

**AMERICAN FEDERATION OF  
TELEVISION AND RADIO ARTISTS**

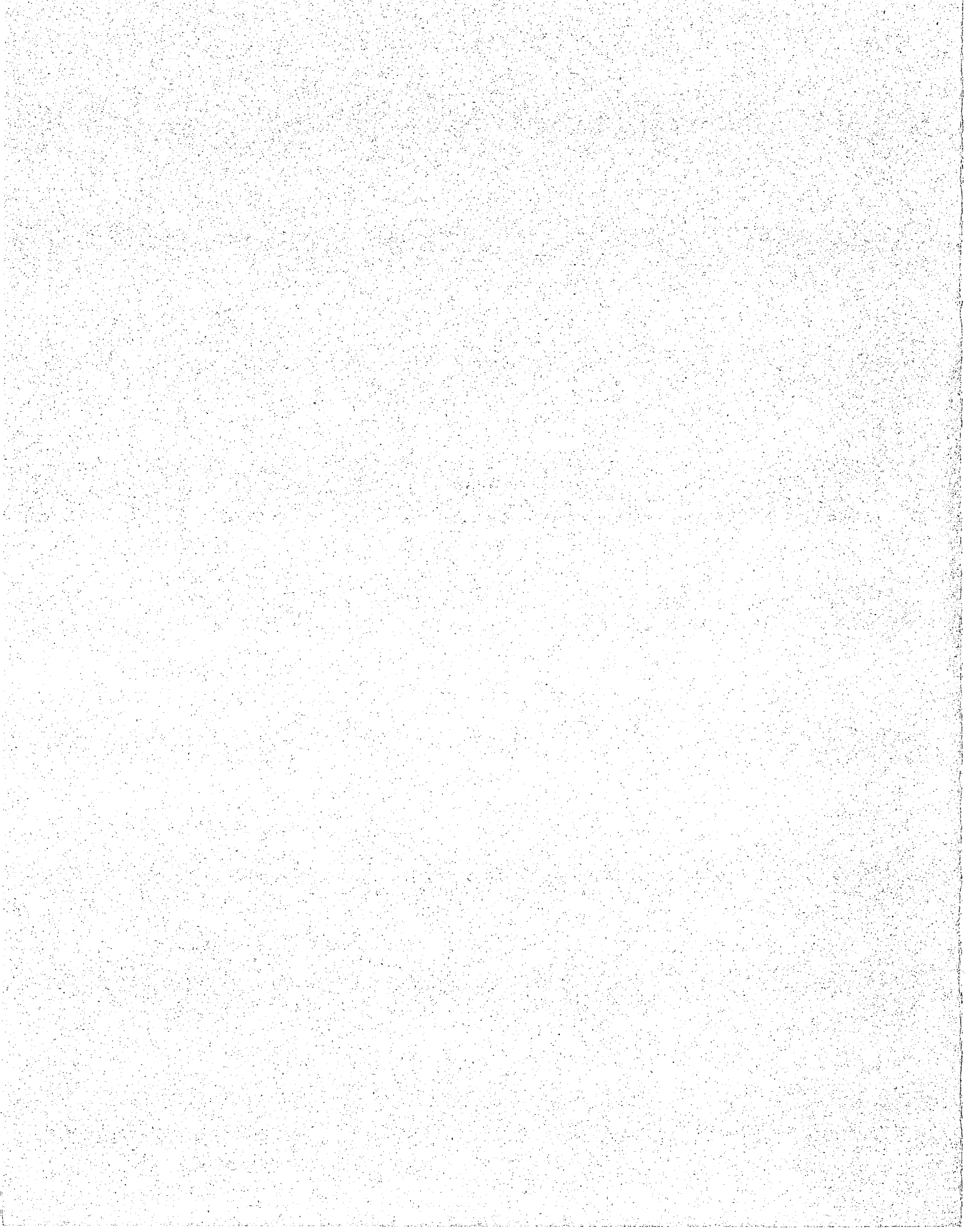
**(AFTRA)**



**2002-2006**

**AFTRA**

**National Code of Fair Practice  
for Sound Recordings**



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**AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS**

**2002-2006 NATIONAL CODE OF FAIR PRACTICE FOR SOUND RECORDINGS**

AGREEMENT made this first day of July 2002, between the American Federation of Television and Radio Artists, AFL-CIO (hereinafter called "AFTRA") and the undersigned Producer of sound recordings (hereinafter called the "Company"). It is agreed that the annexed Code of Fair Practice contains the minimum terms and conditions for the engagement of actors, announcers, narrators, sound effects artists and singers (hereinafter called "Artists") for the purpose of making sound recordings in the United States of America, its territories and possessions (hereinafter called the "Recording Territory").

The sound recordings covered by this Agreement are hereinafter called "recordings" and include single recordings, long playing or extended play recordings, or other microgroove recordings, tapes, discs, or any other similar or dissimilar device now or hereafter devised. The Company agrees not to make recordings produced under this Agreement, or any previous Agreement, available for use of any kind or nature whatsoever in any other medium; but the foregoing prohibition shall not apply to the Company's use of the said recordings or portions thereof in connection with the Company's normal sound recording operation including but not limited to Company sales meetings, intra-Company promotions, and for file purposes.

However, the Company may make available a recording, or portion thereof, for use in any other medium provided that the Company obtains from the Producer in such medium the following warranty and representation for the benefit of the Artists performing thereon:

"That all Artists, whose performances embodied thereon were recorded in the recording territory, will receive not less than the compensation and other economic benefits having a substantially equivalent economic cost to the Producer as those which would be payable to such Artists if the Producer were a signatory to the collective bargaining Agreement applicable in the relevant medium for such use.

Producer hereby agrees, that in consideration for the use of a recording referenced above, and for the express benefit of AFTRA and its members affected thereby, to make the above payments (including all social security, withholding, unemployment insurance and disability insurance payments, and all appropriate contributions to the AFTRA Health and Retirement Funds), and to be bound by and comply with the arbitration provisions (and the procedures contained therein) found in the National Code of Fair Practice for Sound Recordings."

When such recording or portion thereof is made available for use in another medium, the Company will furnish the Producer in such medium the names, social security numbers, and job classifications of all the Artists whose performance is embodied on such recording, provided that such information is available or reasonably obtainable by the Company. The Company will make good faith, reasonable efforts to obtain and forward such information to the Producer with a copy to AFTRA.

In any event, the Company shall provide the following information to AFTRA when it makes a recording or portion thereof available for use in another medium:

Song Title  
Featured Artist(s)  
Licensee names  
Contact information for licensee  
Title of project (if known) or other identifying information  
Initial use contracted for

The Company shall provide the above information within 30 days after signing of the contract between the Company and the licensee, or within 60 days after the company authorizes use of the recording or portion thereof by the licensee, whichever is earlier.

AFTRA warrants, represents and agrees that it represents for collective bargaining purposes a majority of the Artists engaged by the Company for recordings and will for the period of this Agreement continue to represent such

**2002 - 2006 AFTRA National Code of Fair Practice for Sound Recordings**

majority in the Recording Territory. The bargaining unit is a national unit. The Company recognizes AFTRA as the exclusive bargaining agent for all Artists engaged by the Company directly or indirectly or through its agents or representatives for the making of recordings in the Recording Territory.

AFTRA agrees and represents that it is and will continue to be an open union, and will admit to and retain in membership all eligible Artists engaged under said Code.

The Company agrees that it will not for the purpose of evading performance under this Code, 1) sublet or transfer responsibility hereunder to any third person, or 2) transfer its operation to any other place of origin.

This Agreement becomes effective as of July 1, 2002 and ends at midnight June 30, 2006. It will automatically renew itself for one-year periods unless terminated by either party giving the other party at least sixty (60) days' written notice prior to the expiration of any contract period. In the event such notice is given, AFTRA and the Company agree to commence negotiations in good faith immediately with respect to a new Agreement.

IN WITNESS WHEREOF, AFTRA and the Company have signed this Agreement on the day and year above stated.

Company: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name and Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

By: \_\_\_\_\_  
National Executive Director



## 2002 - 2006 AFTRA National Code of Fair Practice for Sound Recordings

### 1. UNION SECURITY

On the thirtieth (30th) day following the effective date of this provision, or on the thirtieth (30th) day following the first engagement of an Artist, whichever is later, membership in the union shall be required of each Artist as a condition of engagement, provided however, that when a recording is produced in an area where AFTRA then does not have a *bona fide* Chapter or Local (or, having a Chapter or Local, AFTRA does not warrant that it represents a majority of Artists in that area), then the provisions of this clause shall not apply to Artists engaged in making recordings in that area; it being understood, however, the other provisions of this Code shall apply to such Artists.

A. The Company agrees to report to the AFTRA Los Angeles office in writing no later than thirty (30) days after the last day of the month in which a Royalty Artist is engaged. Except as provided in paragraph 2., below, the engagement of Royalty Artists shall generally mean the date that a recording agreement (or deal memo) is executed, or if there is no executed recording agreement (or deal memo), the date on which the agreement is completed. The Company will provide AFTRA the full name, social security number (provided it is available or reasonably obtainable), contact information and/or current address, and the date of engagement of such Artists. AFTRA represents and warrants that all information required to be provided pursuant to this provision of the Code will be treated as confidential and will be used solely for the purpose of administering the Code and not for any other purpose unless required by law.

1. It is understood that it would be impossible to accurately fix the actual damages suffered by the Union by reason of a breach of paragraph A., above, by the Company. It is therefore agreed that the Company will pay to the Union, as liquidated damages, the sum of \$100.00 per Artist or per group for each week that a breach of paragraph A., above, continues, with a maximum of \$500.00 per month. However, liquidated damages will not apply to instances in which the Company inadvertently and in good faith makes a mistake (*e.g.*, omits a name on a list) where there has otherwise been compliance with the above requirements.

2. In instances where an Artist(s) is engaged by an entity other than the Company (*e.g.*, a joint venture between the Company and another entity), and the Company has no knowledge of the engagement, the time limits specified in paragraph A. and A.1., above, shall commence on the day that the Company becomes aware of the engagement.

B. AFTRA will use its best efforts to complete the membership application process with such Artist within thirty (30) business days of receipt of Company notice referenced in paragraph A., above.

C. If AFTRA is unable to complete the membership application process within the period of time referenced in paragraph B., above, AFTRA shall notify the Company in writing and the Company shall send the first agreed upon notice to the Artist with a copy to AFTRA, within fifteen (15) business days of receipt of the AFTRA notice.

D. If AFTRA is still unable to complete the membership process within fifteen (15) more business days of the date of the Company letter specified in paragraph C., above, AFTRA will again notify the Company in writing. Within ten (10) business days of receipt of such notice the Company will send the second agreed upon notice to the Artist with a copy to AFTRA.

E. **Letters of Agreement** - See attached.

### 2. NO STRIKE, NO LOCKOUT

The Company shall not engage in any lockout and AFTRA, its representatives and members shall not cause, authorize, give leadership to or take part in any strike or other curtailment or restriction of work, pending arbitration as herein agreed to, provided, however, that the failure of a party to comply with any arbitration award made against such party, shall release the other party from its obligations under this paragraph.

### 3. ARBITRATION

All disputes and controversies of every kind and nature whatsoever between any Company and AFTRA or between any Company and any member of AFTRA, arising out of or in connection with this Code, and any contract or engagement made or extended on or after April 1, 1983 (whether overscale or not, and whether at the minimum terms and conditions of this Code or better) in the field covered by this Code as to the existence, validity, construction, meaning, interpretation, performance, non-performance, enforcement, operation, breach, continuance, or termination of this Code and/or such contract or engagement shall be submitted to arbitration in accordance with the following procedure. Such arbitration shall be conducted under the Voluntary Labor Arbitration Rules then obtaining of the American Arbitration Association except as otherwise provided herein:

- A. AFTRA, the Company concerned, or (with the written consent of AFTRA endorsed upon the demand for arbitration) the Artist concerned, may demand such arbitration in writing. The demand shall include the name of the arbitrator appointed by the party demanding arbitration. Within three (3) days after such demand, the other party shall name its arbitrator, or in default of such appointment, such arbitrator shall be named forthwith by the Arbitration Committee of the American Arbitration Association. The two (2) arbitrators so appointed shall select a third within a period of five (5) days, from a panel submitted to them by the American Arbitration Association and in lieu of their agreement upon such third arbitrator, the arbitrator shall be appointed by the Arbitration Committee of the American Arbitration Association. Each party shall bear its own arbitration expense and one-half (½) the expense of the third arbitrator.
- B. The hearing shall be held on two (2) days' notice and shall be concluded within fourteen (14) days unless otherwise ordered by the arbitrators. The award of the arbitrators shall be made within seven (7) days after the close of the submission of evidence. An award agreed to by a majority of the arbitrators so appointed shall be final and binding upon all parties to the proceedings during the period of this agreement, and judgment upon such award may be entered by any party in the highest court of the forum, state or federal, having jurisdiction.
- C. The parties agree that 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.
- D. AFTRA shall be an *ex officio* party to all arbitration proceedings hereunder in which any Artist is involved, and AFTRA may do anything which an Artist named in such proceeding might do. Copies of all notices, demands, and other papers filed by any party in arbitration proceedings, and copies of all motions, actions or proceedings in court following the award, shall be promptly filed with AFTRA.
- E. Nothing herein contained shall be deemed to give the arbitrators the authority, power or right to alter, amend, change, modify, add to or subtract from any of the provisions of this Code or of any contract or engagement between the Company and an Artist.

The arbitrators 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 their discretion: a) make their 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; b) make their award effective as of the date of the award; or c) make their award effective as of any intermediate date.

Notwithstanding anything to the contrary which may be contained herein, it is agreed that in any instance where the Company has a written contract providing for the exclusive services of an Artist, and the Company has reason to believe that the Artist has recorded or contemplates recording in violation of said contract, the Company shall have the right to apply to any court having jurisdiction, for injunctive and other relief arising out of the act which gave rise to the complaint.

#### 4. FAVORED NATIONS CLAUSE

AFTRA shall not enter into any agreement with, or issue a Code to, any Producer of sound recordings which is more favorable to such Producer than this Code without offering to Producers who are signatories to this Code the benefits of such agreement or Code entered into with such other Producer, subject to the same obligations. Any more favorable terms or conditions given to other persons, firms or corporations producing sound recordings will be made available by AFTRA to Producers who are signatory to this Code to the extent given such other persons, firms or corporations and AFTRA shall give notice of any more favorable terms to all signatories of this Code. This does not apply to waivers given by AFTRA in special instances if such waivers be given in good faith and without intent either to evade this clause or give an unfair competitive advantage.

#### 5. DUBBING, MULTIPLE TRACKING, AND CONVERSIONS

- A. Performances of Artists rendered for use in any other medium (such as, but not limited to radio, transcriptions, television or motion pictures) may be dubbed, re-recorded or otherwise transferred or converted for use as sound recordings so long as the Company gives notice thereof to AFTRA, on behalf of all such Artists, pays the AFTRA scale to such Artists and obtains the consent of any "star or featured or overscale Artist," if any. In addition, in cases where an Artist performs the vocal sound track for the "star or featured or overscale Artist," the Company must obtain the consent of such Artist. The Company will furnish to AFTRA, upon request, a copy of the warranty or such other evidence in its possession which it relies upon as assurance of such consents having been obtained. Nothing herein contained shall mean that AFTRA itself has given or can give any consent on behalf of its members hereunder. All checks for services performed under this paragraph shall be mailed to the local AFTRA office.
- B. **Multiple Tracking.** When an Artist participates in multiple tracking (i.e., sings again to the original track at the same session) he/she shall be paid for the session as if each overtracking were an additional side.

#### 6. MINIMUM RATES

The following minimum compensation shall be paid to Artists for making sound recordings:

##### A. Soloists and Duos

Soloists and duos who are engaged to perform on sound recordings shall receive the following minimum per person, per hour or per side, whichever is higher:

*Through December 31, 2003: \$167.75*

*Effective January 1, 2004: \$175.25*

*Effective July 1, 2004: \$183.25*

*Effective July 1, 2005: \$188.75*

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**B. Group Singers**

Rate per person, per hour or per side, whichever is higher:

	<i>Through December 31, 2003</i>		<i>Effective January 1, 2004</i>	
	<i>Per Hour or Side</i>	<i>Minimum Call</i>	<i>Per Hour or Side</i>	<i>Minimum Call</i>
<i>Groups 3-8</i>	\$76.00	\$152.00	\$79.50	\$159.00
<i>Groups 9-16</i>	\$58.25	\$116.50	\$60.75	\$121.50
<i>Groups 17-24</i>	\$50.75	\$101.50	\$53.00	\$106.00
<i>Groups 25-36 (non-classical)</i>	\$43.00	\$86.00	\$45.00	\$90.00
<i>Groups 36+ (non-classical)</i>	\$36.75	\$73.50	\$38.50	\$77.00
	<i>Effective July 1, 2004</i>		<i>Effective July 1, 2005</i>	
	<i>Per Hour or Side</i>	<i>Minimum Call</i>	<i>Per Hour or Side</i>	<i>Minimum Call</i>
<i>Groups 3-8</i>	\$83.00	\$166.00	\$85.50	\$171.00
<i>Groups 9-16</i>	\$63.50	\$127.00	\$65.50	\$131.00
<i>Groups 17-24</i>	\$55.50	\$111.00	\$57.25	\$114.50
<i>Groups 25-36 (non-classical)</i>	\$47.00	\$94.00	\$48.50	\$97.00
<i>Groups 36+ (non-classical)</i>	\$40.25	\$80.50	\$41.50	\$83.00

In the event payment on the hourly basis is more favorable to the Artist, such payment may be computed in quarter-hour periods, *i.e.*, payment shall be made on the basis of one-fourth (1/4) of the hourly rate for each quarter-hour or part thereof.

In addition to the above compensation, each singer shall receive premium pay in an amount equal to fifty percent (50%) of the applicable minimum hourly rate for each hour or part thereof worked between midnight and 8:00 a.m. Monday through Sunday, for all hours worked on a sixth or seventh consecutive day for the same employer, and for all hours worked on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas.

**C. Classical Recordings**

1. When a singing group of twenty-five (25) or more is engaged to record classical music in conjunction with an orchestra, the following rates and conditions shall apply: *\$95.75 through December 31, 2003 (\$100.00 effective January 1, 2004; \$104.50 effective July 1, 2004; \$107.75 effective July 1, 2005)*, per person, for a three (3) hour minimum call for up to twenty (20) minutes of recorded music.

Overtime -- *\$32.25 through December 31, 2003 (\$33.75 effective January 1, 2004; \$35.25 effective July 1, 2004; \$36.25 effective July 1, 2005)*, per person, per hour or per side, whichever is higher. Minutes of recorded music shall be measured from the vocal entry of the singing group in each composition or segment (*e.g.*, movement, scene, *etc.*) to the end of the music in that composition or segment.

2. Similar groups performing *a cappella* (no orchestra or instrumental accompaniment) shall be paid *\$32.25 through December 31, 2003 (\$33.75 effective January 1, 2004; \$35.25 effective July 1, 2004; \$36.25 effective July 1, 2005)* per person, per hour or per side, whichever is higher, with a minimum

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call of two (2) hours.

3. Coach rehearsal for such groups need not be contiguous to the recording session. Minimum call for coach rehearsal shall be two (2) hours in length and shall be within forty-eight (48) hours of the recording session. The rehearsal fee shall be \$13.00 through December 31, 2003 (\$13.50 effective January 1, 2004; \$14.00 effective July 1, 2004; \$14.50 effective July 1, 2005) per person, per hour. Company shall provide adequate heat or air conditioning, light, and chairs for all rehearsals.
4. In order to avail itself of this provision for coach rehearsal in connection with classical recordings the Company shall submit a request to the AFTRA Local office and AFTRA shall determine whether or not the recording falls within the classical classification. Not more than four (4) days after the Company's request (excluding Saturdays, Sundays and holidays) AFTRA shall advise the Company of its determination, and in the absence of such advice the request shall be deemed granted. Except as provided in this subparagraph, all other rehearsal shall be computed at the per person, per hour or per side rates provided in the schedules above.

### **D. Recording of Live Performances (Concerts, Nightclubs, etc.)**

In every instance in which there is a recording of an Artist's live performance in concert (excluding festivals), or in a nightclub or the like (but excluding those recordings which are the subject of the provisions in subparagraph G. of this paragraph 6.), each Artist shall be paid an amount equal to a minimum call of two (2) hours for all performances recorded during any particular twenty-four (24) hour period, whether or not any sides are released. If any side so recorded is released, the Artist shall then receive the difference, if any, between the amount paid Artist under this provision 6.D. and the applicable minimum scale payments hereunder.

### **E. "Stepping Out"**

1. If out of any group, a soloist or duo steps out and sings sixteen (16) or more cumulative bars on a particular side, then each of the singers so stepping out shall be paid for that side at the soloist and duo rate in paragraph 6.A. above, in lieu of the group rate. This provision shall not apply to groups of five (5) or less where the terms of such engagement include any royalty payment. In any case in which payment shall be required pursuant to this subparagraph (1), the provisions of the three (3) following subparagraphs shall not be applicable.
2. If out of a group of nine (9) or more singers called for a particular side, less than the number called steps out for eight (8) or more successive bars or sixteen (16) or more cumulative bars, the smaller group shall be paid for that side the minimum compensation applicable to a group of that size. A solo or duo stepping out for eight (8) or more successive bars but less than sixteen (16) cumulative bars shall be paid \$76.00 through December 31, 2003 (\$79.50 effective January 1, 2004; \$83.00 effective July 1, 2004; \$85.50 effective July 1, 2005).
3. If out of a group of eight (8) or less called for a particular side, one singer steps out for eight (8) or more successive bars but less than sixteen (16) cumulative bars, then that singer shall be paid \$76.00 through December 31, 2003 (\$79.50 effective January 1, 2004; \$83.00 effective July 1, 2004; \$85.50 effective July 1, 2005) for the side in addition to the group rate. If two (2) singers step out for eight (8) or more successive bars, but less than sixteen (16) cumulative bars, then each shall be paid \$51.00 through December 31, 2003 (\$53.25 effective January 1, 2004; \$55.75 effective July 1, 2004; \$57.50 effective July 1, 2005) for that side in addition to the group rate. If three (3) or more singers step out for eight (8) or more successive bars, but less than sixteen (16) cumulative bars as soloists or duos, then each shall be paid \$37.75 through December 31, 2003 (\$39.50 effective January 1, 2004; \$41.25 effective July 1, 2004; \$42.50 effective July 1, 2005) for that side in addition to the group rate. This provision shall not apply to groups of five (5) or less where the terms of such engagement include any royalty payment.
4. Any bar or bars sung on a particular side by such "step-out" after eight (8) or more successive bars or sixteen (16) or more cumulative bars, whether immediate to or not, requires the applicable payment hereinabove provided.

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**F. Actors and Comedians, Narrators and Announcers**

The minimum rate applicable to actors and comedians shall be \$127.75 through December 31, 2003 (\$133.50 effective January 1, 2004; \$139.50 effective July 1, 2004; \$143.75 effective July 1, 2005) per person, per hour or per side, whichever is higher; and to narrators and announcers \$145.00 through December 31, 2003 (\$151.50 effective January 1, 2004; \$158.25 effective July 1, 2004; \$163.00 effective July 1, 2005) per person, per hour or per side, whichever is higher. The minimum call in one (1) session for actors, narrators and announcers shall be two (2) hours. There shall be no doubling on any side without additional compensation equivalent to the full minimum fee per part played. In the event an actor plays three (3) or more roles, the minimum fee shall be \$385.00 through December 31, 2003 (\$402.25 effective January 1, 2004; \$420.25 effective July 1, 2004; \$432.75 effective January 1, 2005) per person, per hour or per side, whichever is higher. A singer who speaks incidental lines in character or an actor who sings in character shall receive not less than the higher of the two (2) fees. It shall be considered doubling if a singer speaks lines not in character or an actor sings lines not in character and both applicable fees shall be paid in such cases. Participation in crowd noises shall not be considered doubling.

**G. Minimum Rates - Original Cast Show Albums**

With respect to the recording of musical original cast show albums, all persons in the show with a voice part shall be compensated at the rates enumerated above but in no case shall the minimum fee be less than \$502.50 through December 31, 2003 (\$525.00 effective January 1, 2004; \$548.75 effective July 1, 2004; \$565.25 effective July 1, 2005) per person or per side or per hour, whichever is greater, provided that in the case of off-Broadway musical shows the minimum shall be \$336.75 through December 31, 2003 (\$352.00 effective January 1, 2004; \$367.75 effective July 1, 2004; \$378.75 effective July 1, 2005) per person or per side or per hour, whichever is greater. Company shall not require any person in the show to work beyond 6:30 p.m. on any show day. Performers who are not in the cast shall be paid in accordance with the applicable provisions of the Code, and be paid in accordance with the number of singers added to the cast. Participation in crowd noises shall not be considered a voice part. With respect to the recording of original Industrial cast albums of a show, done in the manner of an original cast show, all persons in the show with a voice part shall be compensated at the rates and under the conditions as specified above for minimum rates for off-Broadway musical shows. However, with respect to the recording of an Industrial show album done in any other manner, all persons with a voice part shall be compensated at the rates and under the conditions as otherwise specified in this Code.

The premium pay provision of paragraph **6.B.** hereof shall not be applicable to recordings made under this subparagraph **G.**

In the event that the Union having original jurisdiction of the musical show or off-Broadway musical show shall negotiate a higher rate than the above rates for the recording of original cast show albums, that higher rate shall be paid. For purposes of Contingent Scale Payment, rates shown above, including any higher rates as negotiated by the Union having original jurisdiction, shall be the "applicable minimum scale" for the purpose of applying Contingent Scale Payment provisions.

**H. Sound Effects Artists**

The minimum rate applicable to Sound Effects Artists shall be \$121.00 through December 31, 2003 (\$126.50 effective January 1, 2004; \$132.25 effective July 1, 2004; \$136.25 effective July 1, 2005) per person, for the first hour; and for each additional half (½) hour or less, \$45.75 through December 31, 2003 (\$47.75 effective January 1, 2004; \$50.00 effective July 1, 2004; \$51.50 effective July 1, 2005).

**I. Limitation of Payments - Royalty Artists**

Notwithstanding the foregoing, as to Artists (including Contractors) who are engaged for performing on sound recordings, where the terms of such engagements include royalty payments, such Royalty Artists shall be paid the minimum scale payments for each side recorded but in no event shall such Royalty Artists be entitled to more than three (3) times the minimum scale payments per side regardless of the number of times such side is recorded or the number of hours required to record such side.

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### **J. Contingent Scale**

In addition to the minimum compensation due an Artist as provided in the preceding subparagraphs of this paragraph 6., certain additional payments ("contingent scale") may be applicable under **Appendix A**.

### **K. Music Videos**

For a music video (as such term is commonly used) released on or after October 1, 1994, and offered for sale, which uses as its underlying audio track a sound recording produced under this Agreement, the Company will pay a minimum fee of \$500.00 through December 31, 1998 and \$550.00 effective January 1, 1999, to non-Royalty Artists whose performances were embodied in the recording. If more than one background Artist appeared on the original track, the Company will split the payment equally among all background Artists on the recording. No such payments will be creditable against overscale payments. AFTRA will assist the Company in determining background Artists appearing on the original track, if necessary.

When a music video uses as its underlying audio track less than a substantially complete sound recording, the parties reserve all rights and positions with respect to whether payment is due under this provision. If a dispute exists, such dispute will be considered by the Joint Industry-AFTRA Cooperative Committee in the first instance. If the parties are unable to resolve such dispute, AFTRA will then have the right to pursue resolution of the dispute in accordance with the arbitration provision of the Code.

Royalty Artists shall be compensated in accordance with the terms of the royalty agreement between the Artist and the Company.

### **L. Interactive/Multimedia**

The parties have agreed to meet within six (6) months of the execution of the Sound Recordings Code for the purpose of discussing a comprehensive agreement for music based interactive/multimedia product. Such discussions will include, among other things, the move-over of "pieces" of individual tracks produced under the Sound Recordings Code, and new work that is produced for interactive/multimedia product. It is understood that the Companies may be represented by corporate affiliates, entities, and/or divisions involved in the production and/or licensing of material for those products.

## **7. COMPENSATION**

**(No fees or compensation due an Artist for performing services in any other media covered by a Collective Bargaining Agreement may be credited against such Artist's royalties.)**

### **A. General**

Artists shall be paid not less than the minimum fee applicable in legal tender of the United States and not later than twenty-one (21) calendar days from the date on which the completed session reports are received by the designated Department within the Company, regardless of whether the completed session report was received in that Department from an AFTRA performer, from a Producer, or from any other source. The parties to this Agreement recognize and agree that it is the Company's responsibility to furnish appropriate I-9 and W-4 forms at sessions and that it is the Artist's obligation to provide session reports, to complete those session reports, and to provide necessary information and documentation for the completion of the I-9 and W-4 forms. The parties further recognize and agree that the Company shall not be liable for late payment penalties (under subparagraph B. hereof) if its failure to make payment within the twenty-one (21) day period described above is due to the Artist's failure to provide appropriate session forms, and to complete those forms in a manner sufficient to make the Company aware of the nature and extent of its payment obligation. In those instances where the Company needs additional information regarding the I-9 forms or W-4 forms, AFTRA will cooperate fully with the Company and provide reasonable assistance to the Company in its efforts to obtain the necessary information. In those instances where AFTRA needs additional information regarding session employment to secure payment for performers, the Company will cooperate fully with AFTRA and will provide reasonable assistance to AFTRA in its efforts to obtain such information. The minimum fees specified in this Code shall be net to the Artist and no deductions whatsoever may be made by Company from such fees, except for such taxes and withholdings as are

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required by law which shall be deducted and paid by the Company to the appropriate authority(ies). In cases where performances in one media are transferred or converted for use as sound recordings as provided in paragraph 5., the date of such release shall be the time specified for performance for purposes of this paragraph; provided, however, that the penalty for late payment as hereinafter provided shall not apply if, notwithstanding the Producer's reasonable efforts (including notice to AFTRA prior to such release that an issue of identity exists), he is unable to ascertain the name of a performer entitled to the payment required by paragraph 5. When the performer's identity has been ascertained, the provision for penalty shall apply.

Company agrees to furnish each Artist, or the contractor on behalf of the Artist represented, a statement specifying the name of employer, the dates of performance, the amount of payment and of each deduction, and all other pertinent information which may be necessary for tax purposes. Such statement may be on check vouchers, or in any other convenient form which may be retained by the Artist. In states which have State Disability Insurance laws requiring deductions, such deductions shall likewise be noted on the check or statement. The statement should also include the employer's name or registration number in those states where unemployment insurance laws require that such information be given to the employee by the employer. All session payments for any services rendered to the Company pursuant to this Code shall be in the form of checks issued in favor of the individual performers concerned and mailed to the local AFTRA office for distribution. Such checks must be for not less than the minimums required by this Code nor may payments of any nature to the performers concerned be deducted from such minimum checks except royalties, advances and loans, and deductions required by applicable law.

A claim that a payment for services hereunder has not been made, whether such claim relates to the payment at scale or overscale, shall be deemed abandoned if not made in writing to the Company within twelve (12) months from the date that the party knew or should have known of an event giving rise to a payment obligation, but in no event later than twenty-four (24) months after the event giving rise to the payment obligation. The limitations of the previous sentence do not apply to claims by Royalty Artists for non-payment of royalties.

### **B. Penalty for Late Payment**

The following cumulative payments shall be added to the compensation due and payable to the performer for each day, beginning with the day following the day of default, on which payment remains not made. Four dollars (\$4.00) for each day's delinquency up to thirty (30) days (excluding Saturday, Sunday, and holidays which the Company observes). Thereafter, the penalty payment shall cease unless either AFTRA or the member gives written notice by registered mail to the Company of non-payment. In the event such notice is given and full payment including accrued penalties is not made within ten (10) working days thereafter, the penalty payment shall be resumed on the eleventh day and continue without limitation. The above such payments shall be in addition to any and all remedies which AFTRA or the performer may have against the Producer under the Code. The above cumulative payments shall not apply in the following cases:

1. A *bona fide* dispute as to the amount due and payable concerning which AFTRA has been notified promptly;
2. *Force majeure*
3. Under circumstances where the Company's failure to make payment within the twenty-one (21) day period is due to the fact that the Company's designated Department has not received session forms completed in a manner sufficient to make the Company aware of the nature and extent of its payment obligation. (An otherwise completed session report that does not have the signature of the Producer or Company Representative shall be deemed sufficient to make the Company aware of its payment obligation);
4. Lack of W-4 or I-9 forms shall not be a defense to the accrual of late payment penalties;
5. Where the Artist, having been furnished an engagement contract on or before session day, fails to return the signed engagement contract promptly.



**C. Liquidated Damages Defined**

Wherever in this Agreement there is provision for a fee or penalty arising out of the Producer's failure to comply with the terms of this Agreement relating to payment to Performer on time, the amount set forth in this Agreement as a fee or penalty for such breach is an amount agreed upon between the parties hereto, which is presumed to be the amount of damage sustained by reason of the breach, because from the nature of the situation it would be impracticable or extremely difficult to fix the actual damage.

**8. DEFINITION OF "SIDE"**

**A. Re: Singers**

A side shall be deemed to be one song or a *bona fide* medley on a single recording, the playing time of which shall not exceed three and one-half (3½) minutes, and for each sixty (60) seconds or portion thereof in excess of three and one-half (3½) minutes, an additional fifty percent (50%) of the applicable per side unit shall be paid. In the case of long playing or extended play recordings or other microgroove recordings, tapes, discs, or any other similar or dissimilar device now or hereafter devised, of longer duration than the single side established above, payment shall be made in accordance with the per hour or per side rate in musical selection units of three (3) minutes and thirty (30) seconds or less. With respect to long playing recordings containing selections of one and one-half (1½) minutes or less in length, the total playing time of such selections shall be paid for in units of three and one-half (3½) minutes, and any remaining selections thereon which exceed one and one-half (1½) minutes shall be paid for as separate selections. In the case of classical recordings the above scales shall be predicated upon recording ten (10) minutes of finished recorded music in a two (2) hour session; fifteen (15) minutes in a three (3) hour session — or an average of not more than five (5) minutes of finished recorded music for each hour of the session. When in the case of classical recordings the finished recorded music within a two (2) or three (3) hour session exceeds these limits, the Artist shall receive one-fourth (¼) hour's pay for each additional one and one-quarter (1¼) minutes of finished recorded material or part thereof.

NOTE: See paragraph 6.C. for additional provisions concerning classical recordings.

**B. Re: Actors, Announcers and Narrators**

A side shall be deemed to be a narration, dramatic reading, poetry, monologue or dialogue, on a single recording, the playing time of which shall not exceed three (3) minutes and thirty (30) seconds, and for each sixty (60) seconds, or portion thereof in excess of three (3) minutes and thirty (30) seconds an additional fifty percent (50%) of the applicable per side rate shall be paid. In the case of performances of such material embodied on long playing or extended play recordings or other microgroove recordings, tapes, discs, or any other similar or dissimilar device now or hereafter devised, of longer duration than the single side established above, Artists shall be paid at the per side rate for each five (5) minute segment on which they respectively perform, or at the per hour rate, whichever is higher, provided, however, that when in any one day (not exceeding eight [8] hours of recording within a consecutive nine [9] hour period, one hour of which shall be a meal period assigned no later than the fourth or fifth hour of recording) any Artist has performed on eight five (5) minute segments, thereafter such Artist shall be paid at the per side rate for each ten (10) minute segment on which he/she performs, or at the per hour rate, whichever is higher. If performer is not informed of total number of sides on which he/she will appear at the time of his/her call, he/she shall be paid on the basis of the number of hours worked, sides rehearsed or recorded, whichever is greater, whether or not final recording actually includes such performance, but in no case less than two (2) sides.

In the case of original cast show albums of such material, the minimum fee shall be not less than \$485.50 through December 31, 2003 (\$507.50 effective January 1, 2004; \$530.25 effective July 1, 2004; \$546.00 effective July 1, 2005) per performer, or such higher rate as might be required under paragraph 6.G., or the per side or per hour rate, whichever is greater, except for off-Broadway shows where such minimum fee shall be \$325.25 through December 31, 2003 (\$340.00 effective January 1, 2004; \$355.25 effective July 1, 2004; \$365.75 effective July 1, 2005), per performer, or such higher rate as might be required under paragraph 6.G., or the per side or per hour rate, whichever is greater. Notwithstanding anything to the

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contrary which may be contained hereinabove, it is agreed that when any Artist has performed eight (8) hours of recording in any one (1) day, the Artist shall be paid for any subsequent recording services on that day in accordance with the above provisions of this subparagraph B., as if said subsequent services were rendered on a separate day, including the provisions for the applicable minimum of \$485.50/\$507.50/\$530.25/\$546.00 or \$325.25/\$340.00/ \$355.25/\$365.75, or such higher rate as might be required under paragraph 6.G. Company shall not require any Artist having a conflicting engagement to work beyond 6:30 p.m. of any day of which engagement Artist has notified Company at the time of call.

**9. CONTRACTORS**

**A. Group Singers**

Contractors shall be those Artists who perform any additional services, such as contacting singers, pre-rehearsing, coaching, or conducting singers, arranging for sessions or rehearsals, or any other similar or supervisory duties, including assisting and preparing of production memorandum. In all cases the contractor shall be a member of AFTRA and a performing member of the singing group, except in those cases where the sex of the group precludes the utilization of the contractor's singing services. A contractor shall be required on all engagements of group singers consisting of three (3) or more non-Royalty Artists. The contractor shall be present at all times during the session. In addition to contractor's fee as a singer, the contractor shall receive the following amounts per side, or per hour, whichever is higher, for the groups designated during the period designated:

<i>Group Singers</i>	<i>Through <u>December 31, 2003</u></i>	<i>Effective <u>January 1, 2004</u></i>	<i>Effective <u>July 1, 2004</u></i>	<i>Effective <u>July 1, 2005</u></i>
Groups 3-8	\$36.50	\$38.25	\$40.00	\$41.25
Groups 9-16	\$43.00	\$45.00	\$47.00	\$48.50
Groups 17-24	\$52.50	\$54.75	\$57.25	\$59.00
Groups 25-35	\$63.25	\$66.00	\$69.00	\$71.00
Groups 36+	\$75.50	\$79.00	\$82.50	\$85.00

A contractor who does not perform at the session shall be paid either the applicable contractor's rate or the rate for the largest group performing at the session, whichever is higher.

**B. Original Cast and Industrial Show Albums**

The Company shall give the Local office of AFTRA nearest to the location at which an Original Cast or Industrial Show Album is recorded seven (7) days advance notice of said recording. In the event Company does not itself have notice seven (7) days in advance, it will notify the AFTRA office promptly upon receiving it.

A contractor shall be required on all Original Cast Show Albums employing a singing group of three (3) or more. Such contractor shall be a member of AFTRA in good standing who is a member of the singing group or a contractor who is a member of AFTRA in good standing not a member of the singing group.

Such contractor's duties shall be: 1) to act as a liaison between Producer and cast and must be present at all times when three (3) or more members of the said group are working; 2) to be responsible for the deportment and cooperation of the cast and assist the Producer in the performance of his duties, such as: calling rest periods, meal breaks, informing cast about rehearsal schedule and required duties, keeping accurate tally of rehearsal hours and notifying Producer of AFTRA provisions pertinent to the session; 3) to be responsible for the completion of all appropriate forms and the filing of same with AFTRA within forty-eight (48) hours; 4) to mandatorily notify AFTRA immediately of any violation or abuse of the terms and conditions of this Code or of any dispute arising at, or out of, the session. For the performance of services set forth above the contractor shall be paid at least the applicable minimum rates specified above. Said payment shall be in addition to whatever fees he/she may earn as a performer on the album.

## 10. WAIVERS

Upon written application by the Company for waivers from this Agreement, the National Board of AFTRA agrees to consider giving waivers in each and all of the following cases:

- A. Persons engaged because of reputation acquired in fields other than those covered by the Associated Actors and Artists of America, insofar as the first side or recording (record or album) for which they were originally engaged by the Company because of said reputation is concerned.
- B. Singing groups such as glee clubs, choirs and choruses of *bona fide* philanthropic, educational or religious organizations. In respect to groups of fifty (50) or more covered by this paragraph, if AFTRA grants a waiver request, the Company will pay at least \$26.00 to each member of the group for his/her services at each recording session of three (3) hours at which is produced not more than sixty (60) minutes of recorded music.

Requests for waivers shall be made by the Company in writing and must be confirmed in writing by AFTRA within four (4) days of receipt excluding Saturdays, Sundays and legal holidays. In the absence of written confirmation, all terms and conditions of this Code shall apply. Such waivers shall not be used by the Company to extend its present practices in these fields in a manner calculated to evade the obligations of this Agreement.

AFTRA agrees to consider waivers of other persons and groups, when requested by the Company, within the spirit of this Agreement.

## 11. REST PERIODS

There must be a rest period of five (5) minutes in each hour of any recording session. It shall be the contractor's or leader's responsibility (or that of a deputy appointed by the singing group, if there is no contractor or leader) to request such rest period.

## 12. PRODUCTION MEMORANDUM AND MEMBER REPORT

### A. Production Memorandum

Company agrees to furnish AFTRA with a production memorandum of each individual recording session, signed by an authorized agent of the Company. The production memorandum shall give full and specific information sufficient to permit computation of the performer's fee with respect to the services rendered by the performer and the gross fee paid. Where the Artist is engaged on a royalty basis, the production memorandum shall so indicate. The form shall be as set forth on **Schedule A**. The procedure for having these reports filed by the Company shall be as follows:

It shall be the duty and responsibility of the contractor to complete the AFTRA Sound Recordings Session Report and H&R Report as well as the I-9 Form required by law and then deliver such forms to the authorized representative of the Company who in turn will fill out whatever additional information is necessary and then file **Schedule A** form with the AFTRA office within twenty-one (21) calendar days after the engagement. Where no contractor is engaged, it shall be the sole duty and responsibility of the performer to produce, prior to the recording session, the documents required to complete the I-9 Form, to fill out the pertinent information required in the AFTRA Sound Recordings Session Report and H&R Report and deliver such form to the Company immediately upon the completion of the engagement.

### B. AFTRA Member Report

The Company has notice of the AFTRA rule requiring an actor, announcer, narrator, sound effects Artist, soloist, or a member of a duo, or the contractor for singing groups of three (3) or more to report on a form furnished by AFTRA, information regarding all sound recording engagements. The Company or Producer agrees to initial such report indicating that the recording engagement has in fact been held. It is, however, the duty and responsibility solely of the AFTRA member to fill out properly and file the report with AFTRA.

### **13. UNFAIR STUDIOS**

The Company under this Code acknowledges that it has notice that under AFTRA's rules, no member of AFTRA may render services or give a performance for recording purposes in any recording studio or use the recording facilities of any recording studio declared unfair by AFTRA or where AFTRA has declared a strike or where AFTRA members have been locked out or where AFTRA has established an authorized picket line. The Company is not bound by such rules of AFTRA but neither AFTRA nor AFTRA members shall be subject to action for breach of contract or otherwise for complying with or enforcing such rules.

### **14. ENGAGEMENTS**

The Artist shall have notice of date, time and place of recording, estimated number of sides and time required for rehearsal and recording, and to the extent practicable, such notice shall be given at the time of call. Compensation shall be computed from the time specified in the call or from the time the Artist's services commence in the studio, whichever is earlier, provided, however, that if any AFTRA member engaged to perform under this Code is late in reporting for the call, then compensation for all other AFTRA members so engaged shall be computed from the time all AFTRA members scheduled to perform in that session are ready to perform, but in no event later than thirty (30) minutes after the time of call. Where an Artist has a *bona fide* engagement which will require him to leave the recording session any time after thirty (30) minutes beyond the estimated closing of the recording session, Company agrees that if it is advised of such conflict at the time of the call but at least forty-eight (48) hours, excluding Sundays, prior to the first scheduled session, then Artist's attendance at such conflict shall not be considered a breach of contract.

### **15. CANCELLATIONS**

#### **A. Cancelled Session**

Where the recording session is canceled by the Company, the Artist shall, nevertheless, be paid no less than the minimum call, unless the Artist shall have been notified of the cancellation at least twenty-four (24) hours in advance of the first scheduled call.

#### **B. Cancelled Individual Engagements**

In the event the Artist's engagement for the session is canceled by the Company, the Company agrees to pay the Artist his/her minimum call or his/her contract price if there is an applicable individual contract, whichever is higher, except where cancellation is for gross insubordination, or misconduct. Company agrees that after the engagement is made, the risk of the Artist's competence is assumed by it.

### **16. EXISTING CONTRACTS WITH ARTISTS**

No provisions in existing contracts between the Company and Artists which are more favorable to the Artists than the provisions herein specified, shall be deemed modified by this Code.

On and after the effective date of this Code, the Company shall pay not less than the minimum rates specified herein, notwithstanding the provisions of existing contracts.

### **17. CONTRACTS WITH ARTISTS**

Every contract (whether written or oral) hereafter made between the Company and any Artist must contain and shall be deemed to contain the following clause:

"Notwithstanding any provision in this contract to the contrary, it is specifically understood and agreed by all parties hereto:

1. They are bound by all the terms and provisions of the **AFTRA National Code of Fair Practice for Sound Recordings**.

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2. That should there be any inconsistency between this contract and the said Code Of Fair Practice, the said Code Of Fair Practice shall prevail, but nothing in this provision shall affect terms, compensation or conditions provided in this contract which are more favorable to members of AFTRA than the terms, compensation and conditions provided for in said Code of Fair Practice.
3. If the term of this contract is of longer duration than the term of the said Code, then from and after the expiration date of the Code: **a)** the provisions of this contract shall be deemed modified to conform to any agreement or modifications negotiated or agreed to in a renewal or extension of the Code; and **b)** while no code is in effect the existence of this contract shall not prevent the Artist from engaging in any strike or work stoppage without penalty by way of damage or otherwise to the Artist or AFTRA. In the event Artist engages in such strike or stoppage the Company may suspend this contract for the duration of the strike or stoppage and may have the option of extending the term of this contract for a period of time equal to the length of such strike or stoppage which option must be exercised by written notice given to the Artist within thirty (30) days after the end of the strike or stoppage.
4. The Artist is or will become a member of AFTRA in good standing, subject to and in accordance with the union security provisions of said Code of Fair Practice.
5. The Artist is covered by paragraph 34. of said Code entitled '**AFTRA Health and Retirement Funds.**'
6. Compensation to Artist as provided herein for the recording session, which shall in no event be less than the minimum fees set forth in said AFTRA Code of Fair Practice, shall be paid in legal tender of the United States of America not later than twenty-one (21) calendar days after the time specified for performance by Artist.
7. If this contract provides for royalty or other compensation (other than contingent scale payments) to be payable to Artist on the basis of the number of units sold, Company agrees to furnish Artist at least semi-annually and to AFTRA upon request (with regard to agreements effective on or after April 1, 1968) so long as there shall be sales, a full and proper accounting in order to correctly ascertain the amount of royalty or other compensation due Artist."

AFTRA reserves the right to require the Company to file with the local AFTRA office a copy of all such individual contracts subsequent to the execution thereof.

### **18. PROHIBITED PAYMENT**

If the Artist performs services in any media covered by a Collective Bargaining Agreement, the Artist shall not pay to the Company or a subsidiary or an employee of the Company, nor may the Company require or accept, any portion of the fees paid to the Artist in accordance with the terms of such Collective Bargaining Agreement, except that nothing herein contained shall prohibit the repayment by the Artist from such fees of a *bona fide* obligation then owed by Artist to the Company or a subsidiary, nor the division of such fees paid to the Artist among the Artists performing as a group.

### **19. ADDITIONAL SERVICES**

No service of the Artist is contracted for except as specified herein. This paragraph is not intended to prevent the Artist from contracting for services of a kind not covered by the Code by individual contract at such rates of pay and under such conditions as the Company and the Artist shall agree, provided that it shall not be in conflict with this Code.

Where such contracts do cover additional services, such contracts shall include, reasonably adjacent to the signature page, a paragraph in essentially the following form:

Artist acknowledges that the foregoing agreement for Artist's services covered by the AFTRA Sound Recordings Code may include provisions which relate to the following: Music Publishing, Audio Visual Production, Merchandising and Mechanical Royalties.

The foregoing obligation shall apply to contracts entered into on or after three (3) months after the execution of

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this Code. The exercise of an option under, or the modification of, an existing contract is not to be construed as the entering into of a contract. The inadvertent failure to include such paragraph where required shall not invalidate the contract.

### **20. PRODUCTION PROSECUTED**

In the event that the recording for which an Artist is engaged by the Company is complained of because of the nature of the material, and a suit civil or criminal, private or governmental, shall follow, the Company agrees at its expense, to defend the Artist and to pay all judgments and reasonable expenses and charges properly incurred in connection with the defense. This paragraph does not apply to a case where the action is in respect of material furnished by the Artist or acts done by the Artist without authorization of the Company.

### **21. BONDS**

AFTRA reserves the right in its sole discretion to require the posting in advance of an adequate bond, cash or other security.

### **22. LEGISLATION AND/OR INTERNATIONAL CONVENTION**

In the event that, during the term of this Agreement, new Federal domestic legislation is enacted into law and/or during said term, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, dated October 26, 1961, becomes effective, which legislation or Convention creates new rights for performing Artists with respect to their performances on sound recordings which are used directly for broadcasting or for any communication to the public, and, as a result of such enactment of legislation or the said Convention becoming effective, remuneration is in fact received by the Company, the Company and AFTRA will, on thirty (30) days' written request of either party to the other, negotiate in good faith how much of said remuneration shall be paid to the performers covered by the AFTRA Code who will be engaged in the recording of the recordings involved for any such public performances. If such Convention or legislation shall provide for separate payments to performers, by reason of such public performance, none of the foregoing provisions of this paragraph shall apply. Nothing in this paragraph shall be construed as any indication that the Company favors the Convention or any legislation of the type or scope referred to in this paragraph.

It is specifically agreed that the principle hereinabove enunciated shall be contained in the next succeeding Code.

### **23. COMPANY'S DUTIES**

The Company agrees that:

- A. It will not enter into any agreement with or engage any Artist for sound recordings covered hereby, upon terms and conditions less favorable to the Artist than those set forth in this Code.
- B. No waiver or release by any Artist of any provisions of this Code shall be effective unless the written consent of AFTRA to such waiver is first had and obtained.
- C. Nothing in this Code shall be deemed to prevent any Artist from negotiating for and/or obtaining better terms than the minimum terms provided for herein.
- D. No waiver or release, whether oral, written, or endorsement on a check or otherwise, shall be effective to deprive an Artist of his rights under this Code.

### **24. OVER MINIMUM CONTRACTS**

Any Artist who is engaged to perform services at a scale, or under terms or conditions over and above the minimum scales, terms or conditions provided for in the Code, shall nevertheless have the protection and

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benefit of all other provisions and conditions set forth in this Code. If the compensation of the Artist for any engagement is above the minimum specified herein, additional services at applicable minimum fees for such engagement may be credited by the Company up to the full amount of the compensation paid to such Artist if there is a specific provision to such effect in the Artist's written contract, or if in the case of verbal engagement, it is specifically agreed at the time the verbal engagement is entered into that the Company is entitled to such credit.

### **25. ADMITTANCE**

An authorized representative of AFTRA shall be admitted to the premises of the Company or where the rehearsal or recording takes place, at any reasonable time, to check the performance by the Company of this Code; but such checking shall be done so as not to interfere with the conduct of the Company's business.

### **26. NO DISCRIMINATION**

The parties to this Code reaffirm their long-established and prevailing policy against discrimination as set forth in the Joint Industry-AFTRA Statement of Policy, of which a copy is filed with AFTRA, and also agree not to discriminate against any Artist because of race, sex, creed, color, age, national origin, disability, sexual orientation or marital status.

### **27. SEPARABILITY**

If any clause, sentence, paragraph, or part of this Code or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Code, or the application thereof to any person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be our intent that this Code would have been accepted even if such invalid provisions had not been included.

### **28. CAST CREDITS**

Cast Credits shall be listed on the liner notes for all performers playing major parts in the dramatic production (whether or not "Original Cast"), except in the case of Broadway or off-Broadway shows where the Independent Producer of the show has specifically prohibited the same.

The Company agrees that at the time each new royalty agreement is signed, the Company will advise each royalty artist that AFTRA has advised the Company of the importance of including all featured and non-featured vocalists on the liner notes for the recording.

### **29. MODIFICATIONS**

Except by mutual agreement to the contrary, or unless this Agreement specifically provides otherwise, each party agrees that the other, for the life of this Agreement, shall not be obligated to conclude an agreement with respect to any subject pertaining directly or indirectly to the engagement of any Artist in the sound recordings field, whether or not such subject is covered by this Agreement.

### **30. UNFAIR PRODUCERS**

This Code represents the minimum terms and conditions of recording Artists. Anyone engaging Artists in this field who breaches or violates any terms or conditions of the Code may be regarded as unfair, and Artists may be instructed without injury or damage to Artists or AFTRA, not to work on recordings covered by this Code for anyone who is unfair.

### **31. UNION STANDARDS**

- A. A Company shall not produce any phonograph from sound recordings acquired or taken from or licensed by any other person, firm or corporation, in the making of which there was utilized product recorded by one or more Artists in the Recording Territory, unless the total cost to the person, firm or corporation which produced the sound recording with respect to wages, hours, working conditions and other economic benefits paid to the Artist(s) was at least equal to what the cost would have been under the AFTRA Sound Recordings Code which was in effect at the time the sound recording was produced.
- B. The Company may satisfy its obligation under this paragraph by incorporating in an agreement under which it acquires the right to use the sound recording, a representation and warranty by the seller or licensor (which the Company shall guarantee if the seller or licensor was not party to an AFTRA Sound Recording Code when the sound recording was made) that such sound recording does not come within the terms of Section 31A or that the requirements of Section 31A have been satisfied and a statement that such representation and warranty was included for the benefit of AFTRA (among others) and may be enforced by AFTRA or by such person or persons as it may designate. Upon request, a signed copy of such agreement shall be furnished to AFTRA.
- C. The parties to this Code acknowledge and agree that the purpose and intent of this Section 31 is to ensure that no Company will be economically motivated to have a sound recording or any such part thereof produced by a nonsignatory which incurs economic cost with respect to the employment of Artists on such sound recording or part thereof which are not substantially equivalent to the economic costs which would have been incurred by the Company had it employed such Artists. This Section 31 shall be construed and enforced in accordance with such purpose and intent.

### **32. SUCCESSORS AND ASSIGNS**

The terms and provisions of this Code shall be binding upon all lessees, sublessees, assignees, transferees, purchasers, licensees or other successors to the business whether such transaction be by transfer, assignment, sale or exchange of stock by a transfer, bankruptcy, assignment, sale or other conveyance of assets or equipment, or by any other transaction which results in operation of the Company or parts thereof by a new entity. The Company shall require any such successor of the operation covered by this Code to accept the terms of the Code by written notice.

### **33. CATALOGUES AND RETAIL PRICE LISTS**

The Company shall promptly furnish to the American Federation of Television and Radio Artists, upon request, a copy of all of the Company's recording catalogues and a schedule of its manufacturer's suggested retail prices for each recording in its catalogue and thereafter from time to time a schedule listing all amendments and additions thereto as and when established.

At the end of each calendar month, the Company shall advise the American Federation of Television and Radio Artists of all recordings made by the Company during said month, the serial or other number thereof, and any additional information in connection with such recording which AFTRA may reasonably require. Upon request by AFTRA, the Company shall promptly furnish to it a copy of any such recordings. The Company shall respond promptly to reasonable request by AFTRA for information relating to the Company's performance of the terms and conditions of this Code.

### **34. AFTRA HEALTH AND RETIREMENT FUNDS**

#### **Section 1. Non-Royalty Artists**

- A. Subject to the limits hereafter provided, the Company shall contribute to the AFTRA Health and Retirement Funds (hereinafter referred to as the AFTRA Funds), a payment equal to eleven percent (11%) of the gross compensation paid by the Company to an Artist for services (including rehearsal) rendered by a non-Royalty Artist in respect of covered services.



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- B. Payment, together with the remittance reports described in Section 4.A. herein, shall be made to the AFTRA Funds not later than three (3) weeks following the later of the date of: 1) the event triggering the payment obligation (*e.g.*, the performance or contingent scale payment) or 2) the receipt by the Company of the relevant **Schedule A** form set forth in paragraph 12.A. **Production Memorandum**.
- C. "Gross Compensation" as used in paragraph A. includes all forms of payment to the Artist, or to any other person, firm, entity or corporation on behalf of the Artist, with respect to covered services.
- D. For purposes of this **Section 1.**, "non-Royalty Artist" includes Royalty Artists performing services ancillary to their services as a Royalty Artist for the Company (*e.g.*, singing on another Royalty Artist's sessions) and Artists who perform with a group Royalty Artist but do not share in the group's royalty agreement for the relevant recording.

### **Section 2. Royalty Artists**

Effective July 1, 2002, the Company shall contribute to the AFTRA Funds on behalf of each AFTRA-covered Royalty Artist a payment equal to nine percent (9%) of the Artist's Royalty Earnings as defined herein, whether recouped or unrecouped, subject to the limitations provided below. The contribution rate shall increase to ten percent (10%) effective January 1, 2006. "Royalty Earnings" as used herein are defined as gross royalties earned pursuant to the Artist's agreement with the Company for performance of covered services under the Code without regard to recoupment of any advances whatsoever, less only 1) reserves pursuant to said agreement, or if not set forth in the Artist's agreement, reasonable reserves, and 2) contractual royalty obligations to third parties, such as producers. The Company may prorate the Royalty Earnings on which the contributions provided herein are due based on the number of tracks produced in the Recording Territory compared to the number of tracks produced outside the Recording Territory provided that the Company shall document the reasonable basis for the proration, and such proration is subject to verification by the AFTRA Funds on audit or request.

#### **A. Individual Artists**

In the case of an individual Artist, contributions are due on the first \$120,000 (\$130,000 as of January 1, 2006) of the Royalty Earnings in respect of any calendar year.

#### **B. Group Artists**

In the case of a group Artist, the Company's required contributions with respect to the group shall be determined in the following manner and in the following order:

1. The group's Royalty Earnings in respect of the calendar year shall first be apportioned to the AFTRA-covered members of the group on the basis specified in the relevant recording contract or, if no basis is specified therein, on the basis of the number of members covered by this Code compared to the number of performers in the group as a whole. Such portion of the group's Royalty Earnings shall be referred to as the "AFTRA Portion of the Group's Royalty Earnings." (If the Company desires to determine the AFTRA Portion of the Group's Royalty Earnings based on the number of tracks on which AFTRA-covered members of the group appear compared to the number of tracks on which no AFTRA-covered members appear, the Company shall so indicate on **Schedule C**, provided the Company shall document the alternate proration and the proration shall be subject to verification by the Funds on audit or request).
2. The applicable contribution rate described in **Section 2.** above shall then be applied to the first \$120,000 (\$130,000 as of January 1, 2006) of the AFTRA Portion of the Group's Royalty Earnings determined under **Section 2.B.1.**
3. The parties acknowledge and understand that for the purposes of administration of the AFTRA Funds, including pension credit and health coverage eligibility determinations, each AFTRA-covered member of the group shall be credited with an equal share of the AFTRA Portion of the Group's Royalty Earnings on which contributions are due, unless the group provides the AFTRA Funds with a written agreement signed and notarized by all of the AFTRA-covered group members directing that the AFTRA Portion of the Group's Royalty Earnings shall be allocated to the AFTRA-covered group members in a different manner, or unless the Company provides a relevant recording contract

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establishing a different allocation. The AFTRA Funds shall thereafter allocate the Royalty Earnings with respect to which contributions are due in accordance with that agreement unless and until the AFTRA Funds receive a subsequent written agreement signed and notarized by all of the AFTRA-covered group members specifying a new allocation formula. A group may not file a new allocation formula more frequently than once every twenty-four (24) months, unless the composition of the group changes.

### **C. Combined Individual and Group Earnings**

If an individual performer has Royalty Earnings as both an individual Artist and as a member of a group for the same Company, the Company shall remit contributions for that performer on the group's Royalty Earnings in accordance with the group Artist provisions in Section 2.B. In addition, the Company shall remit contributions on the performer's Royalty Earnings as an individual Artist to the extent that the performer's share of the AFTRA Portion of the Group's Royalty Earnings, combined with the performer's Royalty Earnings as an individual Artist, do not exceed \$120,000 (\$130,000 as of January 1, 2006 ). Notwithstanding the foregoing, if two (2) or more individual Artists have Royalty Earnings or gross compensation with respect to one (1) or more recordings, the Company shall remit contributions on each performer's Royalty Earnings or gross compensation as an individual Artist and not as a group, unless the Company demonstrates that the individual Artists recorded as a group.

### **D. Production Companies**

1. In the event an Artist's Royalty Earnings are reported by the Company to a *bona fide* Independent Production Company, the Company shall contribute to the AFTRA Funds at the same rate provided in Section 2. above, except that the contributions shall be due on fifty percent (50%) of the Royalty Earnings, subject to subparagraph 2. below, and the limitations provided in Section 2.A. above in the case of an individual Artist and Section 2.B. above in the case of a group Artist. The fifty percent (50%) shall be determined before applying the cap provided in Section 2., subsections A. and B.2.
2. Notwithstanding the foregoing, the Company's contribution shall be based on the Artist's actual Royalty Earnings upon presentation of satisfactory documentation of the Artist's arrangement with the Independent Production Company, which shall be subject to verification by the AFTRA Funds on audit or request.
3. An Independent Production Company means an entity functioning as such with respect to an Artist's recording, which entity is not owned or controlled or operated by the Artist.
4. If an Artist's Royalty Earnings are reported by the Company to a third party other than an Independent Production Company, such as a business manager, personal manager, agent or attorney, or to a third-party entity owned or controlled by the Artist, whether or not incorporated, including but not limited to a loan-out company or an *f/s/o*, the Company shall remit contributions at the same rate provided in Section 2. above with respect to one hundred percent (100%) of the Royalty Earnings, subject to the limitations provided in Section 2., subsections A. and B. above.

### **E. Deceased Royalty Artists**

In the case of a deceased Artist, the Company shall remit contributions to the AFTRA Funds on the Artist's Royalty Earnings in respect of the year of death, with no additional contributions required on behalf of the deceased Artist thereafter. In the case of a deceased member of a group, the same aggregate limit shall apply, except that the limit shall be computed by reference to the member's share of the group's Royalty Earnings.

### **F. Time of Payment**

1. Payments on behalf of Royalty Artists shall be remitted by the Company to the AFTRA Funds no less frequently than semi-annually, within thirty (30) days after the royalty statements are issued by the Company to the Artist.
2. The parties acknowledge and understand that for purposes of administering the AFTRA Funds, an Artist shall be credited with earnings and compensation at the time and with respect to the eligibility

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period when the contribution and remittance reports required by this paragraph 34, **Section 2.**, are due, or the date the contributions are received by the AFTRA Funds, if earlier.

### **Section 3. Late Contributions**

If payments and/or reports are not received by the AFTRA Funds within thirty (30) days after they become due, the Company shall pay interest on the delinquent payments at the rate specified by the AFTRA Funds' Trust Agreement, as same may be amended from time to time, and further shall pay liquidated damages to the AFTRA Funds of up to twelve percent (12%) per year, if assessed by the Trustees.

### **Section 4. Reporting Requirements**

- A. Along with the payments required pursuant to **Section 1.** of this paragraph, the Company agrees to submit to the AFTRA Funds a completed **Schedule A** (attached to this Code) for each AFTRA-covered Artist at the time payment is made.
- B. Along with the payments required pursuant to **Section 2.** of this paragraph, the Company agrees to submit to the AFTRA Funds a completed **Schedule C** (attached to this Code) or substantially similar document acceptable to the AFTRA Funds for each AFTRA-covered individual Artist at the same time as the payment is made.

### **C. Audits**

The Company shall promptly comply with requests for audits by the AFTRA Funds' auditors and shall make available all records reasonably requested by the AFTRA Funds' auditors to verify the accuracy and completeness of the Company's compliance with its contribution and reporting obligations.

### **D. Confidentiality**

AFTRA acknowledges that it is the intention of the parties that all information provided by the Company to the Health and Retirement Funds will be treated as confidential and will be used for the purpose of administering the Health and Retirement Funds. AFTRA agrees to undertake to obtain the agreement of the Trustees of the Health and Retirement Funds to maintain such confidentiality and limited use with respect to the information reported to the AFTRA Funds pursuant to this Agreement.

### **Section 5. Company Responsibility for Labels**

As used herein Company shall mean each signatory company as well as each subsidiary and label, whether or not incorporated, for which the signatory company has agreed to take full responsibility under the Collective Bargaining Agreement and with respect to the obligations imposed under this paragraph.

### **Section 6. Protection of Rights**

- A. These provisions for the AFTRA Health and Retirement Funds are in addition to, and not in substitution, in whole or in part, for any existing health or retirement coverage available to Artists covered under this Code. No Artist shall lose, in whole or in part, any rights or privileges under such other health or retirement fund by virtue of receiving or being entitled to receive benefits under the AFTRA Funds. No payments, rights, or privileges available to an Artist under the AFTRA Funds shall be credited to any payments, rights, or privileges under any other health or retirement fund. Nothing herein shall preclude the AFTRA Funds from applying coordination of benefits and/or subrogation provisions.
- B. No part of the Company's contributions or the Artist's benefits from the Health and Retirement Funds: 1) may be credited against the Artist's overscale compensation or against any other benefits or emoluments whatsoever that the Artist may be entitled to, no matter what form such other benefits or emoluments may take, or 2) are subject to any talent agency commission, or other deduction.

### **Section 7. AFTRA Funds Agreement and Declaration of Trust**

- A. The AFTRA Funds shall continue to be maintained as Trust Funds and shall be administered pursuant to the AFTRA Funds Agreement and Declaration of Trust, dated November 16, 1954, as amended, which Agreement and Declaration of Trust, as amended, is hereby ratified and confirmed, and is made a part of this Code with the same force and effect as though fully set forth herein.

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- B.** The Company confirms and ratifies the designation of the current Producer Trustees of the AFTRA Funds and agrees to be bound by the actions and determinations of said Trustees. The Company also confirms and ratifies the procedures under the Agreement and Declaration of Trust for the substitution of Producer Trustees.
- C.** The Trustees of the AFTRA Funds are authorized to allocate contributions to the AFTRA Funds made hereunder between the AFTRA Health Fund and the AFTRA Retirement Fund in amounts (expressed in dollars or percentages) that they may consider necessary and appropriate, and to change such allocations from time to time as the Trustees in their discretion deem appropriate. The Company ratifies the current and prior allocations heretofore adopted by the Trustees.

### **Section 8. No Reimbursement from Artists**

The Company shall not require or seek reimbursement from the Artist of any portion of the contributions due or benefits received under paragraph 34. of this Code.

### **Section 9. Joint Committee**

AFTRA and the Industry agree to the creation of a Joint Industry-Union Standing Committee to meet at least quarterly during the term of this agreement, for the purpose of discussing interpretations of the collective bargaining agreement in connection with health and retirement contributions and payment procedures, as well as the conduct and progress of audits relating to such payments. The committee may meet more frequently upon request of either party.

## **35. EMPLOYMENT OF MINORS**

The parties hereto, recognizing the special situation that arises when minors are employed, agree that with respect to minors employed under this Code, the following principles should be observed:

- A.** The performance environment is proper for the minor;
- B.** The conditions of employment are not detrimental to the health and morals of the minor; and
- C.** The minor's education will not be neglected or hampered by the minor's employment and the Company will comply with all applicable education laws.

It is the intent of this provision that the best interests of the minor be the primary consideration hereunder with due regard to the age of the minor.

**APPENDIX A**

In addition to the payments due to an Artist for making a sound recording as set out in paragraph 6., certain additional ("contingent scale") payments shall be made pursuant to the terms of this **Appendix A**.

**A. Definitions**

For purposes of this **Appendix A** the following definitions shall apply:

1. "Covered Artist" shall mean a singer, actor, narrator or announcer ("Artist") who was eligible for and who was paid the applicable minimum compensation pursuant to paragraph 6. hereunder for such Artist's performance on a recording of a side and who was not entitled to receive, directly or indirectly, royalty payments for such recording of a side. The fact that an Artist received more than the applicable minimum compensation other than royalty payments paid to him pursuant to paragraph 6. shall not affect his/her status as a covered Artist hereunder.
2. "Covered side shall mean a side recorded on or after December 15, 1974 by a covered Artist. A side shall cease to be a covered side ten (10) years after the date of its first release in whatever format.
3. "Covered album shall mean LP, cassette, cartridge or compact disc which includes one (1) or more covered sides not previously released in an album format.
4. "Covered single shall mean a single which includes one (1) or more covered sides not previously released as part of a single.
5. "Covered sales shall mean net sales of covered albums or covered singles as the case may be:
  - a. In the United States;
  - b. Through normal retail channels;
  - c. With an allowance for reasonable reserves for returns; and
  - d. Excluding albums or singles distributed as free goods or promotional goods.
6. "Applicable minimum scale shall mean the initial minimum per side rate applicable to the original recording of a covered side as provided for in paragraph 6. (including but not limited to 6.G.), and excludes any hourly payments, premium payments, multiple tracking payments, or other such payments, except as used in the crediting provisions in C. below.
7. "Normal retail channels" shall mean the regular retail market as that term is used in the trade, as opposed to marketing through record clubs, mail order, premium, and the like.

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**B. Amount of Contingent Scale Payments**

**1. Albums.** With respect to each covered album, the covered Artist shall receive a contingent scale payment equal to the product of the aggregate of the applicable minimum scale payable to such Artist for each covered side not previously released in an album format contained in said album multiplied by the applicable contingent scale factor listed below:

**a.** Covered albums which are original cast show albums:

<i>Covered Sales of Album – Units</i>	<i>Contingent Scale Factor</i>
320,000	40%
460,000	30%
600,000	30%
740,000	30%

**b.** All other covered albums:

<i>Covered Sales of Album - Units</i>	<i>Contingent Scale Factor</i>
157,500	50%
250,000	50%
375,000	50%
500,000	60%
650,000	60%
825,000	60%
1,000,000	75%
1,250,000***	75%
1,500,000*	75%
1,750,000***	75%
2,000,000*	75%
2,250,000***	75%
2,500,000**	75%
2,750,000***	75%
3,000,000**	75%

\* For recordings released after January 1, 1995

\*\* For recordings released after June 30, 1997

\*\*\*For recordings released after July 1, 2002

**2. Singles.** With respect to each covered single, the covered Artist shall receive a contingent scale payment equal to the product of the aggregate of the applicable minimum scale payable to such Artist for each covered side not previously released as a single contained in said single multiplied by the applicable contingent scale factor listed below:

<i>Covered Sales of Single - Units</i>	<i>Contingent Scale Factor</i>
500,000	33-1/3%
600,000	33-1/3%
750,000	33-1/3%
850,000	33-1/3%
1,000,000	33-1/3%
1,500,000	33-1/3%

**C. Schedule of Contingent Scale Payments**

1. Contingent scale shall be paid by the Company at periodic intervals of six (6) months or less and shall be accompanied by a statement which identifies the covered recordings and which shall be available to AFTRA upon request. Statements will be examined promptly after receipt and any discrepancy or challenge brought to the attention of the Company no later than the end of the next calendar year. Contingent scale shall be paid by the Company only after such payments have actually accrued; however the Company may, subject to the consent of the covered Artist, credit overscale payments in excess of two and one-half (2½) times the full applicable minimum scale, toward moneys due the covered Artist under this **Appendix A**. Contingent scale payments may not be recouped from or otherwise charged against royalties or other payments due to AFTRA Royalty Artists.
2. Each Company will establish a six (6) month schedule for statement and payment of contingent scale, and once established such schedule shall be maintained. Payments will be made within three (3) months of the end of each six (6) month period. For example, payment (and statement) for the six (6) month period ending December 31, 2002, will be made no later than March 31, 2003. If the Company fails to make the payment required within such three-month period but thereafter pays within thirty (30) days, the Company is liable for a five percent (5%) penalty. No further penalty shall be imposed until the Company receives notice of default. Thereafter, a five percent (5%) penalty shall accrue for each thirty (30) days of default, based on the amount originally due, to a maximum penalty of one hundred percent (100%). The foregoing penalties shall not apply in the cases enumerated in paragraph **7.B.** of the Code, "**Compensation - Penalty for Late Payment.**"

**D. Audit of Contingent Scale Payments**

AFTRA shall have the unqualified right once during each period of one (1) calendar year to audit the Company's records for the prior two (2) year period relating to the contingent scale payments for the purpose of verifying the accuracy of such payments. The Company agrees that for this purpose it will keep and maintain adequate records and accounts of the sound recordings concerned.

**E. Continued Responsibility**

The employing Company shall be responsible for all contingent scale payments hereunder, unless an appropriate assumption agreement has been accepted by AFTRA.

**F. Digital Distributions**

Within ninety days of AFTRA's or the Company's request, the parties agree to meet to discuss the applicability of this contingent scale appendix to digital distributions of sound recordings. The parties will consider whether such distributions are calculable, whether the economic structure for digital distribution of sound recordings is similar or comparable to that of hard product unit sales, and whether the same contingent scale structure should apply or if the structure should be modified.

The parties agree that this matter can be submitted to interest arbitration 60-90 days after one party concludes that the parties cannot agree on whether, and the manner in which, digital distribution should receive contingent scale payments and provides notice of such conclusion to the other party.

The arbitrator shall be Richard Block, and he shall have the power to mediate, hold hearings, compel the attendance of witnesses and the production of documents, review data, and take whatever action he considers necessary to resolve the issue. If the arbitrator is unable to mediate a mutually acceptable resolution within 30 days, he shall, within 60 days, render a final and binding written arbitration decision determining whether, and the manner in which, digital distributions of sound recordings shall receive contingent scale payments. Such decision shall contain findings of fact, conclusions, and the terms of resolution.

**LETTER OF AGREEMENT #1**

**Re: Required Information**

This Letter of Agreement, by and between the American Federation of Television and Radio Artists (hereinafter referred to as "AFTRA") and the undersigned Producer of Sound Recordings (hereinafter referred to as the "Company"), is intended to reflect the parties' discussion and agreement during the 1993-1994 Sound Recordings Code and 1997-2001 Sound Recordings Code negotiations regarding follow-up steps that are necessary to obtain information relevant to the proper administration of the Collective Bargaining Agreement, and the representation of Royalty Artists and session singers generally.

During the 1993-1994 negotiations AFTRA proposed that the Companies be required to provide on a monthly basis the names of all performers on a recording, the track on which they appear, their social security numbers, the date of their performances and, if appropriate, the contact for the Artists. During the 1997 negotiations, AFTRA proposed that, within 30 days of a recording release date, the Company provide the names, social security numbers and addresses of all featured artists and non-featured vocalists appearing on the recording.

The parties were unable to agree to these proposals, notwithstanding their conceptual willingness to do so, because the parties were unable to determine ways in which this responsibility could be satisfied.

The parties have therefore agreed to follow-up meetings at a time and place to be mutually agreed, within six (6) months of the execution of this Letter of Agreement, to discuss this matter further. Additionally, the parties have agreed to share the reasonable costs and expenses of a qualified consultant(s) that can advise the parties on ways in which to accomplish the above-stated objective.

In witness whereof, the undersigned have executed this Letter of Agreement this \_\_\_\_ day of \_\_\_\_\_, 2004.

/S/

\_\_\_\_\_  
Norman K. Samnick

/S/

\_\_\_\_\_  
Michael A. Curley

/S/

\_\_\_\_\_  
Greg Hessinger  
National Executive Director  
AFTRA



**LETTER OF AGREEMENT #2**

**Re: Union Security**

WHEREAS, the parties to this Agreement are desirous of applying the amended provisions of the Collective Bargaining Agreement regarding union security to any Artists who may currently be subject to such provisions at the time of contract signing,

NOW THEREFORE, it is agreed to apply the provisions of paragraph 1. **Union Security** to those Artists as follows:

1. Within thirty (30) days of execution of this Agreement, the Company will, pursuant to paragraph 33., regarding company required information, provide a complete roster of all its Artists to AFTRA along with the information required under paragraph 1. **Union Security**. It is understood that this paragraph applies to those covered Artists who are still "active" and not those whose recording careers have ended.
2. AFTRA will use its best efforts to complete the membership application process with any Artist(s) who it finds have not completed the membership application process within a reasonable time from the date it receives such company information.
3. If AFTRA is unable to complete the membership application process for any Artist(s) identified on the list, AFTRA shall notify the Company in writing and the Company shall send the first agreed upon notice, with a copy to AFTRA, within fifteen (15) business days of receipt of the AFTRA notice.
4. If AFTRA is still unable to complete the membership process within fifteen (15) business days of the date of the Company letter specified in paragraph 3., above, AFTRA will again notify the Company in writing. Within ten (10) business days of receipt of such notice, the Company will send the second agreed upon notice with a copy to AFTRA.

The revised union security provisions are not intended to alter the rights, obligations and/or duties of the parties, including AFTRA's right to arbitrate any dispute hereunder, except as specifically modified herein.

At any time after January 1, 1996, AFTRA shall have the right upon thirty (30) days notice in writing to call a meeting with the Company to assess whether the above steps, and the amended provisions of paragraph 1. **Union Security**, have been successful in resolving problems hereunder, and to determine what additional steps, if any, are necessary.

In witness whereof, the parties have signed this Memorandum of Agreement this \_\_\_\_ day of \_\_\_\_\_ 2004.

**For: American Federation of Television and Radio Artists**

/S/

\_\_\_\_\_  
Greg Hessinger, National Executive Director

/S/

\_\_\_\_\_  
Witness

**For: Companies**

/S/

\_\_\_\_\_  
Norman K. Sannick

/S/

\_\_\_\_\_  
Witness

/S/

\_\_\_\_\_  
Michael A. Curley

/S/

\_\_\_\_\_  
Witness

**LETTER OF AGREEMENT #3**

As of April 1, 1990

Gentlemen:

With reference to the **2002-2006 AFTRA National Code of Fair Practice For Sound Recordings** ("the Code"), AFTRA hereby agrees to the following:

1. The provisions of paragraph **1. Union Security** shall not be applicable to amateur singing groups of fifty (50) or more as set forth in paragraph **10.B**. All terms and conditions of the Code shall be applicable to professional members of such glee clubs, choirs and choruses of *bona fide* philanthropic, educational or religious organizations.
2. AFTRA hereby grants a waiver to your Company of the last sentence of paragraph **17. Contracts with Artists** of the Code.
3. With reference to paragraph **21. Bonds** of the Code, pertaining to the requirement of posting in advance an adequate bond, cash or other security, AFTRA hereby grants to your Company the waiver of said paragraph.
4. With reference to paragraph **30. Unfair Producers**, as defined in the Code, AFTRA hereby agrees that your Company will not be declared unfair without first submitting the alleged breach or violation of any of the terms or conditions of the Code to arbitration.

Kindly indicate your acceptance and agreement to the terms and conditions of this combined side letter by affixing your Company name, signature (and date of said signature) in the space provided and returning one copy to the undersigned.

Very truly yours,

---

Greg Hessinger  
National Executive Director  
American Federation of Television and Radio Artists

ACCEPTED AND AGREED TO:

Company: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

**LETTER OF AGREEMENT #4**

As of April 1, 1990

American Federation of Television and Radio Artists  
260 Madison Ave  
New York, NY 10016

Gentlemen:

In recognition of singers' concerns about the impact that computerized equipment such as *Emulator*, *Synclavier*, *Fairlight*, *Kurzweil* may have on employment of singers, the Producers agree to participate in a joint AFTRA-Industry Committee formed to discuss these concerns.

Very truly yours,

Company: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

**AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS**

By: \_\_\_\_\_

Greg Hessinger  
National Executive Director

**LETTER OF AGREEMENT #5**

**HEALTH AND RETIREMENT FOR COVERED "ROSTER ARTISTS"**

In order to provide health coverage under the AFTRA Health Fund to "covered roster artists" (as defined below), the Company agrees as follows:

Effective January 1, 2004, for each semi-annual reporting period, on behalf of each covered roster artist, the Company will "look back" at the current and immediately previous Schedule C payments, and determine if the covered roster artist's royalty earnings met the minimum eligibility threshold for individual AFTRA health plan coverage as defined by the AFTRA Health Plan. If the covered artist's earnings under the current and immediately preceding Schedule C payments did not meet the minimum eligibility threshold for individual AFTRA Health Plan coverage, the Company will make a special payment of \$1270 ("Special Payment") on behalf of the covered roster artist. If the covered roster artist's earnings for this period met the minimum eligibility threshold for individual AFTRA health plan coverage, or if the Company had made a Special Payment for such artist concurrent with the immediately preceding Schedule C payment, no Special Payment shall be made on behalf of that covered roster artist.<sup>1</sup> A "covered roster artist" shall be defined as an artist bound by an exclusive recording agreement with the Company as of the last day of the immediately preceding semi-annual Schedule C period. The term "artist" as used herein refers to each covered individual person, whether or not a member of a group.

Such Special Payments shall be dedicated to the AFTRA health plan for the purpose of providing individual health coverage under the AFTRA health plan.

Any participant premium payments required of individual participants eligible for coverage under the rules of the AFTRA Health Plan are separate and distinct from the \$1270 Special Payment provided for herein, and shall be the responsibility of, and paid by, the covered roster artist.

Special Payments shall be made at the same time as the semi-annual Schedule C payments. The Special Payments shall be submitted together with such remittance report as the AFTRA Health Fund may reasonably require, including the name, address and social security number of the artists (or in the case of a group artist, the AFTRA-covered members of the group), the signing or completion date of the royalty agreement in the case of newly signed artists, or such other information as the Fund may reasonably require.

The Company shall remit an initial Special Payment to the AFTRA Health Fund on behalf of each newly signed individual artist who completes a royalty agreement with the Company, and remit such payment with the first Schedule C remittance immediately following the completion of such royalty agreement.

Notwithstanding the foregoing, if the Company failed to make a Special Payment on behalf of an AFTRA-covered member of a group because the Company had a good-faith belief that the individual was not AFTRA-covered when the royalty agreement with the group was completed, the Company may make the Special Payment without penalty on behalf of the AFTRA-covered member with the next regularly scheduled Schedule C payments following the Company's discovery of his/her coverage under the Sound Recordings Code.

The parties acknowledge and understand that for purposes of administering the AFTRA Health Fund, eligibility for coverage under the AFTRA Health Fund by virtue of this Special Payment provision will be based on the due date of the payment in accordance with the Company's semi-annual reporting schedule, and will continue for a period of no more than 12 months from such date of eligibility. In the event of a Special Payment for a newly discovered vocalist as set forth above, eligibility of the artists on whose behalf the Special Payment is made shall be based on the receipt date of the payment.

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<sup>1</sup> The Fund's Trustees have approved allowing for the provision of full Individual Plan benefits to all roster covered artists based upon an annual contribution level of \$1270 and required premium sharing by the artists.

**2002 - 2006 AFTRA National Code of Fair Practice for Sound Recordings**

It is understood that some labels may report their Schedule C payments on a quarterly basis. For such labels, the procedures will be adjusted to reflect that the label reports four times per year, rather than twice per year. The label will notify AFTRA and the AFTRA H&R Funds if, during the term of this agreement, it plans to change its schedule of reporting from the schedule used by the label as of January 1, 2004.

AFTRA and the labels will develop a system for providing information to AFTRA on new signings and active roster artists prior to the first Schedule C payments due in Spring 2004.

/S/ Norman K. Samnick

/S/Michael A. Curley

/S/Greg Hessinger

National Executive Director, AFTRA

**SUPPLEMENT TO LETTER OF AGREEMENT #5**

The following is intended as a description of the practical application of the timing of Special Payments remitted pursuant to Letter of Agreement #5, and the intended schedule of eligibility for individual health plan coverage for covered roster artists who receive AFTRA Health Plan coverage through the Special Payment. It is understood that different companies and labels file their Schedule C payments on differing schedules, usually April and October or March and September. The attached describes the timing for a label that files Schedule C's on a March/September timeline (with the timing for a label that files on an April/October timeline in parentheses). Note: The \$10,000 earnings threshold referred to in this description is used for example purposes only, based on the AFTRA individual health plan threshold in effect as of December 31, 2003. It is understood that this threshold may, in the future, rise by action of the AFTRA H&R Funds Trustees. As such, the minimum threshold that must be met for purposes of determining whether a Special Payment must be made would increase consistent with such threshold as may be established by the Trustees.

Basic system for roster artist payment:

Label sends Schedule C remittance to AFTRA H&R Funds in March 04 (April 04) for the royalties earned 7/03-12/03. For any individual covered artist who was on the roster as of one month prior to the required remittance of the Schedule C, e.g., February 29, 2004 for a March 31, 2004 Schedule C remittance due date (March 31, 2004 for an April 30, 2004 Schedule C remittance due date) and who did not have royalty earnings of \$10,000 reported for the combined 1/03-6/03 and 7/03-12/03 periods, the label will make a \$1270 Special Payment on that individual's behalf. Such individual covered artists will receive individual health plan coverage starting 7/1/04 (10/1/04).

Label sends Schedule C to AFTRA H&R Funds in September 04 (October 04) for royalties earned 1/04-6/04. For any individual covered artist on the roster as of one month prior to the required remittance of the Schedule C, e.g., August 31, 2004 for a September 30, 2004 Schedule C remittance due date (September 30, 2004 for an October 31, 2004 Schedule C remittance due date) who has neither (1) royalty earnings of at least \$10,000 reported for the combined 7/03-12/03 and 1/04-6/04 periods NOR (2) a Special Payment made with the March 04 (April 04) Schedule C, the Label will make a Special Payment. Such individual covered artists will receive individual health plan coverage starting 1/1/05 (April 05).

Label sends Schedule C remittance to AFTRA H&R Funds in March 05 (April 05) for royalties earned 7/04-12/04. For any individual covered artist who was on the roster as of one month prior to the required remittance of the Schedule C, e.g., February 28, 2005 for a March 31, 2005 Schedule C remittance due date (March 31, 2005 for an April 30, 2005 Schedule C remittance due date) and who did not have (1) royalty earnings of at least \$10,000 reported for the combined 1/04-6/04 and 7/04-12/04 periods NOR (2) a \$1270 payment made with the September 04 (October 04) Schedule C, the Label will make a Special Payment to provide the individual covered artist with individual coverage starting 7/1/05 (10/1/05).

Simply stated, with each Schedule C, the Label looks at its current and immediately preceding Schedule C. If the covered artist did not have at least \$10,000 in earnings in those two Schedule Cs, or there was not a Special Payment made with the immediately preceding Schedule C, then the Special payment is made at that time.

For purposes of taking a "snapshot" of who is on the roster for each of these Schedule C's, we understand that the cut off date is the last day of the month immediately preceding the month in which the Schedule C remittance is required, as described in the examples above.

New signings: New signings will be remitted with the semi-annual Schedule C. For any artists signed between September 1 through February 28 (October 1 through March 31), the \$1270 new signing payment will be remitted with the March (April) Schedule C. For any artists signed from March 1 through August 31 (April 1 through September 30) the \$1270 payment will be made with the September (October) Schedule C. Once on, the artist is then in the cycle with the other pre-existing roster artists.

**2002 - 2006 AFTRA National Code of Fair Practice for Sound Recordings**

For labels that report on a quarterly basis, the "lookback" will involve the current and three preceding Schedule C's to determine if the artist had at least \$10,000 in royalty earnings or a Special Payment within a 12 month period.

**LETTER OF AGREEMENT #6**

WHEREAS, negotiations over the terms and conditions for production of "music videos" (as that term is commonly understood) took place in the 1980's;

WHEREAS, AFTRA and the companies who are signatory to the Sound Recordings Code now desire to negotiate a new agreement regarding the terms and conditions of employment in connection with the production of music videos involving artists on the rosters of those companies who are signatory to the Sound Recordings Code.

NOW THEREFORE, the parties have agreed as follows:

1. Effective with the execution of this Agreement, music videos which are produced by companies who are signatory to the Sound Recordings Code will be produced under the exclusive jurisdiction of AFTRA if the following conditions are satisfied:
  1. Such companies are not currently a SAG signatory for the purpose of making music videos;
  2. the music video being produced uses as its underlying audio track a sound recording produced under the Sound Recordings Code; and
  3. the music video is produced in the United States, its territories and possessions.
2. For purposes of this Letter of Agreement, a music video produced by a signatory to the Sound Recordings Code also means any music video produced by an entity at the direction of a signatory, utilizing as its underlying audio track a sound recording produced by the signatory.
3. Companies who are signatory to the Sound Recordings Code have also agreed to meet for the purpose of negotiating changes to the existing understanding (referenced above) setting forth the terms and conditions for production of music videos upon reasonable notice by AFTRA. Reasonable notice shall mean giving at least sixty (60) days notice of a desire to meet.
4. If requested by AFTRA, the companies who are signatory to the Sound Recordings Code will agree that the Screen Actors Guild may attend such negotiations. If requested by the Companies, AFTRA will agree that other companies who either produce music videos already or who intend to produce music videos may attend such negotiations. The actual parties to these negotiations, however, shall in all instances only be the parties to the Sound Recordings Code.

IN WITNESS WHEREOF, the parties have signed this Letter of Agreement this     day of                     , 2004.

/S/ Norman K. Samnick

/S/Michael A. Curley

/S/Greg Hessinger  
National Executive Director, AFTRA



## SCHEDULE A & B

### SOUND RECORDINGS SESSION REPORT and H&R REPORT

\_\_\_\_\_  
Company Name  
\_\_\_\_\_  
Address

\_\_\_\_\_  
Job Number  
\_\_\_\_\_  
H&R Account Number

**American Federation of Television and Radio Artists**

260 Madison Avenue New York, NY 10016-2420 (212) 532-0800  1108 17 <sup>th</sup> Avenue South Nashville, TN 37212-2204 (615) 327-2944	5757 Wilshire Blvd. Los Angeles CA 90036-3689 (323) 634-8141  One East Erie, Suite 650 Chicago, IL 60611 (312) 573-8081
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**NOTICE:**

**It is the responsibility of the Member to file the original copy of the report with the AFTRA Local office within 48 hours of the session and deliver all other copies to employer at end of session.**

Type of Recording: <input type="checkbox"/> Single <input type="checkbox"/> Album <input type="checkbox"/> Classical <input type="checkbox"/> Audio Book <input type="checkbox"/> Music Video Move-Over <input type="checkbox"/> Conversion <input type="checkbox"/> Other							
Date of Employment:		Recording Studio:			Address:		
Featured Artist/Project Title:					Label:		
Producer:			Address:			Phone:	

Song No.	Record (Title)	Must Provide		Song No.	Record (Title)	Must Provide	
		Overdubs	Playing Time			Overdubs	Playing Time
1				5			
2				6			
3				7			
4				8			

List all Artists (Including Royalty Artists)		Song No.	Cate-gory.*	Time		No. of Sides	No. of Hours	Gross Compensation
Name - Last, First, MI (first line) Social Security Number (second line)	Home Address (Street, City, State, Zip)			From	To			
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This engagement governed by and subject to the applicable terms of the AFTRA National Code of Fair Practice for Sound Recordings	Signatory Company name:	<b>Total All Gross Compensation</b>	\$
		<b>11% AFTRA H&amp;R Contribution</b>	\$

**\* Key to Category:**

Soloists / Duos	S	Groups 17 - 24	S17	Contractor	C	Announcer	ANN
Groups 3 - 8	S3	Groups 25 - 35	S25	Narrator	N	Sound Effects	SE
Groups 9 - 16	S9	Groups 36 plus	S36	Actor	A	Step-Out	SO
						Comedian	CM

Additional Remarks:

Signature of Employee or Representative	Signature of AFTRA Member	Phone No.	Date

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# AFTRA SOUND RECORDINGS CONTINGENT SCALE PAYMENT REPORT

Featured Artist: \_\_\_\_\_  
 Selection Title: \_\_\_\_\_  
 Selection No.: \_\_\_\_\_  
 Release Date: \_\_\_\_\_  
 Payment for Period Ending: \_\_\_\_\_

Signatory  
 Company  
 Name: \_\_\_\_\_

Address: \_\_\_\_\_

*Send report to the AFTRA office where original Session Report was sent.*

City Where Recorded: \_\_\_\_\_

SINGLE     ALBUM     ORIGINAL CAST     OTHER

SONG TITLE(S) IN SINGLE / ALBUM		
1	6	11
2	7	12
3	8	13
4	9	14
5	10	15

Social Security Number	Performer's Name			Category	Original Scale	Recording Date	Song Number(s)	Contingent Scale	Late Payment	TOTAL
	Last	First	MI							

Total Number of Units Sold: \_\_\_\_\_  
 Total % Factor Reached: \_\_\_\_\_  
 Less % Factor Previously Paid: \_\_\_\_\_  
 % Factor Currently Due: \_\_\_\_\_

TOTAL: \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

HEALTH & RETIREMENT CONTRIBUTION (11%): \$ \_\_\_\_\_

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**AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS  
AFTRA**

**SCHEDULE " C "      Royalties Only      SOUND RECORDINGS**

This report will be used for each individual artist or group under a royalty contract. Reports will be filed, as set forth in paragraph 34 section 2 (A-F) of the Sound Recordings Code, on a semi-annual basis corresponding with the semi-annual royalty accounting periods from the Company to the Artists. This form is not to be used to report scale payments made to any performer, report session payments on Schedule "A".

**IMPORTANT** Make check payable to AFTRA H & R Funds and mail original and first two copies of this report to: **AFTRA Health & Retirement Funds, P.O. Box 19260, Newark, NJ 07195-0260**

Reporting Co. _____	Royalty Accounting Period Ending _____
Address _____	Date of this report _____
City, State _____ Zip _____	H&R Payor # _____
Label _____	Signature _____

Group Name _____ (if applicable) List group members and % allocation below.	(A) # of royalty members _____, (B) # of AFTRA covered _____
	(C) Total Group Royalties for period _____
	(D) B/A times C = _____ (Total AFTRA covered royalties) [enter at (a) below]

Have members or % allocation changed since last report?  No  Yes

<b>SOCIAL SECURITY</b>	<b>PERFORMER'S NAME</b>	<b>(E) TOTAL ROYALTIES</b>
Account Number	Last                  First                  Mid. Init.          ID	[enter at (a) below]

**HEALTH & RETIREMENT REMITTANCE**

(a) Total of AFTRA covered royalties [from D or E above] \$ \_\_\_\_\_  
Or maximum per par. 34, sec 2 (A. or B.), if (a) will exceed the "cap"

(b) Contribution \_\_\_\_\_ % of (a) above ----- \$ \_\_\_\_\_

(c) Amount previously remitted in calendar year \_\_\_\_\_ (plus) + (b) \_\_\_\_\_ = \$ \_\_\_\_\_  
(if applicable)

(d) If (c) is over maximum calendar contribution  
effective 7/1/02, 9.00% of maximum earnings cap \$120,000 = \$ 10,800  
effective 1/1/06, 10.00% of maximum earnings cap \$130,000 = \$ 13,000  
**deduct excess from (b)** (minus) - \$ \_\_\_\_\_

**(e) Amount due with this report** ----- \$ \_\_\_\_\_

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