

AGREEMENT

THIS AGREEMENT is made this 29th day of January, 2009, by and between GALLERY PLACE MEDIA, LLC, ("**GPMedia**") and THE RESIDENCES AT GALLERY PLACE CONDOMINIUM ASSOCIATION (the "**Association**"). GPMedia and the Association are sometimes herein referred to collectively as the "**Parties**".

RECITALS:

WHEREAS, the Association is the governing body pursuant to the Declaration and Bylaws in the condominium project known as The Residences at Gallery Place Condominium. The condominium is a part of a mixed-use residential, commercial and retail project located at 777 7th Street, N.W., Washington, D.C. (the "**Property**");

WHEREAS, the Association acts by and through its Board of Directors (the "**Board**");

WHEREAS, the Property is subject to that certain Reciprocal Easement Agreement, Declaration of Covenants, Conditions and Restrictions recorded on November 23, 2004 as Instrument Number 2004159780 among the Land Records of the District of Columbia (the "**REA**");

WHEREAS, GPMedia currently owns and operates three electronic signs on the Property;

WHEREAS, GPMedia desires to erect Additional Signage on the Property, pursuant to the Gallery Place Project Graphics Amendment Act and the condominium instruments of the Property.

WHEREAS, GPMedia desires to more clearly delineate the exact locations for placement of the additional signage and to proceed to install and place three additional sign elements (a Blade Sign, a G Street Alley Display vinyl sign, and kiosks, hereinafter referred to individually and collectively as the "**Additional Signage**") in certain locations on the Property, as depicted and more fully described on **Exhibit A** attached hereto, and has requested the consent and cooperation of the Association with respect to doing so;

WHEREAS, GPMedia and Association have agreed to enter into this Agreement with respect to GPMedia's initial installation and placement of the Additional Signage on the Property, including ongoing maintenance and repair, and subsequent replacement of the Additional Signage in its current location with similar or new technology, subject to the same conditions, limitations, and restrictions hereinafter set forth.

NOW THEREFORE, GPMedia and Association, in exchange for the consideration stated herein, the sufficiency of which is hereby acknowledged, agrees to be bound as follows:

- 1) Each of the foregoing recitals is incorporated herein by reference and made a part of this Agreement.
- 2) Association agrees to cooperate with GPMedia at no cost to the Association with respect to the initial installation and placement of the Additional Signage on the Property, including ongoing maintenance and repair, and subsequent replacement of the Additional Signage in its current location on the Property with similar or new technology. Subject to GPMedia's

installation of the signage in a manner consistent with this Agreement, the condominium documents, and all applicable District of Columbia laws and regulations, the Association agrees to not in any way impair, impede or interfere directly or indirectly with the actual installation, placement and replacement of said Additional Signage, including ongoing maintenance and repair. The Association will provide a written letter(s) of consent to GPMedia agreeing to the initial installation and placement of the Additional Signage on the Property, in the form attached hereto as **Exhibit B** (the "Consent Letter"). A letter must be signed and delivered to GPMedia no later than 5:00PM, January 29, 2010.

- 3) In consideration of Association's agreement as set forth in Paragraph 1 and 2, GPMedia agrees to pay the Association twenty-eight (28) consecutive quarterly payments as follows:
 - a) Commencing on the first day of the month following installation of the Additional Signage, Thirty One Thousand Two Hundred Fifty Dollars (\$31,250.00) each quarter minus any compensation payable to individual unit owners whose payment would cause the sum payable to the Association and individual unit owners to exceed Thirty Seven Thousand Five Hundred (\$37,500.00) quarterly. However, in no case shall the quarterly payment to the Association be less than Thirty Thousand (\$30,000.00) because of a reduction related to individual unit owner compensation.
 - b) If GPMedia does not receive permits to install any one of the three (3) sign elements or if for any other reason one of the three (3) sign elements is not installed, the quarterly payments in (a) above shall be reduced by one-third ($1/3^{\text{rd}}$) for each of the elements not installed.
 - c) If any one of the three (3) sign elements is subsequently removed from the Property, one-third ($1/3^{\text{rd}}$) of the total payments in (a) above shall be suspended for each sign element that is removed and shall not resume until such time as the sign element is reinstalled and operational.
 - d) If any one of the three (3) sign elements is not in operation for a period of more than thirty (30) consecutive days due to a cause or event beyond the reasonable control of GPMedia, one-third ($1/3^{\text{rd}}$) of the total payments in (a) above shall be suspended for each sign element that is not operational and shall not resume until such time as the sign element is operational again.
- 4) At the conclusion of seven (7) years after the start of the payments in paragraph 4 above, the Association shall have right to negotiate with GPMedia regarding a potential purchase of a non-assignable minority interest in GPMedia on mutually agreeable terms. The Association and GPMedia agree to conduct these negotiations in good faith.
- 5) GPMedia and the Association agree that the Blade Sign will be operated with the following restrictions:
 - a) The Blade Sign shall not be operated between the hours of 1 a.m. and 7 a.m. (local time).
 - b) No full-motion graphics shall be displayed on the Blade Sign between the hours of 10 p.m. and 1:00 a.m. (local time).

- c) Still graphics with no less than 30 seconds between transitioning slides shall be permitted on the Blade Sign between 10 p.m. and 1:00 a.m. (local time). GPMedia shall use a “soft transition” between slides.
- 6) GPMedia and the Association agree in regards to the G Street Alley Display as follows:
 - a) Initially, the sign will be constructed of a vinyl substrate. Illumination by standard lighting procedures shall be permitted, provided that the light fixtures project light directionally downward from the top of the sign. This vinyl substrate sign shall not be illuminated between the hours of 1 a.m. to 7 a.m. (local time).
 - b) At any point in the future, GPMedia shall have the right to replace the vinyl sign with a video screen, provided this screen is of similar size and location. In the event a video screen is installed, GPMedia agrees to be bound by the same operational restrictions of the Blade Sign, as described in paragraph 5 and further agrees to consult and negotiate with the Association regarding additional measures which may be necessary to limit or eliminate any impairment of the Condominium’s residents’ rights to quiet enjoyment of their unit.
 - c) In the event the vinyl sign is replaced by a video screen, the annual payments to the Association shall increase to an annual amount of \$150,000.00 for the remainder of the term of this Agreement, payable quarterly in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500), minus any compensation payable to individual unit owners whose payment would cause the sum payable to the Association and individual unit owners to exceed Forty-Three Thousand Seven Hundred Fifty Dollars (\$43,750) quarterly. However, in no case shall the quarterly payment to the Association be less than Thirty-Six Thousand Two Hundred Fifty Dollars (\$36,250) because of a reduction related to individual unit owner compensation..
 - 7) GPMedia agrees that it will not seek to install additional signage at the Property beyond that described in this Agreement at any time in the future.
 - 8) The Association shall provide the appropriate documents and resolution establishing that the person(s) signing this Agreement on its behalf has the authority to execute this Agreement and bind the Association to the terms and conditions contained herein.
 - 9) This Agreement shall not be construed as conferring any rights or benefits to or upon any person not a party to this Agreement.
 - 10) The Parties agree to hold strictly confidential the financial terms of Paragraphs 3 and 6(c) of this Agreement from all third parties with the exception of the Association’s members, legal counsel, accountants, and management, unless required to divulge these matters by legal process or legal requirements. The Parties agree that there will be no disclosure of this Agreement except as set forth herein.
 - 11) Prior to the commencement of installation of the Additional Signage, GPMedia shall provide proof of insurance in amounts and form satisfactory to the Association.
 - 12) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

- 13) This Agreement contains the entire integrated agreement between the Parties respecting the subject matter of this Agreement and supersedes all prior understandings and agreements, whether oral or in writing, between the Parties respecting the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or in writing, between the Parties to this Agreement relating to the subject matter of this Agreement which are not fully expressed in this Agreement. The terms of this Agreement are intended by the Parties as a final expression of their agreement with respect to those terms and they may not be contradicted by evidence of any prior agreement or of any contemporaneous agreement.
- 14) This Agreement shall be governed by the laws of the District of Columbia.
- 15) If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- 16) This Agreement may be amended at any time only by the written agreement of the Parties. All amendments, changes, revisions and discharges of this Agreement, in whole or in part, and from time to time, shall be binding upon the Parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the Parties hereto.
- 17) Time shall be of the essence as to all dates and times of performance.
- 18) Each Party agrees to perform any further acts and to execute, acknowledge and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.
- 19) Upon the nonpayment of any amount due and payable by GPMedia by the due date hereunder, and which nonpayment continues for a period of ten (10) days following written notice by the Association to GPMedia, the Association may charge a late fee in the amount of five percent (5%) of the amount then due, plus interest on the amount then owing, beginning from the date that the payment should have been made, at six percent (6%) per annum. Upon payment by GPMedia of the amounts then owing under this Agreement, plus interest if applicable, the nonpayment shall be deemed cured and there shall be no further interest on future payments unless and until another nonpayment shall occur and continue beyond the notice and cure period provided for herein.
- 20) In the event of any litigation involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the parties hereby waive any right to trial by jury. Furthermore, the losing party agrees to pay the prevailing party reasonable attorney's fees, court costs, and any other fees incurred in enforcing the terms and/or remedies of this Agreement or incurred in seeking a declaration of the rights of either party under this Agreement.
- 21) GPMedia shall indemnify and hold the Association harmless for any and all damages resulting in personal injury or property damage in connection with the erection, servicing,

maintenance, removal, replacement of the sign structure(s), equipment and other property placed on the Property by GPMedia and all other occurrences arising out of GPMedia's use of the Premises. Notwithstanding anything to the contrary in this Agreement, GPMedia shall have no obligation to indemnify and hold the Association harmless from any claim against the Association by any individual unit owner(s), a tenant(s), or any other third party except claims arising in connection with willful misconduct or negligent acts or omissions of GPMedia and its officers, agents, and employees.

- 22) The noneconomic conditions, including, but not limited to, the operational restrictions, of this Agreement shall survive the seven (7) year term relating to compensation so long as the Additional Signage or any replacements or substitutions thereof remain installed and operable.
- 23) In the event the Association discovers violations of the Agreement with respect to the intensity and/or hours of operation of the signage, it shall provide written notice to Peter Scantland, who shall take immediate action to alleviate and/or remedy the violation. In the event Peter Scantland is no longer employed in his current capacity, GPMedia shall provide the Association with another contact who shall be bound to these same terms.
- 24) All notices required or permitted by this Agreement shall be deemed given on the date delivered if hand delivered, or three business days after date postmarked (if sent by registered or certified mail, return receipt requested, postage prepaid) and addressed to the parties as follows:

To Gallery Place Media, LLC:

Peter Scantland
Orange Barrel Media
3400 Southwest Boulevard
Grove City, OH 43123

With a Copy To:
Jeffrey H. Gelman
Saul Ewing LLP
2600 Virginia Avenue, N.W.
Suite 1000 – The Watergate
Washington, DC 20037

To the Residences at Gallery Place Condominium Association:

Chris Kiefer
Legum & Norman
1300 Spring Street
Suite 201
Silver Spring, MD 20910

With a Copy To:
Raymond B. Via, Jr.
Whiteford, Taylor & Preston, LLP
1025 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first set forth above.

GALLERY PLACE MEDIA, LLC.
a Ohio limited liability company

By: _____
Name: _____
Title: _____

**THE RESIDENCES AT GALLERY PLACE
CONDOMINIUM ASSOCIATION**

By: _____
Name: _____
Title: _____

EXHIBIT A
TO
AGREEMENT

[See attached]

EXHIBIT B

TO

AGREEMENT

(To be placed on Residences at Gallery Place letterhead)

January 29, 2010

Ray Gruendel
Gallery Place Partners LLC
3255 Grace Street, NW
Washington, DC 20007

Dear Mr. Gruendel:

Having carefully considered the benefits offered to The Residences at Gallery Place Condominium Association, we consent to your signage plan. As you know, we have worked with Gallery Place Media LLC for more than a year, and believe that all of our concerns and comments have been addressed. We are confident that the reduced operating hours, sizing restrictions, and content guidelines are helpful to ensure that the Residents in the building will be minimally impacted. Further, the compensation offered to the Association will allow us to lower the operating costs of the building, a benefit that will be passed on to all unit owners.

Sincerely,

**THE RESIDENCES AT GALLERY PLACE
CONDOMINIUM ASSOCIATION**

By: _____
Name: _____
Title: _____

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