



AMERICAN FEDERATION OF MUSICIANS

OF THE UNITED STATES AND CANADA

AFFILIATED WITH THE A.F.L.-C.I.O.

OFFICE OF THE PRESIDENT
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The purpose of this agreement is to facilitate the creation and dissemination of media product by a bargaining unit of symphonic musicians represented by a Local (“AFM Local”) of the American Federation of Musicians of the United States and Canada, AFL-CIO, CLC, for the purpose of promoting the collective bargaining goals of the musicians and their players’ associations and local unions while also protecting the rights of musicians and reducing risk to musicians, players’ associations and local unions.

By signing below, each Participating Musician agrees individually and the Participating Musicians agree as a group as follows:

1. *Participation Eligibility.* Each Participating Musician is a rostered member of the bargaining unit of the _____ [symphony orchestra] which is represented by AFM Local _____ (“Local ____”).
 - a. Musician participation is entirely voluntary. No musician will suffer adverse consequences of any kind for declining to participate.
 - b. Each and every musician who participates signs this agreement as an individual and participates as an individual.
 - c. Only rostered musicians are eligible to participate, subject to the exception in paragraph 5 below.
2. *Approval.* All recording and distribution pursuant to this agreement is subject to advance approval of the AFM International President’s office and administered by the Symphonic Services Division of the AFM. Application for AFM project approval will be made through submission of the form attached hereto as Appendix A.
3. *Leader.* For purposes of this Agreement there is no employer or contractor. However, Local ____ and the Players’ Association/Orchestra Committee will jointly designate one Musician as leader. For purposes of this project, the leader is _____. Leader’s responsibilities include:
 - a. Obtaining all musician signatures
 - b. Obtaining approval from the AFM for the project
 - c. Obtaining all necessary intellectual property clearances and/or licenses (mechanical, etc.)
 - d. Communicating with the Local Union and the AFM regarding the project
4. *Capture.* Capture may occur at a live performance, but NOT a live performance under the auspices of the symphony orchestra employer. Total capture at a live performance may not exceed forty (40) minutes.

- a. Capture may also occur at a studio session not to exceed a duration of forty-five (45) minutes.
5. *Non-rostered Musicians.* Where a roster position is vacant or the project requires an instrument not included in the orchestra roster, a substitute or extra musician may be engaged and compensated for rehearsal and performance services at rates no less than applicable local per service scales plus a media payment of no less than 25% of the applicable local per service scale. In the event a non-rostered substitute musician is engaged for a studio session, that musician must be compensated for the session at the local per service performance scale or \$150, whichever is greater. The Local and Players' Association will be jointly responsible for determining the source of compensation to any such musician.
6. *Use.* All captured material must be edited down to no more than five (5) minutes for promotional uses as described herein and may not include a complete work or movement longer than four (4) minutes.
7. *Permitted Promotional Purposes.* Product created pursuant to this agreement may only be used for the following promotional purposes:
 - a. Educating the public about and/or garnering public support for the bargaining unit musicians and/or the local union
 - b. Educating the public about and/or garnering public support for the musicians' and local union's position in bargaining and/or a labor dispute and/or other legal dispute with the symphony orchestra employer
 - c. Educating the public about non-commercial, community service-type activities or performances undertaken by the bargaining unit musicians independent of the symphony orchestra employer
8. *Characteristics of Product.* The finished product must have the following characteristics:
 - a. The Local Union and the Players' Association must be clearly identified within the promotional use (e.g., at the outset, at interval(s) appropriate to the piece and/or during rolling or billboarded credits, etc.) to ensure public recognition of the Union/Players' Association and their connection to the use;
 - b. The musicians' performance must be integral to the piece and not the mere provision of soundtrack, underscore or background content;
 - c. The use cannot be a commercial announcement covered by the AFM Commercial Announcements Agreement or otherwise intended to promote the commercial interests of any third party.
9. *Distribution.* Product created pursuant to this agreement may only be distributed in the following manner:
 - a. Internet streaming, including social media platforms
 - b. Local television news or local radio news
10. *Prohibited Purposes.* No commercial use may be made of product created pursuant to this agreement. Product may not be created for the purpose of promoting an individual musician or group of musicians (vanity project) but must be intended to further the collective goals of the bargaining unit and/or Local Union.
11. *Ownership.* The AFM will have ownership of the product for the benefit of the Musicians who participated in its creation and will be responsible for maintaining the digital master of the product. The AFM will have sole responsibility for prosecuting misuse and sole authority to permit use of the product beyond those uses permitted by this agreement. Once a project is approved pursuant to this agreement, the AFM will not restrict Musicians' use of the media product in compliance with this agreement.
12. *Indemnification.* Musicians shall indemnify and hold harmless the American Federation of Musicians and its officers and representatives from any and all liability, loss, costs, damage or expense (including attorneys' fees) which such indemnitees may incur or sustain, arising from the signatories' discharge of their responsibilities or from any claims in connection with the activities

and/or the product covered by this Agreement. Said indemnity shall apply to such claims regardless of the legal theory asserted (including negligence, breach of fiduciary duty, failure to provide fair representation, equitable estoppel, breach of express or implied contract, violation of state or federal statute or regulation), but only if, as to each indemnitee described above, said indemnitee did not act dishonestly or in bad faith or in willful violation of the law.

13. *Unauthorized Use.* No Musician or Local officer has authority to permit, authorize or facilitate the use of any recording created under this Agreement for any purpose not explicitly set forth herein including, but not limited to displacement of musicians in rehearsal or performance, demonstration or marketing of services or product by any group or individual, local, national or foreign broadcast, Internet, phonograph records, promotional spots or commercial announcements, theatrical or commercial exhibition, or background music for any type of sound or film program, and any Musician or Local Officer who violates this provision is in breach of contract and is subject to legal action and/or internal union discipline. Only the AFM has authority to permit or authorize any such use of the electronic media product produced under this Agreement. If any unauthorized use of the recording is made by any person or entity, the AFM, upon discovery, may seek to restrain such unauthorized use and/or obtain payment for the Musicians pursuant to the appropriate AFM agreement; however, the AFM shall have no liability to the Musicians for failing to discover the unauthorized use or obtain payment for it.
14. *Modifications.* Any modification or deviation from the terms of this agreement may occur only with the express prior written approval of the AFM International President.

[Signature lines for Local Officer and each individual Participating Musician (with contact information)]