

PUBLIC SERVICE OPERATING AGREEMENT

THIS PUBLIC SERVICE OPERATING AGREEMENT is made, effective October 8, 2017, between University of South Florida Board of Trustees, a public body corporate established by Article IX, Section 7 of the Florida Constitution and Section 1001.72, Florida Statutes ("USF") and Florida West Coast Public Broadcasting, Inc., a Florida charitable non-profit corporation ("FWC") (and both together the "Parties").

RECITALS:

WHEREAS, USF is the Federal Communications Commission (the "FCC") licensee of noncommercial educational television station WUSF-TV, Tampa, Florida (FCC Facility ID No. 69338) (the "Station");

WHEREAS, FWC is experienced with noncommercial broadcasting and nonprofit management;

WHEREAS, the Parties desire that FWC undertake the management, programming, and operation of the Station under the supervision of, USF;

WHEREAS, USF expects that management by FWC will promote quality public television programming over the facilities of the Station;

WHEREAS, on October __, 2017 the Parties entered into a Channel Sharing Agreement ("CSA");

WHEREAS, on October __, 2017 the Parties entered into an Assignment Agreement providing for the assignment of the FCC license for the Station from USF to FWC,

NOW, THEREFORE, in consideration of the above recitals and mutual promises and other good consideration, the parties agree as follows:

1. MANAGEMENT AND OPERATIONS

Upon implementation of the CSA, FWC shall manage and operate the Station under the supervision and control of USF. As FCC licensee, USF shall at all times retain ultimate responsibility for the Station's essential functions, including its programming, finances, and those Station personnel employed by USF. Subject to the foregoing limitations, the management services provided by FWC herein shall include all aspects of the operation and management of the Station.

(a) **Programming.** FWC will program the Station on an operating schedule compliant with FCC requirements with a public television station format (the "Programming"). The Programming shall serve the needs and interests of the Station's community of license and further USF's educational objectives. The Programming will comply with the Communications Act of 1934, as amended, the FCC's rules and policies, and all applicable content-related law for broadcast programming. FWC will be

responsible for obtaining or maintaining any and all intellectual property rights, including copyright licenses, necessary for the broadcast of the Programming over the Station. Any listener complaints or FCC inquiry concerning the Programming shall be promptly reported to USF. USF shall have the right to preempt or reject any Programming if USF determines in its reasonable judgment that the Programming does not serve the public interest, or that alternate programming would better address local needs.

(b) Delivery of Programming. FWC shall deliver the Programming to the Station at FWC's cost and expense. FWC will be responsible for all costs and expenses incurred in connection with equipment for receiving Programming at the Station, including appropriate equipment for satellite reception, EAS compliance, transmitter remote control and monitoring.

(c) Financial Management. FWC shall, in the manner consistent with FCC policies, reimburse USF for Station operating expenses incurred by USF, including, but not limited to, expenses relating to the Station's studio, utility charges and expenses related to the maintenance and repair of the transmission facilities. USF shall supervise FWC's financial management of the Station and USF shall remain ultimately responsible for the finances of the Station, as required by FCC rules and policies.

(d) Staffing. USF shall maintain at least two employees fulltime at the Station's main studio, at least one of whom shall be management-level, in compliance with FCC requirements.

2. TERM OF AGREEMENT

Unless sooner terminated in accordance with the provisions of this Agreement, this Agreement shall commence on October 16, 2017 and shall continue in full force and effect until the consummation or termination of the Assignment Agreement..

3. TERMINATION

(a) USF may terminate this Agreement: (i) immediately by giving written notice if, in the reasonable good faith discretion of USF, the Station is operated by FWC in a manner contrary to the best interests of USF, the public interest, convenience and necessity, FCC rules and regulations, the Communications Act of 1934, as amended, or other applicable law; or (ii) if FWC otherwise breaches its obligations under this Agreement, and FWC fails to cure such breach within thirty (30) days of written notice from USF, or (iii) for convenience, upon 180 days written notice to FWC.

(b) FWC may terminate this Agreement: (i) immediately by giving written notice if, in the reasonable good faith discretion of FWC, USF unreasonably frustrates or impedes effective management and programming of the Station by FWC; (ii) if USF breaches its obligations under this Agreement and USF fails to cure such breach within 30 days of written notice from FWC, or (iii) for convenience, upon 180 days written notice to USF.

(c) Upon termination of this Agreement absent an assignment of the Station license to FWC, USF shall assume complete operational responsibility for the Station, and FWC shall be relieved of all obligations under this Agreement, except for: obligations incurred prior to the effective date of the termination and the obligation to cooperate with USF to wind up FWC's operation of the Station in an orderly fashion.

4. LICENSE MAINTENANCE

USF, as FCC licensee, has the ultimate responsibility with respect to all activities in connection with FCC license renewals, applications for facility changes, and such other filings and reports as may be required by the FCC. FWC shall assist and advise USF in all such activities and to prepare all necessary documents, filings, and reports for the timely review and approval by USF in consultation with USF's own legal counsel.

5. RESPONSIBILITY OF FCC LICENSEE

USF and FWC acknowledge that the operation of the Station in compliance with all laws, rules, policies, and regulations of the FCC is the ultimate responsibility of USF, as licensee. Nothing in this Agreement shall be construed as limiting, transferring, assigning or relieving USF of such responsibility. USF and FWC acknowledge that their relationship requires a commitment on both parties' parts to the mission of the Station.

6. STANDARDS OF OPERATION

FWC agrees that it will manage and operate the Station consistent with industry standards for noncommercial educational broadcasting, so that the Station will provide quality service to the public, protect USF's reputation, and comply with all legal requirements.

7. INSTITUTIONAL COOPERATION AND MEDIA PROMOTION

Identification of Licensee. FWC will air station identifications that comply with the FCC's rules.

8. REPRESENTATIONS AND WARRANTIES

FWC represents and warrants that it will manage, operate and program the Station in full compliance with all applicable laws, rules and policies, including intellectual property law.

9. INSURANCE

During the term of this Agreement and any extensions or renewals thereof, FWC shall carry the following types and amounts of insurance:

- (1) Broadcast libel and errors/omissions insurance - at least \$1,000,000.
- (2) Commercial general liability - at least \$1,000,000.

- (3) Workers' compensation - as required by law.

10. CONSIDERATION

The parties acknowledge that their respective undertakings and commitments herein, designed to ensure the provision of high quality public television programming on the Station, constitute sufficient consideration for this Agreement.

11. RELATIONSHIP

During the term of this Agreement, subject to its terms and conditions, FWC is authorized to hold itself out as the operator of the Station. FWC is authorized to enter into contracts for or on behalf of the Station in the ordinary course of business. FWC shall be responsible for all contracts and financial obligations that it has entered into on behalf of the Station.

12. OVERSIGHT AND CONTROL

Notwithstanding anything in this Agreement to the contrary, USF shall retain and exercise oversight and control of the activities and operations of the Station. Without limiting the foregoing, USF (through its governing board or the board's designated representative(s)) shall have the right: (a) to promulgate basic Station policies regarding personnel (but only to the extent such personnel are working on matters relating to the Station), finances, and programming; (b) to direct the day-to-day activities of USF's employees working at the Station (but only to the extent that such employees are working on matters relating to the Station); (c) to inspect the Station's facilities at any time during operation; and (d) to consult with Station management, review FCC-required operating and maintenance records and procedures, and investigate operational complaints. For purposes of clarity, USF shall not have oversight or control of FWC's employees generally, but only to the extent that those employees are working on matters relating to the Station within the scope of this Agreement. FWC shall be responsible for reporting to the USF officials designated by USF.

13. NOTICES

Any written notice to any party required or permitted under this Agreement shall be deemed to have been duly given on the date of personal service on or on the date of receipt by the party to whom notice is to be given, and shall be addressed to the addressee at the address stated below, or at the most recent address specified by written notice under this provision.

If to USF: JoAnn Urofsky
 General Manager
 WUSF Public Media
 4202 E. Fowler Ave TVB100
 Tampa, FL 33620

With a copy to: John Burgett, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

If to FWC: Ms. Susan Howarth
President and CEO
Station WEDU
Berkman Family Broadcast Center
1300 North Boulevard
Tampa, FL 33607-5645

With a copy to: Lawrence M. Miller, Esq.
Garvey Schubert Barer
1000 Potomac Street, NW – Suite 200
Washington, DC 20007-3501

14. INDEMNIFICATION

FWC shall indemnify, defend, and save harmless USF from loss, damage, or liability that may be caused by or arise from FWC's management or operation of the Station after this Agreement commences or from any acts or omissions by FWC relating to its obligations under this Agreement. Solely to the extent provided by Section 768.28, Florida Statutes, USF shall indemnify, defend, and save harmless FWC from loss, damage, or liability that may be caused by or arise from USF's operation of the Station before this Agreement commences, or related solely to the acts, or failures to act, by USF after this Agreement commences, or USF's obligations under the Agreement. USF, as a public body corporate of the State of Florida, is afforded limited sovereign immunity by law. Nothing herein shall be construed as a waiver of sovereign immunity by USF beyond what is provided by Florida law. USF's total liability for third party claims, regardless of the legal theory supporting such cause of action, shall not exceed \$200,000 per claimant and \$300,000 per single incident.

15. SEVERABILITY

If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement, provided that such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.

16. BINDING ON SUCCESSORS

This Agreement may not be assigned by either party without the other party's consent, which may be given or withheld in its sole discretion. Any attempted assignment without such consent shall be cause for immediate termination of the Agreement by the other party.

17. COMPLETE AGREEMENT

This Agreement contains the entire agreement of the parties with respect to the management and operation of the Station during the term hereof, and, except as specifically referred to herein, all prior obligations, proposals and agreements relating to the subject matter hereof have been merged herein. This Agreement shall not be modified or amended except by agreement in writing duly executed by the parties hereto.

18. GOVERNING LAW

This agreement was made and entered into in Tampa, Florida, and shall be construed in accordance with and governed by the laws of the State of Florida. Any actions or proceedings arising directly or indirectly from this Agreement shall be litigated only in courts with jurisdiction over actions arising in Tampa, Florida.

19. ATTORNEYS FEES

In the event that any party employs attorneys to remedy, prevent or obtain relief from a breach or default hereunder, or contesting the validity hereof or any of the terms, covenants, provisions, or conditions hereof, or any of the matters referred to herein, the prevailing party shall be entitled to seek an order granting reasonable attorneys' fees from a court of competent jurisdiction.

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

University of South Florida Board of Trustees

By: _____

Judy Genshaft

Title: _____

USF System President

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



Joel Londrigan
ATTORNEY - USF

Florida West Coast Public Broadcasting, Inc.

By: _____

Title: _____

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University of South Florida Board of Trustees

By: _____

Title: _____

Florida West Coast Public Broadcasting, Inc.

By: Susan Howarth

Title: Susan Howarth, President and CEO