

November 22, 2019

**MEMORANDUM OF UNDERSTANDING BETWEEN
ALLIANCE OF MOTION PICTURE AND TELEVISION PRODUCERS
AND AMERICAN FEDERATION OF MUSICIANS**

On November 22, 2019, the parties covered by this Memorandum of Understanding ("MOU") reached an agreement (subject to ratification by the members of the Federation) for successor agreements to the Basic Theatrical Motion Picture Agreement of May 2019 and the Basic Television Motion Picture Agreement of May 2019 (the "May 2019 Agreements").


1. By the terms of this MOU, the May 2019 Agreements shall be modified as set forth herein.
2. In all other respects, the May 2019 Agreements shall remain in full force and effect during the term of the December 2019 Agreements, which shall commence on the Sunday following the date that the AMPTP receives notice of ratification and continue until November 14, 2021.
3. The parties shall promptly take the necessary steps to incorporate the agreed-upon changes in the May 2019 Agreements to create the Basic Theatrical Motion Picture Agreement of December 2019 and the Basic Television Motion Picture Agreement of December 2019.

**Alliance of Motion Picture and Television
Producers**
On behalf of the Producer
Parties listed on page (ii) herein

By: 
Carol A. Lombardini
President

Dated: November 22, 2019

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

By: 
Raymond M. Hair, Jr.
President

Dated: 11/22/19

AFM BASIC THEATRICAL MOTION PICTURE AGREEMENT OF DECEMBER 2019

BTW Productions Inc.
Cast & Crew Talent Services, LLC
Columbia Pictures Industries, Inc.
EPSG Talent Services
Forward Processing CA, Inc.
J-Mac Music, Inc.
Main Processing, Inc.
Metro-Goldwyn-Mayer Pictures Inc.
New Line Productions, Inc.
Paramount Pictures Corporation
Savant Productions, Inc.
TNT Payroll Holdings, Inc. d/b/a Sabron Payroll Services
Twentieth Century Fox Film Corporation
Universal City Studios, LLC
Walt Disney Pictures
Warner Bros. Pictures

AFM BASIC TELEVISION MOTION PICTURE AGREEMENT OF DECEMBER 2019

ABC Studios New York, LLC
BTW Productions Inc.
Cast & Crew Talent Services, LLC
CBS Studios Inc.
CPT Holdings, Inc.
EPSG Talent Services
Forward Processing CA, Inc.
J-Mac Music, Inc.
Main Processing, Inc.
MGM Television Entertainment Inc.
Paramount Pictures Corporation
Savant Productions, Inc.
TNT Payroll Holdings, Inc. d/b/a Sabron Payroll Services
Touchstone Television Productions, LLC. d/b/a ABC Studios
Twentieth Century Fox Film Corporation
Universal Content Productions LLC
Walt Disney Pictures
Warner Bros. Television

1. **Term**

The term of the AFM Basic Theatrical and Television Motion Picture Agreements of December 2019 shall commence on the Sunday following the date that the AMPTP receives notice of ratification and shall continue until November 14, 2021.

2. **Minimum Wages**

Increase all minimum wage rates in the AFM Basic Theatrical Motion Picture Agreement (specifically, those minimum wage rates in Paragraphs 8(b), 15(a)(1), 15(a)(2)(i), 15(b)(3), 15(b)(11), 15(b)(15), 16, 17, 26, 31, 35, 41-43, 48, 50, 51, 53, 55, 58(b), 61(c)(2), 62(c)(2) and 63(c)(2)) and in the AFM Basic Television Motion Picture Agreement (specifically, those minimum wage rates in Paragraphs 8(b), 15(a)(1), 15(a)(2)(i), 15(b)(3), 15(b)(11), 15(b)(15), 15(c)(2), 16, 17, 26, 31, 35, 41-43, 48, 50, 51, 53, 55, 58(b) and 61(c)(2)) as follows:

- a. by three percent (3%) effective May 3, 2020; and
- b. by an additional three percent (3%) effective May 2, 2021.

The parties agree that there shall be no increase in minimum wage rates between May 2, 2021 and May 1, 2022.

3. **Terms and Conditions for High Budget SVOD Programs**

- a. *Modify the Sideletters re: Productions Made for New Media to the AFM Basic Theatrical Motion Picture Agreement and AFM Basic Television Agreement by adding the following as a new Paragraph F., and relettering the existing Paragraphs F. and G. as Paragraphs G. and H.:*

“F. High Budget Derivative and Original Dramatic New Media Productions Made for Initial Exhibition on a Subscription Video-On-Demand Consumer Pay Platform

“(1) Prospective Application

“This Paragraph F. shall not apply to:

- “(a) any program or series that would otherwise qualify as a ‘High Budget SVOD Program’ within the meaning of this Sideletter, for which the principal photography of the program, in the case of a one-time program, or the principal photography of the first episode, in the case of a series, commenced prior to [the Sunday closest to the date that is**

ninety (90) days following the date that the AMPTP receives notice of ratification]; or

“(b) any program or series that would otherwise qualify as a ‘High Budget SVOD Program’ within the meaning of this Sideletter, for which the principal photography of the program or the first episode of the series commenced after [the Sunday closest to the date that is ninety (90) days following the date that the AMPTP receives notice of ratification], if such program or series was produced pursuant to the terms of a bona fide license agreement with fixed and definite terms entered into by the Producer prior to [the Sunday closest to the date that is ninety (90) days following the date that the AMPTP receives notice of ratification]. However, if such license agreement is entered into subject to conditions precedent, then all such conditions must be satisfied prior to [the Sunday closest to the date that is ninety (90) days following the date that the AMPTP receives notice of ratification].

“Any program or series described in subparagraphs (a) or (b) above shall continue to be subject to the terms of the Sideletter Re: Productions Made for New Media in the May 2019 Television Agreement, except that the pension contribution rate for Employees and the minimum wage rates for sideline musicians employed on such programs shall be as set forth in the successor agreement to the May 2019 Television Agreement. However, with respect to any such program or series described in subparagraphs (a) or (b) above, if the licensee orders additional programs or episodes pursuant to the terms of the license agreement after [the Sunday closest to the date that is ninety (90) days following the date that the AMPTP receives notice of ratification] and the Producer has the right to negotiate with respect to the material terms and conditions of the license for the additional programs or episodes, then such additional programs or episodes shall be subject to the terms of this Sideletter.”¹

¹ “In the event that Producer asserts that a program or series is grandfathered under the provisions of Paragraph F.(1)(b) above, a limited number of representatives of the AFM, subject to the execution of a confidentiality agreement satisfactory in form to the Producer, may inspect those portions of the license agreement that are relevant to determine whether the Producer had the right to renegotiate with respect to the material terms and conditions of the license for the additional programs or episodes. All information received or reviewed by representatives of the

“Notwithstanding the foregoing, the Producer shall not reduce the terms and conditions of employment of Employees employed on programs or series covered by subparagraphs (a) or (b) above.

“(2) ‘High Budget SVOD Programs’ Defined

“Paragraph F. shall be applicable only to original and derivative dramatic new media productions made for initial exhibition on a subscription video-on-demand consumer pay platform which meet the following ‘high budget’ criteria (hereinafter ‘High Budget SVOD Programs’):²

<u>Length of Program as Initially Exhibited*</u>	<u>‘High Budget’ Threshold</u>
<u>20-35 Minutes</u>	<u>\$1,300,000 and above</u>
<u>36-65 Minutes</u>	<u>\$2,500,000 and above</u>
<u>66 Minutes or more</u>	<u>\$3,000,000 and above</u>

* Programs less than 20 minutes are not considered ‘high budget’ for the purpose of this Sideletter, regardless of their budgets.

“(3) Except as otherwise provided herein, the terms and conditions applicable to musicians employed on a High Budget SVOD Program shall be those in the AFM Basic Television Motion Picture Agreement applicable to a dramatic free television motion picture, subject to the following clarifications and modifications:

“(a) A High Budget SVOD Program between 20 and 35 minutes in length shall be treated as a 30-minute program; a High Budget SVOD Program between 36 and 65 minutes in

AFM shall be kept confidential, and neither the AFM nor its representatives shall disclose any such information, except as necessary to enforce its rights under this Agreement.

² “Subject to the execution of a confidentiality agreement satisfactory in form to the Producer, representatives of the AFM shall have the right to review the budget of a covered new media production solely for the purpose of determining whether the covered new media production falls within the definition of a High Budget SVOD Program. Producer agrees to cooperate and provide requested relevant additional information about the budget that is reasonably available to it. All information received or reviewed by representatives of the AFM shall be kept confidential, and neither the AFM nor its representatives shall disclose any such information, except as necessary to enforce its rights under this Agreement.

length shall be treated as a 60-minute program; a High Budget SVOD Program between 66 and 95 minutes in length shall be treated as a 90-minute program; and a High Budget SVOD Program 96 minutes or longer shall be treated as a 120-minute program.

“(b) Article 8A. shall apply, except that the following shall apply to reuses of portions of the music sound track from a High Budget SVOD Program in New Media that are not covered by Article 8A.(a)-(d):

“(i) Paragraph E.(4)(a) of this Sideletter shall apply to reuse of portions of the music sound track from a High Budget SVOD Program in a New Media Production (including other High Budget SVOD Programs).

“(ii) Reuse of portions of the music sound track of a High Budget SVOD Program in a New Media Production (including other High Budget SVOD Programs) that exceed two (2) minutes in the aggregate shall be governed by Article 8A.(e)(1), (2) or (3), as applicable.

“(iii) All other reuse of portions of the music sound track of a High Budget SVOD Program in New Media shall be governed by Article 8A.(e)(4).

“(c) Article 14 shall not apply, except to the extent provided in Paragraph G.(2) [formerly Paragraph F.(2)] of this Sideletter.

“(d) Paragraph 15(a)(5) shall not apply.

“(e) Paragraph 15(a)(6) shall not apply.

“(f) Paragraph 15(a)(10) shall apply, except that references to ‘broadcasting’ shall be replaced with ‘exhibition;’ references to ‘broadcast season’ shall be replaced with ‘season;’ and the definition of ‘broadcast season’ will not apply.

“(g) Paragraph 61 shall apply to High Budget SVOD Programs that are 90 minutes or more in length and budgeted at \$5,000,000 or less per program hour.”

“(h) Paragraph 62 shall not apply.”

- b. *Add the following Sideletter re: Grandfathering High Budget SVOD Programs to the Basic Theatrical and Television Motion Picture Agreements:*

“As of [effective date of December 2019 Agreement]

[Address blocks omitted]

“Re: Grandfathering High Budget SVOD Programs

“Dear Ray:

“During the November 2019 negotiations, the parties agreed to grandfather High Budget SVOD Programs or episodes of a High Budget SVOD series under the Sideletters re: Productions Made for New Media to the Basic Theatrical and Television Motion Picture Agreements when those Programs or episodes are ordered pursuant to a license agreement entered into prior to *[the Sunday closest to the date that is ninety (90) days following the date that the AMPTP receives notice of ratification]*, and the Producer does not have the right to negotiate with respect to the material terms and conditions of the license for additional Programs or episodes ordered. It is understood and agreed by the parties that negotiations concerning cost increases incurred as items of breakage do not constitute the renegotiation of material terms of the license agreement that would result in the loss of grandfather status.”

[Signature blocks omitted.]

4. **Paid Permanent Downloads (“EST”)**

Modify Paragraph 1.b. of the Sideletters re Exhibition of Motion Pictures Transmitted Via New Media in the Theatrical and Television Agreements to provide as follows:

- “b. Paid Permanent Downloads (‘Download-to-Own’ or ‘Electronic Sell Through’) (‘EST’)**

“The following shall apply only to motion pictures released after ratification:

“If the consumer pays for an EST copy of a theatrical motion picture, the Producer shall pay 1% (1.5% for motion pictures, the principal photography of which

commences on or after [the first Sunday after the AMPTP's receipt of notice of ratification]) of 20% of 'Producer's gross,' as that term is defined in Paragraph 3 below, for the first 50,000 units and 1.8% (2.7% for motion pictures, the principal photography of which commences on or after [the first Sunday after the AMPTP's receipt of notice of ratification]) of 20% of 'Producer's gross' thereafter.

"If the consumer pays for an EST copy of a television motion picture, the Company shall pay 1% (1.5% for motion pictures, the principal photography of which commences on or after [the first Sunday after the AMPTP's receipt of notice of ratification]) of 20% of 'Producer's gross,' as that term is defined in Paragraph 3 below, for the first 100,000 units and 1.9% (2.9% for motion pictures, the principal photography of which commences on or after [the first Sunday after the AMPTP's receipt of notice of ratification]) of 20% of 'Producer's gross' thereafter.

"Said amount shall be paid to the Administrator of the Film Musicians Secondary Markets Fund for distribution to participating musicians based upon each musician's pro rata share for the motion picture. "

5. **Screen Credits on Theatrical Motion Pictures and Certain High Budget SVOD Programs**

- a. *Add a new Article 20 to the AFM Basic Theatrical Agreement (which shall also apply to certain High Budget SVOD Programs as provided in Item 5.a. below) as follows:*

"20. SCREEN CREDITS

"This Article 20 shall apply to theatrical motion pictures, the principal photography of which commences on or after [the first Sunday after the AMPTP's receipt of notice of ratification].

"(a) Producer shall accord screen credits to musicians employed by the Producer under this Agreement, which may appear grouped by the categories of wind, brass, strings, percussion, music prep or any other category that the Producer deems appropriate. Producer shall have sole discretion as to the size, style, placement and format of credits.

"(b) If a theatrical motion picture is later exhibited in a non-theatrical market, screen credits shall appear as originally exhibited theatrically, unless the exhibitor/licensee alters such credits or requires the Producer to alter such credits.

"(c) A Producer complies with its obligations under this Article 20 by according screen credit to those musicians identified by the contractor at the time

that the Producer asks the contractor to submit credits. An inadvertent error or omission by the Producer shall not be deemed a breach of this Agreement. The AFM waives its rights and the rights of musicians employed under this Agreement to bring a claim or action arising out of this Article 20 in any forum."

- b. Modify the Sideletters re: Productions Made for New Media to the AFM Basic Theatrical Motion Picture Agreement and AFM Basic Television Agreement to provide that Article 20 of the AFM Basic Theatrical Agreement regarding screen credits shall apply to High Budget SVOD Programs, the principal photography of which commence on or after [*the first Sunday after the AMPTP's receipt of notice of ratification*], that are 96 minutes or longer as initially exhibited with a budget in excess of \$30,000,000 (in excess of \$45,000,000 for an animated High Budget SVOD Program)³ [*budget thresholds to be increased by the wage increases in each year of the Agreement*], except that subparagraph (b) of Article 20 shall be replaced by the following:

"(b) If the High Budget SVOD Program is later exhibited in a medium other than the SVOD platform on which it was initially exhibited (and other than in theaters), screen credits shall appear as originally exhibited, unless the exhibitor/licensee alters such credits or requires the Producer to alter such credits. It is understood that the Producer may reformat screen credits if a High Budget SVOD Program is exhibited theatrically."

³ The budget shall be determined by the production costs, including the "above" and "below the line" costs and "pre-production" and "post-production" costs. Production costs shall not include: (a) the costs of the premium for a completion bond; (b) a contingency fund not to exceed ten percent (10%) of the budget; (c) costs reimbursed by insurance; and (d) overages caused by a force majeure event or governmental action. Subject to execution of a confidentiality agreement satisfactory to the Producer, the Producer shall provide the Federation, upon request, with a report of the actual expenditures of the production ("Final Expenditure Report") and such other relevant materials which show the actual cost of the production. All information received or reviewed by professionals shall be confidential and neither the Federation nor its representatives or retained professionals shall disclose any such information except as necessary to enforce their rights under the Agreement.

6. **Additional Option Regarding Sound Track Records Released in Connection with Theatrical and Television Motion Pictures**

Modify Article 8E. of the Theatrical Agreement to provide an additional payment option for the release of any sound track record in connection with any theatrical motion picture subsequent to the effective date of the successor agreement to the May 2019 Theatrical Agreement (and make analogous changes to Article 8E. of the Television Agreement for the release of any sound track record in connection with any television motion picture), as follows:

“8E. ADDITIONAL OPTIONAL PROVISIONS REGARDING SOUND TRACK RECORDS RELEASED IN CONNECTION WITH THEATRICAL MOTION PICTURES [footnote omitted]

“With respect to any sound track record released in connection with any theatrical motion picture subsequent to the effective date of this Agreement, the Producer (or its buyer, licensee or other authorized transferee (‘Licensee’)) may elect to compensate musicians who rendered services in making the original sound track in accordance with the provisions of subparagraphs (a)(1) or (2) below, provided that the Producer or its Licensee also meets the conditions of subparagraph (c) below:

“(a) Payments

“(1) (i) An amount equal to fifty percent (50%) of the scale wages (plus AFM Employers' Pension Fund contributions, but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement when sales reach 15,000 units;

“(ii)(2) An additional amount equal to fifty percent (50%) of the scale wages (plus AFM Employers' Pension Fund contributions, but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement when sales reach 50,000 units; and

“(iii)(3) An additional amount equal to twenty percent (20%) of the scale wages (plus AFM Employers' Pension Fund contributions, but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement when sales reach 100,000 units; or

“(2) (i) Upon release of the record, an amount equal to ten percent (10%) of the scale wages (plus AFM Employers' Pension Fund contributions, but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement;

“(ii) An additional amount equal to ten percent (10%) of the scale wages (plus AFM Employers' Pension Fund contributions, but not including health and welfare contributions) that would have been paid pursuant to the then-effective Sound Recording Labor Agreement for each subsequent threshold of net sales of 10,000 units, up to 110,000 units. No additional payments are due for sales over 110,000 units.

“(iii) The foregoing payments shall apply to sound track recorded under this Agreement or any prior Agreement for which payment would otherwise be required.

“(34) Wage payments shall be made within the time periods specified in this Article 8E. If payment is made more than forty-five (45) days after written notice from the Federation that payment is due, then interest shall be due at the prime rate (as set forth in the Wall Street Journal as of the first business day of that calendar year in which payment is due) plus one percent (1%), compounded monthly, on the unpaid amounts, effective beginning on the date following the date on which payment became due.

“(b) Fifteen Percent (15%) Discount for Certain Sound Track Recordings

“The Producer or its Licensee is entitled to a fifteen percent (15%) discount from the rates in subparagraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), (a)(2)(i) and (a)(2)(ii), and (a)(3) above for sound track records which: (1) use 40 minutes or more of music originally recorded for the motion picture; and (2) utilize 75 or more musicians (excluding orchestrators and music preparation musicians) for whom payment is due under this Article 8E.

“(c) Conditions

“(1) The Producer shall inform the Federation of its election to compensate musicians who rendered services in making the original sound track record in accordance with the provisions of subparagraphs (a)(1) or (a)(2) above prior to the release or distribution of such sound track record.

“(2) Upon release of the original sound track record pursuant to this Article 8E., the Producer shall provide the Federation with a B Form which identifies an amount equal to fifty percent (50%) of the scale wages that would have been paid pursuant to the then-effective Sound Recording Labor Agreement. In the event that the Producer elected to comply with subparagraph (a)(1) above, Producer shall provide written notice to the Federation when sales reach 15,000 units of the sound track record. In the event that the Producer elected to comply with subparagraph (a)(2) above, Producer shall provide written notice to Federation when sales of the sound track record reach 10,000 units. Upon sales of 15,000 units of the sound track record, the Producer shall provide written notice to the Federation of such sales.

* * * *

“(6) If the Producer or its Licensee fails to satisfy any of the foregoing requirements, the special rates in this Article 8E. will not apply and the Producer or its Licensee will be required to make payment for the sound track record in accordance with Article 8C.(a).

“(d) Special Rules for Digital Downloads

“(1) When the consumer may purchase either the entire sound track album or select recordings therefrom, then, for purposes of computing the number of units sold under subparagraphs (a)(1), (a)(2) and (c)(2) above, (i) each sale of the complete sound track album shall count as one unit sold, and (ii) each sale of an individually-downloaded recording from such album shall count as 1/12th of a unit sold. By way of example, if 150,000 individual recordings from the sound track album are downloaded, then such individual sales shall constitute the sale of 12,500 units for purposes of computing the number of units sold under subparagraphs (a)(1), (a)(2) and (c)(2) above.”

* * * *

Make conforming changes.

7. **Release of Sound Track Recorded on or After November 1, 1960 but Before August 14, 2005**

Add a new Article 8G. to the AFM Basic Theatrical and Television Agreements to provide as follows:

**“8G. RELEASE OF SOUND TRACK RECORDED ON OR AFTER
NOVEMBER 1, 1960 BUT BEFORE AUGUST 14, 2005**

“The Producer (and/or its buyer, licensee and/or other authorized transferee (‘Licensee’)) may release records containing music sound track recorded on or after November 1, 1960 but before August 14, 2005, and, unless a new use fee has already been paid as provided in Articles 8(b), 8C. or 8D. of this or any predecessor AFM Basic Theatrical or Television Agreement, make a new use payment as a result of such release in lieu of any other new use payment requirement in accordance with the following:

“(a) Payment

“The Producer may elect to pay musicians who rendered services in making the original sound track five percent (5%) of the Producer’s phonorecord royalties

derived from sales of such sound track records, inclusive of pension contributions,⁴ subject to the conditions set forth in subparagraph (b) below. For purposes of calculating payments due under this option, the term “Producer’s phonorecord royalties” shall mean the worldwide total gross record royalty payable to the Producer by the releasing record label and/or the distributor/retailer of such sound track record, excluding any publishing-related revenue (e.g., mechanical royalties). When the “Producer’s phonorecord royalties” derived from such exploitation are received from a related or affiliated entity that acts as the distributor/retailer of such sound track record, then the “Producer’s phonorecord royalties” received by the Producer from the licensing of such rights shall be measured by the distributor/retailer’s payments to unrelated and unaffiliated entities in arms’ length transactions for comparable sound track records, or, if none, then the amounts received by the Producer from unrelated and unaffiliated distributor/retailers in arms’ length transactions for comparable pictures, or, if none, a comparable distributor/retailer’s payments to comparable unrelated and unaffiliated entities in arms’ length transactions for comparable sound track records.

“(b) Conditions

“(1) The Producer shall notify the Federation of its decision to release a sound track record under this Article 8G.

“(2) The following logo or credit must be provided on the jacket or other packaging accompanying the sound track record or must be accessible digitally in accordance with subparagraph (b)(5)(B), (C), (D), (E) or (F) (provided that the information to access the online source of credits is provided on the jacket, insert or other packaging or material accompanying the record):

“(i) The AFM logo or credit to ‘American Federation of Musicians.’

“(ii) The instrumental musicians who performed on the largest recording session from which a cue is extracted for the sound track record must be credited by name and instrument (the largest session is the one utilizing the most musicians; if more than one has the identical ‘largest’ number, the Producer or its Licensee will identify from which session the credits will be determined). Such musicians may be grouped by instrumental categories.

“(iii) The Leader/Conductor, Orchestra Manager, Orchestrator(s), Librarian, and Music Prep Service/Supervising Copyist must be credited by name and position.

⁴ Producers shall not be obligated to make any Health Plan payments.

“(iv) Any inadvertent error or omission with regard to credits required under subparagraphs (b)(2)(ii) and (iii) above will not be deemed a violation of Article 8G., provided that the Producer or its Licensee has made a reasonable effort to comply with those provisions.

“(3) An ‘organization name credit’ that has been approved by the AFM must be placed on the front or back cover in a type size that is not less than fifty percent (50%) of the type size used for the composer credit unless no applicable organization name credit exists; provided that the entity that owns the organization name has agreed to hold harmless and indemnify the Producer and/or its Licensee from and against any action arising out of the authorized use of such organization names.

“(4) The Producer or its Licensee must provide the AFM with 20 copies of the commercially released sound track record (either in physical format or digitally) as soon as practicable upon its release.

“(5) Special Credits for Digital Downloads

“When Producer elects to distribute sound track albums for sale in non-physical formats (such as via iTunes or other music download services), Producer shall cause the AFM and musician credits (as more fully described in this Article) to be furnished to the consumer by any of the following: (A) downloadable text as part of the sound track album artwork; (B) posting such credits on the website(s) for the applicable theatrical or television motion picture; (C) posting such credits on the website(s) for the releasing record label; (D) creating a Wikipedia entry or providing such credits to IMDB; (E) provide the Union with such credits for the Union to create a Wikipedia entry or provide such credits to IMDB; or (F) displaying such credits on the retailer's page from which such sound track album download is purchased.”

Make conforming changes.

8. **Limited Theatrical Exhibition of Television Motion Pictures**

Add a new subparagraph (iv) to Paragraph 15(b)(17) of the Television Agreement (and make conforming changes) as follows:

“(iv) In the event a television motion picture containing any scoring to which this Agreement applies (or to which any prior Agreement applies, provided that the prior Agreement required a payment for the theatrical exhibition of the television motion picture) is exhibited theatrically (as one or in combination) with an admission charge as provided in subparagraphs (A) or (B) below, the Producer shall pay two and one-half percent (2.5%) of the ‘Producer’s gross’ (as defined in Article 14(b)(1)(i)) derived from licensing the theatrical exhibition rights to the Administrator of the Film Musicians Secondary Markets Fund for distribution to participating musicians of

their *pro rata* share as determined in accordance with Article 14. 'Producer's gross,' for this purpose, shall include the fair market value of any in-kind consideration.

“(A) (1) The theatrical exhibition must take place at least twenty-four (24) hours after the initial telecast of an episode of a series or at least thirty (30) days after the initial telecast of a long-form television motion picture; and

“(2) The theatrical exhibition must not exceed eight (8) days which need not be consecutive, unless the initial theatrical exhibition takes place more than one year after the initial telecast, in which case there is no limit on the length of the theatrical exhibition.

“(B) (1) The theatrical exhibition of an episode of a series must take place no more than thirty (30) days in advance of or simultaneous with its exhibition on television;

“(2) The theatrical exhibition of an episode of a series must not exceed six (6) days, which need not be consecutive; and

“(3) The episode, including the pilot, must be part of a series order of at least six (6) episodes.

“(C) Producer shall provide the Federation with notice of any theatrical exhibition covered by this subparagraph (iv) as soon as possible after an agreement in principle has been reached for the theatrical exhibition.

“(D) The provisions of subparagraphs (A) and (B) apply to a double-length episode, a pilot of any length for which a series has been ordered and any ‘supersized’ episode of a series.

“(E) The theatrical use fee provided in Paragraph 15(b)(17)(i) and (iii) above, less the amount of the percentage residual payment already paid under this subparagraph (iv), shall apply if the foregoing conditions in subparagraphs (A) and (B) are not met or if the television motion picture is submitted for theatrical award consideration.

“(F) Within ten (10) days of a request by the Federation, the Producer shall provide for inspection by the Federation’s designated employee or auditor, at Producer’s premises, all unredacted agreements related to the theatrical exhibition of the television motion picture. The information shall be treated by the Federation and its employee or auditor as confidential.”

Make conforming changes.

9. **Sideletter re Virtual MVPD Services**

Add a Sideletter to the Theatrical and Television Agreements to provide:

“During the course of the 2019 negotiations, the parties discussed how the landscape of the free television marketplace has evolved from the past - when the exhibition of a given television program was only available to the viewer in the home on a television set on a linear channel at a specific scheduled time - to the current marketplace, commonly referred to as 'TV everywhere' where the viewing public, in addition to viewing a program on a linear channel at a scheduled time, is also provided the time-shifted option to view the same program on a variety of digital devices on a video-on-demand ('VOD') basis. In addition, in the past, the bargaining parties agreed that television exhibitions on a linear channel provided through an MVPD, whether such channel was a free television channel or a basic cable channel, were considered exploitation of free television rights even though the consumer paid a monthly fee to access such programming.

“Consistent with the above, the bargaining parties agree that with respect to new internet-delivered 'virtual MVPD' services, such as Sling TV and Sony's PlayStation Vue, and other like services, such as CBS All Access, (collectively referred to hereafter as 'vMVPD Services'), any VOD rights which are associated with exhibition of the motion picture or episodes of the series (collectively and alternatively "Programs") on a linear channel on the vMVPD Service (commonly referred to as 'stacking rights') shall be considered exploitation of free television rights and not a form of pay or subscription television and, therefore, Paragraph 1. a. of the Sideletter Re: Exhibition of Motion Pictures Transmitted Via New Media which governs licenses to consumer pay new media platforms for a limited period or fixed number of exhibitions, shall not apply to such exhibitions. Such exhibitions and associated 'stacking rights,' regardless of whether current or past season episodes are exhibited and regardless of whether such VOD exhibition contains advertisements, shall be treated the same as if such Programs were exhibited on traditional MVPDs.

“By contrast, when the Company licenses the right to exhibit a covered television motion picture, or one or more episodes of a covered television series, on an on-demand basis on the vMVPD Service, and such rights are not associated with the right to exhibit the motion picture or episodes of the series on a linear channel on the vMVPD Service, the parties agree that Paragraph 1.a. of the Sideletter on Exhibition of Motion Pictures Transmitted Via New Media, which governs licenses to consumer pay new media platforms for a limited period or fixed number of exhibitions, shall apply.

“When a program is made exclusively for on-demand availability on a vMVPD Service, it shall be treated as having been made for a subscription consumer pay new media platform subject to the provisions of the Sideletter on Productions Made for New Media.

“It is understood that in order to qualify as a 'vMVPD Service' under this Sideletter, such service must include at least one free television or basic cable linear channel that is non-exclusive to that service and is generally made available for exhibition on other traditional and/or virtual MVPD services.”

Make conforming changes.

10. **Housekeeping**

a. **Payment from Secondary Markets Fund to Pension Fund**

Make housekeeping changes to the 2018 AFM Basic Theatrical and Television Agreements to reflect the payment from the Secondary Markets Fund to the Pension Fund as provided in Item 3 of the Memorandum of Understanding dated February 20, 2015, and as subsequently modified during the negotiations for the successor agreement to the 2018 Agreements. (*See attached Exhibit A.*)

b. **Update Waiver of Sick Time Laws**

Modify Paragraph 8.1 of the Theatrical and Television Agreements as follows (note that the parties already agreed to add the waivable paid sick leave law of Morristown, New Jersey via letter agreement dated February 7, 2017):

“The Federation expressly waives, to the full extent permitted by law, application of the following to all employees employed under this Agreement: the New York City Earned Safe and Sick Time Act (N.Y.C. Admin. Code §§ 20-911 *et seq.*); the Westchester County Earned Sick Leave Law (Section 700.36 *et seq.* of the Laws of Westchester County); the New Jersey Paid Sick Leave Act (C.34:11-56a *et seq.*); Section 1-24-045 of the Municipal Code of Chicago; the Cook County Earned Sick Leave Ordinance (Ordinance No. 16-4229); the San Francisco Paid Sick Leave Ordinance (San Francisco Administrative Code Section 12W); the Paid Sick Leave Ordinance of Berkeley, California (Municipal Code Chapter 13.100); all requirements pertaining to “paid sick leave” in Chapter 37 of Title 5 of the Municipal Code of Emeryville, California, including, but not limited to, Chapter 37.01.e), 37.03, 37.07.a)1)B.ii. and 37.07.f)); the Oakland Sick Leave Law (Municipal Code Section 5.92.030.); Chapter 4.62.025 of the Santa Monica Municipal Code (enacted by Ordinance No. 2509); the Seattle Paid Sick and Safe Time Ordinance (Ordinance No. 123698); Chapter 18.10 of Title 18 of the Municipal Code of the City of Tacoma, Washington (enacted by Ordinance No. 28275); Article 8.1 of Title 23, Chapter 2 of the Arizona Revised Statutes; the Chicago Paid Sick Leave Ordinance (Section 1-24-045 of the Municipal Code of Chicago); the Cook County Earned Sick Leave Ordinance (Ordinance No. 16-4229); Chapter 160 of the Ordinance of the Township of Bloomfield, New Jersey (enacted by Ordinance No. 15-10); the Paid Sick Time for Private

Employees Ordinance of East Orange, New Jersey (Ordinance No. 21-2014; East Orange Code Chapter 140, Section 1 *et seq.*); the Paid Sick Leave Law of Jersey City, New Jersey (Chapter 4 of the Jersey City Municipal Code); Chapter 8.56 of the Revised General Ordinance of the City of New Brunswick, New Jersey; Chapter 8, Article 5 of the Municipal Code of the City of Plainfield, New Jersey; the Sick Leave for Private Employees Ordinances of Elizabeth, New Jersey (Ordinance No. 4617); Irvington, New Jersey (Ordinance No. MC-3513); Montclair, New Jersey; Morristown, New Jersey (Ordinance No. O-35-2016); Newark, New Jersey (City Ordinance 13-2010); Passaic, New Jersey (Ordinance No. 1998-14); Paterson, New Jersey (Paterson Code Chapter 412); and Trenton, New Jersey (Ordinance No. 14-45); and any other ordinance, statute or law requiring paid sick leave that is hereafter enacted. It is understood that the Federation and the AMPTP shall memorialize any such waiver for any newly-enacted law by letter agreement.”

Make conforming changes.

11. **Sunset Provisions**

- a. Renew the Sideletters re Exhibition of Motion Pictures Transmitted via New Media, including the sunset provision, subject to the modifications in Item 4 above.
- b. Renew the Sideletters re Productions Made for New Media, including renewal of the sunset provision, subject to the modifications in Items 3 and 5.b. above.
- c. Renew the sunset provision in Article 8A.(e)(6).

EXHIBIT A

Housekeeping Modifications re General Pension Fund Contribution

1. *Modify Article 15(b)(1)(xiii) of the Theatrical Agreement as follows:*

“(xiii) The musicians’ share of the Secondary Markets Fund (“musicians’ share of the Fund”) shall be an amount equal to ninety-eight and one-half percent (98.5%) the sum of the contributions of the Producer, any investment earnings of the Secondary Markets Fund thereon, and any ‘unclaimed amounts’ as defined in Paragraph 2(g) of the Secondary Markets Fund Agreement, less:

“(A) All expenses reasonably incurred in the administration of the Secondary Markets Fund, including the compensation of the Administrator herein provided, and appropriate insurance premiums;

“(B) Amounts reasonably reserved by the Administrator as an operating Fund, and for contingencies, and for omission claims; and

“(C) An amount (hereinafter referred to as the “Producer’s share of the Fund”) equal to the total of any social security tax, federal and/or state unemployment insurance tax, other employment taxes, disability insurance premiums, and/or worker’s compensation premiums, which may be owing by the Producer, individually or collectively and/or by the Administrator, as employer or employers, with respect to the distribution of the musicians’ share of the Secondary Markets Fund.

“A committee shall be established to discuss the type of information to be submitted to the Secondary Markets Fund to ensure proper allocation and distribution to participating musicians.

“The remaining one and one-half percent (1.5%) of the contributions of the Producer, less monies identified by the Administrator of the Secondary Markets Fund in accordance with its regular practice as ‘undetermined payments’ subject to return to the Producer, plus investment earnings thereon, shall be known as the “General Fund Pension Contribution” and shall be paid by the Administrator to the American Federation of Musicians’ and Employers Pension Fund in accordance with Paragraph 2(a) of the Film Musicians Secondary Markets Fund Agreement.”

2. *Modify Article 16(b)(1)(xiv) of the Theatrical and Television Agreements as follows:*

“(xiv) The musicians’ share of the Secondary Markets Fund (“musicians’ share of the Fund”) shall be an amount equal to ninety-eight and one-half percent (98.5%) the sum of the contributions of the Producers, any investment earnings of the Secondary Markets Fund thereon, and any “unclaimed amounts,” as defined in Paragraph 2(g) of the Secondary Markets Fund Agreement, less:

“(A) all expenses reasonably incurred in the administration of the Secondary Markets Fund, including the compensation of the Administrator herein provided, and appropriate insurance premiums;

“(B) amounts reasonably reserved by the Administrator as an operating Fund, and for contingencies, and for omission claims; and

“(C) an amount (hereinafter referred to as the “Producer’s share of the Fund”) equal to the total of any social security tax, federal and/or state unemployment insurance tax, other employment taxes, disability insurance premiums, and/or worker’s compensation premiums, which may be owing by the Producer, individually or collectively and/or by the Administrator, as employer or employers, with respect to the distribution of the musicians’ share of the Secondary Markets Fund.

“A committee shall be established to discuss the type of information to be submitted to the Film Musicians Secondary Markets Fund to ensure proper allocation and distribution to participating musicians.

“The remaining one and one-half percent (1.5%) of the contributions of the Producer, less monies identified by the Administrator of the Secondary Markets Fund in accordance with its regular practice as ‘undetermined payments’ subject to return to the Producer, plus investment earnings thereon, shall be known as the “General Fund Pension Contribution” and shall be paid by the Administrator to the American Federation of Musicians’ and Employers Pension Fund in accordance with Paragraph 2(a) of the Film Musicians Secondary Markets Fund Agreement.”

3. *Add a new third paragraph to Paragraph 2(a) of the Film Musicians Secondary Markets Fund Agreement, as follows:*

“2. (a) The Administrator accepts the duties hereby assigned to it and shall establish the proper administrative machinery and processes necessary for the performance of its duties hereunder. The Administrator shall serve as a resource for motion picture professionals and others interested in fostering the motion picture industry, and shall assist the Producers and the AFM in addressing various challenges to the motion picture industry.

“The Administrator each year shall, as soon as practicable after the end of the Secondary Markets Fund’s fiscal year (March 31st) distribute the musicians’ share of the Secondary Markets Fund (as defined in the Operative Articles). Each participating musician shall receive such amounts as are designated as payable to him/her in the Operative Articles and, in determining said amount, the Administrator shall determine that part of the musicians’ share of the Secondary Markets Fund allocable to each theatrical motion picture covered by the Operative Articles.

“In addition, the Administrator shall, not later than sixty (60) days after the calendar quarter in which the General Fund Pension Contribution (as defined in the Operative Articles) was received, pay such General Pension Fund Contribution to the American Federation of Musicians’ and Employers Pension Fund. Such General Pension Fund Contribution shall not constitute a contribution or contributions made on behalf of any particular individual, nor shall it be included in the pension benefit of any particular individual.”