

**BILLBOARD LEASE**

**between**

**CITY OF LEMON GROVE,  
a California Municipal corporation  
("City")**

**and**

**OUTFRONT MEDIA LLC,  
a Delaware limited liability company  
("Tenant")**

## Billboard Lease

This Billboard Lease ("**Lease**"), is effective as of October 15, 2019 (the "**Effective Date**"), and is between the **City of Lemon Grove**, a California municipal corporation ("**City**"), and **Outfront Media LLC**, a Delaware limited liability company ("**Tenant**").

### RECITALS

A. City owns that certain real property (the "**Premises**") legally described in Exhibit A and depicted on Exhibit B, and located in the City of Lemon Grove, County of San Diego, State of California, in proximity to State Route 94.

B. State Route 94 is a heavily traveled route for commuters, tourists, and commercial vehicles traveling through the community daily to reach various destinations in Southern California and the State of California.

C. The City has determined that advertising on the Digital Billboard (as defined below) is in the City's best interest and Tenant is willing to make an effort to obtain Permits for the construction and operation of the Billboard Project (as defined below). "**Digital Billboard**" means that certain two-sided LED electronic sign panel, as shown on the attached Exhibit C, which is to be attached, subject to the terms and conditions of this Lease, to the Sign Structure (as defined below). "**Sign Structure**" means the portion of the Billboard Project other than the Digital Billboard, and it includes all ancillary equipment and utilities installed on the Premises by Tenant in connection with the construction and operation of the Billboard Project. The Sign Structure is more particularly described in Exhibit C. "**Billboard Project**" means, collectively, the Digital Billboard and Sign Structure that Tenant will construct on the Premises in accordance with the plans attached as Exhibit C and criteria set forth in this Lease.

D. The Lemon Grove City Council has determined that it is in the best interests of City, and for the common benefit of the citizens residing in the City, to enter into this Lease with Tenant for the construction, operation, and maintenance of the Billboard Project on the Premises.

E. City desires to lease to Tenant, and Tenant desires to lease from City, the Premises, all as further set forth in this Lease.

F. City and Tenant have entered into that certain Billboard Relocation Agreement dated October 15, 2019 (the "**Relocation Agreement**"). The recitals set forth in the Relocation Agreement are hereby incorporated into this Lease by reference.

### AGREEMENT

#### ARTICLE 1 REPRESENTATIONS AND WARRANTIES OF PARTIES

The representations and warranties set forth in this Article 1 are made as of the Effective Date.

**1.1** Each party represents and warrants to the other that it has the power and authority to enter into this Lease, and that this Lease is the valid and binding obligation of such party and is enforceable against it in accordance with its terms.

**1.2** City and Tenant represent and warrant to each other that neither has dealt with any broker in connection with this Lease. City and Tenant shall indemnify the other against, and hold each other harmless from, any claim of, or liability to, any other broker or any party with whom City or Tenant shall have dealt in connection with this Lease.

**1.3** City represents that it is fee simple owner of the Premises and that the Premises is not subject to any monetary lien or encumbrance, other than (a) such easements, covenants, conditions, restrictions, reservations and other matters of record; (b) all matters discoverable by physical inspection of the Premises or that would be discovered by an accurate survey of the Premises; and (c) the presence and location of utilities on the Premises, including, but not limited to subsurface water and gas lines. Notwithstanding the foregoing, City represents and warrants to Tenant that, as of the Effective Date, no lien or encumbrance affects the Premises that would impair Tenant's ability to construct and operate the Billboard Project on the Premises, as contemplated by this Lease. City shall indemnify, protect, defend and hold harmless Tenant from any and all claims, liabilities, judgments, causes of action, damages, costs and expenses (including reasonable attorneys' and experts' fees), caused by or arising in connection with any inaccuracies and/or misrepresentations (intentional or negligent) set forth in this Section 1.3, and the foregoing indemnification shall survive any such termination of this Lease. With respect to the foregoing obligation to indemnify and defend, the Parties agree that Tenant may appoint its own independent counsel subject to the approval of City (not to be unreasonably withheld, conditioned or delayed).

**1.4** Without limiting City's other representations and warranties set forth in this Lease, City represents and warrants to Tenant that: (i) to City's current knowledge there are no pending or threatened actions, suits or proceedings before any court or administrative agency against City which could, in the aggregate, adversely affect the Premises or any part thereof, or the ability of City to perform its obligations under this Lease, and City is not aware of any facts which might result in any such actions, suits or proceedings; (ii) City has no knowledge of any security interest encumbering the Premises; (iii) the information in this Lease is true and accurate to the best of City's knowledge after a diligent inquiry; (iv) City's execution of this Lease is authorized by ordinance, which ordinance is currently in full force and effect; and (v) City is duly authorized to perform or to cause to be performed all of the obligations of the City under and in accordance with the terms and conditions of this Lease.

## ARTICLE 2 LEASE OF PREMISES.

**2.1 Leasing of the Premises.** City hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from City, for the Permitted Uses (as defined below), upon the covenants, terms, and conditions set forth in this Lease.

### **2.2 Permitting.**

2.2.1 City agrees that Tenant's ability (and obligations hereunder) to develop and operate the Billboard Project is dependent upon Tenant obtaining all Permits (as defined below). City agrees to cooperate with Tenant with respect to Tenant pursuing the issuance of the Permits. Upon any termination, all rights and obligations of City and Tenant will be of no further force or effect except for obligations expressly stated as surviving termination of this Lease. "**Permit**" shall mean all local and state governmental permits and approvals and any other required permits and approvals necessary for the development and operation of the Billboard Project; provided, no Permit shall be deemed to be received by, or issued to, Tenant if (A) there exists any unexpired appeal, contest, challenge or review periods for the issuance of such Permit, (B) an appeal, contest, challenge (including, without limitation, a Project Approval Challenge (as defined below)) or review has been filed with respect to such Permit and the same has not been resolved on terms satisfactory to Tenant in its good faith business judgment, or (C) such Permit is only available with conditions unacceptable to Tenant in its good faith business judgment. "**Project Approval Challenge**" shall mean the initiation by any individual person or entity of any legal or equitable action or proceeding to challenge the validity of any provision of this Lease, or the validity or implementation of any Permit.

2.2.2 Tenant shall prepare complete plans and specifications for the Billboard Project as set forth in Exhibit C, working closely with City to develop plans and specifications that are mutually acceptable to the City and Tenant (the "**Plans**"). Tenant shall submit the Plans to City for final approval ("**City Initial Concept Approval**"), which approval by City shall not be unreasonably denied, conditioned or delayed. The Billboard Project shall be designed to comply with all applicable laws.

2.2.3 Within thirty (30) days after Tenant's receipt of the City Initial Concept Approval, Tenant must apply for and diligently pursue all necessary planning, building, electrical and other Permits for the Billboard Project that are required by the City (the "**City Permits**"). The date upon which Tenant first submits its application for the City Permits shall be referred to herein as the "**City Permit Submittal Date**." City will diligently process Tenant's applications for all City Permits. If Tenant does not obtain the City Permits on or before the first-year anniversary of the City Permit Submittal Date, then Tenant shall have the right to terminate this Lease.

2.2.4 Within thirty (30) days after Tenant's receipt of the City Permits, Tenant must initiate the application process for, and thereafter diligently pursue,



Permits for the Billboard Project (the "**Caltrans Permits**") that are required by the California Department of Transportation ("**Caltrans**"). The date upon which Tenant first submits its application for the Caltrans Permits shall be referred to herein as the "**Caltrans Permit Submittal Date.**" During the Term, Tenant shall perform all obligations under the Caltrans Permits at no cost to City. If Tenant does not obtain the Caltrans Permits on or before the first-year anniversary of the Caltrans Permit Submittal Date, then Tenant and/or City shall have the right to terminate this Lease; provided, if Tenant has been pursuing the Caltrans Permits with commercially reasonable and diligent efforts, then Tenant shall have the right to extend such period to obtain the Caltrans Permits by two (2) additional six (6) month periods, by providing notice to City prior to the expiration of the applicable period.

2.2.5 Tenant shall begin the work of design, construction and improvement of the Billboard Project as soon as practicable after the Effective Date and Tenant shall diligently pursue such work to completion without unnecessary interruption so that the Digital Billboard is operational by the one hundred eightieth (180th) day after the date on which all Permits are obtained. Tenant will be excused, however, for any delays in beginning or completing such work that are caused by a Force Majeure Event (as defined below). Tenant must use reasonable diligence to avoid such delays and to resume work as promptly as possible after such a delay.

**2.3 Permitted Access.** Notwithstanding anything herein to the contrary, from the Effective Date through the expiration, or earlier termination, of this Lease, Tenant will be permitted to access and use the Premises for (a) any and all purposes in connection with the design and construction of the Billboard Project and any other work in order to make the Digital Billboard Operational (as defined below), and (b) any other legally permitted use consistent with this Lease. "**Operational**" means the Digital Billboard is capable, legally and functionally, of displaying advertising content in the manner intended by Tenant under this Lease.

### **ARTICLE 3 TERM.**

**3.1 Term.** The term of this Lease (the "**Term**") will begin on the Operational Date (as defined below) and, unless Tenant exercises one or both of its Options to extend the Term for the Option Term(s), will expire on the twentieth (20th) anniversary thereof. Notwithstanding anything herein to the contrary, for the period beginning on the Effective Date through the Operational Date, City shall permit Tenant and its employees, agents, consultants and representatives to enter the Premises for the purpose of commencing any site investigations and inquiries that Tenant reasonably deems appropriate or necessary in connection with the design and construction of the Billboard Project and any other work in order to make the Digital Billboard Operational. City and Tenant acknowledge and agree that "Term", as used in this Lease, shall include any Option Term.

**3.2 Option Term.** City hereby grants to Tenant the right (each, an "**Option**") to extend the Term for two (2) additional successive extension periods of five (5) years each

(each such extension period referred to as an “**Option Term**”). Each Option shall be exercised by written notice to City at least six (6) months prior to the end of the initial Term, or any prior Option Term, stating that Tenant elects to exercise an Option. Notwithstanding the foregoing, Tenant’s right to exercise any Option to extend the Term for any Option Term will not lapse because of Tenant’s failure to exercise any Option to extend unless City first has given Tenant notice that Tenant has failed to exercise such Option to extend prior to the period provided above, and Tenant fails to exercise such Option to extend within fifteen (15) days following Tenant’s receipt of City’s notice. Each Option Term shall be upon the same terms of this Lease.

**3.3 Expiration of Lease; Holding Over.** This Lease will expire at the end of the Term. If Tenant holds over on the Premises after the expiration of the Term with the consent of City, such holding over will be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Lease that applied immediately prior to the expiration of the Term. If Tenant does hold over on the Premises after the Term, then Tenant agrees to pay City as monthly rental an amount which is equal to 1/12<sup>th</sup> of the annual Rent paid by Tenant to City during the last year of the Term. As used in this Lease, “**Rent**” means, collectively, the MAG and, as applicable, Percentage Rent described in Article 4.

## **ARTICLE 4 RENT.**

### **4.1 Rent**

4.1.1 Minimum Annual Guarantee (MAG). Each year during the Term, and commencing on the first day that the Digital Billboard is Operational (the “**Operational Date**”), and on a monthly basis, Tenant shall pay City the amounts set forth below (the “**MAG**”), and in accordance with the terms set forth in this Section 4.1.

<b>Term</b>	<b>Monthly MAG</b>	<b>Annual MAG</b>
1st Lease Year	\$27,083.33	\$325,000.00
2nd Lease Year	\$27,895.83	\$334,750.00
3rd Lease Year	\$28,732.75	\$344,793.00
4th Lease Year	\$29,594.67	\$355,136.00
5th Lease Year	\$30,482.50	\$365,790.00
6th Lease Year	\$31,397.00	\$376,764.00
7th Lease Year	\$32,338.92	\$388,067.00
8th Lease Year	\$33,309.08	\$399,709.00

9th Lease Year	\$34,308.33	\$411,700.00
10th Lease Year	\$35,337.58	\$424,051.00
11th Lease Year	\$36,397.71	\$436,772.53
12th Lease Year	\$37,489.64	\$449,875.71
13th Lease Year	\$38,614.33	\$463,371.98
14th Lease Year	\$39,772.76	\$477,273.14
15th Lease Year	\$40,965.94	\$491,591.33
16th Lease Year	\$42,194.92	\$506,339.07
17th Lease Year	\$43,460.77	\$521,529.24
18th Lease Year	\$44,764.59	\$537,175.12
19th Lease Year	\$46,107.53	\$553,290.37
20th Lease Year	\$47,490.76	\$569,889.08
21st Lease Year*	\$48,915.48	\$586,985.75
22nd Lease Year*	\$50,382.94	\$604,595.33
23rd Lease Year*	\$51,894.43	\$622,733.19
24th Lease Year*	\$53,451.27	\$641,415.18
25th Lease Year*	\$55,054.80	\$660,657.64
26th Lease Year*	\$56,706.45	\$680,477.37
27th Lease Year*	\$58,407.64	\$700,891.69
28th Lease Year*	\$60,159.87	\$721,918.44
29th Lease Year*	\$61,964.67	\$743,575.99
30th Lease Year*	\$63,823.61	\$765,883.27

\* Payable only if Tenant exercises its Option(s) to extend the Term for the applicable Option Term.

4.1.2 Manner of Payment. An annual prorated share of the MAG is due and payable on a monthly basis, within ten (10) days following the beginning of



each calendar month occurring thereafter without notice, demand, offset or deduction (except as set forth in this Lease). Tenant shall remit the MAG to City at the address designated in Section 12.2 below, or at such other address as City may designate from time to time in writing to Tenant for the payment of Rent. For any portion of the Term that is less than a full calendar month, the MAG shall be prorated based on the number of days in the Term occurring during such calendar month and actual number of days in such calendar month.

4.1.3 Late Charge. If Tenant fails to pay any installment of MAG within ten (10) calendar days after the same is due and payable, such unpaid amount will be subject to a late payment charge equal to two percent (2%) of the unpaid amount in each instance; provided, however, Tenant shall not be assessed with the foregoing late payment charge with respect to the first (1<sup>st</sup>) late payment in any consecutive twelve (12) month period unless and until Tenant fails to make such payment to City within seven (7) business days after written notice from City that it failed to receive such amounts within the time period set forth above. Following the first (1<sup>st</sup>) late payment in any calendar year, no notice by City shall be required for purposes of collecting a late payment charge. The late payment charge has been agreed upon by City and Tenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Tenant, the actual costs thereof being extremely difficult—if not impossible—to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay, and Tenant shall promptly pay such charge to City together with any unpaid interest.

4.1.4 Default Interest. If any MAG is not paid within ten (10) calendar days following the due date, such unpaid amount will bear simple interest at the rate of 10% per year or the maximum permitted by law, whichever is lower (“**Default Rate**”) from the due date until paid. However, interest will not be payable on late charges incurred by Tenant, nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest will not excuse or cure any default by Tenant.

## 4.2 Additional Consideration

4.2.1 Percentage Rent. If fifty percent (50%) of the Annual Net Revenue (as defined below) for a completed Lease Year (as defined below) exceeds the MAG for such Lease Year (the difference being referred to herein as “**Percentage Rent**”), then Tenant shall pay to City, in addition to the MAG, within thirty (30) days after the end of the relevant Lease Year, and to the extent applicable, the Percentage Rent. “**Lease Year**” means the consecutive 12-month period commencing on the Operational Date, and each consecutive 12-month period occurring thereafter during the Term. “**Annual Net Revenue**” means all income actually received by Tenant in connection with the sale of advertising space on the Digital Billboard (less any commissions paid by Tenant to advertising



agencies in connection with advertising on the Digital Billboard, not to exceed 16-2/3%), provided the foregoing income shall not include the value of any in-kind usage of the Digital Billboard by the City pursuant to this Lease.

4.2.2 Reports. Tenant shall furnish to City an annual statement of Annual Net Revenue within thirty (30) days after the end of each Lease Year.

4.2.3 Inspection. City, at its sole option, will be entitled, from time to time during the Term (but not more than once during any Lease Year) and during normal business hours and with prior written notice to Tenant, to inspect, examine, copy and audit Tenant's books, records and cash receipts as related to Annual Net Revenue. Tenant shall cooperate fully with City and City's agents in making the examination. If such inspection shows that there is a deficiency in the payment of any Percentage Rent, then Tenant shall promptly upon notice pay the deficiency to City which payment will not require any penalty or other late fee. City will pay the costs of the inspection unless the inspection shows that Tenant understated Annual Net Revenue by more than five (5%) percent in which case Tenant will pay all reasonable out-of-pocket costs paid to third party consultants and incurred by City in connection with the inspection.

4.2.4 City Usage. To the extent that commercial advertising time on the Digital Billboard is unsold and available, City shall have the right to use up to eleven percent (11%) of the total advertising time for the Digital Billboard (such usage "**City Usage**"). Content displayed on the Digital Billboard in connection with City Usage shall be displayed (subject to the terms of this Lease) during the operation of the Digital Billboard in increments, at the times of day and otherwise in the same manner as the commercial advertising displayed by Tenant on the Digital Billboard. Subject to the terms of this Lease, City may use such time to promote any purpose that City, in its sole discretion, determines best serves the needs of the City and residents, including but not limited to advertising City events and programs. City will submit "camera ready" artwork to Tenant, at no cost to Tenant, for display purposes. City agrees that for any City Usage pursuant to this Section 4.2.4: (x) City will provide Tenant with prior written notice of its desire for City Usage, (y) City will provide Tenant with the copy or text of such messages not less than ten (10) business days prior to the date such messages are to appear on the Digital Billboard, and (z) City Usage shall be limited to messages for the civic and public purposes described in this Section 4.2.4 and will not be used directly or indirectly for any types of messaging or advertising which Tenant would otherwise be able to sell to third parties in the ordinary course of Tenant's business. City represents and warrants that all advertising materials and content supplied by City to Tenant for display in connection with City Usage, (i) are owned or duly licensed by City and do not infringe or misappropriate the rights of any other person or entity, (ii) comply with all applicable federal, state, and local laws, rules and regulations and any industry codes or rules by which the parties may be bound and do not contain any obscene, libelous, slanderous or otherwise defamatory materials or refer in an offensive manner to the gender, race or ethnicity of any individual or group; (iii) are not false; and (iv) do not infringe

upon any copyright, trademark or other intellectual property or privacy right of any third party. City hereby agrees to indemnify, defend and save harmless Tenant against any and all claims, liabilities, losses, damages, fees and expenses arising out of or in connection with the City Usage, including but not limited to any claim for defamation, or infringement of any copyright, trademark, or other intellectual property or privacy right and reasonable attorneys' fees and expenses incurred in defending any such claims.

4.2.5 Emergency Notifications. Without any offset in the City Usage described above and at no cost to the City and as further consideration for the use and occupancy of Premises, Tenant shall make the Digital Billboard available to Caltrans and the California Highway Patrol for purposes of "Amber Alerts" and for emergency or disaster notifications by local, state or federal agencies.

## **ARTICLE 5 USE OF PREMISES.**

**5.1 Condition of Premises.** The Premises and all improvements thereon, are being leased to Tenant in its current, existing, "AS IS" condition. City makes no representations or warranties of any kind, express or implied, written or oral, about any of the following: the physical condition of the Premises; the costs of conducting Tenant's business on the Premises; the condition of the soils or ground waters of the Premises; or the condition or location of any improvements, such as utilities, on, above or below the Premises.

**5.2 Permitted Uses.** Subject to any City Usage, Tenant has the exclusive right to display Off-site Outdoor Advertising (as defined below) on the Premises. City will not authorize any other Off-site Outdoor Advertising on the Premises. Tenant's right to conduct Off-site Outdoor Advertising on the Premises includes the following uses (collectively, the "**Permitted Uses**"):

(a) Constructing, operating, maintaining, repairing, improving, the Digital Billboard, the Sign Structure, and any utilities installed in connection with the Billboard Project.

(b) Installing and maintaining utility wires, poles, cables, conduits, and pipes over or under the Premises from the nearest accessible public right-of-way that support the permitted operations of the Billboard Project.

(c) All rights of ingress and egress over the Premises that Tenant needs to access the Billboard Project.

(d) The use of the Billboard Project or any portion thereof, for any lawful purpose related to outdoor advertising.

(e) Tenant may sublease the Premises for telecommunications facilities on the Sign Structure with the written approval of the City and with any such revenue considered part of Annual Net Revenues. Such telecommunications facilities shall be "stealth" and shall not affect the aesthetic or structural integrity of the Billboard Project.

**“Off-site Outdoor Advertising”** means advertising content that directs attention to a business, profession, commodity, service or entertainment which is conducted, sold or offered at a location other than on the same lot or parcel as the Digital Billboard.

### **5.3 Prohibited Uses.**

5.3.1 Hazardous Substances. Neither Tenant nor any of Tenant’s representatives or agents may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials (as defined below) anywhere in, on, under or about the Premises or any improvements thereon. Notwithstanding the foregoing, Tenant may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials in such limited amounts as are customarily used to renovate, operate, maintain, repair, improve, or remove outdoor advertising billboards, and so long as Tenant is at all times in full compliance with all applicable laws. Tenant shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released or discharged by Tenant or its authorized representatives on or under the Billboard Project, the Premises, or any improvements thereon to be removed therefrom and transported for disposal in accordance with applicable laws, including Hazardous Materials Laws (as defined below). Tenant shall promptly notify City in writing upon its actual knowledge of: (a) any release or discharge of any Hazardous Material by Tenant or its authorized representatives; (b) any voluntary clean-up or removal action instituted or proposed by Tenant, (c) any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened against Tenant, or (d) any claim made or threatened by any person against Tenant, the Billboard Project, the Premises, or any improvements thereon relating to Hazardous Materials or Hazardous Materials Laws. Tenant shall also supply to City as promptly as possible, and in any event within five (5) business days after Tenant receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Billboard Project, the Premises, any portion thereof, or any improvements thereon or Tenant’s use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event Tenant institutes a cleanup or removal action, Tenant shall provide copies of all work plans and subsequent reports submitted to the governmental agency with jurisdiction to City in a timely manner. **“Hazardous Materials”** means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local Law or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act, together with asbestos, asbestos-containing materials, hydrocarbons, polychlorinated biphenyl (“**PCB**”) or PCB-containing materials, petroleum, gasoline, petroleum products, crude oil or any fraction, product or by product thereof. **“Hazardous Materials Laws”** means all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county, municipal or governmental authorities having jurisdiction,



now in force or which may hereafter be in force concerning the management, use, generation, storage, transportation, presence, discharge or disposal of Hazardous Materials.

5.3.2 Unlawful Activities. Tenant may not use or permit the Premises to be used in any way that violates this Lease or any applicable law.

#### **5.4 Unobstructed Use**

5.4.1 City shall maintain all landscaping located on property owned by City that is adjacent to the Premises and on property adjacent to the Premises that the City has rights and/or obligations to maintain, and such maintenance shall be conducted to prevent an Obstruction (as defined below) by such landscaping. If Tenant notifies City in writing that any obstruction exists which obstruction impedes or reduces the view of the Digital Billboard from State Route 94 and which did not exist as of the Effective Date (each such obstruction, an "**Obstruction**"), Tenant will have the right, in addition to all other remedies granted under this Lease to (a) equitably reduce the MAG, or (b) terminate this Lease. Notwithstanding the foregoing, if an Obstruction is located on property owned by City or on property for which the City has rights and/or obligations to maintain, then, prior to having the rights set forth in the foregoing sentence, Tenant shall provide notice to City identifying such Obstruction, in which event, Tenant shall have the rights in the foregoing sentence if City fails to remove such Obstruction within five (5) days of City's receipt of such notice from Tenant.

5.4.2 Tenant's exercise of its rights under this Section 5.4 are in addition to any other remedies it may have under this Lease.

### **ARTICLE 6 CONSTRUCTION AND OPERATION OF BILLBOARD PROJECT**

Subject to Section 2.2 above, Tenant shall design, construct, maintain and operate the Billboard Project on the Premises in accordance with the provisions of this Lease.

**6.1 Plans and Specifications.** At no cost to City, Tenant shall prepare complete plans and specifications for the construction of the Billboard Project consistent with the terms of this Lease.

**6.2 Maintenance.** Tenant shall be responsible for all the on-going repair, maintenance, installation, and operation costs of the Digital Billboard, the Sign Structure, and related improvements on the Premises at no cost to the City. As part of Tenant's construction of the Billboard Project, Tenant shall cause the removal of the vegetation on the Premises that exists as of the Effective Date, and cause new vegetation to be planted thereon, all at Tenant's sole cost; provided, however, from and after the completion of such planting, City shall, at City's sole cost, maintain the landscaping in neat order and repair.



### **6.3 Damage or Destruction to the Billboard Project**

6.3.1 Unsubstantial Construction. Tenant shall promptly repair and restore those portions of the Billboard Project that are damaged or destroyed and that have not incurred Substantial Destruction. The term "**Substantial Destruction**" means damage or destruction (a) to the Billboard Project in an amount equal to twenty percent (20%) or more of their replacement cost, as determined by Tenant and subject to confirmation by City or (b) that results in an adverse impact on the operation of the business of Tenant on the Premises, as determined by Tenant and subject to confirmation by City. Notwithstanding the foregoing, with respect to any damage or destruction to Billboard Project, if (i) applicable laws then in effect do not permit restoration in accordance with the plans of Tenant, (ii) Tenant determines the repair and restoration cannot be completed within one hundred twenty days (120) days subsequent to the date of the damage or destruction, or (iii) there is less than five (5) years remaining in the Term, Tenant shall have the right to terminate this Lease upon notice to City.

6.3.2 Substantial Destruction. Within ninety (90) days after Substantial Destruction, Tenant shall elect to either: (a) repair and restore the Billboard Project; or (b) terminate this Lease upon notice to City.

6.3.3 Insurance Proceeds; Repair and Restoration Procedures. In the event of any damage or destruction to the Billboard Project, all insurance proceeds shall be paid to Tenant. During the course of any repairs or restoration and until the Billboard Project is capable, legally and functionally, of displaying advertising content in the manner intended by Tenant under this Lease, payment of Rent shall be tolled to the date upon which the Billboard Project is functional.

**6.4 Utilities.** At no cost to City, Tenant shall provide and pay for all utility connections, utility equipment, and utility service required to construct, operate, maintain, repair, improve, or reposition the Billboard Project throughout the Term. Tenant shall coordinate with City and the applicable utility companies for utility tie-ins and electrical power sources that Tenant may need to construct and operate the Billboard Project.

### **6.5 Advertising**

6.5.1 The Billboard Project is not intended to provide a general public forum for purposes of communication, but rather to make use of property held by the City in a proprietary capacity in order to generate revenue.

6.5.2 Except for any advertising or messages displayed on the Digital Billboard at the request of the City (subject to the terms of this Lease), all advertising to be displayed on the Digital Billboard shall be strictly "commercial advertising." As used in this Lease, "commercial advertising" means advertising for a commercial or industry business, product, good, service, or other commercial or industrial activity for a commercial or industrial purpose. Tenant may not display any message on the Digital Billboard that:

- a) is inherently false, misleading, or libelous (*i.e.*, speech that is incapable of being presented in a manner that is not misleading);
- b) promotes the sale or use of firearms or tobacco products, whether directly or indirectly;
- c) contains advertising for any cannabis dispensary not licensed to operate within the City of Lemon Grove;
- d) promotes the sale or use of alcoholic beverages unless approved in writing by the City Manager and not directed to minors in any manner;
- e) promotes adult entertainment, products, conventions, events, or websites;
- f) contains "obscene matter," as that term is defined in local, California or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character;
- g) contains any "political advertising," which means advertising that promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action;
- h) contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order.

6.5.3 Tenant shall, within forty-eight (48) hours after written demand from City, at Tenant's risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this section, and which is not being disputed by Tenant.

## **6.6 Removal of the Billboard Project**

6.6.1 Tenant shall be responsible for the removal of the Billboard Project (and other improvements installed by, or at the direction of, Tenant) from the Premises and restore the Premises to its condition immediately prior to the date that City delivered control of the Premises to Tenant (reasonable wear and tear, damage or destruction by acts of God beyond the control of Tenant, and damage caused by parties other than Tenant (and its employees and contractors) excepted), at the expiration of the Term of this Lease or upon termination of this Lease, unless the City waives Tenant's removal obligation in writing. In the event this Lease is otherwise terminated or cancelled prior to the expiration of the Term,

Tenant shall remove the Billboard Project and other improvements installed by Tenant from the Premises and restore the Premises to its condition immediately prior to the date that City delivered control of the Premises to Tenant (reasonable wear and tear, damage or destruction by the acts of God beyond the control of Tenant, and damage caused by parties other than Tenant (and its employees and contractors) excepted), unless the City waives Tenant's removal obligation in writing. Tenant shall cause the removal as required under this Section 6.6 within thirty (30) days after the expiration of the Term or thirty (30) days after the date of early termination, whichever the case may be. Notwithstanding anything to the contrary set forth in this Lease, Tenant shall have no obligation to remove the footings of the Billboard Project from the Premises below the then current grade level of the Premises immediately adjacent to the footings.

6.6.2 If Tenant does not timely remove the Billboard Project and other improvements as required by this Section, City may, but shall not be required to, remove or cause the removal of the Billboard Project, and other improvements on the Premises as required by this Section, at Tenant's expense. Tenant shall reimburse City within thirty (30) days of receipt of an itemized accounting of the cost for such removal.

6.6.3 City and Tenant acknowledge and agree that Tenant shall be the exclusive owner and operator of the Billboard Project, and that all equipment comprising the Billboard Project shall remain the personal property of Tenant and shall not become fixtures of the Premises and City shall have no right, title or interest in the Billboard Project or any component of the Billboard Project, notwithstanding the manner in which the Billboard Project is or may be physically attached, mounted or adhered to the Premises.

**6.7 Compliance with Law.** During the Term and while removing the Billboard Project after the Term in accordance with Section 6.6 above, and subject to Section 7.6 below, Tenant, at no cost to City, shall comply with all valid and applicable statutes, ordinances, regulations, rules, and orders that concern Tenant's use and occupancy of the Premises and the Billboard Project and are enacted or issued by any federal, state, or local governmental entity with jurisdiction over the Premises or the Billboard Project (including City) whether enacted or issued before, on, or after the Effective Date.

## **ARTICLE 7 EVENTS OF DEFAULT; EARLY TERMINATION.**

### **7.1 Defaults by Tenant**

Tenant will be in default under this Lease upon occurrence of any of the following:

7.1.1 Tenant is at any time in default in the payment of Rent or any other monetary sum called for by this Lease for more than thirty (30) days following Tenant's receipt of written notice from City; or

7.1.2 Tenant is at any time in default in the keeping and performing of any of its other covenants or agreements herein contained, and should such other

default continue for thirty (30) days after written notice thereof from City to Tenant specifying the particulars of such default, or if such other default is of a nature that curing such default will take more than thirty (30) days Tenant has failed to commence such cure within such thirty (30) day period and to thereafter diligently pursue completion of such cure.

## **7.2 City's Remedies for Default by Tenant**

7.2.1 Upon the occurrence and during the continuance of any such default, in addition to any and all other rights or remedies of City hereunder, or by law or in equity provided, City may terminate this Lease, at any time and in its sole discretion, effective thirty (30) days after City gives Tenant written notice of termination.

7.2.2 Anything in this Lease to the contrary notwithstanding, neither City nor Tenant shall be liable to the other under or in connection with this Lease for any consequential or punitive damages and each party waives, to the full extent permitted by applicable laws, any claim for consequential or punitive damages, and any claim for loss of business or profits.

**7.3 City Remedies Cumulative.** Each right and remedy of City provided for herein or now or hereafter existing at law or in equity, by statute or otherwise will be cumulative and will not preclude City from exercising any other rights or remedies provided for in this Lease or now or hereafter existing at Law or in equity, by statute or otherwise. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment of Rent will be deemed an accord and satisfaction of full payment of Rent; and City may accept such payment without prejudice to City's right to recover the balance of such Rent or to pursue other remedies.

**7.4 Default by City.** City will not be in default under this Lease unless City fails to perform obligations required of City within thirty (30) days after written notice is delivered by Tenant to City specifying the obligation which City has failed to perform; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for performance, then City will not be in default if City commences performance within such 30-day period and thereafter diligently prosecutes the same to completion. All obligations of City hereunder will be construed as covenants, not conditions.

**7.5 Tenant's Remedies for Default by City.** If the City is in default under this Lease beyond any applicable cure period, during the continuance of any such default, in addition to any and all other rights or remedies of Tenant hereunder, or by law or in equity provided, Tenant may terminate this Lease, at any time and in its sole discretion, effective thirty (30) days after Tenant gives City written notice of termination.

## **7.6 Tenant's Early Termination Rights**

Tenant may terminate this Lease effective 30 days after Tenant gives the City written notice of termination, if any of the following circumstances occur:



7.6.1 The view of the Digital Billboard's display area from the portion of State Route 94 adjacent to the Premises is materially obstructed, and Tenant did not cause the obstruction.

7.6.2 Tenant cannot safely use the Premises to renovate, operate, maintain, repair, or improve the Billboard Project because of a non-remediable condition, and Tenant did not cause the condition.

7.6.3 There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, the portion of State Route 94 adjacent to the Premises, and the diversion or disruption continues uninterrupted for at least six (6) consecutive months.

7.6.4 Through no fault of its own, Tenant cannot obtain or maintain the Permits required to construct, operate, maintain, repair, or improve the Billboard Project, including the Caltrans Permits and the City Permits, or there is a legal challenge (including, without limitation, a Project Approval Challenge) to such permits and approvals, including, but not limited to, any challenges under the California Environmental Quality Act, and Tenant elects, in its sole discretion, not to oppose such challenges, Tenant may withdraw its applications for approval and terminate this Lease.

7.6.5 Use of the Billboard Project for its intended purpose is prevented or limited by law, or Tenant is required by any court or other governmental entity, for reasons other than eminent domain, to remove any part of the Billboard Project from the Premises.

7.6.6 Tenant is unable to obtain or maintain any utilities required to operate the Billboard Project through no fault of its own.

7.6.7 The City is in default under this Lease.

**7.7 Tenant's Right To Renegotiation.** If any of the circumstances identified in Section 7.6 above occurs, then, at its discretion and in lieu of termination, Tenant may request that the City negotiate a reduction in the Rent to an amount that reasonably reflects the diminished value of the Billboard Project to Tenant, and on receiving the request the City will negotiate in good faith with Tenant. The City is not required, however, to agree on a reduction in Rent.

## **ARTICLE 8 TAXES**

Tenant shall pay without abatement, deduction, or offset any income taxes or possessory interest taxes levied on or assessed against the Billboard Project located on the Premises, Tenant's equipment, fixtures, and personal property located on or in the Premises, which are directly attributable to this Lease or Tenant's use of the Premises, whether belonging, owned, or chargeable against the City. Tenant shall make all such payments directly to the charging authority prior to delinquency and before any fine, interest, or penalty becomes due or is imposed for Tenant's non-payment. Following

prior request by City, Tenant shall provide City with proof of payment of such tax.

## **ARTICLE 9 EMINENT DOMAIN**

**9.1 Condemnation.** The term “**Condemnation**” means any impairment of Tenant’s use of the Premises as a result of any act or omission of any governmental authority, including, without limitation, a change in the law, a public or private exercise of the power of eminent domain or the exercise of other government authority, such as alteration of a public street directly serving the Premises. The proceeds, including any judgment and interest, arising from any Condemnation are referred to herein as the “**Award**”. Whether this Lease is terminated or not terminated upon a Condemnation, the rights of City and Tenant shall be governed by this Article 9, which shall survive the termination of this Lease. The parties waive the right to seek a judicial termination of this Lease.

**9.2 Allocation of Award.** Any Award attributable to the Premises shall be allocated and paid to City, except Tenant shall receive the portion of the Award attributable to Tenant’s expenses for improvements at the Premises resulting from the Condemnation, the value of the leasehold estate of Tenant pursuant to this Lease and the fee estate of Tenant in and to the improvements at the Premises, and the cost to Tenant of removal and relocation of any improvements at the Premises. In addition to the foregoing, Tenant may separately pursue any claims for loss of good will to Tenant’s business, re-establishment benefits and moving expenses, business interruption, and/or any other claim or right of recovery to which Tenant is entitled by applicable law.

**9.3 Effect of Condemnation.** Tenant may terminate this Lease on notice to City if Tenant determines the Condemnation will result in an adverse impact on the operation of the business of Tenant on the Premises. If Tenant fails to terminate this Lease upon a Condemnation, an equitable adjustment in Rent and any other charges owed under this Lease shall be made, commencing on the date of the Condemnation, to reflect any diminution in the revenues of Tenant.

## **ARTICLE 10 INDEMNIFICATION**

**10.1 Indemnification of City.** Subject to the waiver of subrogation contained in Article 11 below, Tenant shall defend City against and indemnify and hold City harmless from all claims, losses, liabilities and expenses, , including, without limitation, reasonable attorneys’ fees and costs, asserted against or incurred by City in connection with: (a) any injury to or death of any person or the loss of or damage to any property occurring on the Premises; (b) the failure of Tenant to perform any obligation of Tenant pursuant to this Lease; (c) the inaccuracy or falsity of any representation or warranty of Tenant in this Lease; and (d) the acts or omissions of Tenant and the agents, customers and invitees of Tenant; provided, however, that Tenant shall have no responsibility to City for the acts or omissions of City.

**10.2 Indemnification of Tenant.** Subject to the waiver of subrogation contained in Article 11 below, City shall defend Tenant against, indemnify and hold Tenant harmless from all claims, losses, liabilities and expenses, including, without limitation, reasonable

attorneys' fees and costs, asserted against or incurred by Tenant in connection with: (a) the failure of City to perform any obligation of City pursuant to this Lease; (b) the inaccuracy or falsity of any representation or warranty of City in this Lease; and (c) the acts or omissions of City and the agents, customers and invitees of City.

**10.3 Hazardous Materials.** City shall be solely responsible for all Hazardous Materials existing on, under or about the Premises and not caused or released by Tenant or any agent, employee, or contractor thereof (collectively, "**Tenant Party**"). City shall defend Tenant, its directors, officers, employees, agents, invitees, licensees, successors and assigns (collectively, the "**Tenant Indemnitees**") against, indemnify and hold Tenant and the Tenant Indemnitees harmless from, all claims asserted against Tenant or any Tenant Indemnitee and any losses, liabilities or expenses incurred by Tenant or any Tenant Indemnitee, including, without limitation, reasonable attorneys' fees and costs, in connection with any Hazardous Material on, under or about the Premises and not caused or released by any Tenant Party, which obligation shall survive the cancellation or termination of this Lease. City shall be responsible for remediating in compliance with all applicable laws any contamination not caused or released by Tenant or any Tenant Party, which is located on, under or about the Premises without expense to Tenant. Tenant shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Premises by Tenant or any Tenant Party, except to the extent that such Hazardous Materials are necessary or useful to Tenant's business (in which case such Hazardous Materials shall be used, kept and stored in a manner that complies with all applicable laws). Tenant shall defend City, its officers, employees, agents, licensees, successors and assigns (collectively, the "**City Indemnitees**") against, indemnify and hold City and the City Indemnitees harmless from, all claims asserted against City and the City Indemnitees and any losses, liabilities or expenses incurred by City and the City Indemnitees, including, without limitation, reasonable attorneys' fees and costs, as a direct result of a breach by Tenant of its obligations set forth in this Section 10.3, which obligation shall survive the cancellation or termination of this Lease; provided, however, that Tenant's indemnity obligations pursuant to this Section shall not apply to any Hazardous Materials used, generated, transported, stored or disposed of by City or any City Indemnitee or any liability incurred or suffered as a result thereof.

## ARTICLE 11 INSURANCE

### 11.1 Types of Policies

During the Term and, if Tenant is removing the Billboard Project pursuant to Section 6.6, during Tenant's removal of the Billboard Project in accordance with Section 6.6, at no cost to City except as otherwise contemplated by this Lease, Tenant shall procure and maintain the forms and amounts of insurance covering Tenant's possession and use of the Premises set forth in Section 11.1(a) and (b) below ("**Tenant's Insurance**").

(a) Commercial General Liability Insurance. A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate, providing coverage for blanket contractual liability



(including Tenant's indemnification obligations under this Lease), premises liability, products and completed operations liability, broad form property damage, and bodily injury (including wrongful death) and advertising injury coverage. Such insurance shall be primary to and not contributing with any other insurance, self-insurance or joint self-insurance maintained by City, and shall name the City as an additional insured.

(b) Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance, if required by law, which complies with all applicable state statutes and regulatory requirements, and employer's liability insurance coverage in statutory amounts. Tenant shall also require any contractor utilized to perform any services or work at the Premises pursuant to this Lease to maintain such workers' compensation insurance and provide proof of such insurance prior to commencing any services or work at the Premises.

**11.2 Insurer Qualifications.** Tenant's Insurance shall be written by companies licensed to do business in California and having a "General Policyholders Rating" of at least A-/ VII (or such higher rating as may be required by a lender having a lien on the Tenant's leasehold interest) as set forth in the most current issue of "Best's Insurance Guide."

**11.3 Certificates of Insurance.** Tenant shall deliver to City certificates of insurance for Tenant's Insurance, in the form of the ACORD standard certificate of insurance, with the execution of the Lease. Prior to expiration of the policy, Tenant will furnish City with certificates of renewal. Each certificate shall, if standard insurance industry practice, expressly provide that such casualty policies must not be cancelable except after 30 days' prior written notice to the parties named as additional insureds as required in this Lease. If Tenant fails to maintain any insurance required in this Lease, Tenant shall be liable for all losses and costs resulting from such failure.

**11.4 Notice.** Each of the policies shall endeavor to require the insurer to give City at least 30 days' advance written notice before the policy is cancelled.

**11.5 Waiver of Subrogation.** To the full extent permitted by law, City and Tenant each waive all rights of recovery against the other for, and agree to release the other from liability for, loss or damage to the extent such loss or damage is covered by valid and collectible insurance in effect at the time of such loss or damage or would be covered by the insurance required to be maintained under this Lease by the party seeking to recover.

## ARTICLE 12 MISCELLANEOUS

**12.1 CASP.** Tenant acknowledges that the Premises has not undergone inspection by a Certified Access Specialist (CASp), as defined in California Civil Code Section 55.52, and City is not providing any representations or warranties regarding whether the Premises meets all applicable construction-related accessibility standards. City hereby notifies Tenant pursuant to California Civil Code Section 1938 that: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the



commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.”

**12.2 Notices.** Any notice or other communication to be given under this Lease shall be in writing and will be considered properly given and effective only when addressed to the persons identified below and (i) mailed postage prepaid by certified or registered mail, return receipt requested, or (ii) delivered by personal or courier delivery, or (iii) sent by facsimile (immediately followed by one of the preceding methods). Notices or communications will be deemed served upon the earlier of receipt or three (3) days after the date of mailing. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this Section 12.2.

***If to City:***

City of Lemon Grove  
3232 Main Street  
Lemon Grove, CA 91945  
Attn: City Manager  
Telephone: 619-825-3800

***If to Tenant:***

OUTFRONT MEDIA LLC  
1731 Workman Street  
Los Angeles, CA 90031  
Attn: Collin Smith  
Email: collin.smith@outfrontmedia.com  
Telephone: 323-276-7308

with a copy to:

Anthony Leones  
Miller Starr Regalia  
1331 N. California Blvd., 5th Floor  
Walnut Creek, CA 94596  
Telephone: 925-935-9400  
Facsimile: 925-933-4126

**12.3 Assignments and Subleases.** Except as set forth in this Lease, Tenant may not assign or otherwise transfer this Lease or any interest herein, and this Lease is not assignable by operation of law (except as set forth in this Section 12.3), without the City’s prior written consent. City shall respond in writing within thirty (30) days of receipt of any request by Tenant for an assignment of this Lease. An assignment or transfer of this

Lease does not occur, for purposes of this Section 12.3, if Tenant merges with another company, reorganizes its stock, or undergoes a similar corporate restructuring, or if Tenant sells all or substantially all of its assets or if Tenant changes its name. Tenant may assign this Lease, without the prior written consent of City, to any entity controlled by, controlling, or under common control with Tenant. Tenant shall provide notice to City thirty (30) days in advance of such assignment. Upon the assignment of this Lease in accordance with this Section 12.3, Tenant will be forever released of all obligations accruing after the date of the transfer. Any assignment, transfer, or sublease made contrary to this section will be null and void.

**12.4 Successors and Assigns.** Subject to the restrictions set forth herein, each of the terms, covenants and conditions of this Lease will extend to and be binding on and will inure to the benefit of not only City and Tenant, but to each of their respective heirs, administrators, executors, successors and assigns. Whenever in this Lease reference is made to either City or Tenant, the reference will be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of such parties, the same as if in every case expressed.

**12.5 City's Right to Enter and Inspect the Premises.** City and its authorized representatives will have the right to enter upon and inspect the Premises at reasonable times (and on no less than forty-eight (48) hours notice) to determine Tenant's compliance with this Lease.

## **12.6 Force Majeure**

12.6.1 "**Force Majeure Event**" means a cause of delay that is not the fault of the party who is required to perform under this Lease and is beyond that party's reasonable control, including the elements (including floods, earthquakes, windstorms, and unusually severe weather), fire, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, epidemics, the actions or inactions of any governmental entity (excluding City) or that entity's agents, litigation, labor shortages (including shortages caused by strikes or walkouts), and materials shortages.

12.6.2 Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either City or Tenant is prevented or delayed because of a Force Majeure Event, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. An extension of time for any such Force Majeure Event will be for the period of the enforced delay and will commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Lease may also be extended in writing by the mutual agreement of City and Tenant.

12.6.3 This Section 12.6 does not excuse (A) Tenant's obligation to pay Rent when due and payable; or (B) either party's obligation to perform an act

when performance is rendered difficult or impossible solely because of that party's financial condition. Tenant expressly agrees that adverse changes in economic conditions, either of Tenant specifically or the economy generally, changes in market conditions or demand, and/or Tenant's inability to sell advertising time on the Digital Billboard or other lack of funding, or to complete the construction of the Billboard Project will not constitute grounds of enforced delay pursuant to this Section 12.6. Tenant expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

**12.7 Waiver of Breach.** A party's failure to insist on strict performance of this Lease or to exercise any right or remedy upon the other party's breach of this Lease will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any provision in this Lease will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in writing and signed by the waiving party.

**12.8 Relationship of the Parties; Not Third-Party Beneficiaries.** This Lease does not create any relationship or association between City and Tenant other than that of landlord and tenant, and it is expressly understood and agreed that City does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business or otherwise; nor does this Lease create between City and Tenant the relationship of principal and agent. The parties do not intend to create any third-party beneficiaries to the Lease.

**12.9 Attorney's Fees.** In the event that any action is brought by either party as against the other party for the enforcement or declaration of any right or remedy in or under this Lease or for the breach of any covenant or condition of this Lease, the prevailing party will be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by the court including, but not limited to, reasonable attorneys' fees.

**12.10 Severability.** If any term, provision, condition or covenant of this Lease or its application to any party or circumstances is held, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, will not be affected, and will be valid and enforceable to the fullest extent permitted by Law.

**12.11 Memorandum of Lease.** City will record with the County Recorder's Office a memorandum of this Lease in the form attached as Exhibit D promptly after the execution of this Lease.

**12.12 Further Assurances.** Each party will execute all additional documents or instruments and take all necessary action that either party reasonably considers necessary to carry out the proper purposes of this Lease.

**12.13 Estoppel Certificates.** Either party shall, from time to time during the Term upon not less than 20 days' prior written notice from the other party, execute,

acknowledge and deliver to the other party, or such persons or entities designated by such other party, a statement in writing certifying: (a) the Effective Date and Expiration Date of this Lease as well as the Operational Date of the Digital Billboard, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), (d) the dates, if any, to which the Monthly Rent has been paid, and (e) any other information that may be reasonably required by any such persons or entities. Any such certificate delivered pursuant to the provisions hereof may be relied upon by the other party or any prospective purchaser or encumbrancer of its estate. The City Manager will be authorized to execute, acknowledge and deliver any such certificate on behalf of City.

**12.14 Time of Essence.** Time is expressly made of the essence with respect to the performance by the parties of each and every obligation and condition of this Lease.

**12.15 Interpretation.** This Lease will be interpreted as though prepared jointly by both parties.

**12.16 Integration and Modification.** Exhibits A, B, C and D are expressly incorporated into and form a part of this Lease. This Lease constitutes the entire agreement between the parties and there are no conditions, representations or agreements regarding the matters covered by this Lease which are not expressed herein. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties. City and Tenant agree to mutually consider reasonable requests for amendments to this Lease that may be made by either of them, provided such requests are consistent with this Lease and would not materially alter the basic business terms included in this Lease. No amendment will be effective unless in writing and signed by both parties.

**12.17 Quiet Possession.** So long as Tenant is not in default under this Lease and is paying the Rent and performing all of the covenants and conditions of this Lease, Tenant shall quietly have, hold and enjoy the Premises during the Term without interruption or disturbance from City or any other persons claiming by, through or under City.

**12.18 Nonliability.** No member, official or employee of either party will be personally liable to the other, or any successor in interest, in the event of any default or breach by a party or for any amount which may become due to a party or its successors, or on any obligations under the terms of this Lease. Each hereby waives and releases any claim it may have against the members, officials or employees of the other party with respect to any default or breach by such party or for any amount which may become due to the non-defaulting party or its successors, or on any obligations under the terms of this Lease.

**12.19 Applicable Law; Venue.** The laws of the State of California, without regard to conflict of law principles, will govern the interpretation and enforcement of this Lease. Any action to enforce or interpret this Lease must be filed in the Superior Court for the County of San Diego, California.



**12.20 Commission.** Each party represents to the other that it has not been represented by any broker in connection with this Lease, and that no real estate broker's commission, finder's fee or other compensation (individually and collectively, "**Commission**") is due or payable. Each party agrees to indemnify and hold the other harmless from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a Commission based upon any statement, representation or agreement of the other party.

**12.21 Counterparts.** The parties agree that this Lease may be executed in counterparts, each of which will be deemed an original, and said counterparts will together constitute one and the same agreement, binding all of the parties, notwithstanding all of the parties are not signatory to the original or the same counterparts. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Lease. City and Tenant intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Lease based on the form of signature.

—THIS SPACE INTENTIONALLY LEFT BLANK—  
—SIGNATURES BEGIN ON NEXT PAGE—

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

**CITY:**

CITY OF LEMON GROVE, a California municipal corporation

By: [Signature]  
Name:  
Its:

**ATTEST:**

[Signature: Shelley Chapel]

**APPROVED AS TO FORM:**

[Signature: Kristen S. Steinke]  
Kristen S. Steinke  
City Attorney  
City of Lemon Grove

**TENANT:**

OUTFRONT MEDIA LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Its:

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

**CITY:**

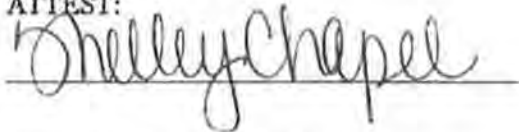
CITY OF LEMON GROVE, a California municipal corporation

By: 

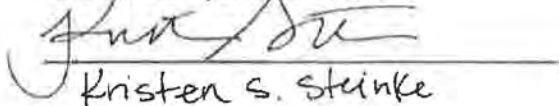
Name:

Its:

ATTEST:



APPROVED AS TO FORM:

  
Kristen S. Steinke  
City Attorney  
City of Lemon Grove

**TENANT:**

OUTFRONT MEDIA LLC,  
a Delaware limited liability company

By: 

Name: Scott Smith

Its: GM

**EXHIBIT A TO MEMORANDUM OF LEASE**  
**LEGAL DESCRIPTION OF THE PREMISES**



## Exhibit A

### Legal Description of the Premises

That portion of Olive Street, being a portion of Lot 10 in Subdivision No. 3 of Lot 12 of the Rancho Mission of San Diego in the City of Lemon Grove, County of San Diego, State of California, according to licensed Survey Map thereof No. 5, filed in the Office of the County Recorder of San Diego County March 23, 1852 described as follows:

**BEGINNING** at the Southwest corner of that real property granted to the City of Lemon Grove recorded January 15, 1992 as Document No. 1992-0022781, Official Records; thence along the westerly line of said deed and its prolongation North 00°38'00" East 52.36 feet to an angle point in the southerly right-of-way line of State Highway 94 as shown on State of California Transportation Agency Drawing No. 37541.1 dated June 1970; thence along said line South 02°57'03" West 17.83 feet; thence continuing along said line South 82°06'45" East 52.02 feet; thence parallel with the center line of Olive Street as granted to the County of San Diego July 3, 1941 in Book 1196, Page 395 of Official Records, thence along said parallel line South 00°38'00" East 58.35 feet to the southwesterly corner of that property described in deed recorded October 10, 2001 as Document No. 2001-0732697, Official Records; thence leaving said southerly line of said deed South 82°42'17" West 34.81 feet to the southeasterly corner of that real property described in deed recorded January 15, 1992 as document No. 1992-0022781, Official Records; thence along the southerly line of said deed South 89°04'00" West 16.00 feet to the **POINT OF BEGINNING** containing 0.075 acres more or less.

The above description is based on record data and does not reflect a field survey by Rick Engineering Company.

**EXHIBIT B TO MEMORANDUM OF LEASE**

**DEPICTION OF THE PREMISES**

Exhibit B

Depiction of the Premises

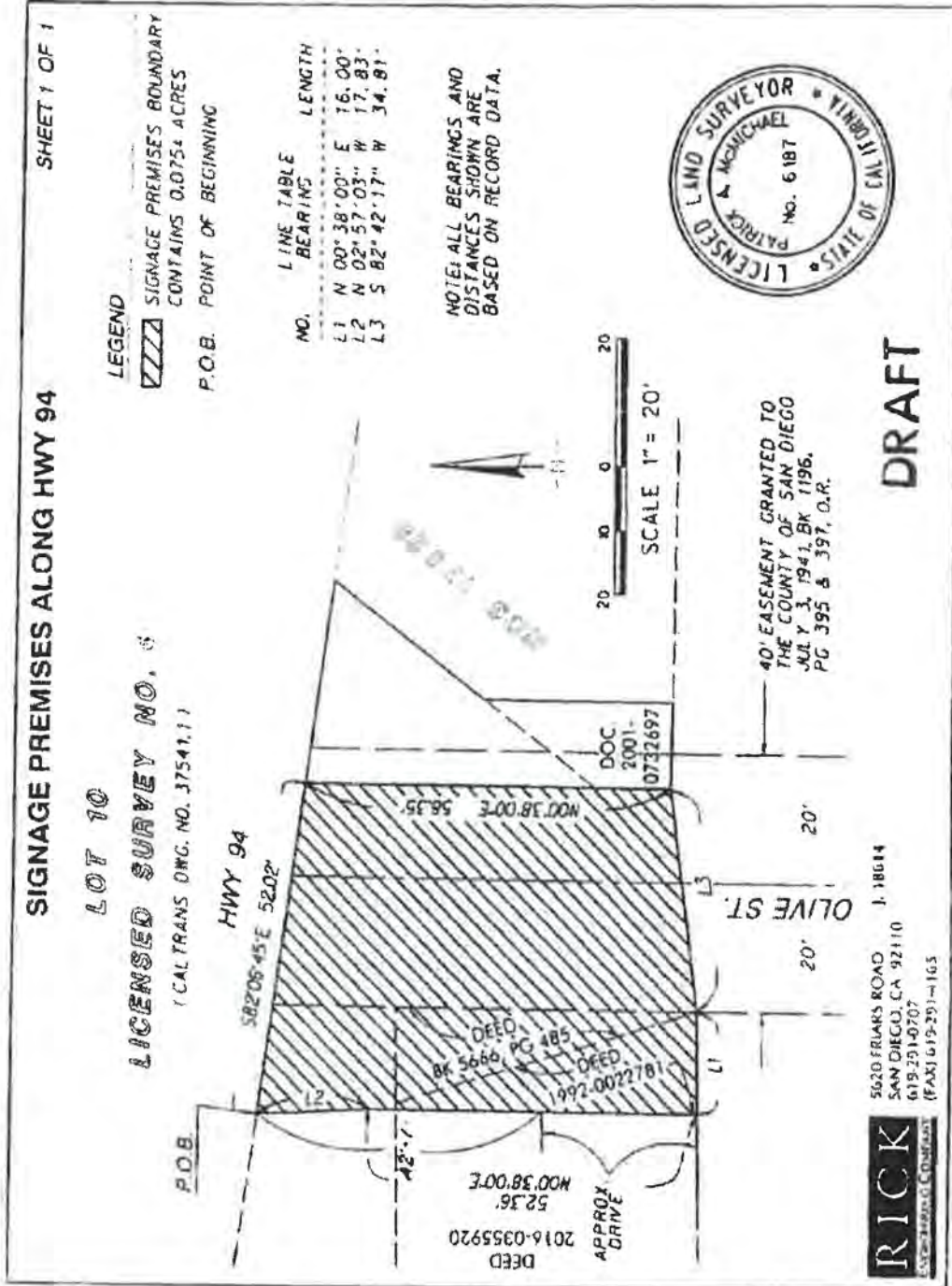


Exhibit C  
Digital Billboard and Sign Structure  
[2 pages]





**Digital Billboard Specifications:**

1. one (1) approximately 65 feet tall, "bulletin" size freeway-oriented billboard with a total of two (2) digital displays (each display measuring 14' x 48')
2. brightness limited to the 0.3 foot-candles over ambient light levels at 250 feet, with automatic dimming capabilities
3. placed in substantial conformance with the following illustration:



Exhibit D  
Memorandum of Lease  
[Attached]

**RECORDING REQUESTED BY:**

Outfront Media LLC  
1731 Workman Street  
Los Angeles, CA 90031  
Attention: Collin Smith

**AND WHEN RECORDED MAIL TO:**

Outfront Media LLC  
1731 Workman Street  
Los Angeles, CA 90031  
Attention: Collin Smith

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAXES PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.**

**MEMORANDUM OF LEASE**

This MEMORANDUM OF LEASE ("Memorandum") is made effective as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the CITY OF LEMON GROVE, a municipal corporation ("City"), and OUTFRONT MEDIA LLC, a Delaware limited liability company ("Tenant"), with respect to the following:

In connection with the construction and operation of an electronic billboard on real property (the "Premises") owned by the City located in the City of Lemon Grove, County of San Diego, State of California, near State Route 94, the City and Tenant entered into that certain Billboard Lease, dated October 15, 2019 (the "Lease"). Pursuant to the Lease, Tenant and the City agreed (among other things) that Tenant would lease and construct and operate an electronic billboard for general advertising on the Premises. The Premises is legally described on Exhibit A attached hereto, and depicted on Exhibit B attached hereto. The term of the Lease is twenty (20) years, commencing from the operational date of the electronic billboard, and may be extended as provided in the Lease. This Memorandum is recorded to provide record notice of the Lease. Nothing in this Memorandum shall modify or amend the Lease, and in the event of any conflicts between this Memorandum and the Lease, the provisions of the Lease shall prevail.

*[Signature Pages Follow]*



**IN WITNESS WHEREOF**, the parties hereto have entered into this Memorandum effective as of the date first written above.

**City:**

CITY OF LEMON GROVE,  
a municipal corporation

By: 

Name: Lydia Romero

Its: City Manager

**Tenant:**

OUTFRONT MEDIA LLC, a Delaware limited  
liability company

By: 

Name: Scott Smith

Its: GM

[Signatures to Be Notarized]

**IN WITNESS WHEREOF**, the parties hereto have entered into this Memorandum effective as of the date first written above.

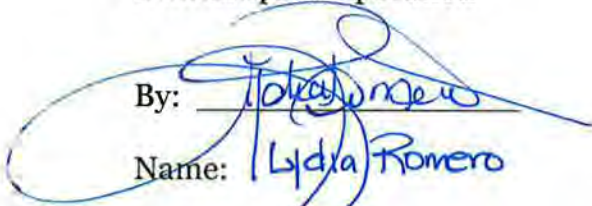
**City:**

CITY OF LEMON GROVE,  
a municipal corporation

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

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

Its: \_\_\_\_\_

  
Lydia Romero  
City Manager

**Tenant:**

OUTFRONT MEDIA LLC, a Delaware limited liability company

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

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

Its: \_\_\_\_\_

*[Signatures to Be Notarized]*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Diego )

On October 21, 2019, before me, Shelley Collins, Notary Public, a Notary Public, personally appeared Nydia Lopez, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he (she) they executed the same in his (her) their authorized capacity(ies), and that by his (her) their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Shelley Collins



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Diego )

On October 28, 2019, before me, Mireille L. Marin, a Notary Public, personally appeared Scott Smith, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Mireille L. Marin





**EXHIBIT A TO MEMORANDUM OF LEASE**  
**LEGAL DESCRIPTION OF THE PREMISES**

## Exhibit A

### Legal Description of the Premises

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**EXHIBIT B TO MEMORANDUM OF LEASE**

**DEPICTION OF THE PREMISES**

Exhibit B

Depiction of the Premises

