



sers2010@gmail.com
12/15/2014 01:54 PM

To SERS@fec.gov,
cc
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Subject New comment on REG 2014-06 submitted by Loss, Lewis

2 attachments



REG_2014_06_Loss_Lewis_12_15_2014_13_54_19_CPD Comment in Opposition To Petition for Rulemaking.pdf



REG_2014_06_Loss_Lewis_12_15_2014_13_54_19_CommentText.txt

Please find attached the contents for the new comment submitted on Mon Dec 15 13:54:19 EST 2014.

User uploaded 1 file(s) as attachment to the comment. Please find them attached to this email.

You will also find a Comment.txt file attached, which has the text comments entered by the user.

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Dear Sir or Madam:

Attached please find the Commission on Presidential Debates' Comments in opposition to the Petition for Rulemaking filed by Level the Playing Field. A copy of the attached materials will also be delivered to the attention of Mr. Robert M. Knop, Assistant General Counsel, Federal Election Commission.

Regards,
Lewis K. Loss

Comments provided by :
Loss, Lewis

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December 15, 2014

VIA HAND DELIVERY

Robert M. Knop
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Notice of Availability of Petition for Rulemaking No. 2014-13 (11 CFR Part 110 – Candidate Debates

Dear Mr. Knop:

We represent the Commission on Presidential Debates (the “CPD”). We write to express the CPD’s opposition to the Petition for Rulemaking filed by Level the Playing Field (“LTPF”) requesting amendment of 11 C.F.R. § 110.13(c).

CPD is a private, non-profit and non-partisan 501(c)(3) organization that receives no government or party funding. CPD’s primary mission is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. To that end, CPD has sponsored general election presidential debates in every election since 1988. Through its work planning and staging presidential debates over the last 26 years, CPD has gained valuable insight into the myriad issues implicated in developing candidate selection criteria.¹

¹ Attached to this letter are copies of the Declarations of Janet H. Brown, CPD’s Executive Director (Ex. 1), and Dr. Frank Newport, Editor-in-Chief of Gallup (Ex. 2). Both declarations were originally prepared in response to the Complaint filed by Level the Playing Field under MUR 6869. Ms. Brown’s declaration provides a good deal of additional information concerning the background of the CPD, the composition of its Board, and its approach to matters involving candidate selection. Dr. Newport has served as a consultant to the CPD for many years, and his declaration provides additional information concerning the CPD’s use of polling data and addresses various assertions raised in the Complaint (and repeated in the Petition) concerning public opinion polls.

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Scores of candidates run for president every election cycle, including dozens who do not seek the nomination of either major party. Candidates for federal office are not required to debate. As the United States Court of Appeals for the District of Columbia Circuit has recognized in the context of prior debate-related litigation, it is speculative at best to assume that the leading candidates would agree to share the stage with candidates enjoying only scant public support. *Fulani v. Brady*, 935 F.2d 1324, 1329 (D.C. Cir. 1991). Thus, a sponsor of general election debates that hopes to provide the electorate with a debate that includes the leading candidates faces a difficult task: to be inclusive enough to invite each of those candidates, regardless of party affiliation, who genuinely qualifies as a leading candidate, but not so inclusive that the candidates in whom the electorate is most interested refuse to participate.

The CPD's 2012 Nonpartisan Candidate Selection Criteria, attached hereto as Exhibit 3, explains the CPD's approach to this challenge as follows:

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In each of the last six elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2012 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

The Criteria adopted by the CPD (in substantially the same form) for use in each election cycle beginning in 2000 can be summarized as follows: (1) satisfaction of the eligibility requirements to hold the Office of President of the United States, as set forth in Article II, Section 1 of the Constitution, (2) qualification to appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority, and (3) a level of support of at least 15 percent of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.²

² While the CPD intends to sponsor presidential and vice presidential general election debates in 2016, its efforts are in the planning stages and it has not yet adopted candidate selection criteria for 2016.

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While the Petition should be viewed on its merits, it is important to recognize the partisan interests of the Petitioner. In a cover letter to its Petition, LTPF identifies itself solely as a "nonpartisan, nonprofit corporation that is not affiliated with any candidate or candidate committee." That description is incomplete. In a related complaint LTPF recently filed along with investor Peter Ackerman (MUR 6869), LTPF explained that it intends to nominate a "nonpartisan presidential and vice presidential ticket via a rules based nominating process."³

The Petition proposes an approach to candidate selection that places the interests of the candidate LTPF hopes to nominate ahead of the interests of the public in having an opportunity to view the leading candidates for the offices of President and Vice President of The United States engage in a televised debate in the closing days of the general election. It urges that the FEC amend its debate regulations, solely for general election presidential and vice presidential debates, (1) to preclude sponsoring organizations from requiring that a candidate meet a polling threshold in order to be included in the debate, and (2) to mandate that sponsors adopt objective, unbiased criteria that do not require a candidate to satisfy a polling threshold.

The Petition *purports* not to object to employing criteria that measure a candidate's viability.⁴ Thus, the Petition states that "Petitioner does not oppose using debate selection criteria that take into account viability of a contender in the general presidential election," and acknowledges that "[t]he sheer number of declared candidates for president requires some limiting principles to govern debate access." Petition at 23. The Petition then states that "polling is not necessary" and "workable alternatives exist." *Id.*

However, the one alternative Petitioner reports it has "devised" has nothing to do with candidate viability and is not at all "workable." Petitioner's proposed "rule" (1) would require a debate invitation be extended to any candidate with ballot access in states that, in the aggregate, have at least 270 Electoral College votes, or, (2) if more than one candidate meets the first criterion, would require an invitation be extended to the candidate with the most signatures gathered by April 30. Petition at 23-24.

³ In this regard, LTPF, appears to be the successor to Unity 08 and America Elects, ventures in which Mr. Ackerman has been involved seeking to nominate and elect presidential and vice presidential candidates outside the major party nominating process.

⁴ It is clear that Petitioner objects to any criteria that actually measure public support. Thus, the Petition expends much effort seeking to establish that it is prohibitively expensive for an unknown candidate to achieve even modest levels of name recognition and support. The CPD does not address the Petition's various assertions about the costs associated with achieving name recognition and public support. Some of those assertions and comparisons seem far-fetched and they seem not acknowledge at all the new opportunities available in the Internet age. More to the point, though, they raise issues about campaign finance and structure that go far beyond the limited issue of candidate selection criteria for debates. To the extent that the Petition argues as a side issue that the CPD's 15 percent threshold is unreasonable, the FEC has repeatedly rejected that argument. *See* MURs 4987, 5004, 5207, 5378, 5414, and 5530.

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This approach seeks to substitute early ballot qualification for any meaningful measure of candidate support or viability. Any candidate with sufficient resources can gather signatures (a process which does not require potential voters to choose between competing candidates) and obtain ballot access. Rather than identify a leading candidate, Petitioner's proposal seems destined to reserve a spot for the candidate with the most resources far in advance of the general election.⁵ Petitioner's proposed "rule" would require that an invitation to debate be extended to the successful early signature gatherer even if that candidate has negligible popular support as measured by reliable polls at the time of the debates. This, of course, runs a very real risk that the leading candidates in whom the public has the most interest might refuse to participate in the debates. The Petitioner is unconcerned about this possibility.

The Petition urges the FEC to adopt an approach that would be a significant departure from the current regulations, which allow a debate sponsor discretion in determining its candidate selection criteria, so long as those criteria are "pre-established," "objective," and otherwise consistent with the requirements set forth in 11 C.F.R. § 110.13. The current regulations were promulgated in December 1995. In explaining the newly-adopted rules, the FEC noted that it had expressly considered and rejected proposals that it dictate the criteria to be employed by staging organizations:

Many comments, and much public testimony, was received on whether the Commission should establish reasonable, objective, nondiscriminatory criteria to be used by staging organizations in determining who must be invited to participate in candidate debates. In the alternative, it was suggested that the Commission could allow staging organizations to use their own pre-established sets of reasonable, objective, nondiscriminatory criteria, provided that the criteria are subject to Commission review and are announced to the candidates in advance.

In response to the comments and testimony, new paragraph (c) has been added to section 110.13 to require all staging organizations to use pre-established objective criteria to determine which candidates are allowed to participate in debates. Given that the rules permit corporate funding of candidate debates, it is appropriate that staging organizations use pre-established objective criteria to avoid the real or apparent potential for a quid pro quo, and to ensure the integrity and fairness of the process. The choice of which objective criteria to use is largely left to the discretion of the staging organization.

⁵ Moreover, Petitioner's proposed April 30 cut-off is puzzling as signature filing deadlines vary across states, many of them falling after April of the election year. A candidate's progress in the ballot access process as of April 30 says nothing about that candidate's support among the electorate; nor is it indicative of the total number of signatures or ballots to which that candidate will eventually gain access. So rather than measure electoral support or candidate potential, LTPF's proposed rule relies on a completely arbitrary metric.

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60 Fed. Reg. 64,260, 64,262 (Dec. 14, 1995).

When the FEC first promulgated the current regulations in December, 1995, it considered and rejected staff recommendations to “expressly exclude the use of ‘[p]olls or other assessments of a candidate’s chances of winning the nomination or election.’” MURs 4451 and 4473, Statement of Reasons, at 8. The FEC noted that under the staff’s proposal, “a debate sponsor could not look at the latest poll results even though the rest of the nation could look at this as an indicator of a candidate’s popularity.” *Id.* This, the FEC said, “made little sense to us.”⁶

Since then, multiple candidates who have enjoyed only very modest popular support have challenged the CPD’s use of polling based criteria. All have failed. In MURs 4987 and 5004, for instance, the Reform Party, along with other Complainants, argued that the use of polling was neither pre-existing nor objective. The FEC disagreed and upheld the use of polling, as did the U.S. District Court for the District of Columbia. *See* MURs 4987 and 5004 and *Buchanan v. FEC*, 112 F.Supp. 2d 58,74-75 (D.D.C. 2000), *aff’d in part*, No. 00-5337 (D.C. Cir. September 29, 2000) (“*Buchanan*”). In *Buchanan*, the District Court rejected Plaintiffs’ attack on the use of polling data, noting, “It is difficult to understand why it would be unreasonable or subjective to consider the extent of a candidate’s electoral support prior to the debate to determine whether the candidate is viable enough to be included.” 112 F. Supp. at 53. *See also* MURs 5021, 5207, 5378, 5414 and 5530.

To be sure, a sponsoring organization might hold general election debates with the goal of advancing any one of a number of legitimate voter education purposes. A sponsor might wish to provide a platform for little recognized candidates. Presumably, that sponsor would adopt different criteria than would a sponsor, such as CPD, which wishes to provide the electorate with a debate between or among the leading candidates at the conclusion of a very long campaign season. To dictate criteria that would mandate the inclusion of candidates who have not demonstrated substantial electoral support, as the Petition urges, would be to impose a particular educational purpose on the debates. That approach not only would be a substantial departure from existing law and regulations, it also would wrongly limit the sponsoring organization’s speech. As the D.C. Circuit stated in a case arising out of the 1996 debates, “if the court were to enjoin the CPD from . . . picking debate participants, there would be a substantial argument that the court would itself violate the CPD’s First Amendment rights.” *Perot v. Federal Election Commission*, 97 F. 3d 553, 559 (D.C. Cir. 1996), cert denied, No. 96-1286, 1997 WL 71417, citing *Hurley v. Irish American Gay, Lesbian Bisexual Group of Boston*, 515 U.S. 557, 115 S. Ct. 2338 (1995). *See also* *Buckley v. Valeo*, 424 U.S. 1, 25-26 (1976) (the prevention of corruption or appearance of corruption as the only interest sufficiently compelling to justify restrictions on political speech).

These legal considerations aside, the experience of the CPD demonstrates the wisdom of the FEC’s approach, affording the sponsoring organization substantial discretion in formulating

⁶ Also left to the debate sponsor’s discretion is the use of “objective criteria . . . to control the number of [participants] . . .” in order to ensure a meaningful debate. 60 Fed. Reg. 64,260, 64,262 (Dec. 14, 1995).

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the nonpartisan candidate selection criteria on which it will rely. From its inception in 1988 through the 1996 debates, the CPD employed a multi-faceted set of criteria to identify the leading candidates. In those years, the CPD's candidate selection criteria were: (1) evidence of national organization; (2) signs of national newsworthiness and competitiveness; and (3) indicators of national enthusiasm or concern. With respect to signs of national newsworthiness and competitiveness, the CPD listed several indicia to which it would look, such as the professional opinions of Washington bureau chiefs of major newspapers, news magazines and broadcast networks; the opinions of professional campaign managers and pollsters not employed by the candidates; the opinions of representative political scientists specializing in electoral politics; a comparison of the level of coverage on front pages of newspapers and exposure on network telecasts; and published views of prominent political commentators.

This approach was reasonable and complied with the FEC's regulations (*see, e.g.* MURs 4451 and 4473). However, the CPD, based on its experience, determined that greater transparency and predictability in application of its announced criteria would better serve the public. That led to CPD's adoption, beginning in 2000, of its more streamlined and readily applicable criteria described above. It is prudent for the FEC to maintain its current regulations. The regulations serve the purposes for which they were adopted, while allowing sponsoring organizations the flexibility to try different (legally appropriate) approaches to candidate selection and to adapt should they determine an alternative approach better achieves the legitimate voter education purposes for which they hold debates.

Finally, in an effort to support its decidedly partisan purpose of advancing the candidacy of the ticket it hopes to nominate, the Petition attacks in various ways the reliability of public opinion polling. The Petition urges that the use of polls presents a theoretically greater risk of erroneously excluding a non-major party candidate who should be included. The Petition assumes that the non-major party candidate is more likely to poll closer to the 15 percent threshold than a major party candidate and, hence, is more likely to be affected if the polling data is off by a few points. The Petition also urges that polls are more likely to be inaccurate in three-way races, citing selected instances when, in particular three-way races in state-wide elections, actual Election Day results varied from pre-election polls.⁷

While no one would suggest polls are perfect, Petitioner's arguments seem contrived and overblown. Polls are indisputably the best tool presently available to measure electoral support in advance of Election Day. Moreover, unlike the case in many statewide races, high quality

⁷ It is hardly surprising that results on Election Day sometimes vary from pre-election polls. Any number of causes may account for such variation, including for example post-poll events in the campaign, post-poll national events, and circumstances affecting voter turnout, such as the weather or the effectiveness of a candidate's get-out-the-vote efforts. These variations do not support the Petition's sweeping indictment of the accuracy of polls as an estimate of candidate support when the poll was taken. Further, the observation that a hypothetical polling error is most likely to affect the candidate that is closest to the threshold at issue is hardly remarkable; it is a mathematical fact that operates regardless of that candidate's party affiliation. It hardly makes the reliance on polling-based criteria partisan or inappropriate.

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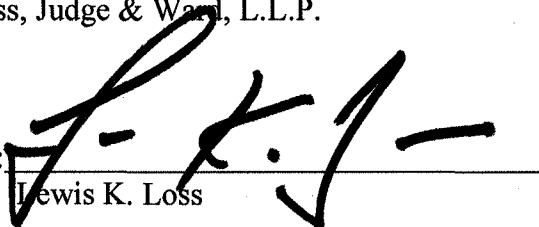
polling is reliably available from multiple sources in connection with presidential races, making reliance on polls in connection with candidate selection criteria all the more reasonable. When utilizing public opinion polls, the sponsoring organization should adopt careful procedures to identify the appropriate polls on which to rely and take care in gathering and applying its adopted criteria to the polling results, as the CPD does.⁸ Of course, as CPD has done, the sponsor should adopt a polling threshold for nonpartisan reasons designed to advance the voter education purpose for which it holds debates. If done in a responsible manner, it is entirely reasonable for a debate sponsor, particularly at the presidential level, to condition debate participation on demonstrated electoral support and to measure that support by reliance on quality polls.

For the above reasons, the CPD urges the FEC to reject the Petition for Rulemaking to revise and amend 11 C.F.R. § 110.13(c).

Respectfully submitted,

Loss, Judge & Ward, L.L.P.

By:



Lewis K. Loss

⁸ In each election cycle since 2000, CPD has retained the Editor-in-Chief of Gallup, Dr. Frank Newport, to advise it in connection with identifying the most reliable polls to rely upon in applying its criteria. Dr. Newport makes his recommendations based solely on his professional judgment of the reliability of the polls and the CPD has always accepted Dr. Newport's recommendations. Dr. Newport also has assisted the CPD in gathering the polling data from the selected polls and applying the CPD's criteria to that data.

COMMENT IN OPPOSITION TO RULEMAKING
INDEX OF EXHIBITS

- Exhibit 1: Declaration of Janet H. Brown**
- TAB A September 17, 1996 Letter from Advisory
 Committee on Candidate Selection
- TAB B 2000 Candidate Selection Criteria
- TAB C 2004 Candidate Selection Criteria
- TAB D 2008 Candidate Selection Criteria
- TAB E 2012 Candidate Selection Criteria
- TAB F 2000 Memorandum of Understanding
- TAB G 2004 Memorandum of Understanding
- TAB H 2008 Memorandum of Understanding
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-
- Exhibit 2: Declaration of Frank Newport**
-
- Exhibit 3: 2012 Candidate Selection Criteria**

EXHIBIT 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

MUR 6869

**The Commission on Presidential Debates,
et al.**

**Declaration of Janet H. Brown in Support of
the Commission on Presidential Debates'
Opposition to Level the Playing Field and
Peter Ackerman's Complaint.**

I, Janet H. Brown, Executive Director of the Commission on Presidential Debates ("CPD"), give this declaration based on personal knowledge.

Background

1. I have been the Executive Director of the CPD since March 1987. Under the supervision of the Board of Directors, I am primarily responsible for planning and organizing the debates the CPD intends to sponsor in 2016, as I have been in each presidential election year since 1988.

2. Prior to serving as Executive Director of the CPD, I served on the staffs of the late Ambassador Elliot Richardson and former U.S. Senator John Danforth. Additionally, I have held appointments at the White House Domestic Council and the Office of Management and Budget. I am a graduate of Williams College and have a master's degree in public administration from Harvard University.

3. The CPD is a private, nonpartisan, not-for-profit corporation dedicated solely to the sponsorship of general election presidential and vice presidential debates and related voter education functions. The CPD was organized in February 1987, under the laws of the District of Columbia, and has its sole office in the District of Columbia. CPD's Articles of Incorporation identify its purpose as "to organize, manage, produce, publicize and support debates for the candidates for President of United States . . ." The CPD has been granted tax-exempt status by the Internal Revenue Service under §501(c)(3) of the Internal

Revenue Code. Consistent with its §501(c)(3) status, the CPD makes no assessment of the merits of any candidate's or party's views, and does not advocate or oppose the election of any candidate or party.

4. The CPD has sponsored presidential and vice presidential debates in every presidential election year since 1988. The CPD's debates each election cycle have been viewed by tens of millions of Americans and have served a valuable voter education function. Prior to CPD's sponsorship in 1988, televised presidential debates were produced in only four general election years: by the networks in 1960, and by the non-profit League of Women Voters in 1976, 1980, and 1984. No televised presidential debates were held in the general elections in 1964, 1968 or 1972.

5. The CPD receives no government funding; nor does it receive funds from any political party. The CPD obtains the funds to produce its debates from the universities and communities that host the debates, and it relies on corporate, foundation and private donations to augment contributions from the debate hosts and to support the CPD's ongoing voter education activities. None of CPD's donors has sought or had any input whatsoever in the promulgation of CPD's candidate selection criteria, in the selection of debate participants, or in any other substantive aspect of the debates.

6. The CPD has a seventeen-member, all volunteer Board of Directors ("CPD Board") made up of distinguished Americans. The Co-Chairmen of the CPD Board, Frank J. Fahrenkopf, Jr. and Michael D. McCurry, each are distinguished civic leaders with extensive records of public service. Among other contributions he has made, Mr. Fahrenkopf has served as Co-Chairman of the Rivlin Commission, which investigated and reported on the government of the District of Columbia, was a founder of the National Endowment for Democracy, was a member of the ABA-sponsored judicial education center for federal and

state judges, and was the Chairman of the American Bar Association's Coalition for Justice, a group coordinating the ABA's initiative to improve the American system of justice. Mr. Fahrenkopf also serves on the Board of Trustees of the E. L. Wiegand Foundation and is a member of the Greater Washington Board of Trade, the Economic Club of Washington and the Federal City Council. Mr. McCurry was a former press secretary to President Clinton from 1995-1998, Senator Harrison A. Williams, Jr., Senator Daniel Patrick Moynihan, the Senate Committee on Labor and Human Resources, and was also the director of communications for the Democratic National Committee. Mr. McCurry is currently a partner at Public Strategies Washington, Inc. and a Professor of Theology at the Wesley Theological Seminary in Washington, DC. He also serves on a number of boards or advisory councils, including Share Our Strength, the Children's Scholarship Fund, the White House Historical Association and the United Methodist Church.

7. The remaining current members of the CPD Board are:

Howard G. Buffett, *Chairman and CEO, The Howard G. Buffett Foundation*

John C. Danforth, *Former Partner, Bryan Cave, L.L.P.*

Mitchell E. Daniels, Jr., *President, Purdue University*

Charles Gibson, *Former Anchor, ABC World News with Charles Gibson*

John Griffen, *Managing Director, Allen & Company LLC*

Jane Harman, *Director, President and CEO, Woodrow Wilson International Center for Scholars*

Antonia Hernandez, *President and CEO, California Community Foundation*

Reverend John I. Jenkins, *President, University of Notre Dame*

Newton N. Minow, *Senior Counsel, Sidley Austin LLP*

Leon E. Panetta, *Chairman, Panetta Institute for Public Policy*

Richard D. Parsons, *Senior Advisor, Providence Equity Partners LLC*

Dorothy S. Ridings, *Former President and CEO, Council on Foundations*

Alan K. Simpson, *Former U.S. Senator*

Olympia Snowe, *Former U.S. Senator*

Shirley M. Tilghman, *Former President, Princeton University*

8. Former Presidents Gerald Ford, Jimmy Carter, Ronald Reagan and Bill Clinton have served as Honorary Co-Chairmen of CPD.

History of the Commission on Presidential Debates

9. CPD was organized in response to the recommendations of two separate studies on presidential elections and debates: (1) the April 1986 Final Report of the Commission on National Elections, entitled Electing the President: A Program for Reform, a nine-month study of presidential elections by a distinguished group of news executives, elected officials, business people, political consultants, and lawyers conducted under the auspices of the Georgetown University Center for Strategic and International Studies, and (2) the Theodore H. White Conference on Presidential Debates held in March 1986 at the Harvard Institute of Politics and chaired by Newton Minow, former chairman of the Federal Communications Commission.

10. Both of those studies underscored the importance presidential debates had assumed in American electoral politics. Rather than permit the existence of debates to turn on the vagaries of each election, the studies recommended that the debates be "institutionalized." More specifically, both studies recommended that the two major political parties create a mechanism designed to ensure, to the greatest extent possible, that debates become a permanent and integral part of the presidential election process.

11. Frank J. Fahrenkopf, Jr. and Paul G. Kirk, Jr., then-chairmen of the Republican National Committee ("RNC") and Democratic National Committee ("DNC") respectively, responded by initiating CPD as a not-for-profit corporation separate and apart from their party organizations. While Messrs. Kirk and Fahrenkopf served as the chairs of

the major national party committees at the time CPD was formed, they no longer do so. Their terms ended in 1989, some twenty-five years ago. Indeed, since Mr. Fahrenkopf stepped down as RNC chair, in 1989, there have been thirteen subsequent RNC chairpersons; none has held any position with the CPD. Similarly, since Mr. Kirk stepped down as chairman of the DNC, there have been thirteen subsequent chairpersons; none has held any position with the CPD. Mr. Kirk also stepped down as Co-Chair of the CPD in 2009. No current CPD Board member is an officer of the Democratic or Republican National Committee.

12. Although some CPD Board members, like the majority of this country's civic leaders, identify with the Republican or Democratic Party, that certainly is not the case with every Board member. For example, I am not aware of what party, if any, certain Board members would identify with if asked. Further, CPD directors have a longstanding practice of not serving in any official capacity with any political party or campaign while serving on the CPD's Board.

CPD's Adoption of its First Nonpartisan Candidate Selection Criteria

13. On July 7, 1987, over one year prior to the sponsorship of the CPD's first debates, CPD formed an advisory panel of distinguished Americans, including individuals not affiliated with any party, in order to provide guidance to CPD with respect to several areas, including non-major party candidate participation in CPD-sponsored debates. From virtually the beginning of CPD's operations, CPD's Board recognized that, although the leading contenders for the offices of President and Vice President of the United States historically have come from the major parties, CPD's educational mission would be furthered by developing criteria by which to identify any non-major party candidate who, in a particular election year, was a leading candidate for the office of President or Vice

President of the United States, and to whom an invitation should be extended to participate in one or more CPD-sponsored debate.

14. The individuals serving on that advisory panel (and their then-current principal affiliation) included:

Charles Benton, Chairman, Public Media Inc.;

Ambassador Holland Coors, 1987 Year of the Americas;

Marian Wright Edelman, President, Children's Defense Fund;

Mary Hatwood Futrell, President, National Education Association;

Carla A. Hills, Partner, Weil, Gotshall & Manges;

Barbara Jordan, Professor, LBJ School of Public Affairs, University of Texas;

Melvin Laird, Senior Counselor, Readers' Digest;

Ambassador Carol Laise;

William Leonard, former President, CBS News;

Kate Rand Lloyd, Managing Editor, Working Woman Magazine;

Newton Minow, Partner, Sidley & Austin;

Richard Neustadt, Professor, Kennedy School of Government, Harvard University;

Ed Ney, Vice Chairman, Paine Webber Inc.;

Paul H. O'Neill, Chairman and Chief Executive Officer, Aluminum Company of America;

Nelson W. Polsby, Professor, University of California at Berkeley;

Jody Powell, Chairman and Chief Executive Officer, Ogilvy & Mather Public Affairs;

Murray Rossant, Director, Twentieth Century Fund;

Jill Ruckelshaus, director of various non-profit entities;

Lawrence Spivak, former Producer and Moderator, "Meet the Press";

Robert Strauss, Partner, Akin, Gump, Strauss, Hauer & Feld;

Richard Thornburgh, Director, Institute of Politics, Harvard University;

Marietta Tree, Chairman, Citizen's Committee for New York City;
Anne Wexler, Chairman, Wexler, Reynolds, Harrison & Schule; and
Mrs. Jim Wright.

15. The advisory panel convened in Washington on October 1, 1987 to discuss the issues of its mandate, including the candidate selection criteria, after which the CPD Board appointed a subcommittee of the advisory panel, headed by the late Professor Richard Neustadt of the Kennedy School of Government, Harvard University, to draw on the deliberations and develop nonpartisan criteria for the identification of appropriate third-party candidates to participate in CPD sponsored debates.

16. On November 20, 1987, Professor Neustadt's subcommittee recommended to the CPD Board the adoption of specific nonpartisan candidate selection criteria intended to identify those candidates other than the nominees of the major parties with a realistic chance of becoming President or Vice President of the United States. The Neustadt subcommittee reported that the adoption and application of such criteria would help ensure that the primary educational purpose of the CPD—to ensure that future Presidents and Vice Presidents of the United States are elected after the voters have had an opportunity to hear them debate their principal rivals—would be fulfilled.

17. While the 1987 candidate selection criteria themselves were quite detailed, they included a review of three types of factors: (1) evidence of national organization; (2) signs of national newsworthiness and competitiveness, and (3) indicators of national public enthusiasm or concern, to determine whether a candidate had a realistic chance of election.

18. On February 4, 1988, the CPD Board unanimously adopted the selection criteria proposed by Professor Neustadt's subcommittee. The sole objective of the criteria

adopted by the CPD in 1988 was to structure the CPD debates so as to further the nonpartisan educational purpose of those debates, while at the same time complying fully with applicable law. An Advisory Committee to the CPD Board, chaired by Professor Neustadt, was created for the purpose of applying the 1988 candidate selection criteria to the facts and circumstances of the 1988 campaign.

The 1988 Debates

19. Professor Neustadt's Advisory Committee met in advance of the debates and carefully applied the candidate selection criteria to the facts and circumstances of the 1988 campaign. The Advisory Committee unanimously concluded that no non-major party candidate satisfied the criteria and, accordingly, the Advisory Committee recommended to the CPD Board that no non-major party candidate be extended an invitation to participate in the CPD's 1988 debates. The CPD Board of Directors, after carefully considering the Advisory Committee's recommendation, the criteria, and the facts and circumstances of the 1988 campaign, voted unanimously to accept the Advisory Committee's recommendation. Thereafter, the CPD successfully produced three presidential debates between Vice President Bush and Governor Dukakis and one vice presidential debate between Senator Bentsen and Senator Quayle.

The 1992 Debates

20. On or about January 16, 1992, the CPD Board requested that the Advisory Committee, again chaired by Professor Neustadt, assist the CPD in promulgating nonpartisan candidate selection criteria in connection with the 1992 election. Pursuant to the Advisory Committee's recommendation, the CPD Board adopted substantially the same selection criteria used in 1988, with minor technical changes.

21. The 1992 Advisory Committee, consisting of Professor Neustadt; Professor Diana Carlin of the University of Kansas; Dorothy Ridings, Publisher and President of the Bradenton Herald and former President of the League of Women Voters; Kenneth Thompson, Director of the Miller Center, University of Virginia; and Eddie Williams, President, Joint Center for Political and Economic Studies, met on September 9, 1992 to apply the candidate selection criteria to the 100-plus declared presidential candidates seeking election in 1992. At that time, it was the unanimous conclusion of the 1992 Advisory Committee that no non-major party candidate then seeking election had a realistic chance in 1992 of becoming the next President of the United States. Ross Perot, who had withdrawn from the race in July 1992, was not a candidate for President at the time of this determination.

22. On October 5, 1992, the Advisory Committee reconvened at the request of the CPD Board to update its application of the 1992 criteria to include subsequent developments, including Ross Perot's October 1, 1992 reentry into the presidential race. The Advisory Committee concluded that Mr. Perot satisfied the selection criteria, and based on that recommendation, the CPD Board extended invitations to Mr. Perot and his running mate, Admiral James B. Stockdale, to participate in its first two 1992 debates. When it became clear that the debate schedule -- four debates in eight days -- would prevent any meaningful reapplication of the selection criteria, the CPD extended its original recommendation that the Perot/Stockdale campaign participate in two debates to all four debates. Thereafter, the CPD produced three presidential debates involving President Bush, Governor Clinton, and Mr. Perot, and one vice presidential debate between Vice President Quayle, Senator Gore, and Admiral Stockdale.

23. When the Advisory Committee applied the 1992 criteria to Mr. Perot, it faced the unprecedented situation in which a candidate, whose standing in the polls had been approximately 40%, had withdrawn from the race, but then rejoined the race shortly before the debates, with unlimited funds to spend on television campaigning. The Advisory Committee found that it was unable to predict the consequences of that combination, but agreed that Mr. Perot had a chance of election if he did well enough that no candidate received a majority of electoral votes and the election was determined by the United States House of Representatives. Although the Advisory Committee viewed Mr. Perot's prospect of election as unlikely, it concluded that the possibility was not unrealistic, and that Mr. Perot therefore met the CPD's 1992 criteria for debate participation. See September 17, 1996 letter (attached at Tab A).

24. National polls available at the time the CPD made its decision with respect to Ross Perot's participation in 1992 varied significantly, perhaps due to the unprecedented events surrounding Mr. Perot's withdrawal and reentry into the presidential race very shortly before the debates commenced. Polling data made available to the Advisory Committee at the time it made its recommendation to invite Mr. Perot reported national support for Mr. Perot ranging from 9 percent to 20 percent.

The 1996 Debates

25. After evaluation of the prior debates and careful consideration of how best to achieve its educational mission, on September 19, 1995, the CPD Board adopted the same selection criteria, with minor changes, for use in the 1996 debates, and appointed a 1996 Advisory Committee consisting of the same members as the 1992 committee.

26. On September 16, 1996, the Advisory Committee met to apply the candidate selection criteria to the more than 130 declared non-major party presidential candidates

seeking election in 1996. Although the 1996 candidate selection criteria did not expressly require it to do so, the 1996 Advisory Committee independently applied the criteria to the Democratic and Republican party nominees. In light of its findings, the Advisory Committee recommended to the CPD's Board that only President Clinton and Senator Dole be invited to participate in the CPD's 1996 presidential debate, and that only Vice President Gore and Congressman Kemp be invited to participate in the CPD's 1996 vice presidential debate. The CPD Board unanimously accepted the 1996 Advisory Committee's recommendation.

27. The Advisory Committee explained that after careful consideration of the circumstances in the 1996 campaign, it found that neither Mr. Perot nor any other non-major party candidate had a realistic chance of being elected president that year. With respect to Mr. Perot, the Advisory Committee emphasized that the circumstances of the 1996 campaign differed from the unprecedented circumstances of 1992—which included the fact that at a point before his withdrawal from the race in 1992, Mr. Perot had registered support at a level of 40% in the polls, and that in 1996, unlike 1992, Mr. Perot's funding was limited by his acceptance of a federal subsidy.

28. In October 1996, the CPD sponsored two presidential debates between President Clinton and Senator Dole and one vice-presidential debate between their running mates.

2000 through 2012: The CPD Adopts and Relies upon More Streamlined Criteria

29. After each election cycle, the CPD has examined a wide range of issues relating to the debates. These reviews have considered format, timing and other issues, including the candidate selection process. The review the CPD conducts after each election is part of the CPD's ongoing effort to enhance the contribution the debates make to the

process by which Americans select their next President. After very careful study and deliberation, the CPD adopted more streamlined criteria in January 2000 for use in the 2000 presidential election debates. In summary, the CPD Nonpartisan Candidate Selection Criteria for 2000 General Election Debate Participation (the “2000 Criteria”) were as follows: (1) constitutional eligibility; (2) appearance on a sufficient number of state ballots to achieve an Electoral College majority; and (3) a level of support of at least fifteen percent of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations’ most recent publicly-reported results at the time of the determination. See 2000 Criteria (attached at Tab B). These same Criteria, without material change, have been adopted and relied upon by CPD in each election cycle since 2000. See 2004, 2008 and 2012 Criteria (attached at Tabs C, D and E respectively). I refer to these collectively as the 2000 Criteria.

30. The CPD adopted the 2000 Criteria in the belief that the streamlined criteria would enhance the debates and the process by which Americans select the President. The 2000 Criteria are faithful to the long-stated goal of the CPD’s debates—to bring before the American people, in a debate, the leading candidates for the Presidency and Vice-Presidency. This allows the electorate to cast their ballots after having had an opportunity to sharpen their views of the leading candidates. The approach also has the virtue of clarity and predictability, which the CPD believed would further enhance the public’s confidence in the debate process.

31. The CPD’s 2000 Criteria were not adopted with any partisan (or bipartisan) purpose. They were not adopted with the intent to keep any party or candidate from participating in the CPD’s debates or to bring about a preordained result. Rather, the 2000

Criteria were adopted to further the legitimate voter education purposes for which the CPD sponsors debates.

32. The CPD's selection of fifteen percent as the requisite level of support was preceded by careful study and reflects a number of considerations. It was the CPD's considered judgment that the fifteen percent threshold best balanced the goal of being sufficiently inclusive to invite those candidates considered to be among the leading candidates, without being so inclusive that invitations would be extended to candidates with only very modest levels of public support, thereby creating an unacceptable risk that leading candidates with the highest levels of public support would refuse to participate.

33. Prior to adopting the 2000 Criteria, the CPD conducted its own analysis of the results of presidential elections over the modern era and concluded that a level of fifteen percent support of the national electorate is achievable by a significant third party or independent candidate. Furthermore, fifteen percent was the figure used in the League of Women Voters' 1980 selection criteria, which resulted in the inclusion of independent candidate John Anderson in one of the League's debates. In making this determination, the CPD considered, in particular, the popular support achieved by George Wallace in 1968 (Mr. Wallace had achieved a level of support as high as 20% in pre-election polls from September 1968); by John Anderson in 1980 (Mr. Anderson's support in various polls reached fifteen percent when the League of Women Voters invited him to participate in one of its debates); and by Ross Perot in 1992 (Mr. Perot's standing in 1992 polls at one time was close to 40% and exceeded that of the major party candidates, and he ultimately received 18.7% of the popular vote).

34. The CPD considered, but rejected, alternate standards, including the possibility of using eligibility for public funding of general election campaigns, rather than

polling data, as a criterion for debate participation. That criterion is itself both potentially overinclusive and underinclusive. Eligibility for general election funding is determined based on performance in the prior presidential general election. The CPD realized that such an approach would be underinclusive to the extent that it would automatically preclude participation by a prominent newcomer (such as Ross Perot in 1992), but also would be overinclusive to the extent it would mandate an invitation to the nominee of a party that performed well in a prior election, but who did not enjoy significant national public support in the current election. In addition, while the United States Congress determined that five percent was a sufficient level of support for purposes of determining eligibility for federal funding as a “minor” party (at a level that is substantially lower than that received by the “major” parties), as noted, a debate host hoping to present the public with a debate among the leading candidates (none of whom are required to debate) must necessarily take into account a different set of considerations.

35. In order to ensure a careful and thoughtful application of the polling data aspect of the 2000 Criteria, in each election cycle beginning in 2000, the CPD has retained Dr. Frank Newport, the Editor-in-Chief of Gallup, as a consultant. In that role, Dr. Newport has advised the CPD both on the selection of the five national public opinion polls on which to rely and then in connection with the collection of the data from those polls. In each election cycle, CPD has accepted and relied upon Dr. Newport's recommendation on poll selection.

2016: The CPD Plans for General Election Debates

36. The CPD has not yet announced the sites, dates, formats, or the candidate selection criteria for the 2016 presidential debates. As it has done in connection with previous election cycles, the CPD's Board of Directors will convene to examine its

approach to candidate selection and will announce its 2016 Nonpartisan Candidate Selection Criteria well in advance of the 2016 general election debates. Those Criteria, as in the past, will be adopted solely to advance the educational purposes of the debates and not for the purpose of advancing or opposing any candidate or political party.

Additional Points

37. In each presidential election debate since 1988, the CPD's candidate selection decisions have been made based on a good faith application of the CPD's published candidate selection criteria, as described earlier in this Declaration. In 1988, 1992 and 1996, the CPD's decisions regarding which candidates to invite to its debates were made by the CPD Board. In each instance, the Board unanimously adopted the recommendations of the independent Advisory Committees charged with the task of applying the CPD's pre-established, objective criteria. At no time did any campaign or the representative of any campaign have a role in the Advisory Committee's or the CPD Board's decision-making process. In 2000, 2004, 2008, and 2012, the decisions were made by the CPD Board based on a straightforward application of the wholly-transparent criteria first adopted for 2000.

38. I am aware that the complainants have made certain allegations based on the fact that the major party nominees have negotiated memoranda of understanding or agreement in connection with the debates sponsored by the CPD. Complainant errs in stating or suggesting that this is a practice that began in 1988 with the CPD's sponsorship. Based on my study of previous presidential debates, such agreements are the norm. In any event, neither CPD nor the debate moderators are parties to any such agreements. The agreements cited by the complainants have largely adopted the CPD's previously-stated plans with respect to the

number, place, dates, format, and, most importantly for present purposes, have expressly deferred to the CPD's application of its previously announced candidate selection criteria for the debates. The candidate agreements address a variety of production details that have no bearing on the educational value or mission of the debates. Even as to those details, the CPD's production team has exercised its independent judgment when actually producing the debates to ensure a high quality broadcast. Any understandings or agreements between the major party nominees have not been the basis for decisions by the CPD concerning candidate eligibility to participate in the CPD's debates; those decisions, as stated previously, have been based on a good faith application of the CPD's published nonpartisan candidate selection criteria.

39. Attached hereto at Tabs F-I are what I understand to be true and complete copy of the executed Memorandum of Understanding between the major party nominees in 2000, 2004, 2008 and 2012. Each of these documents expressly states that the question of candidate participation was to be determined on the basis of the CPD's earlier published Nonpartisan Candidate Selection Criteria.

40. In addition to sponsorship of the presidential debates, the CPD has engaged in a number of other related voter education activities, each intended in a nonpartisan manner to enhance the educational value of the debates themselves. In 1988, the CPD, in conjunction with the Library of Congress and the Smithsonian Institution, prepared and distributed illustrated brochures on the history and role of political debates. In 1990, the CPD sponsored a symposium on debate format attended by academic experts, journalists, political scientists and public policy observers. Also in 1990, the CPD in partnership with the National Association of Broadcasters produced a videotape and brochure giving guidance to schools, media organizations and civic groups on how to sponsor debates. In

1992, the CPD produced a viewers' guide to debates in cooperation with the Speech Communication Association. In connection with the 1996 Debates, the CPD sponsored DebateWatch '96, in which over 130 organizations (including numerous cities and town, high schools, presidential libraries, civic associations, universities and chambers of commerce) participated by hosting forums in which citizens viewed the debates together and had the opportunity to discuss the debates afterwards with other viewers and listeners. In 2000, the CPD's voter education projects reached millions of Americans, primarily through an aggressive Internet effort. More than 6 million people visited the CPD's website, www.debates.org for: online surveys (completed by 44,500 citizens); issue forums on election topics; an online debate history; educational resources for teachers and civic leaders; and services for non-English speakers including education materials in Spanish and debate transcripts in six foreign languages. In addition to online outreach, the CPD also conducted the DebateWatch program, through which citizens gathered in communities nationwide to watch the debates, discuss them, and share feedback with the CPD. The CPD partnered with over 200 organizations, schools, and technology companies in order to complete these tasks. In 2000, the CPD also produced a two-hour PBS special, "Debating our Destiny," in conjunction with McNeil/Lehrer Productions. By partnering with voter education organizations including the Smithsonian Institution, AARP, Congressional Black Caucus Institute, Lifetime Television, and KidsVoting USA, the CPD has reached out to citizens both here and those posted overseas to maximize the educational value of the debates.

41. For 25 years, the CPD has shared its experiences with groups in other countries that seek to make candidate debates part of their electoral process. CPD has now played a part in exchanges with more than 35 countries. In most instances, these are fragile democracies,

sometimes emerging from civil strife. The CPD offers assistance in matters ranging from production and broadcast of the debates to candidate negotiation and voter education. CPD has worked with others to create an informal network of approximately 19 countries who work together to help each other start or improve debates. The network has recently launched website that can be found at www.debatesinternational.org.

* * *

I declare under penalty of perjury that the foregoing is true and correct. Executed
this 12th day of December, 2014.


JANET H. BROWN

TAB A

HARVARD UNIVERSITY
JOHN F. KENNEDY SCHOOL OF GOVERNMENT
CAMBRIDGE, MASSACHUSETTS 02138

Richard E. Neustadt
Douglas Dillon Professor
of Government, Emeritus

Tel: (617) 495-1196
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September 17, 1996

Mr. Paul G. Kirk, Jr.
Mr. Frank J. Fahrenkopf, Jr.
Commission on Presidential Debates
601 13th Street, N.W.
Washington, D.C. 20005

Dear Chairman Kirk and Chairman Fahrenkopf:

The Advisory Committee has been asked to review the electoral prospects of minor party candidates in light of the latest available data on the Commission's criteria, and then to judge, by the Commission's standard for admission to its debates, whether each candidate does or does not have a realistic chance of becoming President of the United States next January 20. The chance need not be overwhelming but must be more than theoretical. An affirmative answer to that question is the only basis, under long-established policy, for the Commission to invite him or her to the debates it sponsors. That single standard ("realistic chance") is for the Commission to apply. This Committee merely offers its advisory judgment.

The electoral principle behind the Commission's single standard is, as we understand it, that this Fall's debates, coming at the end of a year-long nomination and election process, should help the voters face the actual choice before them, and therefore ought to be as realistic as possible. Since 1987, you, the Commissioners, have stressed, rightly in our view, that your debates should be confined to the presidential and vice presidential candidates who will be sworn in next January, along with their principal rivals.

"Realistic chance" is meant to focus attention on that real choice.

We began with Mr. Ross Perot, now of the Reform Party. We have reviewed the data your staff has assembled for us, supplemented by telephonic inquiries of our own to political scientists and political journalists across the country. We have concluded that, at this stage of the campaign, Mr. Perot has no realistic chance either of popular election in November or of subsequent election by the House of Representatives, in the event no candidate obtains an Electoral College majority. None of the expert

Chairman Kirk and Chairman Fahrenkopf
September 17, 1996
Page 2

observers we have consulted think otherwise. Some point to possibilities of extraordinary events later in the campaign, but grant that those possibilities do not change the likelihoods as of today.

Four years ago, we confronted an unprecedented condition when Mr. Perot rejoined the campaign in October. We were mindful that the preceding Spring, before his withdrawal, he had registered approximately 40 percent in the polls, and that upon rejoining the campaign, he could spend unlimited funds on television campaigning. Unable to predict the consequences of this combination, we agreed that he must be presumed to have a remote chance of election, should he do well enough so that no one else won a majority of electoral votes. His chances in the House of Representatives we found incalculable. So, we concluded that his prospect of election was unlikely but not unrealistic.

With the 1992 results and the circumstances of the current campaign before us, including Mr. Perot's funding limited by his acceptance of a federal subsidy, we see no similar circumstances at the present time. Nor do any of the academic or journalistic individuals we have consulted.

Moving on to the other minor party candidates, we find no one with a realistic chance of being elected President this year. Applying the same standard and criteria to them individually as to Mr. Perot, our response is again "no" in each case. The observers we have consulted take the same view. Three of the minor party candidates, in addition to Mr. Perot, do have a theoretical chance of election in November, by virtue of placement on the ballots of enough states to produce an Electoral College majority. We do not, however, see their election as a realistic possibility.

Therefore, the Advisory Committee unanimously concludes at this time that only President Clinton and Senator Dole qualify for admission to CPD's debates. We stand ready to reconvene should present circumstances change.

Sincerely yours,



Richard E. Neustadt
For the Advisory Committee on Candidate Selection

Richard E. Neustadt, Chairman
Diana Premice Carlin
Dorothy S. Ridings
Kenneth W. Thompson
Eddie N. Williams

TAB B

**COMMISSION ON PRESIDENTIAL
DEBATES' NONPARTISAN CANDIDATE SELECTION CRITERIA
FOR 2000 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the nonpartisan Commission on Presidential Debates (the "CPD") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The CPD sponsored a series of such debates in each of the past three general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 2000 general election. As in prior years, the CPD's voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate based on the application of "pre-established, objective" criteria.

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In the last two elections, there were over one hundred declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2000 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

In connection with the 2000 general election, the CPD will apply three criteria to each declared candidate to determine whether that candidate qualifies for inclusion in one or more of CPD's debates. The criteria are (1) constitutional eligibility, (2) ballot access, and (3) electoral support. All three criteria must be satisfied before a candidate will be invited to debate.

B. 2000 NONPARTISAN SELECTION CRITERIA

The CPD's nonpartisan criteria for selecting candidates to participate in its 2000 general election presidential debates are:

1. EVIDENCE OF CONSTITUTIONAL ELIGIBILITY

The CPD's first criterion requires satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution. The requirements are satisfied if the candidate:

- a. is at least 35 years of age;
- b. is a Natural Born Citizen of the United States and a resident of the United States for fourteen years; and
- c. is otherwise eligible under the Constitution.

2. EVIDENCE OF BALLOT ACCESS

The CPD's second criterion requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2000 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College (at least 270 votes), regardless of the popular vote, is elected President.

3. INDICATORS OF ELECTORAL SUPPORT

The CPD's third criterion requires that the candidate have a level of support of at least 15% (fifteen percent) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

C. APPLICATION OF CRITERIA

The CPD's determination with respect to participation in the CPD's first-scheduled debate will be made after Labor Day 2000, but sufficiently in advance of the first-scheduled debate to allow for orderly planning. Invitations to participate in the vice-presidential debate will be extended to the running mates of each of the presidential candidates qualifying for participation in the CPD's first presidential debate. Invitations to participate in the second and third of the CPD's scheduled presidential debates will be based upon satisfaction of the same multiple criteria prior to each debate.

Adopted: January 5, 2000

TAB C

**COMMISSION ON PRESIDENTIAL
DEBATES' NONPARTISAN CANDIDATE SELECTION CRITERIA
FOR 2004 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the nonpartisan Commission on Presidential Debates (the "CPD") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The CPD sponsored a series of such debates in each of the past four general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 2004 general election. As in prior years, the CPD's voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate based on the application of "pre-established, objective" criteria.

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In each of the last four elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2004 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

In connection with the 2004 general election, the CPD will apply three criteria to each declared candidate to determine whether that candidate qualifies for inclusion in one or more of CPD's debates. The criteria are (1) constitutional eligibility, (2) ballot access, and (3) electoral support. All three criteria must be satisfied before a candidate will be invited to debate.

B. 2004 NONPARTISAN SELECTION CRITERIA

The CPD's nonpartisan criteria for selecting candidates to participate in its 2004 general election presidential debates are:

1. EVIDENCE OF CONSTITUTIONAL ELIGIBILITY

The CPD's first criterion requires satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution. The requirements are satisfied if the candidate:

- a. is at least 35 years of age;
- b. is a Natural Born Citizen of the United States and a resident of the United States for fourteen years; and
- c. is otherwise eligible under the Constitution.

2. EVIDENCE OF BALLOT ACCESS

The CPD's second criterion requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2004 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College, at least 270 votes, is elected President regardless of the popular vote.

3. INDICATORS OF ELECTORAL SUPPORT

The CPD's third criterion requires that the candidate have a level of support of at least 15% (fifteen percent) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

C. APPLICATION OF CRITERIA

CPD's determination with respect to participation in CPD's first-scheduled debate will be made after Labor Day 2004, but sufficiently in advance of the first-scheduled debate to allow for orderly planning. Invitations to participate in the vice-presidential debate will be extended to the running mates of each of the presidential candidates qualifying for participation in CPD's first presidential debate. Invitations to participate in the second and third of CPD's scheduled presidential debates will be based upon satisfaction of the same multiple criteria prior to each debate.

Adopted: September 2003

TAB D

**COMMISSION ON PRESIDENTIAL
DEBATES' NONPARTISAN CANDIDATE SELECTION CRITERIA
FOR 2008 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the nonpartisan Commission on Presidential Debates (the "CPD") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The CPD sponsored a series of such debates in each of the past five general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 2008 general election. As in prior years, the CPD's voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate based on the application of "pre-established, objective" criteria.

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In each of the last five elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2008 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

In connection with the 2008 general election, the CPD will apply three criteria to each declared candidate to determine whether that candidate qualifies for inclusion in one or more of the CPD's debates. The criteria are (1) constitutional eligibility, (2) ballot access, and (3) electoral support. All three criteria must be satisfied before a candidate will be invited to debate.

B. 2008 NONPARTISAN SELECTION CRITERIA

The CPD's nonpartisan criteria for selecting candidates to participate in the 2008 general election presidential debates are:

1. EVIDENCE OF CONSTITUTIONAL ELIGIBILITY

The CPD's first criterion requires satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution. The requirements are satisfied if the candidate:

- a. is at least 35 years of age;
- b. is a Natural Born Citizen of the United States and a resident of the United States for fourteen years; and

- c. is otherwise eligible under the Constitution.

2. EVIDENCE OF BALLOT ACCESS

The CPD's second criterion requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2008 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College, at least 270 votes, is elected President regardless of the popular vote.

3. INDICATORS OF ELECTORAL SUPPORT

The CPD's third criterion requires that the candidate have a level of support of at least 15% (fifteen percent) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

C. APPLICATION OF CRITERIA

The CPD's determination with respect to participation in the CPD's first-scheduled debate will be made after Labor Day 2008, but sufficiently in advance of the first-scheduled debate to allow for orderly planning. Invitations to participate in the vice-presidential debate will be extended to the running mates of each of the presidential candidates qualifying for participation in the CPD's first presidential debate. Invitations to participate in the second and third of the CPD's scheduled presidential debates will be based upon satisfaction of the same multiple criteria prior to each debate.

Adopted: October 2007

TAB E

**COMMISSION ON PRESIDENTIAL DEBATES'
NONPARTISAN CANDIDATE SELECTION CRITERIA
FOR 2012 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the nonpartisan Commission on Presidential Debates (the "CPD") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The CPD sponsored a series of such debates in each of the past six general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 2012 general election. As in prior years, the CPD's voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate based on the application of "pre-established, objective" criteria.

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In each of the last six elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2012 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

In connection with the 2012 general election, the CPD will apply three criteria to each declared candidate to determine whether that candidate qualifies for inclusion in one or more of the CPD's debates. The criteria are (1) constitutional eligibility, (2) ballot access, and (3) electoral support. All three criteria shall be satisfied before a candidate will be invited to debate.

B. 2012 NONPARTISAN SELECTION CRITERIA

The CPD's nonpartisan criteria for selecting candidates to participate in the 2012 general election presidential debates are:

1. EVIDENCE OF CONSTITUTIONAL ELIGIBILITY

The CPD's first criterion requires satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution. The requirements are satisfied if the candidate:

- a. is at least 35 years of age;
- b. is a Natural Born Citizen of the United States and a resident of the United States for fourteen years; and
- c. is otherwise eligible under the Constitution.

2. EVIDENCE OF BALLOT ACCESS

The CPD's second criterion requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2012 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College, at least 270 votes, is elected President regardless of the popular vote.

3. INDICATORS OF ELECTORAL SUPPORT

The CPD's third criterion requires that the candidate have a level of support of at least 15% (fifteen percent) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

C. APPLICATION OF CRITERIA

The CPD's determination with respect to participation in the CPD's first-scheduled debate will be made after Labor Day 2012, but sufficiently in advance of the first-scheduled debate to allow for orderly planning. Invitations to participate in the vice-presidential debate will be extended to the running mates of each of the presidential candidates qualifying for participation in the CPD's first presidential debate. Invitations to participate in the second and third of the CPD's scheduled presidential debates will be based upon satisfaction of the same multiple criteria prior to each debate.

Adopted: October 20, 2011

TAB F

MEMORANDUM OF UNDERSTANDING.

This Memorandum of Understanding constitutes an agreement between Gore/Lieberman Inc. and Bush/Cheney 2000, Inc. (the "campaigns") regarding the rules that will govern debates in which the campaigns participate in 2000. This agreement shall be binding upon the Bush/Cheney and Gore/Lieberman campaigns and, if it agrees to sponsor the debates, upon the Commission on Presidential Debates (the "Commission").

1. Number, Dates, Time, Locations

(a) Presidential Debates

<u>Date</u>	<u>Location</u>
October 3	University of Massachusetts, Boston, Massachusetts
October 11	Wake Forest University, Winston-Salem, North Carolina
October 17	Washington University, St. Louis, Missouri

(b) Vice Presidential Debate

<u>Date</u>	<u>Location</u>
October 5	Centre College, Danville, Kentucky

(c) Each debate shall begin at 9 p.m., EDT.

(d) The parties agree that they will not (1) issue any challenges for additional debates, (2) appear at any other debate or adversarial forum with any other presidential or vice presidential

candidate, or (3) accept any network air time offers that involve a debate format or otherwise involve the simultaneous appearance of more than one candidate.

2. Sponsorship

The two campaigns will participate in four debates sponsored by the Commission on Presidential Debates ("Commission") or if the Commission declines, another entity. The parties agree that the Commission's Nonpartisan Candidate Selection Criteria for 2000 General Election Debate Participation shall apply to determining the candidates to be invited to participate in these debates.

3. Participants

If one or more candidates from campaigns other than the two (2) signatories is invited to participate pursuant to those Selection Criteria, those candidates shall be included in the debates, if those candidates accept the terms of this agreement. Any modifications to this agreement must be agreed upon by each of the signatories to this agreement as well as all other candidates selected to join the debate.

4. Moderator

(a) Each debate will have a single moderator.

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- (b) The parties have accepted the Commission's recommendation of Jim Lehrer as moderator for the three Presidential debates, and of Bernard Shaw for the Vice Presidential debate.

5. Rules Applicable to All Debates

The following rules shall apply to each of the four debates:

- (a) Each debate shall last for ninety (90) minutes.
- (b) For each debate there shall be no opening statements, but each candidate may make a two (2) minute closing statement.
- (c) No props, notes, charts, diagrams, or other writings or other tangible things may be brought into the debate by any candidate. If a candidate uses a prop, note, or other writing or other tangible thing during a debate, the moderator must interrupt and explain that the use of the prop, note, or other writing or thing violates the debate rules agreed to by that candidate.
- (d) Notwithstanding subparagraph 5(c), the candidates may take notes during the debate on the size, color, and type of paper each prefers and using the type of pen

or pencil that each prefers. Each candidate must submit to the staff of the Commission prior to the debate all such paper and any pens or pencils with which a candidate may wish to take notes during the debate, and the staff of the Commission will place such paper, pens, and pencils on the podium, table, or other structure to be used by the candidate in that debate.

- (c) Neither film footage nor video footage nor any audio excerpts from the debates may be used publicly by either candidate's campaign through any means, including but not limited to, radio, television, Internet or videotapes, whether broadcast or distributed in any other manner.
- (f) The candidates may not ask each other direct questions, but may ask rhetorical questions.
- (g) The order of questioning and closing statements shall be determined as follows:
 - (1) The Commission will conduct a coin toss at least 72 hours before the first Presidential debate. At that time, the winner of the coin toss shall have the option of choosing, for

the October 3 debate, either (a) whether to take the first or second question, or (b) whether to give the first or second closing statement. At that time, the loser of the coin toss will have the choice of question order or closing statement order not exercised by the winner of the coin toss. For the October 11 debate, the loser of the coin toss shall have the option of choosing either (a) whether to take the first or second question, or (b) whether to give the first or second closing statement, with the winner of the coin toss having the choice of question order or closing statement not exercised by the loser of the coin toss. The Commission shall set a time at least 72 hours before the October 11 debate at which the candidates shall make their choices for that debate.

- (ii) For the October 17 debate, the order of questioning and closing statements shall be determined by a separate coin toss in the same

manner as for the October 3 debate, to take place at least 72 hours before the debate.

(iii) The order of questioning and closing statements for the October 5 Vice Presidential debate shall be determined by a separate coin toss in the same manner as for the October 3 debate, to take place at least 72 hours before the debate.

- (h) Each candidate shall determine the manner by which he prefers to be addressed by the moderator and shall communicate this to the Commission, at least forty-eight (48) hours before the October 3 debate.
- (i) Whether or not a debate runs beyond the planned ending time, each candidate shall be entitled to make a closing statement in accordance with subparagraph (b). The Commission shall use its best efforts to ensure that the TV networks carry the entire debate even if it runs past the specified ending time.
- (j) No question shall be asked of a candidate by the moderator if less than six minutes remain in the scheduled time of the debate.

- (k) The candidates shall not address each other with proposed pledges.
- (l) In each debate, the moderator shall:
 - (i) Open and close the debate and use his or her best efforts to enforce all time limits;
 - (ii) use his or her best efforts to ensure that the questions are reasonably well balanced in terms of addressing a wide range of issues of major public interest facing the United States and the world;
 - (iii) vary the topics on which he or she questions the candidates and ensure that the topics of the questions are fairly apportioned between the candidates;
 - (iv) use best efforts to ensure that the two candidates speak for approximately equal amounts of time during the course of each debate; and
 - (v) use any reasonable method to ensure that the agreed-upon format is followed by the candidates and the audience.

6. Additional Rules Applicable to October 3 Debate

For the October 3 debate, the candidates will appear at podiums. This debate shall be governed by the rules set forth in section 5 and the following additional rules:

- (a) The moderator shall direct the first question to the candidate determined by the procedure set forth in subparagraph 5(g). The candidate receiving the question shall be entitled to give an opening response not to exceed two (2) minutes, and thereafter the other candidate shall be permitted to comment on the question and/or the first candidate's answer for up to one (1) minute. Thereafter the moderator may extend the discussion for a period of time not to exceed three and one-half (3½) minutes, but the moderator shall begin each such discussion by calling upon the candidate who first received the question.
- (b) The moderator shall then ask a question of the other candidate, and the answer, comments by the other candidate, and extension of discussion by the moderator shall be conducted as set out in paragraph 6(a) above for the first question. Thereafter the moderator shall follow the procedure in

paragraph 6(a) above by asking a question of the first candidate and shall continue with questions of the candidates in rotation until the time for closing statements occurs.

- (c) During the extended discussion of a question, no candidate may speak for more than 2 minutes at one time.
- (d) The moderator shall manage the debate so that the candidates address at least fourteen (14) questions.

7. Additional Rules Applicable to October 11 Debate

For the October 11 debate, the candidates will be seated at a table. This debate shall be governed by the rules set forth in section 5 and the following additional rules:

- (a) The moderator shall direct the first question to the candidate determined by the procedure set forth in subparagraph 5(g). That candidate shall have up to two (2) minutes to respond to the question, and the other candidate then shall have up to two (2) minutes to comment on the question or on the first candidate's answer. Thereafter, the moderator shall have discretion to extend the discussion of that question, but shall balance additional discussion of that

question with the interest in addressing a wide range of topics during the debate.

- (b) After completion of the discussion of the first question, the moderator shall then direct a question to the candidate to whom the first question was not directed, and follow the procedure outlined in paragraph 7(a) above. Thereafter, the moderator shall follow the procedure in paragraph 7(a) by asking a question of the first candidate and shall continue with questions of the candidates in rotation until the time for closing statements occurs.
- (c) During the extended discussion of a question, no candidate may speak for more than two (2) minutes at one time.

8. Additional Rules Applicable to October 17 Debate

The October 17 debate will be conducted in an audience participation ("town hall") format. This debate shall be governed by the rules set forth in section 5 and the following additional rules:

- (a) The moderator shall facilitate audience members in asking questions to each of the candidates, beginning with the candidate determined by the procedure set

forth in subparagraph 5(g). The candidate to whom the question is initially directed shall have up to two (2) minutes to respond, after which the other candidate shall have up to two (2) minutes to respond to the question and/or to comment on the first candidate's answer. Thereafter, the moderator shall have discretion to extend the discussion of the question, but shall balance additional discussion of the question with the interest in addressing a wide range of topics during the debate.

- (b) After completion of the discussion of the first question, the moderator shall call upon an audience member to direct a question to the candidate to whom the first question was not directed, and follow the procedure outlined in paragraph 8(a) above. Thereafter, the moderator shall follow the procedures in paragraph 8(a) by calling upon another audience member to ask a question of the first candidate and shall continue facilitating questions of the candidates in rotation until the time for closing statements occurs.

- (c) During the extended discussion of a question, no candidate may speak for more than two (2) minutes at one time.
- (d) The audience members shall not ask follow-up questions or otherwise participate in the extended discussion, and the audience member's microphone shall be turned off after he or she completes asking the question.
- (e) Prior to the start of the debate, audience members will be asked to submit their questions in writing to the moderator. No third party, including both the Commission and the campaigns, shall be permitted to see the questions. The moderator will review the questions and eliminate any questions that the moderator deems inappropriate. The moderator shall develop, and describe to the campaigns, a method for selecting questions at random while assuring that questions are reasonably well balanced in terms of addressing a wide range of issues of major public interest facing the United States and the world. Each question selected will be asked by the audience member submitting that question.

(f) The debate will take place before a live audience of between 100 and 150 persons who shall be seated and who describe themselves as likely voters who are "uncommitted" as to their 2000 Presidential vote. These participants will be selected by an independent research firm agreed upon by the two campaigns. The research firm shall have sole responsibility for selecting the nationally demographically representative group of voters, after providing a comprehensive briefing to the campaigns, either of which may raise objections to the Commission within 24 hours of the briefing.

(g) Participants selected shall not be contacted directly or indirectly by the campaigns before the debate. The Commission shall not contact the participants before the debate other than for logistical purposes.

9. Additional Rules Applicable to October 5 Debate

For the October 5 Vice Presidential Debate, the candidates will be seated at a table. This debate shall be governed by the rules set forth in sections 5 and 7.

10. Staging

(a) The following rules apply to each of the four debates:

- (i) All staging arrangements for the debates not specifically addressed in this agreement shall be jointly addressed by representatives of the two campaigns.
- (ii) Governor Bush shall occupy the stage-left position for the October 3 debate; Vice President Gore will have first choice of stage position for the October 11 debate. Vice President Gore or his representative shall communicate his choice by written facsimile to the Commission and to Bush/Cheney 2000 at least seventy-two (72) hours before the debate. The stage position for the October 17 debate will be determined by a coin toss to take place at least seventy-two (72) hours before the debate. The stage position for the October 5 Vice Presidential debate will be determined by a separate coin toss to take place at least seventy-two (72) hours before the debate.
- (iii) For the October 3 and October 17 debates, the candidates shall enter the stage upon a verbal
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cue by the moderator after the program goes on the air, proceed to center stage, shake hands, and proceed directly to their positions behind their podiums (for the October 3 debate) or to their stools (for the October 17 debate). For the October 5 and October 11 debates, the candidates shall be pre-positioned before the program goes on the air.

- (iv) Except as provided in subparagraph (d) (viii), TV cameras will be locked into place during all debates. They may, however, tilt or rotate as needed.
- (v) Except as provided in subparagraph (d) (viii), TV coverage during the question and answer period shall be limited to shots of the candidates or moderator and in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements. When a candidate is speaking, either in answering a question or making his

closing statement. TV coverage will be limited to the candidate speaking. There will be no TV out-aways to any candidate who is not responding to a question while another candidate is answering a question or to a candidate who is not giving a closing statement while another candidate is doing so.

- (vi) The camera located at the rear of the stage shall be used only to take shots of the moderator.
- (vii) For each debate each candidate may choose to have either (a) a monitor with live feed from the debate positioned in his line of sight but not visible to the other candidate; or (b) tally lights in his line of sight but not visible to the other candidate. In either case, the candidate other than the candidate choosing a monitor or tally lights shall have for each debate a right of disapproval, in his sole discretion, over the use of such monitor or tally lights.

- (viii) All members of the audience will be instructed by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud or otherwise participate in the debate by any means other than by silent observation. The moderator shall use his or her best efforts to enforce this provision.
- (ix) The Commission shall use best efforts to maintain an appropriate temperature according to industry standards for the entire debate.
- (x) Each candidate shall be permitted to have a complete, private production and technical briefing and walk-through ("Briefing") at the location of the debate on the day of the debate. The order of the Briefing shall be determined by agreement or, failing candidate agreement, a coin flip. Each candidate will have a maximum of one (1) hour for this Briefing. Production lock-down will not occur for any candidate unless that candidate has had his Briefing. There will be no filming,
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taping, photography or recording of any kind (except by that candidate's personal photographer) allowed during the candidates' Briefing. No media will be allowed into the auditorium where the debate will take place during a candidate's Briefing. All persons, including but not limited to the media, other candidates and their representatives, and the employees or other agents of the Commission other than those necessary to conduct the Briefing, shall vacate the debate site while a candidate has his Briefing. The Commission will provide to each candidate's representatives a written statement and plan which describes the measures to be taken by the Commission to ensure the complete privacy of all Briefings.

- (xi) The color and style of the backdrop will be recommended by the Commission and mutually determined by representatives of the campaigns. The Commission shall make its recommendation known to the campaigns at least
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seventy-two (72) hours before each debate.

The backdrops behind each candidate shall be identical.

- (xii) The set will be completed and lit no later than 3 p.m. at the debate site on the day before the debate will occur.
- (xiii) Each candidate may use his own makeup person, and adequate facilities shall be provided at the debate site for makeup.
- (xiv) In addition to Secret Service personnel, the Vice President's military aide, and the Vice President's physician, each candidate will be permitted to have one (1) pre-designated staff member in the wings or in the immediate backstage area during the debate at a location to be mutually agreed upon by representatives of the campaigns at each site. All other staff must vacate the wings or immediate backstage areas no later than (5) minutes before the debate commences. A PL phone line will be provided between each candidate's staff work area and the producer.

- (xv) Other than security personnel, not more than two (2) aides will accompany each candidate on the stage before the program begins.
- (xvi) Each candidate shall be allowed to have one (1) professional still photographer present on the stage before the debate begins and in the wings during the debate, as desired, and on the stage immediately upon the conclusion of the debate. No photos shall be taken from the wings by these photographers during the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate.

(b) In addition to the rules in subparagraph (a), the following rules apply to the October 3 debate:

- (1) The Commission shall construct the podiums, and each shall be identical to view from the audience side. The podiums shall measure forty-eight (48) inches from the stage floor to the outside top of the podium facing the audience and otherwise shall be constructed in the style and specifications recommended by

the Commission, shown in Attachment A. There shall be no writings or markings of any kind on the fronts of the podiums. No candidate shall be permitted to use risers or any other device to create an impression of elevated height, and no candidate shall be permitted to use chairs, stools or other seating devices during the debate.

- (ii) Each podium shall have installed a fixed hard-wired microphone, and an identical microphone to be used as backup per industry standards.
- (iii) The podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer. The podiums shall be ten (10) feet apart; such distance shall be measured from the left-right center of a podium to the left-right center of the other podium.
- (iv) The moderator will be seated at a table so as to be positioned in front, between, and equidistant from the candidates, and between

the cameras to which the candidates direct their answers.

- (v) As soon as possible, the Commission shall submit for joint consultation with the campaigns a diagram for camera placement.
- (vi) The Commission shall recommend a single system of time cues and placement subject to approval by both campaigns. Time cues in the form of yellow and red lights will be given to the candidates and the moderator when there are thirty (30) seconds remaining and fifteen (15) seconds remaining respectively for the two (2) minute and one (1) minute responses permitted under section 6(a).

(c) In addition to the rules in subparagraph (a), the following rules apply to the October 11 debate and the October 5 Vice Presidential debate:

- (1) The Commission shall construct the table according to the style and specifications proposed by the Commission in consultation with each campaign. The moderator shall be

- facing the candidates with his or her back to the audience.
- (ii) The chairs shall be swivel chairs that can be locked in place, and shall be of equal height.
 - (iii) Each candidate and the moderator shall have a wireless lapel microphone, and an identical microphone to be used as a backup per industry standards.
 - (iv) The Commission shall recommend a single system of time cues and placement subject to approval by both campaigns.
 - (v) As soon as possible, the Commission shall submit for joint consultation with each campaign a diagram for camera placement.
 - (vi) The candidates shall remain seated throughout the debate.
- (d) In addition to the rules in subparagraph (a), the following rules apply to the October 17 debate:
- (i) The candidates shall be seated on stools before the audience, which shall be seated in approximately a horseshoe arrangement as symmetrically as possible around the
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candidates. The precise staging arrangement will be determined by the Commission's producer subject to the approval of representatives of both campaigns.

- (ii) The stools shall be identical and have backs and a footrest and shall be approved by the candidates' representatives.
- (iii) Each candidate shall have a place to put a glass of water and paper and pens or pencils for taking notes (in accordance with subparagraph 5(d)) of sufficient height to allow note taking while sitting on the stool, and which shall be designed by the Commission, subject to the approval of representatives of both campaigns.
- (iv) Each candidate may move about in a pre-designated area, as proposed by the Commission in consultation with each campaign, and may not leave that area while the debate is underway. The pre-designated areas of the candidates may not overlap.

- (v) Each candidate shall have a choice of either wireless hand held microphone or wireless lapel microphone to allow him to move about as provided for in subparagraph (iv) and to face different directions while responding to questions from the audience.
- (vi) As soon as possible, the Commission shall submit for joint consultation by the campaigns a diagram for camera placement.
- (vii) The Commission shall recommend a single system of time cues subject to approval by both campaigns.
- (viii) Notwithstanding subparagraphs (a) (iv) and (a) (v) a roving camera may be used for shots of an audience member only during the time that audience member is asking a question.

11. Ticket Distribution and Seating Arrangements

- (a) The Commission shall be responsible for printing and ensuring security of all tickets to all debates. Each campaign shall be entitled to receive directly from the Commission one-third of the available tickets (excluding those allocated to the participating

audience in the October 17 debate), with the remaining one-third going to the Commission.

- (b) In the audience participation debate, the participating audience shall be separated from any nonparticipating audience, and steps shall be taken to ensure that the participating audience is admitted to the debate site without contact with the campaigns, the media, and the nonparticipating audience.
- (c) The Commission shall allocate tickets to the two campaigns in such a manner to ensure that supporters of each candidate are interspersed with supporters of the other candidate. For the October 3, October 5, and October 11 debates, the family members of each candidate shall be seated in the front row, diagonally across from the candidate directly in his line of site while seated or standing at the podium. For the October 17 debate, the family members of each candidate shall be seated as mutually agreed by representatives of the campaigns.
- (d) Any media seated in the auditorium shall be accommodated only in the last two (2) rows of the auditorium farthest from the stage. Two (2) still

photo stands may be positioned near either side of the television camera stands located in the audience. (A media center with all necessary feeds will be otherwise available.)

- (a) Tickets will be delivered by the Commission to the chairman of each candidate's campaign or his designated representative by 12:00 noon on the day preceding each debate.

The Commission will invite from its allotment (two (2) tickets each) an agreed upon list of officeholders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the State holding the debate, an appropriate list of other public officials and the President of the University sponsoring the debate. The Commission shall use its best efforts not to favor one candidate in the distribution of its allotment of tickets.

12. Dressing Rooms/Holding Rooms

- (a) Each candidate shall have a dressing room available of adequate size so as to provide private seclusion for that candidate and adequate space for the staff the candidate desires to have in this area. The two dressing rooms shall be comparable in size and in

quality and in proximity and access to the debate stage.

- (b) An equal number of other backstage rooms will be available for other staff members of each candidate. Each candidate shall have a minimum of eight such rooms, five of which shall be in the debate facility itself, and three of which shall be located next to the press center. The rooms located next to the media center shall be located so that each campaign has equal proximity and ease of access to the media center. Each of the eight rooms shall be a minimum of 10 feet by 10 feet. All of these rooms shall be furnished as deemed necessary by the candidates' representatives. Each candidate's rooms shall be reasonably segregated from those designated for the other candidate. If sufficient space to accommodate the above needs is not available at a particular debate facility, the Commission shall provide trailers or alternative space mutually agreeable to the candidates' representatives. Space that is comparable in terms of size, location, and quality shall be provided to the two campaigns. These rooms shall be

made available at least seventy two (72) hours in advance of the beginning of each debate. Each campaign may, at its own cost, rent one or more additional trailers so long as the Commission and authorities responsible for traffic and security do not object.

- (c) The number of individuals allowed in these rooms or trailers shall be determined by each candidate. The Commission shall issue backstage passes (if needed) to the candidates' representatives as requested.
- (d) The Commission shall provide each candidate with a direct television feed from the production truck to two (2) monitors placed in the candidate's dressing room and staff holding rooms as requested by the candidates' representatives. In addition, the Commission shall provide at least one (1) additional functioning TV set for each of the eight rooms.

13. Media

- (a) Each candidate will receive not fewer than thirty (30) press passes for the Media Center during the debate and more if mutually agreed upon by the Committees.

- (b) Each candidate will be allowed to have an unlimited number of people in the Media Center upon the conclusion of the debate.
- (c) The Commission will be responsible for all media credentialing.

14. Survey Research

The sponsor of the debates shall agree that it shall not, prior to November 8, 2000, release publicly or to the media or otherwise make publicly available any survey research (including polls or focus group results or data) concerning the performance of the candidates in the debate or the preferences of the individuals surveyed for either candidate.

15. Complete Agreement

This memorandum of understanding constitutes the entire agreement between the parties concerning the debates in which the campaigns participate in 2000. It supersedes the Preliminary Agreement between the parties signed on September 16, 2000, which Preliminary Agreement is now null and void.

16. Amendments

This Agreement will not be changed or amended except in writing signed by both persons who signed this Agreement or their designees.

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Goru/Lieberman, Inc.

By: [Signature]

Date: 9-28-00

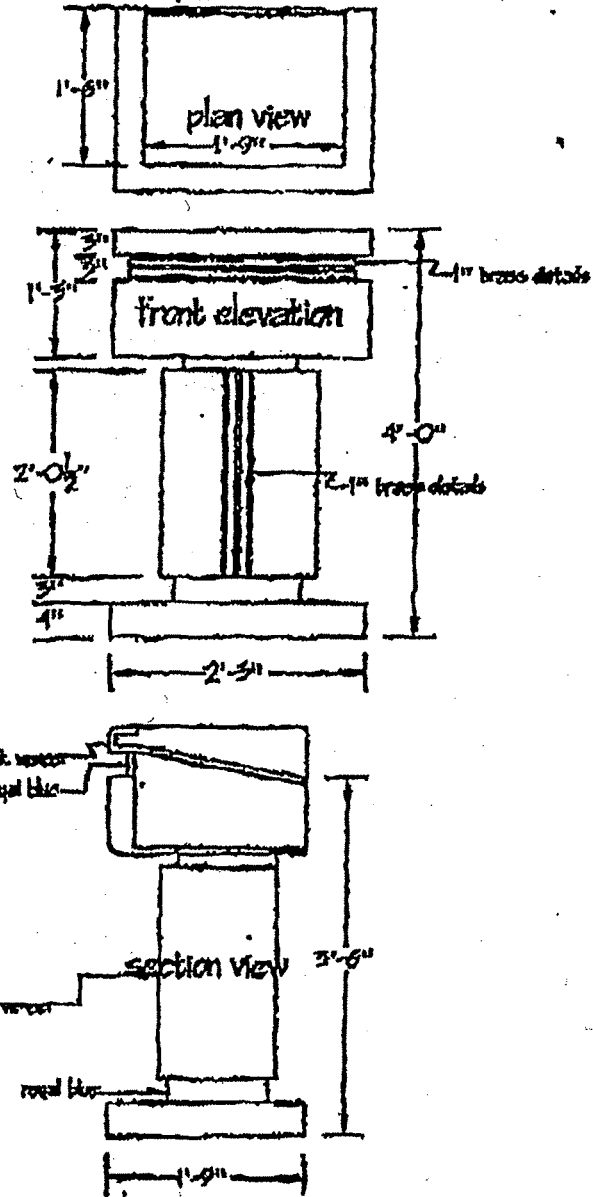
[Signature]

Bush/Cheney, Inc.

By: [Signature]

Date: 9/28/00

PODIUM DETAILS



TAB G

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding constitutes an agreement between Kerry-Edwards, '04, Inc. and Bush-Cheney, '04, Inc. (the "campaigns") regarding the rules that will govern debates in which the campaigns participate in 2004. This agreement shall be binding upon the Bush-Cheney and Kerry-Edwards Campaigns and, provided it agrees to sponsor the debates by executing this agreement on or before September 22, 2004, upon the Commission on Presidential Debates (the "Commission").

1. Number, Dates, Time, Locations, Topics

(a) Presidential Debates

<u>Date</u>	<u>Location</u>
Thursday, September 30	University of Miami Coral Gables, Florida
Friday, October 8	Washington University in St. Louis St. Louis, Missouri
Wednesday, October 13	Arizona State University Tempe, Arizona

(b) Vice Presidential Debate

<u>Date</u>	<u>Location</u>
Tuesday, October 5	Case Western Reserve University Cleveland, Ohio

(c) Each debate shall begin at 9 p.m., Eastern Daylight Time.

(d) The parties agree that they will not (1) issue any challenges for additional debates, (2) appear at any other debate or adversarial forum with any

other presidential or vice presidential candidate, or (3) accept any television or radio air time offers that involve a debate format or otherwise involve the simultaneous appearance of more than one candidate.

- (e) The topic of the September 30 debate shall be foreign policy and homeland security. The topic of the October 13 debate shall be economic and domestic policy. The October 5 vice presidential debate and the October 8 presidential debate shall not be limited by topic and shall include an equal number of questions related to foreign policy and homeland security on the one hand and economic and domestic policy on the other.

2. Sponsorship

The two campaigns will participate in four debates sponsored by the Commission. However, if the Commission fails to execute this agreement on or before September 22, 2004, the two campaigns shall each have the option of terminating this agreement, or by agreement between them, seeking other sponsors for some or all of the proposed debates. The parties agree that the Commission's Nonpartisan Candidate Selection Criteria for 2004 General Election Debate Participation shall apply in determining the candidates to be invited to participate in these debates.

3. Participants

If one or more candidates from campaigns other than

the two (2) signatories is invited to participate pursuant to those Selection Criteria, those candidates shall be included in the debates, if those candidates accept the terms of this agreement. Any modifications to this agreement must be agreed upon by each of the signatories to this agreement as well as all other candidates selected to join the debate.

4. Moderator

- (a) Each debate will have a single moderator.
- (b) The parties have accepted the Commission's recommendations of the below listed moderators, provided that each proposed moderator executes a copy of this agreement at least seven (7) days prior to the debate that individual is to moderate in order to evidence his or her understanding and acceptance of, and agreement to, the provisions hereof pertaining to moderators. If any proposed moderator fails to execute a copy of this agreement at least seven (7) days prior to the proposed date of the debate he or she is to moderate, the two campaigns will agree upon and select a different individual to moderate that debate:

- i) Jim Lehrer for the first presidential debate, September 30, 2004 at the University of Miami;
- ii) Charles Gibson for the second presidential debate, October 8, 2004 at Washington University in St. Louis;

- iii) Bob Schieffer for the third presidential debate,
October 13, 2004 at Arizona State University,
and;
- iv) Gwen Ifill for the vice presidential debate,
October 5, 2004 at the Case Western Reserve
University.

5. Rules Applicable to All Debates

The following rules shall apply to each of the four debates:

- (a) Each debate shall last for ninety (90) minutes.
- (b) For each debate there shall be no opening statements, but each candidate may make a two (2) minute closing statement.
- (c) No props, notes, charts, diagrams, or other writings or other tangible things may be brought into the debate by any candidate. Neither candidate may reference or cite any specific individual sitting in a debate audience at any time during a debate. If a candidate references or cites any specific individual(s) in a debate audience, or if a candidate uses a prop, note, or other writing or other tangible thing during a debate, the moderator must interrupt and explain that reference or citation to the specific individual(s) or the use of the prop, note, or other writing or thing violates the debate rules agreed to by that candidate.

- (d) Notwithstanding subparagraph 5(c), the candidates may take notes during the debate on the size, color, and type of paper each prefers and using the type of pen or pencil that each prefers. Each candidate must submit to the staff of the Commission prior to the debate all such paper and any pens or pencils with which a candidate may wish to take notes during the debate, and the staff of the Commission will place such paper, pens, and pencils on the podium, table, or other structure to be used by the candidate in that debate.
- (e) Neither film footage nor video footage nor any audio excerpts from the debates may be used publicly by either candidate's campaign through any means, including but not limited to, radio, television, internet, or videotapes, whether broadcast or distributed in any other manner.
- (f) The candidates may not ask each other direct questions, but may ask rhetorical questions.
- (g) The order of questioning and closing statements shall be determined as follows:
- (i) The Commission will conduct a coin toss at least seventy-two (72) hours before the first presidential debate. At that time, the winner of the coin toss shall have the option of choosing,

for the September 30 debate, either (a) whether to take the first or second question, or (b) whether to give the first or second closing statement. At that time, the loser of the coin toss will have the choice of question order or closing statement order not exercised by the winner of the coin toss. For the October 8 debate, the loser of the coin toss shall have the option of choosing either (a) whether to take the first or second question, or (b) whether to give the first or second closing statement, with the winner of the coin toss having the choice of question order or closing statement not exercised by the loser of the coin toss. The Commission shall set a time at least seventy-two (72) hours before the October 8 debate at which the candidates shall make their choices for that debate.

(ii) For the October 13 debate, the order of questioning and closing statements shall be determined by a separate coin toss in the same manner as the September 30 debate, to take place at least seventy-two (72) hours before the debate.

(iii) The order of questioning and closing statements for the October 5 vice presidential

debate shall be determined by a separate coin toss in the same manner as for the September 30 debate, to take place at least seventy-two (72) hours before the debate.

- (h) Each candidate shall determine the manner by which he prefers to be addressed by the moderator and shall communicate this to the Commission, at least forty-eight (48) hours before the September 30 debate.
- (i) Whether or not a debate runs beyond the planned ending time, each candidate shall be entitled to make a closing statement in accordance with subparagraph (b). The Commission shall use its best efforts to ensure that the TV networks carry the entire debate even if it runs past the specified ending time.
- (j) No question shall be asked of a candidate by the moderator if less than six (6) minutes remain in the scheduled time of the debate.
- (k) The candidates shall not address each other with proposed pledges.
- (l) In each debate, the moderator shall:
 - (i) open and close the debate and enforce all time limits. In each instance where a candidate exceeds the permitted time for comment, the moderators shall interrupt and remind both the candidate and the audience of the expiration of the time limit and call upon such candidate to

observe the strict time limits which have been agreed upon herein by stating, "I am sorry... [Senator Kerry or President Bush as the case may be]... your time is up";

- (ii) use his or her best efforts to ensure that the questions are reasonably well balanced in all debates and within the designated subject matter areas of the September 30 and October 13 debates in terms of addressing a wide range of issues of major public interest facing the United States and the world;
- (iii) vary the topics on which he or she questions the candidates and ensure that the topics of the questions are fairly apportioned between the candidates;
- (iv) use best efforts to ensure that the two candidates speak for approximately equal amounts of time during the course of each debate, and;
- (v) use any reasonable method to ensure that the agreed-upon format is followed by the candidates and the audience.

6. Additional Rules Applicable to September 30 and October 13 Debates

For the September 30 and October 13 debates, the candidates will appear at podiums. The September 30 and October

13 debates shall be governed by the rules set forth in section 5 and the following additional rules:

(a) There shall be no audience participation in the September 30 and October 13 debates. After the start of each debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain from any participation in the debates as described in section 9(a)(viii) below. The moderator shall direct the first question to the candidate determined by the procedure set forth in subparagraph 5(g). The candidate receiving the question shall be entitled to give an opening response not to exceed two (2) minutes, and thereafter the other candidate shall be permitted to comment on the question and/or the first candidate's answer for up to one and one-half (1½) minutes. Thereafter the moderator in his discretion may extend the discussion for a period of time not to exceed sixty (60) seconds, but the moderator shall begin each such discussion by calling upon the candidate who first received the question. To the extent that the moderator opens extended discussion, the moderator shall use best efforts to ensure that each candidate has a maximum of approximately thirty (30) seconds to comment in the extended discussion period.

(b) The moderator shall then ask a question of the other candidate, and the answer, comments by the other candidate, and extension of discussion by the

moderator shall be conducted as set out in paragraph 6(a) above for the first question. Thereafter the moderator shall follow the procedure in paragraph 6(a) above by asking a question of the first candidate and shall continue with questions of the candidates in rotation until the time for closing statements occurs.

- (c) During the extended discussion of a question, no candidate may speak for more than thirty (30) seconds.
- (d) The moderator shall manage the debate so that the candidates address at least sixteen (16) questions.
- (e) At no time during these debates shall either candidate move from their designated area behind their respective podiums.

7. Additional Rules Applicable to October 8 Debate

The October 8 debate will be conducted in an audience participation ("town hall") format. This debate shall be governed by the rules set forth in section 5 and the following additional rules:

- (a) There shall be no audience participation in the October 8 debate other than as described below. Other than an audience member asking a question as permitted by this section, at the start of the October 8 debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain from

any participation in the debate as described in section 9(a)(viii) below. The moderator shall facilitate audience members in asking questions to each of the candidates, beginning with the candidate determined by the procedure set forth in subparagraph 5(h). The candidate to whom the question is initially directed shall have up to two (2) minutes to respond, after which the other candidate shall have up to one and one-half (1½) minutes to respond to the question and/or to comment on the first candidate's answer. Thereafter, the moderator, in his or her discretion, may extend the discussion of that question for sixty (60) seconds, but the moderator shall begin each such discussion by calling upon the candidate who first received the question. The moderator shall balance additional discussion of the question with the interest in addressing a wide range of topics during the debate. To the extent that the moderator opens extended discussion, the moderator shall use best efforts to ensure that each candidate has a maximum of approximately thirty (30) seconds to comment in the extended discussion period.

- (b) After completion of the discussion of the first question, the moderator shall call upon an audience member to direct a question to the candidate to whom the first question was not directed, and follow the

procedure outlined in paragraph 7(a) above.

Thereafter, the moderator shall follow the procedures in this paragraph by calling upon another audience member to ask a question of the first candidate and shall continue facilitating questions of the candidates in rotation until the time for closing statements occurs.

- (c) During the extended discussion of a question, no candidate may speak for more than thirty (30) seconds.
- (d) The audience members shall not ask follow-up questions or otherwise participate in the extended discussion, and the audience member's microphone shall be turned off after he or she completes asking the question.
- (e) Prior to the start of the debate, audience members will be asked to submit their questions in writing to the moderator. No third party, including both the Commission and the campaigns, shall be permitted to see the questions. The moderator shall approve and select all questions to be posed by the audience members to the candidates. The moderator shall ensure that the audience members pose to the candidates an equal number of questions on foreign policy and homeland security on the one hand and economic and domestic policy on the other. The moderator will further review the questions and eliminate any questions that the moderator deems inappropriate. At

least seven (7) days before the October 8 debate the moderator shall develop, and describe to the campaigns, a method for selecting questions at random while assuring that questions are reasonably well balanced in terms of addressing a wide range of issues of major public interest facing the United States and the world. Each question selected will be asked by the audience member submitting that question. If any audience member poses a question or makes a statement that is in any material way different than the question that the audience member earlier submitted to the moderator for review, the moderator will cut-off the questioner and advise the audience that such non-reviewed questions are not permitted. Moreover, the Commission shall take appropriate steps to cut-off the microphone of any such audience member that attempts to pose any question or statement different than that previously posed to the moderator for review.

- (f) The debate will take place before a live audience of between 100 and 150 persons who shall be seated and who describe themselves as likely voters who are "soft" Bush supporters or "soft" Kerry supporters as to their 2004 presidential vote. The number of "soft" Bush supporters shall equal the number of "soft" Kerry supporters in the audience. The moderator shall ensure that an equal number of "soft" Bush supporters

and "soft" Kerry supporters pose questions to the candidates. These participants will be selected by the Gallup organization ("Gallup"). Gallup shall have responsibility for selecting the nationally demographically representative group of voters. At least fourteen (14) days prior to October 8, Gallup shall provide a comprehensive briefing on the selection methodology to the campaigns, and both the Kerry-Edwards Campaign and the Bush-Cheney Campaign shall approve the methodology. Either campaign may raise objections on the methodology to Gallup and to the Commission within twenty-four (24) hours of the briefing.

- (g) Participants selected shall not be contacted directly or indirectly by the campaigns before the debate. The Commission shall not contact the participants before the debate other than for logistical purposes.

8. Additional Rules Applicable to October 5 Debate

For the October 5 vice presidential debate, the candidates will be seated at a table with the moderator. This debate shall be governed by the rules set forth in sections 5 and 6. There shall be no audience participation in the October 5 vice presidential debate. At the start of the October 5 debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain

from any participation in the debate as described in section 9(a) (viii) below.

9. Staging

(a) The following rules apply to each of the four debates:

- (i) All staging arrangements for the debates not specifically addressed in this agreement shall be jointly addressed by representatives of the two campaigns.
- (ii) The Commission will conduct a coin toss at least seventy-two hours before the September 30 debate. At that time, the winner of the coin toss shall have the option of choosing stage position for the September 30 debate; The loser of the coin toss will have first choice of stage position for the October 8 debate. The loser of the coin toss or his representative shall communicate his choice by written facsimile to the Commission and to the other campaign at least seventy-two (72) hours before the October 8 debate. The stage position for the October 13 debate will be determined by a coin toss to take place at least seventy-two (72) hours before the debate. The stage position for the October 5 vice presidential debate will be determined by a separate coin toss to take place at least seventy-two (72) hours before the debate.

- (iii) For the September 30, October 8, and October 13 debates, the candidates shall enter the stage upon a verbal cue by the moderator after the program goes on the air, proceed to center stage, shake hands, and proceed directly to their positions behind their podiums or their stools in the case of the October 8 debate. For the October 5 vice presidential debate, the candidates shall be pre-positioned before the program goes on the air, and immediately after the program goes on the air the candidates shall shake hands.
- (iv) Except as provided in subparagraph (d) (viii) of this paragraph 9, TV cameras will be locked into place during all debates. They may, however, tilt or rotate as needed.
- (v) Except as provided in subparagraph (d) (viii), TV coverage during the question and answer period shall be limited to shots of the candidates or moderator and in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements. When a candidate is speaking, either in answering a question or making his closing statement, TV coverage will be limited

to the candidate speaking. There will be no TV cut-aways to any candidate who is not responding to a question while another candidate is answering a question or to a candidate who is not giving a closing statement while another candidate is doing so.

- (vi) The camera located at the rear of the stage shall be used only to take shots of the moderator.
- (vii) For each debate each candidate shall have camera-mounted, timing lights corresponding to the timing system described in section 9(b)(vi) below positioned in his line of sight. For each debate additional timing lights, corresponding to the timing system described in section 9(b)(vi) below, shall be placed such that they are visible to the debate audiences and television viewers.
- (viii) All members of the debate audiences will be instructed by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud, speak, or otherwise participate in the debate by any means other than by silent observation, except as provided by the agreed upon rules of the October 8 town hall debate. In the event of and in each

instance whereby an audience member(s) attempts to participate in a debate by any means, the moderator shall instruct the audience to refrain from any participation. The moderator shall use his or her best efforts to enforce this provision.

- (ix) The Commission shall use best efforts to maintain an appropriate temperature according to industry standards for the entire debate.
- (x) Each candidate shall be permitted to have a complete, private production and technical briefing and walk-through ("Briefing") at the location of the debate on the day of the debate. The order of the Briefing shall be determined by agreement or, failing candidate agreement, a coin flip. Each candidate will have a maximum of one (1) hour for this Briefing. Production lock-down will not occur for any candidate unless that candidate has had his Briefing. There will be no filming, taping, photography, or recording of any kind (except by that candidate's personal photographer) allowed during the candidates' Briefing. No media will be allowed into the auditorium where the debate will take place during a candidate's Briefing. All persons, including but not limited to the media, other

candidates and their representatives, and the employees or other agents of the Commission, other than those necessary to conduct the Briefing, shall vacate the debate site while a candidate has his Briefing. The Commission will provide to each candidate's representatives a written statement and plan which describes the measures to be taken by the Commission to ensure the complete privacy of all Briefings.

- (xi) The color and style of the backdrop will be recommended by the Commission and mutually determined by representatives of the campaigns. The Commission shall make its recommendation known to the campaigns at least seventy-two (72) hours before each debate. The backdrops behind each candidate shall be identical.
- (xii) The set will be completed and lit no later than 3 p.m. at the debate site on the day before the debate will occur.
- (xiii) Each candidate may use his own makeup person, and adequate facilities shall be provided at the debate site for makeup.
- (xiv) In addition to Secret Service personnel, the President's military aide, and the President's physician and the Vice President's military aide

and the Vice President's physician, each candidate will be permitted to have one (1) pre-designated staff member in the wings or in the immediate backstage area during the debate at a location to be mutually agreed upon by representatives of the campaigns at each site. All other staff must vacate the wings or immediate backstage areas no later than five (5) minutes before the debate commences. A PL phone line will be provided between each candidate's staff work area and the producer.

(xv) Other than security personnel not more than two (2) aides will accompany each candidate on the stage before the program begins.

(xvi) Each candidate shall be allowed to have one (1) professional still photographer present on the stage before the debate begins and in the wings during the debate as desired and on the stage immediately upon the conclusion of the debate. No photos shall be taken from the wings by these photographers during the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate.

(b) In addition to the rules in subparagraph (a) the

following rules apply to the September 30 and October 13 debates:

- (i) The Commission shall construct the podiums and each shall be identical to view from the audience side. The podiums shall measure fifty (50) inches from the stage floor to the outside top of the podium facing the audience and shall measure forty-eight (48) inches from the stage floor to the top of the inside podium writing surface facing the respective candidates, and otherwise shall be constructed in the style and specifications recommended by the Commission, shown in attachment A. There shall be no writings or markings of any kind on the fronts of the podiums. No candidate shall be permitted to use risers or any other device to create an impression of elevated height, and no candidate shall be permitted to use chairs, stools, or other seating devices during the debate.
- (ii) Each podium shall have installed a fixed hardwired microphone, and an identical microphone to be used as backup per industry standards.
- (iii) The podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer. The

podiums shall be ten (10) feet apart; such distance shall be measured from the left-right center of a podium to the left-right center of the other podium.

- (iv) The moderator will be seated at a table so as to be positioned in front, between, and equidistant from the candidates, and between the cameras to which the candidates direct their answers.
- (v) As soon as possible, the Commission shall submit for joint consultation with the campaigns a diagram for camera placement.
- (vi) At least seven (7) days before the September 30 debate the Commission shall recommend a system, to be used as a model for each successive debate, of visible and audible time cues and placement subject to approval by both campaigns. Such a system shall be comprised of camera mounted timing lights placed in the line of sight of each candidate and additional timing lights that are clearly visible to both the debate audiences and television viewers. Time cues in the form of colored lights will be given to the candidates and the moderator when there are thirty (30) seconds remaining, fifteen (15) seconds remaining, and five (5) seconds remaining,

respectively for the two (2) minute, one and one-half (1½) minute, and sixty (60) second response times permitted under section 6(a). Pursuant to Section 5(1)(i) the moderators shall enforce the strict time limits described in this agreement. The Commission shall provide for an audible cue announcing the end of time for each of the candidate's responses, rebuttals and rejoinder time periods to be used in the event the moderator(s) fail to take action to enforce the strict time limits described in this Agreement. The audible cue shall be clearly audible to both candidates, the debate audiences and television viewers. The Commission shall commence the use of the audible cue and continue its use through the conclusion of any debate where a moderator fails to take the action described in Section 5(1)(i) after two (2) instances in which either candidate has exceeded the time for responses, rebuttals, or rejoinders described in this Agreement.

(c) In addition to the rules in subparagraph (a), the following rules apply to the October 5 vice presidential debate:

(i) The Commission shall construct the table according to the style and specifications

proposed by the Commission in consultation with each campaign. The moderator shall be facing the candidates with his or her back to the audience.

- (ii) The chairs shall be swivel chairs that can be locked in place, and shall be of equal height.
 - (iii) Each candidate and the moderator shall have a wireless lapel microphone, and an identical microphone to be used as a backup per industry standards.
 - (iv) At least seven (7) days before the October 5 debate the Commission shall recommend a system of time cues and placement subject to approval by both campaigns and consistent with the visual and audible time cues described in section 9(b)(vi).
 - (v) As soon as possible, the Commission shall submit for joint consultation with each campaign a diagram for camera placement.
 - (vi) The candidates shall remain seated throughout the debate.
- (d) In addition to the rules in subparagraph (a), the following rules apply to the October 8 debate:
- (i) The candidates shall be seated on stools before the audience, which shall be seated in approximately a horseshoe arrangement as

symmetrically as possible around the candidates. The precise staging arrangement will be determined by the Commission's producer subject to the approval of representatives of both campaigns.

- (ii) The stools shall be identical and have backs and a footrest and shall be approved by the candidates' representatives.
- (iii) Each candidate shall have a place to put a glass of water and paper and pens or pencils for taking notes (in accordance with subparagraph 5(d)) of sufficient height to allow note taking while sitting on the stool, and which shall be designed by the Commission, subject to the approval of representatives of both campaigns.
- (iv) Each candidate may move about in a predesignated area, as proposed by the Commission in consultation with each campaign, and may not leave that area while the debate is underway. The pre-designated areas of the candidates may not overlap.
- (v) Each candidate shall have a choice of either wireless hand held microphone or wireless lapel microphone to allow him to move about as provided for in subparagraph (iv) above and to

face different directions while responding to questions from the audience.

- (vi) As soon as possible, the Commission shall submit for joint consultation by the campaigns a diagram for camera placement.
- (vii) At least seven (7) days before the October 8 debate the Commission shall recommend a system of time cues subject to approval by both campaigns, and consistent with the visual and audible cues described in sections 9(b) (vi).
- (viii) Notwithstanding sections 9(a) (iv) and 9(a) (v) a roving camera may be used for shots of an audience member only during the time that audience member is asking a question.
- (ix) Prior to the start of the debate neither the moderator nor any other person shall engage in a "warm up" session with the audience by engaging in a question or answer session or by delivering preliminary remarks.

10. Ticket Distribution and Seating Arrangements

- (a) The Commission shall be responsible for printing and ensuring security of all tickets to all debates. Each campaign shall be entitled to receive directly from the Commission one-third of the available tickets (excluding those allocated to the participating audience in the October 8 debate), with the remaining

one-third going to the Commission.

- (b) In the audience participation debate, the participating audience shall be separated from any nonparticipating audience, and steps shall be taken to ensure that the participating audience is admitted to the debate site without contact with the campaigns, the media, or the nonparticipating audience.
- (c) The Commission shall allocate tickets to the two (2) campaigns in such a manner to ensure that supporters of each candidate are interspersed with supporters of the other candidate. For the September 30, October 5, and October 13 debates, the family members of each candidate shall be seated in the front row, diagonally across from the candidate directly in his line of site while seated or standing at the podium. For the October 8 debate, the family members of each candidate shall be seated as mutually agreed by representatives of the campaigns.
- (d) Any media seated in the auditorium shall be accommodated only in the last two (2) rows of the auditorium farthest from the stage. Two (2) still photo stands may be positioned near either side of the television camera stands located in the audience. (A media center with all necessary feeds will be otherwise available.)
- (e) Tickets will be delivered by the Commission to the

chairman of each candidate's campaign or his designated representative by 12:00 noon on the day preceding each debate. The Commission will invite from its allotment (two (2) tickets each) an agreed upon list of officeholders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the State holding the debate, an appropriate list of other public officials and the President of the University sponsoring the debate. The Commission shall not favor one candidate over the other in the distribution of its allotment of tickets.

11. Dressing Rooms/Holding Rooms

- (a) Each candidate shall have a dressing room available of adequate size so as to provide private seclusion for that candidate and adequate space for the staff the candidate desires to have in this area. The two (2) dressing rooms shall be comparable in size and in quality and in proximity and access to the debate stage.
- (b) An equal number of other backstage rooms will be available for other staff members of each candidate. Each candidate shall have a minimum of eight (8) such rooms, five (5) of which shall be in the debate facility itself, and three (3) of which shall be located next to the press center. The rooms located

next to the media center shall be located so that each campaign has equal proximity and ease of access to the media center. Each of the eight (8) rooms shall be a minimum of 10 feet by 10 feet. All of these rooms shall be furnished as deemed necessary by the candidates' representatives. Each candidate's rooms shall be reasonably segregated from those designated for the other candidate. If sufficient space to accommodate the above needs is not available at a particular debate facility, the Commission shall provide trailers or alternative space mutually agreeable to the candidates' representatives. Space that is comparable in terms of size, location, and quality shall be provided to the two campaigns. These rooms shall be made available at least seventy-two (72) hours in advance of the beginning of each debate. Each campaign may, at its own cost, rent one or more additional trailers so long as the Commission and authorities responsible for traffic and security do not object.

- (c) The number of individuals allowed in these rooms or trailers shall be determined by each candidate. The Commission shall issue backstage passes (if needed) to the candidates' representatives as requested.
- (d) The Commission shall provide each candidate with a direct television feed from the production truck to

two (2) monitors placed in the candidate's dressing room and staff holding rooms as requested by the candidates' representatives. In addition, the Commission shall provide at least one (1) additional functioning TV set for each of the eight (8) rooms.

12. Media

- (a) Each candidate will receive not fewer than thirty (30) press passes for the Media Center during the debate and more if mutually agreed upon by the campaigns.
- (b) Each candidate will be allowed to have an unlimited number of people in the Media Center upon the conclusion of the debate.
- (c) The Commission will be responsible for all media credentialing.

13. Survey Research

The sponsor of the debates agrees that it shall not, prior to two days after the Presidential Inauguration of 2005, release publicly or to the media or otherwise make publicly available any survey research (including polls or focus group results or data) concerning the performance of the candidates in the debate or the preferences of the individuals surveyed for either candidate.

14. Complete Agreement

This memorandum of understanding constitutes the entire agreement between the parties concerning the debates in

which the campaigns will participate in 2004.

15. Amendments

This Agreement will not be changed or amended except in writing signed by those persons who signed this Agreement or their designees.

16. Ratification and Acknowledgement

The undersigned moderators selected by the Commissior agree to the terms contained herein and agree to fulfill their responsibilities as described in the Agreement.

Agreed and Accepted:

Bush-Cheney '04, Inc.

By:

Kenneth B. Melman

Printed Name:

Kenneth B. Melman

Title:

Campaign Manager

Executed on September 20, 2004

Kerry-Edwards '04, Inc.

By:

Margaret Baker

Printed Name:

Margaret Baker

Title:

Campaign Manager

Executed on September 20, 2004

The Commission on Presidential Debates

By: _____

Printed Name: _____

Title: _____

Executed on September _____, 2004

The provisions hereof pertaining to moderators are understood, agreed to and accepted:

Jim Lehrer

(Date Executed)

Charles Gibson

(Date Executed)

Bob Schieffer

(Date Executed)

Gwen Ifill

(Date Executed)

TAB H

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding constitutes an agreement between Obama for America and John McCain for President (the "campaigns") regarding the rules that will govern debates in which the campaigns participate in 2008. This agreement shall be binding upon the campaigns.

1. Number, Dates, Time, Locations, Topics

(a) Presidential Debates

<u>Date</u>	<u>Location</u>
Friday, September 26	University of Mississippi Oxford, Mississippi
Tuesday, October 7	Belmont University Nashville, Tennessee
Wednesday, October 15	Hofstra University Hempstead, New York

(b) Vice Presidential Debate

<u>Date</u>	<u>Location</u>
Tuesday, October 2	Washington University St. Louis, Missouri

(c) Each debate shall begin at 9 p.m. Eastern Daylight Time.

(d) The parties agree that they will not (1) issue any challenges for additional debates, (2) appear at any other debate or adversarial forum with any other

presidential or vice presidential candidate, or (3) accept any television or radio air time offers that involve a debate format or otherwise involve the simultaneous appearance of more than one candidate.

(e) The topic of the September 26 (First Presidential) debate shall be foreign policy and national security. The topic of the October 15 (Third Presidential) debate shall be domestic and economic policy. The October 2 (Vice Presidential) debate and the October 7 (Second Presidential) debate shall not be limited by topic and shall include an equal number of questions related to foreign policy and national security, on the one hand, and domestic and economic policy on the other.

2. Sponsorship

The two campaigns will participate in four debates sponsored by the Commission on Presidential Debates (the "Commission"). The Campaigns agree that the Commission shall sponsor the debates, subject to its expression of a willingness to employ the provisions of this agreement in conducting these debates. In the event the Commission does not so agree, the two campaigns jointly reserve the right to determine whether an alternate sponsor is preferable. The parties agree that the Commission's Nonpartisan

Candidate Selection Criteria for 2008 General Election
Debate participation shall apply in determining the
candidates to be invited to participate in these debates.

3. Participants

If one or more candidates from campaigns other than the two (2) signatories are invited to participate pursuant to those Selection Criteria, those candidates shall be included in the debates, if those candidates accept the terms of this agreement. Any modifications to this agreement must be agreed upon by each of the signatories to this agreement as well as all other candidates selected to join the debate.

4. Moderator

(a) Each debate will have a single moderator.

(b) The parties have accepted the Commission's recommendations of the below-listed moderators. The Commission shall provide each moderator with a copy of this agreement and shall use its best efforts to ensure that the moderators implement the terms of this agreement.

(i) Jim Lehrer for the First Presidential debate, September 26, 2008 at the University of Mississippi.

(ii) Tom Brokaw for the Second Presidential debate, October 7, 2008 at Belmont University.

(iii) Bob Schieffer for the Third Presidential debate, October 15, 2008 at Hofstra University.

(iv) Gwen Ifill for the Vice Presidential debate, October 2, 2008 at Washington University.

5. Rules Applicable to All Debates

The following rules shall apply to each of the four debates:

(a) Each debate shall last for ninety (90) minutes, with the time commencing from the start of the moderator's opening to the conclusion of the moderator's closing.

(b) For each debate, there shall be no opening statements and no closing statements; provided, however, that each candidate may make a ninety (90) second closing statement at the close of the Third Presidential debate and at the close of the Vice Presidential debate. The order of these closing statements shall be determined by coin toss.

(c) No props, notes, charts, diagrams, or other writings or other tangible things may be brought into the debate by any candidate. No candidate may reference or cite any specific individual sitting in a debate audience (other than family members) at any time during a debate.

If a candidate references or cites any specific individual(s) in a debate audience, or if a candidate uses a prop, note, or other writing or other tangible thing during a debate, the moderator must interrupt and explain that reference or citation to the specific individual(s) or the use of the prop, note, or other writing or thing violates the debate rules agreed to by that candidate.

(d) Notwithstanding subparagraph 5(c), the candidates may take notes during the debate on the size, color, and type of blank paper each prefers and using the type of pen or pencil that each prefers. The staff of the candidate will place such paper, pens, and pencils on the podium, table, or other structure to be used by the candidate in that debate.

(e) The candidates may not ask each other direct questions during the Second Presidential debate (Town Hall) or during the Vice Presidential debate.

(f) The order of questioning shall be determined as follows:

(i) The Commission will conduct a coin toss at least seventy-two (72) hours before the First Presidential debate (September 26). At that time, the winner of the coin toss shall have the option of choosing, for the September 26 debate, whether to take the first or second

question. At that time, the loser of the coin toss will have the choice of question order for the October 15 (Third Presidential) debate. For the October 7 (Second Presidential-Town Hall) debate, there shall be a separate coin toss, with the winner choosing whether to take the first or second question. The Commission shall set a time at least seventy-two (72) hours before the October 7 (Second Presidential-Town Hall) debate at which the candidates shall make their choices for that debate.

(h) Each candidate for president shall be addressed by the moderator as "Senator _____".

(i) The candidates shall not address each other with proposed pledges.

(j) In each debate, the moderator shall:

(i) Open and close the debate and enforce all time limits. Where a candidate exceeds the permitted time for comment, the moderator shall interrupt and remind both the candidate and the audience of the expiration of the time limit and call upon such candidate to observe the strict time limits that have been agreed upon herein.

(ii) Use his or her best efforts to ensure that the questions are reasonably well balanced in all debates and within the designated subject matter areas of the September 26 (First Presidential) debate and October 15

(Third Presidential) debate in terms of addressing a wide range of issues of major public interest facing the United States and the world.

(iii) Vary the topics on which he or she questions the candidates and ensure that the topics of the questions are fairly apportioned between the candidates.

(iv) Use best efforts to ensure that the two candidates speak for approximately equal amounts of time during the course of each debate.

(v) Use any reasonable method to ensure that the agreed-upon format is followed by the candidates and the audience.

(k) At no debate shall the moderator ask the candidates for a "show of hands" or similar calls for response.

6. Additional Rules Applicable to the September 26 and October 15 Debates

For the September 26 (First Presidential) debate, the candidates will appear at podiums. For the October 15 (Third Presidential) debate, the candidates shall be seated jointly at a table, in a style similar to previous presidential debates employing that format. The September 26 (First Presidential) debate and October 15 (Third

Presidential) debate shall be governed by the rules set forth in section 5 and the following additional rules:

(a) There shall be no audience participation in the September 26 (First Presidential) debate and October 15 (Third Presidential) debate. After the start of each debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain from any participation in the debates as described in section 9(a) (viii) below. The moderator shall direct the first question to the candidate determined by the procedure set forth in subparagraph 5(g) of section 5.

(b) The debate shall be broken into nine, 9-minute segments. Each segment will begin with the moderator introducing a topic and giving each candidate 2 minutes to comment on the topic. After these initial answers, the moderator will facilitate an open discussion of the topic for the remaining 5 minutes, ensuring that both candidates receive an equal amount of time to comment. The candidates will reverse the order of response to the next and subsequent questions.

(c) At no time during these debates shall either candidate move from their designated area behind their respective podiums.

7. Additional Rules Applicable to the October 7 Debate

The October 7 (Second Presidential) debate will be conducted in an audience participation ("Town Hall") format. This debate shall be governed by the rules set forth in section 5 (as applicable) and the following additional rules:

(a) There shall be no audience participation in the October 7 (Second Presidential-Town Hall) debate other than as described below. Other than for an audience member asking a question as permitted by this section, at the start of the October 7 (Second Presidential-Town Hall) debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain from any participation in the debate as described in section 9(a)(viii) below. The moderator shall facilitate audience members in asking questions to each of the candidates, beginning with the candidate determined by the procedure set forth in subparagraph 5(g). The answer segments will be structured as follows: A question is

asked of Candidate A. That candidate will respond to the question for up to 2 minutes. Candidate B will then have 2 minutes to respond. Following those initial answers, the moderator will invite the candidates to respond to the previous answers, beginning with Candidate A, for a total of 1 minute (30 seconds each candidate), ensuring that both candidates receive an equal amount of time to comment. The candidates will reverse the order of responses to the next question.

(b) After completion of the discussion of the first question, the moderator shall call upon another audience member to direct a question to the candidate to whom the first question was not directed, and follow the procedure outlined in paragraph 7(a) above. Thereafter, the moderator shall follow the procedures in this paragraph by calling upon another audience member to ask a question of the first candidate and shall continue facilitating questions of the candidates in rotation.

(c) With respect to all questions:

(i) The moderator shall select the questioners, but he may not "coach" the questioners.

(ii) Questioners shall not be allowed to make statements, speeches, or comments. They must ask their question and make no other comments.

(iii) The moderator shall use questions submitted from the Internet, with the questions submitted in a manner agreed to by the candidates, and those questions shall consist of approximately one-third (no more, no less) of the total questions asked.

(iv) The moderator will not ask follow-up questions or comment on either the questions asked by the audience or the answers of the candidates during the debate or otherwise intervene in the debate except to acknowledge the questioners from the audience or internet, enforce the time limits, and invite candidate comments during the 2 minute response period.

(v) The two campaigns shall agree upon a method for selection of the audience for the town hall debate pursuant to subparagraph (f) below.

(d) The audience members shall not ask follow-up questions or otherwise participate in the extended discussion, and the audience member's microphone shall be turned off after he or she completes asking the questions.

(e) Prior to the start of the debate, audience members will be asked to submit their questions in writing to the moderator. No third party, including both the Commission and the campaigns, shall be permitted to see the questions. The moderator shall approve all questions to be

posed by the audience members to the candidates. The moderator shall ensure that the audience members pose to the candidates an equal number of questions on foreign policy and national security, on the one hand, and domestic and economic policy on the other. The moderator will further review the questions and eliminate any questions that the moderator deems inappropriate. At least seven (7) days before the October 7 (Second Presidential-Town Hall) debate, the moderator shall develop, and describe to the campaigns, a method for selecting questions at random while assuring that questions are reasonably well balanced in terms of addressing a wide range of issues of major public interest facing the United States and the world. Each question selected will be asked by the audience member submitting that question. If any audience member poses a question or makes a statement that is in any material way different than the question that the audience member earlier submitted to the moderator for review, the moderator will cut-off the questioner and advise the audience that such non-reviewed questions are not permitted. Moreover, the Commission shall take appropriate steps to cut-off the microphone of any such audience member who attempts to pose any question or statement different than that previously posed to the moderator for review.

(f) The debate will take place before a live participating audience of between 100 and 150 persons who shall be seated and who describe themselves as likely voters. These participants will be selected by the Gallup Organization ("Gallup"), using a methodology approved in writing by the campaigns. Gallup shall have responsibility for selecting the nationally demographically representative group of voters. At least fourteen (14) days prior to October 7 (Second Presidential-Town Hall) debate, Gallup shall provide a comprehensive briefing on the selection methodology to the campaigns, and both campaigns shall approve the methodology. Either campaign may raise objections on the methodology to Gallup and to the Commission within twenty-four (24) hours of the briefing, and Gallup shall revise the methodology accordingly.

(g) Participants selected shall not be contacted directly or indirectly by the campaigns before the debate. The Commission shall not contact the participants before the debate other than for logistical purposes.

8. Additional Rules Applicable to October 2 (Vice Presidential) Debate

For the debate between the two candidates for Vice-President, the candidates will be standing at podiums

following the same basic rules and staging provisions (except as otherwise noted here) for the September 26 (First Presidential) debate and the October 15 (Third Presidential) debate (e.g., simultaneous live entry). There shall be no audience participation of any kind. The stage position for each candidate shall be determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate.

(a) The moderator shall ask questions of each candidate in alternating order with the recipient of the first question determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate. When asked a question, the first candidate will have 60 seconds in which to respond, the second candidate will have 90 seconds to comment on the response, and the first candidate will have a 30 second rebuttal.

(b) There will be no opening statements. Each candidate shall have 90 seconds in which to make a closing statement with the order of those statements determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate. The moderator shall take steps to ensure that

each candidate has the full 90 seconds provided in this paragraph, and the Commission shall take steps to ensure that the closing statements are included in the nationwide broadcast, notwithstanding any other provision in this agreement.

(c) If there are any discrepancies between this paragraph and any other provision of this agreement, the provisions of this paragraph shall govern. Any issues not anticipated by this paragraph or the agreement shall be resolved at the debate site by the campaigns' representatives and, failing a resolution, by a coin flip.

(d) The candidates shall be addressed by their respective titles as elected public officials: "Governor" and "Senator," as the case may be.

9. Staging

(a) The following rules apply to each of the four debates:

(i) All staging arrangements for the debates not specifically addressed in this agreement shall be jointly addressed and agreed to by representatives of the two campaigns. In this regard, the Commission staff -- including the broadcast producer -- shall meet at least once daily and simultaneously with a representative of each

campaign, and the Commission shall provide reasonable daily access to the stage and debate site, on an equal basis but not simultaneously, for each campaign.

(ii) The Commission will conduct a coin toss at least seventy-two hours before the September 26 (First Presidential) debate. At that time, the winner of the coin toss shall have the option of choosing stage position for the September 26 debate; the loser of the coin toss will have first-choice of stage position for the October 15 (Third Presidential) debate. The loser of the coin toss or his representative shall communicate his stage position choice by written facsimile to the Commission and to the other campaign at least seventy-two (72) hours before the October 15 (Third Presidential) debate. The stage position for the October 7 (Second Presidential-Town Hall) debate will be determined by a coin toss to take place at least seventy-two (72) hours before the debate. The stage position for the October 2 (Vice Presidential) debate will be determined by a separate coin toss to take place at least seventy-two (72) hours before that debate.

(iii) For the September 26 (First Presidential) debate, October 7 (Second Presidential-Town Hall) debate, and October 15 (Third Presidential) debate, the candidates shall enter the stage simultaneously, from opposite ends of

the stage, upon a verbal cue by the moderator after the program goes on the air, proceed to center stage, shake hands, and proceed directly to their positions.

(iv) Except as provided in subparagraph (d) (viii) of this paragraph 9, TV cameras will be locked into place during all debates. They may, however, tilt or rotate as needed to frame the candidate or moderator.

(v) Except as provided in subparagraph 9(d) (viii), TV coverage during the question and answer period shall be limited to shots of the candidates or moderator, and in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements, if any. When a candidate is speaking, either in answering a question or making his closing statement, TV coverage will be limited to the candidate speaking. There will be no TV cut-aways to any candidate who is not responding to a question while another candidate is answering a question or to a candidate who is not giving a closing statement while another candidate is doing so.

(vi) The camera located at the rear of the stage shall be used only to take shots of the moderator.

(vii) For each debate, each candidate shall have camera-mounted, timing lights corresponding to the timing system described in section 9(b)(vi) below positioned in his or her line of sight.

(viii) All members of the debate audience will be instructed by the moderator before the debate goes on the air -- and by the moderator after the debate goes on the air -- not to applaud, speak, or otherwise participate in the debate by any means other than by silent observation, except as provided by the agreed upon rules of the October 7 town hall debate. In the event of and in each instance whereby an audience member(s) attempts to participate in a debate by any means, the moderator shall instruct the audience to refrain from any participation. The moderator shall use his or her best efforts to enforce this provision.

(ix) The Commission shall use best efforts to maintain an appropriate temperature as agreed to by the campaigns.

(x) Each candidate shall be permitted to have a complete, private production and technical briefing and walk-through ("Briefing") at the location of the debate on the day of the debate. The order of the Briefing shall be determined by agreement or, failing candidate agreement, a

coin flip. Each candidate will have a maximum of one (1) hour for this Briefing. Production lock-down will not occur for any candidate unless that candidate has had his or her Briefing. There will be no filming, taping, photography, or recording of any kind (except by that candidate's personal photographer) allowed during the candidates' Briefing. No media, other than as stated herein, will be allowed into the auditorium where the debate will take place during a candidate's Briefing. All persons, including but not limited to the media, other candidates and their representatives, and the employees or agents of the Commission, other than those necessary to conduct the Briefing, shall vacate the debate site while a candidate has his or her Briefing. The Commission will provide to each candidate's representatives a written statement and plan which describes the measures to be taken by the Commission to ensure the complete privacy of all briefings.

(xi) The color and style of the backdrop will be recommended by the Commission and agreed to by representatives of the campaigns. The Commission shall make its recommendation known to the campaigns at least seventy-two (72) hours before each debate. The backdrops behind each candidate shall be identical.

(xii) The set will be completed and lit no later than 3 p.m. at the debate site on the day before the debate will occur.

(xiii) Each candidate may use his or her own makeup person, and adequate facilities shall be provided by the Commission at the debate site for makeup.

(xiv) In addition to Secret Service personnel, each candidate will be permitted to have one (1) pre-designated staff member in the wings or in the immediate backstage area during the debate at a location to be mutually agreed upon by representatives of the campaigns at each site. All other staff must vacate the wings or immediate backstage areas no later than five (5) minutes before the debate commences. A PL phone line will be provided between each candidate's staff work area and the broadcast producer.

(xv) Each candidate shall be allowed to have one (1) professional still photographer present on the stage before the debate begins and in the wings during the debate as desired and on the stage immediately upon the conclusion of the debate. No photos shall be taken from the wings by these photographers during the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate. In addition, the press pool

accompanying each candidate shall be included in a pool to be formed by the Commission for pre- and post-debate photography from the buffer zone.

(b) In addition to the rules in subparagraph (a), the following rules apply to the September 26 (First Presidential) debate and the October 2 (Vice Presidential) debate:

(i) The Commission shall construct the podiums and each shall be identical to view from the audience side. The podiums shall measure fifty (50) inches from the stage floor to the outside top of the podium facing the audience and shall measure forty-eight (48) inches from the stage floor to the top of the inside podium writing surface facing the respective candidates, and, otherwise shall be constructed in the style and specifications recommended by the Commission, shown in Attachment A, and approved by the campaigns. There shall be no writings or markings of any kind on the fronts of the podiums. No candidate shall be permitted to use risers or any other device to create an impression of elevated height, and no candidate shall be permitted to use chairs, stools, or other seating devices during the debate.

(ii) Each podium shall have installed a fixed hardwired microphone, and an identical microphone to be

used as backup per industry standards, and approved by the campaigns.

(iii) The podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer and approved by the campaigns. The podiums shall be ten (10) feet apart; such distance shall be measured from the left-right center of a podium to the left-right center of the other podium.

(iv) The moderator will be seated at a table so as to be positioned in front, between, and equidistant from the candidates, and between the cameras to which the candidates direct their answers.

(v) At least ten days before each debate, the Commission shall submit for joint approval of the campaigns a diagram for camera placement, set design, and room configuration to include the audience seating breakdown.

(vi) Time cues solely in the form of colored lights will be given to the candidates and the moderator when there are thirty (30) seconds remaining, fifteen (15) seconds remaining, and five (5) seconds remaining, respectively for the two (2) minute and other timed answers and the 90-second closing statement. Pursuant to Section 5(j)(i), the moderators shall enforce the strict time limits described in this agreement.

(c) In addition to the rules in subparagraph (a), the following rules apply to the October 7 (Second Presidential-Town Hall) debate:

(i) The candidates shall be seated on director chairs (with backs) -- or similar chairs acceptable to the campaigns -- before the audience, which shall be seated in approximately a horseshoe arrangement as symmetrically as possible around the candidates. The precise staging arrangements will be determined by the Commission's producer subject to the approval of representatives of both campaigns.

(ii) The chairs shall be identical and have backs and a footrest and shall be approved by the candidates' representatives.

(iii) Each candidate shall have a place to put a glass of water and paper and pens or pencils for taking notes (in accordance with section 5, subparagraph 5(d)) of sufficient height to allow note taking while sitting on the chair, and which shall be designed by the Commission, subject to the approval of representatives of both campaigns.

(iv) Each candidate may move about in a pre-designated area, as proposed by the Commission and approved by each campaign, and may not leave that area while the

debate is underway. The pre-designated areas of the candidates may not overlap.

(v) Each candidate shall use a wireless hand held microphone (with appropriate back-up) to allow him to move about and to face different directions while responding to questions from the audience.

(vi) At least ten days before each debate, the Commission shall submit for approval by the campaigns a diagram for camera placement, set design, and room configuration to include the audience seating breakdown.

(vii) At least seven (7) days before the October 7 (Second Presidential-Town Hall) debate, the Commission shall recommend a system of time cues subject to approval by both campaigns and consistent with the cues described in sections 9(b)(vi).

(viii) Notwithstanding sections 9(a)(iv) and 9(a)(v), a roving camera may be used for shots of an audience member only during the time that audience member is asking a question.

(ix) Prior to the start of the debate, neither the moderator nor any other person shall engage in a "warm up" session with the audience by engaging in a question or answer session or by delivering preliminary remarks.

10. Ticket Distribution and Seating Arrangements

(a) The Commission shall be responsible for printing and ensuring security of all tickets to all debates. Each campaign shall be entitled to receive directly from the Commission two-fifths of the available tickets (excluding those allocated to the participating audience in the October 7 debate), with the remaining one-fifth going to the Commission. The Commission and the campaigns shall agree on the total number of audience seats at each debate site.

(b) In the audience participation debate, the participating audience shall be separated from any nonparticipating audience, and steps shall be taken to ensure that the participating audience is admitted to the debate site without contact with the campaigns, the media, or the nonparticipating audience.

(c) The Commission shall allocate tickets to the two (2) campaigns in such a manner to ensure that supporters of each candidate sit in a block opposite that candidate's stage position and interspersed with tickets distributed by the Commission. For the September 26 (First Presidential), debate, October 2 (Vice Presidential) debate, and October 15 (Third Presidential) debate, the family members of each candidate shall be seated in the front row, diagonally

across from the candidate directly in his or her line of sight while seated or standing at the podium. For the October 7 (Second Presidential) debate, the family members of each candidate shall be seated as mutually agreed by representatives of the campaigns.

(d) Any media seated in the auditorium shall be accommodated only in the last two (2) rows of the auditorium farthest from the stage. Two (2) still photo stands may be positioned near either side of the television camera stands located in the audience. (A media center with all necessary feeds will be otherwise available.)

(e) Tickets will be delivered by the Commission to each candidate's designated representative by 12:00 noon on the day preceding each debate. The Commission will invite from its allotment (two (2) tickets each) an agreed upon list of officeholders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the State holding the debate, an appropriate list of other public officials and the President of the University sponsoring the debate. The Commission shall not favor one candidate over the other in the distribution of its allotment of tickets.

11. Dressing Rooms/Holding Rooms

(a) Each candidate shall have a dressing room available of adequate size so as to provide private seclusion for that candidate and adequate space for the staff the candidate desires to have in this area. The two (2) dressing rooms shall be comparable in size and in quality and in proximity and access to the debate stage.

(b) An equal number of other backstage rooms will be available for other staff members of each candidate. Each candidate shall have a minimum of eight (8) such rooms, five (5) of which shall be in the debate facility itself, and three (3) of which shall be located next to the press center. The rooms located next to the media center shall be located so that each campaign has equal proximity and ease of access to the media center. Each of the eight rooms shall be a minimum of 10 feet by 10 feet. All of these rooms shall be furnished at the Commission's expense as deemed necessary by the candidates' representatives. Each candidate's rooms shall be reasonably segregated from those designated for the other candidate and soundproofed. If sufficient space to accommodate the above needs is not available at a particular debate facility, the Commission shall provide trailers or alternative space mutually agreeable to the candidates' representatives at the

Commission's expense. Space that is comparable in terms of size, location, and quality shall be provided to the two campaigns. These rooms shall be made available at least seventy-two (72) hours in advance of the beginning of each debate. Each campaign may, at the Commission's expense, rent one or more additional trailers.

(c) The number of individuals allowed in these rooms or trailers shall be determined solely by each candidate. The Secret Service shall issue "all access" passes to the candidates' representatives as requested.

(d) The Commission shall provide each candidate with a direct television feed from the production truck to two (2) monitors placed in the candidate's dressing room and staff holding rooms as requested by the candidate's representatives. In addition, the Commission shall provide at least one (1) additional functioning TV set for each of the eight (8) rooms.

12. Media

(a) Each candidate will receive not fewer than fifty (50) press passes for the Media Center during the debate and more if mutually agreed upon by the campaigns.

(b) Each candidate will be allowed to have an unlimited number of people in the Media Center upon the conclusion of the debate.

(c) The Commission will be responsible for all media credentialing.

13. Survey Research

The sponsor of the debates agree that it shall not, prior to two days after the Presidential Inauguration of 2009, release publicly or to the media or otherwise make publicly available any survey research (including polls or focus group results or data) concerning the performance of the candidates in the debate or the preferences of the individuals surveyed for either candidate.

14. Complete Agreement

This memorandum of understanding constitutes the entire agreement between the parties concerning the debates in which the campaigns will participate in 2008.

15. Amendments

This Agreement will not be changed or amended except in writing signed by those persons who signed this Agreement their designees.

16. Ratification and Acknowledgement

Agreed and Accepted:

By: _____

Printed Name: _____

Title: _____

Executed on September _____, 2008

Agreed and Accepted:

By: _____

Printed Name: _____

Title: _____

Executed on September _____, 2008

Agreed and Accepted:

The Commission on Presidential Debates

By: _____

TAB I

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding constitutes an agreement between Obama for America and Romney for President (the "campaigns") regarding the rules that will govern debates in which the campaigns participate in 2012. This agreement shall be binding upon the campaigns.

1. Number, Dates, Time, Locations, Topics

(a) Presidential Debates

<u>Date</u>	<u>Location</u>
Wednesday, October 3	University of Denver Denver, CO
Tuesday, October 16	Hofstra University Hempstead, NY
Monday, October 22	Lynn University Boca Raton, FL

(b) Vice Presidential Debate

<u>Date</u>	<u>Location</u>
Thursday, October 11	Centre College Danville, KY

(c) Each debate shall begin at 9 p.m. Eastern Daylight Time.

(d) The parties agree that they will not (1) issue any challenges for additional debates, (2) appear at any other debate or adversarial forums except as agreed to by the parties, or (3) accept any television or radio air time offers that involve a debate format or otherwise involve the simultaneous appearance of more than one candidate.

(e) The topic of the October 3 (First Presidential) debate shall be domestic policy. The topic of the October 22 (Third Presidential) debate shall be foreign policy. The October 11 (Vice Presidential) debate and the October 16 (Second Presidential) debate shall not be limited by topic

and shall include a balance of questions on topics including foreign policy and national security, on the one hand, and domestic and economic policy on the other.

2. Sponsorship

The two campaigns will participate in four debates sponsored by the Commission on Presidential Debates (the "Commission"). The Campaigns agree that the Commission shall sponsor the debates, subject to its expression of a willingness to employ the provisions of this agreement in conducting these debates. In the event the Commission does not so agree, the two campaigns jointly reserve the right to determine whether an alternate sponsor is preferable. The parties agree that the Commission's Nonpartisan Candidate Selection Criteria for 2012 General Election Debate participation shall apply in determining the candidates to be invited to participate in these debates.

3. Participants

If one or more candidates from campaigns other than the two (2) signatories are invited to participate pursuant to those Selection Criteria, those candidates shall be included in the debates, if those candidates accept the terms of this agreement. Any modifications to this agreement must be agreed upon by each of the signatories to this agreement as well as all other candidates selected to join the debate.

4. Moderator

(a) Each debate will have a single moderator;

(b) The parties have accepted the Commission's recommendations of the below-listed moderators. The Commission shall provide each moderator with a copy of this agreement and shall use its best efforts to ensure that the moderators implement the terms of this agreement.

(i) Jim Lehrer for the First Presidential debate, October 3, 2012 at the University of Denver.

(ii) Candy Crowley for the Second Presidential debate, October 16, 2012 at

Hofstra University.

(iii) Bob Schieffer for the Third Presidential debate, October 22, 2012 at Lynn University.

(iv) Martha Raddatz for the Vice Presidential debate, October 11, 2012 at Centre College.

5. Rules Applicable to All Debates

The following rules shall apply to each of the four debates:

(a) Each debate shall last for ninety (90) minutes, with the time commencing from the start of the moderator's opening to the conclusion of the moderator's closing.

(b) For each debate, there shall be no opening statements. There shall be a 2 minute closing statements in the First debate, a 90 second closing in the Vice President debate, and for the Third Presidential debate, the campaigns will resolve the choice between a 90 second and a 2 minute closing by coin toss. There will be no closing statement in the Second Presidential Town Hall debate. The order of these closing statements shall be determined by coin toss.

(c) No props, notes, charts, diagrams, or other writings or other tangible things may be brought into the debate by any candidate, including portable electronic devices, and prior to the beginning of the debate, the Commission will verify as appropriate that the candidates have complied with this subsection. No candidate may reference or cite any specific individual sitting in a debate audience (other than family members) at any time during a debate. If a candidate references or cites any specific individual(s) in a debate audience, or if a candidate uses a prop, note, or other writing or other tangible thing during a debate, the moderator must interrupt and explain that reference or citation to the specific individual(s) or the use of the prop, note, or other writing or thing violates the debate rules agreed to by that candidate.

(d) Notwithstanding subparagraph 5(c), the candidates may take notes during the debate on the size, color, and type of blank paper each prefers and using the type of pen or pencil that each prefers. The staff of the candidate will place such paper, pens, and pencils on the podium, table, or other structure to be used by the candidate in that debate.

(e) The candidates may not ask each other direct questions during any of the four debates.

(f) The order of questioning shall be determined as follows: The Commission will conduct a coin toss at least seventy-two (72) hours before the First Presidential debate (October 3). At that time, the winner of the coin toss shall have the option of choosing, for the October 3 debate, whether to take the first or second question. At that time, the loser of the coin toss will have the choice of question order for the October 22 (Third Presidential) debate. For the October 16 (Second Presidential-Town Hall) debate, there shall be a separate coin toss, with the winner choosing whether to take the first or second question. The Commission shall set a time at least seventy-two (72) hours before the October 16 (Second Presidential-Town Hall) debate at which the candidates shall make their choices for that debate.

(g) President Obama shall be addressed by the moderator as "Mr. President" or "President Obama". Governor Romney shall be addressed by the moderator as "Governor" or "Governor Romney".

(h) The candidates shall not address each other with proposed pledges.

(i) In each debate, the moderator shall:

(i) Open and close the debate and enforce all time limits. Where a candidate exceeds the permitted time for comment, the moderator shall interrupt and remind both the candidate and the audience of the expiration of the time limit and call upon such candidate to observe the strict time limits that have been agreed upon herein.

(ii) Use his or her best efforts to ensure that the questions are reasonably well

balanced in all debates and within the designated subject matter areas of the October 3 (First Presidential) debate and October 22 (Third Presidential) debate in terms of addressing a wide range of issues of major public interest facing the United States and the world.

(iii) Vary the topics on which he or she questions the candidates and ensure that the topics of the questions are fairly apportioned between the candidates, except that in the First Debate, the moderator shall apportion the questions within the broad topic areas announced by the Commission for that debate.

(iv) Use best efforts to ensure that the two candidates speak for approximately equal amounts of time during the course of each debate and within each segment of each debate.

(v) Use any reasonable method to ensure that the agreed-upon format is followed by the candidates and the audience.

(vi) Alternate between the candidates the one responding first to questions.

(j) At no debate shall the moderator ask the candidates for a "show of hands" or similar calls for response.

6. Additional Rules Applicable to the October 3 and October 22 Debates

For the October 3 (First Presidential) debate, the candidates will appear at podiums. For the October 22 (Third Presidential) debate, the candidates shall be seated jointly at a table, in a style similar to previous presidential debates employing that format. The October 3 (First Presidential) debate and October 22 (Third Presidential) debate shall be governed by the rules set forth in section 5 and the following additional rules:

(a) There shall be no audience participation in the October 3 (First Presidential) debate and October 22 (Third Presidential) debate. Except as provided by the agreed upon rules of

the October 16 town hall debate, members of the debate audience will be instructed by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud, speak, or otherwise participate in the debate by any means other than by silent observation, as further provided and enforced under section 9(a)(viii). The moderator shall direct the first question to the candidate determined by the procedure set forth in subparagraph 5(f) of section 5.

(b) The October 3 First Presidential debate and the October 22 Third Presidential debate shall be broken into six, 15-minute segments. Each segment will begin with the moderator introducing a topic and giving each candidate 2 minutes to comment on the topic. After these initial answers, the moderator will facilitate an open discussion of the topic for the remaining approximately 8 minutes and 45 seconds, ensuring that both candidates receive an equal amount of time to comment. The candidates will reverse the order of response to the next and subsequent questions.

(c) At no time during the October 3 First Presidential debate shall either candidate move from his designated area behind his respective podium. At no time during the October 22 Third Presidential debate shall either candidate move from his designated area seated behind the table.

7. Additional Rules Applicable to the October 16 Debate

The October 16 (Second Presidential) debate will be conducted in an audience participation ("Town Hall") format. This debate shall be governed by the rules set forth in section 5 (as applicable), and the staging of the debate, including the audience size, will be determined by the Commissioner producer in consultation with, and subject in its details to, the agreement of both candidates, to achieve consistency with the traditional Town Hall format. In addition, there shall be the following additional rules:

(a) There shall be no audience participation in the October 16 (Second Presidential-Town Hall) debate other than as described below. Other than for an audience member asking a question as permitted by this section, at the start of the October 16 (Second Presidential-Town Hall) debate and in the event of and in each instance whereby an audience member(s) attempts to participate in the debate by any means thereafter, the moderator shall instruct the audience to refrain from any participation in the debate as described in section 9(a) (viii) below. The moderator shall facilitate audience members in asking questions to each of the candidates, beginning with the candidate determined by the procedure set forth in subparagraph 5(f). The answer segments will be structured as follows: A question is asked of Candidate A. That candidate will respond to the question for up to 2 minutes. Candidate B will then have 2 minutes to respond. Following those initial answers, the moderator will invite the candidates to respond to the previous answers, beginning with Candidate A, for a total of 2 minutes, ensuring that both candidates receive an equal amount of time to comment. In managing the two-minute comment periods, the moderator will not rephrase the question or open a new topic. The candidates will reverse the order of responses to the next question.

(b) After completion of the discussion of the first question, the moderator shall call upon another audience member to direct a question to the candidate who did not respond initially to the first question, and follow the procedure outlined in paragraph 7(a) above. Thereafter, the moderator shall follow the procedures in this paragraph by calling upon another audience member to ask a question of the first candidate and shall continue to alternate the candidate who first answers each successive question.

(c) With respect to all questions:

(i) The moderator shall select the questioners, but she may not "coach" the questioners.

(ii) As set forth in section 7(e), questioners shall not be allowed to make statements, speeches, or comments. They must ask their question as originally submitted and selected by the moderator and make no other comments.

(iv) The moderator will not ask follow-up questions or comment on either the questions asked by the audience or the answers of the candidates during the debate or otherwise intervene in the debate except to acknowledge the questioners from the audience or enforce the time limits, and invite candidate comments during the 2 minute response period.

(v) The two campaigns shall agree upon a method for selection of the audience for the town hall debate pursuant to subparagraph (f) below.

(d) The audience members shall not ask follow-up questions or otherwise participate in the extended discussion, and the audience member's microphone shall be turned off after he or she completes asking the questions.

(e) Prior to the start of the debate, audience members will be asked to submit their questions in writing to the moderator. No third party, including the Commission and the campaigns, shall be permitted to see the questions. The moderator shall approve all questions to be posed by the audience members to the candidates. The moderator shall ensure that the audience members pose to the candidates a balance of questions on foreign policy and national security, on the one hand, and domestic and economic policy on the other. The moderator will further review the questions and eliminate any questions that the moderator deems inappropriate. At least seven (7) days before the October 16 (Second Presidential-Town Hall) debate, the moderator shall develop, and describe to the campaigns, a method for selecting questions at random while assuring that questions are reasonably well balanced in terms of addressing a wide range of issues of major public interest facing the United States and the world. Each question selected will be asked by the audience member

submitting that question. If any audience member poses a question or makes a statement that is in any material way different than the question that the audience member earlier submitted to the moderator for review, the moderator will cut-off the questioner and advise the audience that such non-reviewed questions are not permitted. Moreover, the Commission shall take appropriate steps to cut-off the microphone of any such audience member who attempts to pose any question or statement different than that previously posed to the moderator for review. The moderator will inform the audience of this provision prior to the start of the debate.

(f) Subject to the consultation and agreement procedure affecting staging, as described in this section, the debate will take place before a live participating audience of persons who shall be seated and who describe themselves as likely voters. These participants will be selected by the Gallup Organization ("Gallup"), using a methodology approved in writing by the campaigns. Gallup shall have responsibility for selecting the nationally demographically representative group of voters. At least fourteen (14) days prior to October 16 (Second Presidential-Town Hall) debate, Gallup shall provide a comprehensive briefing on the selection methodology to the campaigns, and both campaigns shall approve the methodology. Either campaign may raise objections on the methodology to Gallup and to the Commission within twenty-four (24) hours of the briefing, and Gallup shall revise the methodology accordingly.

(g) Participants selected shall not be contacted directly or indirectly by the campaigns before the debate. The Commission shall not contact the participants before the debate other than for logistical purposes.

8. Additional Rules Applicable to October 11 (Vice Presidential) Debate

For the debate between the two candidates for Vice-President, the candidates will be seated at a table following the same basic rules and staging provisions (except as otherwise noted here) for the October 22 (Third Presidential) debate. There shall be no audience participation of any kind.

The stage position for each candidate shall be determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate.

(a) The moderator shall ask questions of each candidate in alternating order with the recipient of the first question determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate. When asked a question, the first candidate will have two minutes in which to respond, the second candidate will have two minutes to comment on the response, and then the moderator will lead a 4 minute 15 second minute discussion with the time to be evenly divided between the candidates.

(b) There will be no opening statements. Each candidate shall have 90 seconds in which to make a closing statement with the order of those statements determined by a flip of the coin, witnessed by the campaigns' representatives, no less than 72 hours before the start of the debate. The moderator shall take steps to ensure that each candidate has the full two minutes provided in this paragraph, and the Commission shall take steps to ensure that the closing statements are included in the nationwide broadcast, notwithstanding any other provision in this agreement.

(c) If there are any discrepancies between this paragraph and any other provision of this agreement, the provisions of this paragraph shall govern. Any issues not anticipated by this paragraph or the agreement shall be resolved at the debate site by the campaigns' representatives and, failing a resolution, by a coin flip.

(d) Each campaign will advise the moderator of the choice of address that it would prefer.

9. Staging

(a) The following rules apply to each of the four debates:

(i) All staging arrangements for the debates not specifically addressed in this agreement shall be jointly addressed and agreed to by representatives of the two

campaigns. In this regard, the Commission staff -- including the broadcast producer -- shall meet at least once daily and simultaneously with a representative of each campaign, and the Commission shall provide reasonable daily access to the stage and debate site, on an equal basis but not simultaneously, for each campaign.

(ii) The Commission will conduct a coin toss at least seventy-two hours before the October 3 (First Presidential) debate. At that time, the winner of the coin toss shall have the option of choosing stage position for the October 3 debate; the loser of the coin toss will have first-choice of stage position for the October 22 (Third Presidential) debate. The loser of the coin toss or his representative shall communicate his stage position choice by email to the Commission and to the other campaign at least seventy-two (72) hours before the October 22 (Third Presidential) debate. The stage position for the October 16 (Second Presidential-Town Hall) debate will be determined by a coin toss to take place at least seventy-two (72) hours before the debate. The stage position for the October 11 (Vice Presidential) debate will be determined by a separate coin toss to take place at least seventy-two (72) hours before that debate.

(iii) For the October 3 (First Presidential) debate, October 11 (Vice Presidential), October 16 (Second Presidential-Town Hall) debate, and October 22 (Third Presidential) debate, the candidates shall enter the stage simultaneously, from opposite ends of the stage, upon a verbal cue by the moderator after the program goes on the air, proceed to center stage, shake hands, and proceed directly to their positions.

(iv) Except as provided in subparagraph (d) (viii) of this paragraph 9, TV cameras will be locked into place during all debates. They may, however, tilt or rotate as

needed to frame the candidate or moderator.

(v) Except as provided in subparagraph 9(d) (viii), TV coverage during the question and answer period shall be limited to shots of the candidates or moderator, and in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements, if any. When a candidate is speaking, either in answering a question or making his closing statement, TV coverage will be limited to the best of the Commission's ability to the candidate speaking. To the best of the Commission's abilities, there will be no TV cut-aways to any candidate who is not responding to a question while another candidate is answering a question or to a candidate who is not giving a closing statement while another candidate is doing so.

(vi) The camera located at the rear of the stage shall be used only to take shots of the moderator and will not show the notes taken by the candidates.

(vii) For each debate, each candidate shall have camera-mounted, timing lights corresponding to the timing system described in section 9(b) (vi) below positioned in his or her line of sight. The candidates will, have a countdown clock for all the 2-minute responses and any closing statements.

(viii) All members of the debate audience will be instructed by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud, speak, or otherwise participate in the debate by any means other than by silent observation, except as provided by the agreed upon rules of the October 16 town hall debate. The moderator shall also state that, should an audience member fail to comply with this requirement, he or she will be subject to removal from the audience and from the facility. In the event of and in each instance

whereby an audience member(s) violates this requirement, the moderator shall restate the instruction for the entire audience and shall also use his or her best efforts to enforce this provision, as appropriate, against the specific audience members failing to comply with the instructions pursuant to this subparagraph.

(ix) The Commission shall use best efforts to maintain an appropriate temperature as agreed to by the campaigns.

(x) Each candidate shall be permitted to have a complete, private production and technical briefing and walk-through ("Briefing") at the location of the debate on the day of the debate. The order of the Briefing shall be determined by agreement or, failing candidate agreement, a coin flip. Each candidate will have a maximum of one (1) hour for this Briefing. Production lock-down will not occur for any candidate unless that candidate has had his or her Briefing. There will be no filming, taping, photography, or recording of any kind (except by that candidate's personal photographer) allowed during the candidates' Briefing. No media, other than as stated herein, will be allowed into the auditorium where the debate will take place during a candidate's Briefing. All persons, including but not limited to the media, other candidates and their representatives, and the employees or agents of the Commission, other than those necessary to conduct the Briefing, shall vacate the debate site while a candidate has his or her Briefing. The Commission will provide to each candidate's representatives a written statement and plan which describes the measures to be taken by the Commission to ensure the complete privacy of all briefings.

(xi) The color and style of the backdrop will be recommended by the Commission and agreed to by representatives of the campaigns. The Commission

shall make its recommendation known to the campaigns at least seventy-two (72) hours before each debate. The backdrops behind each candidate shall be identical.

(xii) The set will be completed and lit no later than 3 p.m. at the debate site on the day before the debate will occur.

(xiii) Each candidate may use his or her own makeup person, and adequate facilities shall be provided by the Commission at the debate site for makeup.

(xiv) In addition to Secret Service personnel and other provision for official support as required by law and standard protocols for the President, each candidate will be permitted to have one (2) pre-designated staff member in the wings or in the immediate backstage area during the debate at a location to be mutually agreed upon by representatives of the campaigns at each site. All other staff must vacate the wings or immediate backstage areas no later than five (5) minutes before the debate commences. A PL phone line will be provided between each candidate's staff work area and the broadcast producer.

(xv) Each candidate shall be allowed to have one (1) professional still photographer present on the stage before the debate begins and in the wings during the debate as desired and on the stage immediately upon the conclusion of the debate. No photos shall be taken from the wings by these photographers during the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate. In addition, the press pool accompanying each candidate shall be included in a pool to be formed by the Commission for pre- and post-debate photography from the buffer zone.

(b) In addition to the rules in subparagraph (a), the following rules apply to the

October 3 (First Presidential) debate:

(i) The Commission shall construct the podiums and each shall be identical to view from the audience side. The podiums shall measure fifty (50) inches from the stage floor to the outside top of the podium facing the audience and shall measure forty-eight (48) inches from the stage floor to the top of the inside podium writing surface facing the respective candidates, and, otherwise shall be constructed in the style and specifications recommended by the Commission, shown in Attachment A, and approved by the campaigns. There shall be no writings or markings of any kind on the fronts of the podiums. No candidate shall be permitted to use risers or any other device to create an impression of elevated height and no candidate shall be permitted to use chairs, stools, or other seating devices during the debate.

(ii) Each podium shall have installed a fixed hardwired microphone, and an identical microphone to be used as backup per industry standards, and approved by the campaigns.

(iii) The podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer and approved by the campaigns. The podiums shall be 10' apart; such distance shall be measured from the left-right center of a podium to the left-right center of the other podium.

(iv) The moderator will be seated at a table so as to be positioned in front, between, and equidistant from the candidates, and between the cameras to which the candidates direct their answers.

(v) At least ten days before each debate, the Commission shall submit for joint approval of the campaigns a diagram for camera placement, set design, and room configuration to include the audience seating breakdown.

(vi) Time cues in the form of colored lights will be given to the candidates and

the moderator when there are thirty (30) seconds remaining, fifteen (15) seconds remaining, and five (5) seconds remaining, respectively for the two (2) minute and other timed answers. Pursuant to Section 5(j) (i), the moderators shall enforce the strict time limits described in this agreement. Each candidate will have a countdown clock which will show the seconds left in any two minute answer or closing statement.

(c) In addition to the rules in subparagraph (a), the following rules apply to the October 16 (Second Presidential-Town Hall) debate:

(i) The candidates shall be seated on director chairs (with backs) before the audience, which shall be seated in approximately a horseshoe arrangement as symmetrically as possible around the candidates. Consistent with the terms of Section 7, the precise staging arrangements will be determined by the Commission's producer subject to the approval of representatives of both campaigns.

(ii) The chairs shall be identical and have backs and a footrest and shall be approved by the candidates' representatives.

(iii) Each candidate shall have a place to put a glass of water and paper and pens or pencils for taking notes (in accordance with section (d)) of sufficient height to allow note taking while sitting on the chair, and which shall be designed by the Commission, subject to the approval of representatives of both campaigns.

(iv) Each candidate may move about in a pre-designated area, as proposed by the Commission and approved by each campaign, and may not leave that area while the debate is underway. The pre-designated areas of the candidates may not overlap.

(v) Each candidate shall use a wireless hand held microphone (with appropriate back-up) to allow him to move about and to face different directions while responding to

questions from the audience.

(vi) At least ten days before each debate, the Commission shall submit for approval by the campaigns a diagram for camera placement, set design, and room configuration to include the audience seating breakdown.

(vii) At least seven (7) days before the October 16 (Second Presidential-Town Hall) debate, the Commission shall recommend a system of time cues subject to approval by both campaigns and consistent with the cues described in section 9(b)(vi).

(viii) Notwithstanding sections 9 (a)(iv) and (v), a roving camera may be used for shots of an audience member only during the time that the audience member is asking a question.

(ix) Prior to the start of the debate, neither the moderator nor any other person shall engage in a "warm up" session with the audience by engaging in a question or answer session or by delivering preliminary remarks. The moderator shall inform the audience of the rules of the debate, including the instruction that any audience member chosen to ask a question must ask the question he or she submitted, as described in Sections 7 (a) and (e).

(d) In addition to the rules in subparagraph (a), the following rules apply to the October 11 (Vice-Presidential) debate and the October 22 (Third Presidential) debate:

(i) The candidates shall be seated at a table similar to the design used in prior Presidential and Vice Presidential debates with the moderator facing the candidates with his back to the audience and the candidates appearing on either side of the moderator. The precise design of the table and staging arrangements will be determined by the Commission subject to the approval of representatives of both campaigns. The Commission will submit a design for the table to the campaigns as soon as practicable but in no event later than 10 days before the Vice Presidential debate. The same table and design will be used for the October 22 Third

Presidential Debate.

- (ii) The chairs shall be swivel chairs that can be locked in place, shall be identical and shall be approved by the candidates' representatives.
- (iii) Each candidate shall have a place to put a glass of water and paper and pens or pencils for taking notes (in accordance with section (d)).
- (iv) Each candidate and the moderator shall have a wireless lapel microphone, and an identical microphone to be used as a backup.
- (v) At least ten days before both debates, the Commission shall submit for approval by the campaigns a diagram for camera placement, set design, and room configuration to include the audience seating breakdown.
- (vi) At least seven (7) days before the October 11 (Vice Presidential debate) and the October 22 (Third Presidential) debate, the Commission shall recommend a system of time cues subject to approval by both campaigns and consistent with the cues described in section 9(b)(vi).
- (vii) The candidates shall remain seated throughout these two debates.

10. Ticket Distribution and Seating Arrangements

(a) The Commission shall be responsible for printing and ensuring security of all tickets to all debates. Each campaign shall be entitled to receive directly from the Commission one-third of the available tickets (excluding those allocated to the participating audience in the October 16 debate), with the remaining one-third going to the Commission.

(b) In the October 16 Town Hall debate, the participating audience shall be separated from any nonparticipating audience, and steps shall be taken to ensure that the participating audience is admitted to the debate site without contact with the campaigns, the media, or the nonparticipating audience.

(c) The Commission shall allocate tickets to the campaigns in such a manner as to ensure that supporters of each candidate do not sit in a block and are interspersed with supporters for the other candidate and interspersed with tickets distributed by the Commission. For the October 3 (First Presidential) debate, October 11 (Vice Presidential) debate, and October 22 (Third Presidential) debate, the family members of each candidate shall be seated in the front row, diagonally across from the candidate directly in his line of sight while seated or standing at the podium. For the October 16 (Second Presidential) debate, the family members of each candidate shall be seated as mutually agreed by representatives of the campaigns.

(d) Any media seated in the auditorium shall be accommodated only in the last two (2) rows of the auditorium farthest from the stage. Two (2) still photo stands may be positioned near either side of the television camera stands located in the audience. (A media center with all necessary feeds will be otherwise available.)

(e) Tickets will be delivered by the Commission to each candidate's designated representative by 12:00 noon on the day preceding each debate. The Commission will invite from its allotment (two (2) tickets each) an agreed upon list of officeholders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the State holding the debate and in the case of the October 16 (Second Presidential debate) that metropolitan area, an appropriate list of other public officials and the President of the University sponsoring the debate. The Commission shall not favor one candidate over the other in the distribution of its allotment of tickets.

11. Dressing Rooms/Holding Rooms

(a) Each candidate shall have a dressing room available of adequate size so as to provide private seclusion for that candidate and adequate space for the staff the candidate desires to have in

this area. The two (2) dressing rooms shall be comparable in size and in quality and in proximity and access to the debate stage.

(b) An equal number of other backstage rooms will be available for other staff members of each candidate. Any rooms located next to the media center shall be located so that each campaign has equal proximity and ease of access to the media center. Each candidate's rooms shall be reasonably segregated from those designated for the other candidate. If sufficient space to accommodate the above needs is not available at a particular debate facility, the Commission shall provide trailers or alternative space mutually agreeable to the candidates' representatives at the Commission's expense. Space that is comparable in terms of size, location, and quality shall be provided to the two campaigns. These rooms shall be made available at least seventy-two (72) hours in advance of the beginning of each debate.

(c) The number of individuals allowed in these rooms or trailers shall be determined solely by each candidate in conjunction with the Secret Service. .

(d) The Commission shall insure that each campaign is provided with a television feeds that are on-air (as opposed to only the in-house feed from the production truck). The campaigns agree that these televisions and hook-ups are to be provided at their own expense.

12. Media

(a) Each candidate will receive not fewer than eighty (80) press passes for the Media Center during the debate and more if mutually agreed upon by the campaigns.

(b) The Commission will be responsible for all media credentialing.

13. Survey Research

The sponsor of the debates agrees that it shall not, prior to two days after the Presidential Inauguration of 2013, release publicly or to the media or otherwise make publicly available any survey research (including polls or focus group results or data) concerning the performance of the

candidates in the debate or the preferences of the individuals surveyed for either candidate.

14. Complete Agreement

This memorandum of understanding constitutes the entire agreement between the parties concerning the debates in which the campaigns will participate in 2012.


15. Amendments

(d) This Agreement will not be changed or amended except as agreed and confirmed in writing by those persons who signed this Agreement their designees.

16. Ratification and Acknowledgement

Agreed and Accepted:

By:



Printed Name:

Robert Bauer

Title:

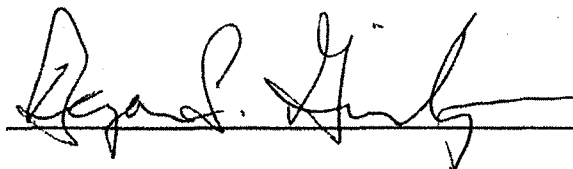
General Counsel, Obama for America

Executed on October

3, 2012

Agreed and Accepted:

By:



Printed Name:

Ben Ginsberg

Title:

General Counsel, Romney for President

Executed on October

3, 2012

EXHIBIT 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	MUR 6869
The Commission on Presidential Debates, et al.	Declaration of Frank M. Newport in Support of the Commission on Presidential Debates' Opposition to Level the Playing Field and Peter Ackerman's Complaint.

I, Frank M. Newport, give this declaration based on my personal knowledge.

1. I am Gallup's Editor-in-Chief. I first joined the Gallup Organization in 1988, and have served as the Editor-in-Chief since 1990. As Editor-in-Chief, I am in charge of Gallup's domestic public opinion polling.

2. In 2010-2011, I served as the elected president of the American Association for Public Opinion Research, the nation's largest professional society of pollsters. I also serve as the Vice Chair of the Board of Directors of the Roper Center for Public Opinion Research, and as a Trustee of the National Council on Public Polls.

3. Before joining Gallup, I spent nine years as a partner at Tarrance, Hill, Newport, and Ryan, a Houston-based research firm, where I conducted public opinion and market research for a variety of businesses and organizations across the country. In that role, I was involved in the implementation and analysis of hundreds of market research and public opinion polls.

Educational Background and Qualifications

4. I have a Ph.D. in Sociology from the University of Michigan, and have taught sociology and survey research methods at the University of Missouri-St. Louis. I have also appeared as a guest lecturer at colleges and universities around the country. Currently, I am featured on the weekly broadcast "What Are We Thinking" produced by NPR's WHYY Radio in

Philadelphia, and I am a frequent guest on television and other radio shows discussing public opinion, polling and the elections.

5. I have authored numerous articles on public opinion polling that have been published in peer reviewed academic journals and other trusted publications, including the American Sociological Review, the New York Times, the American Journalism Quarterly, the Journal of Political and Medical Sociology, Social Forces, Public Opinion Quarterly, and Public Perspectives. I am the author of the book *Polling Matters*, published by Wiley in 2004, the chapter "Polling" in the Encyclopedia of International Media and Communications, the co-editor of *Winning the White House 2008* (with Alec M. Gallup) published by Facts on File, and the editor of *The Gallup Poll* series, published annually by Rowman and Littlefield.

6. I have over 30 years of experience in conducting public opinion polling and assessing the methodologies used by public opinion pollsters, including their strengths and weaknesses.

Work With CPD

7. I have been retained as an independent advisor to the Commission on Presidential Debates ("CPD") in each presidential election cycle starting in 2000. In that capacity, I have advised CPD in connection with its application of its published nonpartisan candidate selection criteria. CPD's criteria include that invited candidates must have a level of support of at least fifteen percent (15%) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

8. In my role as CPD's advisor, I have in each election cycle recommended to CPD which five national public opinion polls, in my professional judgment, were most suitable to be

relied upon. In making my recommendations, I principally considered the quality of the methodology employed, the reputation of the polling organizations and the frequency of the polling conducted. I make those recommendations based solely upon my professional judgment and without any partisan purpose or pre-determined result in mind. CPD has always adopted my recommendations.

9. The specific polls CPD has relied upon in each election cycle, based on my recommendations, are as follows:

10. **2000:** ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion Dynamic, CNN/USA Today/Gallup

11. **2004:** ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion Dynamic, CNN/USA Today/Gallup

12. **2008:** ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion Dynamic, USA Today/Gallup

13. **2012:** ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News, Gallup

14. I am familiar with the polling methods employed by all of the polling organizations upon whose polls CPD has relied since 2000. Based on my experience and professional judgment, it was, and remains, my professional opinion that these organizations' polls would be conducted in a responsible and professional manner that meets the industry standards and reflects the then-current advances in polling methodology.

15. In each election cycle since 2000, I have also assisted CPD in gathering the polling data from the selected polling organizations and applying that data to the fifteen percent

threshold. In each election cycle in which I have been involved, CPD has faithfully applied its announced criteria to the polling data.

Public Opinion Polling is the Most Accurate Way to Measure Candidate Support Before an Election

16. Public polling is by far the best method of measuring a candidate's support among the electorate prior to Election Day. Polling involves a scientific process through which polling experts seek to determine, mathematically, the best estimate of the public sentiment on a particular topic at a specific point in time. The polling conducted by the organizations whose surveys CPD relies upon has utilized probability based random sampling methodologies, which allow the results of a randomly-selected sample to be generalized to the population from which those samples are drawn, within margin of error limitations. Each of these organizations has utilized current science-based methodological techniques, which involve a number of stages of sampling, weighting and analyzing before results are released and generalized to the underlying population.

17. The science of public opinion polling is constantly evolving as the methodology continues to improve. In recent years, as one example, research organizations using a probability-based random digit dial technique have increasingly included interviews conducted via cell phones as well as by the traditional landlines. Sampling weighting in recent years has evolved significantly, and now in many instances includes weights based on the population density of the region in which individual respondents live, as well as weights based on evolving Census Bureau techniques of classifying individuals by race and ethnicity. These changes are part of ongoing refinements intended to increase the accuracy of the population estimates calculated from the sample actually surveyed.

Public Opinion Polls Used by CPD are Reliable, Accurate, and are Designed to Minimize Errors

18. I have reviewed Complainants' submissions and data relating to the accuracy of public opinion polls. None of the information presented by Complainants casts doubt on the reliability of the public opinion polls CPD has relied upon over the years.

19. Complainants have cited mid-term election results in an effort to discredit the polls upon which CPD relies in applying its candidate selection criteria, and to support their argument that public opinion polling is particularly error-prone in three-way races. I disagree. First, presidential election polling is inherently more reliable than is polling in low turn-out elections, like the mid-terms relied upon by Complainants. State polls in low turnout mid-term elections are generally more subject to sampling and non-sampling errors than the national polls which are used by CPD in presidential elections, making state poll results less relevant to the CPD standards. A presidential race involves a larger portion of the electorate, engages more voters nationwide, and presents fewer obstacles in identifying likely voters.

20. Second, it is always the case that pre-election polls will not precisely duplicate the actual voting results on Election Day. A pre-election poll is designed to measure the true level of public support at the time the poll is administered, not on Election Day.

21. None of Complainants' arguments or supplemental data regarding the mid-term election results support the notion that polls in three-way races will disproportionately misrepresent any candidate's public support at the time the poll is administered. There is nothing about support for a significant third party-candidacy that makes it more difficult to measure. I know of no instance in the modern era of polling in which major polls prior to a presidential election failed to include and measure support for a third party candidate who in fact received a significant percentage of the national vote on Election Day. Polls are estimates and imperfect

predictors of future events, but there is no doubt that properly conducted polls remain the best measure of public support for a candidate—and the best assessment of the principal rivals for the Presidency—at the time the polls are conducted.

22. The reports attached to the Complaint also make reference to sampling and non-sampling errors; but both types of errors and their effect on a poll's accuracy are often misunderstood. Sampling error is generally conceived of as representing statistical issues in the relationship of the specific individuals selected to be interviewed in a sample, and the individuals in the population from which the sample was drawn. The margin of sampling error reported with poll results indicates that, due to a variety of random factors, the reported estimate may vary by a certain number of percentage points from the actual state of public opinion on that day. It does not, however, mean that a result anywhere within the margin of error is just as likely as the reported estimate. Rather, the reported result is the polling organization's best objective estimate of where public opinion stands at that point in time.

23. Non-sampling error in public opinion polls refers to issues relating to the process of obtaining the specific information of interest from the survey respondent. Such errors may be caused by several different factors, including interviewer effects, the effect of specific question wording and the context in which the question appears during the survey process, attributes of respondents, and the specific mode of interviewing being utilized. But public opinion polling organizations take a number of industry standard and validated steps to control for and minimize non-sampling errors, including the utilization of identical question wording and survey context from survey to survey over time for key questions, the training and monitoring of interviewers, and the process of validating survey procedures over time to reduce specific categories of non-sampling error.

24. CPD's approach—to select and average the results of five polls that are well-established, long-time, national, published, cited widely and directed by experienced and capable research professionals—minimizes the effect of both sampling and non-sampling errors and is a sound approach to identifying reliably those candidates who have achieved the requisite level of national support, in my professional judgment.

The Inclusion of Third-Party Candidates in Public Opinion Polls is Properly Left to the Discretion of the Polling Organizations

25. Well-established pollsters with years of experience in political polling, who conduct polls at a specific time during the course of a presidential election, will inevitably include and measure the support of presidential candidates whose support level in the underlying population would reach the 15% level or higher at the time of the poll. The precise wording of the election ballot question asked in each poll is an independent decision made by the professionals (including survey scientists, editors and producers) at each of the five polling organizations completely independent of CPD. The final decisions on the candidate names to be explicitly included in the ballot represent the professional judgment of those running the polls at each organization, and these professionals all, based on my experience, take into account the relevant and available empirical data.

26. Given that there are many candidates who run for president each year, it is neither feasible nor appropriate to include every candidate's name in a public opinion poll. Polling professionals must use their expert judgment to determine which candidate names are to be included in a survey on the basis of evidence reflecting interest in, and strength of, the campaign of all potential candidates. Based on my 33 years of experience assessing and conducting polls, it is extraordinarily unlikely that a poll would fail to identify and include among the candidates listed in polling questions a candidate whose level of support is anywhere near 15 percent of the

national electorate. Polling results from the recent mid-term elections cited by the Complainants shed light on this point. I have not identified a single reputable poll in these Senate and gubernatorial elections that failed to include a candidate who subsequently received more than even 10 percent of the vote on Election Day.

27. The polling organizations relied upon by CPD over the years included third party candidates in their polls when the professionals running the polls deemed it appropriate to do so, based on those professionals' assessment of a wide range of evidence available to them. Furthermore, polling organizations allow respondents to volunteer the name of any candidate whom they support and that response is recorded. Some surveys also ask open-ended questions which act as a fail-safe to identify any additional candidates whose support appears to be building among the electorate, but was not significant enough to be included in traditional surveys.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12 day of December, 2014.



Frank M. Newport, Ph.D.

EXHIBIT 3

**COMMISSION ON PRESIDENTIAL DEBATES'
NONPARTISAN CANDIDATE SELECTION CRITERIA
FOR 2012 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the nonpartisan Commission on Presidential Debates (the "CPD") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The CPD sponsored a series of such debates in each of the past six general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 2012 general election. As in prior years, the CPD's voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate based on the application of "pre-established, objective" criteria.

The goal of the CPD's debates is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice President will be selected. In each of the last six elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its 2012 debates. The purpose of the criteria is to identify those candidates who have achieved a level of electoral support such that they realistically are considered to be among the principal rivals for the Presidency.

In connection with the 2012 general election, the CPD will apply three criteria to each declared candidate to determine whether that candidate qualifies for inclusion in one or more of the CPD's debates. The criteria are (1) constitutional eligibility, (2) ballot access, and (3) electoral support. All three criteria shall be satisfied before a candidate will be invited to debate.

B. 2012 NONPARTISAN SELECTION CRITERIA

The CPD's nonpartisan criteria for selecting candidates to participate in the 2012 general election presidential debates are:

1. EVIDENCE OF CONSTITUTIONAL ELIGIBILITY

The CPD's first criterion requires satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution. The requirements are satisfied if the candidate:

- a. is at least 35 years of age;
- b. is a Natural Born Citizen of the United States and a resident of the United States for fourteen years; and
- c. is otherwise eligible under the Constitution.

2. EVIDENCE OF BALLOT ACCESS

The CPD's second criterion requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2012 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College, at least 270 votes, is elected President regardless of the popular vote.

3. INDICATORS OF ELECTORAL SUPPORT

The CPD's third criterion requires that the candidate have a level of support of at least 15% (fifteen percent) of the national electorate as determined by five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

C. APPLICATION OF CRITERIA

The CPD's determination with respect to participation in the CPD's first-scheduled debate will be made after Labor Day 2012, but sufficiently in advance of the first-scheduled debate to allow for orderly planning. Invitations to participate in the vice-presidential debate will be extended to the running mates of each of the presidential candidates qualifying for participation in the CPD's first presidential debate. Invitations to participate in the second and third of the CPD's scheduled presidential debates will be based upon satisfaction of the same multiple criteria prior to each debate.

Adopted: October 20, 2011