

## MEMORANDUM OF UNDERSTANDING BETWEEN ABC, CBS AND NBC AND THE AMERICAN FEDERATION OF MUSICIANS

At the culmination of the current round of collective bargaining, The American Federation of Musicians of the United States and Canada ("the Federation") and the Producers (collectively "the parties") reached this Memorandum of Understanding ("MOU"), subject to the Federation's ratification procedure and with the understanding that the Federation's bargaining committee will unanimously recommend ratification, for a successor agreement to the 2020-2023 Television Videotape Agreement ("Agreement").

By the terms of this MOU, the Agreement shall be modified as set forth at pages 2-25 below. Unless a later date is specified, all changes are effective upon notice of ratification.

By Joy Axelrad Date May 1, 2025  
ABC, Inc.

By DocuSigned by:  
Brittany Johnson Date 5/1/2025  
7F5CAF6B828C49B...  
CBS Broadcasting Inc.

By [Signature] Date May 1, 2025  
NBC, Inc.

AMERICAN FEDERATION OF MUSICIANS

By Augustino Gagliardi Date April 16, 2025  
Augustino Gagliardi, President

### 1. Term

3 years following the first payroll period following notice of ratification.

### 2. Wages

Increase Basic Rates in Exhibits I, II and III: 5% effective the Sunday of the first payroll period following notice of ratification; 4% on the Sunday of the first payroll period following notice of ratification one year thereafter; 3% on the Sunday of the first payroll period following notice of ratification two years thereafter.

### 3. Health

Amend the Health and Welfare contribution provisions in Exhibit I (E) and Exhibit III (E)(9):

1. Increase the daily rate by \$5 from \$35 to \$40 effective the Sunday of the first payroll period following notice of ratification and by an additional \$5 from \$40 to \$45 on the Sunday of the first payroll period following notice of ratification one year thereafter; and by an additional \$5 from \$45 to \$50 two years thereafter.
2. Add a new Paragraph (2) to Exhibit I (E) as follows and renumber the existing Paragraph as (1):

For any program or new seasons of a series that commences principal photography on or after one year following notice of ratification, Producer shall make a 2% health and welfare contribution on Reuse payments made pursuant to Article 8, Paragraphs (A) and (B) and Foreign Use payments made pursuant to Article 9 as provided in subparagraphs (a), (b), and (c) above. Such payments are due as follows:

- (a) Payments made to any fund as provided in subparagraph (a) above shall be made thirty (30) days after such reuse or use payments are made to the musicians provided the B Report Form for the underlying work identifies the fund to be paid.
- (b) Payments made directly to any musician shall be included in such payment to the musicians as additional, non-pensionable wages provided the B Report Form for the underlying work identifies the payment should be paid in the manner.
- (c) If the information required in (a) and (b) is omitted from the B Report Form, the Company shall make the payment pursuant to (b).

3. Add a new Paragraph (3) as follows: Producer's obligation to make such contributions per musician shall be limited to the following maximum amounts of compensation per episode or program on which contributions are due:
  - 30-minute programs: \$25,000
  - 60-minute programs: \$35,000
  - 90-minute programs: \$33,000
  - More than 90-minute programs: \$40,000
4. Replace existing language Exhibit III (E)(9) with the above language for Exhibit I (E).

#### **4. Work Dues Checkoff**

Add a subparagraph (F) to Article 3 as follows:

The below is effective as of the first payroll period nine (9) months following notice of ratification or as soon as practicable. The Networks shall give thirty (30) days' notice if it is unable to meet the deadline and provide a reasonable new timeline.

The Producer shall deduct the work dues from the Article 6 wages of each Musician employed under this Agreement, who has provided the Producer with a voluntary signed written authorization to make such deductions. The written authorization shall be submitted on the form set forth in Exhibit B (a new exhibit to the Agreement) and shall include the formula, rate or amount that work dues shall be deducted from wages. Any revocation notice set forth in Exhibit B shall be provided to the Producer (or its designee). The amount to be deducted shall be the percentage and/or dollar amount specified in the approved Local Union By-Laws. Should there be a change to the percentage and/or dollar amount to be deducted, the Local Union shall notify the Producer, and the Producer shall implement the change within sixty (60) days after receipt of the Union's notice.

Within ten (10) days after the end of each month, the Producer shall remit to the Local Union, by check or electronic payment, drawn to the order of the Local Union, the total amount of all deductions made during the said month for all such employees. At the time of such remittance, and together therewith the Producer shall also furnish to the Local Union, a record certifying the names of the employees on whose account such deductions were made, their respective wages during said month, and the amount of deductions for each such employee during said month.

*Add Exhibit B to the Agreement as follows:*

#### **Work Dues Check-Off Authorization (U.S.)**

I hereby voluntarily authorize and direct any party who engages my musical services to deduct from my compensation wages for those services the uniformly required dues or fees based on

earnings wages, including work dues and/or agency or service fees, as set forth in the Bylaws of the American Federation of Musicians of the United States and Canada (Federation Work Dues) and/or the dues or fees based on earnings wages including work dues and/or agency fees, as set forth in the Constitution and/or Bylaws of the Local Union hereof having jurisdiction over these services (Local Union Work Dues). I further authorize, and direct, each such party who engages my musical services to remit promptly all Work Dues thus deducted to the Federation or the appropriate Local Union thereof in accordance with the applicable regulations, and at the times specified in those regulations. Where the payment of either dues or agency or service fees is lawfully required as a condition of employment, said deductions shall be made irrespective of my membership in the Federation and/or the Local Union thereof. This authorization shall be irrevocable for a period of one (1) year from the date hereof or, with respect to any employer having a collective bargaining agreement, until the termination date of the current collective bargaining agreement, whichever occurs sooner. This authorization shall automatically renew itself and be irrevocable for successive annual periods unless I give written notice to the Federation and those Local Unions of which I am a member within the fifteen (15) day period following the expiration of any such annual period or, with respect to any employer having a collective bargaining agreement, within the fifteen (15) day period following the termination date of any such collective bargaining agreement.

In accordance with the above, I hereby authorize Producer to deduct [\$ / %] from my wages.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Note: Dues, contributions or gifts to the American Federation of Musicians are not tax deductible as charitable contributions. However, they may be tax deductible as ordinary and necessary business expenses.

## **5. Grievance and Arbitration**

Add a new Article [\*] titled “Grievance & Arbitration” as follows:

- A. Scope of Grievances: Any disputes or controversies of any kind between any Musician(s) or the Federation and Producer for violation of a specific provision of the 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.
- B. Grievance Steps:
  - 1. Step 1 – Initiation of Grievances: Within 45 calendar days after the date that the aggrieved party reasonably could have learned or should have known of the event that gave rise to the grievance, a grievance must be submitted in writing to the Producer by the Federation on its own and/or on behalf of the individual Musician(s) or to the Federation by the Producer and cite the specific provision allegedly breached. Failure to follow the time limit specified above shall waive the grievance.

2. Step 2 – Resolution Meeting: Within 45 calendar days from receipt of the grievance, a representative designated by the Federation and a representative designated by the Producer shall meet to discuss the matter and attempt to resolve the dispute informally.

C. Arbitration:

1. Demand for Arbitration: If the parties are unable to resolve the dispute either party may elect to submit the dispute to arbitration by serving written notice to the other party and American Arbitration Association (“AAA”), setting forth the particulars of the claim. Such notice must be filed within 45 calendar days after Grievance Step 2 above or 6 months after the grievance was filed, whichever is later. The written demand for arbitration shall include a copy of the grievance that was filed.
2. Failure to follow the time limit specified above shall waive the claim and be a substantive bar to arbitration.
3. Selection of Arbitrator: An Arbitrator shall be selected in accordance with the AAA Labor Arbitration Rules. Arbitration shall be conducted in either New York City, or Los Angeles.

D. Hearing and Award: When the arbitrator has been selected, the parties shall immediately confer with them 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 the individual Musician(s), the Federation and its Locals, and the Producer. The arbitrator shall have the power and authority to issue an award that they 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. The Arbitrator in making an award with respect to any claim hereunder may, in the light of all the facts and circumstances involved in connection with such claim, in the arbitrator’s discretion: (a) make the award effective as of the date when payments were first due, but in no event more than two (2) years prior to the date when the written demand for arbitration was served, or (b) make the award effective as of the date of the award, or (c) make the award effective as of any intermediate date.

E. Expedited Arbitration: If a party to the Agreement claims that there will be a violation of the No-Strike or No Lockout provision or of an arbitration award, such party shall have the right to file a grievance and demand for arbitration directly with the AAA. The arbitrator will be selected in accordance with the AAA Expedited Labor Arbitration Procedures. The arbitrator need not render an opinion with the award. The arbitrator shall be empowered under this procedure to order injunctive relief or such other remedy as they deem appropriate if the arbitrator finds there has been or will be a violation of one of the provisions specified at the beginning of this subparagraph or of an arbitration award.

F. Extension: The parties may extend the time limits above by mutual agreement in writing.

- G. To the extent permitted by law, the provisions of this Paragraph shall be a complete defense to any suit, action or proceeding instituted in any Federal, State or local court or before any administrative tribunal with respect to any controversy or dispute which arises during the period of this Agreement and which is therefore arbitrable as set forth above. The arbitration provisions of this Agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this Agreement.

**6. No Strike/No Lockout**

- a. Add a new Article [\*] titled “No Strike / No Lockout” as follows:

“So long as this Agreement is in effect, AFM and all locals agree that they will not call or engage in any strike, sympathy strike, boycott, slowdown or stoppage of work affecting Producer’s productions covered by this Agreement. To the extent the Federation has agreed not to strike, it will order its members to perform their contracts and engagements with the Producer. So long as this Agreement is in effect, the Producer shall not lockout the Musicians covered by this Agreement.”

1. Make conforming change to Article 3(D) (“Union Security”) as follows:

“Subject to Article \_\_\_\_\_, [a]ny employees 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 or of any Federation local union which has been approved or sanctioned by 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. The Employer shall not request or require any employee to work in the premises of any person, firm or corporation who is not in good standing with the Federation according to lists published by the Federation in the “International Musician” or to specific notice to the Employer. Nothing in this Paragraph shall require the Employer to do or refrain from doing any act unless and until permitted by applicable law”

**7. Artificial Intelligence**

- a. *Modify Article 1 subparagraph(A), of the Agreement as follows:*

This Agreement shall cover and relate to members of the American Federation of Musicians of the United States and Canada (herein sometimes called the “Federation”) wherever they may be employed by us in network television broadcasting or in producing programs for syndication, whether live or produced on videotape or kinescope, as Instrumental Musicians, Leaders, Contractors, Arrangers, Orchestrators, Copyists, Production Musicians and Librarians (herein sometimes called “Musicians”) and to any other persons when they shall perform such services for us in the United States, its territories and possessions (including Puerto Rico), and in Canada. The term “Musicians”



includes only humans. 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.

b. *Add a Sideletter re: Generative Artificial Intelligence to the Agreement as follows:*

“This Sideletter applies to a music sound track for a program covered under this Agreement, for which the initial recording commences on or after [*the first Sunday after the Producers receive notice of ratification*].

“1. Definitions:

“(a) The Parties acknowledge that definitions of generative artificial intelligence (‘GAI’) vary, but agree that the term generally refers to a subset of artificial intelligence that learns patterns from data and produces content, including music, based on those patterns (*e.g.*, AIVA). It does not include ‘traditional AI’ technologies, including those used in MIDI, virtual instruments and synthesizers, those programmed to perform operational and analytical functions and those used for the cleaning, processing, isolation of music tracks or pitch correction of musical tracks (*e.g.*, Melodyne, iZotope products, Lalal AI, Voice AI, Splitter AI) or digital audio workstations (*e.g.*, Pro Tools, Ableton Live, Logic Pro, Cubase). The term GAI is used for convenience; this Sideletter shall also apply to any technology that is consistent with the foregoing definition, regardless of its name.

“(b) The parties acknowledge that the Producers have historically used digital technologies to alter, edit, arrange, rearrange, revise and manipulate music sound track recorded under this Agreement, including by changing the characteristics of the music sound track (*e.g.*, changing the pitch, tone, timbre, tempo or rhythm of recorded music and any use of plug-ins) or by amplifying or multiplying (other than by overdubbing) the sound (*e.g.*, turning a recording of one violin into a group of violins). The parties further acknowledge that the Producers have customarily used digital technologies to generate music (*e.g.*, by means of a synthesizer). The parties agree that the use of a GAI system to achieve the results described in this paragraph shall not constitute the creation of ‘GAI-Generated Music Sound Track’ within the meaning of this Sideletter.

“(c) ‘GAI-Generated Music Sound Track’ refers to the output from a ‘GAI’ system: (1) which has been prompted with one or more specifically identified piece(s) of music sound track recorded on or after the [*the first Sunday after the Producers receive notice of ratification*] under this Agreement (the ‘music prompt’); (2) where the purpose of the ‘music prompt’ is to create music sound track for inclusion in a program covered under this Agreement that is new and substantially different from the piece(s) of music sound track included in the music

prompt; and (3) the new music sound track used in the program as broadcast creates the clear impression that Recording Instrumentalist(s) (hereinafter “Instrumentalists”) are playing instrument(s), melody(-ies) and/or composition(s) not in the ‘music prompt.’

“2. Use of ‘GAI-Generated Music Sound Track’

“(a) Notice to the Federation

“Producer shall provide the Federation with written notice no later than thirty (30) days after the initial broadcast of a program, the musical score of which is created, in whole or in part, using ‘GAI-Generated Music Sound Track.’ Notice shall include the name(s) of the Instrumentalist(s) who played one or more instrument(s) in the ‘music prompt’ to create the ‘GAI-Generated Music Sound Track.’

“(b) Payment for Use of ‘GAI-Generated Music Sound Track’

“(1) When ‘GAI-Generated Music Sound Track’ is Based on a ‘Music Prompt’ Recorded for the Same Program

“If the Producer uses ‘GAI-Generated Music Sound Track’ broadcast for a program covered under this Agreement, and the ‘music prompt’ was recorded for that same program, the Producer shall make the following payment to the Instrumentalist(s) who played one or more instrument(s) in the ‘music prompt:’

“(A) Except as provided in subparagraph (B) below, each Instrumentalist who recorded the music sound track used in the ‘music prompt’ shall be paid three (3) hours at the electronic multitracking rate (using the rate applicable to one (1) Instrumentalist) for ‘GAI-Generated Music Sound Track’ used in the program as broadcast. The rate shall be the applicable scale rate in effect when the music sound track in the ‘music prompt’ was recorded.

“(B) When a ‘music prompt’ containing only music sound track of a single Instrumentalist playing a single instrument is used to create ‘GAI-Generated Music Sound Track,’ which likewise creates the clear impression that a single Instrumentalist is playing a single instrument, the Instrumentalist shall be paid pursuant to Exhibit I Paragraph C, or Paragraph F, as applicable, at the Instrumentalist scale rate (not the leader scale rate) applicable to the recording of the music sound track used for the ‘music prompt,’ for ‘GAI-Generated Music Sound Track’ used in the program as broadcast.



“(2) When ‘GAI-Generated Music Sound Track’ is Based on a ‘Music Prompt’ Recorded for a Different Program

“If the Producer uses ‘GAI-Generated Music Sound Track’ in the music sound track as broadcast for a program covered under this Agreement, and the ‘music prompt’ was recorded for a different program covered under this Agreement, the Producer shall make the applicable payment set forth in subparagraph (1)(A) or (B) above to the Instrumentalist(s) who played one or more instrument(s) in the ‘music prompt.’ In addition, each Instrumentalist shall be paid the applicable program fee in Exhibit I for the type and length of the different program.

“(3) The Producer shall receive a credit of three (3) hours toward the scoring hours requirements set forth in Exhibit I, Paragraph Q(2)(b) of the Agreement. for each payment made under subparagraphs (1)(A), (1)(B) and (2).

“(4) The Producer shall make the daily applicable Health and Welfare contribution on behalf of each Instrumentalist who receives a payment under this subparagraph (1)(A) or (B) and (2), or used in a program covered under this Agreement or, for which the ‘music prompt’ included music sound track of that Instrumentalist. Payments made under this subparagraph (b) shall be subject to AFM Employers' Pension Fund contributions.

“(5) The foregoing payment(s) are in addition to the compensation the Instrumentalist received in connection with the recording session(s) at which the ‘music prompt’ was recorded.

“3. ‘GAI-Generated Music Sound Track’ used in a program as broadcast shall be treated the same as other music sound track recorded under this Agreement for purposes of excerpt use or reuse provisions. For example, when ‘GAI-Generated Music Sound Track’ created for use in one program is used in another program, the excerpt use or reuse provisions apply in lieu of this Sideletter.

“4. Ongoing Obligations

“Producer agrees to meet at least semi-annually during the term of the Agreement at the request of the Federation and subject to appropriate confidentiality agreements to discuss and review information related to the Producer’s use and intended use of GAI in the recording of music sound track for programs covered under this Agreement. The foregoing provision shall not be construed to waive any right of the Federation under the National Labor Relations Act, including but not limited to the right to seek information necessary and relevant to the administration and enforcement of this Sideletter.

“5. In any proceeding in which it is determined that there has been a violation of this Sideletter, remedies shall be limited to monetary damages.”

Claims for violation of this Side Letter [XX] are arbitrable under [Grievance and Arbitration Article] and must be brought under those provisions. Remedies shall be limited to monetary damages.

c. *Add a new Paragraph to Exhibit I to the Agreements as follows:*

**“[\_\_\_]. DIGITAL REPLICATION<sup>1</sup>**

“This Paragraph [\_\_\_] applies when a Instrumentalist, Leader or Contractor (hereinafter “Instrumentalist”) is employed by the Producer under this Agreement on or after [*the first Sunday after notice of ratification* to appear on camera in a program and, in connection with the their employment on the program, the Producer (directly or through a third party):

“(i) requires the Instrumentalist to provide services for purposes of creating an Instrumentalist Digital Replica; or

“(ii) uses an Instrumentalist Digital Replica as provided herein.

“For purposes of this Article, an ‘Instrumentalist Digital Replica’ of a Instrumentalist is a replica of the likeness of the Instrumentalist which is created using digital technology with Instrumentalist’s physical participation and is for the purpose of depicting the Instrumentalist in a scene in which the Instrumentalist did not actually appear.

“The parties acknowledge that the Producers have historically used digital technologies (*e.g.*, CGI, visual effects) during all stages of program production (*e.g.*, pre-visualization, pre-production, production, post-production, distribution, marketing) and may continue to do so, consistent with their historical practices.

**“A. Creation of Instrumentalist Digital Replicas**

“(1) A Producer must notify an Instrumentalist no less than forty-eight (48) hours in advance of the time the Instrumentalist’s services are required to create an Instrumentalist Digital Replica, or at the time of booking if the Instrumentalist is booked less than forty-eight (48) hours in advance of the time the Instrumentalist’s services are required to create an Instrumentalist Digital Replica. The Producer must obtain consent if it requires the Instrumentalist to provide

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<sup>1</sup> “Except as explicitly set forth herein, it is understood that this Paragraph[ ] does not expand or contract any existing rights and obligations under the AFM Videotape Agreement.

services for purposes of creating the Instrumentalist's Instrumentalist Digital Replica for use in connection with a program. The consent must be clear and conspicuous and may be obtained through an endorsement or statement in the Instrumentalist's employment paperwork that is separately signed or initialed by the Instrumentalist or in a separate writing that is signed by the Instrumentalist.

“(2) When an Instrumentalist provides services for purposes of creating an Instrumentalist Digital Replica on the same day the Instrumentalist performs other work for the Producer under this Agreement, any time spent by the Instrumentalist in connection with creating the Instrumentalist Digital Replica shall be treated as work time.

“Producer will endeavor to schedule the Instrumentalist's services for purposes of creating an Instrumentalist Digital Replica on a day when the Instrumentalist is also working for the Producer under this Agreement, when practicable.

“When an Instrumentalist provides services for purposes of creating a Instrumentalist Digital Replica on a day when the Instrumentalist does not perform other work for the Producer under this Agreement, the Instrumentalist shall be compensated for hours worked at the rehearsal rate, with a three (3) hour minimum call, plus pension and health and welfare contributions.

“Notwithstanding the foregoing, no additional payment is due to an Instrumentalist for providing services for purposes of creating an Instrumentalist Digital Replica on a day when the Producer is required to pay the Instrumentalist for any services, travel time or a cancelled call; provided, however, that if the Instrumentalist is paid less than the minimum call for that day, the Producer shall also pay an additional amount necessary to reach the minimum call.

“B. Use of an Instrumentalist Digital Replica

“For purposes of this subparagraph B. ‘use’ of an Instrumentalist Digital Replica refers to use of an Instrumentalist Digital Replica created pursuant to subparagraph A. above that is intended to create, and does create, a depiction of the Instrumentalist that gives the clear impression that the Instrumentalist represented by the Instrumentalist Digital Replica actually provided services to create image or photography when, in fact, the Instrumentalist Digital Replica was used in lieu of the Instrumentalist.<sup>2</sup>

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<sup>2</sup> The parties acknowledge that the Producers have customarily used digital technologies to depict scenes in which the Instrumentalist is not recognizable (e.g., a masked character); such uses are not subject to this subparagraph B.

“(1) Use in the Program for Which the Instrumentalist Was Employed

“(a) A Producer may use an Instrumentalist’s Instrumentalist Digital Replica in connection with a program for which the Instrumentalist was employed, upon obtaining the Instrumentalist’s consent to the extent required herein. The Producer must obtain the Instrumentalist’s consent to use the Instrumentalist Digital Replica in new photography not previously recorded by the Instrumentalist; provided, however, that no consent is required when the photography remains substantially as scripted, performed and/or recorded.

“Consent must be clear and conspicuous and include a reasonably specific description of the intended use of the Instrumentalist Digital Replica in that program. Consent may be obtained through an endorsement or statement in the Instrumentalist’s employment paperwork that is separately signed or initialed by the Instrumentalist or in a separate writing that is signed by the Instrumentalist. Any consent that the Instrumentalist granted during the Instrumentalist’s lifetime shall continue to be valid after the Instrumentalist’s death unless explicitly limited otherwise. In the event the Instrumentalist is deceased at the time the Producer seeks any required consent (and the Producer has not already obtained consent during the Instrumentalist’s lifetime or the Instrumentalist’s consent is no longer valid after death), the Producer shall obtain the consent of the authorized representative (or the Federation, if the deceased Instrumentalist’s authorized representative cannot be identified or located) who represents the deceased Instrumentalist’s exclusive rights as determined by applicable law.

“(b) If the Producer uses an Instrumentalist’s Instrumentalist Digital Replica in place of the Instrumentalist, the Instrumentalist shall be paid the minimum rate for the number of production days that the Producer determines the Instrumentalist would have been required to work had the Instrumentalist instead performed those scene(s) in person. The Producer will make a good faith effort to estimate the number of production days utilizing objective criteria. Such compensation shall be treated as wages for all purposes.

“(2) Use Other Than in the Program for Which the Instrumentalist Was Employed

“A Producer may not use an Instrumentalist’s Instrumentalist Digital Replica in connection with a program other than one for which the Instrumentalist was employed or in any other field or medium without obtaining the Instrumentalist’s consent and bargaining separately for the use.

“Consent must be clear and conspicuous and include a

reasonably specific description of the intended use. Consent must be obtained prior to use, but may not be obtained at the time of employment.

“Any consent that the Instrumentalist granted during the Instrumentalist’s lifetime shall continue to be valid after the Instrumentalist’s death unless explicitly limited otherwise. In the event the Instrumentalist is deceased at the time the Producer seeks consent (and the Producer has not already obtained consent during the Instrumentalist’s lifetime or the Instrumentalist’s consent is no longer valid after death), the Producer shall obtain the consent of the authorized representative (or the Federation, if the deceased Instrumentalist’s authorized representative cannot be identified or located) who represents the deceased Instrumentalist’s exclusive rights as determined by applicable law.

“The Instrumentalist minimum call for the program shall be the minimum for purposes of the bargaining referred to above with respect to use of an Instrumentalist’s Instrumentalist Digital Replica in connection with a program other than one for which the Instrumentalist was employed or in any other field or medium.

“C. For clarity, the Producer need not obtain the consent of the Instrumentalist under Paragraph B. above to perform post-production alterations, editing, arranging, rearranging, revising or manipulating of photography for purposes of cosmetics, wardrobe, timing or speed, continuity, clarity, addition of visual effects or filters, standards and practices,<sup>3</sup> ratings,<sup>4</sup> or other similar purposes.

“D. In any proceeding in which it is determined that there has been a violation of this Paragraph [ ], remedies shall be limited to monetary damages.”

Claims for violation of this Section [XX] are arbitrable under [Grievance and Arbitration Article] and must be brought under those provisions. Remedies shall be limited to monetary damages.

## **8. New Media**

### **a. Side Letter 11 Residual Percentages**

(1) Agree to increase the “AVOD residual for the two 26-week periods” in Side Letter 11 Paragraph 2. B. (1) and (2) from two percent (2%) of the program fee to three-and-one-half percent (3.5%) of the program fee when the Producer makes available a television program, production of which commences on or after [notice of ratification] for exhibition as provided therein.

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<sup>3</sup> The parties agree that adjustments for standards and practices means adjustments to adhere to stricter standards.

<sup>4</sup> The parties agree that adjustments for ratings means adjustments to obtain a rating for a wider audience.



b. Remove CBS All Access and PlayStation Vue from Paragraph 3 of Side Letter 11 (“Virtual MVPD Services”) effective upon the start of the term of the Agreement.

c. Modify Paragraph 9 Use of Excerpts in New Media as follows:

A. In addition to the use of excerpts permitted in Paragraph 2 above, Producer may use an excerpt or excerpts from a television program (other than a television program ninety (90) minutes or more in length) in new media for the purpose of promoting the television program, provided that such excerpt(s) does not exceed five (5) minutes in length. Producer may use an excerpt or excerpts from a television program ninety (90) minutes or more in length or from a program made for the home video market in new media for the purpose of promoting the program, provided that such excerpt(s) does not exceed ten (10) minutes in length.

B. The following uses of an excerpt or excerpts in new media shall be considered “promotional” and shall require no payment, whether or not the Producer receives revenue in connection therewith:

(1) For promotion of the exhibition of a television program on free television, basic cable or pay television, the use of an excerpt shall not require compensation if the excerpt promotes the exhibition and includes “tune in” information. “Tune-in” information for promotional purposes is sufficient when it informs the consumer where he or she can view the program or series from which the excerpt is taken. The “tune-in” information may appear on-screen or in a “click-through” format – i.e., accessible through links. It is agreed that the network channel or station “bug” alone does not suffice. It is also understood that the Producer is not required to provide the same level of “tune-in” information as is commonly provided in traditional network television promotional announcements.

The above (1) includes the uses in Paragraph 9(a) (i) and (ii) of the current Side Letter: (i) For the purpose of advertising or publicizing the specific program or serial or series from which the sound track is taken (including the video of musicians engaged in the recording of such sound track) and (ii) in “the making of...” or “behind-the-scenes” – type programs.

(2) For promotion of the traditional home video release or any “special edition” home video release of a television program, the use of an excerpt shall not require compensation if the excerpt promotes the home video release and references the availability of the program in home video.

(3) For promotion of a new media exhibition of a television program, the use of an excerpt shall not require compensation if the excerpt promotes the new media exhibition and includes instructions for renting, purchasing, or streaming an electronic copy of the program from the website or other new media platform on which the excerpt appears or a direct link to another website or new media platform where an electronic copy of the program can



be rented, purchased, or streamed, and occurs in conjunction with the availability of an electronic copy of the program for rental, purchase, or ad-supported streaming via the Internet or other new media platform.

(4) For “viral” promotion on new media of any use or exhibition of a television program, no payment is required if the excerpt is circulated non-commercially to multiple websites or made available for individuals to circulate. The fact that the viral excerpt is exhibited on a revenue-generating site owned by or affiliated with the Producer shall not render this exception inapplicable, provided that the excerpt is released without payment to other sites.

(5) ~~(iv)~~ The excerpt(s) are made available for consumer generated “viral” promotion to new media sites where end users have the ability to share such music sound track with other end users (e.g., Facebook, YouTube, MySpace or Crackle).

(6) ~~(v)~~ As a “ringtone” for which the consumer does not pay. For ringtones for which the consumer pays, Producer shall pay one percent (1%) of “Distributor’s gross” as defined in Paragraph 10 below.

(7) ~~b.~~ The use of excerpt(s) in new media of a portion of music sound tracks from a program for news or review purposes shall require no payment.

C. The use of excerpts shall not be considered “promotional” within the meaning of subparagraph B. above if the excerpts are used on a new media site which archives the contents of several prior seasons of the series and is designed to enable the viewer to search the archives using a sophisticated search engine, as distinguished from a new media site which offers excerpts from several prior seasons of a series that are intended as a recap of the events that transpired during those prior seasons or that are intended to promote the exhibition or sale of full episodes of the series from which the excerpts are taken.

D. If the use of an excerpt or excerpts in new media is not within one of the promotional provisions in subparagraph B. above, or if the excerpt(s) used exceed the length limitations set forth in subparagraph A. above:

(1) If the excerpt is from a television program and is used on a free to the consumer platform outside the streaming window, but within one year following expiration of the streaming window, and the use is not otherwise permitted or paid for under subparagraph 2(A) above, the Producer shall pay for such use as follows:

(i) For an excerpt up to two (2) minutes in length, the lesser of \$27 or the applicable “new media program fee;”

(ii) For an excerpt in excess of two (2) minutes in length but not more than four (4) minutes in length, the lesser of \$82 or the applicable “new media

program fee;”

(iii) For an excerpt in excess of four (4) minutes in length, the applicable “new media program fee.”

The “new media program fee” for use of excerpts on free to the consumer platforms is the applicable residual for the use of the entire program in new media as provided in Paragraph 2.B. of this Side Letter.

(2) For any other use of an excerpt from a television program on a free to the consumer platform, the Producer shall pay one and two tenths percent (1.2%) of “Distributor’s gross,” as defined in Paragraph 5 below, for such use.

(3) If an excerpt from a television program is used on a “consumer pay” platform, the producer shall pay one percent (1%) of “Distributor’s gross,” as defined in Paragraph 5 of this Side Letter, for such use, except when the excerpt is used for one of the promotional purposes set forth in Paragraphs B(1) through (4) or B(5) above and meets the length limitations in Paragraph 3(A) above. This formula shall apply to a “hybrid” use where the consumer pays for the excerpt and advertising revenues are also derived by the Producer from such use. Such revenues shall be incorporated in “Distributor’s gross.”

E. Notwithstanding the foregoing:

(1) If excerpts from the current season of a series and excerpts from past seasons of the series are used together on an ad-supported free to the consumer basis, then the percentage of “Distributor’s gross” payment set forth in Paragraph 2.B. of this Side Letter shall apply to all such excerpts.

(2) No payment shall be required for the free to the consumer “non-commercial” promotional use of excerpts more than five (5) minutes for programs less than ninety (90) minutes in length or more than ten (10) minutes for programs ninety (90) minutes or more in length containing one (1) or more scenes. A “non-commercial” use is a use from which the Producer and its related and affiliated entities, including, but not limited to, distributors and exhibitors, receive no revenues, including, but not limited to, advertising revenues.

(3) No payment shall be required for free to consumer use of excerpts during the streaming window. If the Producer pays the “new media program fee” pursuant to Paragraph 2.A. of this Side Letter, the payment for the use of the entire program in new media shall also constitute payment for the free to the consumer use of any portion thereof in new media during the corresponding time period.

(4) It is understood that the use of an excerpt from a television program or a

made-for-home video program shall not require any payment hereunder if the use would not require a payment under the television excerpt provisions of the Agreement.

F. All obligations of the Producer with respect to the use of an excerpt or excerpts under this Paragraph 3 shall be fully satisfied so long as the excerpt(s) meets the promotional requirements set forth herein or the Producer pays the applicable amount set forth herein.

G. d. The Producer shall pay sums due under this Paragraph 9 to the FMSMF, which will determine the musician(s) entitled to such sums and will prorate and distribute such sums among the musicians.

H. e. "Distributor's gross" shall be as defined in Paragraph 10 of this Side Letter 11.

I. f. It is understood no payment shall be required for any excerpt uses in New Media that would not require payment in traditional media.

**f. Non-Dramatic SVOD Programs**

a. *Add a new Section F. (and re-letter the remainder of the Side Letter accordingly) to Side Letter 12 as follows:*

**"F. Terms and Conditions for 'High Budget' Original and Derivative Variety Programs, Other Programs, including Strip Variety Shows Made for Initial Exhibition on a Subscription Video-On-Demand Consumer Pay Platform**

**"1. 'High Budget SVOD Variety Programs,' 'High Budget Other Programs' and 'High Budget SVOD Strip Variety Shows' Defined**

"The terms and conditions set forth in this Section shall be applicable only to the following original and derivative programs made for initial exhibition on a subscription consumer pay New Media platform (hereinafter 'subscription consumer pay platform' or 'SVOD'): variety programs (of a type covered under Exhibit I., Article A.1) ('High Budget SVOD Variety Programs'), Other Programs, including 5-day per week Strip Variety Shows but excluding daytime serials (of a type covered under Exhibit I, Article A.2) ('High Budget SVOD Other Programs'), strip variety shows (of a type covered under Exhibit I, Article A.3) ('High Budget SVOD Strip Variety Shows', and collectively 'High Budget SVOD Programs') which meet the following 'high budget' criteria and are not excluded as provided in Section E.2. below.

<b>Length of Program as Initially Exhibited</b>	<b>'High Budget' Threshold (Per Program)</b>
20-35 Minutes	\$600,000 and above
36-65 Minutes	\$1,150,000 and above
66-95 Minutes	\$1,500,000 and above
96 Minutes or more	\$2,200,000 and above

\* Programs less than 20 minutes are not considered "high budget" for purposes of this Side Letter.

\*\* The 'High Budget' Threshold for a High Budget SVOD Strip Variety Show produced and initially exhibited three (3) or four (4) days per week shall be \$125,000 or more per program for a 20–35-minute program and \$150,000 or more per program for a program 36 minutes or longer. The shows that meet these 'High Budget' Thresholds are hereinafter referred to as 'High Budget SVOD Strip Shows.'

The 'High Budget' Threshold for a High Budget SVOD five (5) days per week Strip Variety Show shall be \$150,000 or more per program for a 20–35-minute program and \$250,000 or more per program for a program 36 minutes or longer. The programs that meet these 'High Budget' Thresholds are hereinafter incorporated in and referred to as 'High Budget SVOD Other Programs.')

"2. The terms and conditions set forth in this Section E. shall be applicable prospectively only. They shall not apply to any program or series that would otherwise qualify as a High Budget SVOD Program or series within the meaning of this Side Letter, for which the principal photography of the program, in the case of a one-time program, or the principal photography of the first show / program of the season, in the case of a series, commenced prior to [90 days after effective date of Agreement]. In the case of a series in its first or second season, the terms and conditions shall not apply to the first and/or second season of a series for which the principal photography of the first program / show of the series commenced prior to [90 days after effective date of Agreement]. The third or subsequent season on such series shall be subject to the terms and conditions set forth herein. Any program / show or any season of a series excluded under this paragraph shall continue to be subject to the terms of Sections C. or D of this Side Letter, as applicable.

"Notwithstanding the foregoing, the Producer shall not reduce the terms and conditions of employment previously provided to AFM - represented musicians on programs or series covered by this subparagraph 2.

"3. Tier 1 and Tier 2 Defined:

"For purposes of Section F.4 below, Tier 1 and Tier 2 shall be defined as follows:

<u>Program Length</u>	<u>Budget Tier*, **</u>
20-35 Minutes	Tier 1: \$1,100,000 or more

	Tier 2: \$600,000 or more but less than \$1,100,000
36-65 Minutes	Tier 1: \$2,000,000 or more
	Tier 2: \$1,150,000 or more but less than \$2,000,000
66-95 Minutes	Tier 1: \$2,500,000 or more
	Tier 2: \$1,500,000 or more but less than \$2,500,000
96 Minutes or more	Tier 1: \$3,200,000 or more
	Tier 2: \$2,200,000 or more but less than \$3,200,000
* All High Budget SVOD Strip Shows are treated as Tier 2.	
** A one-time High Budget SVOD Program that is a live exhibition of a parade or similar event that would air outside of prime time if made for traditional television is treated as Tier 2.	

"4. Terms and Conditions High Budget SVOD Programs<sup>1, 2</sup>

"(a) Initial Compensation

"(i) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Variety

<sup>1</sup> For purposes of determining the applicable compensation and other terms and conditions under Sections E. of this Side Letter, the parties agree that a show of a High Budget SVOD series may exceed the 'show length' which applies to a typical show of the series by up to three (3) minutes without becoming subject to the terms and conditions applicable to the next highest show length. (For example, if a typical show of a High Budget SVOD series is between 20 and 35 minutes, a given show of such series which is 38 minutes in length will still be subject to the compensation and terms and conditions applicable to a show between 20 and 35 minutes in length.)

<sup>2</sup> A High Budget SVOD Program between 20 and 35 minutes in length shall be treated as a one-half (½) half hour show; a High Budget SVOD Program between 36 and 65 minutes in length shall be treated as a one (1) hour show; a High Budget SVOD Program between 66 and 95 minutes in length shall be treated as a one and one-half (1½) hour show program; and a High Budget SVOD Program 96 minutes or longer shall be treated as a two (2) hour show.



Program in Tier 1 shall be the rate applicable under Exhibit I, Article A.1 to a show of the same type and length.

"(ii) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Variety Program in Tier 2 shall be the same type of length reduced by three percent (3%) of the rate applicable under Exhibit I, Article A.1 to a show of the same type and length.

"(iii) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Other Program, including a five (5) day per week Strip Variety Show, in Tier 1 shall be the rate applicable under Exhibit I, Article A.2 to a show of the same type and length.

"(iv) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Other Program, including a five (5) day per week Strip Variety Show (other than a 'reality-type' program such as *Love is Blind*, *Baking It*, *Nailed It!*, *Big Brother*, *Master Chef*, *Making the Cut*, *Top Chef*, *The Bachelorette*, etc.), in Tier 2 shall be the same type of length reduced by three percent (3%) of the rate applicable under Exhibit I, Article A.2 to a show of the same type and length.

"(v) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Strip Variety Show, in Tier 1 shall be the rate applicable under Exhibit I, Article A.3 to a show of the same type and length.

“(vi) The minimum salary for Recording Instrumentalists, Leaders and Contractors employed on a High Budget SVOD Strip Variety Shows, in Tier 2 shall be the same type of length reduced by three percent (3%) of the rate applicable under Exhibit I, Article A.3 to a show of the same type and length.

“(vii) The minimum rate for Production Musicians employed on Tier 1 HBSVOD Programs shall be the rate applicable in Exhibit II, Article A.

“(viii)”The minimum rate for Production Musicians employed on Tier 2 HBSVOD Programs shall be the same type of length reduced by three percent (3%) of the rate applicable in Exhibit II, Article A.

“(ix)” The minimum rates for Music Preparation Services on Tier 1 HBSVOD Programs shall be as provided in Exhibit III.

“(x)” The minimum rates for Music Preparation Services on Tier 2 HBSVOD Programs shall be the same type of length reduced by three percent (3%) of those provided in Exhibit III.

"(b) Other Terms and Conditions

"Except as otherwise provided herein, the terms and conditions applicable to High Budget SVOD Programs shall be those applicable to programs made Network television, subject to the following clarifications and modifications:

"(i) In the event of a conflict between the provisions of this Section F. and the provisions incorporated herein, this Section F. shall control.

**Add a new Side Letter -**

If a Producer intends to move an existing strip dramatic program (i.e., daytime serial) from traditional television to SVOD, the Producer shall notify the Federation of its intention at least thirty (30) days prior to commencement of production of the first episode intended to be made for SVOD. Either the Federation or Producer may, at any time, notify the other that it wishes to bargain concerning rates and other conditions of employment to be applicable to that program. The parties agree to commence such negotiations promptly within thirty (30) days of receipt of such notice.

Any agreement reached pursuant to the preceding paragraph shall not be retroactive nor shall it modify the terms of employment under individual contracts then existing, except with respect to minimum rates.

If no agreement is reached within sixty (60) days after the bargaining has commenced for the program, the Federation may, upon written notice to the Producer, instruct its members to refuse to render services with respect to that program. If a Producer fails to provide timely notice of its intention to move the program pursuant to the first paragraph of this Side Letter, the sixty (60) day period in the preceding sentence shall not apply, and the Federation may, not earlier than twenty-four (24) hours after written notice to the Producer, instruct its members to refuse to render services with respect to that program.

## **9. Assignment of Rights**

a. Modify Article 12 Paragraph (E) as follows:

(E) Transfer or Assignment of Programs

In the event that we shall sell, transfer, assign, or otherwise dispose of our television rights in programs made under this Agreement, we shall obtain from such assignee or transferee an Assumption Agreement transferring any obligations and commitments which we have undertaken in this Agreement with respect to such programs. We shall continue to be responsible for all the obligations and commitments which we have undertaken in this Agreement with respect to such programs, unless the Federation consents to the assumption of those obligations and commitments by the assignee or transferee, which shall not be unreasonably withheld. We agree to give notice to you within thirty (30) days after each such sale, assignment or transfer.

A Buyer's Assumption Agreement and a mutually agreed upon Distributor's Assumption Agreement will be included as part of the Agreement.

## **10. Premium Pay**

Modify Exhibit I, Paragraph G, subparagraph (iv) to add Juneteenth to the list of holidays, and modify Subparagraph (b) to rename Dominion Day as Canada Day.

## **11. Music Preparation**

A. Modify Exhibit III, Paragraph B, Subparagraph (4) by adding a subparagraph (b) and reordering existing paragraph as subparagraph (a).

(a) One hundred fifty percent (150%) of the applicable orchestration scale per score page shall be paid for exact transcription of all parts of a composition from a mechanical device and recreating the orchestration:

(b) For a weekly series, Orchestrators shall be paid one hundred thirty five percent (135%) of the applicable orchestration scale per score page for transcription of all parts or a portion of a composition from a mechanical device and recreating the orchestration or re-orchestrating. An Orchestrator paid in excess of this rate as of ratification of the Agreement shall continue to receive that rate for the current series.

B. Modify Exhibit III, Paragraph E, Subparagraph (8) as follows:

(8) Arrangers, Orchestrators and Copyists performing music preparation services shall be provided with an opportunity to review the music preparation invoice and sign it prior to submission to the Purchaser or Producer for their signature. Once signed by both parties, such invoice constitutes the bill for services. Payments for music preparation are

due not later than twenty-one (21) working days following submission of W-4 forms and bills for services rendered.

## **12. Payment of Reuse Fees**

Modify Article 8(A)(i) by increasing all thirty (30) day windows for payment of reuse fees to forty-five (45) days.

## **13. Limited West Coast Reruns**

Modify Article 8(A)(v) as follows:

West Coast Replays of Certain Award Programs

(v) In the event of a limited West Coast rerun of an awards, tribute, benefit or one (1) time Special program, excluding live musicals, which has aired live and then is rerun beginning on the same day as the live broadcast, the residual payment shall be 33% of the applicable rerun fee.

## **14. Force Majeure Cancellation**

Add new language to Exhibit I(M):

“Notwithstanding the foregoing, the Producer shall have the right to cancel any call for any of the following reasons beyond his/her control:

(A) Fire, flood or other similar catastrophe; or

(B) Governmental regulations or order issued due to a national emergency.

In the event of any such cancellation, the musician so cancelled shall receive a one-half (½) check, except as provided in in the following paragraph.

If any recording musician is notified of such cancellation at least four (4) days prior to the work date specified in the call, or is otherwise employed on that work date by the same or any other Producer, at a rate equal to or higher than the rate applicable to such recording musician as specified in such cancelled call, he/she shall not be entitled to such one-half (½) check.”

## **15. Use of Pre-recordings and Phonograph Records at Rehearsals**

Modify Exhibit I (J)(4) as follows:

(4) Optional Needle Drop Formula.

“In lieu of J(1) above with respect to weekly variety shows, live musicals and variety specials, the Producer at its option may utilize the following formula. “Bank acts” are

excluded from the Needle Drop rates and does not refer to orchestras for award shows and live musicals. The payment of the Needle Drop rates is a one-time payment to each musician in the orchestra in the program for use of the recording in rehearsals for that program.

For orchestras of 1-25 musicians, maintain the current scale rates. For orchestras of 26-40 musicians, provide a discount of 5% on the scale rate. For orchestras of 41 or more musicians, provide a discount of 10% on the scale rate.”

#### **16. Late Payment Penalties**

Exhibit I (P) - Delete subparagraphs (a) – (f) and replace with a \$5 per day late penalty up to a maximum of \$150 (30 days). Thereafter, the penalty payments shall cease accruing until the AFM provides written notice (which may not be given before the 31st day after the date of receipt of their completed billings and all necessary and completed W-4 forms) that the employer is delinquent and the employer has not made the payment within thirty (30) business days after receipt of such notice.

#### **17. Drafting**

Any additional necessary conforming changes to reflect the terms of the MOU.