

K# 7919

MEMORANDUM OF UNDERSTANDING
AMERICAN FEDERATION OF MUSICIANS
SOUND RECORDING LABOR AGREEMENT

PREAMBLE

At the culmination of the current round of collective bargaining, the parties to this Memorandum of Understanding ("MOU") reached an agreement (subject to the Federation's ratification procedure) for a successor collective bargaining agreement.

1. By the terms of this Memorandum of Understanding, the existing Sound Recording Labor Agreement ("SRLA") and its accompanying Video Promo Supplement, the Digital Distribution Memorandum of Agreement, Sound Recording Special Payments Fund ("SPF") Agreement, and Sound Recording Trust Agreement shall be modified, changed or deleted as set forth below.

2. In all other respects the provisions of the Agreements referred to in paragraph 1 above shall remain in full force and effect during the term of the SRLA, February 1, 2006 – January 31, 2009.

3. The parties shall promptly take the necessary steps to incorporate the agreed-upon changes into the Agreements referred to in paragraph 1 above and to print a new set of agreements reflecting those changes.

1. Term

The term of this Agreement shall be 3 years (February 1, 2006 — January 31, 2009).

2. Scale Wages

Increase wages (other than Experimental Low Budget wages) as follows:

- Effective January 1, 2007, or upon the first Monday of the week following the execution of this MOU, whichever is later, increase 4.55%; and
- Effective February 1, 2008, increase an additional 3%.

3. Health and Welfare Fund Contributions (other than Low Budget)

- Effective February 1, 2007, or upon the first Monday of the week following the execution of this MOU, whichever is later, increase contribution to \$22 for each original service and \$16.50 for each additional service.

4. Pension

Increase contribution rates as follows:

- Effective February 1, 2007, or upon the first Monday of the week following the execution of this MOU, whichever is later, increase contribution to 10.5% of scale wages; and
- Effective February 1, 2008, increase contribution to 11% of scale wages.

5. Low Budget Recordings

- a. Increase wages (except under Experimental Low Budget provision) by same percentages and on the same dates as increases in Paragraph 2 of this MOU;
- b. Increase pension contributions (Exhibit D (2), p. 54) to the same percentages and on the same dates as increased under Paragraph 4 of this MOU;
- c. Effective February 1, 2007 or upon the first Monday of the week following the execution of this MOU, whichever is later, increase health and welfare contribution rate from \$12 to \$15.50; and
- d. Effective January 1, 2007, or upon the first Monday of the week following the execution of this MOU, whichever is later, the minimum call for choral recordings shall be a 3-hour call at a rate of \$173.48. This rate shall remain unchanged for the term of the Agreement.

6. Special Payments Fund

- a. Amend Addendum A, Paragraph 3(e) of the SPF Agreement (pp. 79-80) to provide for an increase to the SPF contribution rate on sales of sound recordings produced on or after August 1, 2006 (physical product) in excess of 1,000,000 royalty-bearing units to .56%.
- b. Clarify SPF Agreement, Paragraph 2(a) (p. 71) by adding the following sentence to the end thereof:

“For purposes of this paragraph, scale wages will not include wages for recording a Phonograph Record where the Administrator determines, in his/her sole discretion, that the Phonograph Record was recorded primarily for the purpose of qualifying for Fund distributions and/or not recorded for legitimate commercial purposes.”

- c. Amend SPF Agreement to provide that the contribution reports accompanying each semi-annual payment shall be in a computer data file format that shows the sales period covered by the report and that includes the following data for each title (*i.e.*, CD or other physical unit in the case of physical sales; song in the case of downloads) and specify by side letter the extent to which each Company is presently able to comply with this provision:

- Artist
- Album name (or song name if a downloaded track)
- ISRC
- Selection number
- Date of release
- Number of physical units sold and number of units sold via download and number of units streamed on an annual and cumulative basis
- Configuration (*e.g.*, CD, cassette, track download, album download, bundle of tracks, music video download, music video stream, concert DVD download, concert DVD stream, ringtones)
- Unit exclusion taken
- Percentage of album being paid on, if less than 100% (*i.e.*, if some of the tracks were recorded outside of the domestic area and not otherwise subject)
- Manufacturers' suggested retail price or wholesale price
- Contribution amount
- Contribution rate

7. Sampling

Add a provision for a *de minimis* distribution of \$10.

8. Form B Issues

Refer Form B issues, including 1) creation of procedures to facilitate the timely submission of Form B Contracts and to maximize prompt payment of Musicians; and 2) planning for the electronic completion and filing of B Forms, to subcommittee during term of the Agreement.

9. Soundtrack Albums

Incorporate 2005-2009 Motion Picture and Television Film Agreement Sound Track Regulations.

10. Annual Meeting to Consider Disputes

Representatives of the Federation and each Company will meet once each calendar year on mutually agreeable dates in October to discuss and attempt to resolve any disputes over the application or interpretation of this Agreement. Prior to each such meeting, the Federation will submit a list of pending disputes together with any relevant secondary materials related to the dispute to each Company. Any resulting agreements shall be implemented promptly after the conclusion of the meetings.

11. Digital Distribution Side Letter

- a. Incorporate terms of Digital Distribution Side Letter (modified consistent with this MOU) into the SRLA.
- b. The parties agreed to specific terms regarding the digital exploitation of (1) phonograph records (as defined in Appendix A) through Downloads or Non-Permanent Downloads, and (2) Traditional Music Videos (as defined in Appendix A) through Downloads, Non-Permanent Downloads and Video Streams, in each case occurring on or after February 1, 2006. These specific terms are set forth in Appendix A, and shall be incorporated into the appropriate sections of the SRLA and the SPF Agreement.

12. Music Videos

- a. The parties agreed to the elimination of the Video Promo Supplement and to the release of all claims under the Video Promo Supplement for all product that may have been subject to the Video Promo Supplement at any time. The release is attached and incorporated herein as Appendix B. It will be executed simultaneously with the execution of this MOU but will become effective only upon AFM ratification.
- b. The parties agreed to specific terms regarding (1) the production of Traditional Music Videos and (2) the exploitation of Traditional Music Videos via sales of physical product. These specific terms are set forth in Appendix C (attached and incorporated herein), which is entitled Term Sheet regarding the Production of Traditional Music Videos and Their Exploitation Via Sales of Physical Product. These agreed-upon terms shall be incorporated into the appropriate sections of the SRLA and the SPF Agreement.

13. Concert DVD's

- a. Concert DVDs produced by the Company on or after February 1, 2007, whether distributed physically or digitally, are within the scope of the SRLA. For the purpose of this provision only, the term "produced" shall include arrangements whereby the Company retains or obtains copyright

ownership of, and distribution rights to, the concert DVD (a "Covered Concert DVD").

- b. Scale payments shall be made pursuant to SRLA Location Recording provisions (Ex. A.I.L.) for recording/releasing soundtrack used in a Covered Concert DVD (whether released with or without video component in physical or digital format). In the event a Covered Concert DVD is released, a payment of \$50 will be made to all musicians (excluding Royalty Artists) whose musical services are embodied on the soundtrack for each 15 minutes of music (or portion thereof) released with video component to a maximum of five 15 minute segments per musician, plus pension and one H&W payment as provided for in Paragraphs 2, 3 and 4 of this MOU. The payments for the release of the Covered Concert DVD shall be subject to a 15% discount per musician if there are more than 30 musicians receiving such payments.
- c. Exploitation payments of the following amounts for the following periods shall be made to the SPF for distribution to the musicians performing on the sound track(s) of the Concert DVD:
 - Physical Product -

.55% of Wholesale Price for 10 years commencing upon the release of a Covered Concert DVD, after combined sales of physical product and digital downloads of entire Concert DVDs exceed 25,000 units.
 - Digital Product (downloads of any kind and streams) -

.55% of Wholesale Price for 10 years commencing upon the release of a Covered Concert DVD, i) on all streams of the entire Concert DVD and/or individual "tracks;" and ii) on all downloads of the entire Concert DVD (if the Concert DVD is not released as a physical product) and/or individual "tracks" in excess of 10,000 units.
- d. Compliance and audit terms consistent with those applicable to distribution of physical and digital audio product respectively.
- e. All uses of recorded product other than as a Covered Concert DVD or as a sound recording shall be subject to Paragraph 21 of SRLA.

14. Historic Product

The Parties acknowledge that, in the course of the negotiations culminating in the 2006 - 2009 Sound Recording Labor Agreement, discussions occurred regarding product generally referred to as "historic." In the event that one or more

Companies wishes to negotiate terms relating to the exploitation of such "historic product" that differ from the terms otherwise set forth in the SRLA or any other AFM agreement, a joint committee consisting of Federation and Company representatives will be convened for purposes of addressing this matter. If there is no agreement on "historic" product, the terms of the SRLA will continue to apply to such product.

15. Amend Paragraph 8 of the SRLA to read as follows:

8. The Company shall only call or authorize a recording session in order to make a phonograph record, a Traditional Music Video or a Covered Concert DVD.

16. Side Letter Agreement re: Satellite Radio

The parties have agreed to enter into a Side Letter Agreement regarding Satellite Radio substantially in the form set forth on Appendix D, which is attached and incorporated herein.

17. Side Letter re: Music Video Negotiations

The parties have agreed to enter into a Side Letter regarding Music Video Negotiations substantially in the form set forth on Appendix E, which is attached and incorporated herein.

WARNER BROTHERS RECORDS
ATLANTIC RECORDING CORPORATION
SONYBMG MUSIC ENTERTAINMENT
UNIVERSAL MUSIC GROUP
CAPITOL RECORDS, INC.

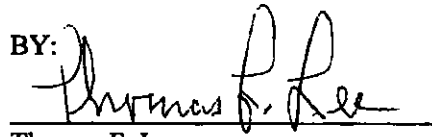
AMERICAN FEDERATION OF
MUSICIANS OF THE UNITED
STATES AND CANADA

BY:


Norman K. Samnick


Michael A. Curley

BY:


Thomas F. Lee
President


Jeffrey Freund
General Counsel

APPENDIX A

Digital Exploitation Term Sheet

1. Definitions and Scope of Digital Exploitation Term Sheet.

This Term Sheet shall set forth the specific terms agreed to by the parties regarding the digital exploitation of (A) phonograph records (as defined herein) through Downloads or Non-Permanent Downloads and (B) Traditional Music Videos (as defined herein) through Downloads, Non-Permanent Downloads or Video Streams (each of the foregoing, a "Covered Exploitation"). For the avoidance of doubt, nothing herein shall be construed as covering (C) the commercial digital exploitation of Audio Streams, (D) the promotional digital exploitation of any phonograph records or Traditional Music Videos or (E) transmissions that are subject to the compulsory statutory license established by 17 U.S.C. Section 114.

- a. The term "phonograph record" is defined in the Sound Recording Labor Agreement ("SRLA") and the Sound Recording Special Payments Fund Agreement ("SRSPF Agreement"). For the purposes of this Term Sheet, a "phonograph record" shall include a digital file containing one (1) or more tracks or songs produced by a signatory record company pursuant to the SRLA as set forth in 1(c) below. In incorporating the terms embodied in this Term Sheet into the SRLA, the parties shall determine whether the definition of "phonograph record" should be altered, and if so, how it should be altered, in order accurately to integrate the terms and understandings set forth in this Term Sheet into those documents.
- b. For purposes of this Term Sheet, the term "master record" shall be any matrix, "mother," stamper or other device from which another such master record, phonograph record, wire or tape recording, or other device reproducing sound, is produced, reproduced, pressed or otherwise processed" pursuant to the terms of the SRLA and the SRSPF Agreement.
- c. The definitions in (d)-(f) below refer to products, or exploitations of products, that are, or that contain audio elements that are produced from master records containing music which was performed or conducted by musicians covered by, or required to be paid pursuant to, the SRLA.
- d. The term "Traditional Music Video" shall be defined as an audio visual product that includes an audio element produced from a master record, and a visual element of the type or genre traditionally aired on television for promotional purposes, e.g., MTV, VH1, BET, CMT, etc.

- e. The term "Permanent Audio Download" shall be defined as a phonograph record which is sold via digital transmission in the U.S. and abroad in a manner which provides a permanent copy. The term "Permanent Video Download" shall be defined as a Traditional Music Video which is sold via digital transmission in the U.S. and abroad in a manner which provides a permanent copy. "Permanent Audio Downloads" and "Permanent Video Downloads" are collectively referred to as "Downloads." For clarification, "Downloads" shall include master ringtones.
- f. The term "Non-Permanent Download" shall be defined as a phonograph record or a Traditional Music Video which is sold via digital transmission in the U.S. and abroad on a temporary, tethered, conditional or "timed out" basis.
- g. The term "Audio Stream" shall be defined as a phonograph record which is sold via digital transmission in the U.S. and abroad using streaming technology and leaving no residual copy on the receiving device.
- h. The term "Video Stream" shall be defined as a Traditional Music Video which is sold via digital transmission in the U.S. and abroad using streaming technology and leaving no residual copy on the receiving device.
- i. For clarification, "digital transmissions" shall include digital transmissions via the internet, digital cable or similar networks, e.g., the delivery of ringtones or traditional music videos to mobile phones. The parties have agreed upon a side letter, set forth in Appendix D, with respect to issues arising under satellite radio and other new technologies (if any).
- j. The term "Wholesale Price" shall be defined as the per unit wholesale price (without deductions) actually received by the Company from a digital service provider in connection with a Covered Exploitation. In circumstances where there is no per unit wholesale price, "Wholesale Price" shall be defined as the monies actually received by the Company from a digital service provider that are attributable to such Covered Exploitation. By way of illustration, the parties acknowledge that percentage of gross service revenue payments, percentage of advertising revenue payments, per-subscriber payments and per-use payments will generally be within the types of revenues that would be included within the calculation of "wholesale price." The parties further acknowledge that content origination fees, digitization fees and advances not offset by actual digital transmissions are not generally within the types of revenues that would be included within the calculation of wholesale price.
- k. This Term Sheet shall cover terms for Downloads, Non-Permanent Downloads and Video Streams and shall not cover terms for Audio Streams. Audio Streams that are subject to the compulsory license created

by 17 U.S.C. Section 114 will be governed by the provisions of Section 114. Audio Streams that are made pursuant to interactive or other non-statutory licenses granted by the Company pursuant to Section 114, are covered by the 1994 MOA.

- l. Ringbacks shall be covered by, and payments shall be made pursuant to, either this agreement or the 1994 MOA (as may be amended).
- m. The parties have reached agreement on the terms that govern the digital exploitation of Covered Concert DVDs. Those terms are set forth in the MOU and will be incorporated into the SRLA and the SRSPF Agreement.

2. Payment Terms – Permanent Audio Downloads

- a. Rate: Effective February 1, 2006, pay .55% of the Wholesale Price on Permanent Audio Downloads produced on or after February 1, 2006, after applying applicable exclusions. The contribution rate shall remain .5% for Permanent Audio Downloads produced prior to February 1, 2006, after applying applicable exclusions.
- b. Exclusion: There shall be a 10,000 unit exclusion for Permanent Audio Downloads of singles. The exclusion for Permanent Audio Downloads of albums shall be modified to be included within the 25,000 exclusion applicable to physical product sales.
- c. Ten Year Limitation: Payments for Permanent Audio Downloads shall commence with the calendar year during which the phonograph record is first released for sale in any form (or where the release is digital only, with no physical product, from the date of the first release) and terminating at the end of the tenth calendar year thereafter. The year of such release shall be counted as the first year of the ten years.

3. Payment Terms – Non-Permanent Audio Downloads

- a. Rate: Effective February 1, 2006, pay .55% of the Wholesale Price on Non-Permanent Audio Downloads produced on or after February 1, 2006. The contribution rate shall remain .5% for Non-Permanent Audio Downloads produced prior to February 1, 2006. In no event shall the Company be obligated to make any payments on Non-Permanent Downloads that have already been paid under the terms of the 1994 Memorandum of Agreement.
- b. Exclusion: There shall be no exclusions for Non-Permanent Audio Downloads.
- c. Limitation: The limitation, if any, on the period during which payments shall be owed on Non-Permanent Audio Downloads shall be subject to

negotiations between the parties in the context of the negotiations for a successor agreement to the 1994 Memorandum of Agreement.

- d. **Recipient Fund:** The fund to which such payments shall be made shall be subject to negotiations between the parties in the context of the negotiations for a successor agreement to the 1994 Memorandum of Agreement. For the avoidance of doubt, nothing in this Term Sheet governs the method of distribution of the payments made pursuant to this Paragraph 3.

4. **Payment Terms – Traditional Music Videos**

- a. **Rate:** Effective February 1, 2006, for the first ten (10) years defined in Section IV.C. below, pay .55% of the Wholesale Price on Permanent Video Downloads, Non-Permanent Downloads of Traditional Music Videos or Video Streams (subject to applicable exclusions for Permanent Video Downloads). For the following five (5) year period defined in Section 4.C below, pay .3% of the Wholesale Price on Permanent Video Downloads, Non-Permanent Downloads of Traditional Music Videos or Video Streams (subject to applicable exclusions for Permanent Video Downloads).
- b. **Exclusions:** There shall be a 10,000 unit exclusion on Permanent Video Downloads. There shall be no exclusions on Non-Permanent Downloads of Traditional Music Videos or Video Streams.
- c. **Fifteen Year Limitation:** The payments provided for under this Section 4 shall be made with respect to Permanent Video Downloads, Non-Permanent Downloads of Traditional Music Videos and Video Streams which take place during the period commencing with the calendar year during which the record in which the Traditional Music Video is first released for exploitation in any form and terminating at the end of the fifteenth calendar year thereafter. The year of such release shall be counted as the first year of the fifteen (15) years. For purposes of calculating the 15 year period for exploitations of Traditional Music Videos produced prior to February 1, 2006, the first year shall be 2006.

5. **Recipient Fund and Distribution Method**

- a. All payments required to be made under Paragraphs 2 and 4 above shall be made to the SPF.
- b. The payments made pursuant to Paragraph 4 shall be distributed to the musicians whose performance is embodied in the audio element contained in the Traditional Music Video.
- c. There shall be no Music Performance Fund contribution on the exploitations covered in this Term Sheet.

APPENDIX B

**American Federation of Musicians of the United States and Canada
Letterhead**

DATE:

Norman K. Samnick, Esq.
Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104

Michael A. Gurley, Esq.
Morgan & Lewis
101 Park Avenue
37th Floor
New York, NY 10178

Re: **AFM Release on Video Promo Supplement Obligations**

Dear Norman and Michael:

Notwithstanding anything herein to the contrary, in consideration of the terms and conditions mutually agreed upon in the negotiations culminating in the 2006 - 2009 Sound Recording Labor Agreement, it is specifically agreed that the American Federation of Musicians of the United States and Canada, AFL-CIO (the "AFM"), its respective current, former, and future officers, directors, employees, partners, members, parents, affiliates, and subsidiaries and its successors and assigns (collectively, the "Releasers"), hereby irrevocably and unconditionally releases and forever discharges each of the record companies that becomes a signatory to the 2006-2009 AFM Sound Recording Labor Agreement (the "Signatory Record Companies"), including their respective current, former and future officers, directors, employees, partners, investors, parents, affiliates, subsidiaries, divisions and labels and their respective successors and assigns (collectively, the "Releasees") with respect to any and all claims, obligations or liabilities, whether known or unknown, relating to or arising from payments that may have been due and owing under the Video Promo Supplement, as amended from time to time, for any period prior to the date hereof concerning the production or exploitation, or both, of music videos or any portion thereof that are within the Releasers' lawful authority to release.

The Releasers agree not to commence, maintain, fund (in whole or in part), prosecute, instigate, encourage, assist, or in any manner participate in any action or proceeding in any court, arbitration, or other forum against any Releasee with respect to any claim explicitly or implicitly waived herein. The Releasers represent that neither the AFM, nor any other person or entity acting on behalf of the AFM, has filed any charge, lawsuit, or other proceeding asserting any claim that is explicitly or

implicitly waived herein. The AFM acknowledges that, in the event any charges, lawsuits, or other proceedings have been filed, this Release shall render such charges, lawsuits or proceedings null and void, and the AFM hereby expressly waives its rights to pursue them in any manner. In the event that any person or entity seeks to obtain any relief with regard to any claim released and waived hereunder, the AFM covenants not to accept, recover or receive any monetary relief or award that may arise out of or in connection with any such proceeding.

For the Signatory Record Companies

s/ _____

For the American Federation of Musicians

s/ Thomas P. Ke

APPENDIX C

Term Sheet Regarding the Production of Traditional Music Videos and Their Exploitation via Sales of Physical Product

1. Definitions and Scope of Term Sheet
 - a. The production and physical product sales of Traditional Music Videos shall be governed by the terms and conditions set forth below.
 - b. For purposes of this Term Sheet, the term "Traditional Music Video" shall be defined as an audio visual product that includes an audio element produced from a master record, and a visual element of the type or genre traditionally aired on television for promotional purposes, e.g., MTV, VH1, BET, CMT, etc. Traditional Music Video physical product sales are sales of Traditional Music Video singles and compilations embodied in a physical format.
 - c. Sections of the deleted Video Promo Supplement not inconsistent with this Term Sheet shall be incorporated into the SRLA as appropriate.
2. Production
 - a. Effective for all product produced on or after the first day of the month following execution of the MOU, the Company will pay to each side musician, i.e. other than a "royalty artist," (as that term is defined in the SRLA) who performs as a musician "on-camera" (including "sideline musicians" as that term is commonly understood) in a Traditional Music Video the sum of \$325 per 10 hour day. Effective February 1, 2008, that scale rate shall increase to \$334.75 for a 10 hour day. Pension and health and welfare payments at the rates and conditions set forth in the SRLA shall be made. For work performed in excess of 10 hours in a day, the musicians shall be compensated at 1 ½ times the pro rata 10 hour payment at ½ hour intervals.
 - b. A Meal Period shall be provided with the time of the meal period to be determined at the producer's discretion subject to applicable law.
3. Payment Terms
 - a. Rate: Effective February 1, 2006, for the first ten (10) years of the period defined in Section 3.c below, pay 1% of the Wholesale Price (as defined in the Digital Exploitation Term Sheet) generated from Traditional Music Video physical product sales. For the following five (5) years of the period defined in Section 3.c. below, pay .5% of the Wholesale Price generated from Traditional Music Video physical product sales.

- b. **Exclusion:** There shall be a 1,000 unit exclusion for Traditional Music Video physical product.
- c. **Fifteen Year Limitation:** The payments provided for under this Section 3 shall be made with respect to Traditional Music Video physical product sales which take place during the period commencing with the calendar year during which the record in which the Traditional Music Video physical product is first released for exploitation in any form and terminating at the end of the fifteenth calendar year thereafter. The year of such release shall be counted as the first year of the fifteen (15) years. For purposes of calculating the fifteen (15) year period for Traditional Music Videos produced prior to February 1, 2006, the first year shall be 2006.

4. **Recipient Fund**

- a. All payments required to be made under Section 3 above shall be made to the SPF for distribution to the Musicians whose performances are embodied in the audio element contained in the Traditional Music Video.
- b. There shall be no Music Performance Fund contributions on Traditional Music Video physical product sales.

APPENDIX D

American Federation of Musicians of the United States and Canada Letterhead

DATE:

Norman K. Samnick, Esq.
Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104

Michael A. Curley, Esq.
Morgan & Lewis
101 Park Avenue
37th Floor
New York, NY 10178

Re: **Side Letter Agreement Regarding Satellite Radio**

Dear Norman and Michael:

The parties agree that during the term of the 2006-2009 Sound Recording Labor Agreement, they will meet to discuss the basis upon which payments to musicians should be calculated with respect to distributions of recordings produced under any Sound Recording Labor Agreement via satellite radio, where such distributions are not covered by either the compulsory license created by 17 U.S.C. Section 114 or non-statutory licenses subject to the terms of the 1994 MOA. Either party may commence these discussions, upon notice to the other party, after July 2007.

The parties have further agreed that if, during the term of the 2006-2009 Sound Recording Labor Agreement, a dispute arises with respect either to the Company's obligation to make payments to musicians with respect to digital distribution via other new technologies or platforms, or the basis upon which such payments should be calculated, either party has a limited right to convene a Joint Federation-Industry Cooperative Committee meeting to discuss these issues. In order to exercise this limited right, a party must serve a written notice on the other party on or before February 15, 2008. During the 90 day period following such notice, the parties shall attempt to reach a mutually acceptable resolution of such dispute. Failing a negotiated agreement, each party may exercise its rights under federal labor laws. This limited right has no effect on any other provision of the 2006-2009 SRLA.

For the Signatory Record Companies

s/ _____

For the American Federation of Musicians

s/ Thomas B. Lee

APPENDIX E

American Federation of Musicians of the United States and Canada Letterhead

DATE:

Norman K. Samnick, Esq.
Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104

Michael A. Curley, Esq.
Morgan & Lewis
101 Park Avenue
37th Floor
New York, NY 10178

Re: **Side Letter Agreement Regarding Future Music Video
Technologies and Distribution Platforms**

Dear Norman and Michael:

During the course of negotiations for a successor agreement to the 2002 - 2005 Sound Recording Labor Agreement as extended ("SRLA"), the AFM and the Signatory Recording Companies ("Companies") agreed to delete the Video Promo Supplement to the SRLA and to replace it with the terms and conditions set forth in Appendix A and Appendix C to the parties' 2006 Memorandum of Agreement as the mechanism for compensating musicians for the production and/or exploitation of music videos.

The AFM and the Companies expressly agree that i) the negotiations that produced this Agreement occurred in the context of the technology and distribution platforms applicable to music videos in existence in and around 2005 and 2006; and ii) the agreements reached in 2006 concerning the compensation of musicians for the production and/or exploitation of music videos were not intended to limit in any way the scope of negotiations over these subjects in future SRLA negotiations generally and, more particularly, when and if new technologies or distribution platforms replace or supplement those in place in 2005 - 2006; and iii) the terms under which musicians shall benefit from new technologies or distribution platforms as they may relate to the commercial exploitation of music videos produced pursuant to the Video Promo Supplement prior to this Agreement as well as music videos produced in the future pursuant to this Agreement and its successors shall be subject to negotiations between the parties during future SRLA negotiations in accordance with the requirements of the National Labor Relations Act.

For the Signatory Record Companies

s/ _____

For the American Federation of Musicians

s/ Thomas F. Ree



AMERICAN FEDERATION OF MUSICIANS TV & RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

Standard Commercial Summary
(Effective October 17, 2007 - October 16, 2009)

No member of the Federation shall take engagements or become employed in the making of soundtracks for any type of recorded product (audio and/or visual) unless the employer/producer providing such engagement or employment shall have previously entered into a written agreement with the federation. (Become Signatory).

This is only a general summary of the scales and conditions of employment for Standard TV & Radio Commercial Announcements. (Called National Recording Rates in previous Agreements)

Minimum Call Session:

There shall be a minimum call session of one hour.

Basic Scale - session fees:

No. of Musicians	Base Scale Per Musician
1 (Base Scale)	\$230.00
2 or more (Base Scale)	\$115.00

Maximum number of commercials claimed:

A maximum of 3 commercial announcements may be claimed for any original one-hour minimum call session. One additional commercial announcement may be claimed for each additional 20-minutes or part thereof that has been paid as part of the original session. In computing the number of commercial announcements which may be claimed, the employer shall be limited to the number of commercial announcements which may be claimed for the Side Musician with the lowest reported hours worked for such session (including overtime, if any). For any session where the music is produced entirely by means of synthesizer(s), no more than eight commercial announcements may be claimed even if the number or reported hours worked exceeds two hours and forty minutes.

Overtime (continuous):

Shall be pro-rated in 20-minute increments. (\$76.67-Ldr./Arr. & \$38.33-S.M./Cpy.)

Leader or Single Musician:

Shall be paid double the base scale applicable to the Side Musician.

Contractor:

If 10 or more Side Musicians and a Leader are employed (11 total), a Contractor is required. The Contractor may also be the Leader, but in no event shall the Contractor receive more than twice Side-Musician scale. The Contractor shall be paid double the base scale.



Doubling:

Musician plays more than one instrument during continuous track. i.e. acoustic guitar for entire track, but musician also adds electric guitar track of not more than four measures.

1st Double - an additional 30% of base scale (side musician scale – even if Leader/Contractor)

2nd and each subsequent Double - an additional 15% of base scale (side musician scale – even if Leader/Contractor)

Multiple Parts:

(Musician plays different instruments for entire track. i.e. bass, drums, guitar, piano). Musician shall be listed separately for each instrument played and paid accordingly.

Note: When a Leader doubles, the additional fee shall be computed at the side Musicians base scale.

Sideline Musicians

Base Scale:

Minimum Pay for eight hours (Leader)	\$340.42
Overtime (Leader) per 15 minutes	\$15.97
Side Musician	\$170.21
Overtime (Side Musician) per 15 minutes	\$7.98
One person alone	\$200.32
Overtime (1 person alone) per 15 minutes	\$9.39

Meal breaks must commence no more than six hours after commencement of call. Musicians may not be called back for the next day's work if less than ten hours have elapsed from close of workday.

Pension: 12% of scale wages

Health & Welfare:

\$17.00 + 3% of scale wages. (The flat contribution of \$17.00 is for a maximum of two lines or \$34.00 per session. So if a musician appears alone and plays three instruments, she/he would get \$17.00 + \$6.90 (3% of \$230.00) for the top or Leader line (\$23.90 total). The second line would be \$17.00 + \$3.45 (3% of \$115.00) at Side Musician scale (\$20.45 total). The third line would simply be 3% of Side Musician scale wages (\$3.45)

Music Preparation

Arrangers':

These skills are highly specialized, so wages for original sessions are left to the discretion of the individual performing services. An arranger shall appear on the contract at 2x's side-musician scale.

Orchestrators:

For scoring a page of four bars across & not more than ten lines the cost will be \$19.92 per page. The rate for each additional line or instrument in excess of ten lines will be \$1.09.



Copyists:

Single parts are \$3.63 (\$7.49 dupe) per page. Double stave and chorded parts are \$5.77 (\$14.19 dupe) per page. A page is four bars across & not more than ten lines down.

Cartage:

\$30.00 - harp, keyboard, string bass and timpani, marimba, chimes, vibraphone \$12.00 - tuba, all drums, all amplifiers, baritone sax, bass sax, cello, accordion, cordvox and contra-bass clarinet. Any bill submitted in an amount in excess of \$30.00 and \$12.00, respectively, shall be paid provided that receipt is submitted for actual and reasonable expenses incurred

Initial Use Cycle (first 13-week cycle):

Upon the first use of a commercial announcement claimed for an original session, a onetime payment for the first 13-week cycle shall be:

Base Scale:	
Leader, Contractor, Arranger, Orchestrator	\$64.00
Single Musician	\$64.00
Side Musician, Sideline Musician, Copyist	\$32.00

Pension: 12% of initial use scale.

Health & Welfare: 3% of initial use scale.

Re Use, Dubbing, Conversion etc. (each subsequent 13-week cycle per TV & Radio Commercial, 52-week Non-Broadcast)

Base Scale:	
Leader, Contractor, Arranger, Orchestrator	\$172.50
Single Musician	\$172.50
Side Musician, Sideline Musician, Copyist	\$86.25

Pension: 12% of scale for each Dub/Reuse/Conversion **Health & Welfare:** 3% of scale for each Dub/Reuse/Conversion.



Foreign Use (12 months):

This payment is for Foreign Initial Use (paid in addition to session fee). Each commercial may be used for 24 months by paying an additional 50% of scale.

Payment shall be made on a per commercial announcement basis.

	Europe inc. UK	Outside Europe	Worldwide Use**
Leader	\$143.69	\$143.69	\$229.90
2 or more Musicians	\$71.84	\$71.84	\$114.95
Single Musician	\$143.69	\$143.69	\$229.90
Cont., Arr., Orch.	\$143.69	\$143.69	\$229.90
Copyist	\$71.84	\$71.84	\$114.95

**Rates for Worldwide Use are effective if paid at the start of each cycle. If the commercial starts in Europe, then goes Worldwide, each cycle must be paid separately.

Pension: 12% Health & Welfare: 3%

Dubbing (Dub) Fee:

75% of Session Fee for National commercial, 100% of Session Fee for Regional or Local Commercials.

A dub is where one takes an existing bed of music and creates an additional commercial within the same medium. i.e. A producer wishes to create a fourth (additional) commercial (total amount of commercials allowed per 1 hour session is 3) so the producer pays a dub fee which is 75% of the Original Session Fee. (For this example we are discussing a National commercial.)

Conversion Fee:

75% of Session Fee for National spot, 100% of Session Fee for Regional or Local Commercials.

A conversion is where one takes an existing bed of music and creates a new commercial in a different medium. i.e. A producer wishes to take an existing bed of music from a television commercial* and place that music in a radio commercial, so the producer pays a conversion fee which is 75% of the Original Session Fee. (For this example we are discussing a National commercial.)

* A conversion can also be Radio to TV.



Internet:

Made for Initial Use on Television or Radio

One Dub Fee for each 52-week period of use.

Commercial made for Initial Use on Internet

- One session fee for any minimum call session (see rates under Basic Scale – Session Fees, pg. 1).
- Initial Use payment for first 6-month period of use (see Initial Use Fee rates, pg. 3).
- One dub fee (equivalent) for second 6-month period of use.
- One dub fee (equivalent) for each subsequent 52-week period of use.

American Federation of Musicians
3550 Wilshire Blvd., Suite 1900
Los Angeles, CA 90010
Matt Allen
(213) 251-4510 ext. 206
Fax (213) 251-4520

American Federation of Musicians
Sound Recording Scales (Non-Symphonic)
Effective February 1, 2008 – January 31, 2009

No Recording is Permitted Without the Use of a Valid AFM Recording Agreement

AFM Pension/ Health and Welfare

Pension: All Sessions AFM-EP Fund contribution 11% of Gross Scale
(including overtime and doubling)

Health and Welfare: \$22.00 per musician for the first original service and
\$16.50 for each additional service that day

Arranger/Orchestrator/Copyist - \$22.00 per service and \$16.50 each additional
service per day

*Note: No Cancellations less than seven (7) days prior to the date of the session, except that in
the event of an emergency, consent of the Office of the Federation President is required.*

BASIC SESSION SCALES

3 Hours (15 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 4 sides		
	Scale	EP Fund
Leader/Contractor	\$ 745.14	\$ 81.97
Sidemusician	\$ 372.57	\$ 40.98
½ Hour O.T.	\$ 124.20	\$ 13.66
¼ Hour O.T.	\$ 62.10	\$ 6.83
1 st Double add (20% of scale)	\$ 74.51	\$ 8.20
2 nd Double & each thereafter (15% of scale)	\$ 55.89	\$ 6.15

3½ Hours (20 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 5 sides		
	Scale	EP Fund
Leader/Contractor	\$ 993.54	\$ 109.29
Sidemusician	\$ 496.77	\$ 54.64
1 st Double add (20% of scale)	\$ 99.35	\$ 10.93
2 nd Double & each thereafter (15% of scale)	\$ 74.52	\$ 8.20

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

BASIC SESSION SCALES continued

4 Hours (25 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 6 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,241.94	\$ 136.61
Sidemusician	\$ 620.97	\$ 68.31
1 st Double add (20% of scale)	\$ 124.19	\$ 13.66
2 nd Double & each thereafter (15% of scale)	\$ 93.15	\$ 10.25

4 ½ Hours (30 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 7 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,490.34	\$ 163.94
Sidemusician	\$ 745.17	\$ 81.97
1 st Double add (20% of scale)	\$ 149.03	\$ 16.39
2 nd Double & each thereafter (15% of scale)	\$ 111.78	\$ 12.30

5 Hours (35 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 8 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,738.74	\$ 191.26
Sidemusician	\$ 869.37	\$ 95.63
1 st Double add (20% of scale)	\$ 173.87	\$ 19.13
2 nd Double & each thereafter (15% of scale)	\$ 130.41	\$ 14.35

Duties of Leaders and/or Contractors:

1. Session **MUST** be reported in advance
2. Contracts **MUST** be filled in **COMPLETELY**
3. The leader or contractor **MUST, WITHIN 72 HOURS** of the session, turn in a B-4 report form with completed W-4's and I-9's, with back up, for all personnel to the company and have the representative of the company accepting the report form initial and date it to acknowledge receipt of same. If the report form, W-4's and I-9's are mailed to the company, they must be sent by certified mail, and return receipt requested.

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

The Following Holidays – DOUBLE SCALE

In the United States:

New Year's Day	President's Day	Memorial Day	Independence Day
Labor Day	Thanksgiving Day	Christmas Day	

In Canada:

New Year's Day	Good Friday	Easter Monday	Victoria Day
Dominion Day	Labour Day	Thanksgiving	Christmas Day

PREMIUM RATES

One and one half times the basic session and overtime rates shall be paid on all recordings which occur during the following times:

- PREMIUM RATES APPLY:** (i) Between Midnight and 8:00 AM
 (ii) After 1:00 PM on Saturdays if 6th consecutive day of work for Company and;
 (iii) on Sundays

PREMIUM RECORDING SCALES – 150% OF REGULAR SCALE

3 Hours (15 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 4 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,117.72	\$ 122.95
Sideman	\$ 558.86	\$ 61.47
½ Hour O.T.	\$ 186.30	\$ 20.49
¼ Hour O.T.	\$ 93.15	\$ 10.25
1 st Double add (20% of scale)	\$ 111.77	\$ 12.29
2 nd Double & each thereafter (15% of scale)	\$ 83.83	\$ 9.22

3½ Hours (20 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 5 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,490.32	\$ 163.94
Sideman	\$ 745.16	\$ 81.97
1 st Double add (20% of scale)	\$ 149.03	\$ 16.39
2 nd Double & each thereafter (15% of scale)	\$ 111.77	\$ 12.29

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

PREMIUM RECORDING SCALES continued

4 Hours (25 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 6 sides		
	Scale	EP Fund
Leader/Contractor	\$ 1,862.92	\$ 204.92
Sidemician	\$ 931.46	\$ 102.46
1 st Double add (20% of scale)	\$ 186.29	\$ 20.49
2 nd Double & each thereafter (15% of scale)	\$ 139.72	\$ 15.37

4½ Hours (30 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 7 sides		
	Scale	EP Fund
Leader/Contractor	\$ 2,235.52	\$ 245.91
Sidemician	\$ 1,117.76	\$ 122.95
1 st Double add (20% of scale)	\$ 223.55	\$ 24.59
2 nd Double & each thereafter (15% of scale)	\$ 167.66	\$ 18.44

5 Hours (35 min. recorded music) No. Sides - Basic Unlimited, Sweeten – 8 sides		
	Scale	EP Fund
Leader/Contractor	\$ 2,608.12	\$ 286.89
Sidemician	\$ 1,304.06	\$ 143.45
1 st Double add (20% of scale)	\$ 260.81	\$ 28.69
2 nd Double & each thereafter (15% of scale)	\$ 195.61	\$ 21.52

SESSIONS WHICH INCLUDE PREMIUM TIME

9:30 PM – 12:30 AM or Saturday 10:30AM – 1:30 PM		
	Scale	EP Fund
Leader/Contractor	\$ 807.30	\$ 88.80
Sidemician	\$ 403.65	\$ 44.40
1 st Double add (20% of scale)	\$ 80.73	\$ 8.88
2 nd Double & each thereafter (15% of scale)	\$ 60.55	\$ 6.66

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

SESSIONS WHICH INCLUDE PREMIUM TIME continued

10:00 PM – 1:00 AM or Saturday 11:00 AM – 2:00 PM		
	Scale	EP Fund
Leader/Contractor	\$ 869.40	\$ 95.63
Sidemician	\$ 434.70	\$ 47.82
1 st Double add (20% of scale)	\$ 86.94	\$ 9.56
2 nd Double & each thereafter (15% of scale)	\$ 65.21	\$ 7.17

10:30 PM – 1:30 AM or Saturday 11:30 AM – 2:30 PM		
	Scale	EP Fund
Leader/Contractor	\$ 931.50	\$ 102.47
Sidemician	\$ 465.75	\$ 51.23
1 st Double add (20% of scale)	\$ 93.15	\$ 10.25
2 nd Double & each thereafter (15% of scale)	\$ 69.86	\$ 7.68

11:00 PM – 2:00 AM or Saturday 12:00 AM – 3:00 PM		
	Scale	EP Fund
Leader/Contractor	\$ 993.60	\$ 109.30
Sidemician	\$ 496.80	\$ 54.65
1 st Double add (20% of scale)	\$ 99.36	\$ 10.93
2 nd Double & each thereafter (15% of scale)	\$ 74.52	\$ 8.20

11:30 PM – 2:30 AM or Saturday 12:30 AM – 3:30 PM		
	Scale	EP Fund
Leader/Contractor	\$ 1,055.70	\$ 116.13
Sidemician	\$ 527.85	\$ 58.06
1 st Double add (20% of scale)	\$ 105.57	\$ 11.61
2 nd Double & each thereafter (15% of scale)	\$ 79.18	\$ 8.71

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

SPECIAL SESSION SCALES

1½ Hours (7½ min. recorded music) No. Sides - 2		
	Scale	EP Fund
Leader/Contractor	\$ 491.78	\$ 54.10
Sidemician	\$ 245.89	\$ 27.05
½ Hour O.T.	\$ 81.96	\$ 9.02
¼ Hour O.T.	\$ 40.98	\$ 4.51
1st Double add (20% of scale)	\$ 49.18	\$ 5.41
2nd Double & each thereafter (15% of scale)	\$ 36.88	\$ 4.06

2 Hours No. Sides - 2		
	Scale	EP Fund
Leader/Contractor	\$ 655.70	\$ 73.13
Sidemician	\$ 327.85	\$ 36.06
½ Hour O.T.	\$ 124.20 *	\$ 13.66
¼ Hour O.T.	\$ 62.10*	\$ 6.83
1st Double add (20% of scale)	\$ 65.57	\$ 7.21
2nd Double & each thereafter (15% of scale)	\$ 49.18	\$ 5.41

*Represents overtime payment beyond the first one-half hour.

This Wage Summary Sheet is provided for illustration purposes only. In the event there is a discrepancy between the worksheet and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

DIGITAL DISTRIBUTION MEMORANDUM OF AGREEMENT

The undersigned Companies and the American Federation of Musicians of the United States and Canada ("Federation") have agreed to enter into this Memorandum of Agreement ("Agreement") as an Addendum to the February 1, 2002 - January 31, 2005 Sound Recording Labor Agreement. This Agreement is subject to the Federation's ratification process.

(1) Digital Distribution Payments

(a) Rate of Payments – Effective for permanent downloads¹ occurring on or after January 1, 2004,¹ for the purpose of compensating musicians for services performed on sound recordings (as defined in Section (1)(a)(iii) below) which are sold via digital transmission in the U.S. and abroad (each sale, a "permanent download" or a "download"), each signatory record company shall make payments to the AFM Special Payments Fund, which shall be computed as follows:

- (i) There shall be no payment obligation for the first 10,000 downloads of each sound recording. See Attachment.
- (ii) After 10,000 downloads of each sound recording, each signatory record company shall be obligated to contribute a sum equal to (a) 1/3 of 1% of the wholesale price (without deductions) applicable to each download of such sound recording occurring between January 1, 2004 and December 31, 2004, in any configuration, whether a single track or "bundle" of individual sound recordings, e.g., EP, LP, or other multi-track configuration and (b) 1/2 of 1% of the wholesale price (without deductions) applicable to each download of such sound recording occurring between January 1, 2005 and December 31, 2005, in any configuration, whether a single track or "bundle" of individual sound recordings, e.g., EP, LP, or other multi-track configuration. See Attachment for examples of how this payment obligation will be administered.
- (iii) Solely for purposes of this Agreement, the term "sound recording" shall be defined as one (1) track or song produced by a signatory record company pursuant to the Sound Recording Labor Agreement; and the term "master record" shall include any matrix, "mother," stamper or other device from which another such master record, phonograph record, wire or tape recording, digital distribution, or other device or conveyance producing

¹ Throughout this Agreement, the terms "permanent download" and "download" have the same meaning and solely for the purposes of this Agreement exclude "non-permanent" or "tethered"/"conditional" downloads. See also Side Letter 1, attached.

sound, is produced, reproduced, pressed or otherwise processed or distributed by a signatory record company pursuant to the Sound Recording Labor Agreement.

The payments provided for in this Agreement shall be made with respect to permanent downloads of any sound recording produced from a master record which take place during the period commencing with the calendar year during which the record in which the sound recording is embodied is first released for sale in any form (or where the sound recording produced from a master record is released digitally and without a "physical product", from the date of the first release) and terminating at the end of the tenth calendar year thereafter. The year of such release shall be counted as the first year of the ten years.

No payment shall be due for a download if the service provider does not pay the record company for the download as required by the contractual arrangement between them.

- (iv) Nothing herein shall be construed as obligating any signatory record company to make any payments in connection with the digital transmission of sound recordings which are subject to payment obligations pursuant to the 1994 Digital Performance Rights Agreement. (See also Side Letter 1, attached).
- (b) There shall be no MPF contribution on digital downloads.
- (c) Form and timing of payments and requisite accompanying information - Payments shall be made semi-annually at the same time as Special Payments Fund payments pursuant to the Sound Recording Special Payments Fund Agreement (incorporated in the Sound Recording Labor Agreement), for all monies received, accompanied by the requisite information relevant to the payments made for that calendar half year. A Sub-Committee shall be established consisting of an equal number of 1) Federation representatives; and 2) representatives from each of the Company signatories to this Agreement. The Sub-Committee shall meet for the purpose of discussing and recommending to the bargaining parties the nature of information and data that should accompany the payments to permit adequate monitoring and auditing. The Sub-Committee shall be convened within 60 days after this Agreement is ratified.
- (d) Audit - The Companies shall be subject to audit in the manner prescribed by the Special Payments Fund Agreement.

If a question of interpretation of this Agreement arises, the language of this Agreement shall control. If there is an ambiguity

in the language, the intent of the parties bargaining this Agreement shall control.

- (e) **Transfer of Title** - The obligation to make payments shall continue notwithstanding the sale, assignment, lease or license of, or transfer of title to, or permission to use the sound recordings, except that upon the delivery of an assumption agreement as set forth in Paragraph 24 (e) of the Sound Recording Labor Agreement, the Company shall not be further liable to the Special Payments Fund for compliance with the terms of this Agreement with respect to the obligations assumed by the other party to the assumption agreement.
- (f) **Right to Sue** - The Federation or its agent designated in writing shall have the right to sue for defaulted payments.

(2) **Administration and Distribution**

Administration and distribution of payments shall be pursuant to the AFM Special Payments Fund procedures and formulae.

(3) **Duration**

This Agreement shall be effective from January 1, 2004 up to and including December 31, 2005.

The parties have entered into this two-year agreement on an experimental basis. In connection with negotiating a successor to this Agreement, the parties will review their experiences under this Agreement and in that negotiation either party has the right to pursue, among other things, changes in the then existing thresholds and/or the formulae for calculating digital download payments and payments pursuant to the Sound Recording Labor Agreement on account of the sale of physical product.

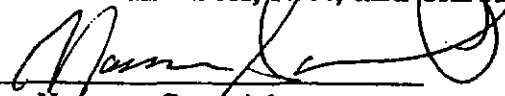
Further, at such time as either party to this Agreement asserts that the sale of digital product has become the predominant form of sale (as opposed to the sale of physical product) of covered sound recordings, that party shall have the right to convene a Federation-Industry Joint Cooperative Committee meeting to discuss the existing thresholds and/or formulae under this Agreement in calculating digital download payments and taking exclusions from payment obligations and under the Sound Recording Labor Agreement in calculating payments for physical product and taking exclusions from payment obligations for physical product.

- (4) The February 1, 2002 Sound Recording Labor Agreement due to expire on January 31, 2005, shall be extended for a one-year period up to and including January 31, 2006 with no changes in any of its terms and conditions except as follows: All the scale wages contained in the Sound

Recording Labor Agreement (pp. 1-56) shall be increased by 2% effective February 1, 2005.

- (5) A Federation-Industry Joint Cooperative Committee meeting will be convened no later than June 1, 2005 to address any issue that either party may place on the agenda.
- (6) The parties have agreed that in the Fall of 2005 they will commence negotiations with a view toward reaching successor agreements to this Digital Distribution Agreement, the Sound Recording Labor Agreement and the 1994 Memorandum of Agreement which, for the purposes of these negotiations and between the parties to this Agreement is deemed to remain in effect through and including January 31, 2006.
- (7) During negotiations for this Agreement, the parties made, amended and withdrew various proposals. The parties agree that they did so without prejudice to any position they might take in any proceeding in which the meaning of any term of the Sound Recording Labor Agreement or this Agreement is an issue and that the fact that they made, amended and withdrew these proposals does not constitute evidence of the meaning of any provision of this Agreement or the Sound Recording Labor Agreement.

For WARNER BROTHERS RECORDS, ATLANTIC RECORDING CORPORATION, ELEKTRA ENTERTAINMENT GROUP INC., SONY MUSIC ENTERTAINMENT INC., UNIVERSAL MUSIC GROUP, BMG MUSIC, VIRGIN RECORDS AMERICA, INC., and CAPITOL RECORDS, INC.

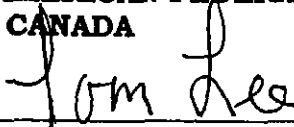
By: 
Norman Sarnick

By: 
Michael Curley

Date: 9/30/04

Date: 10/5/04

For AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA

By: 
Tom Lee, President

Date: 10/8/04

ATTACHMENT

The following example is provided to illustrate exemptions under Section (1)(a)(i) of the Memorandum of Agreement.

Company A releases Album X containing ten tracks, to a Digital Download Vendor. Album X is downloaded 5,000 times. In addition:

- If Track 1, individually, is downloaded 2,500 times:
 - Accordingly, Track 1 = 7,500 total downloads of the track
 - 5,000 from Album X (“unbundled” for this calculation); and
 - 2,500 individual track.
 - Therefore 2,500 downloads of Track 1 remain before payment obligation for downloads of Track 1 commences.
- If Track 2, individually, is downloaded 7,500 times:
 - Accordingly, Track 2 = 12,500 total downloads of the track
 - 5,000 from Album X (“unbundled” for this calculation); and
 - 7,500 individual track.
 - Therefore Company could take exclusion on 10,000 downloads of Track 2 and must pay on 2,500 downloads of Track 2 in excess of the threshold, as well as all future downloads of Track 2, as set forth in Sections (ii) and (iii) below.
- If Track 3, individually, is not downloaded at all, but it is included on “best of Y” compilation album released at a later date, which album is downloaded 2,500 times:
 - Accordingly, Track 3 = 7,500 total downloads of the track
 - 5,000 from Album X (“unbundled” for this calculation); and
 - 2,500 from “best of Y” album (“unbundled” for this calculation).
 - Therefore 2,500 downloads of Track 3 remain before payment obligation on Track 3 commences.
- If Track 4, individually, is downloaded 5,000 times, and “best of Y” compilation album is downloaded 2,500 times:
 - Accordingly, Track 4 = 12,500 total downloads of the track:
 - 5,000 from Album X (“unbundled” for this calculation); and
 - 5,000 individual track downloads; and
 - 2,500 from “best of Y” compilation album (“unbundled” for this calculation).
 - Therefore Company could take exclusion on 10,000 downloads of Track 4 and must pay on 2,500 downloads of Track 4 in excess of the threshold, as well as all future downloads of Track 4, as set forth in Sections (ii) and (iii) below.

This example is intended to illustrate that the 10,000 download exclusion threshold is calculated taking into account all formats from which any track was downloaded.

SIDE LETTER 1

(Digital Distribution Memorandum of Agreement)

This side letter agreement is entered into between the American Federation of Musicians of the United States and Canada and the Company party signatories to the attached Digital Distribution Memorandum of Agreement. The parties have agreed that non-permanent and/or tethered/conditional downloads are not covered by the terms of that Agreement. While reserving their respective legal positions as to the scope of the 1994 Memorandum of Agreement (the "1994 MOA") (attached hereto), and solely for the purposes of finalizing the Digital Distribution Memorandum of Agreement, the Company party signatories agree to make payments on non-permanent and/or tethered/conditional downloads in accordance with the terms of paragraph 2 of the 1994 MOA for the term of that Agreement. Nothing herein shall be construed as a concession by the Company party signatories that such downloads are "covered" by the 1994 MOA.

For WARNER BROTHERS RECORDS, ATLANTIC RECORDING CORPORATION, ELEKTRA ENTERTAINMENT GROUP INC., SONY MUSIC ENTERTAINMENT INC., UNIVERSAL MUSIC GROUP, BMG MUSIC, VIRGIN RECORDS AMERICA, INC., and CAPITOL RECORDS, INC.

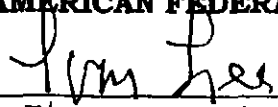
By: 
Norman Sannick

By: 
Michael Curley

Date: 9/22/04

Date: 10/5/04

For AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA

By: 
Tom Lee, President

Date: 10/8/04

**LOW BUDGET SIDE LETTER
TO THE AFM SOUND RECORDING LABOR AGREEMENT**

SUMMARY

1. **PERIOD** – January 1, 2007 – January 31, 2009
2. **EXCLUSIONS** – This side letter agreement shall not be applicable to:
 - (1) Musicians performing for symphonic orchestras.
 - (2) Musicians performing on records produced in Canada.
 - (3) Soundtracks and cast albums.
 - (4) Location recordings, except for religious services in accordance with the Low Budget Side Letter Addendum to the Sound Recording Labor Agreement (“SRLA”).
3. **REQUIREMENTS**
 - a. Budgets computed for each full-length album shall include all costs customarily considered recording costs by the recording industry in this country, including (1) studio charges, (2) engineering, (3) tape, (4) mixing costs, (5) payments to musicians (including their travel expenses), (6) equipment rental, and (7) cartage(see checklist) but excluding producer and artist advances, art work, travel for artists and producers and mastering costs. The Company shall provide the Federation with a copy of the producer’s approved detailed budget 72 hours in advance of producing each album under this side letter agreement. Budgets must fall within the following amounts:
 - b. **Budget Limits:**
 - ⇒ Tier 1 wages (regular): \$99,000
 - ⇒ Tier 2 wages (experimental): \$40,000
 - ⇒ Tier 3 wages (choral recordings/concept pieces):
 - \$99,000 for choral recordings (companion music for printed works)*
 - \$40,000 for concept piece (primary focus is on concept, not featured artist)

If budget maximum is exceeded (except where the excess is attributable directly to the incapacity of an artist or producer, unanticipated increased mixing costs or an Act of God, including illness), the Low Budget Side Letter will not apply and the provisions of the SRLA will apply.

* With respect to choral recordings, contributions to the Sound Recording Special Payments Fund and Music Performance Fund shall not be required.

This Low Budget Side Letter Summary is provided for illustration purposes only. In the event there is a discrepancy between this Summary and the Sound Recording Labor Agreement (“SRLA”), the SRLA will control.

4. **WAGES** - Per side musician as follows:**Tier 1 – Regular sessions**

Effective	3 Hour Minimum	OT 1/2 Hr.	OT 1/4 Hr.
	15 min of recorded music max	5 minutes of recorded music	0 minutes of recorded music
February 1, 2006	\$194.35	\$64.78	\$32.39
January 1, 2007	\$203.19	\$67.73	\$33.87
February 1, 2008	\$209.29	\$69.76	\$34.88

Tier 2 – Experimental

3 Hour Minimum	OT 1/2 Hr.	OT 1/4 Hr.
15 min of recorded music max	5 minutes of recorded music	0 minutes of recorded music
\$153.00	\$51.00	\$25.50

Tier 3 – Choral recordings (1/1/07 – 1/31/09)

Effective	3 Hour Minimum	O.T. ½ Hour	O.T. ¼ Hour
	15 min. of recorded music	5 min. of recorded music	0 min. of recorded music
January 1, 2007	\$173.48	\$57.83	\$28.91

Tier 4 – Concept Piece Production

Effective	2 Hour Minimum	O.T. 1/2 Hour
	10 min. of recorded music	0 min. of recorded music
February 1, 2006	\$97.18	\$24.30
January 1, 2007	\$101.60	\$25.40
February 1, 2008	\$104.65	\$26.16

5. **OVERDUBS** - If two or fewer musicians are performing, the services of a leader shall not be required.
6. **OVERSCALE, DOUBLING, MULTIPLE PARTS, ETC.** - Based on above rates.
7. **MUSIC PREPARATION** - Arrangers, orchestrators and copyists shall be paid in accordance with the applicable rates set forth in the SRLA except that Health and Welfare contribution payments shall be in accordance with this Side Letter Agreement.

This Low Budget Side Letter Summary is provided for illustration purposes only. In the event there is a discrepancy between this Summary and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

8. **PENSION FUND CONTRIBUTION** - 10% effective 2/1/06, 10.5% effective 2/1/07 and 11% effective 2/1/08.
9. **HEALTH AND WELFARE FUND CONTRIBUTION** - \$12.00 for each original service effective 2/1/06, \$15.50 for each original service effective 2/1/07.
10. **SOUND RECORDING SPECIAL PAYMENTS FUND (“SRSPF”)/MUSIC PERFORMANCE FUND (“MPF”)** – Contributions required to SRSPF and MPF where sales of units exceed 25,000, except for choral recordings. Contributions also required to SRSPF on digital downloads pursuant to the terms established in the Memorandum of Understanding Digital Exploitation Term Sheet.
11. **ALL OTHER TERMS AND CONDITIONS** – All terms and conditions of the SRLA will apply to recordings made under the Low Budget Side Letter, except as otherwise provided in the Side Letter.
12. **REPORT FORM** - All payments made under the Side Letter shall be reported on a properly completed AFM B-4 Report Form. Completed report forms and payments must be submitted to the AFM local in whose jurisdiction the approved sessions takes place within the time limits set forth in the SRLA.

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**LOW BUDGET SIDE LETTER TO AFM SOUND RECORDING LABOR AGREEMENT
CHECKLIST**

*(The following information must be submitted to the AFM office in New York at least 72 hours
prior to the start of the recording sessions)*

Name of Record Company _____

Label _____

Name of Artist _____

Title of Project _____

Recording City _____

Start Date _____

- (1) Studio charges – Include dollar amount, # of days and hours
- (2) Engineering – Include dollar amount, # of days and hours
- (3) Tape
- (4) Mixing costs – Include dollar amount, # of days and hours
- (5) Payments to musicians (including their travel expenses)
- Please provide the number of anticipated sessions for each instrumentalist.
- (6) Include separately any payments for arrangers, orchestrators and copyists
- (7) Equipment rental
- (8) Cartage
- (9) Cost of background vocalists – any AFTRA scale (including studio charges)
- (10) All payroll expenses and employer share of taxes

Please submit detailed budget to Pat Varriale at the AFM at (212) 764-6134.

This Low Budget Side Letter Summary is provided for illustration purposes only. In the event there is a discrepancy between this Summary and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

RECORDING BUDGET ESTIMATE FORM

(For full Album project only)

COMPANIES MAY SUBMIT BUDGET IN FORM USED IN COMPANIES' NORMAL COURSE OF BUSINESS

RECORDING BUDGET ESTIMATE		FORMAT:	LOW BUDGET	
PROJECT:			PHONO (Check One)	
ARTIST			<input type="checkbox"/> Tier 1 (Regular Low Budget Scale)	
PRODUCER:			<input type="checkbox"/> Tier 2 (Experimental Rate)	
COMPANY:			<input type="checkbox"/> Choral Recording	
# OF SIDES:			<input type="checkbox"/> Concept Piece	
RECORDING CITY:				
START DATE:				
PRE-PRODUCTION:				
STUDIO:				
Tracks and overdubs:	_____ days @	\$ _____	\$ _____	
Mix:	_____ days @	\$ _____	\$ _____	
Strings:	_____ days @	\$ _____	\$ _____	
		TOTAL STUDIO:		\$ _____
ENGINEERS:				
Tracks and overdubs:	_____ days @	\$ _____	\$ _____	
Mix:	_____ days @	\$ _____	\$ _____	
Strings:	_____ days @	\$ _____	\$ _____	
		TOTAL ENGINEERS:		\$ _____
EQUIPMENT:				
Cartage:			\$ _____	
Miscellaneous:			\$ _____	
		TOTAL EQUIPMENT:		\$ _____
TAPE/MATERIALS:				
A F of M FEES:				
Tracks:	_____ musician(s) @ _____	sgl scale sess	\$ _____	
	_____ musician(s) @ _____	ldr scale sess	\$ _____	
Strings:	_____ musician(s) @ _____	sgl scale sess	\$ _____	
	_____ musician(s) @ _____	ldr scale sess	\$ _____	
Arrangements:	_____ @ \$ _____	per chart	\$ _____	
Orchestrations:	_____ @ \$ _____	per chart	\$ _____	
Copyist:	_____ @ \$ _____	per chart	\$ _____	
Royalty Artist:	_____ @ \$ _____		\$ _____	
		PENSION:	\$ _____	
		H&W:	\$ _____	
		TOTAL A F of M:		\$ _____
AFTRA/SAG:				\$ _____
TRAVEL EXPENSES:				\$ _____
EMPLOYER PAYROLL EXPENSES:				\$ _____
MISCELLANEOUS:				\$ _____
Shipping/Couriers				\$ _____
		TOTAL MISC:	\$ _____	\$ _____
		TOTAL PROJECT:		\$ _____

This Low Budget Side Letter Summary is provided for illustration purposes only. In the event there is a discrepancy between this Summary and the Sound Recording Labor Agreement ("SRLA"), the SRLA will control.

SOUND RECORDING LABOR AGREEMENT

with the

**Sound Recording
Special Payments Fund Agreement (SPF)**

and

Sound Recording Trust Agreement (MPTF)



February 1, 2002 – January 31, 2005



UNITY • HARMONY • ARTISTRY

**American Federation of Musicians
of the United States and Canada
1501 Broadway, Suite 600, New York, New York 10036**

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¹SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

Dated: New York, NY

PREAMBLE

In consideration of the mutual covenants herein contained, of the promise of the undersigned company (herein called the "Company") fully and faithfully to perform each and every term, condition, and covenant on its part to be performed pursuant to the ¹Sound Recording Trust Agreement (February, 2002) and to the Sound Recording Special Payments Fund Agreement (February, 2002) and of other good and valuable considerations, the American Federation of Musicians of the United States and Canada (herein called the "Federation") has entered into this agreement with the Company setting forth the terms and conditions, including those set forth in all exhibits and sideletters hereto attached, pursuant to which persons covered by this agreement may be employed by the Company in the recording of phonograph records.

1. Scope

For the purposes of this Agreement, the terms "phonograph record" and "record" shall mean any phonograph record, compact disc, tape recording or any other device reproducing sound, whether now in existence or which may come into existence. For the purposes of this Agreement, the term "master record" shall include any matrix, "mother", stamper, or other device from which another such master record or phonograph record is produced, reproduced, pressed or otherwise processed.

2. Covered Individuals

This agreement shall cover and relate to members of the Federation wherever they shall perform, as employees, services for the Company as instrumental musicians or as leaders, contractors, copyists, orchestrators and arrangers of instrumental music (all of whom are collectively referred to as "musicians"²) in the recording of phonograph records, and to any other person employed as a Musician in the recording of phonograph records within the United States or Canada or a present territory or possession of either (herein called "Domestic Area"). This agreement shall also

¹ The Sound Recording Labor Agreement, Sound Recording Special Payments Fund Agreement and Sound Recording Trust Agreement were previously known as the Phonograph Record Labor Agreement, Phonograph Record Manufacturers' Special Payments Fund Agreement and Phonograph Record Trust Agreement, respectively. All references in this Agreement to the Sound Recording Labor Agreement, Sound Recording Special Payments Fund Agreement and Recording Trust Agreement will be deemed to include references to the Phonograph Record Labor Agreement, the Phonograph Record Manufacturers' Special Payments Fund Agreement and the Phonograph Record Trust Agreement, respectively, where appropriate.

² Anyone who causes a computer or sequencing device, synthesizer or other musical instrument to play or produce music or sound (hereinafter referred to as a "Performance") for a phonograph recording, including formats yet to be developed, is an instrumental musician within the meaning of this Agreement, whether the performance is caused or created by any input device such as a "qwerty" KBD, mouse, standard piano keyboard or any alternate controller (drum, wind synthesizer, etc.) or outside midi data (an orchestrator/arranger or composer's computer or controller).

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

cover and relate to any resident of the Domestic Area engaged within the Domestic Area to perform such services outside the Domestic Area. It is further agreed that if a resident of the Domestic Area is engaged outside the Domestic Area to perform such services for the Company outside the Domestic Area, he shall, as a condition of employment, be and remain a member in good standing of the Federation. The Federation shall exercise full authority in order that its locals and members engaged in such activities shall do nothing in derogation of the terms and intent of this agreement.

3. **Waivers Prohibited**

The Company shall not require, request, induce, or in any manner attempt to require a waiver or otherwise influence any person covered by this agreement to play, or perform for recordings, or render services pertaining thereto, except as permitted by this Agreement.

4. **Company's Obligations**

For the services rendered by the persons covered by this agreement in the making of recordings, the Company shall pay at least Federation scale as provided in Exhibit A. The Company shall fully and faithfully perform the terms and conditions, of its individual agreements with such persons. In addition, the persons covered by this agreement in the making of recordings shall be entitled to their respective portions of the musicians' share of the Sound Recording Special Payments Fund.

5. **Catalogs/Schedule of Manufacturer's Suggested Retail Prices**

Following the execution of this agreement, the Company shall promptly furnish to the Federation, upon request, a copy of all of the Company's record catalogs, and a schedule of its manufacturer's suggested retail prices for each record in its catalogs, and thereafter from time to time, a schedule listing all amendments and additions thereto, as and when established. The Company shall provide CDs and CD jackets of all new releases to the Federation or the Federation's designee.

6. **Monthly Report of Releases**

At the end of each month the Company shall advise the Federation of all recordings released by the Company during such month, of the serial or other number thereof, and of any additional information in connection with any such recording which the Federation may reasonably require. Upon request by the Federation, the Company shall promptly furnish to it a copy of any such recording. The Company shall respond promptly to reasonable requests by the Federation for information relating to the Company's performance of the terms and conditions of this agreement and of any and all individual agreements with persons covered by this agreement.

7. **Unauthorized Productions/Unauthorized Uses**

Persons covered by this agreement shall not make or be required to make phonograph records containing commercial advertisements, or any phonograph records to be used by or for the performers as accompaniment for or in connection with their live performances. The Company shall not furnish orchestra tracks without vocals to artists or any other person without prior approval of the Federation.

8. **A Session May Only Be Called To Make A Phonograph Record**

The Company shall only call or authorize a recording session in order to make a phonograph record.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

9. No Recordings of Radio/TV Programs Without AFM Consent

The Company agrees not to make recordings of any radio or television programs, containing the services of persons covered by the Sound Recording Labor Agreement (February, 2002), off-the-line or off-the-air, without first obtaining written permission from the Office of the President of the Federation, except that no such permission shall be necessary in instances where such recordings are (a) for reference or file purposes, or (b) for the purpose of making delayed broadcast transcriptions which have been authorized in writing by the Federation.

The Federation agrees that in all cases it will not unreasonably withhold permission to make such *off-the-air* or *off-the-line* recordings, and that in such other instances where granted, permission shall be given on payment of the phonograph record scale, and of any and all additional payments applicable to such new use. This agreement shall not in any way modify any obligation independent of this agreement which the Company may be under to obtain other individual approvals as may be necessary in connection with such off-the line or off-the-air recordings.

10. Recognition

The Company hereby recognizes the Federation as the exclusive bargaining representative of persons covered by paragraph 2 of this agreement.

11. Union Security—Canada

The following provisions contained in this paragraph 11 shall apply only to recording services to be rendered hereunder in Canada where not prohibited by applicable law.

- (a) Only the services of members in good standing of the American Federation of Musicians of the United States and Canada shall be used for the performance of all instrumental music, and in the copying, orchestrating or arranging of such music, in recording phonograph records, and, in the employment of persons who are eligible for membership in the Federation, only such persons as shall be members thereof in good standing shall be so employed.
- (b) As the musicians referred to or engaged under the stipulations of this contract are members of the American Federation of Musicians of the United States and Canada, nothing in this contract shall ever be construed so as to interfere with any obligation which they may owe to the American Federation of Musicians of the United States and Canada as members thereof.
- (c)(1) Any employee(s) covered by this agreement whose services hereunder are prevented, suspended, or stopped by reason of any lawful primary strike, ban, or unfair list of the Federation, shall, for the duration of such lawful primary strike, ban or unfair list, and for no longer than the duration thereof: (A) be free to suspend the performances of services hereunder; and (B) be free to perform services in other employment of the same or similar character, or otherwise, for other employers, or persons, firms, or corporations, without any restraint, hindrance, penalty, obligation, or liability, whatever, any other provision of this agreement to the contrary notwithstanding; provided, however, that upon the cessation of such lawful primary strike, ban, or unfair list, any and all such contractual obligations owed by employees covered by this agreement to the Company, which were suspended by reason of such strike, ban, or unfair list, shall immediately be revived and shall be in full force and effect.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

- (2) It shall not be a violation of this agreement, nor cause for disciplinary action, if a musician covered by this agreement refuses to cross or to work behind a lawful primary picket line of the Federation which has been posted by the Federation in connection with a dispute arising under this agreement, including a lawful primary picket line of the Federation at the Employer's place of business or at a place of business to which a musician(s) covered by this agreement is sent by the Employer to perform services hereunder.

12. Union Security—United States

The following provisions of this paragraph 12 shall apply to recording services rendered in the United States, its territories and possessions.

- (a) It shall be a condition of employment that all employees of the employer covered by this labor agreement who are members of the union in good standing on the execution date of this union security agreement shall remain members in good standing and those who are not members on the execution date of this union security agreement shall on the 30th day following said execution date become and remain members in good standing in the union. It shall also be a condition of employment that all employees covered by this labor agreement and hired on or after said execution date shall on the 30th day following the beginning of such employment become and remain members in good standing in the Federation.
- (b) As to the musicians referred to or engaged under the stipulations of this contract who are members of the American Federation of Musicians of the United States and Canada, and to the extent to which the inclusion and enforcement of this paragraph is not prohibited by any presently existing and valid law, nothing in this contract shall ever be construed so as to interfere with any obligation which they may owe to the American Federation of Musicians of the United States and Canada as members thereof.
- (c)(1) Any employee(s) covered by this agreement whose services hereunder are prevented, suspended, or stopped by reason of any lawful primary strike, ban or unfair list of the Federation, shall for the duration of such lawful primary strike, ban or unfair list, and for no longer than the duration thereof: (A) be free to suspend the performance of services hereunder; and (B) be free to perform services in other employment of the same or similar character; or otherwise, for other employers, or persons, firms, or corporations, without any restraint, hindrance, penalty, obligation, or liability whatever, any other provision of this agreement to the contrary notwithstanding; provided, however, that upon the cessation of such lawful primary strike, ban, or unfair list, any and all such contractual obligations owed by employees covered by this agreement to the Company, which were suspended by reason of such strike, ban, or unfair list, shall immediately be revived and shall be in full force and effect.
- (2) It shall not be a violation of this agreement, nor cause for disciplinary action, if a musician covered by this agreement refuses to cross or to work behind a lawful primary picket line of the Federation which has been posted by the Federation in connection with a dispute arising under this agreement, including a lawful primary picket line of the Federation at the Employer's place of business or at a place of business to which a musician(s) covered by this agreement is sent by the Employer to perform services hereunder.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

13. Bylaws

Federation's Right to Disapprove Contracts – All present provisions of the Federation's Bylaws are made part of this agreement to the extent to which their inclusion and enforcement are not prohibited by any applicable law. No changes therein made during the term of this agreement shall be effective to contravene any of the provisions hereof.

14. Right of Access

The duly authorized representatives of the Federation and also of the local (affiliated with the Federation), upon presentation of proper identification to the Company, shall each be granted access to the studio or other place where services are being performed hereunder. Each shall be permitted to visit that place during working hours for the proper conduct of the business of the Federation or such local, respectively.

15. Right to Audit

- (a) The Company agrees that it shall furnish to the Federation, simultaneously with its delivery thereof to the Trustee and to the Administrator named in the Special Payments Fund Agreement (February, 2002) copies of any and all statements submitted to the Trustee and to the Administrator.
- (b) The Company agrees that the Federation shall have the right from time to time, without limitation to the duration of this agreement, and at all reasonable times during business hours, to have the Federation's duly authorized agents examine and audit the Company's records and accounts concerning all transactions involving the Company's sale of phonograph records which it shall keep pursuant to said Trust Agreements and to said Special Payments Fund Agreements and such other records and accounts as may be necessary; such examination and audit to be made for the purpose of the Federation's verifying any statements made by the Company pursuant to said agreements, during a period not exceeding four (4) years preceding such examination, and of determining the amount of payments due by it thereunder. It is agreed that the four (4) year period provided herein shall not effect the operation of the applicable statute of limitations. The Company agrees to afford all necessary facilities to such authorized agents to make such examination and audit and to make extracts and excerpts from said records and accounts as may be necessary or proper according to approved and recognized accounting practices. Examinations and audits made pursuant hereto shall be coordinated, to the extent practicable, with examinations and audits made under the aforesaid Trust Agreements and Special Payments Fund Agreements so that inconvenience to the Company may be minimized.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

16. Use of Music Previously Recorded under Another AFM Agreement

When music previously recorded under an American Federation of Musicians agreement other than any Sound Recording Labor Agreement is used in a phonograph record and such agreement requires payment for such use, the use payments shall be the minimum session fee set forth in the Sound Recording Labor Agreement in effect at the time of such use.³

17. More Favorable Terms—(Most Favored Nations)

If during the term hereof, the Federation shall enter into an agreement with any phonograph record company upon terms more favorable than or different from those contained in this agreement, the Company shall have the right at its option to cause this agreement to be conformed therewith, provided, however, that no such right shall come into being by reason of the compromise of any claim against any recording Company by reason of the insolvency, bankruptcy, or other financial difficulty of such Company.

18. Payment for Music Recorded by Third Party

The Company shall not produce any phonograph record from recorded music acquired or taken from or licensed by any other person, firm or corporation, in the making of which there was utilized instrumental music recorded within the Domestic Area or by a person who, at the time of the recording, resided within the Domestic Area, unless the total cost to the person, firm or corporation which produced the recorded music with respect to the scale of wages and fringe benefits paid to the musicians was at least equal to what the cost would have been under the Sound Recording Labor Agreement of the Federation which was in effect at the time the recorded music was produced provided, however, that if such music was recorded outside the Domestic Area, no payment need be made pursuant to this paragraph if the music was acquired, taken or licensed before January 1, 1964.

The Company may satisfy its obligation under this paragraph by incorporating in an agreement under which it acquires the right to use recorded music, a representation and warranty by the seller or licensor (which the Company shall guarantee if the seller or licensor was not a party to a Sound Recording Labor Agreement with the Federation when the recording was made) that such recorded music does not come within the terms of this paragraph or that the requirements of this paragraph have been satisfied and a statement that such representation and warranty was included for the benefit of the Federation (among others) and may be enforced by the Federation or by such person or persons as it may designate. Upon request, a signed copy of such agreement shall be furnished to the Federation. No rights or privileges existing or accrued between January 1, 1959 and January 31, 2002 shall be deemed waived by reason of the provisions of this paragraph (numbered "17" in some prior agreements).

³ Subject to ratification of the Basic Theatrical Motion Picture Agreement of 2002 and the Basic Television Film Agreement of 2002, effective February 16, 2002 the Company is entitled to a 15% discount from the rates set forth in this Article 16 for soundtrack records that: (i) use 45 minutes or more of music originally recorded for the motion picture; (ii) utilize 80 or more musicians (excluding orchestrators and music preparation musicians) for whom payment is due under this Article 16; and (iii) meet the conditions of Ex. A(I)(K)(6)(c)(iii) below.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

19. **Dubbing**

Except as specifically provided in paragraphs 8, 9, 18 and 20, nothing contained in this agreement is intended to or shall be deemed to relate to the rendition of services or to dubbing in connection with the production of devices other than phonograph records as such devices are presently known.

20. **Use of a Phonograph Record in the Same Medium**

The Company may use all of the contents of any master record for the production of a new phonograph record that in its entirety contains only the identical content of the record originally produced from such master record (or contains the identical content except that it (i) is re-mixed, mastered or re-mastered or (ii) includes a translation into a different language) and is intended to be used for the same purposes to which the record originally produced from such master record was principally devoted. In all other circumstances, except as specifically provided in this Agreement, if the Company uses a phonograph record produced under any Sound Recording Labor Agreement since January 1954 in another phonograph record, the Company shall pay to those musicians who rendered services in the recording of the phonograph record an amount equal to all payments (including, without limitation, pension contributions, but excluding health and welfare contributions) that would be required under the Sound Recording Labor Agreement that would apply if the phonograph record so used were an original recording.

21. **Use of a Phonograph Record in Other Mediums**

If the Company uses a phonograph record produced under any Sound Recording Labor Agreement since January 1954 for a purpose not covered by this Agreement, the Company shall pay to those musicians who rendered services in the recording of the phonograph record an amount equal to all payments (including, without limitation, pension contributions, but excluding health and welfare contributions) that would be required under the AFM agreement that would then be effective if the recording were originally made for the purpose set forth under that agreement.

In order to effect such a "new use" of a phonograph record, the Company must first provide the Federation's Sound Recording Labor Agreement Contracts Administrator with the identity of the records involved and the intended use of the product in the form set forth in Exhibit F to this Agreement.

22. **Assignment**

- (a) This agreement shall be personal to the Company and shall not be transferable or assignable, by operation of law or otherwise, without the written consent of the Federation, which consent shall not unreasonably be withheld.
- (b) Without the written consent of the Federation, which consent shall not unreasonably be withheld, the Company shall not transfer or assign any individual contract (or part thereof) for the performance of services by a person(s) covered by this agreement, or give another person control over such contract of such services. Provided, however, that consent by the Federation shall not be required if the person to whom such individual contract (or part thereof) is transferred or assigned or to whom such control is given: (1) is at the time of such transfer, or agrees to become a party to this agreement; or (2) will incur total labor costs (for wages and fringe benefits) with respect to the

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

services covered by such individual contract, which are at least equal to the total labor costs (for wages and fringe benefits) which would be incurred under the scale of wages and fringe benefits provided for under this agreement.

- (c) Nevertheless, if the provisions of paragraph (a) or (b) of this Section 22 are violated, and services are thereafter performed by such individual(s), the obligations and duties imposed by this agreement shall be binding upon the transferee or assignee with respect to such individual(s).
- (d) The obligations imposed by this agreement upon the Company, shall be binding upon the Company, and to the extent permitted by applicable law, upon such of its subsidiaries as are engaged in the production of phonograph records in the Domestic Area.
- (e) To the extent permitted by applicable law, the Federation, at its option, may, upon ninety (90) days written notice to both the transferee and transferor, terminate this agreement at any time after a transfer of any controlling interest in the Company.

23. Sound Recording Special Payments Fund Agreement

The Company agrees to be bound by the Sound Recording Special Payments Fund Agreement (February 1, 2002 – January 31, 2005) and the Sound Recording Trust Agreement (February 1, 2002 – January 31, 2005) which are incorporated by reference into this Agreement.

24. Transfers of Rights in a Phonograph Record

- (a) If the Company sells, assigns, leases, licenses or otherwise transfers title to or permission to use any phonograph record produced under any Sound Recording Labor Agreement since January 1954 for any purpose, the Company may obtain from such party an assumption agreement in the form set forth in (e) below.
- (b) Within sixty (60) days of each sale, assignment, lease, license or other transfer of title of any phonograph record produced under any Sound Recording Labor Agreement since January 1954, the Company shall provide the Federation's Sound Recording Labor Agreement Contracts Administrator, the Sound Recording Special Payments Fund and the Recording Industries Music Performance Trust Funds (collectively, the "Funds") with the identity of the records involved, the intended use of the product, the date of transfer, and the name, address, telephone number and fax number of each such purchaser, assignee, lessee, licensee, or other transferee in the form set forth in Exhibit D to this Agreement (or a redacted licensing agreement to the extent that it includes the information set forth in Exhibit D), and with an executed copy of each assumption agreement entered into by the Company. An inadvertent failure on the part of the Company to comply with any of the provisions of this Article 24 shall in no event constitute a default by the Company hereunder or a breach of this Agreement, provided that such failure is cured promptly after notice thereof from the Federation or either Fund.
- (c) This Article 24 does not apply in the case of a transfer of phonograph records for the sole purpose of use in another phonograph record where no payment is due to either Fund because the phonograph record was recorded before 1964 or released more than ten years before the date of the transfer.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

- (d) Upon delivery of such assumption agreement, the Company (or any subsequent party obtaining an assumption agreement) shall not be further liable to the Federation or to either Fund for compliance with the terms of this Agreement with respect to the obligations assumed by the other party to the assumption agreement. In the event that no assumption agreement is delivered, the Company (or the party last obtaining an assumption agreement) shall continue to be liable for compliance with the terms of this Agreement with respect to the applicable phonograph records unless the purchaser, assignee, lessee, licensee, or other transferee is a signatory to the Federation agreement applicable to the use for which the transferred Sound Recording is intended, in which case the Company shall not have such liability.
- (e) The assumption agreement under this Article 24 shall be in the following form (additional provisions may be included so long as they do not alter the terms set forth below):

Assumption Agreement Covering the Transfer of Rights of Product Covered by the Sound Recording Labor Agreement

1. *General.* The undersigned, [insert name and address of buyer, assignee, lessee, licensee, or other transferee], herein for convenience referred to as the "Licensee", hereby agrees with [insert name of Company], herein for convenience referred to as the "Company", that [identify title, length and identification number of each phonograph recording and album number, if applicable, covered by agreement] ("Phonograph Records") are produced from master records containing music performed or conducted by musicians covered under one or more Phonograph Record Labor Agreements.
2. *Obligations of the Licensee Under this Agreement.* The Licensee hereby assumes all of the Company's obligations under the Phonograph Record Labor Agreement with respect to the Phonograph Records, as follows:
 - (a) With respect to the use of one or more Phonograph Records for any purpose set forth in the Sound Recording Labor Agreement, the Licensee will comply with all of the payment, reporting, and audit requirements of the applicable Sound Recording Labor Agreement, the Sound Recording Special Payments Fund Agreement and Sound Recording Trust Agreement.
 - (b) With respect to the use of one or more Phonograph Records for a purpose not covered under the Sound Recording Labor Agreement (also known as a "new use"), the Licensee will pay to all musicians who rendered services in the recording of the Phonograph Record an amount equal to all payments (including, without limitation, pension contributions, but excluding health and welfare contributions) that would be required under the AFM agreement that would then apply if the recording were originally made for the purpose set forth under that agreement.

The rights of the Licensee to use such Phonograph Records shall be subject to and conditioned upon compliance with the terms

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and conditions of this paragraph 2, and the Federation (acting on behalf of any affected musician) and the Funds shall be entitled to seek injunctive relief and damages against the Licensee in the event the Licensee does not comply with the terms of this paragraph 2.

3. *Limitation of Licensee's Liability.* The Licensee's obligations with respect to the Phonograph Records set forth in paragraph 1 are limited to those obligations set forth in paragraph 2, and in no event shall the Licensee be deemed, solely as a result of having executed this assumption agreement, to have any other obligation under any Federation agreement or to be a signatory to any Federation agreement. In addition, the Licensee's obligations with respect to the Phonograph Records are limited to those rights actually acquired by the Licensee and only for the period it holds such rights (except to the extent that it transfers those rights to another party, in which case it shall retain liability unless it obtains an assumption agreement in substantially the same form as this assumption agreement).

25. **Non-Discrimination**

The parties reaffirm their long established and prevailing policy and practice that every person shall have an opportunity to obtain employment without discrimination because of race, creed, color, sex, national origin or age. In furtherance of such policy and practice the parties agree that in the hiring of employees for the performance of work under this agreement neither the Company nor the Federation shall discriminate by reason of race, creed, color, sex, national origin, age or union or non-union membership against any person who is qualified and available to perform the work to which the employment relates. Mutual concerns of the parties in this regard are appropriate subjects for the consideration of the joint committee established pursuant to paragraph 27, below.

26. **Works-Made-For-Hire**

All of the results and proceeds of the services provided under this agreement, whether in writing or recorded, are and shall be deemed "works-made-for-hire" for the Company. Accordingly, the Company shall be deemed the author and/or exclusive owner of all of the rights comprised in the copyright thereof, and the Company shall have the right to exploit any or all of the foregoing in any and all media, whether now known or hereafter invented, as the Company determines.

27. **Industry-Federation Committee**

A joint cooperative committee of representatives of Industry and the Federation will address problems of mutual concern which may arise under this Agreement including but not limited to a review of the following items: (i) experiences under the payment due dates procedure [Section A.I(K)], (ii) payments to musicians for the new use of previously recorded music in multimedia programs, (iii) Special Payments Fund contributions on unmatched/unprocessed product, (iv) making CD jackets available to Special Payments Fund auditors, and (v) low budget recordings (see p. 53-56). The joint committee shall meet at least once per year at a convenient time and place and, further, more frequently by mutual agreement.

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28. Term of Agreement

This agreement shall be effective for the period from February 1, 2002 to and including January 31, 2005.

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EXHIBIT A: MINIMUM WAGES AND OTHER WORKING CONDITIONS

I. Instrumentalists, Leaders, Contractors

Instrumentalists, leaders and contractors shall be paid not less than the rates set forth below and the conditions set forth shall apply:

A.⁴ Phonograph records other than those recorded by symphonic orchestras

In the case of phonograph records other than those recorded by symphonic orchestras:

- (1) There shall be a minimum call Basic Regular Session of three hours during which there may be recorded not more than 15 minutes of recorded music; provided, however, that in a session where sweetening (i.e., instrumental performances added to music recorded at a previous session) is performed not more than 4 single record sides or 4 segments of long play or extended play records may be sweetened. Subsequent continuous regular sessions may be arranged if the musicians have been notified and consented thereto before the end of the preceding session and if there is a 30 minute rest period between the two sessions.
- (2) There shall be a minimum call Special Session of 1½ hours during which there may be recorded not more than two sides containing not more than 7½ minutes of recorded music. Unless the musicians are notified when they are engaged that the call is for a Special Session, it shall be deemed to be a Regular Session. Overtime in a Special Session can only be used to complete the one or two sides that were the subject of the original Special Session. The first one-half hour of overtime in a Special Session shall be paid in quarter-hour units at the Basic Special Session rate. Overtime beyond the first one-half hour shall be paid in quarter-hour units at double the Basic Regular Session rate.
- (3) Overtime for Regular Sessions shall be paid for in units of one-half hour or final fraction thereof. During the one unit of overtime for Regular Sessions there may be recorded or completed not more than five minutes of recorded music; provided however, that in a unit where sweetening is performed, not more than one single record side or one segment of a long play or extended play record may be sweetened.

Notwithstanding the above, overtime may be paid for in one (1) quarter hour unit if such time is used only to complete the music recorded within the permissible limits of the foregoing provisions.

⁴ For those full-length phonograph albums that qualify there is a separate Side Letter Agreement for Low Budget Recordings at pp. 53-56.

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- (4) There shall be two 10 minute rest periods during each Basic Regular Session and one 10 minute rest period during each Basic Special Session. No rest period shall commence sooner than 30 minutes following the beginning of any session call provided that all musicians who are scheduled to participate in the call are present at the commencement of the call. In addition, there shall be one 5 minute rest period during each hour of overtime, it being understood that such a rest period need not be called during the first half-hour of overtime.
- (5) The minimum pay, per side musician, shall be as follows:

	Basic Rate	Overtime Rate ½ Hour Unit	Overtime Rate ¼ Hour Unit
Effective February 1, 2002			
Regular Session	\$321.29	\$107.10	\$53.54
Special Session	\$212.04	\$70.68	\$35.34
Effective February 1, 2003			
Regular Session	\$329.32	\$109.78	\$54.88
Special Session	\$217.34	\$72.44	\$36.22
Effective February 1, 2004			
Regular Session	\$339.20	\$113.06	\$56.54
Special Session	\$223.86	\$74.62	\$37.32

NOTE: See A(2) and (3) for overtime restrictions.

- (6) *Health and Welfare Fund Contributions (Non-Symphonic)*

The Company will contribute to any existing lawful Health and Welfare Fund of any Federation Local (and commencing thirty (30) days after notice in writing to any such lawful Fund as may be established hereafter by any other Federation Local), as follows: effective February 1, 2002, the Company shall contribute \$19.00 for each original service and \$15.50 for each additional service that day on non-symphonic records, performed within the jurisdiction of such Federation Local by each musician covered by this agreement (irrespective of where the musician resides).

Health and welfare contributions on overdubs shall be due at the applicable rate for each additional service under this Exhibit A(I)(6).

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- (a) With respect to those members of any such Local Union who are participants in that Health and Welfare Plan, the plan shall credit each of their accounts with the applicable payment;
- (b) With respect to those musicians who are participants in another Local Union's Health and Welfare Plan, the plan which receives the Company's contribution shall transmit to the participant's plan(s) an amount of money equal to the Company's contributions for all such musicians;
- (c) With respect to those musicians who do not participate in any Local Union's Health and Welfare Plan and who perform original services within the jurisdiction of a Local having such a plan, the Company shall make the appropriate payment directly to each such musician. In the event that payments were inadvertently made to the wrong party, the employer shall not be held liable nor obligated to make additional payments;
- (d) With respect to any such original service performed within the jurisdiction of a Local Union where no such Fund is established, and the musicians performing any such original service participate in another Local Union's Health and Welfare Plan, the Company shall send the Health and Welfare contributions to the Local Union in whose jurisdiction such original service was performed and that Local Union will transmit the contributions and crediting information to the appropriate Local Union's Health and Welfare Plan.
- (e) With respect to any such original service performed within the jurisdiction of a Federation Local where no such Fund is established, and the musicians do not participate in any Local Union's Health and Welfare Plan, the Company shall pay to each such Musician said aforementioned amounts.

No such Health and Welfare Fund contribution whether paid to any Fund or paid directly to a musician shall be the basis for computing the applicable AFM-EP contribution or any other payments under this agreement such as doubling, overtime, premium time pay, etc.

(7) *Premium Rates (Non-Symphonic):*

- (a) One and one-half (1½) times the basic session and overtime rates shall be paid for all hours of recording, (i) between midnight and 8:00 a.m., (ii) after 1:00 p.m. on Saturdays when it is the sixth consecutive day of work for the Company and (iii) on Sundays.

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- (b) Two times the basic session and overtime rates shall be paid for all hours of recording on any of the following holidays:

In the United States

New Year's Day	Labor Day
President's Day	Thanksgiving
Memorial Day	Christmas
Independence Day	

In Canada

New Year's Day	Dominion Day
Good Friday	Labour Day
Easter Monday	Thanksgiving
Victoria Day	Christmas

Each of these holidays shall be observed on the day on which it is observed by employees of the United States Government or of the government of Canada.

- (c) The premium rates provided for in this paragraph numbered 7 shall not apply to show album recordings on Saturdays and Sundays nor to location recordings made on location during public performance, nor to Royalty Artists as defined in I.L(f)(i) unless such an artist is performing in a session scheduled at the express request of the Company.
- (8) *Electronic Press Kits (Non-Symphonic)*

The Company may, without any additional payment, videotape/film the musicians performing during an entire session or any portion thereof; provided that in no event shall the Company use either a complete tune or in excess of two minutes from a tune. In the event that the Company fails to comply with the foregoing, the Company shall be required to compensate each musician at the rates provided for under the Video Promo Supplement section of the applicable Sound Recording Labor Agreement. The Company will deliver to the Federation a copy of the final EPK within fifteen (15) business days after it is released.

In the event that any product made under this provision is ever used by the Company for any purpose other than as a promotional Press Kit, the Company shall execute an assumption agreement pertaining to such use whereby the Company agrees to comply with all the terms and conditions of the applicable Federation agreement(s).

This provision shall not apply to sessions for symphony, opera, ballet or chamber recordings.

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(9) *Sampling*

Definitions:

(a) For the purposes of this side letter agreement:

- (1) "Covered Musician" shall mean any musician represented by the Federation (i) who is covered by, or required to be paid pursuant to, any Sound Recording Labor Agreement, and (ii) whose performed services are contained on or were rendered in connection with any sample of any phonograph record or master record that is produced or licensed by the Company for use in any phonograph record that is commercially released and that contains said sample. Provided, however, that Covered Musician shall not include a royalty artist, a self-contained royalty group or any musician when recording as a symphonic musician;⁵
- (2) "Covered Use" shall mean the authorized use in any commercially released phonograph record of any phonograph record or master record or any portion thereof that is sampled; provided that the sample(s) so used (i) contains the performance of a Covered Musician or the services of a Covered Musician rendered in connection therewith, and (ii) is produced or licensed by the Company for said use;
- (3) "Gross Revenues" shall mean the total fees received by the Company from the licensing of the sample(s) for use in any commercially released phonograph record that contains said sample;
- (4) "Phonograph Record" and "Record" shall mean any phonograph record or tape recording or any other device reproducing sound, whether now in existence or which may come into existence.
- (5) Sample shall mean the encoding of a portion of a phonograph record containing the performance of a Covered Musician(s) into a digital sampler, computer, digital hard drive storage unit or any other device for subsequent play-back on a digital synthesizer or other play-back device for use in another song; however, a re-mix or re-edit of the new song shall not be considered a sample for purposes hereunder.

Provided, however, that the term sample shall not apply in any circumstance in which the material "sampled" constitutes (i) the identical content, in its entirety or substantial entirety, of a master record or phonograph record, and/or (ii) any sample used in a master record, which master record is later re-edited, re-dubbed, and/or re-mixed but which still embodied the sample in whole or in part, i.e., "mixer's edits," "re-mix edits" or "edits."

⁵ It is the intention of the parties to negotiate hereafter a separate side letter sampling agreement for symphonic musicians.

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- (b) In the event the Company licenses to another entity or a division or department thereof a master record or phonograph record which includes the services rendered by any Covered Musician(s) for any Covered Use(s), the Company shall pay to the Sound Recording Special Payments Fund on behalf of and for distribution to or among the Covered Musicians an amount equal to:
 - (i) a one-time, lump sum payment of four hundred dollars (\$400) for the first sample of a master record or phonograph record, regardless of how many times that particular sample is used in the new master record or phonograph record plus, where applicable, a one-time, lump sum payment of two hundred fifty dollars (\$250) for the second and any subsequent sample of the same master record or phonograph record regardless of how many times those particular second and subsequent samples are used in the new master record or phonograph record; and
 - (ii) two percent (2%) of the gross revenue received by the Company for the Covered use if such revenue exceeds twenty-five thousand dollars (\$25,000), less the amount to be paid under (i) above.
- (c) The Company shall make the applicable lump sum payment to the Sound Recording Special Payments Fund within thirty (30) days of the authorized commercial release of the phonograph record containing the sample(s) accompanied by a report identifying each sample and the Covered Musician(s), if known. In connection with the formula set forth in paragraph (b) above, when a Company exacts an up-front licensing fee in-excess of \$25,000, the Company shall remit the appropriate payment to the Sound Recording Special Payments Fund within fifteen (15) days of receipt of its licensing fee. In the event that the Company does not receive an up-front payment and the gross revenue received by the Company ultimately exceeds \$25,000, the Company promptly shall notify the Sound Recording Special Payments Fund and, on a semiannual basis, submit to the Sound Recording Special Payments Fund the appropriate payment (in addition to the original lump sum payment) along with accompanying reports documenting the Company's gross revenues for each phonograph record or master record containing sampled material.
- (d) In connection with each of the foregoing payment obligations, the Company shall permit the Sound Recording Special Payments Fund to conduct audits of the relevant records.
- (e) In the event that the Company itself produces any master record which includes the services rendered by any Covered Musician(s) for any Covered Use(s), the Company shall be responsible for making the applicable payments to the Sound Recording Special Payments Fund and the other provisions of this paragraph (par.3) shall apply.
- (f) Any payments made to the Sound Recording Special Payments Fund in compliance with the foregoing payment provisions shall constitute full settlement and discharge of all obligations of the Company to make payment for any sample to Covered Musician(s) and/or the Sound

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Recording Special Payments Fund-including without limitation, the obligations concerning scale payments, new use fees, residuals payments, pension and welfare payments, payments to the Recording Industries Music Performance Trust Fund, and the Sound Recording Special Payments Fund.

- (g) The Sound Recording Special Payments Fund shall allocate each payment made under this paragraph 9 equally among the identifiable Covered Musicians whose services are contained on or were rendered in connection with the sample with respect to which payment was made, and shall distribute the allocated payments (less all expenses reasonably incurred in the administration of this paragraph 9 and amounts reasonably reserved for contingencies) on an annual basis. The Sound Recording Special Payments Fund shall thereafter indemnify, release and hold harmless the Company in connection with any claim payment that may be made by any musician(s).

B. Phonograph records recorded by symphonic orchestras

In the case of phonograph records recorded by symphonic orchestras:

- (1) There shall be a minimum call Basic Session of 3 hours or 4 hours, determined in accordance with subparagraph (2) below, during which the playing time shall not exceed an average of 40 minutes for each hour with an average rest period of 20 minutes for each hour. The intermission shall be divided by the contractor so as not to interrupt proper recording of symphonic works subject to (4) below.
- (2) The basic session shall be three hours unless the Company by notice prior to any session elects a four hour basic session, provided that no more than one such four hour session may be called for any day. Unless such notice is given, the session shall be deemed to be a three hour session. No more than an average of seven and one-half minutes of finished recorded music may be made from each one-half hour segment of a recording session (including all overtime periods), and for this purpose multiple sessions devoted to the same composition shall be considered one session, so that the seven and one-half minutes of finished recorded music may be averaged out of each such session.
- (3) Except as provided in subsection (8), below, overtime shall be paid for in units of one-half hour or final fraction thereof. During one unit of overtime, the playing time shall not exceed 20 minutes.

Notwithstanding the above, overtime may be paid for one one-quarter hour unit if such time is used only to complete the music recorded within the permissible limits of the foregoing provisions; provided that if such additional time is no more than 5 minutes, it may be paid for at 15 minutes straight time.

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- (4) No musician shall be required to work for more than sixty consecutive minutes without a rest period of at least 10 minutes. However, in order to complete a "take" a five minute grace period with regard to the 60 consecutive minutes shall be allowed. This paragraph (4) does not apply to location recordings where the work performed runs longer than 60 consecutive minutes.
- (5) No additional payment shall be due the orchestra for the rerecording of solo cadenzas outside session time by the original orchestral musician, provided that the cadenza was originally recorded at the full orchestra session or during a live performance for which the cadenzas are to be patched or rerecorded and that the musician(s) performing the solo cadenzas is/are paid.
- (6)(a) All members of the symphony orchestra, whether called to the engagement or not, shall be paid for at least the first two (2) hours of the basic session call (\$227.04 effective February 1, 2002, \$232.71 effective February 1, 2003 and \$239.69 effective February 1, 2004) and shall not be called or required to attend if they are not scheduled to perform.

(b) *Reduced Orchestra Sessions*

A reduced orchestra session is defined as a recording session of orchestral music which, as performed in public by the orchestra, uses at least 25 but not more than 65 players, with a similar number called for the recording session. If the music has not been publicly performed by the orchestra, it must be so scheduled at the time of the recording.

Members of the symphony orchestra shall be paid for those reduced orchestra sessions to which they are called but no member shall be paid for fewer reduced orchestra sessions than two-thirds of an equalization number computed in accordance with the following sentence. The "equalization number" is the greatest number of reduced orchestra sessions played by any string player other than the 8 string players who the Company at its discretion exempts from this analysis.

In order to utilize the equalization rules in any year a Company must satisfy the following conditions:

- (i) The Company must call, or commit to, a base number of non-reduced orchestra sessions at least equal to the average number of such sessions called by that Company with all domestic symphony orchestras for the years 1979, 1980 and 1981, but in no event shall this base number be less than 6; and
- (ii) The Company must guarantee at least 4 reduced orchestra sessions in that year, or 6 reduced orchestra sessions in 2 years.

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- (7) The minimum pay, per side musician, for a basic session (Column A or B), for a unit of regular overtime before the completion of six (6) hours of work (seven (7) hours in the case of a four hour session) in any day (Column C or E – 1½ time) and for a unit of premium overtime after the completion of such six (6) or seven (7) hours of work in any day (Column D – double time), shall be as follows:

	A	B	C	D	E
	“Basic Session Rate” 3 Hour Session	“Basic Session Rate” 4 Hour Session	½-Hour Unit of “Regular Overtime” (1½ time)	½-Hour Unit of “Premium Overtime” (double time)	¼-Hour Unit of “Regular Overtime” (1½ time pay)
Effective					
February 1, 2002	\$340.56	\$454.10	\$85.14	\$113.52	\$42.57
February 1, 2003	\$349.07	\$465.45	\$87.27	\$116.36	\$43.64
February 1, 2004	\$359.54	\$479.41	\$89.88	\$119.84	\$44.94

- (8) The recording session will begin at the called time unless all musicians are not on stage, tuned and ready to play, in which case the session will officially begin when they are ready to play. This provision is not meant to delay the beginning of a session because a musician(s) is late to a session and shall not apply to the resumption of a session after a break, which is as always on Company time.
- (9) If a session runs over because of a technical problem beyond the producer’s control, such additional time may be paid for at straight time rates for the time actually involved provided that such runover will not be considered for the purpose of increasing the amount of finished recorded music that may be made pursuant to B(2) above.
- (10) *Rehearsal Session to Rehearse Music Not Performed in Live Concert*
The wages and working conditions for symphonic recordings are predicated upon the fact that the orchestra will usually have rehearsed numbers in its repertoire and therefore will need no rehearsals for recordings. The foregoing sentence shall not prohibit the recording in a studio session of material not previously performed in concert, provided that the following conditions shall apply to rehearsal sessions of such material: (1) the first such rehearsal is paid at the applicable locally negotiated rehearsal or service rate plus 50% of such rate, and any subsequent rehearsals are paid at the basic recording session rate; (2) the rehearsal does not take place on a regularly scheduled day off (as defined by local contract or custom); and (3) the length of the rehearsal, the break time, and any other working conditions shall be governed by the local contract.

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(11) *Microphone Balancing*

Except as otherwise provided with respect to location recordings, at the last performance or the last rehearsal for that performance, the balancing of microphones may take place provided that the musical services are not being directed by a recording company or a recording engineer.

(12) *Premium Rates (Symphonic):*

With respect to sessions (other than location recordings made during public performance) held:

- (i) between midnight and 8:00 a.m.
- (ii) on Saturdays or Sundays if either day is a regular day off by contract or custom (which shall not be changed during the term of this agreement), or
- (iii) on any of the holidays listed below: one and one-half (1½) times the basic session rate shall be paid for the first two hours, one and one-half (1½) times the regular overtime rate shall be paid in respect of the next four hours and one and one-half (1½) times the premium overtime rate shall be paid in respect of all recording time in excess of six (6) hours:

In the United States

New Year's Day	Labor Day
President's Day	Thanksgiving
Memorial Day	Christmas
Independence Day	

In Canada

New Year's Day	Dominion Day
Good Friday	Labour Day
Easter Monday	Thanksgiving
Victoria Day	Christmas

Each of these holidays shall be observed on the day on which it is observed by employees of the United States Government or of the Government of Canada.

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(13) *Location Recordings*

The following provisions apply to the recording of complete operas, symphonies, and similar works performed by opera and symphonic orchestras during regularly scheduled performances:

(a) *General*

There is no limit on the number of performances of a work that may be recorded during a season. The orchestra shall be notified of the work to be recorded in advance of the recording and only that work may be recorded. The first recording session shall trigger a guarantee payment for one 3 hour session at the "basic session rate." Upon release, the complete work shall be paid for at the "basic session rate" on the basis of one session hour for each 10 minutes of finished product (15 minutes in the case of operas) against which the guarantee payment may be credited. (For example, a 45 minute symphonic work equates to 4½ hours, computed at straight time rates; a 25 minute work would be covered by the 3 hour guarantee.)

(b) *Inapplicable Symphonic Provisions*

The provisions of paragraphs (4) and (12) hereof do not apply to recordings made under this paragraph (13).

(c) *Microphone Balancing*

Balancing of microphones (without tape) will be permitted during ANY performances and rehearsals provided the rehearsal is not an extra service.

(d) *Recording "Patch" Sessions*

A recording "patch" session shall be permitted for a location symphonic or operatic recording. Within ten minutes after the Concertmaster has left the stage, the Company shall advise the musicians whether a patch session shall take place and, if so, the proposed length of that patch session. In the event that a patch session is called, the musicians shall be guaranteed a minimum call of one half hour at overtime pay calculated at the "basic session rate". If the patch session is called for and extends beyond one half-hour, the musicians shall receive overtime pay calculated at the "basic session rate" in fifteen-minute increments. A patch session shall begin no later than forty-five (45) minutes following the Concertmaster's exit from the stage and shall not exceed two (2) hours. Any portion of a patch session that takes place after midnight shall be paid at double the "basic session rate" in fifteen-minute increments. A two (2) hour patch session shall be permitted to patch product that has been recorded on a prior date (not to add any new product) provided that the patch session does not take place on any regularly scheduled day off (i.e. a day off established by local contract or custom) and that the patch session takes place within fourteen (14) days of the original location recording.

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(e) *Discs That Include More Than One Work*

For discs with more than one work included on them, the following rules shall apply. These rules govern any currently pending disputes as well as apply to any prospective situations in which more than one work is involved. These rules shall apply irrespective of whether the works are recorded during the same concert program performance(s) or from different programs. It is the understanding and intent of the parties that administration of these provisions will not result in a payment to musicians of more money than is required by the existing provisions of the agreement, i.e., 1 hour of payment for each 10 minutes of finished product (15 minutes for opera).

- (1) In advance of the location recording, the record company shall identify in writing the works intended to be recorded and included in the final product. The Company may later change any work that has not been recorded without penalty, and it may also add additional material to the planned disc at a later date without penalty. The Company is responsible for any additional payments if the additional work changes the length of the final product in such a way that an additional payment would be due.
- (2) For the first such work recorded musicians shall receive a payment equivalent to 3 hours of session time, as it does in the case when a single work comprises the disc.
- (3) For each subsequent work recorded musicians shall receive a payment equivalent to 2 hours of session time, provided however that the maximum amount of the payment shall not exceed the payment that would be due under the location recording provisions of the Sound Recording Labor Agreement as determined by the length of the planned final disc (1 session hour for each 10 minutes of finished product – 15 minutes in the case of operas – with half-hour increments; thus, for example, a 55 minute disc would be equate to 5.5 hours computed at straight time rates). Once the maximum payment has been reached, no further payments are due the musicians for material recorded.
- (4) In the case of a recording which also includes material not performed by the orchestra, the musicians will be paid only for that amount of material which constitutes their performance on the disc.
- (5) Non-playing Members of the orchestra receive 2/3 of whatever payment is received by playing members. If they play in some pieces but not others, they receive a 3 hour payment for the first piece in which they play, a 2 hour payment for any subsequent piece in which they play, and 2/3 of the appropriate payment for any pieces in which they do not play. However, in no case shall they receive an amount greater than that due a member who played on the entire disc.

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- (6) Extra players and substitutes who play in only some of the works involved are paid only for those works in which they perform. They are paid 3 hours for the first work in which they perform, and 2 hours for any additional work in which they perform. However, in no case shall they receive an amount greater than that due a member who played on the entire disc.

(14) *Opera*

The following discounts from symphonic rates apply to the recording of operatic works by opera orchestras other than as provided in (13) above:

- (a) 15% if 3, 4 or 5 sessions are called.
- (b) 20% if 6 or more sessions are called.

(15) *Premiere Recordings*

The following terms shall apply for premiere recordings of symphonic and operatic works written specifically for symphony or opera orchestras (but not music written as film soundtrack), by contemporary domestic composers. For the purpose of this provision "premiere" means repertoire previously unreleased on the commercial market at the time the commitment to record is made; and "contemporary" means a composer living in the second half of the 20th Century.

- 1. A two hour symphonic or operatic recording session may be called if it is coupled with either a three or four hour session on the same day. Payment for such a two hour session shall be pro rata at the regular symphonic hourly rate.
- 2. After the last performance and before a recording session, a rehearsal or rehearsals may be called, and the rates and terms for such rehearsals shall be governed by the orchestra's collective bargaining agreement with the Local. No recording will take place at these rehearsals but this does not prohibit the balancing of microphones during the last rehearsal of each work. Requests for waivers on balancing of microphones at other performances and rehearsals will be considered by the Federation and approval will not be unreasonably withheld.
- 3. A two hour recording "patch" session will be permitted for a location symphonic or operatic recording, with rates pro rata of the three or four hour session.

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(16) *Health and Welfare Fund Contributions (Symphony Musicians)*

Extra musicians, if not covered by an applicable Orchestra Health and Welfare Plan, shall be treated in accordance with the applicable provisions of I.A(6) on page 13 in the case of instrumentalists and librarians, or II.D on page 44 in the case of copyists, orchestrators and arrangers.

The Company shall not be required to make any health and welfare payment on behalf of any musician covered by an applicable Orchestra Health and Welfare Plan.

Any musician not covered by an applicable Orchestra Health and Welfare Plan but who is a member of a Local Union that maintains a lawful Health and Welfare Fund shall be treated in accordance with the applicable provision of I.A(6) on page 13 in the case of instrumentalists and librarians or II.D on page 44 in the case of copyists, orchestrators and arrangers.

The foregoing Health and Welfare Fund contribution provisions shall not apply in Canada.

(17) *Electronic Press Kits (Symphonic)*

The Company may, without any additional payment, videotape/film the musicians performing during a session; provided that in no event shall the Company include in the finished product either (i) a complete movement, ballet or composition, or (ii) any product in excess of three (3) minutes from a movement, ballet or composition. In the event that the Company fails to comply with the foregoing, the Company shall be required to compensate each musician at the rates provided for under the Video Promo Supplement section of the applicable Sound Recording Labor Agreement. The Company will provide 24 hours' advance written notice (fax, e.g.) to the Federation and will deliver to the Federation two copies of the final EPK within fifteen (15) business days after it is released.

In the event that any product made under this provision is ever used by the Company for any purpose other than as a promotional Press Kit, the Company shall be obligated to execute an assumption agreement pertaining to such use whereby it agrees to comply with all the terms and conditions of the applicable Federation agreement(s). A Company that fails to comply with the foregoing sentence shall make the payment(s) due and owing under the applicable Federation agreement(s) plus a penalty equal to 50% of such payment(s).

Further, if the Federation believes that any Company is violating the provisions of this article, the Federation may convene a joint Federation-Industry meeting to discuss this matter.

(18) *New Use of Symphonic Recording*

Notwithstanding the provisions of Article 21, at page 7, in the event that a symphonic recording is used in a television or theatrical motion picture, the Company shall pay to all persons who were covered on the original Form B session report an amount equal to 50% of the payments (including, without limitation, pension contributions, but excluding health and welfare contributions) that would be required under the television and theatrical motion picture agreements that would then apply if the recording were

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originally made for a motion picture, but only if all of the following conditions are satisfied:

- (i) The motion picture must be scored entirely under the AFM Television or Theatrical Motion Picture Agreement.
- (ii) The symphonic recording must have been recorded two or more years before the first scoring session for the motion picture takes place.
- (iii) The material must be of a standard symphonic/opera/ballet nature (e.g., no chamber music, no recording in which the symphony performs non-symphonic repertoire).

C. Chamber Music

In lieu of the Provisions of paragraph B above, the Company may record chamber music under the following terms and conditions:

- (a) The producer shall give the Federation 4 weeks advance notice of intent to record under this provision and should the Federation claim that this provision does not apply, it shall inform the producer of that position with its reasons therefore.
- (b) There shall be a 4 hour basic session rate of \$354.04 effective February 1, 2002, \$362.89 effective February 1, 2003, and \$373.78 effective February 1, 2004, with overtime at time and one-half, in half hour segments.
- (c) 45 minutes of finished music may be taken from a 4 hour session.
- (d) One 15 minute rest period per hour.
- (e) Non-symphonic conditions and benefits apply unless otherwise provided.
- (f) Neither the recording nor its package may claim or imply that the chamber group is associated with a parent symphony orchestra except where the recorded music is performed by no more than 16 players not playing multiple parts. This restriction does not preclude biographical sketches which identify the players as members of a symphony orchestra.

If the name of the parent symphony orchestra is mentioned on the record or its package, the musicians who play shall be compensated in accordance with the symphonic provisions; if the parent name is not mentioned on the record or its package, said musicians shall be compensated in accordance with the chamber provisions.

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- (g) This provision shall not be used:
 - (i) To record compositions requiring more than 24 players or compositions of less than 5 minutes duration without prior Federation approval;
 - (ii) For transferring from one medium to another (i.e., for production of sound track albums).

D. Leaders and Contractors

The leader and contractor shall receive not less than double the applicable side musician's scale, but in any event, the scale for any one person shall not exceed double side musician's scale.

If twelve or more side musicians are employed for any session, a contractor shall be employed in respect of said session. The contractor shall be in attendance throughout the session for which he is employed. The contractor may be one of the side musicians at the session.

At each session one person shall be designated as leader but in the event only one person performs the musical service at a session, only that person can be designated as leader. However, notwithstanding anything herein to the contrary, in the case of a "recognized self-contained group" (as defined in paragraph L(f)(iii), herein) when only such group (or any part thereof) appears on the contract, no leader shall be designated.

E. Dismissal and Overtime

Musicians shall be dismissed upon completion of performances for which they have been engaged whether or not the full session has expired. Musicians may record at any time during the session for which they have been engaged.

No musician shall be required to remain longer than one-half hour overtime unless a longer time requirement was specified at the time he accepted the engagement.

F. Advance Notice of Sessions and Contract Information

When the Company has prior knowledge of a session it will give advance notice to the appropriate Federation Local.

Where the Company employs an independent producer, the Company shall seek to include in the contract with such producer a provision which obligates such producer to *notify the appropriate Federation Local in advance of recording sessions called by the producer*. The Company will provide to the Federation a list of such producers who do not agree to include such provision in their contracts with the Company.

If a session is called to add to existing musical tracks the Company will, at the request of the Local having jurisdiction in the area where the session is called, provide the Local with dates, places and contract numbers of prior sessions on the basis of Form B contracts in the Company's files.

The Company will notify the Federation and the appropriate Local of any change in title of a song listed on a Form B contract.

The Company shall submit a listing to the Federation of non-signatory independent producers with their names, addresses and telephone numbers. Standby calls shall be prohibited.

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The Company, or its authorized agent, shall announce the name of the signatory employer at the time of the calling of the session.

G. Session Calls and Cancellation

A session, once called, shall not be canceled, postponed, or otherwise rescheduled less than 7 days prior to the date of the session. In the event of an emergency, a session may be canceled, postponed or otherwise rescheduled upon shorter notice with the consent of the Office of the Federation President.

H. Doubling

- (1) When a Musician plays one or more doubles during any session or during any unit of overtime or both, he shall be paid an additional 20% of the applicable session rate and the overtime related thereto for the first double and an additional 15% of such rate for each double thereafter.
- (2) Instruments within the following respective groups are not construed as doubling:
 - (a) Piano.
 - (b) Drummer's standard outfit consisting of bass drum, snare drum, cymbals, gongs, piatti, small traps, and tom toms when used as part of a standard outfit.
 - (c) Timpani.
 - (d) Mallet instruments: xylophone, bells and marimbas.
 - (e) Latin rhythm instruments: Any Latin instrument when used in less than eight bars in connection with any other instrument or used not in a rhythm pattern shall not in any event be a doubling instrument.
- (3) *Fretted instruments*: Performance on more than two instruments within group (a) below or performance on any one instrument in group (a) together with any one instrument in group (b) below shall be treated as doubling. Performance of two or more instruments within group (b) shall be treated as doubling:
 - (a) 6-String rhythm guitar
6-String electric guitar
"Combo" guitar (rhythm and electric combined)
6-String (steel) round hole guitar
6-String (nylon) classic guitar
12-String acoustic guitar
12-String electric guitar
 - (b) 6-String bass guitar
Tenor banjo
Plectrum
5-String banjo
Mandolin
Ukulele
Sitar

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- (4) *Electronic devices:* If an electronic device (e.g. multiplex, divider, maestro, multiplier of octaves) is used to simulate sounds of instruments in addition to the normal sound of the instruments to which such electronic device is attached or applied, such use of the electronic device shall be treated as a double.
- (5) A special fee of \$6 shall be paid for each additional instrument requiring a doubling fee which the musician is directed to bring to the engagement if such instrument is not actually used.

I. Location Recordings (Non-Symphonic)

The Company shall give notice to the Office of the Federation President and to the Local of the Federation involved prior to making any recording on location during public performance. Location recording work shall be paid for at the rate of one basic session for each day of recording (from noon to the following noon); provided, however, that an additional session payment is required where the same musicians perform as back-up for more than three acts. During any such day, no more than the length of the actual performance shall be recorded. Each session payment shall permit the release of up to 15 minutes of finished product on a phonograph record for each session payment made. The Company shall make additional payments equal to the regular hourly rate of pay for each additional five minutes of recorded music (or fraction thereof) released for sale. Further, if the finished product is released for sale on two or more albums (excluding a double album, a "best-of" or a boxed set), a separate session payment shall be required for each album. However, if the same performance is used on more than one phonograph record, or if the product is released by the same artist, not exceeding the number of minutes of music already paid for, no additional payment shall be required. The Company agrees to send to the Office of the Federation President at the time of first release a copy of every album resulting from any such location recording.

The Company shall list the musical selections recorded at a location session from the tapes delivered to the Company by the producer and shall furnish to the Federation a copy of such list.

When a recording on location is released, the Company shall notify the orchestrators, arrangers and copyists involved in the tunes released in advance of such release so that they may submit their invoices for payment.

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J. Cartage

Whenever the Company requests a musician to bring a heavy instrument to an engagement, the Company shall specify whether the musician shall transport such heavy instrument either by public or private transportation and public transportation shall be used if it is the only practicable manner of transportation. If a public carrier is used, the Company shall have the option of designating the public carrier which shall be qualified to transport musical instruments. The Company will pay cartage bills of the public carrier for such instrument. If private transportation is used, the Company will pay musician cartage fees as follows:

Harp, Timpani, Keyboard, String Bass — \$30; Accordion, Tuba, Drums, Marimba, Chimes, Vibraphone, all Amplifiers, Baritone Saxophone, Bass Saxophone, Cello, Contrabassoon, Contra Bass Clarinet — \$12 each.

A \$12.00 payment shall be required whenever a musician is requested to bring to an engagement three or more instruments in separate cases; provided however that the \$12.00 payment requirement shall not apply with respect to groups of harmonicas, flutes (including recorders) and clarinets (other than Bass Clarinet and Contra Bass Clarinets).

K. Payment

(1) *Payment to Instrumental Musicians*

Within 15 business days after the date of receipt of a completed Form B (typed or legibly printed or written) – regardless of whether the Company receives the completed Form B from the contractor, if any, the leader of the session, or from any other source (e.g., the Local, the member, or the producer) – the Company shall make the payments set forth in Exhibit A to each leader, contractor, and sidemusician employed at a recording session. The leader of the session shall be primarily responsible for preparing and submitting a completed Form B unless a contractor is present, in which case the contractor shall be primarily responsible for performing those functions.

(2) *Payment to Arrangers, Orchestrators, and Copyists*

Within 15 business days after the date of receipt of a completed Form B (typed or legibly printed or written) – regardless of whether the Company receives the completed Form B from the supervising copyist, if any, the arranger/orchestrator of the session, or from any other source (e.g., the Local, the member, or the producer) – the Company shall make the payments to each arranger, orchestrator, or copyist (including supervising copyist). The arranger/orchestrator shall be primarily responsible for preparing and submitting a completed Form B unless a supervising copyist is present, in which case the supervising copyist shall be primarily responsible for performing those functions.

(3) *Health and Welfare Payments*

The Company shall make health, welfare and pension fund contributions as set forth in Exhibit A to instrumental musicians at the same time the Company pays the musicians for the sessions.

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- (4) The contract Form B number shall be on or accompany the payment statements.
- (5)(a) A penalty of 5% of the above-mentioned amount due and unpaid if the delinquent payment is made within 5 days (excluding Saturday, Sunday and holidays) after payment was due.
 - (b) A penalty of 7½% of the above-mentioned amount due and unpaid (excluding the penalty in 5(a) above) if the delinquent payment is made between the 6th and 10th business days (excluding Saturday, Sunday and holidays) after payment was due.
 - (c) A penalty of 10% of the above-mentioned amount due and unpaid (excluding the penalties in 5(a) and (b) above) if the delinquent payment is made between the 11th and 15th business days (excluding Saturday, Sunday and holidays) after payment was due.
 - (d) A penalty of 15% of the above-mentioned amount due and unpaid (excluding the penalties in 5(a), (b), and (c) above) if the delinquent payment is made between the 16th and 30th business days (excluding Saturday, Sunday, and holidays) after payment was due.
 - (e) A penalty of 20% of the above-mentioned amount due and unpaid (excluding the penalties in 5(a), (b), (c), and (d) above) if the delinquent payment is made between the 31st and 50th business day after the payment was due.
 - (f) Payments made after such 50th business day shall require in lieu of the said additional 20% payment, the payment of an additional amount equal to 50% of the initial amount payable plus an additional 10% payment for each thirty days after the 50th day in which payment is not made. Such 50% and 10% payments shall not be required unless written notice has been given (which may not be given before the 31st day after the date of receipt of their completed billings) that the employer is delinquent and the employer has not made the payment within 15 business days after receipt of such notice.
 - (g) The above delinquent payment penalties shall not apply to payments which have not been made by the Company by reason of:
 - (i) A bona fide dispute as to the amount due and payable notice of which shall be filed within five business days following receipt of bills with the local of the Federation in whose jurisdiction the work was performed.
 - (ii) Emergencies beyond the control of the Company.
 - (iii) Where the Company inadvertently makes a less than full payment and presentation of the claim for the remainder is deliberately delayed in an attempt to collect a penalty.

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- (iv) Lack of W-4 or I-9 forms shall not be a defense to the accrual of late payment penalties. However, in the circumstance where the Company needs additional information regarding the W-4 or I-9 forms, the Federation and the applicable Local shall cooperate fully with the Company and provide reasonable assistance to the Company in its efforts to obtain the necessary information.
- (6) *Soundtrack Albums*
- (a) With respect to any soundtrack record released in connection with any theatrical motion picture and/or television film subsequent to the effective date of this agreement, the Producer may elect to compensate musicians who rendered services in making the original soundtrack in accordance with the provisions of either (i) or (ii) below:⁶
- (i) (1) Upon release of the record an amount equal to fifty percent (50%) of the scale wages (plus AFM-EP contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement;
- (2) An amount equal to an additional fifty percent (50%) of the scale wages (plus AFM-EP contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement once the net sales exceed 50,000 records;
- (3) An amount equal to an additional twenty percent (20%) of the scale wages (plus AFM-EP contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement once the net sales exceed 100,000 records.
- (ii) For the use of up to seven and one-half (7 1/2) minutes of music soundtrack from a motion picture in a phonograph record, Producer shall pay to the musicians who recorded such music soundtrack one hundred percent (100%) of the scale wages calculated using the special session rate (plus AFM Employers' Pension Fund contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement.
- (iii) It is understood that the same phonograph record may incorporate motion picture sound track for which musicians are paid pursuant to both subparagraphs (i) and (ii) above.

⁶ Subject to ratification of the Basic Theatrical Motion Picture Agreement of 2002 and the Basic Television Film Agreement of 2002, effective February 16, 2002, the Company is entitled to a 15% discount from the rates in (a)(i)(1) (payments due on release) for soundtrack records that (i) use 45 minutes or more of music originally recorded for the motion picture; and (ii) utilize 80 or more musicians (excluding orchestrators and music preparation musicians) for whom payment is due under this paragraph 6(a)(i); and (iii) meet the conditions of Ex. A(I)(K)(6)(c)(iii) below. The 15% discount described above will not apply to soundtrack records that include cues from any sessions scored in Canada under the Basic Theatrical Motion Picture Agreement or the Basic Television Film Agreement.

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* Producers shall not be obligated to make any Health and Welfare payments.

(b) *Soundtrack Albums for Pressings of 25,000 Units or Less*⁷

With respect to any soundtrack record for pressings of 25,000 units or less that includes sound track from a theatrical motion picture and/or television film produced under the low budget provisions of the Basic Theatrical Motion Picture Agreement or the Television Film Labor Agreement, the Producer may elect to compensate musicians who rendered services in making the original soundtrack in accordance with the following provisions:

Upon release of the record an amount equal to twenty-five percent (25%) of the scale wages (plus AFM Employers' Pension Fund contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement;

An amount equal to an additional twenty-five percent (25%) of the scale wages (plus AFM Employers' Pension Fund contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for pressings in excess of 25,000;

An amount equal to an additional fifty percent (50%) of the scale wages (plus AFM Employers' Pension Fund contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for pressings in excess of 50,000; and

An amount equal to an additional twenty (20%) of the scale wages (plus AFM Employers' Pension Fund contributions*) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for pressings in excess of 100,000.

* Producers shall not be obligated to make any Health and Welfare payments.

(c) *Optional Provisions Regarding Soundtrack Records Released in Connection with Theatrical Motion Pictures and/or Television Films*

Subject to ratification of the Basic Theatrical Motion Picture Agreement of 2002 and the Basic Television Film Agreement of 2002, with respect to any soundtrack record released in connection with any theatrical motion picture and/or television

⁷ Subject to ratification of the Basic Theatrical Motion Picture Agreement of 2002 and the Basic Television Film Agreement of 2002, effective February 16, 2002 this paragraph 6(b) will be available only to pictures produced under the low budget provisions of the Basic Theatrical Motion Picture Agreement with an initial cost estimate and final estimated cost of \$15,000,000 or less, and to pictures produced under the low budget provisions of the Television Film Labor Agreement that are budgeted at \$2,030,000 or less per program hour (or \$6,365,000 in the case of motion pictures originally released to videocassette).

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film subsequent to February 16, 2002 (except for soundtrack records that include cues from any sessions scored in Canada under the Basic Theatrical Motion Picture Agreement or the Basic Television Film Agreement), the Company may elect to compensate musicians who rendered services in making the original sound track in accordance with the provisions of subparagraph (c)(i), provided that the Company also meets the conditions of subparagraph (c)(iii):

(i) Payments.

(1) Upon release of the record, an amount equal to twenty-five percent (25%) of the scale wages (plus AFM Employers' Pension Fund contributions but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement;

(2) An amount equal to an additional twenty-five percent (25%) of the scale wages (plus AFM Employers' Pension Fund contributions but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for sales in excess of 25,000 units;

(3) An amount equal to an additional fifty percent (50%) of the scale wages (plus AFM Employers' Pension Fund contributions but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for sales in excess of 50,000 units; and

(4) An amount equal to an additional twenty percent (20%) of the scale wages (plus AFM Employers' Pension Fund contributions but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for sales in excess of 100,000 units.

(ii) 15% Discount for Certain Soundtracks. The Company is entitled to a 15% discount from the rates in (i)(1) above (payments due on release) for soundtrack records that (i) use 45 minutes or more of music originally recorded for the motion picture; and (ii) utilize 80 or more musicians (excluding orchestrators and music preparation musicians) for whom payment is due under this paragraph 6(c).

(iii) Conditions.

(1) The following logo or credit must be provided on the jacket or other packaging accompanying the record:

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- (A) The AFM logo or credit to "The American Federation of Musicians."
 - (B) The instrumental musicians who performed on the largest recording session from which a cue is extracted for the soundtrack record must be credited by name and instrument (the largest session is the one utilizing the most musicians; if more than one has the identical "largest" number, the Company will identify from which session the credits will be determined). Such musicians may be grouped by instrument categories.
 - (C) The Leader/Conductor, Orchestra Manager, Orchestrator(s), Librarian, and Music Prep Service/Supervising Copyist must be credited by name and position.
 - (D) Any inadvertent error or omission with regard to credits required under (ii) and (iii) above will not be deemed a violation of this paragraph 6(c) provided that the Company has made a reasonable effort to comply with those provisions.
- (2) An "organization name credit" that has been approved by the AFM must be placed on the front or back cover in a type size that is no less than 50% of the type size used for the composer credit unless no applicable organization name credit exists; provided that the entity that owns the organization name has agreed to hold harmless and indemnify the Company from and against any action arising out of the authorized use of such organization names.
 - (3) The Company must provide the AFM with 75 copies of the commercially released soundtrack recording as soon as practicable upon its release.
 - (4) If a Company fails to satisfy any of the foregoing requirements, the special rates will not apply and the Company will be required to make payment for the soundtrack record in accordance with paragraph 6(a).
- (d) Wage payments for record albums produced from theatrical motion picture and television film scores will be made within 15 working days from receipt of completed Form B and W-4 forms but in no event later than 45 working days of release of the album.

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(7) *Statute of Limitations*

A claim for payment for a service rendered under this Sound Recording Labor Agreement (i.e. February 1, 2002) shall be time barred unless that claim is made in writing to the Company by the Federation within 6 months of the date of the release of the phonograph record containing the product of the service, but in no event later than 18 months from the date of the service.

L. Regulations Relating to Overdubbing, Tracking, Sweetening, Multiple Parts, etc.

- (a) Except as is specifically permitted below, nothing contained in this agreement shall be deemed to permit dubbing or tracking. The dubbing or tracking specifically permitted hereunder shall relate only to recordings made under, and during the term of this agreement, subject to paragraph (g) on page 37.
- (b) During a session the Company may add live performances to a recording made at the same session without notice and without any additional payment to the musicians employed for the session.
- (c) After the completion of an original session the Company may add vocal performances to the recordings made at that original session without any additional payment to the musicians employed at the original session for their services thereat.
- (d) At a session subsequent to the completion of the original session at which music was first recorded, the Company may add additional instrumental performances to such recorded music without any additional payment to the musicians employed at the original session for their services thereat.
- (e) If, at a session, a musician performs multiple instrument parts (other than doubles), or performs the same part in addition to the part previously recorded in order to create the sound of additional instruments, s/he shall be paid the total of all payments which would otherwise have been payable had separate musicians been used for these parts.
- (f) The following special provisions relate solely to "royalty artists" as such term is defined below:
 - (i) The rates set forth in subdivision (ii), below, shall apply to each musician who is a "royalty artist," whether such musician plays multiple parts, doubles, overdubs, or "sweetens." A "royalty artist" is a musician (a) who records pursuant to a phonograph record contract which provides for a royalty payable to such musician at a basic rate of at least 3% of the suggested retail list price of records sold (less deductions usual and customary in the trade) (for contracts entered into after November 1, 1977) or a substantially equivalent royalty, or (b) who plays as a member of (and not as a sidemusician with) a recognized self-contained group as defined in subdivision (iii).
 - (ii) For the first session at which such royalty artist performs in respect to each selection he shall receive the basic session rate per song.

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- (iii) A "recognized self-contained group" is:
- (a) Two or more persons who perform together in fields other than phonograph records under a group name (whether fictional or otherwise); and
 - (b) The members of which are recording pursuant to a phonograph record contract which provides for a royalty payable with respect to the group at a basic rate of at least 3% of the suggested retail list price of records sold (less deductions usual and customary in the trade) or a substantially equivalent royalty; and
 - (c) All of the musicians of which are or become members of the American Federation of Musicians as provided in this agreement.
- Replacements of or additions to members of a recognized self-contained group shall be subject to the provisions of subdivisions (i) and (ii) above, if they qualify under items (a), (b) and (c) of this subdivision (iii).
- (iv) This subsection (f) shall not be applicable to any musician who himself is not a "royalty artist" but who nevertheless performs hereunder with such royalty artist or royalty artists.
 - (v) The provisions of this subparagraph shall not be applicable unless the contract between the royalty artists and the Company and all amendments thereto have been filed with the Office of the President of the Federation.
- (g) The tracking permitted by the foregoing provisions of this agreement does not apply to recordings by symphonic orchestras. As to such recordings the Federation agrees to grant waivers which will permit tracking in any case needed to meet unusual situations subject only to the following procedures: (i) waiver requests will be made in advance of the intended use when it is known that tracking will be employed; and (ii) if not so requested, prompt notice of such use will be given to the Federation after the event. It is the specific understanding of the parties that tracking will continue to be permitted in those situations where tracking under prior agreements has heretofore been practiced.

M. Certain Persons Not To Be Placed On Form B Contract

A producer or any other person who acts in a Company capacity can be placed on the Form B contract only if he actually performs a musical service on that contract which is covered by this agreement. No contractor shall serve as an engineer, producer, or in any capacity representing the employer with respect to the session on which he is the contractor.

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II. ARRANGERS, ORCHESTRATORS, COPYISTS

Arrangers, orchestrators and copyists shall be paid not less than the rates set forth below and the conditions set forth shall apply:

A. Arrangers

- (1) *Definition* – Arranging is the art of preparing and adapting an already written composition for presentation in other than its original form. An arrangement shall include reharmonization, paraphrasing and/or development of a composition so that it fully represents the melodic, harmonic and rhythmic structure and requires no changes or additions.
- (2) *Credits* – Unless barred by a legal obligation undertaken by an arranger, he shall receive name credit on all seven inch “pop single” records and on all tapes and cartridges in respect of which the number of arrangers used is six or less. Unless the arranger requests he not be given credit and if no legal obligation undertaken by him prevents the use of his name by the Company, the arranger shall receive name credit on all albums. Such credit may appear either on the record label or jacket, or on the tape or cartridge label or package.
- (3) *Minimum Rates* – Since arranging represents highly individual creative skills, the wages paid for arranging are left to the discretion of the person doing the work, provided, however, that the wages shall never be less than provided for in paragraph B(3). Arranging shall be paid for in addition to orchestrating where the same person performs the work of the two classifications. Payment for making and orchestrating an arrangement shall cover both the minimum for arranging and orchestrating.

B. Orchestrators

- (1) *Definition* – Orchestrating is the labor of scoring the various voices and/or instruments of an arrangement without changing or adding to the melodies, counter-melodies, harmonies and rhythms.
- (2) *Time rates for orchestrators* – May be used only on takedowns, adjustments, alterations, additions and in other situations where page rates are impractical. The hourly rates for time work shall be \$41.75 effective February 1, 2002, \$42.79 effective February 1, 2003 and \$44.07 effective February 1, 2004.

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- (3) *Page rates for orchestrators* [subject to the rules of paragraph B(4)]
- (a) For not more than ten lines per score page:
 - (i) Orchestrating an arrangement when incomplete material is furnished, per page: \$26.20 effective February 1, 2002, \$26.86 effective February 1, 2003 and \$27.67 effective February 1, 2004.
 - (ii) Revoicing a score: \$13.19 effective February 1, 2002, \$13.52 effective February 1, 2003 and \$13.93 effective February 1, 2004.
 - (b) For each additional single line in excess of ten lines per score page: \$1.15 effective February 1, 2002, \$1.18 effective February 1, 2003 and \$1.22 effective February 1, 2004.
 - (c) For adding lines to a score already orchestrated (other than revoicing a score) when performed by the original orchestrator, per score page, per line: \$1.26 effective February 1, 2002, \$1.29 effective February 1, 2003 and \$1.33 effective February 1, 2004. Any other orchestrator will be paid in accordance with (a)(ii), above.
 - (d) For adding piano part: in accordance with (a)(ii), above.
 - (e) Orchestrating the parts (without score): the combined rate for orchestrating and copying.
 - (f) For scoring a piano part from a lead or melody sheet, per piano page: \$26.20 effective February 1, 2002, \$26.86 effective February 1, 2003 and \$27.67 effective February 1, 2004.
 - (g) For scoring a two line or three line full piano part from an orchestral score (or parts) or for scoring for solo piano, accordion, harp, etc., for individual performances, per piano page: \$48.74 effective February 1, 2002, \$49.96 effective February 1, 2003 and \$51.46 effective February 1, 2004.
 - (h) For scoring for (choral) voices (a page to consist of not more than four voices, which may include a piano part, with some sopras being paid for): \$11.49 effective February 1, 2002, \$11.78 effective February 1, 2003 and \$12.13 effective February 1, 2004. Each additional voice: \$1.15 effective February 1, 2002, \$1.18 effective February 1, 2003 and \$1.22 effective February 1, 2004.
 - (i) For transcribing a melody from voice, instrument or mechanical device, including chords, symbols and lyrics (1 staff):
 - 1st page (up to 32 measures)..... \$40.57
 - Each additional page (up to 32 measures) \$28.98
 - (j) Exact transcription of all parts of a composition from a mechanical device, and recreating the orchestration:
 - Per score page: double orchestration scale.
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- (4) The following rules shall apply to page rates:
- (a) A score page consists of four bars and shall be computed on the basis of a minimum of ten lines.
 - (b) Piano and other multiple-staff parts.
 - (i) "Piano" refers to the pianoforte and to other keyboard instruments commonly written on 2 lines, such as celeste, organ, accordion, etc.
 - (ii) Piano parts where all notes are written out count as 4 lines.
 - (iii) Piano parts constructed only of guitar and bass parts count as 2 lines.
 - (iv) Harp parts, if more than 50% of the measures are fully written out, count as 3 lines; otherwise 2 lines.
 - (v) Organ parts written on 3 staves count as 5 lines.
 - (c) Each line of a divisi part shall count as one line.
 - (d) A pick-up shall be computed as a full measure.
 - (e) Come sopras shall be paid for.
 - (f) Repeats shall not be used within a chorus to reduce the wage paid, (but repeats, del segno, and the like, which appear in the composition are permissible).
 - (g) The last page may be paid for on a half-page basis.
 - (h) The page rates do not include proofreading service.
 - (i) Voice and conductor lines written into a score shall be treated as instrumental lines.
 - (j) Synthesizers, and other devices
 - (i) Patch and controller information for each part shall count as an additional line.
 - (ii) Where "layering" of instrumental voices occurs, an extra line per voice shall be charged.

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C. Copyists

- (1) Time rates for copyists may be used only on pasting, cutting, production lines, and in other situations where page rates are impractical. The hourly rates for time work shall be \$21.54 effective February 1, 2002, \$22.08 effective February 1, 2003 and \$22.74 effective February 1, 2004.
- (2) **Page rates for copyists shall be as follows** [subject to the rules set forth in paragraph C(3)]:

INSTRUMENTAL PARTS

Effective

	2/1/02	2/1/03	2/1/04
1. a. Single stave parts: single notation	4.34	4.45	4.58
b. Single stave parts: chorded and/or divisi (Chorded: guitar, banjo, vibraphone and similar parts) (Divisi: When more than 50% of page)	7.46	7.65	7.88
2. a. Double stave parts: chorded piano, organ, harp, celeste, etc.	7.46	7.65	7.88
b. Rhythm piano parts: chord symbols and bass line	5.71	5.85	6.03
3. a. Piano with vocal melody cued (no lyrics–full chords)	9.75	9.99	10.29
b. Rhythm piano with vocal melody cued (no lyrics–chord symbols)	7.68	7.87	8.11
c. Piano with orchestral cues (Piano-Conductor)	11.91	12.21	12.58
4. a. Piano-Vocal: 3 staves with lyrics (one set) and full chords	11.38	11.66	12.01
b. Rhythm Piano-Vocal: 3 staves with lyrics (one set) and chord symbols	9.21	9.44	9.72
c. Piano Vocal and orchestral cues with lyrics (Piano Conductor)	12.75	13.07	13.46
5. Lead sheet: single melody line with lyrics (one set) and chord symbols	17.05	17.48	18.00
6. Concert score parts where transposition is necessary (no additional charge to be made for transposition)	6.44	6.60	6.80

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VOCAL PARTS		Effective		
		2-1-02	2-1-03	2-1-04
7.	a. Single voice line with lyrics (one set)	6.44	6.60	6.80
	b. Foreign language lyrics, extra per page	1.53	1.57	1.62
8.	a. Choir parts with lyrics (one set)	19.35	19.83	20.42
	b. Foreign language lyrics, extra per page	1.15	1.18	1.22
CONDUCTOR PARTS		Effective		
(Piano-Conductor), Production Control, etc. (one or more staves)		2-1-02	2-1-03	2-1-04
9.	a. Lead lines with notated instrumental cues	23.66	24.25	24.98
	b. (+) Harmonically complete	32.12	32.92	33.91
	c. (+) NOTE: If 12 stave paper is used in this category, not more than 3 braced systems per page shall be allowed.			
10.	Adding lyrics (or words) per set, per page:			
	a. Single stave parts	1.53	1.57	1.62
	b. Multiple stave parts	1.15	1.18	1.22
	c. Foreign language	2.40	2.46	2.53
11.	Numbering bars, per page (no charge for normal use of rehearsal letter)	.68	.70	.72
12.	Chord symbols (when added, per page):			
	a. Single stave parts	1.53	1.57	1.62
	b. Multiple stave parts	.68	.70	.72
13.	a. Single stave part for SOLO PERFORMANCE	50% additional		
	b. Solo piano, classical, concert, symphonic or similar parts	12.75	13.07	13.46
14.	MASTER COPY FOR REPRODUCTION: Copying or extracting parts to be duplicated by any process	Double all applicable rates (except items 5, 8a and b, 9a and b above which shall be paid at the single rate).		
15.	Adding symbols (other than chord symbols) for Electronic Instruments or Devices			
	a. Single stave parts	2.52	2.58	2.66
	b. Multiple stave parts	1.25	1.28	1.32

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- (3) The following rules shall apply to page rates:
- (a) For duplicating orchestra and band scores (note for note), the minimum rate shall be seventy-five (75%) per cent of the orchestrating rate for scoring same.
 - (b) For remaking a score from regular parts, the minimum rate shall be seventy-five (75%) per cent of the orchestrating rate for scoring same.
 - (c) Modulations, new introductions, endings and interpolations from piano shall be paid for at orchestrating rates.
 - (d) Symphony, opera, cantata, oratorio, ballet or any other standard or classical music (copies, transcriptions, extractions) shall be paid for at forty (40%) per cent more than the rates listed.
 - (e) Special routine work (writing only) where two or more scores or orchestral parts must be used or referred to in constructing overtures, selections, finales, etc., shall be paid for at fifty (50%) per cent more than the rates listed, provided that if such work requires a transposition of parts, for the parts so transposed, there shall be an extra charge of 50% of the listed rates.
 - (f) When the services of more than one copyist are necessary to complete the work assignment, the contracting copyist shall be designated as a supervisor copyist and shall be paid for such services 25% more than the listed rates for the work which he or she supervises (which will be deemed to include copying done by him or her if the additional copyist(s) perform more than one-third of the copying on such assignment).
 - (g) When two or more copyists are required to split scores for the convenience of the Company, each copyist shall be paid at page and half-page rates for the section copied by him, but not less than the applicable hourly rate.
 - (h) Rates for copying do not include any proofreading services. Proofreading, if required by the Company, shall be paid for at the rate of \$29.75 effective February 1, 2002, \$30.49 effective February 1, 2003 and \$31.40 effective February 1, 2004 per hour, with no minimum call to be applicable to such rate.
 - (i) Editing shall be paid for at the copying rate plus 50%.
 - (j) Rates shall be computed on the basis of ten stave paper except that parts requiring three or more braced staves shall be written on twelve stave paper, unless impractical.
 - (k) Rates shall be computed on page and half-page rates except that the first page shall be paid in full rather than prorated.
 - (l) An average of four bars per stave shall be secured, if possible, and two staves of the first page (or any following pages, if necessary) shall be used for titles or other written items.

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- (m) The copyist who prepared the original part shall be paid the listed rate for any reproductions thereof by any mechanical means whatsoever except where a master copy was previously paid for at the rate listed.
- (n) All paper and necessary working material shall be supplied by the Company or furnished by the copyist at cost.
- (o) Transposition of all parts shall be paid for at fifty (50%) percent more than the listed rates.
- (p) Use of rehearsal letters every two, three or four bars or to circumvent payment for numbering shall not be deemed normal use.

D. Health and Welfare Fund Contributions

For each arranger and orchestrator the Company will contribute to any existing lawful Health and Welfare Fund of any Federation Local and commencing thirty days after notice in writing to any such lawful Fund as may be established hereafter by any other Federation Local, for each original composition as to which services are performed on non-symphonic records performed within the jurisdiction of such Federation Local by each arranger and orchestrator covered by this agreement: effective February 1, 2002, the Company shall contribute \$19.00 for the first original service and \$15.50 for each additional service that day. For each copyist the Company will contribute to any existing lawful Health and Welfare Fund of any Federation Local and commencing thirty days after notice in writing to any such lawful Fund as may be established hereafter by any other Federation Local, for work on non-symphonic records performed within the jurisdiction of such Federation Local by each copyist covered by this agreement: effective February 1, 2002 the Company shall contribute \$19.00 for the first original service and \$15.50 for each additional service that day.

- (a) With respect to those members of any such Local Union who are participants in that Health and Welfare Plan the plan shall credit each of their accounts with the applicable payment;
- (b) With respect to those musicians who are participants in another Local Union's Health and Welfare Plan, the plan which receives the Company's contribution shall transmit to the participant's plan(s) an amount of money equal to the Company's contributions for all such musicians;
- (c) With respect to those musicians who do not participate in any Local Union's Health and Welfare Plan and who perform original services within the jurisdiction of a Local having such a plan, the Company shall make the appropriate payment directly to each such musician. In the event that payments were inadvertently made to the wrong party, the employer shall not be held liable nor obligated to make additional payments; and

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- (d) With respect to any such original service performed within the jurisdiction of a Local Union where no such Fund is established, and the musicians performing any such original service participate in another Local Union's Health and Welfare Plan, the Company shall send the Health and Welfare contributions to the Local Union in whose jurisdiction such original service was performed and that Local Union will transmit the contributions and crediting information to the appropriate Local Union's Health and Welfare Plan.
- (e) With respect to any such original service performed within the jurisdiction of a Federation Local where no such Fund is established, and the musicians do not participate in any Local Union's Health and Welfare Plan, the Company shall pay to each such musician said aforementioned amounts.

No such Health and Welfare Fund contribution whether paid to any Fund or paid directly to a musician shall be the basis for computing the applicable AFM-EP contribution or any other payments under this agreement such as doubling, overtime, premium time pay, etc.

E. General Rules Applicable to Arrangers, Orchestrators, Copyists and Librarians

- (1) The arranger or orchestrator shall deliver to the copyist a full score. A full score is a visual representation of parts to be performed by instruments and/or voice of a musical ensemble systematically placed on a series of staves, one above the other, single staff. Abbreviations by come sopra and/or col indications within the same score may be used.
- (2) Arrangements, orchestrations and parts previously made for use other than phonograph records shall be paid for hereunder when first used for phonograph records. Arrangements, orchestrations and parts made initially for phonograph records shall not be used in any other field either by the Company or with its authorization unless the rate applicable to such purposes is paid.
- (3) Arrangers, orchestrators and copyists shall stamp the first and last pages of all arrangements and scores and the first page of all parts with their official union stamp. Card number, local and year must be written on deshon master copy.
- (4) In cases where an hourly rate is applicable the minimum call shall be four hours.

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- (5) Orchestrators and copyists shall receive the following premium rates:
- (a) For work from 6:00 p.m. to 12 midnight, the listed rate plus one-half.
 - (b) For work on Saturdays from 9:00 a.m. to 6:00 p.m., the listed rate plus one-half.
 - (c) For work in excess of eight hours in one day and until midnight, the listed rate plus one-half.
 - (d) For work from 12 midnight until dismissed, and after 6:00 p.m. on Saturdays, double the listed rates.
 - (e) For work performed on the same job at anytime following a call-back less than eight hours after prior dismissal during premium pay hours, double the listed rates.
 - (f) For work on Sundays and the following holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, double the listed rate.

Each of these holidays shall be observed on the day on which it is observed by employees of the United States Government or of the Government of Canada.

- (6)(a) If the Company requests an orchestrator or copyist to work in a city other than the one in which he resides, work done out of town or en route shall be paid for at the listed rate plus 25%. In the case of an orchestrator, the Company shall guarantee a minimum of \$70.00 per day plus \$50.00 for personal expenses. In the case of a copyist, the Company shall guarantee a minimum of \$55.00 per day plus \$50.00 for personal expenses. In addition, when such orchestrator or copyist is required to remain overnight, the Company will reimburse the musician for the reasonable cost of a hotel room.
- (b) Round-trip first class transportation, with sleeper for overnight travel, shall be furnished by the Company.
- (7) Pick up and messenger service will be paid for by the Company.
- (8) The rates specified herein relate to arranging, orchestrating and copying services of every nature as utilized in connection with phonograph records and no other rates shall be applied for any such services.
- (9) Copyists who are required by the Company to attend recording sessions shall be paid at the page rate or at the hourly rate, whichever is higher.
- (10) Any covered librarian who is required by the Company to attend a recording session shall be paid at the side musician's rate.
- (11) The Leader or arranger shall collect and return musical parts and scores to the Company representatives at the end of each recording session, provided however, that the Company shall not be liable for the leader's or arranger's failure to collect such parts and scores if it did not interfere with his efforts to do so.

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F. Electronic Data

If a computer is used to create electronic data, the Company may elect to obtain the disc (or other device hereinafter referred to as "disc") on which the data is stored for no additional charge. If the Company exercises its right to do so and the disc contains a reproducible musical performance and the disc thereafter is used as an additional musical performance on a phonograph record, an additional payment shall be made to the musician(s) in accordance with the applicable terms and conditions of this agreement.

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EXHIBIT B: VIDEO PROMO SUPPLEMENT

The following terms and conditions shall apply to the production of video promo selections on or after July 1, 1983, and to the licensing, sale, leasing and other exploitation of video promo selections, and where, in either case, the video promo selection incorporates a master record produced pursuant to the AFM Sound Recording Labor Agreement:

1. A. The Company will pay to each side musician, i.e. other than a "royalty artist", (as that term is defined in the AFM Sound Recording Labor Agreement, February 2002) who performs as a musician "on-camera" (and for purposes of this agreement, this shall include "sideline musicians" as that term is commonly understood) in any covered video promo selection produced from February 1, 2002 through January 31, 2003, the sum of \$229.02 per 10 hour day. For such video promo selections produced on or after February 1, 2003 said payment is to be increased to \$234.75 per 10 hour day and for such video promo selections produced on or after February 1, 2004, said payment is to be increased to \$241.79 per 10 hour day. Pension and welfare payments at the rates and conditions set forth in the AFM Sound Recording Labor Agreement shall be made. For work performed in excess of 10 hours, the musicians shall be compensated at 1½ times the pro rata 10 hour payment at one-half hour intervals.
 - B. A Meal Period shall be provided with the time of the meal period to be determined at the producer's discretion subject to applicable state law.
2. A. An "arbitrary recoupment figure" applicable to each video promo selection, regardless of the actual cost of production, is hereby established. That figure shall be \$50,000 for each covered video promo selection produced prior to July 1, 1984; \$60,000 for each covered video promo selection produced between July 1, 1984 and November 29, 1985; \$70,000 for each covered video promo selection produced between November 30, 1985 and January 31, 1987; and \$75,000 for each covered video promo selection produced on or after February 1, 1987.
 - B. If and when the Company receives revenue from the licensing, sale, leasing or other exploitation of a covered video promo selection, the Company shall pay to the Sound Recording Special Payments Fund, as the agent for the musicians involved, 1% of revenues received therefrom by the Company to the extent such revenues are in excess of the "arbitrary recoupment figure" referred to in paragraph 2.A above.
 - C. The Sound Recording Special Payments Fund shall distribute the monies collected pursuant to paragraph 2.B, above, among all musicians who were involved in the production of the original recording that was utilized in the video promo selection. Payments to be distributed to individual musicians resulting from audits shall be reduced in an amount equivalent to each musician's pro rata share of the reasonable costs incurred by the Sound Recording Special Payments Fund in providing such audits. The parties hereto agree that if the Company has fulfilled its obligations pursuant to paragraph 2.B, above, and made the required payments, the Company's obligations with respect to all musicians involved in the production of the original recording that was utilized in the video promo selection shall have been discharged and the Company shall not be required to look to the application of any such monies paid to the Sound Recording Special Payments Fund.
3. Notwithstanding anything provided for in paragraph 2, above, in the event that the "Company's revenue" derived from the sale or licensing of a video promo selection for use in the consumer market (i.e. as a video disc/cassette), and if and when

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revenues received by the Company from any such exploitation total \$5,000, the Company agrees to pay the sum of \$500, which shall be credited against any payments to the Sound Recording Special Payments Fund on pursuant to paragraph 2.B. above, that may come due. This \$500 advance shall be paid to the Sound Recording Special Payments Fund for distribution as set forth in paragraph 2.C. above.

4. A. For purposes of this agreement, "Company revenues" shall be deemed to mean the worldwide total gross receipts actually received by the Company in its role as the producer, from the licensing, sale, leasing or other exploitation of any covered video promo selection in any market or in any media. For example, if the Company does not directly exploit any covered video promo selection, but engages a third party to license or otherwise exploit the Company's rights in said video promo selection, then the monies paid to the Company by said third party shall constitute the Company's revenues for purposes thereof. As a further example, it is the intention of the parties hereto that the basis of determining "Company's revenues" from the sale of consumer products at the retail level would not be the amount received by the retailer or the distributor, but would be the amount actually received by the Company. Additionally, the Company is permitted to allocate revenues received from the licensing of more than one video promo selection in accordance with fair and reasonable practices.
- B. In the event that any Company maintains a separate subsidiary, division, or other department to license or otherwise exploit the Company's rights in a covered video promo selection produced by a different subsidiary, division or department of the Company, "Company's revenues" shall be deemed to mean the fee or other payment received by the subsidiary, division or other department of the Company which serves as the production branch from the subsidiary, division or other department of the Company which serves as the "exploiting" branch. Where no separate subsidiary, division or other department serves as the production branch, the Company may make a reasonable allocation of the gross receipts of the Company from licenses attributable solely to fees or other payments which would be made to a production subsidiary, division, or other department of the Company, if one existed, or would be made to an outside producer and Company's revenues would be deemed to be the amount so allocated. The reasonableness of such allocation or the amount of the fee or other payment received by the producer, subsidiary, division or other department where the production and exploitation functions are separately maintained, shall be determined by the licensing fees paid to outside producers for comparable product, or in the absence of any such practice, by general prevailing trade practices with respect to video promos.
5. It is understood and agreed that nothing contained herein is intended to diminish the rights of any musician, including royalty artists, to individually negotiate better terms and conditions in connection with services on covered video promo selections. However, if a royalty artist's individual contract gives such artist a percentage or other participation in the receipts, revenues or profits of a covered program and if the royalty artist's individual contract so provides, the royalty artist's computed share under paragraphs 2 and 3, above, may be credited against the payment due to the royalty artist under his or her individual contract, and the sum payable to the Sound Recording Special Payments Fund shall be reduced accordingly.

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6. The parties hereto agree that the payments required to be made by the Company, pursuant to paragraphs 1, 2, and 3, above, are intended to constitute the sole payments arising out of the production and/or exploitation of video promo selections by any party, to either the Federation or the Sound Recording Special Payments Fund, on behalf of, or to any individuals covered hereunder, unless such individuals negotiate for better terms and conditions pursuant to paragraph 5, above.
7. The parties hereto agree that in the event that the Company exploits video promo selections produced prior to July 1, 1983, all provisions of this agreement, except paragraph 1 hereof, shall be applicable.
8. Following the execution of this agreement, the Company shall promptly furnish to the Federation or the Sound Recording Special Payments Fund, upon request, a list of any covered video promos currently available for exploitation, and thereafter, from time to time, upon request, Company shall furnish a schedule listing amendments and additions thereto.
9. The Company shall respond promptly to reasonable requests by the Federation or the Sound Recording Special Payments Fund for information relating to the Company's performance of the terms and conditions of this agreement and for individual agreements with persons covered by this agreement.
10. In addition to the recognition provided for in paragraph 10 of the Sound Recording Labor Agreement (February, 2002), the Company hereby recognizes the Federation as the exclusive bargaining representative of musicians employed in the production of video promos covered hereunder and produced within the jurisdiction of the Federation, as set forth in the AFM Sound Recording Labor Agreement.
11. The provisions of paragraphs 11, 12, 14, 22, 25, and 26, of the Sound Recording Labor Agreement (February, 2002) shall herein be deemed incorporated by reference.
12. All present provisions of the Federation's Bylaws are made part of this agreement to the extent to which their inclusion and enforcement are not prohibited by any applicable law. No changes therein made during the term of this agreement shall be effective to contravene any of the provisions hereof.
13. The Company agrees that the Sound Recording Special Payments Fund shall have the right, from time to time and at reasonable times during business hours, to have its duly authorized agent examine and audit the Company records and accounts concerning revenues derived from the sale or licensing of video promo selections covered hereunder; such examination and audit to be made for the purpose of the Federation's verifying any statements made by the Company pursuant to this agreement, during a period not exceeding four (4) years preceding such examination, and of determining the amount of payments due it thereunder. It is agreed that the four (4) year period provided herein shall not affect the operation of the applicable statute of limitations. The Company agrees to afford all necessary facilities to such authorized agent to make such examination and audit and to make abstracts and excerpts from said records and accounts as may be necessary or proper according to approved recognized accounting practices. Such examinations and audits shall be coordinated, to the extent practical, with examinations and audits made under the Sound Recording Special Payments Fund Labor Agreement so that inconvenience to the Company may be minimized.

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14. If during the term hereof, the Federation shall enter into any agreement with any Company engaged in the production of video promos of the type covered hereunder, which agreement contemplates the exploitation of such video promos, and which agreement contains terms more favorable than or different from those contained in this agreement, the Company shall have the right, at its option, to cause this agreement to be conformed therewith, provided, however, that no such right shall come into being by reason of any claim against any such Company by reason of the insolvency, bankruptcy, or other financial difficulty of such Company.

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EXHIBIT C: PENSION WELFARE FUNDS

1. The Company shall contribute an amount equal to ten per cent (10%) of the earnings of persons covered by this agreement (except for the payments made in lieu of Health and Welfare Fund contributions under Exhibit A, I.A(6) and II.D, above, and under the Special Payments Fund Agreement) computed at the minimum rates set forth in Exhibit A as follows:
 - (a) For services performed in the United States to the American Federation of Musicians' and Employers' Pension Fund created by the Trust Indenture dated October 2, 1959, as heretofore or hereafter amended. The Company agrees to be legally bound by the Agreement and Declaration of Trust Establishing the American Federation of Musicians and Employers' Pension Fund, as amended from time to time, which is incorporated by reference into this Agreement".
 - (b) For services performed in the Dominion of Canada to the American Federation of Musicians' and Employers' Pension Welfare Fund created by the Agreement and Declaration of Trust dated April 9, 1962 as heretofore or hereafter amended.

It is understood that, under the terms of said Trust Agreements, the Employees (in addition to musicians as therein defined) on behalf of whom contributions to the aforesaid Funds may be made by other employers include the following:

 - (i) employees of the Funds themselves,
 - (ii) *office and clerical employees of the Federation and any of its affiliated Locals.*
 - (iii) duly elected officers and representatives of the Federation and of any of its affiliated Locals.
2. The Company shall make such payments to such place as the Trustees of the Funds may designate, upon the filing of a Form B contract.
3. The Company shall submit reports in such form as the Trustees may reasonably require; and the Company shall be subject to such reasonable audit by the Trustees as the Trustees may require.
4. The Federation and said Trustees, or either of them, may enforce any provision of this Exhibit C.

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EXHIBIT D: SIDE LETTER AGREEMENT—LOW BUDGET RECORDINGS

This side letter agreement is entered into by and between the American Federation of Musicians of the United States and Canada (the "Federation") and any manufacturer of phonograph recordings (the "Company") that desires to produce phonograph recordings under the terms and conditions applicable to Low Budget Recordings, as set forth below:

1. Scope and Term⁸

Except as otherwise stated herein, the terms and conditions of this side letter agreement shall apply to all recorded products other than soundtrack albums and cast albums commenced on or after the effective date hereof made within a budget of (1)\$95,000 (\$99,000 effective February 1, 2003) or less for each full-length phonograph album produced during the period February 1, 2002 through January 31, 2005. In computing a budget for each full-length phonograph album, the Company shall include all costs customarily considered recording costs by the recording industry in this country, including studio charges, engineering, tape, mixing costs, payments to musicians (including their travel expenses), equipment rental, and cartage, but excluding producer and artist advances, art work, travel for artists and producers and mastering costs. The Company shall provide the Federation a copy of the producer's approved, detailed budget 72 hours in advance of producing each album under this agreement. The form of that budget shall be as used in the Company's normal course of business or as mutually agreeable between the parties hereto. Overages shall be excusable when they are attributable directly to the incapacity of an artist or producer, unanticipated increased mixing costs or an Act of God, including illness. In all other respects, when an overage occurs and the Company exceeds the maximum permissible budget established in this paragraph, then this side letter agreement shall not apply to the services performed by musicians, and the provisions of the then existing Sound Recording Labor Agreement shall apply, including but not limited to the provisions governing payments to musicians.

Exceptions – With respect both to a concept piece (i.e., one where the primary focus of the album, including a children's album, is on the concept thereof as opposed to a featured artist, and the budget does not exceed \$40,000 as calculated in paragraph 1 hereof) and to a choral recording (i.e., companion music for printed works whether sold together or separately) where the budget does not exceed \$95,000 (\$99,000 effective February 1, 2003) during the applicable time period set forth in paragraph 1 above, the musicians shall be paid as follows: \$45.12 effective February 1, 2002, \$46.25 effective February 1, 2003 and \$47.64 effective February 1, 2004 per hour (2 hour minimum), plus a 10 percent pension contribution and a \$10.00 health and welfare contribution for each original service. With respect to choral recording only, there shall be no payments to the Sound Recording Special Payments Fund or the Recording Industries Music Performance Trust Funds.

⁸ This side letter agreement shall not apply to musicians performing for symphonic orchestras or to musicians performing on records produced in Canada.

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

2. Wages and Benefits

- a. *Scale* — The minimum scale shall be \$180.48 effective February 1, 2002, \$184.99 effective February 1, 2003 and \$190.54 effective February 1, 2004 for a 3 hour session.
- b. *Overscale, doubling, multiple parts, etc.* — All payments based on applicable scale as set forth in paragraph a. above.
- c. *Pension* — The Company shall contribute 10% of scale as set forth in paragraph a. above.
- d. *Health and Welfare* — The Company will contribute to any local union health and welfare plan or directly to musicians who do not participate in any local union health and welfare plan a \$12.00 contribution for each original service.

3. Funds

The Company agrees to comply with the terms of the AFM Sound Recording Special Payments Fund Agreement effective February 1, 2002 through January 31, 2005.

Recording Industries Music Performance Trust Fund — The Company agrees to comply with the Sound Recording Trust Agreement effective February 1, 2002 through January 31, 2005.

4. Non-Secular Recordings

With respect to non-secular (including Christmas and Easter season) recordings: (1) the use of open tracks in non-broadcast performances (live performances, church performances, revivals, etc); and (2) one (1) type of broadcast performance – a traditional worship service of a non-commercial nature-will not be deemed subject to the Sound Recording Labor Agreement without regard to the budget for the recording; provided, however, that the understanding expressed herein shall apply only to a performance in which the artist is performing primarily non-secular music, and, during the time frame of any such performance, the emphasis of that artist's career is on non-secular music.

5. Low Budget Experimental Provision

For all recorded products other than soundtrack albums and cast albums commenced on or after February 1, 2002 and made within budget of \$40,000 or less, the minimum scale shall be \$50.00 per hour for a minimum 3-hour session (\$150.00). Except as provided in the foregoing sentence, all other provisions of this Low Budget Side Letter Agreement will apply. This provision is agreed to on an experimental basis only for recordings made during the period February 1, 2002 through January 31, 2005 and may be modified or eliminated by the parties for recordings after that date if the parties conclude that this provision does not serve their mutual interests.

6. Miscellaneous

Overdubs — if two (2) or fewer musicians are performing, the services of a leader shall not be required.

Music Preparation — For productions covered by this side letter agreement, arrangers, orchestrators and copyists shall be paid in accordance with the rates set forth in the

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

existing Sound Recording Labor Agreement February 1, 2002 through January 31, 2005 except that health and welfare and pension fund payments shall be in accordance with this side letter agreement. In all other respects, the provisions of this side letter agreement shall apply to employees engaged in music preparation.

7. Joint Federation-Industry Committee

The parties to this side letter agreement shall meet at least annually to discuss matters of mutual interest and to review the administration of this agreement. Thereafter, upon written request of any party to this side letter agreement, a meeting may be convened upon reasonable notice and scheduled to discuss issues raised by that request that are within this side letter agreement.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

LOW BUDGET SIDE LETTER ADDENDUM—LOCATION RECORDINGS

The Parties agree that Location Recordings of musicians performing at church (religious) services are permitted under the low budget side letter provided there is no admission charge for attending the service with the exception of a “promotional” fee which will not exceed \$10.00. The promotional fee is defined as a fee to cover the cost of printing and distributing flyers, posters, etc.

The AFM must be in receipt of the producer’s approved detailed budget for the full album Location Recording project at least 72 hours in advance of the productions and shall identify the venue and city where the taped performance is to take place. The budget shall contain all applicable costs for the location project and shall include costs for any anticipated studio overdub sessions.

Provided these conditions have been met, location recording work under this Addendum shall be paid for at the rate of one basic session for each day of recording (i.e. \$180.48 effective February 1, 2002, \$184.99 effective February 1, 2003 and \$190.54 effective February 1, 2004). During any such day, no more than the length of the church (religious) service shall be recorded. Each session payment shall permit the release of up to 15 minutes of finished product on the phonograph record. The Company shall make additional payments equal to the hourly rate of pay (i.e. \$60.16 effective February 1, 2002, \$61.66 effective February 1, 2003 and \$63.51 effective February 1, 2004) for each additional 5 minutes of recorded music released for sale. All applicable Pension Fund contribution and Health and Welfare contribution payments shall apply. All payments shall be reported on properly completed AFM B-4 Report Forms and filed with the AFM local in whose jurisdiction the location recording(s) take place and within the time limits set forth in the AFM Sound Recording Labor Agreement.

The Company shall list the musical selections recorded at a location session from the tapes delivered to the Company by the producer and shall furnish to the AFM a copy of such list.

When a recording on location is released, the Company shall notify the orchestrators, arrangers and copyists involved in the tunes released in advance of such release so that they may submit their invoices for payment.

The Company shall send to the AFM at the time of first release a copy of every album produced under this provision.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

EXHIBIT E: MISCELLANEOUS SIDE LETTERS

American Federation of Musicians of the United States and Canada

Affiliated With The AFL-CIO/CLC

OFFICE OF THE PRESIDENT

STEVE YOUNG

1501 Broadway, Suite 600 New York, NY 10036-5503

Tel: (212) 869-1330; Fax (212) 764-6134

January 31, 1996

Norman K. Samnick
Stroock & Stroock & Lavan
7 Hanover Square, 20th Floor
New York, NY 10004-2696

Michael A. Curley
O'Melveny & Myers
Citicorp Center
153 East 53rd Street, 54th Floor
New York, NY 10022-4611

Side Letter Agreement I re Symphonic Recordings

Gentlemen:

In the current round of collective bargaining the Phonograph Record Industry and the American Federation of Musicians ("Federation"). Industry submitted a symphonic proposal whereby a provision would be incorporated into the collective bargaining agreement stating, in effect, that compensation due each musician may be credited by "service conversion" in lieu of direct payment. After a full discussion of that proposal and the general subject of service conversion, the Industry withdrew its proposal in return for the commitment made herein by the Federation.

In the course of these discussions, the parties noted that there are now numerous collectively negotiated agreements between the Federation local unions and symphony orchestra managements which contain provisions authorizing the performance of electronic services and specifying the guarantee and working conditions that apply to such services. In view of that development, the purpose of this letter is to notify the Phonograph Record Industry that the Federation policy over the course of the collective bargaining agreement (February 1, 1996 through January 31, 1999) will be to allow the parties – symphonic orchestra managements and the respective local unions with whom they bargain collectively – to negotiate whatever guarantee, if any, they may agree to concerning the orchestra's performance of electronic services, whether or not such guarantee is a part of or in addition to the minimum weekly salary, provided that any such agreement does not violate the Federation Bylaws in effect on the date of this Agreement.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

American Federation of Musicians of the United States and Canada

Affiliated With The AFL-CIO/CLC

OFFICE OF THE PRESIDENT

STEVE YOUNG

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Tel: (212) 869-1330; Fax (212) 764-6134

January 31, 1996

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New York, NY 10004-2496

Michael A. Curley
O'Melveny & Myers
Citicorp Center
153 East 53rd Street, 54th Floor
New York, NY 10022-4611

Side Letter Agreement II (two hour rule)

Gentlemen:

In the current round of collective bargaining between the Phonograph Record Industry and the American Federation of Musicians ("Federation"), Industry submitted a symphonic proposal to eliminate the existing contract provision requiring a two hour guarantee for those musicians not called to a recording session. A meaningful discussion of that proposal ensued, but in the face of the deadline created by contract expiration, the parties both recognized that time constraints precluded the exhaustive discussion that Industry is now agreeable to withdraw its above described proposal. In consideration of that action, the Federation has agreed to convene over the period of this agreement but in no event commencing later than October 1, 1996, on a periodic basis, a series of meetings with the Industry as a means of fostering an open and frank exchange of views and ideas concerning the pros and cons of the two hour rule, its administration and operation, and possible alternatives. By providing for these meetings, it is not the intent of the parties to relieve any employer of its obligation to comply with the two hour provision throughout the term of this collective bargaining agreement.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

American Federation of Musicians of the United States and Canada

Affiliated With The AFL-CIO/CLC

OFFICE OF THE PRESIDENT

STEVE YOUNG

1501 Broadway, Suite 600 New York, NY 10036-5503

Tel: (212) 869-1330; Fax (212) 764-6134

January 31, 1996

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7 Hanover Square, 20th Floor
New York, NY 10004-2696

Michael A. Curley
O'Melveny & Myers
Citicorp Center
153 East 53rd Street, 54th Floor
New York, NY 10022-4611

Side Letter III re Symphonic Recordings (limited pressings)

Gentlemen:

In the current round of collective bargaining between the Phonograph Record Industry and the American Federation of Musicians ("Federation"), Industry submitted a symphonic proposal whereby symphonic musicians would be compensated pursuant to a formula that would provide a reduced scale payment that is less than would be required under the applicable scale payment provision of the current collective bargaining agreement. After a lengthy discussion concerning the proposal it was withdrawn by Industry. The Federation, for its part, contemporaneously advised Industry that the Federation's Negotiating Committee would promptly take all necessary steps to obtain the International Executive Board's approval to modify the International Executive Board's rules applicable to local union limited pressing agreements for symphonic recordings, as follows:

The maximum number of pressings per recording would be increased from the existing 5,000 unit level to 10,000; the existing cap of one (1) recording per year would remain in effect but the Federation would be authorized to approve on a project-by-project basis limited pressings in excess of one year. Any limited pressing would continue to be subject to approval by the orchestra musicians. As in the past, these rules shall not apply in Canada.

As soon as the foregoing modification to the limited pressing rules for symphonic recordings is approved by the International Executive Board, it will become effective retroactive to February 1, 1996.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

American Federation of Musicians of the United States and Canada

Affiliated With The AFL-CIO/CLC

OFFICE OF THE PRESIDENT
STEVE YOUNG

1501 Broadway, Suite 600 New York, NY 10036-5503
Tel: (212) 869-1330; Fax (212) 764-6134

November 13, 1998

Norman K. Samnick
Stroock & Stroock & Lavan
180 Maiden Lane
New York, NY 10038-4982

Michael A. Curley
O'Melveny & Myers
Citicorp Center
153 East 53rd Street, 54th Floor
New York, NY 10022-4611

Side Letter Agreement IV re Licensed Product

In the current round of collective bargaining between the Phonograph Record Industry and the American Federation of Musicians, the parties clarified that each Company has the following obligation with respect to audits conducted by the Phonograph Record Manufacturers' Special Payments Fund and the Recording Industries Music Performance Trust Funds (collectively, the "Funds"):

With respect to a phonograph record that is licensed, leased, sold or otherwise transferred to a party that (i) is not signatory to the Phonograph Record Labor Agreement and (ii) has not executed an assumption agreement in the form set forth therein ("licensee"), the Company shall make available to the Funds (or their authorized agents) a redacted licensing agreement and the units sold (or, if no unit information is provided to the Company by the licensee, the licensing revenues received by the Company with respect to such phonograph record). In no event may the redacted licensing agreement referred to in the foregoing paragraph omit information relevant to payments due to the Funds, including without limitation advance payments from the licensee to the Company and minimum unit guarantees.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

American Federation of Musicians of the United States and Canada

Affiliated With The AFL-CIO/CLC

OFFICE OF THE PRESIDENT

THOMAS F. LEE

1501 Broadway, Suite 600 New York, NY 10036-5503

Tel: (212) 869-1330; Fax (212) 764-6134

February 1, 2002

Norman K. Samnick
Robinson, Silverman, Pearce Aronshohn & Berman
1290 Avenue of the Americas , 31st Floor
New York, NY 10104

Michael A. Curley
O'Melveny & Myers
Citicorp Center
153 East 53rd Street, 54th Floor
New York, NY 10022-4611

Side Letter Agreement V re Digital Distribution

The parties have agreed that if, during the term of the 2002-2005 Sound Recording Labor Agreement, a dispute arises with respect either to the Company's obligation to make payments to musicians with respect to making recordings produced under any Sound Recording Labor Agreement available for digital distribution (e.g., downloading) via any online computer service, the Internet, satellite, or any other similar distribution vehicle and/or the basis on which such payments should be calculated, either party has the limited right to convene a Joint Federation-Industry Cooperative Committee meeting to discuss these issues. In order to exercise this limited right, a party must serve written notice on the other party on or before July 15, 2003. During the 90 days following such notice, the parties shall attempt to reach a mutually acceptable resolution of any such dispute. Failing a negotiated agreement by the expiration of any such 90-day period, each party may exercise its rights under the federal labor laws and under the 2002-2005 Sound Recording Labor Agreement. The afore-described limited right has no effect on any other provision of the 2002-2005 Sound Recording Labor Agreement.

For the Company

s/ _____

For the Federation

s/ _____

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

**EXHIBIT F: AFM STANDARD FORM REQUIRED FOR ANY NEW USE OF
OR TRANSFERS OF THE RIGHT TO USE SOUND RECORDINGS**

In accordance with paragraphs 21 and 24 of the AFM Sound Recording Labor Agreement, this form must be filled out and filed with the American Federation of Musicians at the address set forth in the box at the end of this form in order to effect either:

- A new use by the signatory Company of one or more phonograph records produced under any American Federation of Musicians Sound Recording Labor Agreement since January 1954, or
- A sale, lease, license, or other transfer of title to or permission to use, one or more Sound Recordings produced under any American Federation of Musicians Sound Recording Labor Agreement since January 1954 in either another Sound Recording or another medium.

Note: Any of the information required by this form may instead be provided by means of a redacted licensing agreement.

SIGNATORY NAME:

INFORMATION ABOUT APPLICABLE SOUND RECORDING(S)
[ATTACH ADDITIONAL PAGE(S) IF NECESSARY]

Song Title(s)	Artist(s)	Release Date(s)

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

INTENDED USE OF PRODUCT

(CHECK ALL APPLICABLE BOXES)

Sound Recording/compact disc

Title: _____

Motion Picture

Title: _____

Multimedia project (e.g., CD-Rom, DVD)

Title: _____

Commercial announcement

Advertised product: _____

Other (describe medium and specific project)

LICENSEE/TRANSFeree INFORMATION (IF APPLICABLE)

Date of Transfer: _____

Name of Licensee/Transferee: _____

Contact person: _____

Address: _____

Telephone: _____

Fax Number: _____

Mail, fax or e-mail to:
Contracts Administrator
Sound Recording Labor Agreement
American Federation of Musicians
3550 Wilshire Blvd, Suite 1900
Los Angeles, CA 90010

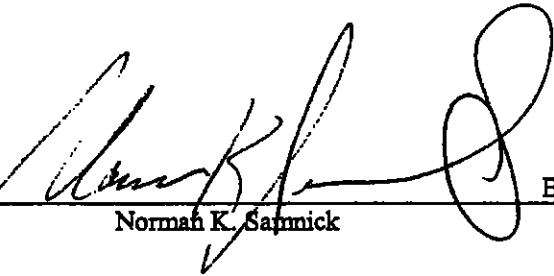
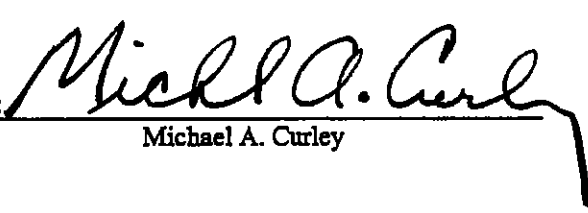
TEL: 213-251-4510; FAX 213-251-4522; EMAIL: srlaadmin@afm.org

SOUND RECORDING LABOR AGREEMENT

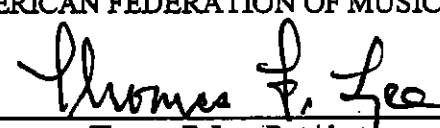
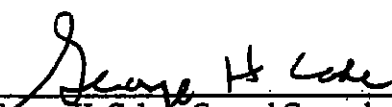
February 1, 2002 - January 31, 2005

As agreed:

WARNER BROTHERS RECORDS
ATLANTIC RECORDING CORPORATION
ELEKTRA ENTERTAINMENT
SONY MUSIC ENTERTAINMENT INC.
UNIVERSAL MUSIC GROUP
BMG ENTERTAINMENT INTERNATIONAL
CAPITOL RECORDS, INC.

BY:  BY: 
Norman K. Samnick Michael A. Curley

AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES & CANADA

BY:  BY: 
Thomas F. Lee, President George H. Cohen, General Counsel

SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

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SOUND RECORDING LABOR AGREEMENT

February 1, 2002 – January 31, 2005

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**SOUND RECORDING
SPECIAL PAYMENTS FUND AGREEMENT**

(February 1, 2002 - January 31, 2005)

AGREEMENT, made and delivered in the City and State of New York, on the date set forth below, by and between the undersigned and such others as shall hereafter agree to contribute to the fund referred to hereafter (individually called "First Party" and collectively "First Parties"), the undersigned Executive Director ("Executive Director"), and The American Federation of Musicians of the United States and Canada ("Federation").

WITNESSETH:

- (a) Each First Party has executed and delivered this Agreement pursuant to its undertaking so to do as provided by the *Sound Recording Labor Agreement (February, 2002)*, simultaneously herewith entered into with the Federation.
- (b) Each First Party by executing and delivering this Agreement assumes the duties and obligations to be performed and undertaken by each such First Party hereunder. The Executive Director has been designated collectively by the First Parties, who have requested it to assume and perform the duties of Executive Director hereunder, and it is willing to do so in the manner prescribed herein.

NOW, THEREFORE, in consideration of the premises, of the mutual covenants herein contained, of the undertakings assumed by each First Party, and of the undertakings herein by the Executive Director at the request of the First Parties, it is agreed as follows:

- 1. (a) There is incorporated herein and made part hereof, as though fully set forth herein, Addendum A.
- (b) Subject to paragraph 2(d), hereof, each First Party to this Agreement shall make the payments to the Executive Director called for in Addendum A, hereto, to provide for:
 - (i) said First Party's contribution to the musicians' share of the Fund as defined under paragraph 2(b) hereof. and
 - (ii) any employment taxes or insurance premiums which may be owing by the First Parties with respect to the distribution of the musicians' share of the Fund.
- (c) Within forty-five (45) days after the end of each calendar half-year (that is within forty-five (45) days after December 31st and June 30th in each year), each First Party will pay to the Executive Director such portion of the aforesaid payments as may have accrued hereunder during the preceding half-year, provided that the Executive Director may agree with any First Party that semi-annual payments be made with respect to other half-yearly periods ending on dates satisfactory to the Executive Director. Each payment hereunder shall be accompanied by a statement, certified by the Treasurer, Controller, or other authorized officer or representative of the First Party making such payment, containing such information as may be reasonably required to ascertain the correctness of the payment made. If such payments are not made when due hereunder,

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the same shall bear interest at the rate of six percent (6%) per annum from the date when such payment was due.

- (d) Each First Party at all times, without limitation to the duration of this Agreement, shall keep full and accurate records and accounts concerning all transactions on which payments to the Executive Director are based pursuant to this Agreement, in convenient form and pursuant to approved and recognized accounting practices. The Executive Director shall have the right from time to time, without limitation to the duration of this Agreement and at all reasonable times during business hours, to have its duly authorized agents examine and audit such records and accounts, and such other records and accounts as may be necessary, such examination and audit to be made for the purpose of verifying any statements made hereunder by each First Party, or due from such First Party, during a period not exceeding four (4) years preceding such examination and of determining the amount of payments due to the pursuant hereto. It is agreed that the four (4) year period provided herein shall not effect the operation of the applicable statute of limitations. Each First Party agrees to afford all necessary facilities to such authorized agents to make such examination and audit and to make such extracts and excerpts from said records and accounts as may be necessary or proper according to approved and recognized accounting practices. Examinations and audits made pursuant hereto shall be coordinated, to the extent practicable, with examinations and audits made under the Sound Recording Trust Agreements to which First Party is signatory so that inconvenience to the First Party may be minimized.
- (e) Any sale, assignment, lease or license of, or other transfer of title to, or permission to use any device covered by Addendum A to this Agreement whether by operation of law or otherwise, shall be subject to the rights and duties established by this Agreement. The Executive Director shall be advised monthly of each purchaser, assignee, lessee, licensee, transferee or user and of the identity of the phonograph record (as defined above) involved. No sale, assignment, lease, license, transfer or permission shall be made or granted by any First Party to any person, firm or corporation doing business within the United States, Canada or Puerto Rico, unless and until such purchaser, assignee, lessee, licensee, transferee, or user, shall become an additional First Party hereto. No other sale, assignment, lease, license, transfer or permission shall be made or granted unless such purchaser, assignee, lessee, licensee, transferee, or user, shall promise to make to such First Party the payments required by this Agreement, which said First Party shall pay over to the Administrator, but only to the extent that such First Party has received such payments, (i) in the United States or Canada, or (ii) in United States or Canadian currency or in a currency convertible into United States or Canadian currency, or (iii) in a currency not convertible into United States or Canadian currency, of which such First Party has made beneficial use, or (iv) in an asset other than currency. No such First Party will, without the consent of the Executive Director and Federation forgive or compromise such obligation.
- (f) All payments and other communications for each First Party to the Executive Director shall be made to the Executive Director at its office which shall be located in New York, N.Y.

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2. (a) The Executive Director accepts the duties hereby assigned to it, and shall establish the proper administrative machinery and processes necessary for the performance of its duties hereunder. The Executive Director shall as soon as practicable after May 1st of each year, distribute as herein provided the "musicians' share of the Fund," as defined in paragraph 2(b) hereof. Each musician, as collectively referred to in paragraph 1 of the Sound Recording Labor Agreement (February, 2002), shall receive as a special payment a fraction of the total distribution which shall be determined as follows: the numerator of said fraction shall be a sum determined by adding the scale wages payable to such musician by all First Parties hereto; (i) during the immediately preceding calendar year weighted or multiplied by 100 percent, (ii) during the immediately preceding calendar year less one weighted or multiplied by 80 percent, (iii) during the immediately preceding calendar year less two weighted or multiplied by 60 percent, (iv) during the immediately preceding calendar year less three weighted or multiplied by 40 percent, and (v) during the immediately preceding calendar year less four weighted or multiplied by 20 percent; the denominator of said fraction shall be a sum determined by adding the scale wages payable to all such musicians during the same calendar years as aforesaid by all said First Parties hereto similarly weighted or multiplied as set forth above. In the case of arrangers and orchestrators scale wages for all purposes of this paragraph 2(a) shall be deemed to be 150 percent of the scale wages paid to an instrumentalist for each tune on which the arranger or orchestrator performed services hereunder.

By way of illustration but not limitation:

Example 1:

If the scale wages payable to a musician participating in the 1996 distribution have been \$500 in 1995, and \$1,000 in 1994, and the total scale wages payable to all musicians during the same two years have been \$100,000 in 1995, and \$90,000 in 1994, the fraction of the distribution payable to that musician would be determined as follows:

<u>Year</u>	<u>Musician's scale wages</u>	<u>Total scale wages</u>
1995	\$500 x 100% = \$ 500	\$100,000 x 100% = \$100,000
1994	\$1,000 x 80% = <u>800</u>	90,000 x 80% = <u>72,000</u>
	\$1,300	\$172,000

The musician's 1996 special payment would be 1,300/172,000 of the "musicians' share of the Fund."

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Example 2:

If the scale wages payable to a musician participating in the 1997 distribution have been \$500 in 1996, \$1,000 in 1995, \$700 in 1994, none in 1993, and \$300 in 1992, and if the total scale wages payable to all musicians during the same five years have been \$100,000 in 1996, \$90,000 in 1995, \$70,000 in 1994, \$50,000 in 1993 and \$50,000 in 1992, the fraction of the distribution payable to that musician would be determined as follows:

Year	Musician's scale wages	Total scale wages payable to all musicians
1996	\$500 x 100% = \$ 500	\$100,000 x 100% = \$100,000
1995	\$1,000 x 80% = 800	90,000 x 80% = 72,000
1994	\$700 x 60% = 420	70,000 x 60% = 42,000
1993	0 x 40% = 0	50,000 x 40% = 20,000
1992	300 x 20% = <u>60</u>	50,000 x 20% = <u>10,000</u>
	\$1,780	\$244,000

The musician's 1997 special payment would be 1,780/244,000 of the "musicians' share of the Fund."

- (b) For purposes of this Agreement, the "musician's share of the Fund" shall be an amount equal to:
- (i) All sums received by the Executive Director up to May 1st of the year of distribution, with respect to sales of phonograph records made:
 - (A) During the preceding calendar year, or,
 - (B) At any time prior to the preceding calendar year, if the payment with respect to such sales, was received by the Executive Director after May first of the preceding calendar year.
 - (ii) Less:
 - (A) All expenses reasonably incurred in the administration of the Fund, including the compensation of the Executive Director herein provided, and appropriate bonding premiums.
 - (B) Amounts reasonably reserved by the Executive Director as an operating Fund, and for contingencies, and,
 - (C) An amount (hereinafter referred to as the "share of the Fund") equal to the total of any Social Security Tax, Federal and/or State Unemployment Insurance Tax, other employment taxes, Disability Insurance premiums, and/or Workers' Compensation premiums, which may be owing by the First Parties, individually or collectively, and/or by the Executive Director, as Employer or Employers, with respect to the distribution of the musicians' share of the Fund.

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- (c) The First Parties, individually and collectively, hereby irrevocably designate the Executive Director as their agent to pay from the Manufacturers' share of the Fund, any Social Security Tax, Federal and/or State Unemployment Insurance premiums, and/or Workers' Compensation premiums, which may be owing by the First Parties individually and/or collectively, as Employer or Employers, with respect to the distribution of the musicians' share of the Fund.
- (d) Notwithstanding any other provisions of this Agreement, a First Party may, at the time it makes its annual payment to the Fund, request that the Executive Director refund to it such proportion of such payment as:
- (i) The total of any taxes and insurance premiums which may be payable under paragraph 2(b)(ii)(C) hereof, with respect to the distribution of the musicians' share of the Fund in the year of payment, bears to
 - (ii) The total payments made to the Fund by First Parties in said year.
- Any such refund shall be made by the Executive Director to the First Party requesting the refund not later than September 1st of the year of payment.
- If a refund is made to a First Party under this subparagraph, the Executive Director shall not be responsible in said year, for payment of said First Party's share of any taxes and insurance premiums payable under paragraph 2(b)(ii)(C), hereof, with regard to the distribution of the musicians' share of the Fund.
- (e) The Federation has agreed to furnish to the Executive Director, and to cause its local unions to furnish to the Executive Director, all data in the possession or subject to the control thereof, which is necessary and proper to assist in the orderly and accurate distribution to musicians as provided herein and to request the Trustees of the American Federation of Musicians and Employers' Pension Fund to do likewise upon reimbursement of all costs reasonably incurred thereby in so doing.
- (f) The Executive Director shall indemnify and hold the First Parties harmless out of the Fund against any liability for making any of the payments to the musicians under paragraph 2(a), hereof, or any payments of employment taxes and insurance premiums which may be required to be made by the Executive Director under paragraph 2(c), hereof, it being the express intent of the parties that all such payments are to be made out of the Fund with no further cost or expense of any kind whatsoever to the First Parties. Without limitation of the foregoing, the Executive Director also shall furnish a surety bond with a responsible surety company satisfactory to the First Parties and to the Federation, to guarantee the full and faithful performance of its duties as herein described.
- (g) In making distribution to musicians hereunder, the Executive Director shall clearly and legibly display the following legend on all checks, vouchers, letters or documents of transmittal: "This is a special payment to you under a collectively negotiated agreement between the American Federation of Musicians and recording company signatories."

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- (h) In the event of the death of a musician entitled to a distributive share hereunder, the Executive Director shall distribute such share to the beneficiary designated by such musician on a form provided by the Executive Director for such purpose or, if no such beneficiary is so designated, the beneficiary designated by such musician pursuant to the AFM-EP Pension Fund; and if no beneficiary be so designated, then to the surviving spouse of such musician; and if there be no such person, to the musician's estate.
- (i) If a musician for whom a distributive share has been set apart cannot be found, or if payment under this Agreement has been tendered but is not completed after efforts which the Executive Director deems reasonable, the Executive Director shall add such amounts to a reserve Fund and hold the same therein pending receipt of claim or until the end of the second full calendar year payable.

Thereafter, all such amounts remaining unclaimed shall be redeposited in the "musicians' share of the Fund" as defined in paragraph 2(b) for distribution as therein provided.

- 3. (a) In the event that any First Party shall default in the payment of any sums to the Executive Director when the same shall become due pursuant to this Agreement, the Executive Director shall have the duty, right and power forthwith to commence action or to take any other proceedings as shall be necessary for the collection thereof, including the power and authority to compromise and settle with the Federation's consent. The Executive Director's reasonable expenses, attorney's fees and other disbursements incurred in the collection of any such overdue sums shall be paid to the Executive Director by the First Party so defaulting and such payment shall be added to the Special Payments Fund.
- (b) Nothing contained herein shall create any cause of action in favor of any musician as defined in the Sound Recording Labor Agreement (February, 2002) against any First Party but the Federation may enforce distribution of the musicians' share of the Fund in behalf of the individual musicians.
- (c) The Executive Director shall deposit all money and property received by it, with or without interest, with any bank or trust company, insured by the Federal Deposit Insurance Corporation and having capital, surplus and undivided profits exceeding \$5,000,000; provided, however, that in the event that Canadian dollars are receivable by the Executive Director and it is not feasible or desirable to convert such Canadian dollars into the United States funds, such Canadian funds and any securities purchased therewith may be deposited in a Chartered Bank of the Dominion of Canada, anything herein to the contrary notwithstanding. Except as modified by the provisions of paragraph 3(d) hereof, the Executive Director shall have the right and power to invest and reinvest the said money and property only in short term investments (not to exceed one year in duration), bonds and other direct obligations of the United States of America and of the Dominion of Canada, high grade commercial paper, insured bank certificates of deposit, and commingled investment funds managed by banks or trust companies.

The Executive Director shall promptly appoint for a reasonable fee an investment manager or managers which manager or managers shall render all decisions regarding the management, acquisition, or disposal of any assets of the Fund described in this paragraph 3(c) and in paragraph 3(d) hereof.

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- (d) In connection with the collection of any sums due to it hereunder, the Executive Director may consent to and participate in any composition of creditors, bankruptcy, reorganization or similar proceeding, and in the event that as a result thereof the Executive Director shall become the holder of assets other than money, obligations to pay money conditioned only as to the time of payment, or property of the class specified in paragraph 3(c) hereof (which assets are in this subsection (d) called "property"), the Executive Director may consent to and participate in any plan of reorganization, consolidation, merger, combination, or other similar plan, and consent to any contract, lease, mortgage, purchase, sale or other action by any corporation pursuant to such plan and accept any property which might be received by the Executive Director under any such plan, whether or not such property is of the class in which the Executive Director by paragraph 3(c) hereof, is authorized to invest the Fund: The Executive Director may deposit any such property with any protective, reorganization or similar committee, delegate discretionary power thereto, and pay part of its expenses and compensation and any assessment levied with respect to such property; the Executive Director may exercise all conversions, subscription, voting and other rights of whatsoever nature pertaining to any such property, and grant proxies, discretionary or otherwise, in respect thereof and accept any property which may be acquired by the Executive Director by the exercise of any such rights, whether or not such property is of the class in which the Executive Director by paragraph 3(c) hereof, is authorized to invest the Fund. Anything to the contrary contained in this paragraph 3(d) notwithstanding, the Executive Director shall reasonably endeavor to dispose of any such property in order that the Fund, to the fullest extent possible, at all times shall be comprised as specified in paragraph 3(c) hereof.
- (e) Parties dealing with the Executive Director shall not be required to look to the application of any monies paid to the Executive Director.
- (f) The Executive Director has consented to act as Executive Director hereunder upon the express understanding that it shall not in any event or under any circumstances be liable for any loss or damage resulting from anything prudently done or omitted, and further, that this understanding shall not be limited or restricted by any reference to or inference from any general or special provisions herein contained or otherwise. In particular, and without limiting the foregoing, Executive Director shall not be subject to any personal liability for monies received and expended in accordance with the provisions hereof.
- (g) Within ninety (90) days after the end of each fiscal year, the Executive Director shall furnish a statement for such fiscal year of its operations to each First Party hereto making payments to the Executive Director and to the Federation. Such statements shall set forth in detail the properties and monies on hand and the operations of the Executive Director during the immediately preceding fiscal year, including without limitation the details of any compromise or settlement made by the Executive Director with any First Party, and such other information and data as shall be appropriate to inform fully the recipients of such statements and shall be certified by an independent certified public accountant.
- (h) The Executive Director, at all times without limitation to the duration of this Agreement, shall keep full and accurate records and accounts concerning all transactions involving the receipt and expenditure of monies hereunder and the investment and reinvestment thereof, all in convenient form and pursuant to approved

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- and recognized accounting practices. Each First Party and the Federation shall have the right from time to time, without limitation to the duration of this Agreement, and at all reasonable times during business hours, to have their respective duly authorized agents examine and audit the Executive Director's records and accounts for the purpose of verifying any statements and payments made by the Executive Director pursuant to this Agreement, during a period not exceeding two (2) years preceding such examination. The Executive Director shall afford all necessary facilities to such authorized agents to make such examination and audit and to make extracts and excerpts from said records and accounts as may be necessary or proper according to approved and recognized accounting practices.
- (i) The Executive Director shall recognize and honor lawful assignments to the Federation of a portion of the payments to which any musician shall become entitled hereunder.
4. (a) The Oversight Committee ("Committee") will consist of one (1) or more Company representatives appointed by each Company listed on p.64 of the Sound Recording Labor Agreement (but limited to one representative per Company). A representative or representatives of the AFM (but not exceeding three (3) such representatives) appointed by the AFM President shall serve as liaison(s) to the Committee and may attend all Committee meetings on a non-voting basis.
- (b) The Committee shall have the authority to take whatever measures the Committee, in its sole discretion, determines are necessary to ensure that the Executive Director is conducting the affairs of the Fund and incurring expenses in the administration of the Fund in a reasonable manner consistent with the provisions of this Agreement including, without limitation, the Committee shall have the authority to audit the books and financial records of the SPF and to interview SPF employees. Further, the Committee shall have the power to take whatever corrective actions the Committee, in its sole discretion, determines are necessary, including, but not limited to, the removal of the Executive Director or any other employee of the Fund and the commencement of legal action on behalf of the Fund.
- (c) The annual budget for the costs associated with the operation of the Fund, including the salary of the Executive Director, shall be approved by the Committee after consultation with the AFM liaison(s), and paid out of the corpus of the Fund. The Committee's approval of the budget may be withheld only if the Committee reasonably determines that the budgeted amounts with which the Committee disagrees do not in a cost-effective manner further the purposes for which the Fund is maintained.
- (d) The Committee will meet at periodic intervals at least annually. The Fund shall pay for all reasonable expenses incurred by the Committee members and the AFM liaison(s) in carrying out the Committee's activities.
- (e) The Committee members and the AFM liaison(s) will be covered by any necessary or advisable liability insurance policy, which will be paid for by the Fund.

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- (f) Each appointing Company will have the right to replace the representative on the Committee that it has appointed by written notice to the Executive Director and to the President of the AFM, and the AFM President will have the right to replace any AFM liaison(s) to the Committee by written notice to the Executive Director and to the Committee members.
- 5.
- (a) The Executive Director may resign at any time by thirty (30) days written notice to the Committee and the Federation. A successor Executive Director shall thereupon be appointed by the Committee.
 - (b) The Executive Director shall be subject to removal by the Committee.
 - (c) In the event of the death of the Executive Director, if an individual, or the removal of the Executive Director, a successor Executive Director shall be appointed by the Committee.
 - (d) No Executive Director under this Agreement shall be a representative of labor, or of any union, or of employees within the meaning of Section 302(b) of the Labor Management Relations Act, 1947.
6. Any person, firm, corporation, association or other entity may apply to become an additional First Party to this Agreement by executing and delivering to the Executive Director three (3) counterparts of Schedule 1 hereto attached. The Executive Director shall indicate acceptance of such application by appropriately completing such application, executing three (3) such counterparts, and delivering one (1) such counterpart to such additional First Party at the Executive Director's office in the City of New York and one (1) such counterpart to the Federation. The Executive Director shall forthwith advise the Federation of the execution and delivery of such Agreement, and shall regularly advise all other First Parties thereof.

This Agreement shall be governed, construed and regulated in all respects by the laws of the State of New York.

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ADDENDUM A

1. For the purposes of this Agreement, the terms “phonograph record” and “record” shall include phonograph records, wire or tape recordings, or other devices reproducing sound, and the term “master record” shall include any matrix, “mother,” stamper or other device from which another such master record, phonograph record, wire or tape recording, or other device reproducing sound, is produced, reproduced, pressed or otherwise processed.
2. (a) Each First Party shall make payments to the Executive Director in the amounts computed as stated below, with respect to the sale during the period specified in 6, below, of phonograph records, produced from master records containing music which was performed or conducted by musicians covered by, or required to be paid pursuant to, a collective bargaining agreement with the Federation known as Sound Recording Labor Agreement (February, 2002) (but specifically excluding services solely as arranger, orchestrator or copyist) where such phonograph records are sold during said period by such First Party, or, subject to the provisions of paragraph 1 (e) of the main text of this Agreement, by purchasers, lessees, licensees, transferees, or other users deriving title, lease, license, or permission thereto, by operation of law or otherwise, by, from or through such First Party. Effective for all unresolved audits as of February 1, 2002 no payments shall be required with respect to any sale after February 1, 1996, of any single, defined as any record containing (i) no more than three (or four, for sales after February 1, 2002) different titles (songs) and (ii) no more than eight sides (versions).
- (b) For product produced during the term of this Agreement, as to foreign receipts the obligations of the First Party shall not accrue until the First Party shall either have the right to freely use such foreign currency, or the First Party has the right to transmit to the United States to the First Party such foreign currency from such foreign country or territory. If such currency may be utilized or transmitted as aforesaid it shall be deemed to have been converted to United States dollars at the rate of exchange at which such currency was actually transmitted to the United States as aforesaid, or if not actually transmitted, then at the prevailing free market rate of exchange at the time such right to use or to transmit occurs. Frozen foreign currency shall be deemed to be unblocked on the basis of “first in, first out”, unless otherwise allocated by local foreign fiscal authorities. Allocation of such unblocked funds as between revenue which serves as the basis of determining payments hereunder and other revenue, shall be on a proportional basis, subject to different earmarking by local foreign fiscal authorities. Payments of amounts accruing hereunder shall be made semiannually on the basis of the reports to the Administrator required in paragraph 1(c) of the main text of this Agreement. Foreign retail price shall be accounted for in U.S. dollars at the rate of exchange at which receipts are actually converted and remitted.

With respect to foreign sales, the First Party shall pay only that proportion of the amount provided for in paragraph 3, as the adjusted foreign receipts bears to the total foreign receipts. For purposes hereof, adjusted foreign receipts shall be computed, as follows: total foreign receipts less (1) value added taxes or other taxes, whatever called, which the consumer pays and which are not segregated from the retail price and (2) repatriation taxes or withholding taxes or other foreign taxes, whatever called; provided, however, that taxes shall not reduce foreign receipts to the extent that such

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taxes constitute income taxes which are credited as a foreign tax credit on the First Party's consolidated U.S. Corporation Income tax. For purposes hereof, an income tax will not be treated as credited as a foreign tax credit in a given year except to the extent of the excess of the First Party's allowed foreign tax credits computed pursuant to SS 901 and 904 of the Internal Revenue Code of 1986, as amended, for such year over the amount of such First Party's foreign tax credits which would have been allowed for such year if computed without reflecting the foreign receipts and related income taxes and expenses. The determination of whether an income tax will be treated as credited as a foreign tax credit shall take into account any carryback or carryforward of foreign income taxes to such year; provided, however, if the First Party makes a good faith determination that the First Party expects to be entitled to a foreign tax credit for a tax for the years subject to audit, an income tax will be treated as a foreign tax credit three years from the payment date of the royalty statement date which reflected such tax. The First Party shall not be responsible for loss or diminution of foreign receipts as a result of any matter or thing not reasonably within the control of the First Party. The Federation, the Executive Director, or the Special Payments Fund, as the case may be, and the musicians shall be bound by any arrangements made in good faith by the First Party, or for its account, with respect to the deposit or remittance of foreign revenue. Frozen foreign receipts shall not be considered trust funds and the First Party may freely commingle the same with other funds of the First Party. No sums received by way of deposits or security need be included until earned from net sales.

3. The payments to the Executive Director shall be computed as follows:
 - (a) .54% of the manufacturer's suggested retail price for each record when such price does not exceed \$3.79.
 - (b) .52% of the manufacturer's suggested retail price for each record when such price exceeds \$3.79, to a maximum suggested retail price of \$8.98 for each record.
 - (c) .522% of the manufacturer's suggested retail price for each wire or tape recording or other device, to a maximum suggested retail price of \$8.98 for each wire or tape recording or other device. In the case of compact discs, such maximum suggested retail price shall be \$10.98. The term "compact disc" shall include Audio Digital Versatile Discs (Audio-DVD) and Super Audio Compact Discs (SACD) for all purposes under this Agreement.
 - (d) For sales of records, tapes, cartridges, compact discs and other devices in excess of the first 300,000 units of each title, the percentage of the manufacturer's suggested retail price shall be .53% effective February 1, 1996 and .54% effective August 1, 1997 for each unit, up to the maximum applicable suggested retail price set forth in paragraphs 3(a) through 3(c). [It is further agreed that the first 300,000 units of each title shall be calculated in the same manner that the 25,000 unit allowance under Addendum A, 4(c) is calculated—namely, by combining all configurations (per side letter of 2/13/96 available on request from AFM).]
 - (e) For sales of records, tapes cartridges, compact discs and other devices in excess of the first 1,000,000 royalty-bearing units of each title, the percentage of the manufacturer's suggested retail price shall be .55% on records produced on or after February 1, 2002, up to the maximum suggested retail price set forth in paragraphs 3(a) through 3(c). It is further agreed that the first 1,000,000 royalty-bearing units of each title shall be

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calculated in the same manner that the 25,000 unit allowance under Addendum A, 4(c) is calculated—namely, by combining all configurations.

For packages which contain more than one (1) record or tape or wire equivalent, the maximum suggested retail price shall be \$8.98 (in the case of compact discs, \$10.98) multiplied by the number of units in the package.

With respect to a phonograph record produced after January 31, 2002, both from master records described in paragraph 2, of this Addendum A and recorded under the Sound Recording Labor Agreement (February, 2002) for which payments are due hereunder and from other master records, First Party shall pay that proportion of the amount provided for above as the number of such master records recorded under said Agreement bears to the total number of master records embodied in the phonograph record.

- (f) Effective for all unresolved audits as of February 1, 2002, no payments shall be required with respect to the sale of any cutouts.
4. For the purposes of computing payments to the Executive Director:
- (a) Each First Party will report 100% of net sales.
 - (b) Each First Party will have an allowance, with respect to singles sold before February 1, 1996, of the first 100,000 records sold for each title.
 - (c) Each First Party will have an allowance, with respect to albums, tapes, compact discs and other devices, of the first 25,000 units of a title.
 - (d) Each First Party will have a packaging allowance in the country of manufacture or sale of 20% of the suggested retail list price for phonograph records and 30% of the suggested retail list price for tapes, cartridges, and compact discs.
 - (e) Each First Party will have an absolute “free record” allowance with respect to records, tapes, cartridges and compact discs regardless of mix (except for record clubs which are dealt with separately below), of 25% of the total records distributed.
 - (f) With respect to its record clubs, if any, each First Party will have an allowance of “free” and “bonus” records, tapes, cartridges and compact discs actually distributed of up to 50% of the total records, tapes, cartridges and compact discs distributed by or through the clubs; and with respect to such “free” and “bonus” records, tapes, cartridges and compact discs distributed by its clubs in excess thereof, each First Party will pay the full rate on 50% of the excess of such “free” and “bonus” records, tapes, cartridges and compact discs so distributed.
5. Schedules of current manufacturer’s suggested retail prices for each record in each First Party’s catalogue shall be furnished by each First Party to the Executive Director upon the execution and delivery of this Agreement and amendments and additions thereto shall be so furnished as and when established. For the purposes of determining the amounts payable hereunder, such suggested retail prices shall be computed exclusive of any sales or excise taxes on the sale of phonograph records subject to this Agreement. If any First Party discontinues the practice of publishing manufacturer’s suggested retail prices, it agrees

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that it will negotiate a new basis for computing payments hereunder which shall be equivalent to those required above.

6. The payments provided for in this Agreement shall be made with respect to the sales of any phonograph record produced from a master record described in paragraph 2, of this Addendum A which take place during the period commencing with the calendar year *during which a phonograph record produced from such master record is first released for sale and terminating at the end of the tenth calendar year thereafter.* The year of such release shall be counted as the first year of the ten years. (By way of illustration but not limitation, if a phonograph record produced from a master record made pursuant to the Phonograph Record Labor Agreement (February, 1996), is first released for sale in May, 1996, payments shall be made with respect to sales of said record which take place during the calendar years 1996–2005 inclusive. If said phonograph record is first released for sale in April, 1998, payments shall be made with respect to sales of said record which take place *during the calendar years 1998–2007 inclusive.*)
7. The report to the Executive Director required in paragraph 1(c) of the main text of this Agreement shall show the number of phonograph records, tapes and other devices subject to payment under this Agreement which have been sold during the period to be covered by the report, the dates of initial release for sale thereof, the manufacturer's suggested retail price thereof and of the component units thereof and the excise and sales taxes, if any, borne by the First Party thereon.
8. Despite anything to the contrary contained in this Agreement, it is specifically agreed that the First Party reserves the right, by written notice to the Executive Director, effective with the effective date of any termination, modification, extension or renewal of the said sound Recording Labor Agreement (February, 2002), to terminate or change any of the terms of this Special Payments Fund Agreement, but no such termination or change shall be effective unless the First Party has secured the prior written approval thereto by the Federation. It is agreed, however, that no such change may have any retroactive effect.
9. Anything to the contrary herein contained notwithstanding, it is agreed that if the sound Recording Labor Agreement (February, 2002), or any successor agreement is not renewed or extended at or prior to its expiration date, and if a work stoppage by members of the Federation ensues, then all payments otherwise due to the Executive Director based on sales for the period of such work stoppage, and only for such period, shall not be made to the Executive Director. In lieu thereof, equivalent amounts shall be paid by each First Party as an additional contribution to the Trustee under the sound Recording Trust Agreement (February, 2002) unless otherwise determined as a condition for the cessation of such work stoppage

SOUND RECORDING SPECIAL PAYMENTS FUND AGREEMENT

February 1, 2002 - January 31, 2005

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SOUND RECORDING TRUST AGREEMENT

(February 1, 2002 – January 31, 2005)

AGREEMENT, made and delivered in the City and State of New York, on the date set forth below, by and between the undersigned and such others as shall hereafter agree to contribute to the trust fund referred to hereafter (herein individually called "First Party" and collectively "First Parties"), and the undersigned Trustee (herein called the "Trustee").

WITNESSETH

- (a) Some of the First Parties are signatories to a prior trust agreement or agreements and are incorporating into this agreement substantially the terms, conditions and provisions of said agreement or agreements.
- (b) The First Parties desire to contribute to the trust referred to in this instrument; each First Party by executing and delivering this Agreement assumes the duties and obligations to be performed and undertaken by each such First Party hereunder. The Trustee has been designated collectively by the First Parties; who have requested the Trustee to assume and perform the duties of Trustee hereunder. The Trustee is willing to accept the trust and to perform the duties of Trustee, as prescribed herein, in a manner based solely upon the public interest.

Now, THEREFORE, in consideration of the premises, of the mutual covenants herein contained, of the undertakings assumed by each First Party, and of the undertakings assumed herein by the Trustee at the request of the First Parties, it is agreed as follows:

- 1. If the Trustee shall so request, each First Party, whether an original signatory hereof or an additional First Party, upon becoming a First Party, shall make an initial payment to the Trustee in an amount which such First Party estimates to be equal to fifty per cent (50%) of the payment which will become due from such First Party to the Trustee hereunder within forty-five (45) days after the end of the calendar half-year immediately following the date when such First Party shall become a signatory hereto, such initial payment to be deductible from the payment due and owing at such time but in no event to be otherwise returnable.
- 2.
 - (a) There are incorporated herein and made part hereof, as though fully set forth herein, Addendums A and B.
 - (b) Each First Party to this Agreement shall make the payments to the Trustee called for in Addendum A hereto.
 - (c) Within forty-five (45) days after the end of each calendar half-year (that is within forty-five (45) days after December 31st and June 30th in each year), each First Party will pay to the Trustee such portion of the aforesaid payments as may have accrued

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hereunder during the preceding half-year; provided that the Trustee may agree with any First Party that semi-annual payments be made with respect to other half-yearly periods ending on dates satisfactory to the Trustee. Each payment hereunder shall be accompanied by a statement, certified by the Treasurer, Controller, or other authorized officer or representative of the First Party making such payment, and containing such information as the Trustee may reasonably require to ascertain the correctness of the payment made. Such statements shall be made in such reasonable form and detail as the Trustee may from time to time prescribe. If such payments are not made when due hereunder, the same shall bear interest at the rate of six per cent (6%) per annum from the date when such payment was due.

- (d) Each First Party at all times, without limitation to the duration of this Agreement, shall keep full and accurate records and accounts concerning all transactions on which payments to the Trustee are based pursuant to this Agreement, in convenient form and pursuant to approved and recognized accounting practices. The Trustee shall have the right from time to time, without limitation to the duration of this Agreement and at all reasonable times during business hours, to have its duly authorized agents examine and audit such records and accounts, and such other records and accounts as may be necessary, such examination and audit to be made for the purpose of verifying any statements made hereunder by each First Party, or due from such First Party, during a period not exceeding four years preceding such examination and of determining the amount of payments due to the Trustee pursuant hereto. It is agreed that the four year period provided herein shall not affect the operation of the applicable statute of limitations. Each First Party agrees to afford all necessary facilities to such authorized agents to make such examination and audit and to make such extracts and excerpts from said records and accounts as may be necessary or proper according to approved and recognized accounting practices. Examinations and audits made pursuant hereto shall be coordinated, to the extent practicable, with examinations and audits made under the Special Payments Fund Agreements to which First Party is signatory, so that inconvenience to the First Party may be minimized.
- (e) It is agreed that any sale, assignment, lease or license of, or other transfer of title to, or permission to use any device covered by Addendum A to this Agreement, whether by operation of law or otherwise, shall be subject to the rights and duties established by this Agreement. The Trustee shall be advised monthly of the name and address of each purchaser, assignee, lessee, licensee, transferee or user and of the identity of the phonograph record (as defined in Addendum A) involved. No sale, assignment, lease, license, transfer or permission shall be made or granted by any First Party to any person, firm or corporation doing business within the United States, Canada or Puerto Rico, unless and until such purchaser, assignee, lessee, licensee, transferee, or user, shall promise to make to such First Party the payments required by this Agreement, which said First Party shall pay over to the Trustee, but only to the extent that such First Party has received such payments (i) in the United States or Canada, or (ii) in United States or Canadian currency or in a currency convertible into United States or Canadian currency, or (iii) in a currency not convertible into United States or Canadian

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currency, of which such First Party has made beneficial use, or (iv) in an asset other than currency. No such First Party will, without the consent of the Trustee, forgive or compromise such obligation.

- (f) All payments and other communications for each First Party to the Trustee shall be made to the Trustee at his office.
3. (a) The Trustee does hereby accept the trust hereby created, agrees to establish the proper administrative machinery and processes necessary for the performance of the Trustee's duties hereunder, and agrees fully and faithfully to perform each and every duty and obligation on the Trustee's part to be performed as set forth herein, for the purposes and objectives of arranging and organizing the presentation of personal performances by instrumental musicians (and singers, but limited to one per performance and only if accompanying a live band, if the vocals are a usual and integral part of the band's performance, and if the singer usually accompanies the band) in the areas throughout the United States, and its territories, possessions and dependencies, and the Dominion of Canada, as shall be specified in a Schedule to be promulgated by the Trustee on or before each May 1st, such Schedule when so promulgated to be called "Area Schedule" and a copy thereof to be delivered to each First Party hereto who requests it and to the Federation hereinafter named, on such occasions and at such times and places as in the judgment of the Trustee will contribute to the public knowledge and appreciation of music. In pursuance of such purposes and objectives, the Trustee shall organize such performances for live (face to face) audiences (which may also be broadcast over radio and television) upon occasions where no admission fees are charged, in connection with activities of patriotic, charitable, educational, civic and general public nature, such as, but not limited to, veteran's hospital entertainment programs, juvenile and adolescent social programs, programs of educational or cultural intention, programs for local or national civic, community or patriotic celebrations, symphony society or other musical activities of a non-profit nature, and similar programs and activities, entirely without profit to the trust fund. The Trustee shall not act as a representative of the Federation hereinafter referred to, or of any member or members thereof, or of any person or persons receiving payment under the terms of the trust for services rendered at the performances presented pursuant to the terms hereof. The Trustee shall be guided solely by the terms and conditions hereof and shall perform the Trustee's functions on the sole basis of the public interest.
- (b) In connection with such activities, the Trustee shall have the following powers and authority subject to the following limitations:
- (i) The Trustee shall arrange, as nearly as may be, for the expenditure for the above purposes, during each successive twelve (12) months period, the first such period to commence on the first day of May in the year following the calendar year in which this Agreement is executed of an amount equal to not less than ninety per cent (90%) of the total amount of the trust fund existing on the 31st day of March next preceding the commencement of each such twelve (12) months period, and which at such time is not already budgeted for expenditure.
- (ii) Subject to the provisions of paragraph 3(b)(i) hereof, the Trustee shall, as nearly as may be, arrange for the expenditure for such purposes during each such twelve

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(12) months period, (A) within each geographical area set forth in said Area Schedule, amounts equal, as nearly as may be, to the percentages set forth in said Area Schedule of ninety per cent (90%) of the total sums to be expended for such purposes by the Trustee during such twelve (12) months period, and (B) at such places and times as the Trustee in his discretion may determine of ten per cent (10%) (except as provided in paragraph 4(f) hereof) of such sums. Any sums not so expended during such twelve (12) months period shall be available for allocation and expenditure during the next but one ensuing twelve (12) months period as provided in this Agreement.

- (iii) In connection with the performance of the Trustee's duties hereunder, the Trustee shall do the following:
- (A) engage instrumental musicians (and singers, but limited to one per performance and only if accompanying a live band, if the vocals are a usual and integral part of the band's performance, and if the singer usually accompanies the band) in connection with the presentation of such performances, the rate of compensation to such instrumental musicians (and singers, as limited and defined in this section) to be at the union scale established in the area where such performances take place for performances of the category involved in the Trustee's presentation or the most similar category for which a scale exists;
 - (B) engage concert halls and similar places, arrange for the supplying of programs, tickets, ushers, advertisements, publicity and similar items required in connection with the presentation of such performances;
 - (C) enter into any agreements, necessary and proper in connection with the hiring of concert halls and similar places, the employment of musicians, the preparation of tickets, programs, posters, advertising material and similar material, the employment of publicists and other personnel, the purchase of advertisements, and such other agreements as may be necessary and proper in connection with the presentation of such performances;
 - (D) enter into agreements or arrangements, which in the Trustee's judgment may be appropriate, with co-sponsors of such performances and receive and expend monies and other property contributed by such co-sponsors for and in connection with the presentation of such performances;
 - (E) consult with and receive the counsel and advice of qualified institutions and organizations including business groups and organizations, public authorities, musical schools and institutions, the Federation hereinafter referred to, and other civic, patriotic, charitable and welfare organizations, and such other persons and organizations as the Trustee shall consider useful and suitable, with respect to matters relating to the presentation of such performances;
 - (F) prior to causing the disbursement of any monies from the trust fund for services rendered or other consideration received or contracted for, receive from the duly authorized representative of the Federation, hereinafter referred to, certification in writing that such services or other considerations have been received or contracted for, provided, that such

SOUND RECORDING TRUST AGREEMENT

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- certification has not been unreasonably withheld where the contemplated disbursement is for services rendered or consideration contracted for or received in accordance with the purposes, objects and conditions hereof;
- (G) at the request in writing of any First Party making payments to the Trustee, cause to be posted or otherwise publicized at each performance to be presented by the Trustee, an appropriate notice or other advice setting forth the name of such party not then in default in the performance of any of its obligations to the Trustee;
 - (H) whenever such delegation is deemed advisable, delegate to an agent of the Trustee, the power to make disbursements for services rendered or for considerations received or contracted for by the Trustee in accordance with the provisions hereof;
 - (I) enter into an agreement or agreement in writing, not inconsistent with this Agreement, with any depository or depositories selected by the Trustee, covering the terms and conditions pursuant to which such depository or depositories shall act.
- (iv) Subject to the terms and conditions set forth above, the Trustee shall hold, manage, invest and reinvest the trust fund and pay, apply, utilize and expend the entire net income therefrom and the principal thereof for the payment of compensation for and by reason of the services of instrumental musicians, for the expenses of presenting such performances, for the payment of the Trustee's compensation as herein provided, for the payment of salaries, counsel and auditor's fees, for the payment of appropriate bonding and insurance premiums, and for other expenses reasonable, incurred in the administration of the fund.
4. Subject to the specific limitations otherwise imposed upon the Trustee by this Agreement, the Trustee shall have the following additional rights, duties and powers, and shall enjoy the following privileges and immunities, subject to the following limitations:
- (a) In the event that any First Party shall default in the payment of any sums to the Trustee when the same shall become due pursuant to this Agreement, the Trustee shall have the duty, right and power forthwith to commence action or to take any other proceedings as shall be necessary for the collection thereof, including the power and authority to compromise and settle. The Trustee's reasonable expenses, attorney's fees and other disbursements incurred in the collection of any such overdue sums shall be paid to the Trustee by the First Party so defaulting and such payment shall be added to the trust fund.
 - (b) The Trustee shall deposit all money and property received by the Trust, with or without interest, with any bank or trust company, insured by the Federal Deposit Insurance Corporation, and having capital, surplus and undivided profits exceeding \$5,000,000; provided, however, that in the event that Canadian dollars are receivable by the Trustee and it is not feasible or desirable to convert such Canadian dollars into United States funds, such Canadian funds and any securities purchased therewith may be deposited in a Chartered Bank of the Dominion of Canada, anything herein to the contrary notwithstanding. Except as modified by the provisions of paragraph 4(c) hereof, the Trustee shall have the right and power to invest and reinvest the said money and property only in short term investments (not to exceed one year in duration), bonds and other direct obligations of the United States of America and of the Dominion of

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Canada, high grade commercial paper, insured bank certificates of deposit, and commingled investment funds managed by banks or trust companies. The Trustee may sell, exchange and otherwise deal with such investments as the Trustee may deem desirable, but such actions shall be prudent and in consideration of the liquidity needs of the trust fund and the preservation of principal. The Trustee may engage an investment manager or investment managers, for a reasonable fee, to invest all or a part of the trust fund.

- (c) In connection with the collection of any sums due to the Trustee hereunder, the Trustee may consent to and participate in any composition of creditors, bankruptcy, reorganization or similar proceeding, and in the event that as a result thereof the Trustee shall become the holder of assets other than money, obligations to pay money conditioned only as to the time of payment, or property of the class specified in paragraph 4(b) hereof (which assets are in this subsection (c) called "property"), the Trustee may consent to and participate in any plan of reorganization, consolidation, merger, combination, or other similar plan, and consent to any contract, lease, mortgage, purchase, sale or other action by any corporation pursuant to such plan, and accept any property which might be received by the Trustee under any such plan, whether or not such property is of the class in which the Trustee by paragraph 4(b) hereof, is authorized to invest the trust fund; the Trustee may deposit any such property with any protective, reorganization or similar committee, delegate discretionary power thereto, and pay part of its expenses and compensation and any assessment levied with respect to such property; the Trustee may exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such property, and grant proxies, discretionary or otherwise, in respect thereof and accept any property which may be acquired by the Trustee by the exercise of any such rights, whether or not such property is of the class in which the Trustee, by paragraph 4(b) hereof, is authorized to invest the trust fund. Anything to the contrary contained in this paragraph 4(c) notwithstanding, the Trustee shall reasonably endeavor to dispose of any such property in order that the trust fund, to the fullest extent possible, at all times shall be comprised as specified in paragraph 4(b) hereof.
- (d) The Trustee shall have the right, power and authority to enter into agreements with others, as First Parties, providing for the payment by such First Parties of monies to the Trustee, and may collect such monies and contributions, and may administer, use and expend such monies and contributions for the purposes of and as part of the trust created hereunder or any other trust having a similar object provided that each contribution is administered and expended in accordance with the terms of the agreement under which it is contributed.
- (e) The Trustee, in his discretion, may administer and expend the trust fund in cooperation and conjunction with or as part of other trust funds, the objects and purposes of which are substantially similar to those contained herein, in which event the reports of the Trustee referred to in paragraph 4(j) hereof, may relate to such joint administration. The Trustee may deposit and commingle this trust fund and such other trust fund in the same bank account or accounts provided that in all other respects the administration and expenditure of this trust fund shall be in accordance with the terms and conditions herein contained.

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- (f) The Trustee shall not be liable for any loss sustained by the trust estate by reason of the Trustee's prudent purchase, retention, sale or exchange of any investment or deposit of monies permitted by this Agreement, or by reason of any payment in good faith in accordance with the terms of this Agreement.
- (g) Parties dealing with the Trustee shall not be required to look to the application of any monies paid to the Trustee or to ascertain whether the direction, certification or consent to any transaction is required or has been obtained.
- (h) The Trustee has consented to act as Trustee hereunder upon the express understanding that the Trustee shall not in any event or under any circumstances be liable for any loss or damage resulting from anything done or omitted in good faith, and further, that this understanding shall not be limited or restricted by any reference to or inference from any general or special provisions herein contained or otherwise. In particular, and without limiting the foregoing, the Trustee shall not be subject to any personal liability for monies received and expended in accordance with the provisions hereof.
- (i) The Trustee shall be entitled to reimbursement from the property in the hands of the Trustee hereunder for any and all payments of whatsoever nature which the Trustee shall be required to make in the Trustee's fiduciary capacity in respect of such property and shall have a first lien on such property, for the amount of such payments.
- (j) At the end of the fiscal year in which this Agreement is dated, and thereafter at the end of each succeeding fiscal year, the Trustee, within ninety (90) days following such dates, shall furnish statements of the Trustee's operations to each First Party hereto making payments to the Trustee, and to the Federation hereinafter referred to. Such statements shall set forth in reasonable detail the operations of the Trustee during the immediately preceding fiscal year, the properties and monies on hand, the total receipts from all First Parties, the receipts from investments, the other expenditures and disbursements by the Trustee and such other information and data as may be deemed appropriate by the Trustee to inform fully the recipients of such statements of the transactions of the Trustee during each period. The statements furnished by the Trustee within ninety (90) days following the end of each fiscal year shall contain such information for the immediately preceding full fiscal year and shall be certified by an independent accountant of good standing selected by the Trustee. Whenever such statements are furnished, the Trustee shall also furnish to the Federation and to each First Party who requests it, a statement setting forth the amounts of expenditures by the Trustee in each of the areas set forth in said Area Schedule. The Trustee may combine reports required to be made hereunder with reports required pursuant to the sound Recording Trust Agreement dated December 14, 1948.
- (k) The Trustee, at all times without limitation to the duration of this Agreement, shall keep full and accurate records and accounts concerning all transactions involving the receipt and expenditure of monies hereunder and the investment and reinvestment of the trust fund, all in convenient form and pursuant to approved and recognized accounting practices.
- (l) The Trustee may from time to time designate in a written instrument acknowledged, filed and distributed in the manner as prescribed under paragraph 6(a) hereof, a Deputy

SOUND RECORDING TRUST AGREEMENT

February 1, 2002–January 31, 2005

Trustee who shall be temporarily empowered to act upon the death, resignation or removal of the Trustee until a successor Trustee shall be appointed but such Deputy will not be eligible to serve as such successor Trustee.

- (m) The Trustee generally may do all such acts, take all such proceedings, and exercise all such rights and privileges, not inconsistent with any specific provision to the contrary herein contained, although not specifically mentioned, with relation to such trust fund and the administration thereof, as might be done or exercised by an individual having absolute ownership of the same in his own right, and in connection therewith, may employ agents and attorneys and enter into any covenants or agreements binding the trust estate.
5. The compensation of the Trustee shall be as set forth in Addendum B hereto attached, and shall be paid out of the funds and property in the hands of the Trustee.
6. (a) The Trustee may communicate the Trustee's intention to resign at any time by executing a written resignation acknowledged in like manner as a conveyance of real property entitled to record in the State of New York, and by filing such resignation with any First Party hereto and simultaneously sending a copy thereof to the Federation hereinafter referred to and to those of the other First Parties hereto who have made a payment to the Trustee on the payment date next preceding the date of such resignation. A successor Trustee who shall be selected by the RIAA shall thereupon be designated. Upon appointment of such successor Trustee and the acceptance by such successor Trustee of the duties of Trustee herein provided, such resignation of the resigning Trustee and such appointment of the successor Trustee shall become effective. Such designation and appointment shall operate in like manner as though such successor Trustee were named herein. Each successor Trustee shall have rights, powers and duties as those given to the Trustee hereinabove.
- (b) The Trustee's tenure shall automatically terminate as of the last day of the calendar month in which the Trustee shall reach the age of 70 years.
- (c) The Trustee shall be subject to removal as provided below if he shall become unable to perform his duties hereunder by reason of illness or other incapacity or if he shall be guilty of malfeasance or neglect of duty hereunder. Any demand for the removal of the Trustee for the reasons aforesaid shall be submitted by any two or more of the First Parties who have made individual payments hereunder to the Trustees during the calendar year immediately preceding the date of such submission aggregating \$50,000 or more, together with the Federation named below, to the American Arbitration Association in New York, N.Y. The determination of whether the Trustee shall be removed for the reasons aforesaid shall be made in New York, N.Y., by three (3) Arbitrators selected from panels of the American Arbitration Association in accordance with the rules thereof and judgement upon the Award rendered by the Arbitrators may be entered in any court having jurisdiction thereof.
- (d) In the event of the death, termination of tenure, or removal of the Trustee, a successor Trustee shall be appointed in the manner designated in paragraph 6(a) hereof.

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- (e) No Trustee under this Agreement shall be a representative of labor, or of any union, or of employees within the meaning of Section 302(b) of the Labor Management Relations Act, 1947. In the event that such Act is repealed, amended or otherwise changed so as to permit the substitution of the following provision in place of the second sentence of paragraph 6(a), then the following shall be so substituted:

“The then President of the Federation, hereinafter referred to, upon notice in writing, communicated to each First Party at its last known address, and to the Trustee, may designate a successor Trustee and successors to such successor Trustee. In such event, the then incumbent Trustee shall forthwith submit his resignation as such, if he has not already done so, and shall forthwith deliver to the successor Trustee so designated, all funds, books, records, and other data relating to the trust fund and the administration thereof. The conduct of any Trustee so designated shall be at all times in accordance with the terms and conditions of this Agreement.”

7. Any person, firm, corporation, association or other entity may apply to become an additional First Party to this Agreement by executing and delivering to the Trustee two (2) counterparts of Schedule 1 hereto attached. The Trustee shall indicate acceptance of such application by appropriately completing such application, executing such two (2) counterparts, and delivering one (1) such counterpart to such additional First Party at the Trustee's office. The Trustee shall forthwith advise the American Federation of Musicians of the United States and Canada of the execution and delivery of such agreement, and shall regularly advise all other First Parties thereof.
8. The office of the Trustee shall be located in the County and State of New York or such other location within or without the State of New York as the Trustee may from time to time select, giving due consideration to the convenience of the First Parties and efficient discharge of the Trustee's duties.
9. This Agreement and the trust created hereunder shall be governed, construed and regulated in all respects by the laws of the State of New York.
10. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, successors and assigns of the First Parties, as the case may be, and shall be binding upon and inure to the benefit of the successors to the Trustees, designated in the manner provided herein.
11. Notwithstanding any other provisions of this Agreement:
 - (a) The Music Performance Trust Funds (the “Trust”) is organized exclusively for one or more of the purposes as specified in Internal Revenue Code (“Code”) Section 501(c)(3), and shall not carry on any activities not permitted to be carried on by an organization exempt from Federal income tax under code section 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.
 - (b) No part of the net earnings of the Trust shall inure to the benefit of the Trustee, to any director or officer of the Trust, or to any private individual (except that reasonable compensation may be paid for services rendered to or for the Funds, and neither the Trustee nor any director or officer of the Trust, nor any private individual, shall be entitled to share in the distribution of any of the Trust's assets on dissolution of the Trust.

SOUND RECORDING TRUST AGREEMENT

February 1, 2002–January 31, 2005

- (c) No substantial part of the activities of the Trust shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Code section 501(h)). The Trust does not participate in or intervene in (including the publication or distribution of statements) any political campaigns on behalf of any candidates for public office.
- (d) In the event of the dissolution of the Trust, all of the remaining assets and property of the Trust shall after payment of necessary expenses thereof be distributed in a manner that is consistent with the general purposes for which the Trust was organized.
- (e) In any taxable year in which the Trust is a private foundation as described in Code section 509(a), the Trust shall distribute its income for such period at such time and manner as not to subject it to tax under Code section 4942, and the Trust shall not engage in any act of self-dealing as defined in Code section 4941(d), retain any excess business holdings as defined in Code section 4943(c), make any investments in such a manner as to subject the Trust to tax under code section 4944, or make any taxable expenditures as defined in Code section 4945(d) or corresponding provisions of any subsequent Federal tax laws.

SOUND RECORDING TRUST AGREEMENT

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ADDENDUM A

1. For the purposes of this Agreement, the terms “phonograph record” and “record” shall include phonograph records, wire or tape recordings, or other devices reproducing sound, and the term “master record” shall include any matrix, “mother,” stamper or other device from which another such master record, phonograph record, wire or tape recording, or other device reproducing sound, is produced, reproduced, pressed or otherwise processed.
2. (a) Each First Party shall make payments to the Trustee, in the amounts computed as stated below, with respect to the sale during the period specified in “6” below, of phonograph records produced from master records containing music which was performed or conducted by musicians covered by, or required to be paid pursuant to, a collective bargaining agreement with The American Federation of Musicians of the United States and Canada known as Sound Recording Labor Agreement (February, 2002) (but specifically excluding services solely as arranger, orchestrator or copyist) where such phonograph records are sold during said period by such First Party, or, subject to the provisions of paragraph 2(e) of the main text of this Agreement, by purchasers, lessees, licensees, transferees, or other users deriving title, lease, license, or permission thereto, by operation of law or otherwise, by, from or through such First Party.

Effective for all unresolved audits as of February 1, 2002, no payments shall be required with respect to any sale after February 1, 1996 of any single, defined as any record containing (i) no more than three different titles (songs) (or four, for sales after February 1, 2002) and (ii) no more than eight sides (versions).

-
- (b) For product produced during the term of this Agreement, as to foreign receipts the obligations of the First Party shall not accrue until the First Party shall either have the right to freely use such foreign currency, or the First Party has the right to transmit to the United States to the First Party such foreign currency from such foreign country or territory. If such currency may be utilized or transmitted as aforesaid it shall be deemed to have been converted to United States dollars at the rate of exchange at which such currency was actually transmitted to the United States as aforesaid, or if not actually transmitted, then at the prevailing free market rate of exchange at the time such right to use or to transmit occurs. Frozen foreign currency shall be deemed to be unblocked on the basis of “first in, first out” unless otherwise allocated by local foreign fiscal authorities. Allocation of such unblocked funds as between revenue which serves as the basis of determining payments hereunder and other revenue, shall be on a proportional basis, subject to different earmarking by local foreign fiscal authorities. Payments of amounts accruing hereunder shall be made semiannually on the basis of the reports to the Trustee required in paragraph 2(c) of the main text of this Agreement. Foreign retail price shall be accounted for in U.S. dollars at the rate of exchange at which receipts are actually converted and remitted.

With respect to foreign sales, the First Party shall pay only that proportion of the amount provided for in paragraph 3 as the adjusted foreign receipts bears to the total foreign receipts. For purposes hereof, adjusted foreign receipts shall be computed as follows: total foreign receipts less (1) value added taxes or other taxes, whatever called, which the consumer pays and which are not segregated from the retail price and (2)

SOUND RECORDING TRUST AGREEMENT

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repatriation taxes or withholding taxes or other foreign taxes, whatever called; provided, however, that taxes shall not reduce foreign receipts to the extent that such taxes constitute income taxes which are credited as a foreign tax credit on the First Party's consolidated U.S. Corporation Income tax. For purposes hereof, an income tax will not be treated as credited as a foreign tax credit in a given year except to the extent of the excess of the First Party's allowed foreign tax credits computed pursuant to SS 901 and 904 of the Internal Revenue Code of 1986, as amended, for such year over the amount of such First Party's foreign tax credits which would have been allowed for such year if computed without reflecting the foreign receipts and related income taxes and expenses. The determination of whether an income tax will be treated as credited as a foreign tax credit shall take into account any carryback or carryforward of foreign income taxes to such year; provided, however, if the First Party makes a good faith determination that the First Party expects to be entitled to a foreign tax credit for a tax for the years subject to audit, an income tax will be treated as a foreign tax credit three years from the payment date of the royalty statement date which reflected such tax. The First Party shall not be responsible for loss or diminution of foreign receipts as a result of any matter or thing not reasonably within the control of the First Party. The Federation, the Trustee, or the MPTF, as the case may be, and the Musicians shall be bound by any arrangements made in good faith by the First Party, or for its account, with respect to the deposit or remittance of foreign revenue. Frozen foreign receipts shall not be considered trust funds and the First Party may freely commingle the same with other funds of the First Party. No sums received by way of deposits or security need be included until earned from net sales.

3. The payments to the Trustee shall be computed as follows: .20475% of manufacturer's suggested retail price to a maximum suggested retail price of \$8.98 for each record, wire or tape recording or other device. In the case of compact discs, such suggested maximum retail price shall be \$10.98.* The term "compact disc" shall include Audio Digital Versatile Discs (Audio-DVD) and Super Audio Compact Discs (SACD) for all purposes under this Agreement.

Payments made to the Trustee on or after February 1, 1996 for pre-1964 phonograph records shall be computed at .20475% of manufacturer's suggested retail price to a maximum suggested retail price of \$8.98 for each record, wire or tape recording or other device. In the case of compact discs, such suggested retail price shall be \$10.98. The obligation to make such payments shall cease with respect to any sale of such phonograph records after January 31, 2002.

For packages which contain more than one record or tape or wire equivalent, the maximum suggested retail price shall be \$8.98 (in the case of compact discs, Audio Digital Versatile Discs (Audio-DVD) and Super Audio Compact Discs (SACD) \$10.98) multiplied by the number of units in the package.

In computing payments due to the Trustee, each of the revised percentage payments shall be applicable on the respective effective dates both prospectively and retroactively (i.e., each of the revised percentages shall apply in computing payments due for the sale of any phonograph record irrespective of when that record was produced).

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With respect to a phonograph record produced after January 31, 2002, both from master records described in paragraph 2 of this Addendum A and recorded under Sound Recording Labor Agreement (February, 2002) for which payments are due hereunder and from other master records, First Party shall pay that proportion of the amount provided for above as the number of such master records recorded under said Agreement bears to the total number of master records embodied in the phonograph record.

Effective for all unresolved audits as of February 1, 2002, no payments shall be required with respect to the sale of any cutouts.

4. For the purpose of computing payments to the Trustee,
 - (a) Each First Party will report 100% of net sales.
 - (b) Each First Party will have an allowance, with respect to single sold before February 1, 1996, of the first 150,000 records sold for each title.
 - (c) Each First Party will have an allowance, with respect to albums, tapes, compact discs and other devices, of the first 25,000 units of a title.
 - (d) Each First Party will have a packaging allowance in the country of manufacture or sale of 20% of the suggested retail list price for phonograph records and 30% of the suggested retail price for tapes, cartridges and compact discs.
 - (e) Each First Party will have an absolute "free record" allowance with respect to records, tapes, cartridges and compact discs regardless of mix, (except for record clubs which are dealt with separately below), of 25% of the total records distributed.
 - (f) With respect to its record clubs, if any, each First Party will have an allowance of "free" and "bonus" records, tapes, cartridges and compact discs actually distributed of up to 50% of the total records, tapes, cartridges and compact discs distributed by or through the clubs; and with respect to such "free" and "bonus" records, tapes, cartridges and compact discs, distributed by its clubs in excess thereof, each First Party will pay the full rate on 50% of the excess of such "free" and "bonus" records, tapes, cartridges and compact discs so distributed.
5. Schedules of current manufacturer's suggested retail prices for each record in each First Party's catalogue shall be furnished by each First Party to the Trustee upon the execution and delivery of this Agreement and amendments and additions thereto shall be so furnished as and when established. For the purposes of determining the amounts payable hereunder, such suggested retail prices shall be computed exclusive of any sales or excise taxes on the sale of phonograph records subject to this Agreement. If any First Party discontinues the practice of publishing manufacturer's suggested retail prices, it agrees that it will negotiate a new basis for computing payments hereunder which shall be equivalent to those required above.
6. The payments provided for in this Agreement shall be made with respect to the sales of any phonograph record produced from a master record described in paragraph 2 of this Addendum A which take place during the period commencing with the calendar year during which a phonograph record produced from such master record is first released for

SOUND RECORDING TRUST AGREEMENT

February 1, 2002–January 31, 2005

sale and terminating at the end of the fifth calendar year thereafter. The year of such release shall be counted as the first year of the five years. (By way of illustration but not limitation, if a phonograph record produced from a master record made pursuant to Sound Recording Labor Agreement (December, 1983), is first released for sale in January, 1984, payments shall be made with respect to sales of said record which take place during the calendar years 1984–1988 inclusive. If said phonograph record is first released for sale in June, 1985, payments shall be made with respect to sales of said record which take place during the calendar years 1985–1989 inclusive.)

7. The report to the Trustee required in paragraph 2(c) of the main text of this Agreement shall show the number of phonograph records, tapes and other devices subject to payment under this Agreement which have been sold during the period to be covered by the report, the dates of initial release for sale thereof, the manufacturer's suggested retail price thereof and of the component units thereof, and the excise and sales taxes, if any, borne by the First Party thereon.
8. Despite anything to the contrary contained in this agreement, it is specifically agreed that the First Party reserves the right by written notice to the Trustee effective with the effective date of any termination, modification, extension or renewal of the said Sound Recording Labor Agreement (February, 2002) to terminate or change any of the terms of this Sound Recording Trust Agreement, but no such termination or change shall be effective unless the First Party has secured the prior written approval thereto by the Federation referred to in the main text hereof. It is agreed, however, that no such change may have any retroactive effect.

SOUND RECORDING TRUST AGREEMENT

February 1, 2002–January 31, 2005

ADDENDUM B

Trustee's Compensation

As of and from January 1, 1980, the total compensation of the Trustee for services rendered pursuant to this agreement and pursuant to similar Trust Agreements with producers and/or distributors of phonograph records, electrical transcriptions, and/or films, tapes or sound tracks for exploitation by television or other means of reproduction, shall be at the rate of two per cent (2%) of the gross amount of funds received pursuant to all such agreements during each calendar year in which such services are rendered, provided that in no event shall such compensation be less than \$10,400 per annum or more than \$70,000. Upon the termination of the Trustee's tenure as provided by paragraph 6(b) of the main text of this agreement, the retiring Trustee shall be paid deferred compensation for a period of three years thereafter at a rate equal to one half of the Trustee's compensation paid under this agreement during the calendar year immediately preceding such termination of tenure to a maximum payment of \$30,000 per year, provided that with respect to a Trustee whose tenure as Trustee begins after October 31, 1979, payment of such deferred compensation shall be made only if such tenure is not less than seven years.

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Television and Radio Commercial Announcements Agreement

October 17, 2004 - October 16, 2007



UNITY • HARMONY • ARTISTRY

American Federation of Musicians of the United States and Canada;

and

The Joint Policy Committee on Broadcast Talent Union Relations of the
Association of National Advertisers / American Association of Advertising Agencies



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**TELEVISION AND RADIO
COMMERCIAL ANNOUNCEMENTS AGREEMENT**

(October 17, 2004 – October 16, 2007)

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**TELEVISION AND RADIO
COMMERCIAL ANNOUNCEMENTS AGREEMENT**

(October 17, 2004 – October 16, 2007)

ARTICLE I: PARTIES, TERM, AND APPLICABILITY

1. PARTIES

The Joint Policy Committee on Broadcast Talent Union Relations of the Association of National Advertisers and American Association of Advertising Agencies (ANA-AAAA) and on behalf of each company whose name appears on the lists submitted to the Federation in October, 2004 together with any other party which executes the appropriate Letter of Adherence (each of which is herein severally called the "Employer")—and the American Federation of Musicians of the United States and Canada (herein called "Federation") agree to the following terms, conditions and provisions (herein called the "Agreement").

2. TERM

This Agreement shall be in effect commencing October 17, 2004—or in the case of any new signatory Employer, on the effective date in the Letter of Adherence—and continuing through October 16, 2007.

3. SERVICES COVERED

This Agreement shall apply to the employment of persons who fall within the bargaining unit classifications set forth in Article II (1) in connection with the recording of music tracks to be used in the production of television and radio commercial announcements, and the performance of services under Article XV. Excluded from this Agreement are music tracks recorded in Canada by members of Canadian Locals performing services under the Television and Radio Commercial Announcement Agreement for Canada. Commercial announcements (called "jingles and spot announcements" in prior Agreements) shall include those announcements which consist of (1) words accompanying music, (2) words under or over music, or (3) music intended to be performed without words. Theme music for a program shall be excluded from the definition of commercial announcements.

This Agreement shall also apply to the employment of persons who fall within the bargaining unit classifications set forth in Article II (1) in connection with the recording of music tracks to be used in the production of Internet commercial announcements insofar as the Internet commercial announcement is capable of being used on television or radio in the same form as on the Internet.

4. SUBSIDIARIES AND CONTROLLING INTERESTS

The Employer's obligations under this Agreement shall also be binding upon (1) its subsidiaries, (2) any interest which controls it, and (3) subsidiaries of any interest which controls it, to the extent that any of these makes or deals with commercial announcements covered by this Agreement. The Employer, any interest which controls it, and the subsidiaries of either shall be

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

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jointly and severally liable with respect to the Employer's obligations arising or due under this Agreement. An interest which owns, directly or indirectly, at least 10% of any class of stock in the Employer shall conclusively be deemed to control the Employer. A corporation shall conclusively be deemed a subsidiary of any person, firm or corporation which, directly or indirectly, owns at least 10% of any class of its stock.

5. NON-TRANSFERABILITY

This Agreement shall be personal to the Employer and shall not be transferable or assignable by operation of law or otherwise without the written consent of the Federation. Without such consent, the Employer shall not transfer or assign any individual contract or part thereof for the performance of services of any member of the Federation or any other member of the bargaining unit or give anyone else control over such contract or such services. If the foregoing is violated and services are thereafter performed by such members of the Federation or other person, or if the transferee or assignee does any act which the Employer is permitted to do under this Agreement, the obligations and duties imposed by this Agreement shall be binding upon the transferee or assignee.

6. TERMINATION

With respect to any individual Employer, the Federation shall have the right, at its option, to terminate this Agreement at any time after a transfer of any interest which controls that Employer or in the event that such Employer or any interest which controls it-or any subsidiary of either-makes or deals with commercial announcements covered by this Agreement without having in effect a collective agreement with the Federation covering the same. This Section shall apply only when the signatory Employer and the entity making or dealing with the commercial announcements covered by this Agreement constitute a single employer or joint employers.

7. OUTSTANDING CLAIMS

The Employer represents that there does not exist against it any claim of any kind arising out of musical services, and that if any valid claim is found to exist, the Employer shall satisfy the same.

8. WAIVERS

No conduct or failure to act—with or without knowledge by the Federation—other than a statement in writing signed by a duly authorized officer thereof shall constitute a waiver by it of any provision of this Agreement.

9. APPLICABLE LAWS

With respect to services rendered in the United States, this Agreement shall be construed and applied according to the laws of the State of New York and any action against the Federation shall be brought only in courts located in New York County. With respect to services rendered in Canada, this Agreement shall be construed and applied according to the laws of the Province of Ontario and any action against the Federation shall be brought only in courts located in the County of York.

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

OCTOBER 17, 2004 – OCTOBER 16, 2007

10. CAPTIONS

All headings are for convenience purposes only and shall not be construed to modify or amend any provisions or otherwise be part of this Agreement.

ARTICLE II: RELATIONSHIP OF THE PARTIES

1. RECOGNITION

The Employer recognizes the Federation as the exclusive bargaining representative for those of its employees working in connection with the making of commercial announcements who are included in a bargaining unit ("Musicians") consisting of instrumentalists, leaders, contractors, conductors, arrangers, orchestrators, music proofreaders, librarians, copyists, sideline musicians and any person who, in exercising musical skills, utilizes a synthesizer or other electronic device to produce music.

2. BARGAINING UNIT WORK

The Employer shall employ only Musicians for the rendition of musical services for all commercial announcements using live music made in the United States and Canada. The Employer shall not record music tracks outside the United States and Canada for the primary purpose of avoiding employment under this Agreement.

3. UNION SECURITY

To the extent permitted by applicable law, any Musicians performing services in the United States who are members of the Federation on the date of signing or the effective date of this Agreement, or on the date of their first employment—whichever is later shall be continued in their employment by the Employer only so long as they continue their membership in good standing in the Federation. All other Musicians performing services in the United States shall become and continue to be members in good standing of the Federation as a condition of their employment no later than the 30th day following the commencement of their employment or the effective date of this Agreement, whichever is later. To the extent permitted by applicable law, only the services of members in good standing of the Federation shall be used for the performance of any bargaining unit work in Canada.

4. BYLAWS

All present provisions of the Bylaws, rules and regulations of the Federation are made part of this Agreement as though fully set forth herein to the extent to which their inclusion and enforcement as part of this Agreement are not prohibited by any applicable law. No changes in the Federation's Bylaws, rules and regulations which may be made during the term of this Agreement shall be effective to contravene any of the provisions hereof. The Employer acknowledges its responsibility to be fully acquainted, now and for the duration of this Agreement, with the present contents of the Federation's Bylaws, rules and regulations.

5. CONFLICT OF DUTIES

To the extent permitted by applicable law, nothing in this Agreement shall ever be construed so as to interfere with any obligation which Musicians who are members of the Federation may owe to the Federation as members thereof.

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

OCTOBER 17, 2004 – OCTOBER 16, 2007

6. PRIMARY LABOR DISPUTES

All Musicians covered by this Agreement shall be free to suspend or terminate their services by reason of any strike, ban or unfair list of the Federation and shall be free to accept and engage in other employment of the same or similar character, or otherwise, for other employers or persons, firms or corporations without any restraint, hindrance, penalty, obligation or liability whatever, any other provisions of this Agreement to the contrary notwithstanding. It shall not be a violation of this Agreement and it shall not be cause for disciplinary action in the event a Musician refuses to go through or work behind any primary picket line of the Federation, including such primary picket line at the Employer's place of business or at places of business to which Musicians are sent to perform by the Employer.

7. RIGHT OF ACCESS

A duly authorized business representative of the Federation and/or the Federation Local in the jurisdiction of which services are rendered shall, upon presentation of proper identification to the Employer, be granted access to the studio or other place where services are being performed hereunder. Each shall be permitted to visit during working hours that studio or other place where services are being performed hereunder for the proper conduct of the business of the Federation or of such Local, including grievance investigation and processing.

8. NON-DISCRIMINATION

The parties mutually reaffirm their policy of non-discrimination. The Employer reaffirms its policy that no employee shall be discriminated against in employment hereunder, because of race, color, creed, sex, national origin, or age provided the employee is qualified and has the physical ability to perform the work required thereunder. The Federation reaffirms its policy of non-discrimination with respect to admission to membership and rights of membership. The Employer shall annually advise all leaders, contractors, and any of its supervisory personnel involved in the hiring of musicians of the contents of this Section.

9. EMPLOYER'S OBLIGATIONS

For services rendered under this Agreement, the Employer shall pay at least the minimum rates of pay set forth herein and shall fully and faithfully perform and observe all other terms and conditions set forth in this Agreement and in any individual agreements with the persons performing such services. The Employer shall not require, request, induce, or in any manner attempt to influence any Musician to play, perform, or render services in a manner contrary to this Agreement.

10. FEDERATION'S OBLIGATIONS

The Federation shall exercise full authority in order to assure that its Locals and members do nothing in derogation of the terms and intent of this Agreement.

11. UNAUTHORIZED PRODUCTION

The Employer shall not record or aid or assist in the recording of any music for use in a commercial announcement to be produced by any other person, firm or corporation unless authorized in writing by the Federation. The Employer shall not require or permit any Musician

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

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in its employ to record a music sound track for any purpose which is not authorized herein or in another written agreement with the Federation. No music sound track recorded under this Agreement shall be used in any way which violates the terms of this Agreement.

12. RIGHT TO INFORMATION

Upon request by the Federation, the Employer shall promptly furnish it with a copy of any commercial announcement owned, produced, distributed, used or the use of which has been permitted by the Employer. If the Employer's right to the use of a commercial announcement and/or music track has been purchased or otherwise acquired by the Employer, a copy of the contract under which such right was acquired shall also be furnished to the Federation, provided that the employer shall have the right to delete information of a proprietary nature from the relevant document(s).

13. RIGHT TO AUDIT

The Federation shall have the right from time to time, upon reasonable notice, without limitation to the duration of this Agreement and at all reasonable times during business hours, to have the Federation's duly authorized agent(s) examine and audit the records and accounts of any party to this Agreement concerning all transactions which are or legitimately may be subject to payments under this Agreement to ascertain which sums, if any, may be due and to verify the accuracy of any statement made by any party pursuant hereto. All necessary facilities shall be made available to such authorized agent(s) to enable them to make such examination and audit and to copy and make extracts from said records.

14. INDUSTRY-FEDERATION COMMITTEE

The parties to this Agreement shall maintain a Joint Industry-Federation Committee which shall review problems which may arise under this Agreement and recommend solutions. The Committee shall also explore matters of common interest including global commercial announcements.

ARTICLE III: INDIVIDUAL CONTRACTS

1. CONFORMITY WITH AGREEMENT

The Employer may enter into individual contracts with Musicians provided that such contracts are not in conflict with this Agreement. The provisions contained in this Agreement shall be deemed to be included in and made part of all individual agreements between the Employer and individual Musicians, whether or not they are set forth in such individual agreements.

2. PRESUMED CLAUSE

Except for contracts on official forms prescribed by the Federation deemed to be incorporated which have been entered into in conformity with the provisions of this Agreement, the following provision shall be included in and—whether or not so included--shall be deemed part of all contracts calling for recording services (whether sound or visual) between the Employer and Musicians: “This contract shall not become effective unless and until it shall be approved by the International Executive Board of the American Federation of Musicians of the United States and Canada or by a duly authorized agent thereof.”

3. INDIVIDUALLY CREATED CONTENT

No rate of compensation established in this Agreement relates or is intended to relate to services rendered by an individual instrumentalist performing alone who creates or composes the musical content of his performance. Compensation in excess of the rates provided herein shall be paid to such an instrumentalist in accordance with individual agreement between the Employer and such instrumentalist. To the extent practicable, such individual agreement shall be negotiated prior to the time of performance.

4. TERMINATION OF AGREEMENT

Any individual contract in existence at the termination of this Agreement (whether such termination is caused by expiration, breach, or otherwise), made and entered into by the Employer for the employment of and rendition of services by Musicians, shall not impose any obligation on the part of members of the Federation to render further musical services for the Employer on work covered by this Agreement unless this Agreement is renewed or a new one entered into permitting the same. In the event this Agreement is not renewed or a new one is not entered into prior to or immediately upon the expiration of this Agreement, such members may, at their option, render services to any others without obligation or liability to the Employer.

ARTICLE IV: TRANSFER OF RIGHTS

1. FEDERATION APPROVAL

Without the prior written permission of the Federation*, the Employer shall not use or grant any rights to use—whether by way of sale, assignment, mortgage, lease, gift, license or other transfer of title or permission to use, and whether by operation of law or otherwise (herein called “transfer”)—in whole or in part, any commercial announcement, film, videotape or recording, which, in whole or in part, embodies pictures of Musicians rendering musical performances or which embodies or is accompanied by performances by Musicians recorded and/or photographed under this Agreement, for purposes other than those permitted under this Agreement.

*The Federation has advised that it shall grant permission provided that:

- (a) the Employer has required a buyer, licensee, or other authorized transferee (“Licensee”) to become responsible for session payments and benefits (including pension contributions, but excluding health and welfare contributions), and any applicable use/re-use payments that would be required under the then effective applicable Federation agreement, and the Employer has provided the Federation with evidence of, or an extract of, the provision in the license agreement by which the Licensee has agreed to make those payments; or
- (b) the Employer has agreed in writing to make the session and benefit payments (including pension contributions, but excluding health and welfare contributions) to those musicians who rendered services in the production of the commercial announcement that would be required under the then effective applicable Federation agreement.

2. ASSUMPTION AGREEMENT

Any transfer of a commercial announcement, film, videotape or recording produced under this Agreement, or any rights therein, shall be subject to the rights and duties of the Employer established by this Agreement. No such transfer shall be effective unless and until (1) the Federation shall have received and approved an assumption agreement substantially in the form and substance set forth in Exhibit A hereof (which approval the Federation shall not unreasonably delay or unreasonably withhold) duly executed by the person, firm, or corporation receiving such transfer (“transferee”), or (2) the transferee, in addition to executing and delivering to the Federation such assumption agreement, shall have posted a surety company bond with the Federation guaranteeing to the Federation and the persons covered by this Agreement the performance by such transferee of its obligations pursuant to such assumption agreement. A transfer which shall become effective in accordance with the foregoing shall relieve the transferor of obligations under this agreement relating to the commercial announcement so transferred.

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3. SURVIVAL CLAUSE

The substance and intent of this Article, together with all provisions of this Agreement regarding (1) reporting of and (2) establishing wage rates and conditions for use and re-use, shall be incorporated in all agreements pursuant to which the Employer shall grant any rights to use such commercial announcements, films, videotapes, or recordings as aforesaid. The obligations created by this Article together with all provisions of this Agreement regarding reporting of and the establishment of wage rates and conditions for use and re-use shall survive this Agreement for so long as the commercial announcements, films, videotapes, or recordings, referred to in this Agreement shall be used.

ARTICLE V: GRIEVANCE AND ARBITRATION

1. SCOPE OF GRIEVANCES

Any disputes or controversies of any kind between any Musician(s) or the Federation and an Employer arising out of or in connection with this Agreement (including, but not limited to, disputes concerning the meaning, interpretation, application or enforcement of the provisions set forth in this Agreement) shall be resolved exclusively through the procedure set forth in this Article.

2. STEP 1—INITIATION OF GRIEVANCES

Within 60 calendar days after the occurrence of the event that gave rise to the grievance or after the date that the aggrieved party reasonably could have learned of that event, whichever is later, a grievance must be submitted in writing to the Employer by the Federation on its own or on behalf of the individual Musician(s) or to the Federation by the Employer. The grievance shall be submitted on a form as set forth in Exhibit C. Failure to follow the time limits specified above shall be grounds for rejecting the grievance.

3. STEP 2—RESOLUTION MEETING

Within 15 calendar days from receipt of the grievance, a representative designated by the Federation and a representative designated by the Employer shall meet to discuss the matter and attempt to resolve the dispute informally.

4. STEP 3—WRITTEN ANSWER

If the parties are unable to resolve the dispute at that meeting, the party against whom the grievance is filed shall submit a written answer to the grievance within 15 calendar days after the resolution meeting.

5. STEP 4—DEMAND FOR ARBITRATION

If either party to this Agreement is not satisfied with the answer or if no answer is submitted within the time limit specified, the dissatisfied party may elect to submit the dispute to arbitration by notifying both the American Arbitration Association (“AAA”) and the other party in writing within 30 calendar days after the date the answer was due. The written demand for arbitration shall include a copy of the grievance that was filed and the answer, if any.

6. SELECTION OF ARBITRATOR

At the time arbitration is invoked, the party invoking arbitration shall request that the AAA furnish the parties to the dispute a panel of nine arbitrators who are members of the AAA. Arbitration shall be conducted in either New York City, Chicago, or Los Angeles, or such other city which the parties agree to, with due consideration to factors such as where the grievance arose, where the parties are located, where the relevant records are located, or other factors peculiar to the case. The panel of arbitrators furnished by the AAA shall be generally from the area where the arbitration is to take place. Within seven working days from the receipt of the AAA panel, the parties shall select a single arbitrator from the panel utilizing, if necessary, an alternate striking process until a single arbitrator remains who shall then become the selected

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arbitrator. If no arbitrator on the original panel is acceptable to either party, the parties may request a second panel of arbitrators from the AAA and go through the same process within the same time limits set out above. No future panels may be requested by the parties after the second panel.

7. HEARING AND AWARD

When the arbitrator has been selected, the parties shall immediately confer with him/her to determine the earliest practicable date for a hearing. Fees and expenses of the arbitrator and the proceeding itself (e.g., court reporter) shall be borne equally by the parties. The arbitrator's award shall be rendered within 30 calendar days of the close of the hearing or 30 calendar days after submission of post-hearing briefs, where applicable. The award of the arbitrator shall constitute a final and binding resolution of the dispute with respect to all parties—the individual Musician(s), the Federation and its Locals, and the Employer. The arbitrator shall have the power and authority to issue an award that he/she may deem appropriate, but shall not have the power or authority to amend, add to or subtract from, or alter in any manner the provisions of this Agreement.

8. EXTENSION

Any of the time limits set forth above may be extended by mutual agreement in writing.

ARTICLE VI: REPORTING

1. OBLIGATION TO REPORT

The Employer shall file the Reporting Form set forth in Exhibit B—or such other form used by Employer containing the same information—to report all session, re-use, conversion (called “new use” in prior Agreements) or dubbing information required under this Agreement. The Reporting Form shall accompany each payment required under this Agreement, with three copies sent to the applicable AFM Local, one copy sent to the AFM-EP Fund, and one copy retained by the Employer. No additions to the printed Reporting Form as set forth in Exhibit B are permitted without the prior approval of the Federation and Industry.

2. SINGLE PAYMENT FOR MULTIPLE SERVICES

Employers may, at their discretion, combine multiple payments to individuals for services rendered within the jurisdiction of a single AFM Local, provided that the single payment is accompanied by all necessary back-up documentation to the Local, to the Local Health & Welfare Fund when applicable, to the AFM-EP Fund, and to the Musicians specifying each item included in the payment.

3. COMPLETION OF REPORTING FORMS; REPORTING VIOLATIONS

It is the responsibility of the Leader or Contractor to make sure that the Reporting Form is completed so that all appropriate information is provided including the identification of the instrument played or the musical service rendered by each Musician listed.

The following practices shall be considered to be violations of this Agreement:

- (a) To place any person on the Reporting Form unless such person actually performs a musical service (including arranging, orchestrating, and copying) covered by this Agreement and that Reporting Form.
- (b) For the Leader or Contractor to intentionally misrepresent or repeatedly fail to provide any information required on the Reporting Form.

ARTICLE VII: SESSIONS

(See Article XV for Arrangers, Orchestrators,
Copyists and Article XVI for Sideline Musicians)

Instrumentalists, Leaders and Contractors shall be paid not less than the rates set forth below and the conditions set forth shall apply.

1. MINIMUM CALL SESSION

There shall be a minimum call session of one hour during which no more than three music tracks may be recorded, the total length of which may not exceed three minutes in the aggregate, except as provided in Articles IX and X. Musicians may be called on a staggered basis for the same session.

2. GUARANTEED LENGTH OF CALL

Each call must be for a specified and guaranteed period of time, which may be extended although no Musician shall be obligated to more than 40 additional minutes without his/her consent.

3. OVERTIME

A. Continuous Overtime

Overtime continuously following a session, during which one additional one-minute music track may be recorded for each 20 minutes of such overtime (except as provided in Articles IX and X), shall be paid for in 20-minute increments. The overtime rate to be paid shall be based on the total number of Musicians who incur overtime. For one Musician the rate shall be one-third of the single Musician session fee rate for each 20-minute overtime increment. For two or more Musicians, the rate shall be one-third of the "2 or more" session fee rate for each 20-minute overtime increment.

B. Non-Continuous Overtime

Any work which is not continuous shall be paid for as additional sessions.

4. SINGLE ADVERTISER

Only commercial announcements advertising the products of a single advertiser may be made during any one session and the overtime related thereto.

5. MEAL PERIOD

With respect to any Musician for whom a session call is more than six hours—or for whom the session extends beyond six hours as a result of overtime—a meal period of not less than one-half hour nor more than one hour shall be provided not later than six hours after the Musician reports for work. Such meal period shall not be considered work time.

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6. REST PERIODS

There shall be a rest period of not less than five minutes duration during the first hour of work. In each subsequent hour of work, there shall be a rest period of not less than ten minutes duration. Any breach of the foregoing shall require an additional payment equivalent to a 20-minute overtime increment.

7. CONTRACTOR REQUIRED

If ten or more Side Musicians and Leader are employed for any session, a Contractor shall be employed with respect to said session. Such Contractor must be present during the entire recording session. The Contractor may be one of the Side Musicians. No person shall be employed as a Contractor (or continue in employment as a Contractor) who is disapproved by the Federation according to lists published by the Federation in the "International Musician" or to specific notice to the Employer provided that such disapproval shall not be predicated upon non-membership in the Federation under circumstances in which such membership may not be required lawfully.

8. LEADERS AND CONTRACTORS PAID DOUBLE

The base scale for Leaders and for Contractors shall be double the base scale of pay applicable to the Side Musicians employed in the session, but in any event, the base scale for any person performing both as Contractor and as Leader or Side Musician shall not exceed double Side Musician's base scale.

When a Leader or Contractor also performs as a Side Musician, the scale payment for the Leader or the Contractor includes the performance of a single instrumental part. The scale payment for any additional instrumental part(s) as provided in Article VII (12) shall be the Side Musician's scale rate for each such part.

9. SINGLE MUSICIAN

If only one person actually performs, whether or not more than one person has been engaged for the session, such sole performer shall be paid double the Side Musician's base scale.

10. SAME MUSICIAN

The same Musician may not be reported on more than one line for the same instrument at any session, unless such Musician performs multiple instrumental parts as provided in Article VII (12). This provision shall not affect the right of any Musician to receive residual payments based on overscale.

11. DOUBLING

When one or more doubles are played by any Instrumentalist in any one session and the overtime related thereto, for the first double, the Instrumentalist who doubles shall be paid not less than an additional 30% of the base scale otherwise applicable for the session and the overtime related thereto, plus an additional 15% of such base scale for each double beyond the first. When a Leader or Contractor doubles, the additional fee due shall be computed at the Side Musician's base scale and not on the Leader or Contractor's base scale even when the Leader is the only Musician employed to render services.

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A. Not Construed as Doubling

Instruments within the following respective groups shall not be construed as doubling:

- (i) Drummer's standard outfit consisting of bass drum, snare drum, cymbals, gongs, piatti, small traps and tom toms when used as part of a standard outfit
- (ii) Timpani
- (iii) Mallet instruments: Xylophone, bells and marimbas
- (iv) Latin rhythm instruments: Any Latin instruments when used in less than eight bars in connection with any other instrument or used not in a rhythm pattern

B. Electronic Device Doubling

If, in addition to the normal sound of an instrument, an electronic device (i.e., multiplex, divider, maestro, multiplier of octaves) is used to simulate other instrumental sounds, such use shall be construed as a double.

C. Instruments Requested But Not Played

A \$12.00 fee will be paid each Musician directed by the Employer or his representative to bring to an engagement an additional instrument, which would require a doubling fee if played, if such instrument is not actually played at the engagement.

12. MULTIPLE PARTS

If a Musician performs multiple instrumental parts (other than doubles), he/she shall be paid the total of all payments which would otherwise have been payable had separate Musicians been used for those parts.

This provision shall also apply whenever the same music is played and recorded more than once and the tracks are combined in a manner which results in a final music track which sounds as if it had been recorded by a larger group of Musicians than actually rendered services.

Where a Musician is listed on more than one line on the Reporting Form because the Musician performed multiple parts, that fact should be identified on that Report.

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13. CARTAGE

Whenever the Employer requests a Musician to bring a heavy instrument or three or more instruments to an engagement, the Employer shall specify whether the Musician shall transport such heavy instrument by public or private transportation; public transportation shall be used if it is the only practicable manner of transportation. If a public carrier is used, the Employer shall pay cartage bills as submitted. If private transportation is used, the Employer shall pay Musician cartage fees as follows:

Harp, keyboard, string bass, timpani,
marimba, chimes and vibraphone..... \$30.00

Tuba, all drums, all amplifiers, baritone sax,
bass sax, cello, accordion, cordovox and
contra-bass clarinet..... \$12.00

Any bill submitted in an amount in excess of \$30.00 and \$12.00, respectively, shall be paid provided that receipt is submitted for actual and reasonable expenses incurred.

Whenever rental of a musical instrument is required by Employer, the Employer shall pay rental bills as submitted.

14. PREMIUM RATES

All work performed: (i) between midnight and 8:00 a.m., (ii) on Sundays and (iii) on the following holidays shall be paid for at two times Base Scale:

In the United States

New Year's Day	Labor Day
Presidents' Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

In Canada

New Year's Day	Dominion Day
Good Friday	Labour Day
Easter Monday	Thanksgiving Day
Victoria Day	Christmas Day

With respect to United States holidays, the above holidays will be observed on the Federally recommended date.

15. DISMISSAL

Musicians shall be dismissed after the recordings for which they have been employed have been finished, regardless of whether the time limit in which recordings can be made has expired.

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16. CANCELLATION

A session, once called, shall not be canceled or postponed without the consent of the Office of the President of the Federation.

17. PUBLIC SERVICE ANNOUNCEMENTS

A public service announcement is a commercial which is intended to serve the public interest and which is furnished to stations for broadcast in time donated by the stations.

The Employer shall give the Federation ten days written notice prior to the session that the session shall be for public service announcement(s). Such notice shall contain sufficient information for the Federation to confirm that such announcement(s) are public service announcement(s) and, if known at the time, the name of the production house.

It shall be the responsibility of the Contractor or, if there is no Contractor, of the Leader to inform all persons called to render services, at the time of the call, that the session will be for public service announcement(s).

All such persons rendering services shall be paid the appropriate base scale for the session. The acceptance of such employment shall be deemed to constitute a waiver of re-use payments for the life of the public service announcement(s).

18. SESSION NOTIFICATION

Employer shall furnish the Leader or Contractor with the following information to the extent that it is known by the Employer at the time of the recording session:

- (i) Name of Advertiser
- (ii) Product
- (iii) Name of Advertising Agency and production house, if any
- (iv) Number of commercial announcements
- (v) Identification of commercial(s)
- (vi) Applicable rate schedule: Standard (called National in prior Agreements), Regional or Local for National Advertisers or Regional or Local for Regional/Local Advertisers
- (vii) Use/broadcast medium: Television, radio, non-broadcast, videocassette, foreign, or other
- (viii) Reporting Form number where known
- (ix) Length of each music track (not commercial) recorded
- (x) Notice if session is for public service announcement(s)

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19. SESSION REPORTS TO ACCOMPANY SESSION PAYMENTS

The following information shall be furnished with payments for sessions, not later than 15 business days following the date of original services:

- (i) Name of Advertiser
- (ii) Product
- (iii) Name of Advertising Agency and production house, if any
- (iv) Number of commercial announcements claimed
- (v) Identification of commercial(s) (title and/or number)
- (vi) Applicable rate schedule: Standard (called National in prior Agreements), Regional or Local for National Advertisers or Regional or Local for Regional/Local Advertisers
- (vii) Use/broadcast medium: Television, radio, non-broadcast, videocassette, foreign or other
- (viii) Notice if session is for public service announcement(s)
- (ix) Date of the recording session
- (x) The Leader
- (xi) The Reporting Form number
- (xii) Name, Social Security number and AFM Local number of each Musician, Copyist, Orchestrator and Arranger who performed services for or at such session
- (xiii) Such other information required to calculate and issue proper payment; all such information is included in Exhibit B attached

ARTICLE VIII: STANDARD RECORDING RATES

(Called National Recording Rates in previous Agreements)

1. BASE SCALE—SESSION FEES

The Base Scale pay for each Side Musician employed on a session except for all Regional and Local Commercial Announcements (Article IX and Article X) shall be as follows:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00

2. MAXIMUM NUMBER OF COMMERCIALS PER SESSION

A maximum of three commercial announcements may be claimed for any original one-hour minimum call session. One additional commercial announcement may be claimed for each additional 20 minutes or part thereof that has been paid as part of the original session.

In computing the maximum number of commercial announcements which may be claimed, the Employer shall be limited to the number of commercial announcements which may be claimed for the Side Musician with the lowest reported hours worked for such session (including overtime, if any). For purposes of this computation, the services of Arranger, Orchestrator or Copyist shall not be considered.

Notwithstanding the foregoing, with respect to any session where the music is produced entirely by means of synthesizer(s), no more than eight commercial announcements may be claimed even if the number of reported hours worked exceeds two hours and forty minutes.

Example A: For a session lasting two hours and forty minutes of consecutive time in the aggregate, hours worked are reported as follows:

Leader:	2:40
Side Musician A:.....	2:40
Side Musician B:.....	2:00
Side Musician C:.....	1:20

The maximum number of commercial announcements which may be claimed by the Employer for the session would be four (three for the initial hour, plus one for an additional twenty minutes), because the 1:20 reported for Side Musician C amounted to the lowest reported hours for any of the Musicians who performed at the session.

Example B: Four music tracks are recorded in a session lasting one hour and twenty minutes of consecutive time in the aggregate and hours worked are reported as follows:

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Leader:..... 1:20
Side Musicians A, B & C:..... 1:20 each
Side Musician D:..... 1:00

Even though four tracks were actually recorded, the maximum number of commercial announcements which may be claimed by the Employer for the session would be three because the 1:00 reported for Side Musician D amounted to the lowest reported hours for any of the Musicians who performed at the session.

Payment for the initial use cycles of the first three commercial announcements incorporating any one of the tracks is covered by the Initial Use payment. If any one of the music tracks recorded at the session is incorporated into an additional commercial announcement or any subsequent commercial announcement, payment of the applicable use fee or re-use fee for the initial cycle shall be due to the Leader, Side Musician(s), Sideline Musician(s) and music preparation personnel who performed services on the tracks so used.

ARTICLE IX: REGIONAL COMMERCIAL ANNOUNCEMENTS

1. PRIOR NOTICE

Prior to accepting a call for a regional commercial announcement recording session, Musicians shall be notified that the purpose of the session is to record music for a regional commercial announcement and whether it is for a National Advertiser or Regional Advertiser. The region(s) shall be specified on the Reporting Form (Exhibit B).

2. UNLIMITED COPY AND VIDEO CHANGES

Unlimited copy and video changes within the basic framework of the original commercial shall be permitted over the music track of the commercial during each 13-week cycle (or 52-week cycle, whichever has been paid for) without any additional compensation.

3. REGIONAL COMMERCIAL ANNOUNCEMENTS FOR NATIONAL ADVERTISERS

A. Definition

A regional commercial announcement is an advertisement for a product or service that is broadcast within one of the following market areas:

B. Regions

(i) USA

Northeast

Connecticut	New Hampshire	Pennsylvania
Delaware	New Jersey	Rhode Island
Maine	New York, excluding	Vermont
Maryland	Metropolitan	Washington DC
Massachusetts	New York	

South

Alabama	Mississippi	Tennessee
Arkansas	North Carolina	Texas
Florida	Oklahoma	Virginia
Georgia	Puerto Rico	
Louisiana	South Carolina	

Midwest

Colorado	Kentucky	Ohio
Illinois, excluding	Michigan	South Dakota
Metropolitan	Minnesota	West Virginia
Chicago	Missouri	Wisconsin
Indiana	Montana	Wyoming
Iowa	Nebraska	
Kansas	North Dakota	

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West

Alaska	Hawaii	Utah
Arizona	Idaho	Washington
California, excluding Metropolitan Los Angeles	Nevada New Mexico Oregon	

Metropolitan Areas

Metropolitan New York
Metropolitan Los Angeles
Metropolitan Chicago

(ii) CANADA

Provinces

Maritimes and Newfoundland
Province of Quebec excluding Montreal
Province of Ontario excluding Toronto
Prairie Provinces
British Columbia

Metropolitan Areas

Metropolitan Montreal
Metropolitan Toronto

C. Floating Region

In addition to the above market areas, and recognizing that a particular advertiser's market area may cross the geographical areas specified above, an advertiser may specify a special "floating" region which crosses the above geographical areas provided that such market area:

- (i) Does not exceed six states and
- (ii) Does not include more than one major city (New York, Chicago or Los Angeles).

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D. Session Fee and First 13-Week Cycle

If the Musician accepts the call, the session fee for recording one commercial announcement in one hour shall be 200% of the applicable Standard session fee provided for in this Agreement, and this fee shall include 13 weeks of unlimited use of the commercial in one medium.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$440.00
Side Musician.....	\$220.00
Orchestrator/Arranger/Copyist 200% of Actual Scale set forth in Music Preparation Rate Schedule	

E. 13-Week Re-Use

All subsequent 13-week use cycles of this commercial announcement shall be paid for at 100% of the one-hour Standard session fee rate.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00
Orchestrator, Arranger	\$220.00
Copyist	\$110.00

F. Conversion or Dubbings in Same Region

Conversion (called "new use" in prior Agreements) or dubbings also shall be paid for at 100% of the one-hour session fee rate.

G. Session Fee and First 52-Week Cycle

A regional commercial announcement may be used for 52 weeks provided payment for such use is made at the time the session fee is paid and is calculated as follows:

- (i) The 200% payment as provided in Subparagraph (D) above, plus
- (ii) Two times the 100% payment as provided in Subparagraph (E) above.

In effect, the above payment would normally cover only three 13-week cycles, or 39 weeks of use. If paid "up front", however, such payment shall cover 52 weeks of use.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$880.00
Side Musician.....	\$440.00
Orchestrator/Arranger/Copyist 400% of Actual Scale set forth in Music Preparation Rate Schedule.	

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H. 52-Week Re-Use

All subsequent 52-week re-use cycles of the commercial shall be paid for as follows:

- (i) Four 13-week cycles at 100% of the one-hour Standard session fee, less
- (ii) 20% discount.

This formula results in a fee equal to 320% of the one-hour Standard session fee rate.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$704.00
Side Musician.....	\$352.00
Orchestrator, Arranger	\$704.00
Copyist	\$352.00

I. First Use in New Region

- (i) For 13-week cycle: Same as Session Fee and first 13-week cycle (Subparagraph (D) above).
- (ii) For 52-week cycle: Same as Session Fee and first 52-week cycle (Subparagraph (H) above).
- (iii) Conversion & Dubbing: Same as Session Fee and first 13-week cycle (Subparagraph (F) above).

Only the first use cycle, whether 13-week, 52-week or Conversion & Dubbing, is paid at above rates. All re-use is paid on the same basis as set forth in Subparagraphs (E), (F) and (H).

J. 8-Week—Radio Commercials Only

80% of the applicable rates stated above.

4. REGIONAL COMMERCIAL ANNOUNCEMENTS FOR REGIONAL ADVERTISERS

This provision is not available to national advertisers except as provided in 4(A)(iii) below.

A. Definition

The following advertisers qualify for Regional Use under this Article IX, 4(A):

- (i) A regional advertiser which markets or sells its product(s) or service(s) in only one region.
- (ii) A regional advertiser which markets or sells a national product(s) or service(s) in only one region. Example: a local car dealer or a regional car association.
- (iii) A national advertiser which markets or sells a product(s) or service(s) in only one region.

In all cases the region may be a floating region.

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B. Regions

(i) USA

Northeast

Connecticut	New Hampshire	Pennsylvania
Delaware	New Jersey	Rhode Island
Maine	New York, including	Vermont
Maryland	New York City	Washington DC
Massachusetts		

South

Alabama	Mississippi	Tennessee
Arkansas	North Carolina	Texas
Florida	Oklahoma	Virginia
Georgia	Puerto Rico	
Louisiana	South Carolina	

Midwest

Colorado	Kentucky	North Dakota
Illinois, including	Michigan	Ohio
Chicago	Minnesota	South Dakota
Indiana	Missouri	West Virginia
Iowa	Montana	Wisconsin
Kansas	Nebraska	Wyoming

West

Alaska	Hawaii	Oregon
Arizona	Idaho	Utah
California, including	Nevada	Washington
Los Angeles	New Mexico	

(ii) CANADA

Provinces

Maritimes and Newfoundland
Province of Quebec excluding Montreal
Province of Ontario excluding Toronto
Prairie Provinces
British Columbia

Metropolitan Areas

Metropolitan Montreal
Metropolitan Toronto

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C. Floating Region

In addition to the above market areas, and recognizing that a particular advertiser's market area may cross the geographical areas specified above, an advertiser may specify a special "floating" region which crosses the above geographical areas provided that such market area:

- (i) Does not exceed eight states and
- (ii) Does not include more than one major city (New York, Chicago or Los Angeles).

D. Use in One or More Regions

An advertiser may buy in only one region, which may be the floating region. An advertiser who wishes to cover more than one region is deemed to be a national advertiser and such advertiser must use the Standard session and use rates.

E. Session Fees

Session fees shall be the same as for national commercials except as follows:

- (i) If a regional advertiser records three versions of the same musical arrangement (e.g., a 60, 30, and 10 second version), it shall be deemed that three spots have been recorded. However, applicable payment shall be for only one commercial.
- (ii) If a regional advertiser records three versions of the same composition which are different musical arrangements (for example: a rock version, a country version, and a MOR version), it shall be deemed that three spots have been recorded.

The session fee covers 13 weeks of use.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00

F. Use Fees

Beyond the initial 13-week use cycle, use rates shall be computed at 100% of the applicable one-hour Standard session fee rate, except that a 10% discount applies if one year's use is prepaid at the time the session fee is paid or at the time any use fee is paid. The Arranger or Orchestrator shall receive the base scale as the Leader and the Copyists shall receive the base scale as Side Musician.

For 13-Week Cycle:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00
Orchestrator, Arranger	\$220.00
Copyist	\$110.00

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G. Conversion or Dubbings

Conversion (called “new use” in prior Agreements) or dubbings shall also be paid for at 100% of the applicable one-hour session fee. Such payment shall cover 13 weeks of use.

H. 8-Week—Radio Commercials Only

80% of the applicable rates stated above.

ARTICLE X: LOCAL COMMERCIAL ANNOUNCEMENTS

1. PRIOR NOTICE

Prior to accepting a call for the local commercial announcement recording session, Musicians shall be notified that the purpose of the session is to record music for local commercial announcements and whether it is for a National Advertiser or a Local Advertiser. The local market shall be specified on the Reporting Form (Exhibit B).

2. UNLIMITED COPY AND VIDEO CHANGES

Unlimited copy and video changes within the basic framework of the original commercial shall be permitted over the commercial announcements during each year cycle (or any longer cycle that has been prepaid) without any additional compensation.

3. LOCAL COMMERCIAL ANNOUNCEMENTS FOR NATIONAL ADVERTISERS

A. Definition

A local commercial announcement is an advertisement for a product or service that is broadcast in a single market of the markets listed on pages 31 and 32, but excluding commercial announcements broadcast in the metropolitan areas of New York, Los Angeles, Chicago, Toronto or Montreal. Production for such commercial announcements, however, may be performed in such cities.

B. Session Fee and First Year's Use

If the musician accepts the call, the session fee shall be the applicable session fee provided for in this Agreement and it shall cover:

- (i) Music recorded for two spots for one medium (TV or radio) in a one-hour session and not more than two minutes of product.
- (ii) One year of unlimited use of the commercials in the market involved.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00

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C. Subsequent One Year Cycles

All subsequent one-year cycles of these commercial announcements shall be paid at 100% of the applicable one-hour Standard session fee rate.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$220.00
Side Musician.....	\$110.00
Orchestrator, Arranger	\$220.00
Copyist	\$110.00

D. Conversion or Dubbings

Conversion (called "new use" in prior Agreements) or dubbings shall also be paid at 100% of the applicable one-hour session fee rate.

E. Prepayment for Two and Three Year Cycles

If two years' use is prepaid at time of session, a discount of 10% on all fees shall be allowed and an additional discount of 5% shall be allowed if prepaid for three years.

Two Years:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$396.00
Side Musician.....	\$198.00

Three Years:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician	\$561.00
Side Musician.....	\$280.00

4. LOCAL COMMERCIAL ANNOUNCEMENTS FOR LOCAL ADVERTISERS

A. Definition

The following advertisers shall qualify for Local Use under this Article X (4).

A local advertiser which markets or sells its product(s) or service(s) in a single market of the markets listed on pages 31 and 32 (Note: The market list excludes the areas of New York, Chicago, Los Angeles, Toronto and Montreal, hereinafter referred to as the major cities.) Local commercial announcements may be produced in any city including the major cities.

B. Session and Use Fees

- (i) The one-hour session fee shall include three commercials.
- (ii) AFM Locals shall be permitted to establish the base scale of pay for the recording of music tracks to be used in the production of local commercial announcements. Such rates may not be less than \$55.00 for a one-hour session or more than \$110.00.

However, the recording of music tracks to be used in local commercial announcements:

(1) May not be recorded outside of the local jurisdiction of New York, Chicago or Los Angeles markets, for use in said cities (i.e., New York, Chicago, or Los Angeles) at less than the rates and conditions applicable to Standard commercial announcements (Article XIV).

(2) May be recorded within the jurisdiction of New York, Chicago or Los Angeles for use in that city (i.e., one of the cities listed on pages 31 and 32) at the rates established by the AFM Local in such city in accordance with the provisions of this Article X.

- (iii) Session fee covers 18 months of use in one medium.
- (iv) The session fee covers the first period of use.
- (v) Beyond the initial use period, the use fee shall be 100% of wages actually earned at the session except that the Arranger or Orchestrator receives the base scale rate for the Leader and the Copyists receive the base scale rate for Side Musicians.

**MARKET LIST FOR
LOCAL COMMERCIAL ANNOUNCEMENTS PROVISION**

Abilene-Sweetwater	Chico-Redding	Great Falls
Albany, GA	Cincinnati	Green Bay
Albany-Schenectady-Troy	Clarksburg-Weston	Greensboro-Winston
Albuquerque	Cleveland	Salem- High Point
Alexandria, LA	Colorado Springs-	Greenville-New Bern-
Alexandria, MN	Pueblo	Washington
Alpena	Columbia, SC	Greenville-Spartanburg-
Amarillo	Columbia-Jefferson City	Asheville
Anchorage	Columbus, GA	Greenwood-Greenville
Anniston	Columbus, OH	Harrisburg-York-
Ardmore-Ada	Columbus-Tupelo	Lancaster-Lebanon
Atlanta	Corpus Christi	Harrisonburg
Augusta	Dallas-Ft. Worth	Hartford-New Haven
Austin, TX	Davenport-Rock Island-	Helena
Bakersfield	Moline (Quad City)	Houston
Baltimore	Dayton	Huntsville-Decatur-
Bangor	Denver	Florence
Baton Rouge	Des Moines	Idaho Falls-Pocatello
Beaumont-Port Arthur	Detroit	Indianapolis
Bend	Dothan	Jackson, MS
Billings	Dubuque	Jackson, TN
Biloxi-Gulfport-	Duluth-Superior	Jacksonville
Pascaguola	El Centro-Yuma	Johnstown-Altoona
Binghamton	El Paso	Jonesboro
Birmingham	Elmira	Joplin-Pittsburg
Bluefield-Beckley-Oak	Erie	Kansas City
Hill	Eugene	Knoxville
Boise	Eureka	La Crosse-Eau Claire
Boston	Evansville	Lafayette, IN
Bowling Green	Fargo	Lafayette, LA
Bristol-Kingsport-Johnson	Farmington	Lake Charles
City	Flagstaff	Lansing
Buffalo	Flint-Saginaw-Bay City	Laredo
Burlington-Plattsburgh	Florence, SC	Las Vegas
Casper-Riverton	Ft. Myers-Naples	Laurel-Hattiesburg
Cedar Rapids-Waterloo	Ft. Smith	Lexington
Charleston, SC	Ft. Wayne	Lima
Charleston-Huntington	Fresno	Lincoln-Hastings-Kearney
Charlotte	Gainesville	Little Rock
Charlottesville	Grand Junction	Louisville
Chattanooga	Grand Rapids-Kalamazoo-	Lubbock
Cheyenne	Battle Creek	Macon

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Madison	Philadelphia	Sioux City
Mankato	Phoenix	Sioux Falls-Mitchell
Marquette	Pittsburgh	South Bend-Elkhart
McAllen-Brownsville (LRGV)	Portland, OR	Spokane
Medford	Portland-Poland Spring	Springfield, MA
Memphis	Presque Isle	Springfield, MO
Meridian	Providence-New Bedford	Springfield-Decatur- Champaign
Miami	Quincy-Hannibal	Syracuse
Miles City-Glendive	Raleigh-Durham	Tallahassee
Milwaukee	Rapid City	Tampa-St. Petersburg
Minneapolis-St. Paul	Reno	Toledo
Minot-Bismarck- Dickinson	Richmond	Topeka
Missoula-Butte	Roanoke-Lynchburg	Traverse City-Cadillac
Mobile-Pensacola	Rochester, NY	Tucson
Monroe-El Dorado	Rochester-Mason City- Austin	Tulsa
Montgomery	Rockford	Tuscaloosa
Nashville	Roswell	Twin Falls
New Orleans	Sacramento-Stockton	Tyler
Norfolk-Portsmouth- Newport News- Hampton	St. Joseph	Utica
North Platte	St. Louis	Victoria
Odessa-Midland	Salinas-Monterey	Waco-Temple
Oklahoma City	Salisbury	Washington, DC
Omaha	Salt Lake City	Watertown-Carhage
Orlando-Daytona Beach	San Angelo	Wausau-Rhineland
Ottumwa-Kirkville	San Antonio	West Palm Beach
Paducah-Cape Girardeau- Harrisburg	San Diego	Wheeling-Steubenville
Palm Springs	San Francisco	Wichita-Hutchinson
Panama City	Santa Barbara- Santa Maria- San Luis Obispo	Wichita Falls-Lawton
Parkersburg	Savannah	Wilkes Barre-Scranton
Peoria	Seattle-Tacoma	Wilmington
	Selma	Yakima
	Shreveport-Texarkana	Youngstown
		Zanesville

ARTICLE XI: INTERNET COMMERCIAL ANNOUNCEMENTS

1. EXPERIMENTAL

The parties have agreed that it is in their mutual interest to establish a new Internet provision as described below. In doing so, the parties recognize that the Internet as an advertising medium is still in its early stage of development. Accordingly, this provision is entered into on an experimental basis with the expectation and understanding that the parties will continue to assess such Internet development during the term of this Agreement with a view toward making such changes as are mutually beneficial in the next round of collective bargaining. Upon the request of either party, the parties will hold a Joint Industry-Federation Committee meeting during the term of this Agreement to discuss Internet-related issues.

2. MADE FOR INTERNET

The provisions of this Section 2 will apply to commercial announcements made for initial use on the Internet.

A. Base Scale-Session Fees

The Base Scale pay for each musician employed on a session shall be as follows:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician.....	\$220.00
Side Musician.....	\$110.00

B. Maximum Number of Commercials Per Session

The provisions of Article VIII Section 2 (p. 19) will apply with respect to the maximum number of commercials per session under this Article XI.

C. Initial Use

Upon the first use of a commercial announcement claimed for an original Internet session, a single, one-time payment at the applicable rate provided below (plus appropriate adjustment for doubling if any) shall be made to each Musician whose services are reported for such session, regardless of the hours of employment at the session:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician.....	\$62.00
Side Musician.....	\$31.00
Orchestrator, Arranger.....	\$62.00
Copyist.....	\$31.00

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Upon such payment, all of the commercial announcements claimed for the same session may be used during their respective initial use cycles commencing with their respective dates of first use, without additional payment.

The Initial Use cycle of a commercial announcement made under this Article XI, Section 2, shall be a period of 26 weeks from the date of the first use on the Internet.

D. Second 26 week Use

For the second 26-week period of use, or portion thereof, of a commercial announcement claimed for an original Internet session during the 26-weeks immediately following the expiration of the initial cycle, another payment (plus appropriate adjustment for doubling if any) shall be made as follows:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician.....	\$165.00
Side Musician.....	\$82.50
Orchestrator, Arranger.....	\$165.00
Copyist.....	\$82.50

E. Each Subsequent 52-Week Period of Use

For each subsequent 52-week period of use on the Internet, or portion thereof, of a commercial announcement claimed for an original Internet session, another payment (plus appropriate adjustment for doubling) shall be made as follows:

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician.....	\$165.00
Side Musician.....	\$82.50
Orchestrator, Arranger.....	\$165.00
Copyist.....	\$82.50

3. USE OF MADE FOR INTERNET COMMERCIAL ON BROADCAST OR CABLE MEDIUM

Use of any made-for-Internet commercial announcement in a broadcast or cable medium shall require the making of additional payments at the scale rates set forth in this Agreement.

4. INTERNET USE OF COMMERCIAL ANNOUNCEMENTS MADE FOR INITIAL USE ON TELEVISION OR RADIO

The provisions of this Section 4 will apply to commercial announcements made for initial use on television or radio that are used on the Internet.

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A. 52-Week Use

Use on the Internet of a commercial made for initial use on television or radio shall require the following payment for each 52-week period of use, or portion thereof.

No. of Musicians	Base Scale Per Musician
Leader, Contractor, Single Musician.....	\$165.00
Side Musician.....	\$82.50
Orchestrator, Arranger.....	\$165.00
Copyist.....	\$82.50

5. DISPUTE RESOLUTION

If a dispute arises as to whether material used on the Internet qualifies as a commercial as defined in Article I Section 3 (Services Covered), either party may submit the dispute to a joint committee established by the Joint Policy Committee of the ANA-AAAA and the Federation. If the joint committee fails to resolve the dispute within 30 days, either party may submit the dispute to arbitration.

ARTICLE XII: EDITING

1. LIMITATION ON USE

A sound track or recording made hereunder shall not be used or dealt with for any purpose whatsoever except to accompany or to be part of the single television or radio commercial announcement for which such sound track or recording was originally prepared. Any other use shall require additional applicable payment.

2. FEDERATION PERMISSION

Except as provided in this Article XII, Editing, in Article IX, Regional Commercial Announcements and in Article X, Local Commercial Announcements, changes in the words which accompany or are under or over the music of a sound track shall not thereafter be altered nor shall any words be added after the music is recorded without creating a new commercial announcement.

Notwithstanding the foregoing, permission is hereby granted to Employer during the term of this Agreement to do the following:

A. Add Announcer Copy

To add announcers advertising copy over recorded music not later than ten weeks subsequent to the recording of the music, provided that no announcers copy may be added once there already is announcers copy in the commercial announcement or after the first broadcast in any medium, and provided that Musicians are paid total compensation at least equivalent to the total number of commercial announcements produced.

B. Add Lead In and Lead Out

To add announcers' advertising copy before or after a commercial announcement as lead in or lead out.

C. Overdubbing, Tracking and Sweetening

To add:

- (i) Live performances to a recording made at the same session without notice and without any additional payment to the Musicians employed for the session.
- (ii) The vocal performances after completion of an original session, to the recordings made at the original session without any additional payment to the Musicians employed at the original session for their services thereat.
- (iii) Additional instrumental performances at a session subsequent to the completion of the original session at which music was first recorded, to such recorded music without any additional payment to the Musicians employed at the original session for their services thereat.

D. Informational and Promotional Changes

- (1) To make copy and/or video changes over the recorded music of a commercial, provided such changes are limited to destinations, points and times of departures, frequency of service, telephone numbers, rates, pricing, availability, dates, and dealer identification. Such changes may be made without creating new or additional commercials, provided all versions are identical except for changes otherwise permitted under this Article XII Editing.
- (2) To make copy and/or video changes over the recorded music of a commercial to reflect modifications necessary for short promotional messages. Such changes shall be limited to special offers, sales or giveaways, sweepstakes or sales events, whether offered by the advertiser or the designated dealer. These changes may be made without creating a new or additional commercial provided all versions are identical except for changes otherwise allowable under this Article XI Editing, and provided that:
 - (a) The promotion may be referenced only once, although it may appear anywhere in the commercial.
 - (b) The promotion must be in the nature of a “tag” as that term is commonly used in the industry.

For every 13-week cycle of use of any commercial incorporating any changes referred to in (1) and/or (2) above, including the first use cycle, the Musicians shall receive 200% of the applicable re-use fee set forth in Article XIV, Paragraph 5 at page 43 (e.g., \$165.00 for a side musician who has not doubled and \$330.00 for a leader/arranger/orchestrator/contractor). This Subparagraph (D) shall not apply to commercials for which regional or local rates are being paid.

3. MECHANICAL EDITING

Nothing contained in this Agreement is intended to permit the mechanical editing of any sound track or recording made hereunder for the purpose of making a shorter or longer version for use hereunder, unless the Musicians are paid therefor under this Agreement, except as specifically permitted by the next section.

A. Shorter or Longer Music Tracks

Whenever a music track is mechanically shortened or lengthened to a different music track length, the Musicians whose services are utilized on the shortened or lengthened track shall be paid a dubbing fee.

B. No Bearing on Total Length of Commercial

This mechanical editing provision applies only with respect to lengthening and/or shortening recorded music track(s) and bears no relationship whatsoever to the length of the commercial in which said music track(s) is incorporated or to the use of music tracks in the length originally recorded.

EXAMPLE:

- (i) In a two-hour session music tracks of the following lengths are recorded: 40 seconds, 30 seconds and 20 seconds. These music tracks may be used in a maximum of six commercials broadcast in the same medium. If two of said tracks are mechanically edited to 15 seconds and 10 seconds, two dubbing fee payments shall be made to the Musicians (one for the 15 second music track and one for the 10-second music track) regardless of whether or not the Employer has utilized all six commercials which he/she is entitled to pursuant to the original session. These two dubbing payments shall entitle the Employer to use the new 15-second music track in one commercial broadcast in the same medium and similarly the new 10-second length music track in one commercial broadcast in the same medium.
- (ii) In a one-hour session music tracks of the following lengths are recorded: 60 seconds and 30 seconds. These music tracks may be used in a maximum of three commercials broadcast in the same medium. If, after three commercials have been broadcast, it is decided to use the 30-second music track in two more commercials and the 60-second music track in one more commercial, three dubbing fees shall be due the Musicians for these additional three commercials broadcast in the same medium.
- (iii) In a one-hour session a 20-second music track is recorded; this music track may be used in a maximum of three commercial announcements broadcast in the same medium.

C. Use Payments for a Mechanically Edited TV Commercial Broadcast Simultaneously with Original Commercial

With respect to television commercials only:

If the video portion of a commercial is mechanically edited to make a single shorter or longer commercial, and either:

- (i) the music track of both versions is identical, or
- (ii) the music track has been re-recorded solely for purposes of timing and synchronization or has been mechanically lengthened or shortened to fit a longer or shorter version,

Then, with respect to the second and all subsequent 13-week cycles, both the commercial and its version shall be considered a single commercial for the purpose of making use payments.

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EXAMPLE:

- (a) A 30-second TV commercial contains a 12-second music track;
- The video portion is mechanically edited to make a 15-second commercial; and
 - The identical 12-second music track is included in the 15-second version.

In this example, the 30-second commercial and 15-second version may be considered a single commercial commencing with the second 13-week use cycle because the music track of both versions is identical.

- (b) A 30-second TV commercial contains a 20-second music track;
- The video portion is mechanically edited to make a 15-second commercial; and
 - The 20-second music track is mechanically shortened (not recorded "live") to 10 seconds to fit the 15-second version or the 20-second music track is re-recorded to 10 seconds to fit the 15-second version.

In this example, the 30-second commercial and 15-second version may be considered a single commercial commencing with the second 13-week use cycle because the music track was mechanically shortened to fit the shorter version or the music track was re-recorded solely for purposes of timing and synchronization to fit the shorter version.

Note, however, that payment of a Dubbing Fee shall be required when a mechanically edited music track is incorporated into a version under this Section. (See Article XII, Paragraph 3(A) of the Agreement.)

4. CHANGES REQUIRED BY LAW, BROADCAST STANDARDS AND LANGUAGE TRANSLATIONS

The following alterations may be made in a commercial announcement without changing it into a new or additional commercial announcement for the purpose of this Agreement:

- (a) The on and/or off-camera message of a commercial announcement made for a designated advertiser and/or product shots contained therein may be varied (but only to the extent necessary) for compliance with legal requirements, broadcast standards and practices, and any other regulations which affect the acceptability of the commercial for broadcast. The Employer must advise the Office of the President of the Federation of each change made and the reasons therefor. This notice must be sent, whenever possible, before first air date, but in no event later than 10 business days after first air date.
- (b) The off-camera message of a commercial announcement or any words shown in a commercial announcement made for a designated advertiser may be recorded or translated in the United States or in Canada in any language.

ARTICLE XIII: DUBBING AND CONVERSION FEES

1. DEFINITION

“**Dubbing**” shall be defined as the transfer of a music track into a commercial used in the **same** broadcast medium.

“**Conversion**” (called “new use” in prior Agreements) shall be defined as the transfer of a music track into a **commercial** used in a **different** broadcast medium.

2. CONDITIONS FOR PAYMENT

Each time a musical sound track which was originally recorded for one or more commercials is:

- (a) Incorporated into additional commercials used in the same medium, and which commercials exceed the maximum number of commercials claimed on the Reporting Form (Exhibit B) filed for the session, or
- (b) Included on the Reporting Form (Exhibit B) filed for the session but the announcer copy is not added until more than 10 weeks after the recording session, or
- (c) Incorporated into commercials produced for a different medium

A fee in the amount set forth in Article XIV, paragraph 5, shall be paid to the Leader, Contractor, Instrumentalists, Arrangers, Orchestrators, Copyists, and Sideline Musicians.

This fee shall give the Employer the same rights it obtains by payment for an original session except the right to make more than one commercial.

3. INFORMATION TO ACCOMPANY CONVERSION AND DUBBING PAYMENTS

The following information shall be furnished with payments for conversion and dubbings, not later than 15 business days following the commencement of the applicable use cycle:

- (i) Name of Advertiser
- (ii) Product
- (iii) Name of Advertising Agency and production house, if any
- (iv) Identification of commercial(s) (title and/or number)
- (v) Applicable rate schedule: Standard, Regional or Local for National Advertisers or Regional or Local for Regional/Local Advertisers
- (vi) Use/broadcast medium: Television, radio, non-broadcast, videocassette, foreign, or other
- (vii) Date of the recording session
- (viii) The Leader

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- (ix) Reporting Form number
- (x) Cycle dates being paid
- (xi) First air date of new commercial
- (xii) If payment is for use of a commercial in a different broadcast medium, the new broadcast medium for which payment is being made
- (xiii) Name, Social Security number and AFM Local number of each Musician, Copyist, Orchestrator and Arranger who performed services for or at such session
- (xiv) Identify Dubbing fees paid for shorter/longer versions per Article XII
- (xv) Such other information required to calculate and issue proper payment; all such information is included in Exhibit B, attached

ARTICLE XIV: USE/RE-USE

**(Applicable to all Commercials except Regional,
Local and Internet Commercial Announcements—Articles IX, X and XI)**

1. INITIAL USE

Upon the first use of a commercial announcement claimed for an original session occurring on or after May 1, 1991, a single, one-time payment at the applicable rate provided below (plus appropriate adjustment for doubling if any) shall be made to each Musician whose services are reported for such session, regardless of the hours of employment at the session:

Leader, Contractor, Single Musician	\$62.00
Side Musician, Sideline Musician.....	\$31.00
Orchestrator, Arranger	\$62.00
Copyist.....	\$31.00

Upon such payment, all of the commercial announcements claimed for the same session may be used during their respective initial use cycles commencing with their respective dates of first use, without additional payment.

The Initial Use cycle of a commercial announcement shall be a period of 13 weeks (“initial cycle”) from the date of first broadcast either by television stations or by radio stations.

2. 13-WEEK RE-USE CYCLES

The first additional broadcast after the expiration of the initial cycle and in the same broadcast medium shall start a new 13-week cycle. The first broadcast in such broadcast medium following the second 13-week cycle shall start a new 13-week cycle, etc. The end of one 13-week cycle and the commencement of the next such cycle need not be contiguous.

3. 8-WEEK USE AND RE-USE CYCLES-RADIO COMMERCIALS ONLY

Use cycles for radio commercials may be 8 weeks or 13 weeks, whichever the Employer elects. In those cases where the Employer elects to pay for an 8-week cycle,

- the Use fee
- the Re-Use fee
- the Dubbing fee
- the Conversion fee

shall be 80% of the 13-week Use fee, 80% of the Re-Use fee, 80% of the Dubbing fee or 80% of the Conversion fee, whichever applies.

Notwithstanding the foregoing, with respect to a music track for a television commercial produced under a prior AFM Television and Radio Commercial Announcement Agreement, if such track is dubbed into a radio commercial produced on or after May 1, 1987, the Conversion fee shall be 100% for the first such use cycle and the Re-Use fee shall be 80% for subsequent 8-week Re-Use cycles.

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The session fee shall not be affected by this provision.

4. SHORT TERM USE

Upon payment of a dubbing fee, up to three different commercials made for the same advertiser may be broadcast in a single medium during a period of 13 weeks from the date of first broadcast of the first commercial, provided that the three commercials are used for a period not to exceed ten weeks in the aggregate during the 13-week cycle.

EXAMPLE

A single Dubbing Fee is paid for TV use of Commercials A, B and C, all produced with the same Musicians and for the same advertiser. They are used during a 13-week cycle which starts 4/1 and ends 6/30 in the following manner:

Commercial A 1 week 4/1 - 4/7
Commercial B..... 3 weeks 4/15 - 5/6
Commercial C..... 3 weeks 6/1 - 6/22
Aggregate Use: 7 weeks

In this example all use of the three commercials is covered by payment of a single Dubbing Fee because the aggregate use is less than 10 weeks during the 13-week cycle.

5. USE/RE-USE RATES

The 13-week and 8-week cycle payments for each commercial announcement made under this Agreement or music track converted for use in a different medium as described in Article XIV, Paragraph 6 below shall be made to each person covered by this Agreement as provided in the 13-Week and 8-Week Use/Re-Use Rate Schedules set forth on page 45.

It is specifically intended that a commercial announcement which has not been changed, visually or orally, in any manner whatsoever may only be claimed as one commercial announcement.

If only one commercial announcement is produced using the music track(s) recorded at the session and such commercial announcement is not changed, visually or orally in any manner, each cycle beyond the first must be paid for at the applicable re-use fees. It is not permitted to produce one commercial only and declare two or three unless the second and third are different commercials either visually or orally.

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13-WEEK USE/RE-USE SCHEDULE:

10/17/01 - 10/16/04

1. Leader/Arranger/Orchestrator/Contractor*	\$165.00
2. Person who performs services both as Leader and Arranger, or Leader and Orchestrator.....	\$330.00
3. Person who performs services both as Arranger and Orchestrator	\$165.00
4. Orchestra Manager who performs services both as Orchestra Manager and Sideline Musician.....	\$165.00
5. Side Musician who has not doubled, Sideline Musician who has not doubled, Orchestra Manager**, or Copyist	\$82.50
6. Side Musician or Sideline Musician who doubles one or more times***	\$107.25 (1st double)
.....	\$119.63 (2nd)
.....	\$132.00 (3rd)
.....	\$114.38 (4th)
7. Leader, Contractor, Side Musician or Sideline Musician performing alone, who has doubled***	\$189.75 (1st double)
.....	\$202.13 (2nd)
.....	\$214.50 (3rd)
.....	\$226.88 (4th)

* Contractor-Necessary when ten or more Side Musicians are employed-re-use payment is \$165.00.

** Orchestra Manager-Necessary when ten or more Sideline Musicians are employed-re-use payment is \$82.50

*** Doubles payable only for those commercial announcements in which Musicians actually double.

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

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8-WEEK USE/RE-USE SCHEDULE [Radio Only]-10/17/04 - 10/16/07

- | | |
|---|-----------------------|
| 1. Leader/Arranger/Orchestrator/Contractor* | \$132.00 |
| 2. Person who performs services both as Leader and Arranger, or Leader and Orchestrator..... | \$264.00 |
| 3. Person who performs services both as Arranger and Orchestrator..... | \$132.00 |
| 4. Side Musician who has not doubled, Sideline Musician who has not doubled, or Copyist | \$66.00 |
| 5. Side Musician or Sideline Musician who doubles one or more times** | \$85.80 (1st double) |
| | \$95.70 (2nd) |
| | \$105.60 (3rd) |
| | \$115.50 (4th) |
| 6. Leader, Contractor, Side Musician or Sideline Musician performing alone, who has doubled** | \$151.80 (1st double) |
| | \$161.70 (2nd) |
| | \$171.60 (3rd) |
| | \$181.50 (4th) |
- * Contractor-Necessary when ten or more Side Musicians are employed-re-use payment is \$132.00.
- ** Doubles payable only for those commercial announcements in which Musicians actually double.

6. USE IN ADDITIONAL BROADCAST OR INTERNET MEDIUM

Use of any commercial announcement in a broadcast or Internet medium other than the same broadcast or Internet medium which is first used during the initial cycle of broadcast shall require the making of additional payments at the scale rates set forth in this Agreement.

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7. FOREIGN USE

A. The Initial Use provision of this Agreement shall not apply to the use of a commercial outside the United States, its territories and possessions, Canada and Mexico (Foreign Use). Such use shall require the making of the following payments per commercial announcement, for a 12-month period of use, which 12-month period shall commence with the first foreign use:

12 Months' Use

	Leader, Contractor, Arranger, Orchestrator	Side Musician, Sideline Musician, Copyist
(i) For use in Europe including the U.K.	\$137.50	\$68.75
(ii) For use outside Europe	\$137.50	\$68.75
(iii) For Worldwide use paid at start of cycle	\$220.00	\$110.00

If the worldwide use rate under Subparagraph (iii) above is not paid at the start of the cycle, then worldwide use may be obtained only by payment of the two separate rates provided under (i) and (ii) above.

For an additional payment of 50% over the rates listed above, Employer may use a commercial for a period of 24 months. Such additional payment must be made at the start of the cycle.

24 Months' Use

	Leader, Contractor, Arranger, Orchestrator	Side Musician, Sideline Musician, Copyist
(i) For use in Europe including the U. K.	\$206.24	\$103.13
(ii) For use outside Europe	\$206.24	\$103.13
(iii) For Worldwide use paid at start of cycle	\$330.00	\$165.00

If the worldwide use rate is not paid at the start of the cycle, then worldwide use may be obtained only by payment of the two separate rates provided under (i) and (ii) above.

B. Notwithstanding Subparagraph (A) above, use of a commercial announcement in Mexico shall be considered foreign use whenever such commercial is only being used outside of the United States, its territories and possessions and Canada or wherever the commercial has been produced for foreign use only.

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8. CABLE USE

- A. Use on any kind of cable (including WTBS for example) of commercials which use music tracks produced under this Agreement shall be deemed the same as television use. (For purposes of this paragraph, use on so-called "super stations" shall be considered television use.)
- B. Music tracks produced under this Agreement, which are included in commercials produced solely for and solely used on local cable, shall be subject to special negotiation with the Federation if Employer so requests. This negotiation will be done on a case-by-case basis. If the Employer does not request a special negotiation with the Federation, Paragraph 8 (A) above shall apply. If the Employer requests a special negotiation but an agreement is not reached, the matter shall be referred to the Joint Industry-Federation Committee.

9. NON-BROADCAST USE

- A. For use of commercials in any and all non-broadcast media (e.g. theaters, trade shows open to the public, closed circuit TV, in-store point of sale, phone hold, in-stadium, give-aways), excluding the Internet, videocassettes and other devices for the home video market, all Musicians shall be paid an amount equal to the conversion fee provided for in Article XIV(5), for each 52-week period of non-broadcast use. For an up-front payment of 150% of the conversion fee, the Employer may obtain two consecutive 52-week periods of non-broadcast use.

B. Experimental Videocassette Provision

For use of commercials in videocassettes and other devices (e.g., DVD, CD-ROM) for the home video market, all Musicians shall be paid as follows:

- (i) Theatrical Motion Pictures Releases
 - (1) Where the initial release is less than 1,000,000 copies: an amount equal to two dub fees
 - (2) Where the initial release is 1,000,000 or more copies: an amount equal to four dub fees
- (ii) All Other Releases
 - An amount equal to two dub fees

10. NOTICE OF FIRST AIR DATE

The Employer shall notify the Federation in writing (with a copy to the applicable Local) within 30 calendar days of the first air date of each commercial announcement covered by this Agreement. The notice shall include the following information:

- (i) Name of Advertiser
- (ii) Product
- (iii) Name of Advertising Agency
- (iv) AFM Reporting Form Number

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- (v) Date of Recording Session
- (vi) Identification of commercial (ISCI Code, AD-ID, or Agency Identification Number, whichever is applicable-if any)
- (vii) Identification of track used (from session reporting form)
- (viii) First Air Date
- (ix) The Leader

11. USE OF CLAIMED COMMERCIAL ANNOUNCEMENTS

Each commercial announcement claimed by an Employer for any session must be identified and aired within 18 months of the date of the original session. If first use of any claimed commercial does not occur within such 18-month period, the Initial Use payment shall not cover the initial use cycle for such commercial, and the appropriate use payment must be made if and when use does occur.

12. COMMERCIAL NOT USED FOR TWO YEARS

If a commercial is not used for two years after the completion of any cycle and that commercial is thereafter used, the Employer shall pay the full applicable one-hour session rate provided for in the AFM Commercial Announcements Agreement which is in effect at the time the commercial is reactivated.

13. CALCULATION OF CYCLES

- A. All 13-week cycles provided for in this Agreement may be calculated by counting:
 - (i) 13 weeks or
 - (ii) 3 months less one day.
- B. All 52-week cycles provided for in this Agreement may be calculated by counting:
 - (i) 52 weeks or
 - (ii) 12 months less one day.

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14. RE-USE REPORTS (ACCOMPANYING RE-USE PAYMENTS)

The following information shall be furnished with payments for re-use cycles, not later than 15 business days following the commencement of the applicable re-use cycle:

- (i) Name of Advertiser
- (ii) Product
- (iii) Name of Advertising Agency and production house, if any
- (iv) Applicable rate schedule: Standard, Regional or Local for National Advertisers or Regional or Local for Regional/Local Advertisers
- (v) Identification of commercial(s) (title and/or number)
- (vi) Use/broadcast medium: Television, radio, non-broadcast, videocassette, foreign, or other
- (vii) Date of the recording session
- (viii) The Leader
- (ix) Reporting Form number
- (x) Re-Use cycle dates being paid
- (xi) First air date
- (xii) Name, Social Security number and AFM Local number of each Musician, Copyist, Orchestrator and Arranger who performed services for or at such session
- (xiii) Such other information required to calculate and issue proper payment, all such information is included in Exhibit B, attached.

ARTICLE XV: MUSIC PREPARATION

ARRANGERS, ORCHESTRATORS, COPYISTS, LIBRARIANS

Arrangers, Orchestrators, Copyists and Librarians shall be paid not less than the rates set forth below and the conditions set forth shall apply:

Arranging

Arranging is the art of preparing and adapting an already written composition for presentation in other than its original form. An arrangement shall include reharmonization, paraphrasing and/or development of a composition so that it fully represents the melodic, harmonic and rhythmic structure and requires no changes or additions.

Orchestrating

Orchestrating is the labor of scoring the various voices and/or instruments of an arrangement without changing or adding to the melodies, counter-melodies, harmonies and rhythms.

Full Score

A full score is a visual representation of parts to be performed by instruments and/or voice of a musical ensemble systematically placed on a series of staves, one above the other, and in which no more than two instruments are combined on a single staff.

1. ARRANGERS AND ORCHESTRATORS

A. Arrangers

Minimum Rates

Since arranging represents highly individual skills, the wages paid for arranging are left to the discretion of the person doing the work.

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B. Orchestrators

Page rates for Orchestrators [subject to the rules of Paragraph B (7)]:

- (1) Per Score Page
For not more than ten lines per score page..... \$19.06
- (2) Additional Single Line
For each additional single line
in excess of ten lines per score page \$1.04
- (3) Orchestrating Parts
Orchestrating the parts (without score):
the combined rate for orchestrating and copying.
- (4) Scoring Piano Part
For scoring a piano part from a
lead or melody sheet per piano page \$19.06
- (5) Scoring Full Piano Part
For scoring a two-line or three-line full
piano part from an orchestra score (or parts)
or for scoring for solo piano, accordion,
harp, etc., for individual performances,
per piano page,..... \$35.48
- (6) Scoring Page for Voices
For scoring for (choral) voices (a page
to consist of not more than four voices,
which may or may not include a piano part):

With come sopras being paid for (per Page) \$8.46
Each additional voice (per Page)..... \$.79
- (7) Rules for Page Rates

The following rules shall apply to page rates:

- (i) A score page consists of four measures and shall be computed on the basis of a minimum of ten lines
- (ii) Divisi parts shall count as two lines
- (iii) A pick-up shall be computed as a full measure
- (iv) Come sopras shall be paid for
- (v) Repeats shall not be used within a chorus to reduce the wage paid (but repeats, del segnos and the like which appear in the composition are permissible)
- (vi) The last page may be paid for on a half-page basis

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- (vii) The page rates do not include proofreading service
 - (viii) Voice and conductor parts written into a score shall be treated as instrumental parts
 - (ix) The word "piano" shall be deemed to include organ, harp, celeste, harpsichord, accordion, cimbalom, etc., when written on two staves
- (8) **Time Rates**
May be used only for adding parts to a score on adjustments, work at rehearsals, take downs, alterations, additions and in other situations where page rates are impractical. The hourly rate for time work shall be..... \$28.91

2. COPYISTS

A. Minimum Rates

The minimum rates set forth in this Section 2 shall apply throughout the bargaining unit.

B. Page Rates

Page rates for copyists shall be as follows (subject to the rules set forth in Paragraph D on page 55).

Instrumental Parts	Original	Repro
1. a. Single stave parts (single notation).....	\$3.47	\$7.17
b. Single stave parts-chorded.....	\$5.99	\$11.99
2. a. Double stave parts-chorded (piano, harp organ, celeste, etc.).....	\$5.99	\$14.72
b. + vocal cue.....	\$7.69	\$17.00
3. a. Rhythm piano parts (chord symbols + bass line).....	\$4.58	\$11.91
b. + vocal cue.....	\$6.23	\$14.24
4. Piano-vocal (3 staves with lyrics).....	\$9.17	\$18.46
*5. Lead Sheet (melody + chord symbols + lyrics-one set)		\$13.69

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B Page Rates, continued

Vocal Parts	Original	Repro
6. a. Single voice line + lyrics (one set)	\$5.14	\$11.92
b. Foreign language lyrics, extra per page	\$1.41	\$2.85
*7. a. Choir parts with lyrics (one set)	\$15.41	
b. Foreign language lyrics, extra per page	\$2.23	

Conductor Parts

- *8. a. Conductor, piano-conductor,
production, control etc. (one or
more staves)..... \$19.73
 - b. Constructing chorded
piano-conductor part
(when no piano in score) \$26.53
- * Parts marked with asterisk are multiple use parts and have one price
for both Original and Repro.

**Adding Lyrics or Words
(per set, per page)**

	Original	Repro
9. a. Single stave parts	\$1.76	\$3.47
b. Multiple stave parts	\$1.76	\$3.47
c. Foreign language: Double above rates		
10. Numbering bars (per page)	\$.59	\$1.20
11. Chord symbols (when added, per page)		
a. Single stave parts	\$1.76	\$3.47
b. Multiple stave parts	\$.87	\$1.76

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B. Page Rates, continued

- 12. Adding symbols (other than chord symbols) for electronic instruments or devices:
 - a. Single stave parts \$1.82
 - b. Multiple stave parts \$1.06
- 13. Any part for solo performance +50%
- 14. Special routines +50%
- 15. Symphony rate +33 1/3%
- 16. Transposition +50%
- 17. Master copy for reproduction (all parts not listed): Double part price
- 18. Time rates*

May be used only on pasting, cutting production lines, and in other situations where pages are impractical.
The hourly rate for time work shall be \$23.95

* For description of work falling within these categories, see Paragraph 3 (E) (i-vi) Page 57.

C. Rules Applying to Page Rates

The following rules shall apply to page rates:

- (i) For duplicating orchestra and band scores (note for note), the minimum rate shall be one-half of the orchestrating rate for scoring same.
- (ii) For remaking a score from regular parts, the minimum rate shall be one-half of the orchestrating rate for scoring same.
- (iii) Modulations, new introductions, endings and interpolations from piano shall be paid for at orchestrating rates.
- (iv) Symphony, opera, cantata, oratorio, ballet or any other standard or classical music (copies, transcriptions, extractions) shall be paid for at one-third more than the rates listed.
- (v) Special routine work (writing only) where two or more scores or orchestral parts must be used or referred to in extracting the parts shall be paid for at 50% more than the rates listed.
- (vi) The Contracting Copyist shall be designated as a Supervising Copyist and he/she shall be paid for his/her services 25% more than the listed rates for the work with respect to which he/she acts (including copying done by him/her) when the services of more than one Copyist are necessary to complete the work assignment.
- (vii) When two or more Copyists are required to split scores for the convenience of the Employer, each Copyist shall be paid at page and half-page rates for the section copied by him/her, but not less than the applicable hourly rate. Each of these Copyists shall be included on the Reporting Form filed for the session.
- (viii) Rates for copying do not include any proofreading services. Proofreading, if required by the Employer, shall be paid for at the rate of \$21.60 per hour with non-minimum call to be applicable to such rate.
- (ix) Divisi parts shall be paid for on a pro rata basis.
- (x) Editing shall be paid for at the copying rate plus 50%.
- (xi) Rates shall be computed on the basis of ten stave paper except that parts requiring three or more braced staves shall be written on twelve stave paper, unless impractical.
- (xii) Rates shall be computed on page and half-page rates except that the first page shall be paid in full rather than prorated.
- (xiii) An average of four measures per stave shall be secured, if possible, and two staves of the first page (or any following pages, if necessary) shall be used for titles or other written items.

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- (xiv) The Copyist who prepared the original part shall be paid the listed rate for any reproductions thereof by any mechanical means whatsoever except where a master copy was previously paid for at the rate listed.
- (xv) All paper and necessary working material shall be supplied by the Employer or furnished by the Copyist at cost.
- (xvi) Transposition of all parts shall be paid for at 50% more than the listed rates.
- (xvii) Use of rehearsal letters every two, three or four measures or to circumvent payment for numbering shall not be deemed normal use.

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3. GENERAL RULES APPLICABLE TO ARRANGERS, ORCHESTRATORS, COPYISTS AND LIBRARIANS

A. Delivery of Full Score

The Arranger or Orchestrator shall deliver to the copyist a full score. Abbreviations by come sopra and/or col indications within the same score may be used.

B. Other Media Limitations-Non-Commercial Announcement Use

Arrangements, orchestrations and parts previously made for a use other than commercial announcements shall be paid for hereunder when first used for commercial announcements. Arrangements, orchestrations and parts made initially for commercial announcements shall not be used in any other field either by the Employer or with its authorization unless the rate applicable to such purposes is paid.

C. Use of Union Stamp

Arrangers, Orchestrators and Copyists shall stamp the first and last pages of all arrangements and scores and the first page of all parts with their official union stamp. Card number, Local and year must be written on any master copy.

D. Minimum Call

The minimum call for an Orchestrator shall be four hours.

A Copyist shall be guaranteed a minimum payment equal to the scale one-hour session fee which applies to the Musicians employed for the recording session, pursuant to Article VIII. 1 hereof. This minimum is also subject to added premium rates when such premium time is in effect.

E. Premium Rates

Orchestrators and Copyists shall receive the following premium rates but there shall be no compounding of such premiums:

- (i) For work from 6:00 p.m. to 12:00 midnight 150% of the listed rate.
- (ii) For work on Saturdays from 9:00 a.m. to 6:00 p.m..... 150% of the listed rate.
- (iii) For work in excess of eight hours
in one day on a single job..... 150% of the listed rate.
- (iv) For work from 12:00 midnight until
dismissed, and after 6:00 p.m. on Saturdays 200% of the listed rate.
- (v) For work performed on the same job at any time
following a call-back less than eight hours after
prior dismissal during premium pay hours 200% of the listed rate.
- (vi) For work on Sundays and the following holidays 200% of the listed rate.

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In the United States

New Year's Day	Labor Day
Presidents' Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

In Canada

New Year's Day	Dominion Day
Good Friday	Labour Day
Easter Monday	Thanksgiving Day
Victoria Day	Christmas Day

F. Out of Town Work

(i) Rates

If the Employer requests an Orchestrator or Copyist to work in a city other than the one in which he/she resides or in his/her normal working environs in which he/she is customarily employed, such work shall be paid for at 125% of the listed rate. In such cases the Employer shall reimburse all reasonable and necessary travel expenses which have been agreed to in advance, including meals and including the cost of hotel if such Orchestrator or Copyist is required to stay away overnight.

(ii) Transportation

Round-trip, first-class transportation, with sleeper for overnight travel, shall be furnished by the Employer. Airplane coach shall be considered first-class transportation.

G. No Application of Other Rates

The minimum rates specified herein relate to arranging, orchestrating and copying services of every nature as utilized in connection with commercial announcements and no other minimum rates shall be applied for any such services.

H. Session Attendance Rates

Copyists and Librarians who are required by the Employer to attend recording sessions shall be paid at the Side Musician rate.

I. Pickup and Messenger Service

Pickup and messenger service shall be paid by the Employer.

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J. Initial Radio or Television Recording Session (Commercials Produced Under National Recording Rates)

(i) First Three Commercials

Copyists and Orchestrators shall receive for each composition copied and orchestrated the applicable fees set forth in the above schedule for the amount of work involved in each such job. This scale payment shall entitle the Employer to use each composition in question in not more than three commercial announcements at the initial recording session provided such commercial announcements are for use in the same medium.

(ii) Additional Commercials

For each commercial announcement produced in excess of the first three at the initial recording session which incorporates such composition, the Copyist shall receive a fee equal to the applicable scale fee being paid to the Side Musicians, and the Orchestrator shall receive a fee equal to the applicable scale fee being paid to the Leader.

K. Use Payments

The initial 13-week cycle (Initial Use), any additional 13-week cycles, the editing, dubbing or conversion of additional commercials shall be paid for as provided for in the applicable Articles as set forth in this Agreement.

Payments for Regional and Local commercials shall be paid for as set forth in Articles IX and X of this Agreement.

L. Subsequent Use of Work—Additional Commercials in the Same or “Other” Medium

The Copyist shall receive a fee equal to the applicable scale being paid to the Side Musicians and the Orchestrator shall receive a fee equal to the applicable scale fee being paid to the Leader.

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ARTICLE XVI: SIDELINE MUSICIANS

A "Sideline Musician" is a person covered by this Agreement who is engaged to mime the playing of a musical instrument.

1. PAYMENTS

A. Base Scale

- (i) Minimum pay for eight hours
(Side Musicians and Orchestra Manager)..... \$162.88
- (ii) Overtime after eight hours,
per 15 minutes or fraction thereof \$7.64
- (iii) One person alone, minimum pay for eight hours..... \$191.61
- (iv) One person alone, overtime after eight hours,
per 15 minutes or fraction thereof..... \$8.99
- (v) Leader-double above rates.
- (vi) If two or more Sideline Musicians are employed, one of them shall be deemed the Leader.

B. Premium Rates

All work performed between midnight and 8:00 a.m., on Sundays, and on the following holidays shall be paid for at two times the applicable scale.

In the United States

- | | |
|------------------|------------------|
| New Year's Day | Labor Day |
| Presidents' Day | Thanksgiving Day |
| Memorial Day | Christmas Day |
| Independence Day | |

In Canada

- | | |
|----------------|------------------|
| New Year's Day | Dominion Day |
| Good Friday | Labour Day |
| Easter Monday | Thanksgiving Day |
| Victoria Day | Christmas Day |

Each of these holidays shall be observed on the day on which it is observed by employees of the United States Government or of the Government of Canada.

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C. Use Payments

The initial 13 or 26-week cycle (Initial Use), any additional 13, 26 or 52-week cycles, the editing, dubbing or conversion of additional commercials shall be paid for as provided for in the applicable Articles as set forth in this Agreement.

Payments for Regional and Local commercials shall be paid for as set forth in Articles IX and X of this Agreement.

D. Recording by Sideline Musicians

Except for “leak throughs,” if Sideline Musicians record, they shall be paid for not less than one recording session in addition to the applicable sideline scale. This shall not apply if the Musicians play, but do not record. A “leak through” is defined as the recording of Sideline Musicians which is not intended for direct recording.

If a Sideline Musician is required to prescore or directly record while filming for the purpose of using such recording as a “playback” for rehearsal or if it is used in the final version of the commercial announcement, then such recording shall be paid for at the recording scale for not less than one-hour minimum call in addition to the applicable sideline scale.

E. Doubling

When a Sideline Musician is required to double as defined in this Agreement, he/she shall receive an additional 30% of Sideline Musician’s Base Rate for the first double and an additional 15% of Sideline Musician’s Base Rate for each additional double thereafter if photographed playing such respective instruments.

F. Silent and Speaking Bits

If a Sideline Musician is directed to perform a silent, speaking, singing or other bit, he/she shall be entitled to compensation at not less than the then prevailing scale of Screen Actors Guild, or other union having customary jurisdiction over such service.

G. Sideline Services for Single Employer

Whenever an Employer enters into a written contract requiring a Sideline Musician to refrain from rendering sideline services to any other employer, the Sideline Musician shall be entitled to a re-use payment or an amount equivalent to a re-use payment for each commercial in which he/she renders services under this Agreement every three months following the date services are rendered. For purposes of computing payment, all music tracks recorded on the same Reporting Form shall be considered as one commercial.

2. WORKING CONDITIONS

A. Leaders

Where two or more Sideline Musicians are employed on an engagement, one shall be construed as Leader and shall receive double Sideline Musicians non-doubling scale.

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B. Orchestra Manager

If ten or more Sideline Musicians (including Leader) are employed for any session, an Orchestra Manager (Contractor) shall be employed for such session. Such Orchestra Manager may be one of the Sideline Musicians. He/she shall be compensated at twice the minimum rate for the non-doubling Sideline Musicians but in any event the scale for any such person performing both as an Orchestra Manager and Sideline Musician shall not exceed twice such Sideline Musicians non-doubling scale.

C. Work Day

“Sideline,” “Atmosphere,” or “Silent”-The work day starts at time and place ordered to report and ends when dismissed at Studio or in the city.

D. Turnaround

The period of time between when a sideline musician is released at the end of a work day and when s/he is required to report back to work for a subsequent Work Day (“turnaround time”) shall not be less than ten hours.

E. Weather Permitting Calls

(i) Cancellation

When the scheduled photography is canceled by Employer because of weather conditions, a Sideline Musician reporting pursuant to a “weather permitting” call shall be paid one-half day’s pay, which shall entitle the Employer to hold the Sideline Musician for not exceeding four hours; the Sideline Musician shall receive two hours’ pay (at straight time) for each additional two hours, or fraction thereof, during which he is thereafter so held.

(ii) Permissible Work

During this time, the Employer may costume, rehearse, or otherwise use the Sideline Musician on the specified commercial announcement, except for recording or photographing, still or otherwise, of such Sideline Musician.

(iii) Pay for Use

If the Sideline Musician is used for such recording or photographing, he shall receive a day’s pay.

(iv) Not Applicable to Studio Stages-“Weather permitting” calls shall not be issued for stages in studios.

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F. Fittings and Interviews

(i) **Costume Fittings**

Sideline Musicians fitted at a place designated by the Employer shall be given a fitting allowance as follows:

- (1) If on a day prior to the work call, payment for two hours' time; additional time shall be paid for at the hourly rate in units of 30 minutes.
- (2) If the fitting call is on the same day as the work call, straight time computed in units of 30 minutes; provided, however, that if on the same day four hours or more intervene between the work call and the fitting, payment shall be made as though the fitting occurred on a day prior. If less time than four hours intervene from the termination of the fitting to time of work call, all intervening time is work time.

A Sideline Musician who has been fitted shall be paid not less than a full day's agreed wages if not given employment in the production for which he/she was fitted. The rate of fittings shall be based on the classification in which the Sideline Musician is employed on his/her first day of employment on which he/she is required to wear the costume for which he/she is so fitted.

(ii) **Interviews**

Sideline Musicians reporting for interviews shall receive an interview allowance of \$15.00 for the first one and one-half hours of the interview. For additional time of the interview, Sideline Musicians shall receive an interview allowance, minimum computation in units of two hours at the specified regular hourly rate. If, within any period of interview time, any recording or photography, still or otherwise, is done for use in any commercial announcement, he/she shall be paid the agreed daily wage; except that still pictures to be used exclusively for identification of the Musician or wardrobe may be taken by Employer without making such payment.

Upon completion of the interview, the Sideline Musician shall be notified whether or not he/she has been selected, and he/she shall be advised as to the rate of compensation to be paid; if the Sideline Musician is not used in the commercial announcement for which he/she was selected, he/she shall be paid the day's pay unless he/she is not available when called, in which event, he/she shall not be entitled to any payment.

A Sideline Musician required to report for a second interview for the same job shall be paid not less than two hours' pay at the established daily rate.

Sideline Musicians who are required to and do report for an interview in dress clothes shall be paid five dollars (\$5.00) over and above the interview allowance.

If the Sideline Musician is not used in the commercial announcement for which interviewed, he/she may be used in another commercial announcement on the same day for which he/she was called.

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G. Notification and Cancellation of Calls

(i) Notification of Calls

All calls for Sideline Musicians shall be made not later than 6:00 p.m. on the day preceding the call, except in emergency, and except at the end of any photographic day, calls for the following day may be given to the Sideline Musicians, provided, however, that Sideline Musicians are not obligated to work more than one day unless so notified at the time of call.

(ii) Cancellation of Calls

In the event of the cancellation of any call for any reason beyond the control of the Employer, the Sideline Musicians so canceled shall receive a one-half payment except as provided in subparagraph (3) below.

- (1) The Employer shall be entitled to hold and use such Sideline Musicians for four hours only to the extent herein provided. For each additional two hours or fraction thereof, such Musicians shall receive a one-quarter payment.
- (2) During the time which the Sideline Musicians are so held, the Employer shall have the privilege of putting Sideline Musicians into costume, rehearsing or making other use of their services. If, however, any recording or photography is done, whether still pictures or otherwise, Sideline Musicians shall be paid the agreed daily wage.
- (3) If any Sideline Musician has been notified of such cancellation before 6:00 p.m. of the day previous to the work date specified in such call, or shall be otherwise employed on such work date by the same or any other Employer, at a rate equal to or higher than the rate applicable to such Sideline Musician as specified in such canceled call, he/she shall not be entitled to such one-half payment.
- (4) If the Sideline Musician's second work assignment shall be for a time to commence less than four hours after the time of his/her canceled call, he/she shall receive-in lieu of the one-half payment-an allowance for the cancellation of the call on a straight-time hourly basis, computed in 30-minute units from the time of the first call to the time of his/her second call. Overtime, if any, on the second work assignment shall be computed without reference to the first call. If the second work assignment shall be for a time to commence more than four hours after the time of his/her canceled call, he/she shall receive the one-half payment. Overtime, if any, shall be computed without reference to his/her first call.

H. Meals

(i) Duration

Meal periods shall be not less than one-half hour nor more than one hour. Not more than the one meal period shall be deducted from work time during the first eight hours.

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(ii) **Time of Meal Periods**

The first meal period shall be called not later than six hours from time of call, and subsequent meal periods not later than six hours after the termination of the preceding meal period, except on staggered calls. Employer may call a meal period on work time and the deductible meal period shall commence not later than six hours thereafter. If, upon the expiration of such 6-hour period, the camera is in the actual course of photography, it shall not be a violation to complete such photography, provided that such delay shall not exceed ten (10) minutes.

(iii) **Night Meals**

Food and hot drinks shall be provided when Sideline Musicians are required to work after 11:30 p.m.

(iv) **Violation of Meal Period Provision**

The penalty, if any, for each one-half hour meal delay or fraction thereof shall be one hour's pay, computed at one-eighth of the straight time eight-hour daily basic wage rate paid for that workday, to all Sideline Musicians on that particular production who are entitled to such meal period penalty.

I. Wardrobe

(i) **Wardrobe Allowance**

Sideline Musicians are not to be required to provide any wardrobe other than tuxedo, business suit or full dress.

When a Sideline Musician reports in the specified wardrobe, and in addition brings one or more complete changes of wardrobe as requested by the Employer, he/she shall be entitled to an allowance of \$6.00 per day for the first such change and \$10.00 per day for any two or more such changes, provided, however, that such allowance shall not be applicable to wardrobe furnished for and used on an overnight location.

(ii) **Wardrobe Removal Allowance**

A Sideline Musician shall be dismissed as soon as his/her wardrobe or property has been turned in. Whenever he/she turns in wardrobe or property on time for which he/she is not otherwise compensated, he/she shall be paid a wardrobe removal allowance of 30 minutes at his/her regular hourly rate for that day. If more than the one-half hour allowance is required to check in his/her wardrobe or property, he/she shall be paid for such excess time at his/her agreed daily rate, computed in units of 15 minutes.

(iii) **Damage to Wardrobe or Property**

If any wardrobe or property personally owned by a Sideline Musician is damaged in the course of his/her employment, the Employer shall compensate him/her therefor.

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J. Makeup

A Sideline Musician shall be entitled to additional compensation of \$10.00 per day who is:

- (i) directed to and does have body makeup or oil applied to more than 50% of his/her body and/or
- (ii) who is required to and does wear a rubber skullcap, and/or who is required to and does wear hair goods affixed with spirit gum (specified as full beards, mutton chops or a combination of goatee and mustache) and/or
- (iii) who at the time of his/her employment is required to and does wear his/her own natural full-grown beard, as a condition of employment.

A Sideline Musician who grows or is directed to grow a beard while employed by the Employer shall not be entitled to such additional compensation therefor.

K. On Location

When working on location at a distance making commuting to and from the engagement impractical or impossible, daily schedules will apply.

Travel time shall begin when the employee reports for travel pursuant to instructions and ends when the employee arrives at the destination. Only travel time between 6:00 a.m. and 6:00 p.m. will be computed as work time. This time shall not exceed eight hours per day. The travel time rate shall be \$7.50 per hour, with double for Leader.

All expenses shall be paid by the Employer, including transportation, meals and reasonable sleeping accommodations, in addition to regular daily schedules.

ARTICLE XVII: PENSION FUND

1. PERCENTAGE CONTRIBUTION

Employer shall contribute an amount equal to 12% of all earnings (excluding health and welfare payments, cartage fees, late payment penalties and travel, food and clothing expenses) of whatever nature covered by this Agreement, computed at scale earnings:

These contributions shall be made:

- a. With respect to services rendered in the United States, to the American Federation of Musicians and Employers' Pension Fund (AFM-EP Fund). The Employer agrees to be legally bound by the Agreement and Declaration of Trust Establishing the American Federation of Musicians and Employers' Pension Fund, as amended from time to time, which is incorporated by reference into this Agreement.
- b. With respect to services rendered in the Dominion of Canada, to the American Federation of Musicians' and Employers' Pension Welfare Fund [AFM-EPW Fund] (Canada), created pursuant to Agreement and Declaration of Trust, dated April 9, 1962.

2. SUBMIT REPORTS; SUBJECT TO AUDIT

The Employer shall submit such reports in such form as the Trustees may reasonably require and the Employer's records shall be subject to such reasonable audit by the Trustees as the Trustees may require.

3. SIMULTANEOUS DELIVERY OF STATEMENTS TO FEDERATION

The Employer agrees that it shall furnish to the Federation, simultaneously with its delivery thereof to the Trustees, copies of any and all statements submitted to such Trustees under said Trust Indenture.

4. RIGHT TO AUDIT

The Federation shall have the right from time to time, upon reasonable notice, without limitation to the duration of this Agreement and at all reasonable times during business hours, to have the Federation's duly authorized agent(s) examine and audit the records and accounts of any party to this Agreement concerning all transactions which are or legitimately may be subject to payments under this Agreement to ascertain what sums, if any, may be due and to verify the accuracy of any statements made by any party pursuant hereto. All necessary facilities shall be made available to such authorized agent(s) to enable them to make such examination and audit and to copy and make extracts from said records.

5. FEDERATION AND TRUSTEES MAY ENFORCE

The Federation and said Trustees, or either of them, may enforce these provisions.

ARTICLE XVIII: HEALTH AND WELFARE PAYMENTS

1. EMPLOYER CONTRIBUTION

The Employer shall contribute to the lawful Health and Welfare Fund presently established by any Federation Local and, commencing 30 days after notice in writing, the Employer will pay to any other lawful Health and Welfare Fund established by any other Federation Local:

A. Original Session

The sum of \$15.00 per session for each original service performed, up to a maximum of two such services, within the jurisdiction of such Federation Local by each Musician covered by this Agreement.

B. All Wage Payments

An amount equal to two percent of all scale wages (session, dubbing, use, conversion and re-use fees) being paid under this Agreement to all Musicians.

C. Payment to Musician's Welfare Fund Locals

With respect to Musicians who are members of a Federation Local where a Welfare Fund has been established, the Employer shall pay the applicable amount directly to the Musician's Welfare Fund regardless of where such services are performed.

2. PAYMENT TO MUSICIANS

With respect to Musicians who are members of a Federation Local where no Welfare Fund has been established, the Employer shall pay the applicable amounts directly to each Musician regardless of where such services are performed.

3. CONTRIBUTIONS ARE NOT WAGES

No Health and Welfare contribution, whether paid to any Fund or paid directly to a Musician, shall be considered wages under this Agreement or the basis for computing the applicable AFM-EP contribution or any other payments under this Agreement such as re-use, doubling, overtime, dubbing, etc. , provided, however, that such contribution, when paid directly to a Musician, may be considered wages for tax purposes only.

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**FEDERATION LOCALS WHICH HAVE ESTABLISHED
HEALTH AND WELFARE FUNDS AS OF DECEMBER 1, 1995**

LOCAL	FUND NAME
802-New York, NY	Musicians' Local 802 Health Benefits Plan
47-Los Angeles, CA	Professional Musicians' Local 47 and Employers' Health and Welfare Fund
369-Las Vegas, NV	H.E.R.E.I.U. Welfare Trust Fund
661-708 – Atlantic City, NJ	Local 661-708 Health and Welfare Fund

ARTICLE XIX: PAYMENTS

1. PLACE AND TIME

A. Place

Each and every payment to be made pursuant to this Agreement, including but not limited to payments for original performances and services, dubbing, initial use cycle payments and additional payments based on broadcasts of commercial announcements following the first 13 weeks of broadcast and/or initial Internet use, and payments of contributions to the American Federation of Musicians' and Employers' Pension Fund and to the American Federation of Musicians' and Employers' Pension Welfare Fund (Canada) and payments to Health and Welfare Funds of Local unions, where required, shall be made through such agency or agencies of the Federation as may be designated from time to time by the Federation.

B. Time

Each such payment shall become due and payable within 15 days (excluding intervening Saturdays, Sundays and holidays observed by Employer) following the accrual date of such payments.

(1) Original Services (Session)

The accrual date for payments for original services shall be the date of the original services.

(2) Pension and Health & Welfare Funds

The accrual date for payments of contributions to the said Pension and Health & Welfare Funds shall be the same date as the accrual date of the payment on which such contribution is based, provided that the Trustees of such Funds may agree with contributors with respect to single monthly payments of such contributions.

(3) Initial Use/Re-Use

The accrual date for payment due for the initial use cycle shall be based on the (i) first air date of the first commercial broadcast or (ii) first use on the Internet. The accrual date for payment of additional payments based on broadcast/use of commercial announcements following the initial use cycle shall be the date of first broadcast/use in each subsequent 8-week, 13-week or 26 week cycle as applicable.

(4) Conversion, Non-Broadcast and Foreign

The accrual date for payments due for use of a commercial announcement in a broadcast medium different from the broadcast medium used for the first broadcast during the initial cycle or by reason of conversion, non-broadcast and foreign use of a commercial announcement shall be the date of first broadcast in such different medium or in foreign areas (or, in the case of a made-for-Internet commercial, the date

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of first use of such commercial announcement in a broadcast or cable medium).

The accrual date for payments due for use of a made-for-Internet commercial in a broadcast medium (television or radio) shall be the date of broadcast in such medium.

(5) Dubbing

The accrual date for payments for dubbing material into a commercial announcement in the same broadcast medium shall be the date of first broadcast of such commercial announcement.

2. PAYMENT INFORMATION

The following information will accompany each payment, either printed on the check stub or attached thereto:

- a. Name of Advertiser
- b. Product
- c. Title of Commercial
- d. Date of Original Session
- e. Medium of Use (TV, Radio, Internet, etc.)
- f. Re-Use cycle
- g. Leader
- h. Category of use (standard, regional or local for national advertisers, regional or local for regional/local advertisers, Internet)
- i. First Air Date
- j. AFM Reporting Form number

3. LATE PAYMENT PENALTY

Failure to make any payment on the due dates aforesaid shall require payment of an additional amount as a late penalty; the amount of the penalty is as follows:

- a. An amount equal to 5% of the initial amount payable if such payment is made between the 16th and 30th business days (excluding intervening Saturdays, Sundays, and holidays observed by Employer) following the accrual date.
- b. Payments made between the 31st and 60th business days shall require, in lieu of the said additional 5% payment, the payment of an additional amount equal to 10% of the initial amount payable.
- c. Payments made between the 61st and 90th business days shall require, in lieu of the said additional 10%, the payment of an additional amount equal to 25% of the initial amount payable.

Payments made after the 90th business day shall not require any penalty payments in addition to the above 25% penalty unless the Local or Federation advises the Employer in writing of such non-payment. If payment is not made within 15 business

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days after Employer receives such notice, an additional penalty of 10% of the initial amount payable shall accrue for each 30-day period in which payment is not made. The first such 30-day period shall begin on the date such notice is received.

A claim for late payment penalty shall be initiated in writing by the Local or Federation no later than 60 business days after receipt of the initial amount payable or the claim will be invalid.

Such penalty payments shall not be required when Employer's delay or failure in paying results from (i) Employee's delay or failure in furnishing a W-4 form, or (ii) Leader's or Contractor's delay or failure in filing a complete Reporting Form (Exhibit B) in the event Employer elects not to furnish such form, or (iii) the existence of a bona fide dispute as to the amount due and payable, provided that notice of such dispute shall have been filed with the Local of the Federation in whose jurisdiction the work was performed within ten business days following receipt of bills or Reporting Form (Exhibit B). Only disputed portions of payments may be withheld pending resolution of the dispute.

4. ADJUSTING UNDISPUTED OVERPAYMENTS

Where an overpayment has been made to a Musician and there is no factual dispute as to the overpayment, the overpayment may be credited against subsequent payments due to the same Musician no sooner than 10 business days after the notice set forth in Subparagraph (a) below has been sent, when the following conditions have been met:

- (a) The Employer has given written notice to the Musician, with a copy to the Local of which the Musician is a member, identifying the reason for the overpayment, the amount and date thereof, and the commercial(s), advertiser and agency involved; and
- (b) The notice is given within 90 days of the overpayment.

5. CURRENCY

All payments to be made under this Agreement shall be made in the currency of the country wherein the musical portion of the commercial announcement was recorded.

**SIDE LETTER AGREEMENT
COMMERCIAL DEMOS**

This side letter agreement is entered into by and between the American Federation of Musicians of the United States and Canada (the "Federation") and the Joint Policy Committee on Broadcast Talent Union Relations of the Association of National Advertisers and American Association of Advertising Agencies ("JPC") on behalf of each company referred to in Article I (1) of the Agreement. The JPC and the Federation agree, over the term of this Agreement, to jointly study revenue-neutral mechanisms under which music houses could make, and if so would be solely responsible for, pension and health & welfare contributions under this Agreement for musicians making commercial demos.

For the Federation

For the JPC

s/ _____

s/ _____

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

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EXHIBIT A

American Federation of Musicians Assumption Agreement Form

The undersigned Transferee of music tracks recorded for the advertiser and product identified below under the jurisdiction of the American Federation of Musicians, including but not limited to the music tracks included in the commercial announcement(s) identified below, acknowledges to the undersigned Transferor that such music tracks and the use thereof is/are subject to the terms and conditions of the applicable American of Musicians Television and Radio Commercial Announcements Agreement. Transferee hereby agrees expressly for the benefit of the American Federation of Musicians ("Federation") and of the persons covered by such Agreement with respect to such music tracks, to abide by and perform the provisions of said Agreement and, without limitation of the foregoing, to make the payments for use and re-use of said music tracks required thereby. It is expressly agreed that the Federation, in its own behalf and in behalf of the persons covered by said Agreement, in addition to any other rights and remedies available to it in the event of breach of this Agreement by the undersigned, shall be entitled to injunctive relief for the enforcement of this Agreement.

Advertiser/Product _____
Effective Date of Transfer _____

TRANSFEROR

TRANSFEE

Print Name of Transferor

Print Name of Transferee

Address

Address

Telephone:

Telephone:

By:

By:

Signature of Authorized Officer

Signature of Authorized Officer

Print Name and Title

Print Name and Title

APPROVED ON BEHALF OF THE AMERICAN FEDERATION OF MUSICIANS

By:

Print Name and Title

Signature of Authorized Officer

Date:

Identification of Commercial Announcement(s):

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EXHIBIT B: B-6 Reporting Form

This sample form has been condensed and shortened to fit this page but all information is otherwise unchanged from the original. Forms are available from the AFM.



**American Federation of Musicians Report Form
Television and Radio Commercial Announcements**

No. #####

Date:
Advertiser:
Product:
Advertising Agency:
Agency Rep:
Agency Address:
Agency Rep. Phone:

ORIGINAL SESSION	AFM Local #
Recording Date:	# of musicians:
Recording Studio:	
City:	State:
Hours of Employment:	
Music Prod. Co. Name:	
RE-USE, DUBBING, CONVERSION OR OTHER	
Original Report Form #:	
Original Recording Date:	

(a) Lowest # of Reported Hrs. W'kd:
(b) # of Announcements Claimed:
One announcement may be claimed for every 20 minutes reported in (a) above, subject to a maximum of 8 announcements for synthesizer-only sessions.
IDENTIFICATION (ID)
Titles & Code #s. (Incl. Track length for original sessions only.) When ID changes give prior & new

Check 1 and only 1 from each of these three columns:		
Payment Type	Medium	Rates
<input type="checkbox"/> Original Session	<input type="checkbox"/> TV	<input type="checkbox"/> Standard
<input type="checkbox"/> Initial Use	<input type="checkbox"/> Radio (13 weeks)	<input type="checkbox"/> Foreign
<input type="checkbox"/> Re-Use	<input type="checkbox"/> Radio (8 weeks)	<input type="checkbox"/> Regional (Nat'l Adv)
<input type="checkbox"/> Conversion	<input type="checkbox"/> Non-Broadcast	<input type="checkbox"/> Regional (Reg'l Adv)
<input type="checkbox"/> Dubbing	<input type="checkbox"/> Videocassette	<input type="checkbox"/> Local (Nat'l Adv)
<input type="checkbox"/> Dubbing (Longer/Shorter Version)	<input type="checkbox"/> Internet	<input type="checkbox"/> Local (Local Adv)
<input type="checkbox"/> Other	<input type="checkbox"/> Other	(Indicate region or local area in MEMO box below)

	Original (or prior) ID	Track Length	New ID
A			
B			
C			
D			
E			
F			
G			
First Air /Use Date:			
Cycle Dates Being Paid:			

Additional Information	Check if:
<input type="checkbox"/> Short term use	<input type="checkbox"/> Commercial made for cable only
<input type="checkbox"/> Info changes	<input type="checkbox"/> PSA status confirmed by AFM
<input type="checkbox"/> Mechanically edited	<input type="checkbox"/> Session performed solely on synthesizer
<input type="checkbox"/> Sideline Session	<input type="checkbox"/> Late penalties apply
<input type="checkbox"/> Other	
MEMO:	

Payments not made on a timely basis are subject to the late payments provision of the AFM Television & Commercial Announcements Agreement

Signatory of Record: For Session Payments (e.g. Prod. Co., Agency): _____
Address: _____

Pension to be paid by (if different): _____
Signatory of Record: For all other payments (e.g., Agency): _____
Address: _____

Pension to be paid by (if different): _____
Terms & conditions of the engagement covered by this Report Form include the terms & conditions of the AFM Commercial Announcements Agreement in effect at the time of such engagement.

Signatory of Record's Signature: _____ Leader's Signature: _____
Print Name of Signatory: _____ Phone: _____ Leader's Phone: _____

AFM Local #	Employee's Name (as on Soc. Sec. Card):			Soc. Sec. #	Hrs. Wk'd	# of dbls per session	Spot ID (by ltr above)	Spot ID (per double)	Wages ⁽¹⁾	Pension	H & W if applic
Card #	Last	First	Initial [Instrument(s)]						Cartage		
			(Ldr)								
			(Arr.)								
			(Orch.)								
			(Copyist)								

(1) Insert X if wages being paid are overscale.

TOTAL PENSION CONTRIBUTIONS:	
TOTAL H & W CONTRIBUTIONS:	

TELEVISION AND RADIO COMMERCIAL ANNOUNCEMENTS AGREEMENT

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Distribution of the six copies of this Report Form is as follows:

1. Original (first) page is to be sent to:

AFM-EP Fund
1 Penn Plaza, 31st Floor
New York, NY 10019

with Pension contribution check made payable to the AFM-EP Fund.

2. One copy is to be retained by the Music Production Company.
3. One copy to the Advertising Agency where applicable.
4. The remaining three copies are to be sent to the applicable AFM Local with the Musicians' checks. The AFM Local will:
 - retain one copy
 - send one copy to the American Federation of Musicians,
1501 Broadway, Suite 600, New York, NY 10036
 - send one copy to the Leader

Pension Contribution:

Commercials Produced on or after 12/1/93: 12%

Health and Welfare Payments

1. Original Session Only:

\$15.00 for each original service performed up to a maximum of two services

2. All Scale Wage Payments:

An amount equal to 2% of all scale wages (session, dubbing, conversion and re-use fees) being paid under the AFM Commercial Announcements Agreement.

See Article XVIII, Health and Welfare Payments, of the AFM Commercial Announcements Agreement for information regarding distribution of Health and Welfare payments.

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EXHIBIT C
AFM-AAAA/ANA
Television and Radio Commercial Announcements Agreement
Grievance Form

To: _____

From: _____

_____ hereby files a grievance
(Grievant)

against _____ pursuant to
(Name of Party)

Section _____ of the Agreement. AFM Report Form # _____ (attach copy)

Nature of claim:

(Briefly describe above the action taken which allegedly violates the Agreement. State the date(s) and location where that action took place; the name of the individual(s) who took such action; and the specific provision(s) of the Agreement that allegedly were violated.)

Nature of remedy or relief requested:

Dated:

(Grievant's signature and address)

Resolution, if any: _____

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