

**-AGREEMENT BETWEEN THE CITY OF CULVER CITY AND IKE SMART CITY, LLC FOR
THE INSTALLATION OF INTERACTIVE DIGITAL KIOSKS**

THIS AGREEMENT BETWEEN THE CITY OF CULVER CITY AND IKE SMART CITY, LLC FOR THE INSTALLATION OF INTERACTIVE DIGITAL KIOSKS (this “Agreement”) is made this ____ day of _____, 2025 (the “Effective Date”), by and between the CITY OF CULVER CITY, a California municipal corporation (“City”), and IKE SMART CITY, LLC, a Delaware limited liability company (“Company”).

BACKGROUND INFORMATION

- A. The Company is engaged in the development, installation, operation and maintenance of interactive wayfinding platforms, including IKE Kiosks (as hereinafter defined).
- B. City desires to provide City information, community announcements, wayfinding and business information through the use of IKE Kiosks.
- C. City and the Company desire to coordinate efforts to discuss the deployment of IKE Kiosks within the City, and if successful, City desires to grant Company certain rights to construct, install, operate, maintain, repair, replace, upgrade and remove IKE Kiosks in and on the Locations (as hereinafter defined) all in accordance with the terms set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company hereby agree as follows:

1. **Incorporation of Background Information.** The foregoing background information is hereby incorporated and made a part of this Agreement.

2. **Definitions.**

a. “City Directed Content” means any and all content provided to Company by City or the City for display on IKE Kiosks or created by the Company at the direction of City or the City, including any content on which City or City logos, trademarks or other City or City marks may appear.

b. “Fiscal Quarter” means the periods between and including (i) January 1st through March 31st, (ii) April 1st through June 30th, (iii) July 1st through September 30th, and (iv) October 1st through December 31st.

c. “Gross Revenue” means the total revenue earned by the Company in connection with the sale of advertisements on the IKE Kiosks.

d. “IKE Kiosks” means the interactive informational and wayfinding kiosks operated by the Company for the purpose of displaying static and digital content, and which may provide, without limitation, those services and applications as set forth on **Exhibit B**, and include various Software, hardware and equipment components as may be incorporated by the Company from time to time during the Term. The IKE Kiosks are referred to individually as an “IKE Kiosk”.

e. “Installation Work” means all work performed by the Company to install an IKE Kiosk at a Location, including any and all work necessary to bring electrical service or fiber optic cable to that Location.

f. “Intellectual Property Rights” or “IPR” means the Company’s patents, registered designs and trademarks, together with applications therefor and copyrights of any kind.

g. “Locations” means those locations on which the IKE Kiosks may be installed by Company pursuant to approval by the City, and subject to change as set forth in this Agreement. The Locations are referred to individually as a “Location”.

h. “Net Revenue” means the Gross Revenue, less the amount of any uncollected or bad debts and the following out-of-pocket costs and expenses incurred by Company with respect to the IKE Kiosks: (i) utility services, including electric and data service (as incurred); (ii) Company’s insurance premiums (as incurred) with respect to insurance which is carried by Company pursuant to this Agreement for the IKE Kiosks; (iii) repairs and maintenance to the IKE Kiosks (as incurred); (iv) personal property taxes assessed on the IKE Kiosks; (v) sales and management expenses equal to 12.5% of the Gross Revenue; (vi) any taxes, permitting fees, use fees or other fees as may be assessed by a governmental or quasi-governmental agency; and (vii) an amount equal to the annual amortized portion of the cost to fabricate, acquire, install and replace the IKE Kiosks, amortized on a straight-line basis over a ten (10) year period.

i. “Operational Date” means the date on which an IKE Kiosk is installed and capable of carrying advertisements and performing the functions and services set forth in this Agreement.

j. “Passive Mode” means the condition of an IKE Kiosk during any period in which no users are actively engaging the IKE Kiosk.

k. “Revenue Share” means the amount paid by the Company to City as set forth on **Exhibit A**.

l. “Required Approvals” means any and all governmental approvals, permits and entitlements the City, Company or City deems reasonably necessary for the installation and operation of IKE Kiosks.

m. “Software” means any and all software used in the operation of the IKE Kiosks.

n. “Term” means the period in which the Company may install and operate the IKE Kiosks, as set forth on **Exhibit A**.

o. “Unsold Time” means time remaining unsold as of the day on which the City seeks to display City Directed Content.

p. “Utility Assistance” means working with local power and data providers and other local entities to: (a) minimize or eliminate connection fees by obtaining city rates or other exemptions from standard rates; (b) facilitate connection to existing public or private power infrastructure, such as festival lights, traffic lights, street lights, vehicle charging stations, kiosks or spare or unused circuits, wires, or conduits; (c) allow and minimize the need for new trenching,

long power runs and street closures; (d) assist with identifying local general contractors and private utility consultants and obtaining access to infrastructure plans or drawings; and (e) assist with identifying and obtaining all relevant permits.

3. **Siting Plan.** Company shall conduct an analysis to identify potential locations for IKE Kiosks. The analysis shall assess the feasibility and accessibility of the location, and during such assessment Company shall conduct site visits and photograph and plot potential locations for the IKE Kiosks and present the same to City staff for review and approval. The City's staff may deny a proposed location if it notifies Company within thirty (30) days and specifies any of the following grounds for denial:

- a. a specific health, safety, or aesthetic impact caused by the proposed location; or
 - b. the proposed location will conflict with existing improvements, property interests, agreements, or other rights, or
 - c. the proposed location will conflict with a planned public or private improvement,
- or
- d. the proposed location will conflict with applicable laws or regulations, or
 - e. the City lacks the authority to approve IKE Kiosk installation at that location, or
 - f. the information provided regarding the proposed location is not detailed enough for the City to make a determination regarding approval.

After approval of the general locations by the City's staff, Company and the City shall jointly host a community meeting to receive public feedback and conduct such other due diligence as may be required. Public outreach shall also include receiving feedback from neighboring businesses relative to potential for siting in the general area. Following the community meeting, Company shall incorporate, to the extent feasible, the feedback into the proposed development plans for the IKE Kiosks and submit the same to City Council for review and approval.

Following approval of the City Council for the general locations, the Company shall submit engineered plans, construction permit documentation, and such other permitting applications as the City may require to show satisfaction of the installation parameters described in **Exhibit E** (the "City Installation Criteria"). City will review and approve the specific Location within 30 days. City staff may deny a proposed specific location if it notifies Company within the 30 day review period, in writing, of an inconsistency with the City Installation Criteria. If the City does not approve or deny the proposed specific location in writing within the 30 day review period, the specific location is deemed approved. If the City denies a proposed specific location, it shall notify Company of an alternative specific location within the approved general location area that complies with the City Installation Criteria, if it determines in good faith that such an alternative specific location exists. Company has no obligation to install an IKE Kiosk at the alternative specific Location. Notwithstanding anything contained herein to the contrary, no IKE Kiosk shall be located where there is a reasonable possibility that the IKE Kiosk will have a significant effect on the environment due to unusual circumstances, such as in an environmentally sensitive area that is designated, precisely mapped and officially adopted pursuant to law.

4. **Timeline.** Company shall use commercially reasonable efforts to install IKE Kiosks in accordance with the project milestones that are approved by the City Council as part of the Siting Plan.

5. **Grant of Rights/Permitting.** City covenants and agrees that the rights granted in this Agreement to the Company are exclusive to the Company, and City shall not contract with any person or entity, other than the Company, to install and operate kiosks. Notwithstanding the foregoing, this grant of exclusivity shall not apply to and does not limit the City's ability to authorize the installation of bus shelters

and benches, or other street furniture hosting advertisements so long as such bus shelters, and bus benches are located at least 200 feet from the Locations of any IKE Kiosk; and any such street furniture is located at least 150 feet from the Locations of any IKE Kiosks. City hereby consents to the initial deployment of fifteen (15) IKE Kiosks. Thereafter, upon mutual agreement of the City and the Company, the Company may elect to undertake a second deployment of fifteen (15) IKE Kiosks. During any time when the Company is seeking the Required Approvals, the Company may engage in certain efforts as the Company deems necessary to advocate for obtaining the Required Approvals with respect to the IKE Kiosks. City shall not unreasonably withhold its consent in issuing the Required Approvals. If and when issued, such permits shall be issued in the name of the Company, and the Company shall operate on the Locations at all time during the Term of this Agreement in compliance with all terms and conditions of the permits and this Agreement.

6. **Term.** The Term of this Agreement, and the rights and obligations of the parties set forth herein, shall begin on the Effective Date and continue for the period set forth on the attached **Exhibit A**.

7. **Revenue Share.** From and after the Operational Date for each IKE Kiosk and through the end of the Term, the Company shall pay to City the Revenue Share in accordance with the terms set forth on the attached **Exhibit A**. All payments of the Revenue Share shall be made at City's address as set forth in Section 20 of this Agreement, or at such other address as may be designated by City from time to time.

8. **Plan Approval/Required Approvals.** In connection with submitting the applications for the Required Approvals, the Company shall develop and deliver to City drawings, plans and specifications for the Installation Work (the "**Plans**"), setting forth in reasonable detail the work necessary to install the IKE Kiosk and the dimensions and size of the IKE Kiosk to be installed at the Locations. City shall review the Plans and accompanying applications promptly following receipt thereof and shall issue its responses or approvals within thirty (30) days following its receipt thereof. The Company shall bear all costs and expenses associated with preparing the Plans and obtaining any and all Required Approvals, except that City shall not charge permitting fees.

9. **Installation Work.** Upon receipt of all Required Approvals, the Company shall work diligently to install the IKE Kiosks in accordance with an installation schedule prepared by the Company and approved by City staff. All Installation Work shall be at the Company's sole cost and expense. The Company shall perform the Installation Work in a good and workmanlike manner and in compliance with all applicable laws, regulations and rules and the Required Approvals. Additionally, the Company shall notify the City inspector at least 48 hours prior to starting any work in a public right-of-way to allow sufficient time for the City's Public Works staff to inspect such work, as needed.

10. **Utility Services.**

a. **Services.** City will provide the Utility Assistance. If any utility services or telecommunications services are unavailable or unable to be obtained for a particular Location, City shall cooperate with the Company to find a reasonably suitable substitute Location. If the Company desires to connect an IKE Kiosk to existing public power infrastructure, the Company shall retain an electrical engineer to verify the load requirements for the proposed installation to ensure City infrastructure can handle the additional load needed to power such IKE Kiosk. For any IKE Kiosks connected to existing public power infrastructure, the Company shall pay directly to the City the cost of utility services consumed by such IKE Kiosks (the "**Reimbursement**") in accordance with the Total Reimbursement Rate, as hereinafter defined. The term "**Total Reimbursement Rate**" for each IKE Kiosk connected to existing public power infrastructure will

be calculated based upon a maximum consumption rate of 900kWh per IKE Kiosk per month multiplied by the current energy rate at the time of installation. The City reserves the right to adjust the Total Reimbursement Rate in line with the increases in the energy rate payable by the City. With respect to those IKE Kiosks connected to public power infrastructure, if such IKE Kiosks experience power outages or loss of service in any month, the Total Reimbursement Rate payable with respect to such IKE Kiosks shall be prorated based upon the number of days in such month during which there was a power outage or loss of service, and the City shall use best efforts to remedy such power outage or loss of service as soon as reasonably practicable following written notice thereof from the Company.

b. Cost. The Company shall pay all costs associated with bringing utility services and telecommunications services to each Location, including any and all costs associated with negotiating and obtaining access rights across private property in connection with the same. Additionally, the Company shall pay the costs of all utility services and telecommunication services used or consumed by the Company on each Location directly to the suppliers of such services, unless otherwise agreed by the Parties.

c. Disruption of Services. If any utility services are interrupted or otherwise unavailable to one or more IKE Kiosks due to no fault of the Company, City shall cooperate with the Company to ensure the utility services are restored to such IKE Kiosks as soon as reasonably practicable.

11. Covenants of the Company.

a. Repair and Maintenance. The Company shall maintain the IKE Kiosks in good and operable condition, reasonable wear and tear excepted. For the avoidance of doubt, the phrase “reasonable wear and tear” does not include broken glass or graffiti. The Company shall promptly and adequately repair all damage to the IKE Kiosks and replace the IKE Kiosks as reasonably necessary throughout the Term to ensure the same are capable of operating for their intended purposes. The Company shall employ standard operating procedures with respect to the IKE Kiosks that includes (i) one (1) visit to each IKE Kiosk per weekday, and visits on weekend days as needed, to ensure the IKE Kiosks are maintained in a clean manner and to remove any vandalism thereon, (ii) electronic monitoring seven days per week, and (iii) responding within twenty-four (24) hours to any notices received by the Company regarding damage or disfunction of the IKE Kiosks. The Company shall deploy updates to the operating software used to operate the IKE Kiosks from time to time during the term of this Agreement to ensure that such software remains reasonably up to date and functional for its purposes.

b. Compliance with Laws. The Company shall comply with all federal, state and municipal laws, order, rules and regulations applicable to the use of the IKE Kiosks and the display of content thereon, including without limitation those municipal laws that prohibit the display of fully animated content on signage.

c. City Content. As and when requested by City, the Company shall meet with City to discuss the development of City Directed Content for the IKE Kiosks. City Directed Content shall appear on the IKE Kiosks during the Interactive Mode and Passive Mode in the frequencies and amounts as set forth on Exhibit A.

d. Advertising Content.

i. City shall retain control over the nature of the advertising through restrictions on the type of advertising content on the IKE Kiosks, and shall maintain the use of the public right-of-way for advertising content as a nonpublic forum with viewpoint neutral subject matter restrictions.

ii. The Company shall not display advertisements on the IKE Kiosks with any content that: (a) is contrary to any law, ordinance, rule or regulation of any applicable governmental authority; (b) promotes or advertises adult-related products and services, firearms, tobacco, smoking, and smoking materials, including electronic smoking or “vaping”; (c) promotes or advertises political campaign speech, political advertisements or advertisements or displays designed to promote views of political groups, including promotion or opposition of ballot measures; (d) contains sexual or excretory subject matter; (e) is false, misleading, or deceptive; (f) violates copyrights or trademarks; (g) contains profanity or depictions of violence; (h) condones discrimination based upon race, religion, creed, ethnicity, national origin, age, socio-economic status, disability, gender or sexual orientation; (i) is harmful or disruptive to the public use of public sidewalks; (j) promotes unsafe behavior; or (k) is demeaning or disparaging.

iii. Any advertisement that is in violation of this Section shall be immediately removed by Company upon notice by City. Company may appeal removal to the City Manager in writing within five business days of removal. The City Manager shall decide within 15 business days of receipt of the appeal request and shall provide a response in writing. The City Manager’s decision is final.

iv. Reference to any specific commercial product, process, or service by trade name, trademark, manufacturer or otherwise, does not constitute or imply an endorsement, recommendation, or favoring by the City of Culver City. The views and opinions of the authors of documents published on the IKE Kiosks do not necessarily state or reflect the opinion of the City of Culver City.

j. Liens. The Company shall be responsible for the satisfaction or payment of any liens for any provider of work, labor, material or services claiming by, through or under the Company. The Company shall also indemnify, hold harmless and defend City against any such liens, including the reasonable fees of City’s attorneys. Such liens shall be discharged by the Company within thirty (30) days after notice by City of filing thereof by bonding, payment or otherwise, provided that the Company may contest, in good faith and by appropriate proceedings, any such liens.

k. Data & Privacy.

i. The IKE Kiosks shall not collect the personally identifiable information of its users, other than from users of the IKE Kiosks that provide consent for such information to be provided to the IKE Kiosk, relative to accessing IKE’s wifi functionality and photo booth feature. The Company shall not sell any personally identifiable information collected by the IKE Kiosks.

- ii. The Company shall require users to agree to the Privacy Policy prior to accessing the wifi functionality on each IKE Kiosk, and each feature of the IKE Kiosks that may collect personally identifiable information shall be designed with an access gate requiring user consent prior to accessing such feature.
- iii. As of the date hereof, the only IKE Kiosk features that may collect personally identifiable information are the Wi-Fi feature and the photo booth feature. The only personally identifiable information collected by the photo booth feature is a photo of the user's image, and the personally identifiable information collected through the use of the wifi functionality are MAC ID addresses and IP addresses. The IKE Kiosks shall not retain copies of the photos taken via the photo booth feature for any duration longer than is required to allow users to access such images via QR code. The Company may retain MAC ID addresses and IP addresses for a limited period of time before being removed from the hardware in the ordinary course.
- iv. The Company shall notify the City prior to adding any new features capable of collecting personally identifiable information, and any new features, if added, shall contain an access gate similar to those employed by the wifi feature and the photo booth feature to alert the user to the collection and sharing of any personally identifiable information provided upon use of that feature.
- v. The IKE Kiosks may also collect and generate usage data, which data is aggregated and anonymized and not capable of being used to personally identify individual users of the IKE Kiosks. The Company may share such aggregated and anonymized data as needed to ensure the efficient operation of the IKE Kiosks, such as in connection with developing new features for the IKE Kiosks or enhancing existing features of the IKE Kiosks.
- vi. A copy of the Company's Privacy Policy as of the date hereof is attached hereto as **Exhibit C**. In the event of any conflict between the terms of the Privacy Policy and the terms of this Agreement, the terms of this Agreement shall govern and control as between the City and the Company.

l. Use of Kiosks. Use of full functionality of IKE Kiosks, with the exception of any features using QR Code mobile handoff tools, shall not require a personal cellular device.

m. Kiosk Removal/Relocations. Following the installation of an IKE Kiosk, the City may require that it be removed in connection with any of the foregoing: (i) development work impacting the right-of-way that is undertaken by a private developer; (ii) planned streetscape work; or (iii) public emergencies (each a "Removal Event"). If a Removal Event requires that the Company remove one or more of the IKE Kiosks from any of the Locations and the nature of the Removal Event prevents the Company from reinstalling an IKE Kiosk at its original Location within ninety (90) days after removal, the City and the Company shall work together in good faith for a period of sixty (60) days (the "Relocation Period") to find a mutually agreeable alternative Location within the City for the IKE Kiosks, and the City shall not unreasonably withhold or delay its consent to mutually agreeable Locations. The Company shall be solely responsible for the costs

and expense of the removal or relocation of any IKE Kiosks. Notwithstanding the foregoing, if the removal or relocation is being made as a result of a Removal Event described in subpart (i), above, then the costs incurred by the Company to remove, store, and relocate that IKE Kiosk must be paid by the private developer prior to the Company being required to remove, store, or relocate such IKE Kiosk, it being understood that the Company shall have no obligation to remove, store, or relocate an IKE Kiosk in connection with a Removal Event described in subpart (i), above, unless and until the Company receives payment of 100% of the costs to remove, store, and relocate such IKE Kiosk.

12. **Covenants of City.**

a. **Maintenance.** City agrees to cooperate with the Company to ensure that the Locations and the property adjacent to the Locations are maintained in a good and clean condition and otherwise in a manner so as to not impede or limit access to the IKE Kiosks.

b. **City Content.** City shall work with the Company in good faith to create City Directed Content for the IKE Kiosks. City shall promptly and thoroughly provide information requested by, and answer any and all questions from, the Company regarding the development of any City Directed Content. City shall promptly respond to any requests for approval of City Directed Content and shall communicate any objections to such content clearly and in writing.

13. **Property Ownership.** City acknowledge that the IKE Kiosks, the Software, including any enhancements thereto regardless of which party generated the enhancements, the IPR and any intellectual property rights in and to any of the content created by the Company and displayed thereon, excluding City Directed Content, shall belong to the Company and no part thereof shall become or be deemed the property of City. Each party shall do all such acts and things as the other party may reasonably require for the purpose of preserving or perfecting the foregoing. City shall promptly notify the Company of any infringement or unauthorized use of the IKE Kiosks, the Software, any IPR or any content created for the IKE Kiosks, including City Directed Content, of which it becomes aware and will cooperate fully to take all actions necessary to terminate such infringing or unauthorized use. Additionally, the Company acknowledges that all logos, trademarks and other marks of City belong to City and no part thereof shall become or be deemed to be the property of the Company, regardless of whether the same are incorporated into City Directed Content. Company shall promptly notify City of any infringement or unauthorized use of City logos, trademarks and other marks of the City, of which it becomes aware and will cooperate fully to take all actions necessary to terminate such infringing or unauthorized use.

Notwithstanding the foregoing, the Company hereby grants to the City a limited and non-transferable license for the City to use the logos and trademarks of the Company on City-owned and controlled social media accounts for the sole purpose of promoting the IKE Kiosk program in the City. The license granted hereby shall expire simultaneously with the expiration or earlier termination of this Agreement, unless earlier revoked by the Company. The City acknowledges and agrees that all logos and trademarks of the Company belong to the Company and no part thereof shall become or be deemed to be the property of the City. The City further agrees that it shall not use the Company's logos or trademarks in a disparaging manner or in any manner which the Company believes, in its reasonable judgment, would reflect negatively on the Company.

14. **Insurance and Indemnification.**

- i. Insurance. The Company shall obtain and keep in full force and effect, at its sole cost and expense, insurance as described in Exhibit D.
- ii. General Indemnification. The Company agrees to indemnify, defend, and render and save City harmless of and from any and all claims, expenses, fines, suits, proceedings, demands, liabilities, losses, damages and causes of action, including copyright and intellectual property infringement claims pertaining to the Advertising Content, from any and all accidents, injuries or damages to any person or property arising from the installation, operation, maintenance, removal and occupancy or use of the Locations by the Company, and by any of its agents, servants, employees or contractors, or arising out of the failure of the Company to perform its obligations as set forth in this Agreement. This indemnity shall include, without limitation, indemnity against all expenses and liabilities incurred in connection with any such claim or proceeding brought thereon which shall include all reasonable attorney's fees of City.
- iii. Indemnification Related to Agreement Approvals. The Company and, its successors-in-interest shall indemnify, defend (at Company's, or such successor-in-interest's, sole expense, with legal counsel approved by City) and hold harmless City, its elected and appointed officials, officers, employees, agents, contractors and consultants from and against any and all loss, damages, injuries, costs, expenses, liabilities, claims, demands, lawsuits, attorneys' fees and judgments, arising from or in any manner connected to any third party challenge to the approval of this Agreement (including any related environmental determination under the California Environmental Quality Act), including without limitation associated and reasonably incurred attorneys' fees and court and litigation costs arising out of the defense of any such claims and/or lawsuits, and actual attorneys' fees and court and litigation costs that may be awarded by the court and required to be paid by City. City shall have the sole discretion to select legal counsel to represent City's legal interests in the defense of any such lawsuits, claims or other actions filed against City, whose fees will be paid for by Company, provided that such counsel shall be commensurate in size and expense with respect to the matter at hand as decided by the City.

15. **Representations and Warranties of City.** City represents and warrants to the Company the following:

a. Requisite Authority. City has the requisite power and authority to enter into this Agreement, to grant the rights herein granted with respect to the Locations subject to City approval as may be required, to perform its obligations hereunder and to consummate the transactions contemplated hereby; and no further action on the part of City is necessary to authorize the execution and delivery by it, and the performance of its obligations under this Agreement. City is not aware of any action, waiver or consent by any governmental entity that is necessary to make this Agreement a valid instrument binding upon City in accordance with its terms.

b. Execution and Delivery. City has duly executed and delivered this Agreement and this Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms.

c. No Violation; Absence of Defaults. Neither the execution and delivery by City of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any agreement or other instrument to which City is a party, or result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such agreement or other instrument, or (ii) violate any law, administrative regulation or rule or court order, judgment or decree applicable to City or by which City is bound.

16. **Default and Remedies.**

a. Default. If either party fails to comply with any term of this Agreement and such failure is not cured within thirty (30) days after receipt of written notice from the non-breaching party of the same, or, if such failure is of a nature that cannot reasonably be cured within such thirty (30) day period, the breaching party shall have such additional time as is reasonably necessary in which to cure such failure not to exceed one hundred eighty (180) days.

b. Remedies; Termination. If any breach of this Agreement is not cured within the time period set forth in Section 14.a., above, the non-breaching party shall have the right to terminate this Agreement and seek such other rights and remedies as may be available at law or in equity.

17. Assignment. Except as otherwise provided herein, neither this Agreement nor any rights or obligations hereunder may be assigned by either party without the prior consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, in the event (i) that substantially all operations of the Company are being transferred to (a) another entity by way of merger, consolidation or sale of substantially all of the stock therein or assets thereof, or (b) any person or entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Company, or (ii) there is a transfer of outstanding capital stock or other listed equity interests in and to the Company through the “over-the-counter” market or any recognized national or international securities exchange, the consent of City shall not be required, provided the acquiring entity, if applicable, shall agree to assume and perform all of the duties, and obligations of the Company hereunder. Notwithstanding anything contained in this Agreement to the contrary, the consent of City shall not be required for a collateral or conditional assignment of this Agreement to a lender of the Company, nor shall City consent or approval be required in connection with the Company’s entering into any equipment financing or equipment leasing with respect to, or the granting of a security interest in and to, the IKE Kiosks.

18. Surrender. Upon the permanent removal of an IKE Kiosk pursuant to Section 11.h. and also upon the expiration or earlier termination of this Agreement, the Company shall remove the IKE Kiosks and repair or replace, to the reasonable satisfaction of the Public Works Director/City Engineer, broken or damaged City-owned or operated real or personal property or public right-of-way caused, directly or indirectly, by Company’s activities, and shall cap off the utilities serving the Locations.

19. Force Majeure. Neither Party shall be liable to the other for any loss, damage, claim, delay or default arising during suspension of performance due to acts of God (including storm, fire, flood and earthquake), labor disturbances (including strikes, boycotts, lockouts, etc.) war, acts of terrorism, civil commotion, imposition of any future governmental law, ordinance, rule or regulation, any strike or work stoppage, or other cause beyond the control of such Party; provided, however, that either Party shall only

20. **Casualty.** If during the Term all or a material part of any IKE Kiosk is damaged by a casualty, the Company shall have the option to remove such IKE Kiosk by written notice given to City promptly after the occurrence of the casualty. All insurance proceeds or other compensation for any such casualty shall belong to the Company. Company shall repair or replace, to the reasonable satisfaction of the Public Works Director/City Engineer, broken or damaged City-owned or operated real or personal property or public right-of-way caused, directly or indirectly, by Company's activities, and shall cap off the utilities serving the Locations.

If to City: City of Culver City
9770 Culver Blvd.
Culver City, CA 90232
Attn: Economic Development Director

22. **Governing Law.** This Agreement shall be governed by and construed by the laws of the State of California, and exclusive jurisdiction over any legal action arising out of or in connection with this Agreement shall be in state courts located in the County of Los Angeles, State of California.

23. **Counterparts and Electronic Signatures.** This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This Agreement may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered with reasonable promptness thereafter.

24. **Drafting.** This Agreement has been negotiated between the parties and, for construction purposes, shall not be deemed the drafting of any one party.

25. **Amendments; Invalidity.** This Agreement may not be amended, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver, or discharge is sought. The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement or any portion thereof shall not affect the remaining portions thereof or any part hereof and this Agreement shall be amended to substitute a valid provision which reflects the intent of the parties as was set forth in the invalid provision.

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27. **No Joint Venture, Partnership, Agency.** This Agreement will not be construed as in any way establishing a partnership, joint venture, express or implied agency, or employer employee relationship between City and the Company.

28. **No Waiver.** The failure of any party to exercise any right hereunder, or to insist upon strict compliance by the other party, shall not constitute a waiver of either party's right to demand strict compliance with the terms and conditions of this Agreement

29. **Survival.** The provisions of this Agreement which, by their reasonable terms, are intended to survive termination of this Agreement shall survive termination. In the event that this Agreement is terminated or expires by its terms, such expiration or termination shall not affect any liability or other obligation which shall have accrued prior to such termination.

30. **Section Headings.** The section headings herein are inserted only for convenience and reference and shall in no way define, limit, or prescribe the scope or intent of any provisions of this Agreement.

31. **Usage of Terms.** When the context in which words are used herein indicates that such is the intent, words in the singular number shall include the plural and vice versa. All pronouns and any variations thereof shall be deemed to refer to all genders.

32. **Attorneys' Fees and Costs.** In the event of any claim, controversy or dispute regarding this Agreement, its interpretation or the performance or enforcement of the parties' rights, duties, remedies and obligations hereunder, the prevailing party in such claim, controversy or dispute shall be awarded its reasonable attorneys' fees and costs, including its attorneys' fees and costs of any associated appeal.

[the remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

City:

CITY OF CULVER CITY,
a California municipal corporation

By: _____
John Nachbar, City Manager

Approved as to form

By: _____
Heather Baker, City Attorney

Company:

IKE SMART CITY, LLC,
a Delaware limited liability company

By: _____
Pete Scantland, Chief Executive Officer

EXHIBIT A

DEAL TERMS

1. **Term.** The term of this Agreement shall be for a period commencing upon the Effective Date and expiring on December 31st of the tenth (10th) full Term Years (the “Initial Term”). The Initial Term shall automatically renew for one (1) additional term of ten (10) Term Years (the “Renewal Term,” and together with the Initial Term, the “Term”) provided the Renewal Criteria, as defined below, are satisfied as of the end of the Initial Term. Additionally, the Company may elect to terminate this Agreement at the expiration of the Initial Term if the Company notifies City in writing at least ninety (90) days prior to the expiration of the Initial Term that the Company does not desire to extend the Term. All terms, conditions and requirements of this Agreement, except for the Company’s obligation to pay the Revenue Share or any other monies, shall commence as of the Effective Date. The term “Term Year” means a calendar year, provided, however that the first Term Year shall commence on the Operational Date of the first IKE Kiosk to be installed pursuant to this Agreement and shall expire on the December 31st immediately following the date on which the fifteenth (15th) IKE Kiosk is installed pursuant to this Agreement.

The term “Renewal Criteria”, as used herein, means during the last twelve (12) consecutive full month period of the Initial Term the Company shall not have been in default of this Agreement beyond any applicable notice and cure period with respect to its maintenance obligations required by Section 11(a) of the Agreement.

Notwithstanding anything to the contrary contained herein, the Company and City hereby agree that if, following the installation of the first (1st) deployment of fifteen (15) IKE Kiosks, the parties agree to a second (2nd) deployment of additional IKE Kiosks, then upon the installation of the final IKE Kiosk to be installed in such second (2nd) deployment, the Initial Term of this Agreement shall be extended for an additional period of ten (10) Term Years. Such extension shall not impact the Company’s rights vis a vis the Renewal Term. If the parties do not agree upon a second (2nd) deployment of IKE Kiosks, then this Agreement shall continue upon the terms set forth herein.

2. **Revenue Share.** The Company shall pay to the City the greater of (a) an amount equal to fifty percent (50%) of the Net Revenue for each IKE Kiosk during each Term Year (the “Percentage of Revenue”) and (b) the Minimum Annual Guarantee, as listed below, payable during such Term Year (the amounts contemplated in subparts (a) and (b) are hereinafter referred to as the “Revenue Share”). From and after the Operational Date for each IKE Kiosk and throughout the remainder of the Term, the Percentage of Revenue for such IKE Kiosks shall be paid in quarterly installments due on the fifteenth (15th) day after the completion of each Fiscal Quarter. The Company shall submit to the City simultaneously with the payment of Percentage of Revenue, a statement of the Company's Net Revenue for the immediately preceding Fiscal Quarter (“Quarterly Report”). Additionally, on or before January 15th of each calendar year the Company shall submit to the City a statement of Net Revenue for the immediately preceding calendar year (“Reconciliation Statement”). If a Reconciliation Statement shows that the amount of Percentage of Revenue paid during any calendar year exceeded the amount of Revenue Share actually due and owing by the Company, the Company shall credit such overage against Revenue Share payments next coming due until reimbursed in full; provided, however, that for the last calendar year of the Term, the City shall reimburse the Company for the amount of any overpayment within thirty (30) days after receipt of the Reconciliation Statement. If a Reconciliation Statement shows that the amount of Percentage of Revenue paid during any calendar year was less than the amount of Revenue Share actually due and owing by the

Company for such year, then the Company shall pay such shortfall within thirty (30) days after submission of the Reconciliation Statement.

The “Minimum Annual Guarantee” payable from and after the Operational Date of each IKE Kiosk during the Term shall be as follows:

Term Years	Minimum Annual Guarantee per IKE Kiosk per annum
1 - 5	\$50,000.00
6-10	\$55,000.00
11-15	\$60,500.00
16-20	\$66,550.00

The amount of the Minimum Annual Guarantee payable during each Term Year shall be determined by multiplying the Minimum Annual Guarantee for such Term Year by the number of IKE Kiosks that are operational during that Term Year. If the Operational Date for an IKE Kiosk is other than January 1st, then the Minimum Annual Guaranty for such IKE Kiosk shall be prorated to reflect the actual amount of time during that Term Year that a revenue producing IKE Kiosk is operational, defined as from the IKE Kiosk's Operational Date to December 31st of that Term Year.

Additionally, if the Initial Term is extended by an additional period of ten (10) Term Years due to a second (2nd) deployment of IKE Kiosks, then the Minimum Annual Guaranty shall continue to increase by 10% every fifth (5th) Term Year, consistent with the increases set forth in the above table.

The City, or an agent of the City, may audit all Company books, records, and facilities used by Company that pertain to the IKE Kiosks deployed on Locations within the City. Any audit would evaluate Company's compliance with the terms and conditions of the Agreement. The Company agrees to keep and to make available to the City, or its representative at reasonable times on reasonable written notice, full, true, and accurate records and books of account supporting the calculation of the Revenue Share for a particular calendar year for a period of thirty-six (36) consecutive months thereafter. The City's right to audit commences on the date the Agreement is executed and expires three (3) years after the end of such calendar year. The City may, by providing at least ten (10) days advance written notice to the Company at any time within thirty-six (36) months after any calendar year or any termination of this Agreement, cause an audit (an “**Audit**”) of the relevant business books and records of the Company to be made by an certified public accountant (an “**Auditor**”) of the City's selection (provided that such Auditor may not be compensated on a contingency fee basis). The City may not Audit a calendar year more than one time. The Company shall cooperate with the City in connection with such Audit, including providing such schedules and information as the Auditor shall reasonably require. If as a result of the Audit or otherwise, it is determined that a Reconciliation Statement overstated or understated the Revenue Share in any manner, then the parties shall reconcile to one another, on demand, such sums as may be necessary to settle in full the accurate amount of Revenue Share that should have been paid to the City. If any such understatement of Revenue Share is shown to be greater than five percent (5%) for the calendar year covered by said Audit, then the Company shall pay to the City the reasonable out-of-pocket costs of the Audit. The terms of this section shall survive the expiration or any termination of this Agreement.

3. **Installment Bonus.** Within thirty (30) days following the Operational Date of the first IKE Kiosks deployed pursuant to this Agreement, the Company shall pay to the City a bonus payment of \$500,000.00. Additionally, within thirty (30) days following the Operational Date of the sixteenth IKE Kiosk deployed pursuant to this Agreement, the Company shall pay to the City another bonus payment, the amount of which shall be determined as follows: (a) \$500,000.00, if the 16th IKE Kiosk is installed during Term Years 1-5; (b) \$550,000.00, if the 16th IKE Kiosk is installed during Term Years 6-10; (c) \$605,000.00, if the 16th IKE Kiosk is installed during Term Years 11-15; or (d) \$665,500.00, if the 16th IKE Kiosk is installed during Term Years 16-20. The bonus payments contemplated by this Section 3 shall be non-refundable to the Company and non-applicable to the Revenue Share payments contemplated in this Agreement.

4. **City Content.** At least 12.5% of the time during Passive Mode and during any Unsold Time, each IKE Kiosk screen will contain City Directed Content. Additionally, on an annual basis, at least 25% of the total annual time during Passive Mode will contain City Directed Content. Company shall provide an overview of Passive Mode screen time containing City Directed Content as part of the Quarterly Report.

5. **Local Business/Non-Profit Content.** The Company shall donate \$500,000.00 worth of free advertising time on the IKE Kiosks on an annual basis to promote local businesses and non-profit corporations that are headquartered in the City (“Local Content Program”). The Local Content Program shall be administered by the Company in accordance with selection criteria and program parameters established between the City and the Company. At the same time as the Company submits each Quarterly Report and Reconciliation Statement, the Company shall also provide a report of all content displayed on the IKE Kiosks under the Local Content Program and the value thereof. All local business and non-profit content for display on the IKE Kiosks must be acceptable to the Company, in its reasonable discretion, and must be in a format capable of being displayed on the IKE Kiosks.

EXHIBIT B

IKE KIOSK SERVICES AND APPLICATIONS

The IKE Kiosks may provide and display the following applications/services. The Parties may agree to the addition or removal of applications/services.

- (i) *Wayfinding*, including multimodal mapping to destinations, businesses and other points of interest (sorted into freestanding apps such as *Eat, Play, Shop, Stay*);
- (ii) *Getting Around*, including real-time arrival and departure information for public transit, bike share and car share services all accessed from an interactive map;
- (iii) *Survey Question*, allowing for City to survey the public on its opinions and ideas;
- (iv) *Events*, including a comprehensive event and activity listing for City;
- (v) *Jobs*, including career and internship postings within City, arranged geographically to encourage workforce development;
- (vi) *Photobooth*, including customized City-themed background postcards and social media integration;
- (vii) *Emergency Communication*, including a protocol for real-time posting of essential City communication such as storm warnings, amber alerts and road closures;
- (viii) *Pedestrian Counting*, including digital measurement of pedestrians within range of the Kiosk unit, and a web-based dashboard containing analytics for City's use;
- (ix) *Air Quality Monitoring*, including relaying data to City on a regular basis;
- (x) *Free Wi-Fi Access*, allowing for users to access services pursuant to individual approval.
- (xi) *Arcade*, including video games employing the unique touch-screen capabilities of the IKE Kiosks.

EXHIBIT C

PRIVACY POLICY

INTRODUCTION

IKE SMART CITY, LLC (“IKE”, “We”, “Us”, “Our”) respects your privacy and is committed to protecting it through our compliance with this policy.

This policy describes the types of information we may collect from you or that you may provide when you visit an IKE Kiosk (“Kiosk”) and our practices for collecting, using, maintaining, protecting, and disclosing that information.

Please read this policy carefully to understand our policies and practices regarding your information, how we will treat it, and your rights pertaining to your information. If you do not agree with our policies and practices, your choice is not to use the Kiosks. By accessing or using a Kiosk, you agree to this privacy policy. This policy may change from time to time. Your continued use of a Kiosk after we make changes is deemed to be acceptance of those changes, so please check the policy periodically for updates.

USER INFORMATION COLLECTED BY A KIOSK

General

Many of the features, services and information available on a Kiosk can be accessed by you anonymously and without requiring that you provide any information about yourself. The Kiosk will collect information on Kiosk usage, such as which features, services and information are most often used and how they are used, so we can improve the Kiosk platform and your experience with the Kiosks. We may share this information without restriction with the city where the Kiosk is located and its agencies and our technology partners.

Interactive Features

Certain applications offered by a Kiosk are interactive and equipped to allow information to be transmitted from the Kiosk to your personal device. This transmission can be accomplished through two different mechanisms, one of which involves a third party partner (“Third Party Partner”) to effect the transmission of the information. If you would like information transmitted to your personal device from the Kiosk, the Kiosk will prompt you to either (1) scan a QR code with your mobile device or (2) provide a mobile telephone number. If you select the QR Code option, the QR code will anonymously link your mobile device to the selected information without obtaining any personal information from you. If you elect to provide your mobile telephone number, your mobile telephone number will be shared with the Third Party Partner for the purpose of delivering the information to your mobile device via MMS messaging. We retain your mobile telephone number for only so long as is necessary to complete the transfer of information to the Third Party Partner, and we do not sell or otherwise share or disclose this information to any other parties. Additionally, our Third Party Partner for this functionality—Twilio—does not retain or sell your phone number.

Several IKE applications incorporate the application programming interfaces (“APIs”) of Third Party Partners for the following described features on the Kiosks: (a) Google is the Third Party Partner for

the place search and directions features of the Kiosks, and (b) Transit is the Third Party Partner for the trip planner feature of the Kiosks. In no event do these applications request or collect personally identifiable information from you, other than if you request to have the information transmitted to your mobile device by using our mobile hand-off feature as described above.

We do not exercise control over our Third Party Partners, and you will be subject to their policies and terms and conditions when you engage with any feature operated by a Third-Party Partner. For this reason, we recommend that you review their policies and terms and conditions prior to engaging with any feature operated by a Third Party Partner.

OTHER SERVICES

WIFI Service

Each Kiosk may be equipped to provide Wi-Fi service to personal devices able to receive a wireless Wi-Fi signal that are located within close proximity to the Kiosk. We currently engage T-Mobile as the internet service provider for the Kiosks, which enables us to provide the Wi-Fi service to you. If you use the free Wi-Fi, your personal device may share your device ID with our internet service provider for the sole purpose of establishing the connection to the Wi-Fi signal. This is no different from how publicly available Wi-Fi signals operate in other contexts. The device ID may also be available to us through our router hardware for a limited period of time before being removed from the hardware in the ordinary course. We do not store your browser history or track the websites you visit.

DISCLOSURE OF INFORMATION

In addition to the disclosures we have identified elsewhere in this policy, we may also disclose any and all information collected by us or that you provide to us via a Kiosk as described in this policy to our parents, subsidiaries and affiliates, and/or any entity who acquires, by any means, some or all of the assets or ownership interests of IKE Smart City, LLC.

DATA SECURITY

We have implemented measures designed to secure any information you provide to us via a Kiosk from accidental loss and from unauthorized access, use, alteration and disclosure. Although we do our best to protect your information, we cannot guarantee the security of the information you provide to us via a Kiosk.

CHILDREN

The Kiosks are not intended to be used by children under the age of 13 nor do we knowingly or intentionally collect personal information from children under the age of 13. If you are under the age of 13, you are not permitted to submit any personally identifiable information to us. We adhere to the Children's Online Privacy Protection Act in our operation of the Kiosks.

PRIVACY POLICY CHANGES

We may update this Privacy Policy from time to time to reflect changes in applicable law. Because any personal information you provide to us is not stored or maintained in databases owned or created

by us, we will be unable to notify you as and when this Privacy Policy is updated. Therefore, we encourage you to visit this Privacy Policy page periodically to view any updates.

Last Updated: **June 29, 2024**

STATE SPECIFIC REGULATIONS

California: For more information regarding the rights entitled to California residents under the California Consumer Privacy Act, [click here](#).

CONTACT INFORMATION

To ask question or provide comments about this policy and our privacy practices, contact us at:

250 N Hartford Ave
Columbus, Ohio 43222

614.294.4898

privacy@ikesmartcity.com

Exhibit D

INSURANCE REQUIREMENTS

A. Policy Requirements.

Consultant shall submit duly executed certificates of insurance by companies licensed to do business in the State of California, with a current A.M. Best's rating of no less than -A:VIII (unless otherwise acceptable to the City), for the following policies:

1. *Commercial General Liability.* An occurrence based Commercial General Liability ("CGL") policy, at least as broad as ISO Form CG 0001, in the minimum amount of \$3,000,000 each occurrence, with not less than \$6,000,000 in annual aggregate coverage.

The CGL Policy shall have the following requirements:

- a. *General Requirements.* The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall be utilized to satisfy, to the extent of the coverage limits, the City's self-insured retention under any other policy of insurance. The coverage shall not be excess or contributing with respect to the City's self-insurance, commercial liability insurance, or any pooled risk arrangements;
- b. *Automobile Liability.* The policy shall provide Automobile Liability, ISO Form Number CA 0001 covering any auto (Code 1), or if Consultant has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits of no less than \$1,000,000 per accident for bodily injury and property damage. Automobile liability coverage may be satisfied with a stand- alone policy or as a component of the CGL policy;
- c. *Contractual Liability.* The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law, Consultant's obligation to indemnify the Indemnitees as required under this Agreement. The policy shall not contain an "Independent Negligence" provision that would void or otherwise nullify the insurer's obligation to defend and indemnify the City of Culver City in the event that its independent negligence is alleged or proven;
- d. *Ongoing Operations.* The Policy shall include coverage for Ongoing Operations Endorsement, ISO Form CG2037; and
- e. *Additional Insured.* The City of Culver City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85, or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37 forms if later revisions used). Endorsement required.

- f. *Severability of Interests (Cross-Liability)*. A severability of interest provision must apply for all the additional insureds, ensuring that Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the insurer's limits of liability.
 - g. *Modification to Aggregate*. City reserves the right to review and waive or modify the CGL aggregate requirement in the event that an adequate project specific policy and limits are provided.
- 2. *Cyber Liability Insurance*. If Consultant is collecting Personal Information (i.e., information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household), then Consultant shall, throughout the term of the Agreement and for three years following the termination or expiration of the Agreement, maintain \$1,000,000 per occurrence and \$2,000,000 aggregate in cyber/network privacy insurance. Such policy shall provide coverage for disclosures and/or breaches of data containing Personal Information arising out of or relating to Consultant's Services. Such policy shall also include coverage for claims involving, but not limited to, security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information, and costs associated with restoring lost or damaged data, sending breach notifications to affected individuals, public relations expenses, credit monitoring expenses, fines and penalties. Such policy shall not contain exclusions for the acts or omissions of either Consultant or City or their respective employees, agents, subcontractors, or volunteers, whether intentional or unintentional, resulting in or relating to any breach or unauthorized disclosure of Personal Information not expressly permitted under this Agreement.
- 3. *Professional Liability*. Professional/Negligent Acts, Errors and Omissions Insurance in the minimum amount of \$1,000,000 per claim, and shall include coverage for separate "personal injury" alleged to have been committed in the course of rendering professional services, unless such coverage is provided by the CGL policy listed in this Agreement.
- 4. *Workers' Compensation Insurance*. If the Agreement will have Consultant employees working within the City limits, Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000 per accident.) Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

B. Waiver by City.

City may waive one or more of the coverages listed in Section A, above. This waiver must be express and in writing, and will only be made upon a showing by the Consultant that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage.

C. Additional Insurance Requirements.

- 1. *Certificates of Insurance*. Evidence of insurance shall be supplied on a standard ACORD

Certificate of Insurance form. All insurance requirements must be indicated on said form.

2. *Umbrella or Excess Policy.* Consultant may use Umbrella or Excess Policies to provide the liability limits as required in this Agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant’s primary and excess liability policies are exhausted.
3. *Verification of Coverage.* Consultant shall furnish City with original certificates, and all required amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements required herein. Each insurance certificate shall specifically identify this Agreement. All certificates and endorsements are to be received by City and approved by the Risk Manager and City Attorney before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Consultant’s obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement at any time.
4. *Subcontractors.* Consultant shall require and verify that all its subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that the City is an additional insured on insurance required from subcontractors.
5. *Primary Coverage and Non-Contributory.* For any claims related to this Agreement, Consultant’s insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Culver City, its officers, officials, employees, or volunteers shall be excess of the Consultant’s insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies. Consultant shall submit to City a Primary and Non-Contributory endorsement in favor of City, its officers, agents, employees and volunteers.
6. *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by the City. The City may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the City.
7. *Waiver of Subrogation.* Consultant hereby grants to City a waiver of any right to subrogation which any insurer of Consultant may acquire against City by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

8. *Claims Made Policies.* If any of the required policies provide coverage on a claims-made basis:
 - a. The retroactive date must be shown and must be before the date of this Agreement or the beginning of the Scope of Work set forth in this Agreement.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the Scope of Work set forth in this Agreement.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement, Consultant must purchase “extended reporting” coverage for a minimum of three (3) years after completion of the Scope of Work set forth in this Agreement.
9. *Timely Notice of Claims.* Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant’s performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.
10. *Notice of Cancellation/Change in Coverage.* Consultant shall provide City with at least thirty (30) days prior written notice of any modification, reduction or cancellation of any of the Policies required in this Agreement, or a minimum of ten (10) days’ notice for cancellation due to non-payment.
11. *City Remedies for Non Compliance.* If Consultant or any of its subcontractors fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this agreement, or to suspend Consultant’s right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City’s sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.
12. *Special Risks or Circumstances.* City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

EXHIBIT E

CITY INSTALLATION CRITERIA

All kiosks must be installed according to City laws and procedures in effect at the time of installation. Prior to installation Company shall:

- Submit plans, shop drawings, and permits as required by the City.
- Retain an Electrical Engineer to verify the load requirements for the proposed installation to confirm power loads and City infrastructure.
- Coordinate inspections with Public Works for all work in the Public Right-of-Way.
- Verify with Public Works the total space required for installation including size of digital interface, which may not exceed 15 square feet per screen.
- Site Kiosks in a manner that does not conflict with pedestrian/traffic flow (minimum travel path of four feet and located at least 18 inches from the face of curb on sidewalks) and/or impact roadway safety.
- Confirm that if the kiosks are removed in the future, Company shall be responsible for restoring the sidewalk to its original condition.