

PROGRAM LICENSE AGREEMENT

THIS PROGRAM LICENSE AGREEMENT, including the attached Schedule A which is incorporated herein by this reference (this "Agreement") is entered into this _____ by and between the University of Houston on behalf of Houston Public Media, a business with offices at 4343 Elgin St., Houston, Texas, 77204-0008 ("Licensee"), and _____, ("Licensor")(hereinafter collectively referred to as the "Parties").

RECITALS

WHEREAS, Licensor is the owner of all proprietary interest in the Program described more specifically in Exhibit A (the "Program") and wishes to broadcast and distribute the Program via an educational, non-commercial station;

WHEREAS, Licensee desires to license the Program from Licensor for use for broadcasting, programming, distribution, internet, publicity, promotional, fundraising, and archival purposes;

NOW, THEREFORE, In consideration of the mutual promises and other consideration listed below, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Grant of License.

- a. Licensor hereby grants to Licensee a unlimited, worldwide license, without cost to Licensee, to (i) broadcast the Program, including any publicity rights or copyrighted material contained in the Program, on any main channel, subchannels, or via cablecast through whatever technical means Station chooses to broadcast or cablecast the Program; (ii) to produce, edit, broadcast, reproduce, translate, and publicly distribute the Program in any language; and (iii) to reproduce, archive, digitize, record, translate, distribute, and/or transmit and retransmit all or any portion of the Program in any language and without limitation or restriction via radio, television, other video, cable, satellite, and electronic or digital transmission, including the Internet (including but not limited to downloads, on-demand, and interactive uses), and in any other media or form of sound and visual reproduction or archival system now known or hereafter discovered (the "License"). If this License is provided with respect to a series, each program or segment of the series shall constitute a Program for purposes of this Agreement.
- b. Licensee shall have exclusive rights to make the Program available on its website via streaming and podcast following its initial broadcast.
- c. Licensee shall have the right to rebroadcast any portion of the Program at its own discretion and shall retain the right to maintain the media on its website or any future medium for downloading, viewing or listening in any medium, now or hereinafter available for the duration of _____ beginning on _____.
- d. The above licensing rights also include the permanent right for Licensee to grant sub-licenses to third parties with the permission of Licensor, which shall not be unreasonably denied. Any such sublicensee shall be expressly subject to the terms and conditions of

this Agreement. No such third party will be able to publish, license, sublicense, broadcast, sell or distribute the Program for compensation.

2. Copies of the Program. Licensor shall provide Licensee with **two** copies of the Program in media form outlined in schedule A. Licensee shall have the right to make sufficient copies to support its use of the Program as permitted in Section 5. In the event that Licensee copies the Program, such copies shall contain such copyright notices as contained in the original copies provided by Licensor to Licensee.

3. Program Funding/Underwriting. Licensor shall disclose to Licensee the sources and amounts of all financial support and funding received for the Program. Licensee will review the underwriting announcements to ensure compliance of the underwriting announcements with public television underwriting standards. Licensee shall be entitled to seek additional underwriting and financial support of the program, independently of the Licensor.

4. Credits. The Parties shall mutually agree in writing on the wording and format of the Program acknowledgements, credits and copyright notices for each of the Parties and which shall also be included in all promotions and publicity regarding the Program. Such notices shall not be removed, deleted, edited or altered during a Station's broadcast of the Program or otherwise without prior written permission from authorized representatives of each of the Parties.

5. Modifications and Customizations. Licensee shall be entitled to make modifications, customizations and derivative works based on the Program, for instance for promotional purposes. Such derivative works shall contain appropriate copyright notices as contained in the original copies, as well as disclaimers provided by Licensor regarding the materials modified by the Licensee. Any such derivative works shall be owned by Licensor and shall not relieve Licensee of its obligation and restrictions set forth in this Agreement.

6. Payments. In consideration of rights granted by Licensor to Licensee under this Agreement, Licensee will pay Licensor the following:

- a. A refundable license fee in the amount of \$ N/A _____, due and payable upon execution of this Agreement (includes Exhibit A) by Licensee.

7. Termination

a. For Cause: If either party to this Agreement should breach any material provision in this Agreement and fail to remedy such default within thirty (30) calendar days after receipt of written notice of the breach, either party may, in addition to any other available remedies, terminate this Agreement.

b.. Upon Mutual Agreement: If either party deems it desirable, this Agreement shall terminate, without cause, with ninety (90) days prior written notice to the other party.

c. Upon termination of this Agreement through no fault of Licensee, Licensee shall be able to receive a refund of any licensee fee unused as of the effective date of termination.

8. Licensor Warranties and Obligations. Licensor acknowledges and warrants the following:

- a. that it is the sole and exclusive owner of valid copyright, trademark, and patent rights in and to the Program.

- b. that it has the full and complete right and power to grant the licenses granted in this Agreement,
 - c. that the Program does not obligate Licensee, its affiliates, licensees, sublicensees, or assignees to any person or entity except as provided in this Agreement.
 - d. that the Program as submitted to Licensee do not infringe upon any valid rights of any third party and that nothing in the Program or this License as contemplated by this Agreement, infringes on the copyright, trademark, privacy, publicity, or other rights of any persons or third-parties, nor contain any libelous, defamatory or other unlawful material.
 - e. that the Programs shall adhere to PBS or NETA public television editorial and underwriting standards, comply with FCC rules and regulations for non-commercial educational stations, and shall be of broadcast technical quality.
 - f. that all necessary releases and clearances for the use of the Program as contemplated under this Agreement have been obtained from any person or party with any interest in or to the Program, in whole or in part, and/or his/her heirs, successors, or assignees.
 - g. that it has not previously entered into and shall not enter into any contract or commitment in contravention of this Agreement or that would interfere with Licensee's exercise of the rights granted pursuant to this Agreement.
 - h. that Licensee cannot warrant or guarantee that dissemination of the Program will be continually subject to Licensee's supervision or control. Therefore, failure by a third party licensee who was contractually bound to the terms hereof or by an unintended third party, not under license, to comply with the restrictions herein shall not be deemed a breach hereof by Licensee.
9. Licensor Warranty Disclaimer. Licensor expressly disclaims any and all implied warranties of merchantability or fitness for a particular purpose with respect to the Program, Without limiting the foregoing, Licensee is responsible for applying its own reasonable discretion in its use of the materials contained in the Program. Licensor does not warrant that such materials will be accurate, will meet Licensee's requirements, or will reflect Licensee's views or opinions.
10. Publicity. Any news releases, public announcement, advertisement or publicity released by licensor concerning the Program will be subject to prior approval of the licensee.
11. Intellectual Property Rights.
- a. Licensor shall retain ownership to the Program, including all copyright, trademark and other ownership rights, including without limitations scripts, titles, stills, outtakes, soundbites, and underlying materials. Nothing in this Agreement shall be construed as transferring any ownership rights in the Program to Licensee and/or to any third party.
 - b. Each party to this Agreement hereby grants to the other party, during the term of this Agreement, a non-exclusive, non-transferable license to use that party's trade names, trademarks, service names and similar proprietary marks as is reasonably necessary to

perform its obligations under this Agreement, subject to each party's prior written approval to be signed by authorized legal representatives of each party.

- c. Each party to this Agreement agrees not to use the other party's, or any third party's, proprietary marks in a manner that disparages the other party or its products or services, or portrays the other party or its products or services in a false, competitively adverse or poor light. Each party will comply with the other party's requests as to the use of the other party's proprietary marks and will avoid any action that diminishes the value of such marks. Either party's unauthorized use of the other's proprietary marks is strictly prohibited.

12. Infringement of Trademark or Copyright. If a claim for infringement of any intellectual property or other proprietary rights or for unfair competition arises from the unauthorized use of the Program, the Parties may proceed jointly or singly to protect their respective rights (if any) in the Program. If the Parties proceed jointly, recoveries shall be shared jointly between the Parties. Each of the Parties shall give the other prompt written notice of any claims that the Program infringes on any rights of third parties, or of any known infringement of the series by a third party.

13. Indemnity. Licensor shall indemnify, defend and hold harmless the University of Houston System, its components, Licensee, any of their parents, affiliates and subsidiaries, respective directors, officers, employees, agents, successors and assigns from and against any and all third party suits, judgments, proceedings, claims (whether valid or invalid), losses, costs and expenses (including reasonable attorney's fees) arising out of (i) the content of each Program as each Program is delivered by Producer, including, without limitation, those based on libel, slander, defamation, invasion of rights of privacy or publicity, unfair composition, misappropriate, or violation of infringement of any intellectual property or other proprietary rights, and/or unauthorized use or distribution of the Program; (ii) Licensor's breach of any of the terms of this Agreement and/or failure to comply with any applicable law, rule or regulation; (iii) the acts or omissions of Licensor, its employees, representatives or agents, and/or successors and assigns; or (iv) any other claim arising from the rights granted to Licensee as contemplated in this Agreement.

14. Confidentiality/Non-Disclosure. Licensee will not use any Confidential Information except as expressly permitted under this Agreement, and will disclose Confidential Information only to Licensee's employees and independent contractors who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality. Licensee will protect the Confidential Information in the same manner as Licensor protects its own confidential or proprietary information of a similar nature, and in no event with less than reasonable care. Notwithstanding the foregoing, Licensee may disclose Confidential Information to the extent that such disclosure is required by law or by the order of a court or similar judicial or administrative body, provided that Licensee notifies Licensor of such required disclosure promptly and in writing, and cooperates with Licensor, at Licensor's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

15. Force Majeure. Neither party shall be liable for any loss or delay resulting from any force majeure event, including acts of God, fire, natural disaster, labor stoppage, war or military

hostilities, or inability of carriers to make scheduled deliveries. Any payment or delivery date shall be extended to the extent of any delay resulting from any force majeure event.

16. Governmental Immunities Preserved. Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the laws of the State of Texas as now or hereafter amended.

17. Authorization. Each Party represents and warrants to the other that the execution of this Contract has been duly authorized, and that this Contract constitutes a valid and enforceable obligation of such Party according to its terms.

18. Amendments. Any amendment to the Agreement must be in writing and signed by both Parties. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding on any Party unless in writing and signed by the Party against whom enforcement of such waiver, alteration, or modification is sought.

19. Entire Agreement. This Agreement constitutes the entire agreement and final understanding of the parties with respect to the subject matter hereof, and supersedes any other and all prior or contemporaneous negotiations, representations, understandings, discussions, offers, and agreements between the parties, whether written or oral, express or implied, relating in any way to the subject matter hereof. This Agreement is intended by the parties to be a complete and wholly integrated expression of their understanding and agreement.

20. Signatures. The parties agree that a facsimile or electronic signature has the same effect as an original signature. This Agreement may be executed in multiple copies, each of which is an original and all of which constitute one instrument.

21. Authority. Each Party represents and warrants to the other Party that is authorized and free to enter into and perform its respective obligations under this Agreement and be bound by its terms and conditions.

22. Limitation of Liability. EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS, AND ONLY TO THE EXTENT AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, IN NO EVENT SHALL EITHER PARTY OR ANY OF THE CO-PRODUCERS BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY CAUSE OF ACTION EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

23. Notice. Notice provided pursuant to this Agreement will be in writing, and will be sent to the applicable party in accordance with this Section or to such other address as is subsequently specified in writing. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or 3 days after mailing by Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

To University:
Houston Public Media Attn: Lisa Shumate, Executive Director Melcher Center for Broadcasting 4343 Elgin – 2 nd Floor Houston, Texas 77204-0887 with a copy to: Office of the General Counsel Attn: Contract Administration 311 E. Cullen Houston, TX 77204-2028

To Producer:

24. Breach of Contract Claims. To the extent Chapter 2260 of the Texas Government Code is applicable to this Agreement and not preempted by other law, the dispute resolution process provided by Chapter 2260 and the rules adopted by the Texas Attorney General will be used by the Parties to attempt to resolve any claim for breach of contract made by Producer against Houston Public Media (KUHT, KUHF, KUHA) that cannot be resolved in the ordinary course of business.
25. Default. A Party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
26. Survival. Termination or expiration of this Agreement will not affect the Parties' rights or obligations that, by their nature and context, are intended to survive termination or expiration.
27. Jurisdiction and Disputes. This Agreement shall be governed by the laws of Texas, and all disputes hereunder shall be resolved in the applicable state or federal courts of Texas.
28. Agreement Binding On Successors. This Agreement shall be binding on and shall inure to the benefit of the Parties, and their heirs, administrators, successors, and assigns.
29. Assignment. Licensee shall not assign this Agreement or any right, interest or obligation under this Agreement will be assigned by either of the Parties without the prior written consent of Licensor. Any attempt to assign this Agreement without such consent shall be void and of no effect.
30. Waiver. No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.
31. Independent Contractors. Licensee is acting as an independent contractor and not as an employee or agent of Licensor. Licensee shall not have the right to enter into contracts or

commitments on behalf of Licensor or to bind it in any respect whatsoever except as may otherwise be provided under this Agreement.

32. Severability. If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

33. Integration. This Agreement, together with the exhibits and schedules attached to and referenced in this Agreement, constitutes the entire understanding of the parties, and is intended as a final expression of their Agreement. This Agreement shall not be modified or amended except in writing. This Agreement shall take precedence over any other documents that may be in conflict with this Agreement.

34. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

35. Effective Date. This Agreement becomes effective on _____.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed in duplicate by their duly authorized agents.

LICENSEE

LICENSOR

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

University of Houston
Houston Public Media
4343 Elgin St
Houston, TX 77204-0008
Telephone: 713-743-8410

Note: Modification of this Form requires approval of OGC

EXHIBIT A

Scope of Use

PROGRAM NAME:

PROGRAM DESCRIPTION:

Station	Houston Public Media TV8
Date/Time	
Date/Time	