

**CORPORATION
FOR PUBLIC BROADCASTING**

TERMS AND CONDITIONS FOR
TELEVISION, RADIO AND
OTHER MEDIA PRODUCTION GRANTS

November 2015 Edition

1. GRANT APPLICATIONS

A. Grant Agreement. To obtain a Grant from CPB, an applicant must prepare and submit a Grant Application following the procedures established by CPB. If a Grant Application is selected by CPB for funding, CPB will provide the applicant with a proposed Grant Agreement. No Grant will be awarded, and no disbursement of funds will be made under any Grant, until the applicant has signed a Grant Agreement and returned it to CPB and CPB has executed the Grant Agreement.

B. Compliance with Terms and Conditions. These Terms and Conditions are incorporated into all Grant Agreements. Each Grantee must comply with these Terms and Conditions as well as with the obligations set forth in its Grant Agreement. If there is a conflict between these Terms and Conditions and the terms of a Grant Agreement, the terms of the Grant Agreement will control.

2. CPB OBLIGATIONS

A. CPB Obligations. The obligations of CPB to each Grantee are set forth in their entirety in these Terms and Conditions and in the Grant Agreement. CPB has no obligation to any applicant for a Grant until a Grant Agreement has been signed both by the applicant and CPB.

B. Grantee Commitments and Expenditures. All expenditures and commitments by a Grantee in connection with a Grant Project will be on Grantee's own behalf, and any obligations incurred by a Grantee with respect to a Grant Project will be at the Grantee's own risk without any obligation on the part of CPB beyond those obligations set forth either in these Terms and Conditions or in the Grant Agreement.

C. Relationship of CPB and Grantees. Nothing in these Terms and Conditions or the Grant Agreement should be read as creating an association, partnership, joint venture, or employment relationship between CPB and a Grantee.

3. PRODUCTION TERMS

A. Production Standards. Every Grant Project must conform to the highest standards in the public broadcasting industry; that is, each must reflect the editorial balance, innovation, accuracy, and technical quality reflected in public broadcasting projects of similar nature and budget.

B. Objectivity and Balance. Where the subject matter or content of a Grant Project requires, the Grantee is expected to meet professional standards of objectivity and balance.

C. Closed Captioning. If the Grant Project is a television program, it must be closed-captioned for the benefit of hearing-impaired viewers.

D. Technical Program Requirements. Every Grant Project delivered to CPB (or, upon CPB's request to CPB's designated distributor ("Designated Distributor")) must comply with all applicable national program and/or Designated Distributor's specifications, technical standards, guidelines, and other policies regarding titles and production and underwriting credits that are generally recognized in the public television or radio industry, except as otherwise specifically described in the Grant Agreement, and must be of broadcast quality, fully cut, edited and in all respects ready for Broadcast on public television or radio and for any and all other uses described in the Grant Agreement. Every hard copy of the Grant Project and its Elements, and any written materials associated with the Grant Project or its Elements intended for public dissemination, must contain a copyright notice.

4. BUDGET AND FINANCIAL REPORTING

A. Budget. The award of a Grant is subject to the approval by CPB of a Budget for the Grant Project.

B. Other Funding Sources. A Grantee may obtain additional funding from other sources so long as those funding arrangements do not impede the Grantee's ability to meet its obligations to CPB. To the extent other sources have committed funds to an applicant or Grantee for the development of a Grant Project at the time the applicant submits a Grant Application, those sources and the total funds committed by them must be disclosed to CPB as part of the Grant Application. If other sources offer to commit funds before a Grant Agreement is signed, the applicant must disclose those funding offers to CPB prior to accepting them.

C. Completion of Grant Project. By accepting a Grant from CPB, the Grantee agrees to complete and deliver the Grant Project in its entirety, in accordance with these Terms and Conditions and the Grant Agreement, even if the other sources of a Grantee's funding fail to deliver committed funds or the actual costs of completing the Grant Project exceed the Total Project Cost provided in the Budget.

D. Changes to the Budget. Once a Budget has been approved and a Grant Agreement has been signed, the Grantee may make reallocations among Budget line items (except those covering "above the line" salaries, equipment, and general administrative/overhead expenses) without CPB's approval so long as no such reallocation involves an increase or decrease in any single Budget line item in excess of the greater of 25% of such line item or \$5,000 of such line item. CPB consent to an increase in Total Budget Cost will not signify an increase in the Grant. A Grantee may make no other changes to the overall Budget or individual line items without CPB's prior written approval. Each Grantee must specifically identify and report all Budget reallocations in its interim and final financial accountings to CPB, as well as explain any allocations in excess of Grantee's discretion to make changes without CPB approval.

E. Decrease in Total Project Cost. A Grantee must notify CPB promptly of any decrease in the Total Project Cost for its Grant Project so that CPB may, if it chooses, adjust the amount of the Grant or the schedule upon which Grant disbursements are to be made. Generally, adjustments will be proportional to the amount by which the Total Project Cost has been reduced, but CPB may, if the decrease in Total Project Costs is caused by significant differences in the Grant Project, elect to make other adjustments or terminate the Grant in its entirety. If CPB adjusts the amount of a Grant because of a decrease in the Total Project Cost for the Grant Project, the Grantee must immediately return to CPB any CPB funds that were paid to the Grantee in excess of the adjusted amount of the Grant.

F. Authorized Uses of CPB Funds. No Grantee may apply amounts received under a Grant to any purpose other than actual costs incurred in performance of the Grant Project in accordance with its Budget. Any activity or a final product that is materially different from that which is described in Workscope shall not be part of the Grant Project. The salary of any employee who works on multiple projects must be allocated on the basis of time spent by the employee on each project. Grantee agrees to repay to CPB, immediately upon CPB's written request, any portion of the Grant which CPB determines has been expended in a manner that is inconsistent with either these Terms and Conditions or the individual Grant Agreement. Grantee must keep all CPB funds received but not yet expended in a United States federally-insured bank account or financial instrument.

G. Records. A Grantee and its subcontractors, if any, must keep books, records, and accounts relating to the Grant and the Grant Project sufficient to:

- i) enable CPB to verify all direct costs, overhead, and administrative allocations associated with the Grant Project;
- ii) allow CPB, by examination of Grantee's general ledger and other records, to account for the Grant Project level of activities in sufficient detail to enable an audit to verify the investment of the CPB funds in the approved expenses of the Grant Project;
- iii) disclose fully the amount and use of the proceeds of the Grant, the Total Project Cost, and the amount and nature of any portion of the Total Project Cost supplied by sources other than CPB;
- iv) substantiate labor costs with timesheets or other relatively contemporaneous record-keeping documents, consistent with the representation of those costs within the budget of the Grant or the subcontract of the Grant. Specifically:
 - a) costs represented in a budget as hourly costs must be recorded no less frequently than every two weeks;
 - b) costs represented in a budget as a percentage of annual time must be recorded no less frequently than every month;
 - c) in the case of a fixed price line item over \$5,000 that was not awarded pursuant to competitive bidding procedure, there must be documentation of the reasonableness of a fixed fee; and
- v) permit an effective audit.

H. Audit. Each Grantee and its subcontractors, if any, are required to allow CPB and the Comptroller General of the United States or their representatives access, for the purpose of audit and examination, to any books, documents, papers, and records that relate to a Grant or any other funds received from CPB.

I. Additional Audit Requirement for Public Telecommunications Entities. If the Grantee is a "public telecommunications entity" (i.e., the Grantee is a public broadcast station or a noncommercial telecommunications entity which disseminates public telecommunications services to the public), the Grantee must, in accordance with section 396(1)(3)(B) of the Communications Act:

- i) undergo a biennial audit, conducted by an independent public accountant certified or licensed by a state regulatory authority, in accordance with CPB's auditing standards and furnish the audit report to CPB; or
- ii) submit a financial statement in lieu of the audit report where CPB concludes that the cost burden of an audit is excessive in light of the financial condition of the Grantee.

J. Grant Project Narrative Reports. Each Grantee must provide CPB with interim narrative reports during production of its Grant Project detailing the status of the Grant Project according to the schedule contained in the Grant Agreement. Each Grantee must also provide CPB with a final narrative report when the Grant Project is completed and delivered.

K. Grant Project Financial Reports. Each Grantee must provide CPB with interim financial reports during production of its Grant Project according to the schedule contained in the Grant Agreement. Each Grantee must also provide CPB with a final financial report when the Grant Project is completed and delivered. All financial reports shall:

- i) set forth the amounts originally provided in the Budget for each line item and the amounts expended under each line item to date;
- ii) specifically identify and explain any variances in excess of the limits set forth in Section 4(D) hereof (both in dollars and percentages) from the Budget that exist or are expected;
- iii) constitute a certification that as of the date the certification is made the financial report is accurate in all respects, and the Grant Project can be completed on schedule and within the Budget, or if this certification would not be accurate, Grantee shall provide a detailed explanation setting forth the reasons why the Grant Project may not be completed on schedule or within the Budget;
- iv) cover all expenditures incurred in the performance of the Grant Project, whether or not CPB funds were applied to those expenditures;
- v) be reconcilable with the Grantee's general ledger accounts; and
- vi) constitute a certification that the report was prepared by a Grantee official with sufficient authority to report on such matters.

L. Maintenance of Records. Each Grantee must:

- i) maintain and retain all books, documents, papers, and records related to its Grant Project for a period of three (3) years from the date of delivery of the completed Grant Project, or for a longer period as required for records related to the receipt and payment of Ancillary Revenues;
- ii) maintain and retain a complete file of all production subcontracts, property acquisitions, rights arrangements, talent contracts, employment agreements, clearance forms, and other documents related to production for a period of three (3) years from the date of CPB's approval of the final financial report for the Grant Project; and
- iii) make copies of these documents available to CPB upon request.

M. Inaccurate Reporting. In the event that CPB discovers any inaccuracies in reporting of financial information, or any improper use of funds provided by CPB, whether reported by Grantee or discovered during the course of an audit by the Office of the Inspector General or otherwise, CPB may recover any overpayment, in addition to any other right and remedies CPB may have. If CPB elects to

seek the recovery of the overpayment, CPB will so notify the Grantee by letter and the Grantee shall have 30 days from the date of the letter to respond to or seek written clarification regarding CPB's intended actions. If Grantee does not provide a response within such 30 day period, that will be deemed to be an irrevocable agreement to repay the contested amount to CPB. If the Grantee does provide a response within the 30 day period, CPB will consider the response and notify Grantee of its decision.

N. Consultation. Grantee shall advise CPB promptly, and consult with CPB, regarding any matter that may materially and adversely affect or potentially affect CPB's interests or revenues (current or potential) relating to the Grant Project or its Elements.

5. CPB RIGHTS

A. Ownership and Control of Copyright and Other Intellectual Property Interests. A Grantee must secure and maintain all intellectual property rights in the Grant Project and its Elements that are needed to enable the Grantee to grant, assign, or license those rights to CPB of the Designated Distributor as contemplated by these Terms and Conditions and the Grant Agreement. In the event a Grantee is unable to secure any necessary intellectual property rights, Grantee shall immediately notify CPB and describe in detail the extent to which and reasons why such rights are unavailable.

B. CPB Credits. Unless prohibited by applicable law, all distribution, publication, or exhibition of a Grant Project or its Elements or related materials must carry underwriter credit identifying CPB's financial assistance in connection with the Grant Project in such manner as CPB may require; provided, however, that Grantee shall exercise reasonable efforts to cause such credit to be carried in any foreign distribution (other than U.S. military bases and embassies, for which CPB credit must be carried) of the Grant Project or its Elements. For any distribution of the Grant Project in a video format, the CPB credit must include the CPB animated logo, which will be provided to the Grantee by CPB upon request, and any other markings or information required by CPB or otherwise as provided in the Grant Agreement. For any distribution of the Grant Project in a radio format, the CPB credit will appear, where appropriate, at the beginning and end of each program, and also at breaks during the program, and the precise wording of this on-air credit shall be subject to prior CPB approval.

C. Exclusive Rights – Television. By accepting a Television Production Grant from CPB, each Grantee grants, assigns, and licenses to CPB, and allows CPB to reassign or sublicense, the exclusive right:

i) to any and all uses of the Grant Project and its Elements, and to any derivatives thereof, during the Lock Up Period; and

ii) to U.S. Public Television Rights for the Grant Project during the Distribution Term.

D. Non-Exclusive Rights. By accepting a Grant from CPB, each Grantee grants, assigns, and licenses to CPB, and allows CPB to reassign or sublicense, the following rights on a non-exclusive basis in perpetuity:

i) the right to authorize The Paley Center (formerly, The Museum of Television and Radio) in New York City and Los Angeles to perform or display on their premises in a closed environment the Grant Project to the public and to authorize others to perform or display on the Paley Center premises in a closed environment the Grant

Project for educational purposes (and, at CPB's request, Grantee shall deliver a copy of the Grant Project to The Paley Center free of charge);

ii) the right to perform or display the Grant Project and its Elements to officials, employees, and agents of the federal government;

iii) the right to use and authorize others to use the Grant Project and its Elements, and the names, voices, likenesses, and biographies of any and all persons appearing on or performing services in connection with the Grant Project, for promotional purposes reasonably related to the Grant Project or its Elements or the institutional promotion of CPB, including all Promotion Rights associated with the Grant Project;

iv) the right to duplicate and distribute, and authorize others to duplicate and distribute, any written materials prepared by CPB, the Grantee, or any other person or entity for use in conjunction with the Grant Project or its Elements, but not for distribution to the general public;

v) if the Grant is a Television Production Grant, the right to describe the Grant Project and its Elements on a separate audio channel as a special service for the visually impaired and to duplicate, distribute, Broadcast, or otherwise perform publicly, or use the Grant Project and its Elements with this audio description in accordance with the Grant Agreement; and

vi) the right to perform or display the Grant Project and its Elements at United States embassies and military bases worldwide, or spaces leased or controlled by them.

E. Radio Distribution Rights. By accepting a Radio Grant from CPB, Grantee agrees to make the Grant Project available to all public radio stations in the Domestic Area over the Public Radio Satellite Interconnection System, or another distribution system designated by CPB. Grantee shall take all actions necessary for the distribution of the Grant Project.

F. Use by Educational Institutions. In addition to the rights granted to CPB, all Television Grant Projects must be available for use by all educational institutions on a basis that permits each educational institution, at a minimum, to:

i) record the Grant Project;

ii) in the case of primary and secondary educational institutions (educational institutions teaching students in pre-kindergarten through twelfth (12th) grade), retain the recording for one (1) year from the date of its recording and use such recording an unlimited number of times during that one (1) year period for educational and instructional purposes;

iii) in the case of post-secondary and other educational institutions, retain the recording for seven (7) days from the date of its recording and use such recording an unlimited number of times during that seven (7) day period for educational and instructional purposes;

iv) subject to the time restrictions described in sub-paragraphs (ii) and (iii) above, distribute the Grant Project an unlimited number of times by retransmission over noncommercial limited frequency, closed circuit, and playback facilities; and

v) use the Grant Project consistent with all licensed Educational A/V and Non-Theatrical Rights, if any.

G. Website. By accepting a Grant for a Grant Project that includes a website, as specified in the Workscope of the Grant Agreement, Grantee agrees:

i) to research, develop, design, build, host and maintain the website ;

ii) to obtain an Internet protocol address and corresponding domain name necessary to establish the address of the website (unless the website is to be hosted and maintained as part of the websites of Public Broadcasting Service (“PBS”), National Public Radio (“NPR”) or other party acceptable to CPB) as set forth in the Grant Agreement;

iii) to use its best efforts to seek the widest possible distribution of the web component of the Grant Project, including, as appropriate, but not limited to seeking linkage from related sites and portals, embedding tags and search terms to promote search engine carriage, and including the website’s URL (Uniform Resource Locator) in all print and other ancillary materials;

iv) to maintain the website on Grantee’s or a third party’s web service during the Distribution Term or as otherwise agreed by CPB, so that the funded content is available to Internet users on a non-subscription basis and otherwise free of charge, twenty-four hours a day, seven days a week;

v) to store and maintain accurate back-up materials, including all code for the website, in a safe and secure environment;

vi) to remedy promptly any aspect of the website that fails to operate properly during the Distribution Term;

vii) to grant, assign, and license to CPB, on a non-exclusive basis during the Distribution Term, the right to use the website and corresponding materials for the website, including program images, text, HTML code, program code, and any materials that appear on the website for any purpose reasonably related to the promotion of the Grant Project and its Elements or the institutional promotion of CPB;

viii) to provide on the Grant Project website an active link to the CPB on-line comment line soliciting comments from viewers, listeners and users regarding the website or Grant Project;

ix) to grant, assign, and license to CPB, on a non-exclusive basis, the nontransferable right to use any proprietary materials (such as programming architecture, library materials, programming and computer code) that may be necessary to utilize the website and any functional copies thereof required by the Grant Agreement to be delivered to CPB;

x) to use reasonable efforts to make the website and its contents accessible to diverse audiences, including audiences with disabilities and audiences without high-speed internet connections; and

xi) to collect and provide to CPB (upon CPB's request) the appropriate metrics (as identified by CPB in its request) required to measure the use and success of the website provided the cost involved is for not more than a de minimis amount.

H. Transfer of Rights. No Grantee may grant, license, transfer, assign, or otherwise dispose of rights of any nature in the Grant Project or its Elements to any affiliate of Grantee without first obtaining CPB's written consent, excepting where Grantee's affiliate agrees in writing to be bound by the Grant Agreement and the Terms and Conditions as if it were the Grantee; however, notwithstanding the forgoing, Grantee is not relieved of the performance of any of its obligations under the Grant Agreement of the Terms and Conditions. CPB will withhold its consent only if it believes that the proposed disposition of rights does not reflect a fair market arms length transaction and will adversely affect, interfere with, or reduce the rights available to CPB, or adversely affect the interests of CPB, under these Terms and Conditions or the Grant Agreement. Grantee may grant, license, transfer, assign, or otherwise dispose of rights of any nature in the Grant Project or its Elements to any other party on the condition that any such transaction (i) reflects an arms-length business transaction, and (ii) does not interfere with any of the rights granted to CPB. In the case of Limited Theatrical Rights (including but not limited to film festivals) of the Grant Project or any versions of it, Grantee must receive CPB's advance consent.

I. Ownership of Grant Project Recordings. CPB will own the physical copies of all videotapes, DVDs, videocassettes, computer disks, or other tangible forms on which the final Grant Project and its Elements are recorded and delivered to CPB as required in the Workscope of the Grant Agreement (excluding all intellectual property contained therein not otherwise granted to CPB). Only CPB or its assignees may use these recordings, and CPB and its assignees may use them in any manner and for any purpose consistent with these Terms and Conditions and the terms of the Grant Agreement. CPB is not liable to any Grantee for any loss, destruction, or damage of or to any recording delivered to CPB.

J. Other Limitations on Use of Grant Project by Grantee. By accepting a Grant from CPB, Grantee agrees that it will not Broadcast or distribute, or allow any third person to Broadcast or distribute, the Grant Project or its Elements in Canada on television or any other audio-visual medium within ninety (90) days of the initial Broadcast of the Grant Project or for the period set forth in the Grant Agreement.

K. Derivative Works. By accepting a Grant from CPB, Grantee agrees that it will not create a substantially similar version(s) of the Grant Project using substantially similar Elements for distribution by a party other than CPB or the Designated Distributor during the Distribution Term of the Grant Project in the Domestic Area (and outside of the Domestic Area only after the Lock Up Period and the limitations of Section 5(J) above).

L. Duplicative Rights with PBS and/or NPR. Any and all rights granted to CPB pursuant to the Grant Agreement and these Terms and Conditions that are also granted to PBS and/or NPR by Grantee shall be deemed not to be a breach of the Grant Agreement and these Terms and Conditions.

6. REVENUE PARTICIPATION

A. Rights During the Lock Up Period. During the Lock Up Period, CPB retains all rights described in these Terms and Conditions or in the Grant Agreement to use the Grant Project and its Elements, provided, however, that 3rd parties who have licensed particular component Elements to Grantee shall not be restricted by this provision.

B. Provisions for Revenue Sharing After the Lock Up Period. After the Lock Up Period, the Grantee may exploit the Grant Project and its Elements, so long as such exploitation does not interfere with CPB's exclusive rights under these Terms and Conditions and the Grant Agreement. In the event the Grantee does exploit the Grant Project and its Elements, CPB is entitled to receive a share of all Net Proceeds generated in connection with a Grant Project and its Elements, according to the provisions of the Grant Agreement and subject to the following:

i) CPB Share. Each Grantee must pay CPB that portion of Net Proceeds received that is specified in the Grant Agreement. Each Grantee must remit CPB's share of Net Proceeds on or before each November 15 for all Net Proceeds received in the twelve month period ending on the preceding September 30.

ii) Reporting Obligations; Records. Each Grantee must report to CPB by November 15 of each year all Net Proceeds received in the twelve-month period ending on the preceding September 30 (if there have been no Net Proceeds during the prior year, each Grantee shall so report). In addition to the other records a Grantee is required to maintain and retain, each Grantee must maintain and retain records of all Net Proceeds for three (3) years after the conclusion of the time period within which CPB may share in Net Proceeds.

7. INSURANCE

A. Minimum Insurance Coverage. Each Grantee must, at its expense, obtain and maintain, until the end of the Distribution Term, commercial general liability and errors and omissions insurance, including copyright infringement coverage, or any other insurance specified in the Grant Agreement or by CPB in writing, sufficient to cover all of the Grantee's activities under these Terms and Conditions and the Grant Agreement and the Grantee's indemnification obligations to CPB. Notwithstanding the specific needs of a Grant Project that might require more types of insurance (as outlined above) or greater coverage amounts, the minimum acceptable amount of commercial general liability for all Grant Projects shall be one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) for the Grant Project as a whole. All insurance policies must name CPB as an additional insured. Grantee must provide its proof of insurance ("Proof of Insurance") to CPB contemporaneously with the execution of a Grant Agreement, or otherwise it must have a Proof of Insurance on file with CPB that covers, at a minimum, the fiscal year (October 1 through September 30) in which the Grant Agreement is executed.

B. Proof of Insurance. Each Grantee must have its insurance carriers furnish to CPB a certificate demonstrating that the required insurance policies are in force and stipulating that the insurance will not be canceled or materially modified prior to the end of the Distribution Term without 30 days' prior written notice to CPB. A Grantee must immediately notify CPB of any cancellation, non-renewal, expiration, or material modification of any such insurance.

8. DELEGATION AND SUBCONTRACTS

A. Delegation. No Grantee may grant, license, transfer, assign, or otherwise dispose of obligations or duties of any nature in the Grant Project or its Elements to any affiliate of Grantee, or another party, without first obtaining CPB's written consent, excepting where Grantee's affiliate agrees in writing to be bound by the Grant Agreement and the Terms and Conditions as if it were the Grantee; however, notwithstanding the forgoing, Grantee is not relieved of the performance of any of its obligations under the Grant Agreement of the Terms and Conditions. During the term of the Grant Agreement (if not otherwise set forth in the Grant Agreement), a Grantee must obtain written approval from CPB prior to delegating or subcontracting 50% or more (including any other delegations or subcontracts previously entered into) of its duties under these Terms and Conditions or the Grant Agreement. CPB approval or disapproval will be based upon CPB's assessment of whether the proposed assignment might negatively impact the production values or delivery of materials to CPB or impinge on CPB's rights as described in these Terms and Conditions or the Grant Agreement.

B. Subcontracts. A Grantee must include in any and all subcontracts or other delegation contracts a provision that will effectuate the Grantee's obligations to CPB. Any subcontracts or other delegation contracts must also allow CPB and the Comptroller General of the United States or their representative's access to and the right to examine and audit pertinent books, documents, papers, and records of such subcontractor or assignee involving the Grant Project for three (3) years following the final disbursement by CPB under the Grant Agreement.

C. Conditions Attached to CPB Funds. As a condition of the distribution of funds by CPB and to Grantee hereunder ("CPB Funds"), including funds distributed by Grantee to a delegee or subcontractor (individually, a "Subgrantee"; collectively, "Subgrantees"), Grantee shall include in any production agreement funded by Grantee with CPB Funds:

- i) a provision providing for a proportional de-obligation of CPB Funds in the event that the funded project is completed under budget, unless CPB written consent to the contrary is obtained;
- ii) a provision requiring that Subgrantees report their spending on the funded project;
- iii) a provision requiring that Subgrantees identify the amount of CPB Funds that are expected to be provided for such project and prohibiting the sub-grantees from allocating CPB funds from the specific project funded by CPB to any other project;
- iv) a provision requiring that Subgrantees provide for CPB audit rights, as well as a requirement that sub-grantees to maintain their general ledger and other records in detail sufficient to account for project level activities and which will provide an audit trail enabling CPB to verify the investment of CPB Funds in the approved expenses of particular funded projects;
- v) a provision requiring that Subgrantees maintain their general ledger and other records in detail sufficient to account for project level activities and which will provide an audit trail enabling CPB to verify the investment of CPB funds in particular funded projects;

Grantee will notify CPB if a Subgrantee is not in compliance with these provisions and the reasons for such noncompliance.

9. COMPLIANCE WITH LAW AND CPB TERMS AND CONDITIONS

A. Compliance with Law. Each Grantee must comply in the production of its Grant Project with all applicable federal, state, and local laws, rules, and regulations, including the Communications Act and the rules, regulations, opinions, and decisions of the Federal Communications Commission.

B. Non-Discrimination. Each Grantee must comply with the CPB policies on “Equal Opportunity and CPB Assistance” set forth as Annex A to these Terms and Conditions. In addition, if a Grantee is a licensee or permittee of a public broadcasting station, it must comply with the annual statistical reporting and certification requirements in section 396(k)(11) of the Communications Act.

10. TERMINATION OR REDUCTION OF GRANT

A. Termination or Reduction of Grant. CPB may terminate or reduce a Grant if the Grantee is in breach of any of its obligations set forth in these Terms and Conditions or the Grant Agreement and the Grantee has not corrected the breach within 30 days after CPB has notified the Grantee in writing of the breach. If CPB terminates a Grant, the Grantee must repay to CPB any portion of the Grant disbursed by CPB under the Grant but not expended or irrevocably committed through the date of termination. If CPB reduces the dollar amount of a Grant, the Grantee must return to CPB any Grant funds that were disbursed to the Grantee in excess of the reduced Grant amount that were not expended or irrevocably committed through the date of the reduction. The termination of a Grant under this paragraph will have no effect on the other rights of CPB and the Grantee under these Terms and Conditions or the Grant Agreement.

B. Other Remedies. In addition to terminating or reducing a Grant, CPB may pursue any other legal remedy that may be available to it as the result of the Grantee’s failure to comply with any of the provisions of these Terms and Conditions or the Grant Agreement.

C. Waiver. No modification to or waiver of these Terms and Conditions will be effective unless in writing and signed by a Vice President of CPB or other officer that the President of CPB may designate from time to time.

D. Force Majeure. Any delay in delivery of a completed Grant Project by the Grantee that results from any act of God, riot or other civil disorder, terrorism, war or armed insurrection, strike, lockout or other labor action related to a Grant Project, or governmental enactment, rule, act, order, or lack of action that does not exceed 120 days will not constitute a basis for termination or reduction of the Grant. In the event that any such delay exceeds 120 days, CPB may terminate or reduce the Grant. In the event of termination or reduction of the Grant pursuant to the preceding sentence, CPB will reimburse the Grantee, in an amount that with all amounts previously disbursed to the Grantee in respect of the Grant does not exceed the total amount of the Grant, for any incurred or unavoidably committed expenses for which CPB has not yet paid the Grantee but which were authorized by the Grant Agreement to be expended on the Grant Project through the date of such termination or reduction.

E. Bankruptcy. If, during the term of this Grant Agreement, Grantee becomes insolvent or is unable to pay its debts as they mature, or files a voluntary petition in bankruptcy or is the subject of an involuntary petition that is neither stayed nor dismissed within 60 days after the petition is filed, CPB may terminate the Grant.

F. Governing Law. These Terms and Conditions, and any Grant Agreement executed according to these Terms and Conditions, shall be construed under the laws of the District of Columbia, regardless of the place of execution or performance.

G. Consent to Jurisdiction. Unless the Grantee is a state agency prohibited by law to consent to the jurisdiction of another jurisdiction, the courts sitting in the District of Columbia will have exclusive jurisdiction to hear and resolve any claim or dispute related to these Terms and Conditions or a Grant Agreement, and each Grantee shall submit and consent to jurisdiction in the District of Columbia and agree that venue will be proper for all matters related to the Grant Agreement.

H. CPB Ethics Policy. CPB's Code of Ethics and Business Conduct requires that recipients of discretionary grants and contracts agree to act with integrity and perform their duties in compliance with applicable Federal, state and local laws, and with CPB contract/grant requirements, and otherwise act as efficient and impartial stewards of CPB funds. In addition, CPB employees are obligated to disclose to CPB certain communications regarding prospective employment with contractors and grantees, and contractors and grantees are encouraged to act in compliance with CPB's ethical conduct standards.

11. COMMUNICATION WITH AND PAYMENTS TO CPB

A. Communications with CPB. The delivery of financial reports and Grant Projects and all other communications to CPB, except for payments, must be addressed to the attention of the designated CPB Project Officer.

B. Payments. All funds paid to CPB must be in the form of checks or CPB-approved electronic payment made payable to "Corporation for Public Broadcasting" and addressed to the attention of the Office of Business Affairs.

C. Effective Notice. Notice from one party to another shall be effective from the date the notice is sent to the respective party's contact and address, as listed in the Grant Agreement.

12. REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION

A. Grantee's Representations and Warranties. Grantee represents and warrants that: (a) no portion of the Grant Project and none of the materials produced or supplied by it pursuant to the Grant Agreement and used as contemplated in the Grant Agreement, except as specifically described in the Grant Agreement or otherwise agreed to by CPB in writing, will be defamatory or violate or infringe upon the copyright, trademark, privacy, creative or other rights of any third party by reason of any production, distribution, broadcast, exhibition or other use contemplated hereby; (b) Grantee has not granted, licensed, transferred, assigned, encumbered or otherwise disposed of rights of any nature, including rights relating to underwriter identification and Ancillary Rights, in the Grant Project or any Element thereof to any third party for any purpose whatsoever except as specifically described in the Grant Agreement; (c) Grantee owns or shall acquire prior to delivery to CPB or the Designated Distributor all rights and licenses necessary to perform its obligations under the Grant Agreement and these Terms and Conditions; (d) Grantee's performance under the Grant Agreement and the rights it has granted therein do not conflict with or violate any commitment, agreement or understanding that it has with any third party; (e) there are no pending or, to the knowledge of Grantee, threatened claims, actions, investigations, or proceedings against or affecting Grantee or any of its property which, if adversely determined, would adversely affect the ability of Grantee to complete its undertakings in accordance with the terms of the Grant Agreement and these Terms and Conditions; and (f) all underwriting and/or

fundraising costs that are included in Grantee's reported indirect expenses are distributed equitably across all of Grantee's productions, except where otherwise disclosed to CPB.

B. Indemnification by Grantee. Unless the Grantee is a state agency prohibited by applicable state law from providing indemnification, Grantee agrees to indemnify and hold harmless CPB, its distributors, and all public broadcasting stations, and their respective directors, officers, agents, and employees, from and against any and all liabilities (including the reimbursement of reasonable attorney fees) arising out of the production or any use of the Grant Project or any Elements thereof under the Grant Agreement or any breach or alleged breach by Grantee of any of its representations, warranties, covenants, or other obligations set forth therein or in these Terms and Conditions.

C. Indemnification by CPB. CPB agrees to indemnify and hold harmless Grantee and its directors, officers, agents, trustees and employees, if any, from and against any and all liabilities (including the reimbursement of reasonable attorney fees) arising out of a breach by CPB of any of its representations, warranties, covenants and other obligations set forth in the Grant Agreement or in these Terms and Conditions.

13. DEFINITIONS

A. Defined Terms. The following terms, when used in these Terms and Conditions or in a Grant Agreement, have, except where the context otherwise requires, the following meanings:

- i. "Ancillary Revenues" are gross revenues received by any party other than CPB from any use of a Grant Project or its Elements beyond those exclusive rights expressly granted to CPB by these Terms and Conditions or the Grant Agreement. These uses include any exploitation of an Ancillary Right.
- ii. "Ancillary Rights" means any and all rights in (or uses of) all or any part of the Grant Project or its Elements, including any subsidiary rights, other than those expressly granted, assigned or licensed pursuant to this Grant for the exclusive use of CPB or its assignees or sublicensees. These rights (and uses) include any exploitation of the Grant Project or Elements, whether through distribution, exhibition, licensing, or otherwise, including theatrical exhibition; cable television; domestic commercial television broadcast; foreign commercial or noncommercial television broadcast; audiovisual exhibition; on-line or any electronic or digital broadband network transmission, distribution and/or delivery now known or hereafter developed; video dialtone or other telephone-line transmission, distribution or delivery now known or hereafter developed; analog or digital satellite transmission; books and other literary works; musical works and sound recordings; merchandising (including clothing, toys, games and personal appearances); video products and other audiovisual works (including cassettes, tapes, discs and other optically, magnetically or magneto-optically readable materials now known or hereafter developed); CD-rom, software and other computer-related materials now known or hereafter developed and any and all other works or products derived from the Grant Project or its Elements.
- iii. "Broadcast" means the right, at one or more times on one or more days, for television or radio, as the case may be:

(a) to broadcast or rebroadcast or cablecast or recablecast a Grant Project or its Elements and to authorize others to do so;

(b) to distribute and display and to authorize others to distribute and display a Grant Project or its Elements over-the-air, by interconnection (including satellite interconnection or DBS), by recording, or by any other means now known or hereafter developed (including Television Video-on-Demand, video dialtone, or any medium or other delivery system).

The total number of permitted releases under the Grant Agreement may be made for each manner of Broadcasting hereunder. Rebroadcasts by an entity within seven days of a Broadcast shall not be deemed to be an additional Broadcast.

- iv. “Budget” means the Grant Project budget attached to the Grant Agreement.
- v. “Commercial Marketing Rights” means the rights to use the Licensed Material for (i) marketing and advertising; (ii) packaging for cover art; (iii) tie-in books; and (iv) merchandising.
- vi. “Communications Act” means the Communications Act of 1934, as amended.
- vii. “CPB” means the Corporation for Public Broadcasting.
- viii. “Domestic Area” means the United States of America, its territories and possessions (including Guam, Puerto Rico, American Samoa, and the U.S. Virgin Islands), and Armed Forces Media worldwide (formerly U.S. Armed Forces Radio and Television Services).
- ix. “Direct Ancillary Costs” means all reasonable and legitimate costs of production of an ancillary work, including expenditures for promotion, marketing, distribution, outreach and similar costs but not including overhead and administrative salaries, except as authorized by CPB in writing.
- x. “Distribution Term” means the period described in the Grant Agreement beginning on the date of First Release of a Grant Project. If there has been no national or regional distribution or broadcast by a CPB authorized entity to public television stations, public radio stations, or related entities within the Domestic Area of the Grant Project or other distribution, broadcast, or display of the Grant Project by the fifth anniversary of the date the Grant Agreement is signed, then the Distribution Term will be coterminous with the Lock Up Period.
- xi. “Educational A/V and Non-Theatrical Rights” means the rights to duplicate and distribute the Grant Project by all forms of media for exhibition (in whole or in part) by (i) educational, cultural, civic, government, and institutional organizations (non-paying audiences); (ii) business and industry entities (non-paying audiences); and (iii) transportation entities, e.g., in-flight, cruise ships, etc. (all audiences).
- xii. “Elements” means the component parts of a Grant Project as described in the Workscope of the Grant Agreement.

- xiii. “Film Festival Rights” means the rights to exhibit the Grant Project (in whole or in part) at film festivals.
- xiv. “First Release” means the first national or regional distribution by a CPB-authorized entity by Broadcast or Online within the Domestic Area.
- xv. “Future Media Rights” means the rights to duplicate, distribute, and exhibit the Grant Project by all forms of media hereafter developed.
- xvi. “Grant” means the funding, in cash or in kind, to be provided by CPB pursuant to a Grant Agreement for the production of a Grant Project.
- xvii. “Grant Agreement” means the individual written contract signed by a Grantee and CPB concerning the production of a Grant Project.
- xviii. “Grant Application” means a written application for a Grant from CPB.
- xix. “Grant Project” means the particular radio or television program or series, website, or other project for which a Grantee has obtained partial or complete funding from CPB, as described in the Workslope of the Grant Agreement.
- xx. “Grantee” means each individual or entity that has signed a Grant Agreement.
- xxi. “Gross Proceeds” means the aggregate of all amounts, monies or sums received by Grantee or any of its affiliates from any and all sources arising out of the exercise of any and all Ancillary Rights in a given year without regard to any costs, losses, liabilities or set-offs and shall include any interest earned on such amounts, monies or sums from the date of receipt to the end of the calendar quarter prior to the date of payment to CPB of CPB’s share. Gross Proceeds shall be attributed to the given year in which they become contractually due; provided, however, that Grantee shall not be obligated to transfer any portion of CPB’s share attributable to such Gross Proceeds until such amounts, monies or sums have been received or credited.
- xxii. “Licensed Material” means the audio, video or audio-visual material that has been licensed from a third-party for inclusion in the Grant Project, consistent with the terms of that license.
- xxiii. “Limited Theatrical Rights” means the rights to screen the Grant Project at a limited number of theaters.
- xxiv. “Lock Up Period” means the period beginning on the date a Grant Agreement is signed and ending on the earliest of (a) the date of the First Release of the Grant Project, (b) the first date the Grant Project is otherwise distributed, broadcast, displayed, or otherwise made available, in each case to the general public on a national or regional basis in the Domestic Area, and (c) the fifth anniversary of the date on which the Grant Agreement is signed.
- xxv. “Net Proceeds” means Gross Proceeds arising out of an exercise of any Ancillary Right less the aggregate amount required to reimburse Grantee for the

actual Direct Ancillary Costs incurred in connection with such exercise and less a mutually-agreed-upon management charge or distributor's fee, in those circumstances where such a fee is appropriate, as determined by CPB. For purposes of this paragraph (a) Gross Proceeds and costs claimed by Grantee to be deductible from Gross Proceeds shall not include any proceeds or costs provided for in the Budget; (b) if any costs claimed by Grantee to be deductible from Gross Proceeds reflect sums attributable to charges or fees for goods or services provided by Grantee or any of its affiliates, no portion of such charges or fees may be deducted from Gross Proceeds to the extent that such portion exceeds the reasonable charges or fees that would be incurred by a third-party provider between unaffiliated parties in an arms-length transaction; and (c) any costs incurred by Grantee in any given year in connection with an exercise of an Ancillary Right that will contribute to the generation of Gross Proceeds from such exercise in succeeding years may be deducted to the extent otherwise permitted hereunder dollar for dollar against such Gross Proceeds until such costs are exhausted. Grantee shall, at the request of CPB, exercise all available legal rights to secure payments of sums due under any exercise of Ancillary Rights that would increase Net Proceeds (only to the extent that the sums do exceed the reasonably anticipated costs of exercising such legal rights).

- xxvi. "Online" means distribution via any method that does not constitute direct receipt of an audio, visual or audio-visual signal, but rather uses an internet protocol through a data streaming and/or downloading environment, including mobile devices.
- xxvii. "Private Use Rights" means the rights to duplicate, distribute, and exhibit the Grant Project for private viewing (in whole or in part) by all forms of media, including online and wireless via stream, download (including podcasts and vodcasts), home video/DVD and all hard copy devices, but specifically excludes Worldwide Television Rights.
- xxviii. "Promotion Rights" means the rights to use the Licensed Material for promotion purposes in all media for (i) in-context promotion of the Grant Project; (ii) promotion (not in-context) of the Grant Project or series; (iii) promotion of the Grant Project or series in electronic press kits and print collateral; (iv) institutional promotion by PBS, CPB, non-commercial/foundations; (v) promotion of funders, producers, broadcasters, distributors; and (vi) institutional promotion by commercial funders.
- xxix. "Radio Production Grant" means a Grant for the production of a Grant Project that is or includes a radio program.
- xxx. "Radio Rights" means the rights to duplicate, distribute and publicly perform an audio version of the Grant Project (in whole or in part) by all forms of radio, including broadcast, satellite, webcast and podcast.
- xxxi. "Short-Form Segment Rights" means the rights to use the Licensed Material to create public-broadcasting-branded short-form segments for educational online and wireless services (e.g., PBS Digital Learning Library, Teachers' Domain), to be exhibited and/or streamed, downloaded, shared, and re-mixed.

- xxxii. “Television Production Grant” means a Grant for the production of a Grant Project that is or includes a television program.
- xxxiii. “Television Video-on-Demand” means the rights to duplicate, distribute, and exhibit the Grant Project by means of television video-on-demand.
- xxxiv. “Total Project Cost” means the estimated total cost of completing a Grant Project as provided in the Budget.
- xxxv. “U.S. Public Television Rights” means the rights to duplicate, distribute, and exhibit the Grant Project in the United States, its territories, possessions and commonwealths, by all forms of television services and devices that are branded, owned, operated or programmed, in whole or part, by public television entities. These rights include Television Video-on-Demand, online streaming by a public broadcasting entity, Armed Forces Media worldwide (formerly U.S. Armed Forces Radio and Television Services), distribution on a non-sponsored basis by non-public television stations in areas not served by public television, and the right of educational institutions to record the Grant Project off-air and exhibit the Grant Project in classrooms for one year following the recording.
- xxxvi. “Worldwide Television Rights” means the rights to duplicate, distribute, and exhibit the Grant Project by all forms of television services and devices worldwide, excluding major U.S. commercial networks (e.g., ABC, NBC, CBS, and Fox) and U.S. premium cable services (e.g., HBO, Showtime). These rights include Television Video-on-Demand, online streaming by a U.S. public broadcaster, and online streaming outside the U.S. as part of a “catch-up” service, and the right of educational institutions to record the Grant Project for use in classrooms for one year following the recording.

B. Interpretation. The terms “including” or “include” mean including, without limiting the generality of any description preceding such term. The captions, headings, and italicized summaries included in these Terms and Conditions are solely for convenience of reference and are not to be considered in matters of interpretation.

ANNEX A

EQUAL OPPORTUNITY AND CPB ASSISTANCE

Policy

It is the policy of the Corporation for Public Broadcasting (1) to comply fully with all applicable laws and regulations, including laws and regulations prohibiting discrimination against any person on the basis of race, color, religion, national origin, age, gender, or physical or mental handicap; and (2) to require that each recipient of assistance from CPB, whether in cash or in kind, comply with all such laws and regulations.

CPB Role and Cooperation with Government Agencies

The Corporation for Public Broadcasting is a private, nonprofit corporation. Because CPB is neither a government agency nor a law enforcement body, it does not have the legal authority to investigate and adjudicate complaints based upon allegedly discriminatory practices by recipients of its assistance that such agencies and bodies do. CPB will, however, promptly refer all such complaints received by it to a government agency with jurisdiction for any proceedings that may be appropriate. Further, CPB will cooperate fully with every agency with jurisdiction to inquire into allegedly discriminatory practices of recipients of CPB assistance.

Laws and Regulations Applicable

Applicable laws and regulations prohibiting discrimination against persons on the basis of race, color, religion, national origin, age, gender, or physical or mental handicap may be federal, state, or local, and may vary from recipient to recipient and from jurisdiction to jurisdiction. Each applicant or recipient of CPB assistance shall inform itself of the laws and regulations applicable to it, and CPB shall not undertake to so inform the applicant or recipient, unless a law or regulation requires that CPB do so, and then CPB shall undertake to inform the applicant or recipient only to the extent the law requires.

Suspension or Cancellation of CPB Assistance

Whenever a court or government agency with jurisdiction determines by a final judgment or order that a recipient of assistance from CPB is in violation of federal, state, or local laws and regulations prohibiting discrimination on the basis of race, color, religion, age, national origin, gender, or physical or mental handicap, and notice of such determination is given in writing to CPB by the court, agency, or any other person and officially certified, CPB may suspend or cancel all assistance to the recipient following 30 days' prior written notice to the recipient unless during such 30-day period the recipient demonstrates to CPB's reasonable satisfaction that the violation has been fully corrected or that the recipient is in full compliance with all remedial provisions of the court's final determination.

Applicants Ineligible to Receive CPB Assistance

An applicant for assistance from CPB whom a court or government agency with jurisdiction has determined finally to be in violation of any federal, state, or local law or regulation prohibiting discrimination on the basis of race, color, religion, age, national origin, gender, or physical or mental handicap shall be ineligible for assistance from CPB, unless the applicant shall demonstrate to the

satisfaction of CPB that the violation has been fully corrected or that it is in full compliance with all remedial provisions of such final determination.

Effective Date

The provisions of this policy statement shall become effective with respect to assistance granted or applications for assistance filed pending on or after March 1, 1974 (revised July 1976; further revised February 1985).