

SECOND AMENDED AND RESTATED
AGREEMENT

THIS SECOND AMENDED AND RESTATED AGREEMENT is effective as of July 27, 2006 (the “Effective Date”), by and between the UNIVERSITY OF WASHINGTON, a Washington State institution of higher education, (the “University”), and KUOW / PUGET SOUND PUBLIC RADIO, a Washington nonprofit corporation (“PSPR”).

RECITALS

WHEREAS, the University is an institution of higher education established under the laws of the State of Washington;

WHEREAS, pursuant to RCW 28B.20.130(8), the University has the authority to enter into such contracts as its Board of Regents deems essential to University purposes;

WHEREAS, the University holds a license from the Federal Communications Commission (the “FCC”) to operate KUOW-FM (the “Station”) and wishes to accept PSPR’s support;

WHEREAS, pursuant to RCW 28B.20.130(7), the University may accept gifts, grants, conveyances, devises, and bequests whether real or personal property, in trust or otherwise, for the support, use or benefit of the University, its colleges, its schools, departments or agencies;

WHEREAS, PSPR wishes to support the Station through fundraising and assisting in the management and operation of the Station as stated in PSPR’s Articles of Incorporation as follows:

To operate exclusively for charitable, scientific, literary, or educational purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), or any successor provision, including, but not limited to, (1) supporting and promoting the welfare of KUOW-FM, a public radio station licensed to the University of Washington, which is exempt from federal taxation under Section 115(1) of the Code, and (2) owning, managing or operating telecommunications facilities and broadcast stations including noncommercial, educational public broadcast stations.

WHEREAS, such support will further KUOW-FM’s mission to create a more informed public, one challenged and invigorated by a deeper understanding and appreciation of events, ideas, and cultures (the “Mission”), and by further advancing the University’s commitment to serve as a learning resource for everyone;

WHEREAS, as of July 1, 2001 (the “Effective Date”) the University and PSPR have entered into a certain Agreement relating to the operation of the Station (the “Original Agreement”); and

WHEREAS, pursuant to Section 9 of the Original Agreement, the University and PSPR wish to amend and restate the Original Agreement to read as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises described below and in order to assure that PSPR acts in accord with University goals and to enable PSPR to accomplish its purposes in the most efficient manner, the Original Agreement is hereby amended and restated to read, and the University and PSPR agree, as follows:

1. Relationship of University and PSPR.

1.1 General. As described further below, PSPR shall assist the University in managing and operating the Station as specified in Section 2, and the University shall provide support services and facilities to PSPR as specified in Section 3. The University shall at no time delegate its FCC-mandated obligations as licensee of the Station.

1.2 Fundraising Authority. PSPR shall coordinate and direct all fundraising efforts of the Station. PSPR may accept gifts made directly to the Station and in support of the Station, and shall deposit such amounts in the account of PSPR. Funds raised for the Station will be used to accomplish the Mission. PSPR shall, as requested by University, provide an accounting for gifts made directly to the Station and in support of the Station which PSPR receives.

1.3 Contacts. Each party shall designate one contact who will have authority to make decisions for and represent that party. The individuals serving from time to time in the following capacities on behalf of the University and PSPR, respectively, shall be such parties' contacts for purposes of this Agreement:

The University:	Executive Director of Media Relations or a successor designated by University
PSPR:	President, KUOW/Puget Sound Public Radio

The contact for a party may, by notice in writing given to the other party in the manner provided in Section 10.14, delegate authority for such decisions to his or her representative. A party may, by notice in writing given to the other party in the manner provided in Section 10.14, designate an individual serving in a different capacity as that party's contact for purposes of this Agreement.

1.4 PSPR agrees that it shall not use any University resources, including but not limited to University employees, for purposes that do not further the Mission.

2. PSPR Management and Operation of the Station. PSPR agrees to provide management and operational support to the Station as described in this Section during the term of this Agreement. PSPR shall receive no compensation for its services.

2.1 Management.

2.1.1 Station Operation. Day to day management of the Station, including programming, technical support, fundraising, and administration, shall be the responsibility of the KUOW General Manager (the “Chief Executive”). The Chief Executive shall be an employee of the University and an ex officio member of the PSPR Board of Directors (the “Board”). The Chief Executive shall act as an agent of PSPR, and shall assist PSPR in performing its duties hereunder.

2.1.2 Role of the Board. The Board shall direct, supervise and evaluate the performance of the Chief Executive.

2.1.3 University’s Contact. The individual serving from time to time pursuant to Section 1.3 as the University’s contact for purposes of this Agreement (the “University’s Contact”) shall be an ex officio member of the Board. The Board shall make recommendations regarding compensation and other personnel actions for the Chief Executive to the University’s Contact for review and approval. The University’s Contact shall consult with the Board regarding personnel actions for the Chief Executive.

2.2 Station Personnel.

2.2.1 General. The Chief Executive shall be the appointing authority for Station employees.

2.2.2 University Employees. Station personnel shall act as PSPR’s agents to assist PSPR in performing its duties hereunder. Notwithstanding the foregoing, Station personnel shall be University employees except as otherwise required in the judgment of the Chief Executive. All personnel matters concerning University employees shall be the responsibility of the University. PSPR shall reimburse the University an amount equal to the salaries and benefits of the Station’s University employees, except for such general support as the University may from time to time make available.

2.2.3 PSPR Employees. Nothing in this section shall limit the power of PSPR to hire or otherwise retain personnel necessary to carry out its functions, including those functions described in this Agreement. PSPR may contract directly for further assistance with such persons or entities as it deems necessary, including certified public accountants, investment managers, attorneys, and other providers of goods and services.

2.3 Fundraising. PSPR shall perform fundraising for the Station in the form of individual gifts, corporate and foundation support, capital campaigns, and other activities.

2.3.1 Coordination and Reports. PSPR shall coordinate its major donor prospecting and capital campaign development with the University. PSPR fundraising reports shall be provided to the University on a monthly basis.

2.4 Financial Management.

2.4.1 Budgets. The Chief Executive shall prepare and present to the Board for approval all budgets necessary for the operation of the Station in accordance with reasonable business practices and generally accepted accounting principles.

2.4.2 Fund Management. PSPR shall manage the receipt, deposit, and expenditure of all funds and income received by it. PSPR may invest and administer all of such funds and income in any manner which it deems appropriate, so long as such investment and administration is consistent with the purposes of PSPR.

2.4.3 Payables and Receivables. PSPR shall manage payables and receivables and establish systems of internal controls (and separate accounting for restricted and unrestricted gifts) in accordance with generally accepted budgeting and accounting principles and based on recommendations of PSPR's independent auditors and the Board to provide internal controls over the funds, investment, accounts and other property of PSPR.

2.4.4 Maintenance of Books and Records. PSPR agrees to make all books and records in its possession and any materials produced in connection with services under this Agreement available to the University's auditors or its authorized representatives.

3. University Support Services and Facilities. The University agrees to provide PSPR with support services and facilities described in this Section during the term of this Agreement.

3.1 Support Services. The University shall provide support services necessary to insure PSPR's efficient and economical operation as contemplated by this Agreement, including mail services, equipment maintenance, telecommunications and network support, copy services, publication services and other like services. PSPR employees using such University support services shall comply with all applicable University policies.

3.2 Provision of Facilities.

3.2.1 General. In consideration of PSPR's furthering of University purposes, the University agrees to provide PSPR with the facilities described herein during the term of this Agreement. Except as otherwise provided in this Agreement, "facilities" shall mean the physical plant and equipment necessary for PSPR to perform services that will advance the purposes of the University as contemplated by this Agreement. These facilities shall include, but are not limited to, all of the space, furnishings, and equipment used by the Station. PSPR may contract directly for additional facilities with such persons or entities as it deems necessary.

3.2.2 Furtherance of University Purposes. The parties agree that PSPR's possession and use of these facilities is in the furtherance of the University's purposes, and the University benefits from the services provided by PSPR's use of these facilities.

3.2.3 Payment for Facilities. PSPR and the University agree that the cost of the Station's leased space located at 4518 University Way NE, Seattle, Washington shall be paid by PSPR. PSPR shall pay for all station furnishings and equipment acquired after the date of execution of this agreement.

3.3 Use of Facility. PSPR shall enjoy use of the facilities space consistent with the purpose of this Agreement. PSPR shall comply with all terms of the property lease between the University and its Landlord in its use of the facilities provided. The University shall provide a copy of the lease agreement to PSPR.

4. Term, Termination, and Effect of Termination.

4.1 Term. The initial term of this Agreement shall extend from the Effective Date until February 1, 2006, the date of the new term of the FCC license for the operation of the Station. This Agreement shall be automatically renewed for the term of and run concurrently with each subsequent FCC license period, unless either party gives written notice to the other of intent not to renew within a period of not less than six (6) months prior to license expiration date.

4.2 Termination for Breach. The University or PSPR may terminate this Agreement with prior notice to the other party if the other party materially breaches this Agreement, provided the injured party has given the other party notice under Section 10.14 (Notices) of such breach and the other party failed to cure such breach within 30 days after receipt of such notice.

4.3 Effect of Termination. In the event of termination or expiration of this Agreement, each party shall immediately pay all amounts due and owing to the other party under this Agreement.

5. Insurance.

5.1 General. PSPR shall maintain at its expense such insurance as is necessary and appropriate for covering its services in accordance with reasonable business practices. Such insurance shall be primary and non-contributory with insurance or self-insurance coverage maintained by the University. PSPR shall deliver certificates of coverage to the University within 15 days of execution of this Agreement and at annual renewal thereafter. At a minimum, PSPR shall maintain:

a. Broadcasters Liability with limits of at least \$1,000,000 per occurrence, naming the Board of Regents of the University of Washington as an additional insured;

b. Commercial General Liability with limits of at least \$1,000,000 per occurrence, naming the Board of Regents of the University of Washington as an additional insured;

c. Employment Practices Liability (which may be included in a Directors and Officers liability policy) with limits of at least \$1,000,000 per occurrence; and

d. Workers' Compensation with limits as required by law and Employers' Liability with limits of at least \$1,000,000 per occurrence.

5.2 Additional Insured. The University shall be named as an additional insured on the policy or policies, which shall also provide that the coverage is primary coverage and is not contributory with any other insurance or self-insurance programs. PSPR shall deliver a certificate of coverage to the University upon execution of this Agreement and annually thereafter.

6. Indemnification. PSPR and the University shall each be responsible for their own acts. PSPR agrees to defend, indemnify, and hold the University harmless from and against any loss, claim, or damage arising from the negligent acts or omissions of its officers, employees or agents in the performance of their duties under this Agreement. The University agrees to defend, indemnify, and hold PSPR harmless from and against any loss, claim, or damage arising from the negligent acts or omissions of its officers, employees or agents in the performance of their duties under this Agreement.

7. PSPR Property. Notwithstanding any other provision, term, covenant or condition of this Agreement, all records, notes documentation including records relating in any manner to expenditures made, or gifts, bequests, donations received or donors or any other matters of PSPR's business shall be and remain the sole property of PSPR. Unless otherwise required by law, the University agrees not to make any PSPR documents, records or any other information (whether written or in any other form) available to a third party without PSPR's express written consent.

8. Use of Marks. PSPR is hereby granted a nonexclusive license during the term of this Agreement to use the name "KUOW" and any other trademarks, trade names, service marks or logos owned and used by the University in connection with the Station; provided, however, that such use shall be at all times as approved by the University's Contact or other authorized representative of the University. The University may not use PSPR's marks without prior written approval of PSPR. Approval for such uses shall not be unreasonably withheld.

9. Amendments. Neither this Agreement nor any provision hereof can be modified, amended, discharged, terminated, waived or changed except by an instrument in writing signed by both parties.

10. General Conditions.

10.1 Assignment. Neither party may assign or transfer this Agreement or any of its rights hereunder, or delegate any of its duties hereunder, without the prior written consent of the other party, which consent will not be unreasonably withheld. Any attempted assignment, transfer or delegation in contravention of the Section of the Agreement shall be null and void. This Agreement shall inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

10.2 Authority. Neither party shall have authority to bind, obligate or commit the other party by any representation or promise without the prior written approval of the other party.

10.3 Authorization. Both University and PSPR have full power and authority to enter into and perform the Agreement, and the person signing the Agreement on behalf of each has been properly authorized and empowered to enter into the Agreement and to bind each party to each and every one of the terms, conditions and obligations set forth herein.

10.4 Binding Effect. Each party agrees that the Agreement binds it and each of its employees, agents, independent contractors, and representatives.

10.5 Compliance With Civil Rights Laws.

10.5.1 No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program provided by this Agreement because of race, color, creed, marital status, religion, sex, sexual orientation, national origin, Vietnam era or disabled veteran's status, age, the presence of any sensory, mental or physical disability, or political affiliation or belief.

10.5.2 During the performance of this Agreement, PSPR shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. § 12101, et seq.; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington law against discrimination. In the event of PSPR's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled or terminated in whole or in part under Section 4.2 (Termination for Breach), and PSPR may be declared ineligible for further contracts with University. PSPR shall be given a reasonable time in which to cure noncompliance. In addition to the cancellation of this Agreement, PSPR may be subject to penalties under federal and state law.

10.6 Cooperation of Parties. The parties agree to fully cooperate with each other in connection with the performance of their respective obligations and covenants under this Agreement.

10.7 Entire Agreement; Acknowledgement of Understanding. PSPR and University acknowledge that they have read the Agreement, understand it and agree to be bound by its terms and conditions. Further, PSPR and University agree that the Agreement is the complete and exclusive statement of the Agreement between the parties relating to the subject matter of the Agreement and supersedes all proposals, letters of intent or prior agreements, oral or written, and all other communications and representations between the parties relating to the subject matter of the Agreement. Understandings, agreements, representations, or warranties not contained in this Agreement or a written amendment hereto shall not be binding on either party.

10.8 Force Majeure. Neither University or PSPR shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

10.9 Governing Law. This Agreement shall be governed in all respects by the law and statutes of the State of Washington. The jurisdiction for any action hereunder shall be the State Courts for the State of Washington. The venue of any action hereunder shall be in the State Courts for King County, State of Washington.

10.10 Headings. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

10.11 Modifications and Amendments.

10.11.1 No modification, amendment, alteration, addition or waiver of any Section or condition of this Agreement shall be effective or binding unless it is in writing and signed by an authorized representative of the University and PSPR.

10.11.2 Only the Executive Vice President or delegate by writing (with the delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement on behalf of University. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the Executive Vice President of the University or delegate as aforesaid and PSPR, unless otherwise provided herein.

10.12 Nonwaiver. Except as otherwise specifically provided herein, any failure or delay by either party to exercise or partially exercise any right, power or privilege under the Agreement shall not be deemed a waiver of any such right, power, or privilege under

the Agreement. Any waivers granted by PSPR or the University for breaches hereof shall not indicate a course of dealing of excusing other or subsequent breaches.

10.13 Notice of Delay. When either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five working days, give notice thereof, including all relevant information with respect thereto, to the other party.

10.14 Notices. Any notice or demand or other communication required or permitted to be given under this Agreement or applicable law shall be effective if and only if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

To **University** at:

Attention: Executive Director of Media Relations
University of Washington, Box 351210
Seattle, Washington 98195-1210
206-543-2560
206-543-5651 (Fax)

To **PSPR** at:

Attention: *President, KUOW/Puget Sound Public Radio*
4518 University Way NE, Suite 310
Seattle, WA 98105-4535
206-543-2710
206-543-2720 (Fax)

The notice address as provided herein may be changed by notice given as provided above.

10.15 Remedies. No remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

10.16 Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

10.17 Subcontractors. PSPR may enter into subcontracts with third parties for its performance of any part of PSPR's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of PSPR to University for any breach in the performance of PSPR's duties.

10.18 Subpoena. In the event that a subpoena or other legal process commenced by a third party in any way concerning the services provided pursuant to this Agreement is served upon University or PSPR, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. University and PSPR further agree to cooperate with the other party in any lawful effort by the such other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

10.19 Survival. All services performed pursuant to the authority of this Agreement are subject to all of the terms and conditions set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

10.20 Waiver. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written instrument signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Second Amended and Restated Agreement as of the date last written below.

UNIVERSITY OF WASHINGTON

KUOW/PUGET SOUND PUBLIC RADIO

By: _____ (s)
Weldon El Ihrig
Executive Vice President

Date: 7-27-2006

By: _____ (s)
Pauline Reiter
President

Date: 8-1-2006