pre-Existing Materials"). Outfront hereby grants the City an irrevocable, perpetual, nonexclusive, fully paid-up, royalty-free, worldwide license to use any Pre-Existing Materials to the extent incorporated in, combined with or otherwise necessary for use of the City's Documents. Notwithstanding the foregoing, Outfront shall be

developing an iconic bus shelter design on behalf of, and specifically for, the City, and that design in its totality shall at all times be owned by the City (“City’s Design”) and shall not be subject to any application for copyright or patent by or on behalf of Outfront or its employees or sub-consultants, without the prior written consent of the City Manager. As such, Outfront agrees not to disclose, replicate or use the City’s Design in any manner without the prior written consent of the City Manager.

At the request of the City, Outfront shall secure and transfer to the City all licenses and other rights in and to the City’s Materials. In the event of termination of the Agreement, whether the work is finished or unfinished, the City’s Materials shall be delivered by Outfront to the City Manager’s designee within seven (7) days of termination of this Agreement.

This Section 5.14 shall survive expiration or termination of the Agreement.

5.16 Operation of Security Cameras. Except for the design, installation, and maintenance obligations of Outfront and the administration and payment of utility charges, the City shall be solely responsible for the operation of any security cameras installed as part of Bus Shelter Structures in compliance with applicable laws and Outfront shall have no access to, or responsibility or liability for, the City’s collection, sharing or use of recordings or other data collected using the cameras.

SECTION 6. FEES.

6.1 Revenue Payment.

6.1.1 Minimum Guarantee payment (MG). For the initial twenty (20) year term of the Agreement, Outfront shall remit to the City a Minimum Guarantee payment (MG), in the annual amount of \$264,000, payable quarterly, in arrears, in the amount of \$66,000, commencing with the second calendar quarter of the first Contract Year, for the period from January 1, 2022 through March 30, 2022.

6.1.2 Percentage of Gross Receipts Payment (PG). In addition to the quarterly MG payment, Outfront shall pay the City a share of the annual Gross Receipts generated by the sale of advertising by Outfront within the Sites as set forth in Exhibits C-1 through C-4, depending upon the Phase of development that the Program is in.

6.1.3 Gross Receipts. The term “Gross Receipts” is understood to mean all income collected and received by Outfront from the sale and display of advertising within the Sites, as permitted under the terms of this Agreement. Gross Receipts shall not include passthrough amounts relating to the payment of Federal, State, or City sales tax, use tax or other tax, governmental imposition, assessment, charge or expense of any kind collected by Outfront from customers and required by law to be remitted to the taxing or other governmental authority.

6.2 Utility Charges. Outfront shall be responsible for any costs related to the installation of utilities for the Program operation, including separate meters for each Site. Outfront shall be responsible for all utility charges relating to the Program operation.

6.3 Payment Remittance. All payments due to the City hereunder shall be sent

to the following address:

City of Miami Beach
Attention: Finance Department
1700 Convention Center Drive, 3rd Floor
Miami Beach, Florida 33139

6.4 Interest for Late Payment.

Any payment which Outfront is required to make to City which is not paid on or before the respective date provided for in this Agreement shall be subject to interest at the rate of eighteen percent (18%) per annum, or the maximum interest allowable pursuant to Florida law, whichever is less, from the due date of payment until such time as payment is actually received by the City. In addition, any payment received after five (5) days of its due date, shall accrue a late charge of five percent (5%) of the payment amount due.

6.5 Sales and Use Tax.

The PG and MG payments and any other payments due to the City under this Agreement shall be deemed inclusive of any applicable sales and use tax. The City shall be responsible to remit any required Florida State and/or local Sales and Use Tax due in connection with such payments to the applicable taxing authority out of such payments. For purposes of clarity, the PG and MG payments shall not be increased by the amount of any such sales and use taxes that may be due in connection with such payments.

SECTION 7. MAINTENANCE AND EXAMINATION OF RECORDS.

Outfront shall maintain current, accurate, and complete financial records (on an accrual basis) related to its operations herein. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit by the City Manager or the City's Contract Manager, upon reasonable prior notice, whether verbal or written, and during normal business hours. Such records and accounts shall include, at a minimum, a breakdown of Gross Receipts, expenses, and profit and loss statements. In the event Outfront accepts cash as a form of payment, it shall maintain accurate receipt-printing cash registers or the like which will record and show the payment for every sale made or service provided in the Sites; and such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles.

7.1 Reports of Gross Receipts and Capital Budget Expenditures

Within thirty (30) days from the end of each quarter of each Contract Year throughout the Term, Outfront shall provide the Contract Manager with a detailed quarterly report of the Gross Receipts, Capital Budget expenditures per category pursuant to Exhibit C for the preceding quarter. The report shall reflect the activity and expenditures on a monthly

basis and shall itemize the total monthly Gross Receipts and expenses from each Bus Shelter Structure in the Program. The Contract Manager may request back-up documents for any entry in the quarterly report and Outfront shall provide said documentation within ten (10) days from the City's request.

SECTION 8. INSPECTION AND AUDIT.

Outfront shall maintain its financial records pertaining to its operations herein for a period of three (3) years after the expiration or other termination of this Agreement, and such records shall be open and available to the City Manager or Contract Manager, as deemed necessary by the City Manager or Contract Manager. Outfront shall make such records available electronically, or at the City's option, at a location in Miami Beach, within ten (10) days' notice (written or verbal) from the City at Outfront's expense.

The City Manager shall be entitled to audit Outfront's records, by an Auditor designated by the City Manager, pertaining to its operations, as often as he deems reasonably necessary throughout the Term of this Agreement, and three (3) times within the three (3) year period following termination of the Agreement (regardless of whether such termination results from the natural expiration of the Term or for any other reason). The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five (5%) percent or more in Outfront's statement of Gross Receipts for any year or years audited, in which case Outfront shall pay to the City, within thirty (30) days of the audit being deemed final by the City, the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest. The City Manager, in the City Manager's sole discretion, may have the audit conducted by one of its internal auditors or may retain the services of a private auditor.

Outfront shall submit at the end of each Contract Year (throughout the Term), an annual statement of Gross Receipts, in a form consistent with generally accepted accounting principles. Additionally, such statement shall be accompanied by a report from an independent CPA.

It is Outfront's intent to stay informed of comments and suggestions by the City regarding Outfront's performance under the Agreement. Within thirty (30) days after the end of each Contract Year, upon written notice from the City Manager, Outfront shall meet with the City Manager or Contract Manager to review Outfront's performance under the Agreement for the previous Contract Year. At the meeting, Outfront and City may discuss quality, operational, maintenance and any other issues regarding Outfront's performance under the Agreement.

SECTION 9. LICENSES, TAXES, ASSESSMENTS.

9.1 Outfront shall also be solely responsible (at its sole cost and expense) for obtaining and maintaining current any applicable licenses or permits, as required for the operations contemplated in this Agreement including, without limitation, any occupational licenses required by law for the proposed uses contemplated in Section 5 and for each Site (if required).

9.2 Outfront agrees and shall pay before delinquency all taxes and assessments of any kind levied or assessed upon a Site or the Sites, and/or on Outfront by reason of

this Agreement, or by reason of Outfront's business and/or operations within a Site or Areas. Except with respect to ad valorem taxes, Outfront will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax by appropriate proceedings diligently conducted in good faith. Outfront may refrain from paying a tax to the extent it is contesting the imposition of same in a manner that is in accordance with law. However, if, as a result of such contest, additional delinquency charges become due, Outfront shall be responsible for such delinquency charges, in addition to payment of the contested tax, if so ordered.

9.3 Procedure If Ad Valorem Taxes Assessed.

If ad valorem taxes are assessed against a Site or the Sites (or any portion thereof) by reason of Outfront's business and/or operations thereon, Outfront shall be solely responsible for prompt and timely payment of same. With respect to Ad Valorem assessments relating to the use of the Sites, the City will be the sole party who will have the right, to contest the amount or validity, in whole or in part, of any tax by appropriate proceedings diligently conducted in good faith. Following such contest, Outfront shall be responsible for paying the contested tax, any additional delinquency charges which become due, and the cost incurred by the City in connection with the ad valorem contest proceedings.

SECTION 10. EMPLOYEES AND INDEPENDENT CONTRACTORS.

10.1 Outfront's Employees.

- 10.1.1 Outfront shall select, train and employ such number of employees or contractors as is necessary or appropriate for Outfront to satisfy its responsibilities hereunder. Outfront shall be the sole authority to hire, terminate and discipline any and all personnel employed by Outfront.
- 10.1.2 Outfront shall designate a competent full-time employee to oversee the day-to-day operations, and who shall act as the contract administrator for the Program and serve as Outfront's primary point-person with the City. This individual shall have the requisite amount of experience in operating, managing, and maintaining the Program and operations contemplated herein. The employee shall be accessible to the City Manager or Contract Manager at all reasonable times during normal business hours (8:00 A.M. to 5:00 P.M.) to discuss the management, operation and maintenance of the Program, and during the hours of 8:00 A.M. and 2:00 A.M. in the event of an emergency. Consistent failure by the employee to be accessible shall be reported to Outfront's principal(s), and if not rectified, shall be grounds for replacement of the employee.
- 10.1.3 Outfront shall provide the Contract Manager with a list of its employees and/or contractors who meet the Level 1 Screening Standards described in Subsection 10.1.5, and such qualified employees and/or contractors will be permitted to secure identification badges from the City's Human Resource Department. Outfront's employees and/or contractors will be required to wear the City issued identification during all hours of operation when such employee and/or contractor is acting within the scope of such employment or such contractor relationship. All

employees and/or contractors shall observe all the graces of personal grooming. Outfront shall hire people to work in its operation who are neat, clean, well groomed, and who shall comport themselves in a professional and courteous manner.

- 10.1.4 Outfront shall use its best efforts to hire employees and/or contractors for the program from among unemployed workers in the City of Miami Beach workforce.
- 10.1.5 Background Check Screening Process. Outfront shall conduct a full Level I criminal background screening check at its own expense on each of its employees and/or contractors engaged in providing services under this Agreement. The Level I background screening check shall be compliant with the requirements of Section 435.03, Florida Statutes, as may be amended from time to time, and must include, at minimum, employment history checks and statewide criminal correspondence checks through the Department of Law Enforcement, and a check of the Dru Sjodin National Sex Offender Public Website, and local criminal records checks through local law enforcement agencies (collectively, the "Statutory Screening Standards"). Outfront shall ensure that each employee and/or contractor meets the Statutory Screening Standards prior to commencing to perform any work and/or services under this Agreement. Outfront acknowledges that it has an ongoing duty to maintain and update these lists as new employees and/or contractors are hired and in the event that any previously screened employee and/or contractor fails to meet the Statutory Screening Standards. Outfront agrees to notify the City immediately upon becoming aware that one of its employees and/or contractors who was previously certified as completing the background check and meeting the Statutory Screening standards is subsequently arrested or convicted of any disqualifying offense. Failure by Outfront to notify the City of such arrest or conviction within two business days of being put on notice or within thirty (30) days of the occurrence of qualifying arrest resulting in charges or conviction, shall constitute grounds for the City, at its sole option, to place Outfront in default. Outfront shall defend, indemnify and hold the City, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees) or claims for injury or damages arising out of its failure to comply with this requirement. Outfront shall employ personnel competent to perform the work specified herein. The City reserves the right to request the removal of Outfront employee's from performing services under this Agreement where the employee's performance or actions are obviously detrimental to the Program. Outfront's personnel must wear photo identification at all times.

10.1.6 Outfront shall not retain, add, or replace any sub-contractor without the prior written approval of the City Manager or his designee, in response to a written request from Outfront stating the reasons for any proposed substitution. Any approval of a sub-contractor by the City Manager or designee shall not in any way shift the responsibility for the quality and acceptability by the City of the services performed by the sub-contractor. The quality of services and acceptability to the City of the services performed by sub-contractor shall be the sole responsibility of Outfront.

10.1.7 A change in Outfront's project manager or key personnel (as well as any replacement) shall be subject to the prior written approval of the City Manager or City's Contract Manager. Replacement (including reassignment) of an approved project manager, public information officer, or any key personnel shall not be made

without submitting a resume for the replacement staff person and receiving prior written approval of the City Manager or City's Contract Manager.

10.1.8 Outfront shall coordinate the work performed by its team (Project Team) and Suppliers and shall be fully responsible for all acts and omissions of the Project Team, Suppliers, and their employees. Any provision of the Agreement referring to the acts or omissions of Outfront shall also refer to and include the acts and omissions of Project Team and Suppliers. Project Team composition and responsibilities will be provided and attached to this Agreement.

10.1.9 If any portion of the subcontracted work is not performed in accordance with the Agreement, or if an Outfront's Team or Supplier commits or omits any act that would constitute a breach of the contract, Outfront shall cure the breach (within the time frame established by the City); and, at the direction of the City's Contract Manager, shall replace Outfront's Team member(s) or Supplier(s). Following a debarment for breach, said member(s) or Supplier(s) shall not be employed again to perform work or services under the Agreement.

10.1.10 All Sites and operations thereon shall be open every day of the year and shall be open to the public 24 hours per day, 365 days per year, subject to removals, relocations and periods of scheduled maintenance as contemplated by this Agreement.

SECTION 11. CONSTRUCTION OF IMPROVEMENTS, MAINTENANCE, REPAIR AND OPERATION

Outfront accepts the use of any and all Sites provided in this Agreement "**AS-IS**," "**WHERE IS**," and "**WITH ALL FAULTS**," existing as of the Commencement Date.

11.1 Improvements.

In addition to the specific procedures set forth in Subsection 5 for the design, fabrication, construction, and installation of the Bus Shelter Structures, Outfront shall also be solely responsible (including cost) and shall pay for the design, fabrication, construction, and installation of any and all Site improvements to a Site or Areas, including all site preparation costs, and any required utility services.

11.2 Maintenance/Repair, Bus Shelter Structures Components and Parts.

Outfront shall maintain all of the Site Improvements, including the Existing Bus Shelters and Benches and Bus Shelter Structures, in first-class, like-new condition throughout the life of the Agreement, including refurbishing, reconditioning, and, if necessary, replacing damaged Existing Bus Shelters, Existing Benches, Bus Shelters, Other Street Furniture, and technological Equipment and related components, and shall also be responsible for the cleaning, repairing, or replacement of all dirty or damaged parts thereof. Outfront shall ensure that its name and contact information is posted on all Existing Bus Shelters, Existing Benches, Bus Shelters and Bus Benches for the public to report any deficiencies.

Outfront hereby agrees that the City will collect funds, as detailed in accordance with Section 17 "**Penalty Fees for Failure to Perform**" of the Agreement, for failure to perform required maintenance of the Site Improvements, including the Existing Bus Shelters and Benches, and Bus Shelter Structures, according to the timeframe as set forth in this

Agreement.

Maintenance and service of the Site Improvements, including the Existing Bus Shelters and Benches and Bus Shelter Structures, shall include, but not be limited to, the following:

- Every three (3) non-consecutive days, at least one (1) day apart, all surfaces including but not limited to: glass/plexiglass, roof, Display Panel, trash container, glass windscreens, ceiling panels, seating, leaning rails, vertical columns and signs shall be thoroughly cleaned; graffiti (paint, markers), stickers and unauthorized posters removed; and the sidewalk surface under and in a radius of ten (10) feet from the outer edge of an Existing Bus Shelter, Existing Bench, Bus Shelter and/or Other Street Furniture (as applicable) shall be maintained in a safe, clean, attractive, and sanitary condition, and in good working order and state of good repair, free of dirt, grime, sugar drink spills, wet paint, bio-hazards, dust, graffiti, overgrown grass and/or weeds, overflowing trash, litter and debris, sticky material (chewing gum for example) and other rubbish. This effort includes power washing of Existing Bus Shelters, Existing Benches, Bus Shelters, Bus Benches and shelter area (bench and bench area), bearing in mind that high volume stops/shelters may require more frequent cleaning and power washing. Any deficiencies listed above shall be addressed within 24 hours of its discovery, or after receipt of a request from the City, or the public.
- All visible painted areas shall be kept free of chipped, faded, peeling, and/or cracked paint;
- Outfront shall increase pressure washing of the Site Improvements, including the Bus Shelter Structures to a daily frequency, at sites provided by the City during weekdays excluding holidays and weekends (up to 40 sites which may change from time to time);
- All visible unpainted metal areas shall be kept free of rust and corrosion;
- All clear glass parts shall be kept unbroken and free of cracks, dents, graffiti, blemishes, and discoloration;
- Clean and maintain Existing Bus Shelter and Bus Shelter drainage system in operating condition at all times (gutters, spouts and any other parts);
- The structural parts shall not be broken, damaged, or unduly misshapen;
- Disinfectants, cleaning products, methods and procedures that have been environmentally friendly certified shall be used and not damage surface areas;
- Outfront shall maintain a daily log (electronically) for each bus stop certifying scheduled services were performed. The daily log shall include a checklist of scheduled duties and the date and time services were performed. In addition, the daily log shall include space for reporting site discrepancies that were found during site inspection. Discrepancies reported shall include, at a minimum, vandalism and graffiti, that was removed and the site where it was found. Burnt-out light fixtures, broken and unserviceable equipment shall be reported to the City upon discovery and should be included in the daily log. The daily log shall be provided on a weekly basis;
- Proper illumination shall be maintained at all bus shelters, in terms of lighted visibility at the Existing Bus Shelters and Bus Shelters from dusk until dawn, and repair all non-illuminated Existing Bus Shelters and Bus Shelters within 24 hours of its discovery by Outfront, or after receipt of such non-illumination concerns at the Existing Bus Shelters or Bus Shelters from the City or the public;
- Distribution and uniformity of the lighting within the Existing Bus Shelter and Bus

Shelter area is critical. The lighting shall be designed to provide an average of 5-foot candles under the Existing Bus Shelter and Bus Shelter area. The minimum lighting level shall be minimum of 3-foot candles and maximum shall not exceed 10-foot candles. The lighting levels shall be measured at the seat height within the Existing Bus Shelter and Bus Shelter area;

- All electrical components and wiring shall be checked every six months and a report provided to the City (including but not limited to GFCI and grounding);
- Routine inspection on the exterior of each Site Improvements, including the Existing Bus Shelters and Benches, Bus Shelter Structures, and Bus Shelter technological Equipment components shall be conducted during cleaning. The inspection crew shall either address issues during the site visit or immediately report any issues beyond basic maintenance that need further attention to specialized technician/maintenance crew through a work order system as part of an electronic software application.

Outfront shall prepare a maintenance schedule for all Site Improvements, including Existing Bus Shelters and Benches and Bus Shelter Structures in the City that complies with the maintenance provision herein. Said maintenance schedule shall be provided to the City for review and approval. Any changes to the approved maintenance schedule shall be reported to the City immediately for review and approval.

Additionally, Outfront is required to establish and operate a maintenance and operations center for managing construction, operation and maintenance of the Bus Shelter Structures (and operation and maintenance of the Existing Bus Shelters and Benches), including the ability to receive and respond to complaints, comments, reports and concerns regarding the installation, maintenance, and operation of Bus Shelter Structures (and operation and maintenance of the Existing Bus Shelters and Benches). Outfront shall create and make available at no cost to the City, web-based portal that will provide, throughout the Term of the Agreement, up-to-date information about the Bus Shelter Structure construction, installation, operation and maintenance schedule for each Bus Shelter Structure, and the operation and maintenance schedule for each Existing Bus Shelter and Existing Bench, including citizens' complaints. As improvements in technology become available, Outfront shall implement such improvements in the web-based portal. Existing Bus Shelters and Bus Shelters shall conspicuously display the phone number of Outfront's maintenance and operations center, together with instructions to the public to report any damage, vandalism, graffiti, malfunction, cleanliness matter, compliments, complaints or concerns to such maintenance and operations center and the website for web-based portal. Asset number shall be also displayed, facilitating identification of the Existing Bus Shelters and Benches and Bus Shelter Structures. Toll-free phone system/answering service shall be established and available 24 hours a day, seven (7) days a week, for customer service calls from the public and the City. Outfront shall ensure that incoming calls never get a busy signal and that representative is always available to answer or immediately return calls related to an Existing Bus Shelter, Existing Bench and Bus Shelter Structure related emergencies. Outfront shall compile and maintain the log of public complaints or comments received, together with documentation and detailed account of Outfront's response in each instance.

Outfront shall provide the City, at the beginning of each Contract Year of the Agreement, a complete maintenance and cleaning program with a schedule of frequency of maintenance and cleaning inspections to be conducted for each Existing Bus Shelter, Existing bench and Bus Shelter Structure or other applicable component, for review and approval by the City.

Outfront shall provide a telephone number(s) which will be answered 24 hours per day in the event City representative(s) must contact Outfront to request emergency repair or cleaning services.

It shall be Outfront's sole obligation to insure that any renovations, repairs and/or improvements made by Outfront to the Site Improvements comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.

Outfront also agrees, at its sole cost and expense, to pay for all garbage disposal generated by its operations.

Additionally, Outfront shall submit a monthly (or at such greater intervals, i.e. quarterly or annually, as requested by the City) maintenance report reflecting routine maintenance performed on the Site Improvements, including Existing Bus Shelters, Existing Benches, and Bus Shelter Structures, including photo documentation depicting conditions of Existing Bus Shelters and Bus Shelter Structures prior and after conducted repair or maintenance with date and time stamp for maintenance or repair work requested by the City.

Outfront shall ensure the availability of Bus Shelter Structure components for new installation as well as for expedient repairs of damaged Existing Bus Shelters, Existing Benches, and Bus Shelter Structures for the Term of the Agreement. Materials and components shall comply with the design plans and specifications of the Existing Bus Shelters, Existing Benches and Bus Shelter Structures and components, approved by the City. Outfront is responsible for any third-party cost to integrate any of the technology components of the Technological Equipment contained in the Existing Bus Shelters, the new Bus Shelters, the freestanding CCTV and the freestanding ETA signs for proper operation, including any utility fees.

11.3 Performance of Work and Orderly Operation.

Outfront shall have a neat and orderly operation at all times and shall be solely responsible for the necessary services to properly maintain the Sites and any Site Improvement thereon.

Outfront shall perform all work in a skillful and safe manner, using appropriate industry standard practices and will remain in compliance with City standard details, specifications, or other relevant City requirements. All workers shall have sufficient skill and expertise to perform the work assigned to them.

11.4 No Dangerous Materials.

Outfront agrees not to use or permit the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida, on or within any of the Sites, or on any City property and/or right of way.

Outfront shall indemnify and hold City harmless from any loss, damage, cost, or expense of the City, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Outfront of any "hazardous substance" or "petroleum products" on, under, in or upon the Sites as those terms are

defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder; provided, however, Outfront shall have no liability in the event of the willful misconduct or gross negligence of the City, its agents, servants or employees. The provisions of this Subsection 11.4 shall survive the termination or earlier expiration of this Agreement.

11.5 Inspection.

Outfront agrees that any Site (including, without limitation, any Site Improvement thereon) may be inspected at any time by the City Manager or City's Contract Manager, or by any other municipal, County, State officer, or officers of any other agency(ies) having responsibility and/or jurisdiction for inspections of such operations. Outfront hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference with the Program operation as a result of inspection by any public agency(ies) or officials, (including, without limitation, by reason of any such public agency or official in enforcing any laws, ordinances, or regulations as a result thereof). Any such interference shall not relieve Outfront from any obligation hereunder.

Site Improvements, including Bus Shelter Structures will be subject to inspection by the City of Miami Beach at any time during the contract period for compliance with the requirements established in this Agreement. Such inspection is for the sole benefit of the City of Miami Beach and shall not relieve Outfront of the responsibility of performing its own inspections and maintenance pursuant to the requirements set in this Agreement, and taking appropriate actions to ensure that the Site Improvements, including Bus Shelter Structures strictly comply with the contractual obligations.

SECTION 12. INSURANCE REQUIREMENTS.

12.1 Construction Phase

Outfront shall provide, pay for and maintain in force at all times until substantial completion of the Design & Build phase of the project (unless otherwise provided), the following insurance policies:

1. **Commercial General Liability** with minimum limits of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury Liability and Property Damage Liability, with a minimum aggregate limit of Two Million Dollars (\$2,000,000). Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability policy as filed by the Insurance Services Office, and must include:

- a. Premises and/or Operations coverage;
- b. Independent Contractor Liability which includes liability coverage for operations performed for the name of the insured by independent and/or subcontractors that are hired, and acts or omissions of the named insured in connection with his/her general supervision of such operations;

- c. Products and/or Completed Operations coverage (Outfront shall maintain in force for 2 years after completion of all work required coverage for Products/Completed Operations, including Broad Form Property Damage);
- d. Explosion/Collapse and Underground Hazard coverage;
- e. Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement contained in the Contract Documents.
- f. City must be included as an Additional Insured on this policy as set forth in Section II.4 below.

2. **Workers' Compensation Insurance** to apply for all employees in compliance with the "Workers Compensation Law" of the State of Florida and all applicable Federal laws. Outfront shall ensure that all subcontractor(s) at all tiers have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. In addition, the policy(ies) must include: Employers' Liability with minimum limits of Five Hundred Thousand Dollars (\$500,000) each accident.

3. **Business Automobile Liability** with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy as filed by the Insurance Services Office, and must include: (i) Owned Vehicles; and (ii) hired and Non-Owned Vehicles.

4. **Design Professional Liability** or equivalent Errors & Omissions Liability shall be maintained with the limits of liability provided by such policy to be no less than Two Million Dollars (\$2,000,000) for each claim, subject to a maximum self-insured retention acceptable to the City and not-to-exceed \$1,000,000. Outfront shall maintain the claims made form coverage with a minimum of three (3) years extended reporting following Final Completion and shall annually provide City with evidence of renewal coverage. Outfront is responsible for all self-insured retention amounts in the event of a claim. Outfront shall indicate the self-insured retention for this coverage on its Certificate of Insurance. Outfront shall notify City in writing within thirty (30) days of any claims filed or made against the Design Professional Liability or equivalent Errors & Omissions Liability Insurance Policy.

5. **Installation Floater Insurance** for the installation of machinery and/or equipment into an existing structure. The coverage shall be "All Risk" coverage including installation and transit for one hundred percent (100%) of the "installed replacement cost value" covering the City as joint loss payee.

6. **Excess umbrella liability insurance** with a limit of not less than Three Million Dollars (\$3,000,000) per occurrence and in the aggregate in excess of the above mentioned insurance. Outfront may cause the insurance listed

in this subsection to be provided through an overall "wrap up" policy, in lieu of individual policies provided by Contractors. This policy must name the City of Miami Beach, Florida, as additional insured.

12.1.1. ADDITIONAL TERMS AND CONDITIONS

1. **Notice to City.** Outfront or its insurer shall provide the City with at least thirty (30) days' notice of cancellation.

2. **Certificates of Insurance.** Outfront shall furnish to the City Certificates of Insurance or endorsements evidencing the insurance coverage specified herein within fifteen (15) days after notification of award of the Agreement. The required Certificates of Insurance shall specify the types of policies and limits provided, and identify this Agreement. The Certificates of Insurance shall be in form acceptable to, and subject to, approval by City. The failure to provide the Certificates of Insurance within fifteen (15) days shall constitute a default under this Agreement.. The official title of the certificate holder is City of Miami Beach, Florida. This official title shall be used in all insurance documentation.

3. **Additional Insured.** City shall be expressly included as an Additional Insured on Commercial General and Auto Liability policies, and with a blanket endorsement that is acceptable to the City.

4. **Notice of Cancellation and/or Restriction.** Outfront or its insurer shall provide the City with at least thirty (30) days' notice of cancellation.

5. **Duty of Care.** Outfront's furnishing insurance coverage shall in no way relieve or limit, or be construed to limit or relieve or limit, Outfront or any of its Subcontractors of any responsibility, liability, or obligation imposed by the Contract Documents, or by Applicable Laws, including, without limitation, any indemnification obligations which Outfront Contractors, and Subcontractors have to City thereunder.

6. **Outfront's Failure to Procure.** Outfront's failure to procure or maintain the insurance required by this Agreement during the entire term of the Work shall constitute a material breach and automatic Default of the Agreement. In the event of such a breach that remains uncured after ten (10) days' written notice of default, the City may exercise all available rights and remedies hereunder, including the right to immediately suspend or terminate the Agreement without any further notice to or opportunity to use for Outfront or, at its discretion, procure or renew such insurance to protect the City's interests and pay any and all premiums in connection therewith, and withhold or recover all monies so paid by the City from Outfront.

7. **Waiver of Subrogation.** Where permitted by law, and with the exception of professional liability claims, Outfront hereby waives all rights of recovery by subrogation or otherwise (including, without limitation, claims related to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage), against City, and its respective officers, agents, or employees. Certificates of insurance shall evidence the waiver of subrogation in favor of the City. Commercial General Liability and Auto Liability coverage shall be primary and noncontributory. Each evidenced policy with the exception of professional liability and excess liability shall include a Cross Liability or Severability of Interests provision. There shall be no requirement of premium payment by the City.

SECTION 13. INDEMNITY.

- 13.1 In consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Outfront shall indemnify, hold harmless and defend the City, its officials, directors, members, employees, contractors, agents, and servants from and against any and all actions (whether at law or inequity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from: (1) wholly or in part from the negligent acts, errors, omissions or other misconduct of Outfront, its officers, director, members, employees, agents, contractors, subcontractors, or any other person or entity acting under Outfront's control or supervision, but not as a result of the gross negligence or willful misconduct of the City, its employees or agents; (2) Outfront's breach of the terms of this Agreement or its representations and warranties herein; (3) Outfront's operation of the Program; (4) Outfront's use of the Site; or (5) Outfront's, or any of its officers, agents, employees or contractors actual or alleged failure to obtain any and all necessary licenses, permission, copyrights, and authorization associated with the work to be performed under the Agreement or any advertisements displayed on the Display Panel. To that extent, Outfront shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals.
- 13.2 In addition, in consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Outfront shall indemnify, hold harmless and defend the City, its officials, directors, employees, contractors, agents, and servants from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of Outfront, its officials, directors, employees, contractors, agents, and servants not included in the paragraph in the subsection above and for which the City, its officials, directors, employees, contractors, agents, and servants are alleged to be liable.
- 13.3 Subsections 13.1 and 13.2 shall survive the termination or expiration of this Agreement.

SECTION 14. FORCE MAJEURE.

14.1 "Force Majeure" event is an event that (i) in fact causes a delay or failure in the performance of Outfront or the City's obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prevented by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, hurricanes

or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility unless caused by one of the foregoing causes, inclement weather that does not prevent performance, or failure to secure any of the required permits pursuant to the Agreement.

14.2 If the City or Outfront's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.

14.3 No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.

14.4 Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.

14.5 Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City's payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

14.6 Waiver of Loss from Hazards. Outfront hereby expressly waives all claims against the City for loss or damage sustained by Outfront resulting from any Force Majeure event, and Outfront hereby expressly waives all rights, claims, and demands against the City and forever releases and discharges the City of Miami Beach, Florida, from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

SECTION 15. DEFAULT AND TERMINATION.

Subsections 15.1 through 15.4 shall constitute events of default under this Agreement. An event of default by Outfront shall entitle the City to exercise any and all remedies described as City's remedies under this Agreement, including but not limited to those set forth in Subsection 15.6 and Section 16.

15.1 Bankruptcy.

If either the City or Outfront shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) 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 reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

15.2 Default in Payment.

If any payment and accumulated penalties are not received within ten (10) days after the payment due date, and such failure continues five (5) days after written notice thereof, then the City may, without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract; and may begin procedures to collect the Performance Bond required in Section 16 herein.

15.2.1 Outfront's failure to repair the technological components of the Technological Equipment for the Existing Bus Shelters, the Bus Shelter Structures, the freestanding CCTV camera equipment, and the freestanding ETA signs within 15 calendar days following written notice from the City shall constitute a default under this agreement, where such components and the ability to repair are within Outfront's control, including lead times for replacement components; however, no later than seven (7) days from receipt of all replacement parts/components.

15.3 Non-Monetary Default.

In the event that Outfront fails to perform or observe the non-monetary covenants, terms or provisions under this Agreement not specifically delineated in this Section 15 or in another part of the Agreement, and such failure continues thirty (30) days after written notice thereof, the City may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. Provided, however, that Outfront, within thirty (30) days following receipt of notice of such non-monetary default, may request that the City Manager grant Outfront an extension of the time in which to cure such non-monetary default. The granting of any such extension shall be at the sole discretion of the City Manager, shall be

required to be in writing, and shall not exceed an additional thirty (30) days.

15.4 City's Remedies for Outfront's Default. If any of the events of default, as set forth in this Section, shall occur, the City may, after expiration of the cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting from such defaults, including but not limited to the right to give to Outfront a notice of termination of this Agreement. If such notice is given, the term of this Agreement shall terminate upon the date specified in such notice from City to Outfront. On the date so specified, Outfront shall then quit and surrender the Site(s) to City pursuant to the provisions of Subsection 14.7. Upon the termination of this Agreement, all rights and interest of Outfront in and to the Site(s) and to this Agreement, and every part thereof, shall cease and terminate and City may, in addition to any other rights and remedies it may have, retain all sums paid to it by Outfront under this Agreement including, but not limited to, the Performance Bond in Section 16 herein.

In addition to the rights set forth above, the City shall have the rights to pursue any and all of the following:

- 15.4.1 the right to injunction or other similar relief available to it under Florida law against Outfront; and/or
- 15.4.2 the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Outfront's default.

15.5 Surrender of Sites.

Within seven (7) days from the expiration of the term of this Agreement, or otherwise upon the early termination of this Agreement, Outfront shall surrender the Sites. Continued occupancy of any Sites after expiration or early termination of the Agreement shall constitute trespass by Outfront, and may be prosecuted as such. In addition, Outfront shall pay to the City One thousand (\$1,000) Dollars per day per Site as liquidated damages for trespass and holding over.

Additionally, upon the expiration of the Agreement or early termination of the Agreement, ownership of the Existing Bus Shelters and Benches shall revert back to the City and ownership of the Bus Shelter Structures shall automatically transfer to the City, all free and clear of any liens or encumbrances. of At the option of the City, Outfront shall execute a bill of sale or other documentation, in the form approved by the City, evidencing the transfer of ownership of the Existing Bus Shelters and Benches and the Bus Shelter Structures from Outfront to the City free and clear of all liens and encumbrances Notwithstanding the transfer of ownership, Outfront shall remain responsible for all claims, causes of actions, debts, encumbrances, or administrative action that accrued prior to the transfer of ownership. Simultaneously with transfer of ownership, Outfront shall transfer to the City any and all design and construction warranties related to the Bus Shelter Structures.

The provisions of this Subsection 15.6 shall survive the expiration or earlier termination of the Agreement.

15.6 Termination Rights of the City. Notwithstanding anything herein to the contrary, the City may terminate this Agreement, for its convenience and without liability, in the event:

15.6.1 In the event that that the City and Outfront are not able to reach agreement as to an

- acceptable design for Bus Shelters or the final cost of the new Bus Shelters.
- 15.6.2 The City and Outfront are not able to secure necessary design approvals (City Commission, Design Review Board (DRB), Historic Preservation Board (HPB) and any other required approvals within 18 months from the Commencement Date. The City Manager in the City Manager's sole discretion may grant an extension of this time period, provided Outfront demonstrates unforeseen circumstances, outside of Outfront's control, which have, prevented Outfront from securing the prerequisite approvals timely; or
- 15.6.3 In the event that Outfront does not deploy all the Program Bus Shelter Structures within 48 months from securing all required approvals, including approval of the final designs, other than for reasons outside of Outfront's control.

SECTION 16. PERFORMANCE BOND OR ALTERNATE SECURITY.

Outfront shall, within thirty (30) days from Effective Date, furnish to the City Manager or Contract Manager a Performance Bond in the sum stated below for the payment of which Outfront shall bind itself to the faithful observance of the following terms and conditions of this Agreement: (1) Outfront's failure to timely cure any default pursuant to Subsections 15.1-15.3; (2) failure to timely complete the work related to the design, construction, and installation of the Site Improvements, including the Bus Shelters and Outfront failing to cure such default pursuant to Subsection 15.4; (3) Outfront's failure to operate advertising rights on the Display Panels of the Existing Bus Shelters and Bus Shelters in accordance with Section 18 (Advertising) and Outfront failing to cure such default pursuant to Subsection 15.4; (4) Outfront's failure to maintain the Sites pursuant to Subsection 11.2, including the Existing Bus Shelters and Benches and the new Site Improvements, including Bus Shelter Structures and Outfront failing to cure such default pursuant to Subsection 15.4 (except that as to the Technological Equipment, in which case the default would be subject to the cure period set forth in Subsection 15.3); and (5) Outfront's failure to surrender the Sites to the City or execute any required documents in connection with the transfer of ownership to the City of the Existing Bus Shelters and Benches and Bus Shelter Structures pursuant to provisions of Subsection 15.6 and Outfront failing to cure such default pursuant to Subsection 15.4. A Performance Bond, in the amount of One Million Dollars (\$1,000,000.00), shall be provided by Outfront in faithful observance of these provisions of this Agreement. A cash deposit, irrevocable letter of credit, or certificate of deposit may also suffice, as determined by the City Manager or Contract Manager, in his sole and reasonable discretion. The form of the Performance Bond or alternate security shall be approved by the City's Chief Financial Officer. In the event that a Certificate of Deposit is approved, it shall be a One Million Dollar (\$1,000,000) one-year Certificate of Deposit in favor of the City, which shall be automatically renewed, the original of which shall be held by the City's Chief Financial Officer. Outfront shall be so required to maintain said Performance Bond or alternate security in full force and effect throughout the Term of this Agreement. Outfront shall have an affirmative duty to notify the City Manager or Contract Manager, in writing, in the event said Performance Bond or alternate security lapses or otherwise expires. All interest that accrues in connection with any financial instrument or sum of money referenced above shall be the property of Outfront, except in an event of default, in which case the City shall be entitled to all interest that accrues after the date of default.

SECTION 17. PENALTY FEES FOR FAILURE TO PERFORM

17.1 It is the intent of the City of Miami Beach to impress upon Outfront the need for continual maintenance of the Existing Bus Shelters and Benches and/or Bus Shelter

Structures or other related components in as clean, safe, and presentable condition as possible.

Outfront shall correct any conditions making any Existing Bus Shelters and Benches and/or Bus Shelter Structures or its components unacceptable to the public, property owners in the vicinity, or to the City of Miami Beach, the latter being the final judge of the criterion of acceptability. If any of the Existing Bus Shelters and Benches or Bus Shelter Structures and its related components to be maintained by Outfront is deemed unacceptable by the City, Outfront shall be notified in writing, via email, or by telephone.

In accordance with the service requirements of the Agreement, Outfront shall be liable for damages resulting from its failure to meet contractual requirements or performance standards. The City's assessment of any and all performance penalty fees shall be final, subject to good faith disputes. The City will facilitate the fee assessment by invoicing Outfront for the amount assessed.

17.2 The penalty fee shall be interpreted as failure to maintain the Existing Bus Shelters and Benches and/or Bus Shelter Structures, as directed by the City. A written notice of violation and intent to impose a penalty fee shall be provided to Outfront in the form of a written report. These Penalty Fee reports will be issued to Outfront by the City's Contract Manager, in order to afford Outfront time to notify the City of extenuating circumstances. Penalty Fee shall result in the following per diem fees per reported incident:

Level 1: Penalty Fee in the amount of \$100 per day (24 hours) per reported incident

Level 2: Penalty Fee in the amount of \$200 per day (24 hours) per reported incident

Level 3: Penalty Fee in the amount of \$400 per day (24 hours) per reported incident

17.3 The following violations will result in the assessment of a Penalty Fee:

17.3.1 Level 1 Penalty Fee:

- a. Failure to remove overflowing trash, litter and debris from the area and areas surrounding an Existing Bus Shelter, Existing Bench, or any Bus Shelter Structure;
- b. Failure to maintain the drainage system for an Existing Bus Shelter or Bus Sheltering operating condition (gutters, spouts, etc.);
- c. Failure to remove graffiti or stickers at a specific Existing Bus Shelter, Existing Bench, or any Bus Shelter Structure;. or
- d. Failure to provide maintenance program/cleaning schedule or perform inspections and provide written report to the City within the timeframe specified in this Agreement

17.3.2 Level 2 Penalty Fee:

- a. Failure to remove advertising poster or digital advertisement as directed by the City Manager or City's Contract Manager
- b. Failure to remove and/or reinstall a Bus Shelter Structure within the required timeframe
- c. Failure to maintain proper illumination at a Site
- d. Failure to replace or repair any missing, vandalized, damaged or non-operational component of any Existing Bus Shelter, Existing Bench, or Bus Shelter Structure

17.3.3 Level 3 Penalty Fee:

- a. Failure to repair a specific damaged Existing Bus Shelter, Existing Bench, or Bus Shelter Structure caused by a vehicular accident or act of vandalism

- b. Failure to remove a specific damaged Existing Bus Shelter, Existing Bench, or any Bus Shelter Structure that cannot be repaired on site
- c. Failure to replace an Existing Bus Shelter, Existing Bench, or any Bus Shelter Structure damaged beyond repair due to a vehicular accident or act of vandalism
- d. Failure to install a replacement Bus Shelter Structure, including a temporary Bus Shelter or Bus Bench, at the City's discretion, within the timeframe specified in this Agreement

SECTION 18. ADVERTISING.

18.1 Advertising Standards

18.1.1 While the City understands the need to maximize advertising revenue, the City is also interested in maintaining a pleasant and aesthetic image and ensure the quality-of-life of its residents. The City Manager, at the City Manager's sole discretion, may request removal of any advertisement that the City deems unacceptable including, without limitation, advertisement that is offensive, objectionable, inappropriate, or that does not reflect favorably upon the City's Program, its residents and visitors.

18.1.2 New Bus Shelters will allow digital advertisement, static advertisement, or a combination of both to be displayed. Some Bus Shelters may not contain advertisement. Outfront shall have the right to solicit and sell advertising to be installed on Bus Shelters and have the right to negotiate the advertising rates. Advertising shall include standard 4x6-foot posters and electronic displays at select sites to be agreed upon by the City and Outfront.

18.1.3 Outfront is solely responsible for all design, development, production, redesign, removal, and installation of advertising.

18.1.4 Outfront shall provide, install, and maintain high quality, professionally designed commercial advertising displays on Bus Shelters designated by the City. Outfront shall adhere to generally accepted principles of advertising in relation to good taste and truth in advertising. No advertising which is considered objectionable and offensive in its content or method of presentation shall be displayed. Whenever a question arises as to the propriety of an advertisement, prior to its installation, Outfront is required to submit the advertisement work to the City's Contract Manager, for review and approval.

18.1.5 Outfront shall provide no more than one (1) static advertisement display per face of the advertising box.

18.1.6 Outfront is required to remove any and all non-compliant Bus Shelter advertisement display, as detailed below, within 24 hours after receipt of official notice from the City Manager or City's Contract Manager.

18.1.7 Outfront shall comply with the following:

- 18.1.7.1 All advertising accepted for placement will comply with Federal, State, Miami-Dade County, and existing City of Miami Beach laws, rules and regulations;

18.1.7.2 The Contractor shall neither accept for display, install, display nor maintain any advertisement that falls within one or more of the following categories;

- a. contains the words "STOP", "LOOK", "DRIVE IN", "DANGER" or any other word, symbol, or displays designed to distract vehicular traffic;
- b. false or misleading;
- c. material that is immoral, lascivious, or obscene as defined in Section 847.001 Florida Statutes;
- d. no advertising shall be for businesses engaged in any activity that requires the exclusion of minors pursuant to Chapter 847, Florida Statutes
- e. promotes unlawful or illegal goods, services or activities;
- f. tobacco or tobacco related products including electronic cigarettes;
- g. firearms;
- h. sexual services, programs or products;
- i. political candidates or political issues, campaigns;
- j. detrimental to the operation or goals of the City;
- k. competitive products included in any Agreement with the City relating to a citywide exclusive sponsorship agreement, as notified in writing to Outfront; and
- l. any such additional category of advertising that the City Manager, in the City Manager's sole discretion, may determine to be reasonable, as notified in writing to Outfront.

18.1.7.3 Advertising of alcoholic beverages, as defined by Section 561.01, Florida Statutes, shall be permitted with the following restrictions:

- a. No advertising for alcoholic beverages shall be within one-quarter mile of any type of public or private school, including pre-schools, elementary schools, middle schools, high schools, colleges, and universities;
- b. No advertising for alcoholic beverages shall be within one-quarter mile of houses of worship, including churches, synagogues, temples, and mosques;
- c. No advertising for alcoholic beverages shall be within one-quarter mile of Hospitals or addiction treatment centers;
- d. All advertising for alcoholic beverages will require approval from the City's Contract Manager;
- e. All advertising for alcoholic beverages must include the disclaimer below as mandated by the Alcoholic Beverage Labeling Act ("ABLA") of 1988. Government warning disclaimer must be equal to at least 10% of the size of the ad: "GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems."

18.1.7.4 Any prohibited or unacceptable material, as determined by the City Manager, in the City Manager's sole discretion, which is displayed or

placed, shall be immediately removed by Outfront upon notice from the City Manager.

18.2 Advertising Removal

Notwithstanding the provisions of Paragraph 18.1 “Advertising Standards”, approval by the City of advertising materials, advertisements, and manner of presentation is not required.

The City Manager or City’s Contract Manager will require Outfront to remove any advertising that fails to comply with Paragraph 18.1. Outfront shall remove advertising within 24 hours upon issuance of a written request from the City Manager or City’s Contract Manager to remove said advertising.

In the event Outfront fails to remove the advertising as specified herein, the City may take necessary actions to remove the advertisement. Outfront is obligated to reimburse the City for actions taken under this provision. The City is not liable for any damages in connection therewith.

In the event the City determines that an advertisement that was previously required to be removed is later advertised again or not removed, Outfront hereby agrees that the City may collect funds as detailed in Section 17 “Penalty Fees for Failure to Perform” of this Agreement, where such advertising is discovered by the City and not removed within the timeframe as set forth in this paragraph. The City will take necessary actions to remove the advertisement and request reimbursement from Outfront for costs incurred.

18.3 City’s Self-Promotional Space

At no cost to the City, Outfront shall provide to the City the following promotional services:

- 11% share-of-voice for the City’s use on all Display Panels, with the addition of unsold space as available.
- 5% share-of-voice across static Display Panels, growing to 11% once the full digital deployment is complete.

In the event of a public emergency, the City shall have immediate access to 100% of all digital and static Display Panels to assist with public communications. Outfront shall provide necessary access for the City staff to program digital or static displays in case of a public emergency.

Outfront will be notified at least two (2) weeks in advance of the City’s intention to place an advertisement. Outfront shall then make arrangements for the installation of the City’s advertising. The City will provide the finished artwork for the City’s self-promotional announcement (either for a static poster or digital advertisement (as applicable)) to Outfront for final production, printing, and installation. Static advertisement (posters) shall be printed and installed within five (5) business days. Digital advertisement shall be posted within three (3) business days.

Outfront shall install, maintain, and remove these posters or digital advertisement at Outfront’s expense, as requested by the City.

SECTION 19. NO IMPROPER USE.

Outfront will not use, nor suffer or permit any person to use in any manner whatsoever, any Sites or Site Improvements thereon, for any illegal, improper, immoral or offensive purpose, or for any other purpose in violation of any Federal, State, County, or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. Outfront will protect, indemnify, and forever save and keep harmless the City, its officials, employees, contractors, and agents from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of Outfront, or any official, director, agent, contractor, or servant regarding the Program. In the event of any violation by Outfront, or if the City or its authorized representative shall deem any conduct on the part of Outfront to be objectionable or improper, the City shall have the right to suspend Program operation should Outfront fail to correct any such violation, conduct, or practice to the satisfaction of the City Manager or Contract Manager within twenty-four (24) hours following written notice of the nature and extent of such violation, conduct, or practice. Such suspension to continue until the violation is cured to the satisfaction from the City Manager or Contract Manager.

SECTION 20. NOTICES.

Any notice required to be given or otherwise given pursuant to this Contract shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent recognized overnight courier service as follows:

If to **OUTFRONT**:
OUTFRONT Media
405 Lexington Avenue
New York, NY 10174
Attention: Damian Gutierrez
E-mail: damian.gutierrez@outfront.com

With copy to:
OUTFRONT Media
405 Lexington Avenue
New York, NY 10174
Attention: Legal Department
E-mail: glen.rectenwald@outfront.com

If to the CITY:
City of Miami Beach
Attention:
Transportation and Mobility
Department, Transportation
Director
1700 Convention Center
Drive
Miami Beach, Florida
33139

With copy to: City of Miami Beach

Attention: City
Manager
1700 Convention
Center Drive Miami
Beach, Florida 33139

Notwithstanding the foregoing, the City expressly authorizes Transportation and Mobility Department as the designated party to receive notices with regard to all matters pertinent to this Agreement, except with respect to any alleged defaults, which will require notice to the parties set forth in Section 15.

SECTION 21. ASSIGNMENT.

Outfront shall not assign all or any portion of its costs or obligations under this Agreement without the prior written consent of the City Commission, in its sole discretion. Outfront shall notify the City Manager of any proposed assignment, in writing, at least sixty (60) days prior to the proposed effective date of such assignment. In the event that any such assignment is approved by the City Commission, the assignee shall agree to be bound by all the covenants of this Agreement required of Outfront.

SECTION 22. LAWS.

22.1 Compliance.

Outfront shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations, including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations.

22.2 Governing Law.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any civil action arising in any way from this Agreement or the activities of the parties under this Agreement shall be brought only in a court of competent jurisdiction located in Miami-Dade County, Florida.

22.3 Equal Employment Opportunity.

Neither Outfront nor any affiliate of Outfront performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, sexual orientation, and disability (as defined in Title I of ADA). Outfront will take affirmative steps to utilize minorities and females in the work force and in correlative business enterprises.

22.4 No Discrimination.

Outfront agrees that there shall be no discrimination as to as to race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity,

marital and familial status, or age, or handicap, in the operations referred to in this Agreement; and, further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Sites. All operations and services offered in the Sites shall be made available to the public, subject to the right of Outfront and the City to establish and enforce reasonable rules and regulations to provide for the safety, orderly operation, and security of the Sites and improvements and equipment thereon.

Additionally, Outfront shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

SECTION 23. MISCELLANEOUS.

23.1 No Partnership.

Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Outfront.

23.2 Modifications.

This Agreement cannot be changed or modified except by Agreement in writing executed by all parties hereto. The City Manager, on behalf of the City, shall have authority to amend or modify this Agreement, including any changes to the Scope of Services, so long as said changes do not exceed the City Manager's purchasing authority, as such amount as may be specified by the City of Miami Beach Procurement Ordinance, as amended from time to time.

23.3 Complete Agreement.

This Agreement, together with all exhibits incorporated hereto, constitutes all the understandings and Agreements of whatsoever nature or kind existing between the parties with respect to Outfront's operations, as contemplated herein.

23.4 Headings.

The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

23.5 Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

23.6 Clauses.

The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.

23.7 Severability.

If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances, shall not be affected thereby and this Agreement as so modified shall.

23.8 Right of Entry.

The City, at the direction of the City Manager, shall at all times during hours of operation, have the right to enter into and upon any and all parts of the Site(s) for the purposes of examining the same for any reason relating to the obligations of parties to this Agreement.

23.9 Not a Lease.

It is expressly understood and agreed that no part, parcel, building, facility, equipment or space is leased to Outfront, that this Agreement does not constitute a lease; that Outfront's right to operate the Program shall continue only so long as this Agreement remains in effect.

23.10 Procedure for Approvals and/or Consents.

In each instance in which the approval or consent of the City Manager or Contract Manager is allowed or required in this Agreement, it is acknowledged that such authority has been expressly provided herein to the City Manager or Contract Manager by the Mayor and City Commission of the City. In each instance in which the approval or consent of the City Manager or Contract Manager is allowed or required in this Agreement, Outfront shall send to the City Manager a written request for approval or consent (the "Approval Request").

The City Manager or Contract Manager shall use reasonable efforts to provide written notice to Outfront approving of consent to, or disapproving of the request, within thirty (30) days from the date of Approval Request (or within such other time period as may be expressly set forth for a particular approval or consent under this Agreement). However, the City Manager or Contract Manager's failure to consider such request within this time provided shall not be deemed a waiver, nor shall Outfront assume that the request is automatically approved and consented to. The City Manager or Contract Manager shall not unreasonably

withhold such approval or consent. This subsection shall not apply to approvals required herein by the Mayor and City Commission.

23.11 No Waiver.

It is mutually covenanted and agreed by and between the parties hereto that the failure of the City to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Agreement, or to exercise any option herein conferred, will not be considered or construed as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect. A waiver of any term expressed herein shall not be implied by any neglect of the City to declare a forfeiture on account of the violation of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

The receipt of any sum paid by Outfront to the City after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and construed as payment for use and occupation, and not as rent, unless such breach be expressly waived in writing by the City.

23.12 No Third Party Beneficiary.

Nothing in this Agreement shall confer upon any person or entity, including, but not limited to subcontractors, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

23.13 No Lien.

In the event any notice or claim of lien shall be asserted against the interest of the City on account of or arising from any work done by or for Outfront, or any person claiming by, through or under Outfront, or for improvements or work, the cost of which is the responsibility of Outfront, Outfront agrees to have such notice or claim of lien cancelled and discharged within fifteen (15) days after notice to Outfront by City. In the event Outfront fails to do so, City may terminate this Agreement for cause without liability to City.

SECTION 24. LIMITATION OF LIABILITY.

The City desires to enter into this Agreement placing the operation and management of the Site(s) in the hands of a private management entity only, if in so doing, the City can place a limit on its liability for any cause of action for breach of this Agreement, so that its liability for any such breach never exceeds the sum of Hundred Thousand (\$100,000.00) Dollars. Outfront hereby expresses its willingness to enter into this Agreement with Hundred Thousand (\$100,000.00) Dollars limitation on recovery for any action for breach of contract. Accordingly, and in consideration of the separate consideration of Hundred Thousand (\$100,000.00) Dollars, the receipt of which is hereby

acknowledged, the City shall not be liable to Outfront for damages to Outfront in an amount in excess of Hundred Thousand (\$100,000.00) Dollars, for any action for breach of contract arising out of the performance or on-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

SECTION 25. VENUE.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami- Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

CITY AND OUTFRONT HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT CITY AND OUTFRONT MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SITE(S).

SECTION 26. CONFLICT OF INTEREST.

Outfront agrees to adhere to and be governed by the Miami-Dade County Ethics and Conflict of Interest laws, as same may be amended from time to time, and by the City of Miami Beach Charter and Code, as same may be amended from time to time, in connection with the performance of the Services.

Outfront covenants that it presently has no interest and shall not acquire any interest, direct or indirectly, which would conflict in any manner or degree with the performance of the work and services contemplated in this Agreement. Outfront further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by Outfront.

SECTION 27. FLORIDA PUBLIC RECORDS LAW.

27.1 Pursuant to Section 119.0701 of the Florida Statutes, if Outfront meets the definition of "Contractor" as defined in Section 119.0701(1)(a), Outfront shall:

27.1.1 Keep and maintain public records required by the public agency to perform the service;

27.1.2 Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;

27.1.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency;

27.1.4 Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor

shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

27.2 REQUEST FOR RECORDS; NONCOMPLIANCE.

27.2.1 A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

27.2.2 If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

27.2.3A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under s. [119.10](#).

27.3 CIVIL ACTION.

27.3.1 If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

27.3.2 A notice complies with subparagraph (a)2. if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

27.3.3 A contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

27.4 IF OUTFRONT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO OUTFRONT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY OF MIAMI BEACH
ATTENTION: CITY CLERK
1700 CONVENTION CENTER DRIVE**

MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411

SECTION 28. INSPECTOR GENERAL AUDIT RIGHTS

- 28.1 Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.
- 28.2 The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of Outfront, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.
- 28.3 Upon ten (10) days written notice to Outfront, Outfront shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of Outfront its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.
- 28.4 The Inspector General shall have the right to inspect and copy all documents and records in Outfront's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.
- 28.5 Outfront shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this Agreement, for examination, audit, or reproduction, until three

(3) years after final payment under this Agreement or for any longer period required by statute or by other clauses of this Agreement. In addition:

- i. If this Agreement is completely or partially terminated, Outfront shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- ii. Outfront shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.

28.6 The provisions in this section shall apply to Outfront, its officers, agents, employees, subcontractors and suppliers. Outfront shall incorporate the provisions in this section in all subcontracts and all other agreements executed by Outfront in connection with the performance of this Agreement.

28.7 Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by Outfront or third parties.

SECTION 29. E-VERIFY

29.1 To the extent that Outfront provides labor, supplies, or services under this Agreement, Outfront shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Outfront shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Agreement. Additionally, Outfront shall expressly require any subcontractor performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract Term. If Outfront enters into a contract with an approved subcontractor, the subcontractor must provide Outfront with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Outfront shall maintain a copy of such affidavit for the duration of the Agreement or such other extended period as may be required under this Agreement.

29.2 **TERMINATION RIGHTS.**

29.2.1 If the City has a good faith belief that Outfront has knowingly violated Section 448.09(1), Florida Statutes, which prohibits any person from knowingly employing, hiring, recruiting, or referring an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, the City shall terminate this Agreement with Outfront for cause, and the City shall thereafter have or owe no further obligation or liability to Outfront.

29.2.2 If the City has a good faith belief that a subcontractor has knowingly violated the foregoing Subsection 29.1, but Outfront otherwise complied with such subsection, the City will promptly notify Outfront and order Outfront to immediately terminate the Agreement with the subcontractor. Outfront's failure to terminate a subcontractor shall be an event of default under this Agreement, entitling City to terminate Outfront's contract for cause.

- 29.2.3 A contract terminated under the foregoing Subsection 29.2.1 or 29.2.2 is not in breach of contract and may not be considered as such.
- 29.2.4 The City or Outfront or a subcontractor may file an action with the Circuit or County Court to challenge a termination under the foregoing Subsection 29.2.1 or 29.2.2 no later than 20 calendar days after the date on which the contract was terminated.
- 29.2.5 If the City terminates the Agreement with Outfront under the foregoing Subsection 29.2.1, Outfront may not be awarded a public contract for at least 1 year after the date of termination of this Agreement.
- 29.2.6 Outfront is liable for any additional costs incurred by the City as a result of the termination of this Agreement under this Section 29.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their Agreement.

Attest:

CITY OF MIAMI BEACH, FLORIDA

City Clerk

Mayor

Date: _____

Attest:

OUTFRONT MEDIA GROUP, LLC

Print Name and Title
and Title

Print Name

Date: _____

PROPOSAL DOCUMENTS

DRAFT

**EXHIBIT A
SITE SITES
LIST AND LOCATIONS OF EXISTING CLEAR CHANNEL SHELTERS AND BUS BENCHES**

**EXHIBIT B
PROJECT SCHEDULE**

EXHIBIT B-1

PHASE 1

Agreement Phase 1:

1. Transfer of ownership of the Existing Bus Shelters and Benches from the City to Outfront;
2. operate/maintain/Existing Bus Shelters and Benches;
3. sell advertisement on the Existing Bus Shelters;
4. Duration of Phase 1: it commences with the Commencement Date and expires upon the commencement of Phase 2 of the Program; and
5. Revenue share to the City during Phase 1 shall be: revenue share payments equal to 30% of Gross Receipts plus the quarterly MG payment set forth in Section 6.1 of the Agreement; however Outfront shall not remit a quarterly MG payment for the first quarter of the first Contract Year.

EXHIBIT B-2

PHASE 2

Agreement Phase 2:

1. Within six (6) months from the Commencement Date of the Agreement, secure approval from the City Manager or Contract Manager and any governmental approvals for the design and installation of the new digital Display Panels and other Street Furniture;
2. Within 18 months from the Commencement Date, secure approval of design for the new Bus Shelters and Other Street Furniture from the City Manager, City Commission and all governmental approval required for the administratively approved design, unless such period is extended pursuant to Section 5.7 of the Agreement;
3. If desired by Outfront, swapping desired quantity of the static advertising Display Panels (up to 40 sites) on the Existing Bus Shelters with digital Display Panels;
4. Commence installation of Other Street Furniture;
5. Continue to operate, maintain and sell advertising on the Existing Bus Shelters;
6. Revenue share to the City during Phase 2 shall be equal to 10% of Gross Receipts plus the quarterly MG payment set forth in Section 6.1 of the Agreement; and
7. Duration of Phase 2: commences as soon as Outfront has purchased all 40 digital Display Panels and Outfront commences to install, at existing sites of the Existing Bus Shelters, digital advertising Display Panels and terminates when deployment of digital Display Panels at 40 sites is completed.

EXHIBIT B-3

PHASE 3

Agreement Phase 3:

1. Secure approval from the City Manager of prototype for the new Bus Shelter Structures prior to proceeding with installation of any new Bus Shelter Structures;
2. Manufacture/construct/install/operate/maintain new Bus Shelters and Other Street Furniture;
3. Continue to sell advertisement on the Existing Bus Shelters and new Bus Shelters;
4. Remove all Existing Bus Shelters and Benches;
5. Revenue sharing to the City during Phase 3 shall be equal to 10% of Gross Receipts plus the quarterly MG payment set forth in Section 6.1 of the Agreement; and
6. Duration of Phase 3: commences upon securing all requisite approvals for the design of new Bus Shelters and expires when the full deployment of all new Program Bus Shelters is complete; however, not to exceed four (4) years from securing such design approvals.

EXHIBIT B-4

PHASE 4

Agreement Phase 4:

1. Operate/maintain new Bus Shelters and Other Street Furniture;
2. Sell advertisement on Display Panels of new Bus Shelters;
3. Revenue share to the City during Phase 4 shall be equal to 20% of Gross Receipts plus the quarterly MG payment set forth in Section 6.1 of the Agreement; and
4. Duration of Phase 4: commences when full deployment of new Bus Shelters is completed and terminates at the time the Agreement expires or is otherwise terminated pursuant to the terms of the Agreement.

EXHIBIT C
CAPITAL BUDGET