

**MEMORANDUM OF UNDERSTANDING
BETWEEN
AMERICAN UNIVERSITY
AND
[BLANK]**

This Memorandum of Understanding (“Agreement”) dated [BLANK] (“Effective Date”) establishes an affiliation relationship between American University, through its WAMU 88.5 (“AU/WAMU”), a Congressionally chartered institution of higher education located at 4400 Massachusetts Avenue, NW, Washington, DC 20016 and [BLANK] located in [BLANK] (“ORGANIZATION”).

Whereas, AU/WAMU has received a three year grant from the Kendeda Fund to implement a collaborative reporting project on the role of guns in American life called the Gun Violence Initiative (“Program”);

Whereas, ORGANIZATION wishes to participate as a member station in the Program;

Whereas, AU/WAMU and ORGANIZATION desire to document and clarify the mutual benefits and responsibilities from their respective missions and shared responsibilities; and

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. TERM

This Agreement shall take effect on the Effective Date above and will continue until May 30, 2020, unless terminated earlier under the terms of this Agreement.

II. STATEMENT OF WORK

A. Upon execution of this Agreement, the ORGANIZATION shall become a member station of the Program and shall act as a member in accordance with the terms and conditions of this Agreement.

B. During the term of this Agreement, AU/WAMU will collaborate with several member stations on certain reporting projects.

C. The parties acknowledge that the Program will create at least 450 pieces of content, to be shared among all member stations. Program content may consist of on-air or digital products, including: news features; two-way on-air conversations; digital articles; infographics; social media engagement; podcast content; video content; live interviews on talk programs; live events; collaborations with other media organizations (“Program Content”).

D. The ORGANIZATION agrees to be bound by and comply with the rules and policy statements related to the Program issued from time to time by AU/WAMU.

III. RESPONSIBILITIES OF AU:

A. AU/WAMU will serve as the lead station for the Program. As lead station, AU/WAMU will be responsible for centralized editing and related support for the Program's projects.

B. AU/WAMU has received a three year grant from the Kendeda Fund to implement the Program. Pursuant to said grant, AU/WAMU will provide funding to the ORGANIZATION to support its obligations as a member station under this Agreement. AU/WAMU will issue funding to the ORGANIZATION of [BLANK] annually for two years pursuant to Section VII of this Agreement.

C. AU/WAMU agrees to assign one (1) designated AU/WAMU employee to serve as the Program Manager and fulfil its responsibilities under this Agreement.

D. AU will create programming for member stations that will feature training and professional development opportunities.

IV. RESPONSIBILITIES OF ORGANIZATION

A. During the term of this Agreement, the ORGANIZATION agrees to become a member station of the Program. As a member station, the ORGANIZATION agrees, in consultation with AU/WAMU, to the following:

1. Production of at least two in-depth content features per month
2. Submission of images, text, audio, and additional digital content to the Program's digital hub
3. Regular appearances on local news programs related to the Program's work
4. Participation in regular social media campaigns
5. Participation in a signature content collaboration featuring input from all member of the Program, once a year

B. The ORGANIZATION agrees to assign one (1) designated ORGANIZATION employee to serve as a Reporting Fellow and fulfil the ORGANIZATION's responsibilities under this Agreement.

C. The ORGANIZATION agrees to provide its Reporting Fellow the opportunity to participate in Program related activities for member stations, which will include training and professional development opportunities, and occasional travel.

D. The ORGANIZATION will provide equipment and cover reasonable travel costs associated with the ORGANIZATION's obligations.

- E. The ORGANIZATION will provide training and professional development opportunities, and occasional travel related to Program activities.
- F. The ORGANIZATION agrees to acknowledge its participation in the Program on its website and include a link to the Program's website.
- G. The ORGANIZATION agrees to apply the funds received by AU/WAMU related to the Agreement ("Program Funds") toward work on the Program and to abide by the budget appended to this MOU as Exhibit A, which is hereby attached and incorporated by reference into this Agreement.
- H. The ORGANIZATION will not use any of the Program Funds to influence any legislation or the outcome of any election, to conduct a voter registration drive, or to pay the overhead expenses attributed to any such activities.
- I. The ORGANIZATION will not use any of the Program Funds to satisfy a charitable pledge or obligation of any person or organization, or to provide any tangible economic benefit to any Kendeda Fund manager or substantial contributor or their respective family members.
- J. The ORGANIZATION agrees to return any Program Funds not expended for the purposes described in this MOU.
- K. The ORGANIZATION represents and warrants to AU/WAMU as follows: (i) the ORGANIZATION is a duly incorporated nonprofit corporation and is validly existing in good standing under the laws of its state of incorporation; (ii) the ORGANIZATION is organized and operated exclusively for purposes described in section 501(c)(3) of the Internal Revenue Code; (iii) the ORGANIZATION is engaged in investigative and/or public interest news reporting that is not based upon, influenced by, or supportive of the interests or policies of any single political party or viewpoint or any single religion or religious viewpoint, and (iv) the ORGANIZATION will continue to be so engaged at all times during the term of this Agreement.

V. PROGRAM CONTENT

A. During the term of this Agreement, the ORGANIZATION hereby grants to AU/WAMU and the Program's member stations a non-exclusive royalty-free right and license to use, copy, publicly display, distribute, transmit, promote, transfer, sublicense, subdistribute and otherwise exploit the ORGANIZATION's Program Content throughout the world in any manner and in any media ("ORGANIZATION's Licensed Program Content"). Without limiting the representations and warranties in Section V (D) below, the ORGANIZATION acknowledges and agrees that it shall be responsible for including any and all attribution and otherwise clearing all the ORGANIZATION's Licensed Program Content (including, without limitation, ensuring that the ORGANIZATION's Licensed Program Content is free of any material or statements that would give rise to a claim by a third party) that the ORGANIZATION provides to AU/WAMU for use in accordance with this Agreement. The ORGANIZATION further acknowledges and agrees that the rights

and license set forth in this Section include the right of each other station member of the Program to utilize the ORGANIZATION's Licensed Program Content in accordance with this Agreement.

B. As between the ORGANIZATION and AU/WAMU, the ORGANIZATION shall retain ownership of the ORGANIZATION's Licensed Program Content (subject to the license granted pursuant to Section V(A) of this Agreement) and AU/WAMU shall retain ownership of any content created or developed by AU/WAMU.

C. With respect to the ORGANIZATION's Licensed Program Content, the ORGANIZATION represents, warrants and undertakes to AU/WAMU that: (i) the ORGANIZATION has the full right and authority to grant and license to AU/WAMU all of the rights, licenses, and privileges granted and licensed to AU/WAMU hereunder; (ii) there are and will be no claims, liens, encumbrances, limitations, reversions, restrictions or rights of any nature in or to the ORGANIZATION's Licensed Program Content, which will limit, impair, or interfere with the rights of AU/WAMU hereunder and the ORGANIZATION's Licensed Program Content, and each and every part thereof, and the exercise by AU/WAMU of any and all rights of AU/WAMU hereunder with respect thereto, will not infringe upon, misappropriate or otherwise violate any rights of any third parties; (iii) all obligations of the ORGANIZATION with respect to the ORGANIZATION's Licensed Program Content and the distribution, and exploitation thereof, shall have been or shall be fully paid or discharged by the ORGANIZATION prior to delivery of such ORGANIZATION's Licensed Program Content to AU/WAMU; (iv) the ORGANIZATION has obtained, or will obtain, at its own cost and prior to the delivery of the ORGANIZATION's Licensed Program Content to AU/WAMU, all rights with respect to all aspects of the ORGANIZATION's Licensed Program Content so that no additional payment is required with respect to AU/WAMU's exercise of the rights granted to it hereunder; (v) the ORGANIZATION's Licensed Program Content shall comply with any and all applicable laws, administrative regulation or rule or industry code of practice; (vi) the ORGANIZATION has obtained all of the necessary releases, licenses, waivers or permissions with respect to the ORGANIZATION'S Licensed Program Content for all uses contemplated under this Agreement; (vii) the ORGANIZATION's Licensed Program Content (including its title(s) and the names and likenesses of the characters, persons and other entities appearing in or connected with the production of such ORGANIZATION's Licensed Program Content), advertising and promotional materials and/or other data supplied by Member shall not violate or infringe upon any common-law or other right (including, without limitation, any copyright, trademark, service mark, literary, dramatic or motion picture right, right of privacy or publicity or contract right) of any person or entity; and (viii) the ORGANIZATION's Licensed Program Content shall not contain any material that would violate any criminal laws, any other applicable laws, or any third party rights.

VI. TERMINATION OF AGREEMENT

A. This Agreement may be terminated early for the following reasons: (1) any party may terminate for convenience by providing at least thirty (30) days advance written notice to the other party; (2) upon the mutual written agreement of the parties; (3) in the event that: (i)

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any party loses its license (if one is required) or funding; or (ii) the bankruptcy or insolvency of any party; or (4) upon a material breach by any party that is not cured within ten (10) days of receipt of written notice from any of the non-breaching parties of such material breach.

B. If this Agreement is terminated early pursuant to this Agreement, the ORGANIZATION shall reimburse AU/WAMU any Program Funds that have not been utilized or spent at the time of termination.

C. Termination of this Agreement for any reason shall have the following effect: neither party shall have further obligations hereunder except for obligations accruing prior to the date of termination such as indemnification and copyright and ownership.

VII. FINANCIAL TERMS

A. AU/WAMU shall pay the ORGANIZATION the Program Funds in the amount of [BLANK] annually pursuant to the following funding schedule:

1. YEAR 1

- 50% of first year funding upon signing
- 25% of first year funding six months from signing
- 25% of first year funding at conclusion of first 12 months

2. YEAR 2

- The payment schedule for Year 2 will be identical to Year 1 following the anniversary dates of Year 1.

B. The ORGANIZATION agrees that the Program Funds are contingent upon the ORGANIZATION meeting reporting and project activity requirements referenced in this Agreement.

C. If expenses exceed the Program Funds awarded by AU/WAMU, the ORGANIZATION will be solely responsible for said costs.

D. The ORGANIZATION shall maintain books, records, documents and other evidence in connection with the Program Funds awarded by AU/WAMU for three (3) years after the termination of this Agreement. Such records shall be kept by the ORGANIZATION in accordance with generally accepted accounting principles and practices, consistently applied throughout the term of the Agreement. Upon reasonable notice and during reasonable business hours of the ORGANIZATION, authorized representatives of AU/WAMU shall be permitted to inspect and audit all data and records of the ORGANIZATION related to the Program Funds.

VIII. INSURANCE

Both parties shall maintain its own insurance coverage to cover risk of activities which are the subject to this Agreement during the term of this Agreement.

IX. INDEMNIFICATION:

A. To the fullest extent permitted by law, ORGANIZATION shall defend, indemnify, and hold harmless AU/WAMU, its agents, representatives, officers, directors, officials, and employees from and against all claims, suits, costs, damages, losses and expenses, including but not limited to attorney fees and costs, that AU/WAMU may sustain by (i) any breach of ORGANIZATION warranties and representations; (ii) AU/WAMU's distribution and exploitation of the ORGANIZATION's Licensed Program Content in accordance with this Agreement; and/or (iii) by any act or omissions of ORGANIZATION related to this Agreement.

B. To the fullest extent permitted by law, AU/WAMU shall defend, indemnify, and hold harmless ORGANIZATION, its agents, representatives, officers, directors, officials, and employees from and against all claims, suits, costs, damages, losses and expenses, including but not limited to attorney fees and costs, that ORGANIZATION may sustain by any breach of AU warranties and representations, and/or by any act or omissions of AU/WAMU related to this Agreement.

X. USE OF LOGO AND TRADEMARKS:

ORGANIZATION agrees that they will not use the name or logo or make any reference to AU/WAMU or any components of AU/WAMU in any advertising, publication, brochure, certificate, documentation or diploma without the prior consent of AU/WAMU. Any such permission granted under this Agreement is for a nonexclusive, limited purpose related to the performance of this Agreement. AU/WAMU agrees that upon any such request from ORGANIZATION, permission shall not be unreasonably withheld. In addition, ORGANIZATION agrees that nothing in this Agreement shall give any right, title or interest in any of AU/WAMU's marks, trademarks, logos, or photographic images, except the right to use it in accordance with the terms of this Agreement. ORGANIZATION agrees they will not, during the term of this Agreement, or thereafter, challenge the rights of AU/WAMU in these marks, trademarks, logos or photographic images.

XI. GENERAL PROVISIONS

A. **Independent Contractor.** This Agreement does not create among the parties any joint venture, partnership, or agency, or any other business relationship other than the specific relationship provided by the terms of this Agreement. All parties at all times and for all purposes shall be considered independent contractors of each other. All parties are responsible for payment of tax withholdings, workers' compensation, social security and other obligations imposed on them by international, federal, state, and local law for their activities and obligations performed pursuant to this Agreement. In dealing with third parties, each party agree to avoid creating any appearance that it is as acting as an agent for the other and to avoid making any representation which might reasonably be construed as creating or suggesting an agency relationship.

B. **Legal Compliance and Business Licensure.** The parties represent that each is engaged in an independent business and has complied with all applicable, international, federal, state, and local laws, including business permits and licenses of any kind that may be required to carry out such business.

C. **Notices.** All notices and statements required to be given under this Agreement shall be given in writing. All notices, demands and requests to be sent hereunder shall be deemed to have been properly given or served as follows: if delivered by facsimile when confirmation of such transmission is received; if delivered by hand when received; if mailed on the fifth (5th) business day following the date upon which the notice was deposited in the United States mail, addressed to the recipient of the notice, postpaid and registered or certified with return receipt requested; or otherwise upon actual receipt of such written notice. All such notices, demands and requests shall be addressed:

IF TO AU/WAMU:

Carey Needham
Associate General Manager, WAMU
202-885-1235
cneedham@wamu.org

IF TO ORGANIZATION:

[CONTACT INFORMATION]

A courtesy email, which shall not constitute notice, may be sent to the addresses above.

D. **Dispute Resolution and Governing Law.** It is to the parties' mutual benefit to resolve their differences or disputes amicably; accordingly, each agrees to contact the other's designated representative to discuss and work toward the resolution of disputes which may arise during the term of this Agreement.

This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia. All parties agree that any dispute arising under this Agreement which cannot be resolved amicably shall be litigated in the courts located in the District of Columbia.

E. **Non-Assignment.** Neither party may assign this Agreement without the prior written consent of the other.

F. **Integrated Agreement.** This Agreement contains the whole understanding of the parties and supersedes all prior oral or written representations and statements between the parties.

G. **Waiver and Amendments.** No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed as a further and continuing waiver of any such term, provision or condition of

this Agreement. No amendment to any provision of this Agreement shall be effective unless in writing and signed by both parties.

H. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

I. **Captions.** Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

J. **Force Majeure.** The parties hereto shall not be responsible for any failure or delay in the performance of any obligations hereunder caused by acts of God, fire, flood, war, riot or public enemy. Upon such a delay, where neither party is responsible for unforeseen circumstances causing the delay, the term of this Agreement may be extended or modified based upon the impact of the delay and upon the mutual written Agreement of the parties.

NOW INTENDING TO BE LEGALLY BOUND, the parties hereto have caused their duly authorized representatives to execute this Agreement on the day and date first above written.

FOR AMERICAN UNIVERSITY:

FOR ORGANIZATION:

Signed _____

Signed _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____