

January 5, 2012

Dear AFTRA Member:

On behalf of the AFTRA Sound Recordings Negotiating Committee, we are pleased to present you with the new terms of your AFTRA Sound Recordings Code for 2012-2014. Your fellow AFTRA members of the Negotiating Committee and the National Administrative Committee have approved the agreement and recommend your “yes” vote for ratification. ***It is important that you review the enclosed summary. As indicated on the attached material, you can vote via the Internet or by telephone. Voting instructions are enclosed with these documents.***

Negotiations with the record labels began in August and concluded December 15, 2011. The process was not easy: the recording industry has declined significantly since 2000, as revenues have plummeted by more than 50% since 2000. Mass layoffs at the labels, reductions in the number of roster artists, and corporate mergers occurred during the period in which we were negotiating.

Your fellow performers on the negotiating committee work in every aspect of recordings: rock, rap, country, jazz, R&B.... all royalty artists, session singers or spoken word artists who share your interests. They worked tirelessly on your behalf – as volunteers -- with one goal in mind: to negotiate the best contract possible for AFTRA members both now and in the future. We owe them special thanks for their unwavering dedication throughout these arduous negotiations.

As you review the gains your negotiating committee achieved, please note two areas of priority in these negotiations:

**Increased contributions required of the labels to support your health and retirement plans.** Your negotiating committee stood fast to protect your AFTRA H&R Plans, which like all health and pension plans, have been affected by the decline in the U.S. economy during the past three years. The H&R contribution rate on royalty earnings will increase by 1% during the term of the agreement. In addition, the Negotiating Committee preserved guaranteed individual health insurance for roster artists, by increasing the labels’ “special payment” for this insurance. This insurance was a breakthrough concept originally achieved in the 2002 negotiations, but the rising cost of health care since has made it a target for termination. Your negotiating committee not only protected this benefit, but negotiated a system to ensure that anticipated inflation in health care costs is covered.

**Expanded Payments for Digital Downloads:** The negotiations successfully revised the structure of payments for all non-royalty singers on recordings sold through permanent audio downloads. The new formula for digital downloads eliminates “exclusions” that were in the prior structure. As sales of physical product decline and sales of digital downloads plateau, revising the formula was a priority in this negotiation.

The AFTRA Negotiating Committee, the AFTRA Administrative Committee and your AFTRA staff negotiators all recommend you vote **YES** to ratify the terms of the new AFTRA Sound Recordings Code.

**PLEASE REVIEW THE ATTACHED SUMMARY OF PROPOSED AGREEMENT CAREFULLY AND VOTE BY EITHER METHOD (WEB OR TELEPHONE) AS PROVIDED ON THE ATTACHED INSTRUCTIONS. YOU MUST CAST YOUR VOTE NOT LATER THAN 12 P.M. EST ON JANUARY 30, 2012.**

Thank you for your continued participation in your union and your support of 70,000 professional performers of AFTRA. Together, we will continue to work to ensure that our work is protected and we are paid fair wages.

Roberta Reardon  
AFTRA National President

Kim Roberts Hedgpeth  
AFTRA National Executive Director

**SUMMARY OF PROPOSED AGREEMENT  
2012-2014 AFTRA SOUND RECORDINGS CODE**

*(with explanatory notations in italics)*

1. **Term:** Three years, from January 1, 2012 – December 31, 2014.
2. **Minimum Rates:** Increase all minimum rates in Paragraph 6 and contractors' rates in Paragraph 9, as follows:

Effective 1/1/12	2%
Effective 1/1/13	2%
Effective 1/1/14	2%

*(This increase is consistent with labor contract settlements in other entertainment industries).*

**3. AFTRA Health and Retirement:**

- The current rate of contributions that the labels are required to make on royalty earnings will increase from 11.50% to 11.75% effective January 1, 2012 and to 12.0% effective January 1, 2013 and increase again to 12.5% effective January 1, 2014. *(The overwhelming majority of earnings on which H&R contributions under the Sound Recordings Code are paid -- 90% -- are royalty earnings).*
- Increase amount of the "special payment" to the AFTRA Health Fund on behalf of any newly-signed or existing roster artist who does not qualify for AFTRA Health coverage through his/her normal royalty earnings, by raising the current maximum paid by the labels from the current rate of **\$5,000 per enrolled individual artist per year to \$6,500 per enrolled individual artist per year.**

*(The amount of the Special Payment required of the labels is a factor of the AFTRA Health Fund's actual cost of providing individual health plan coverage, and will increase as the actual cost of providing health care increases up to the new maximum. This Special Payment provides the roster artist with individual coverage under the AFTRA Health Plan, and will only be paid on behalf of individual roster artists who enroll in the Plan. The Special Payment is in addition to contributions made by the labels on normal royalty earnings).*

- The label must now report all audit settlements to the AFTRA H&R Funds, along with any required H&R contributions due as a result of the individual audit settlement at the next "Schedule C" reporting or within 60 days of payment to the artist, whichever is later. *(This will ensure that individual artists who conduct audits under their individual royalty agreements receive H&R credit on any monies found as a result of that audit in a timely fashion.)*

**4. Permanent Audio Downloads, including Ringtones:**

*The new structure for payment for downloads will be significantly expanded in the new agreement to generate increased – and faster – payments to singers from digital download revenue. The prior structure of payment was based on .275% of the wholesale price for downloads, but had a number of exclusions: payment only applied after a song reached a threshold of 280,000 downloads, payment was only made on recordings produced after December 15, 1974, and further, payment was only made for the first ten years after the recording was released as a download. In addition to the exclusions that limited payments under the prior structure, the prior structure was complicated to administer*

*which resulted in delays in forwarding accurate payments for distribution to performers. The new structure will not only increase revenue to performers, but will be simpler and faster to administer.*

Effective 1/1/12, the structure for permanent audio downloads will be revised:

- The payment will be based on .07% of the label's receipts
- Payments will be calculated **from the first download**, by eliminating the 280,000 download threshold.
- **All** AFTRA covered recordings will now be subject to the download payment, by eliminating the exclusion for pre-1974 recordings.
- The 10 year limit on coverage will be eliminated, meaning that **payments will be made for as long as the covered song is in download release.**

Payments will be made to a new jointly administered fund for distribution to the covered performers.

*(Note: Performers will continue to receive contingent scale payments under the existing structure for the sale of physical product, in addition to these new payments for digital downloads. And the structure for non-permanent audio downloads (such as subscription services), will continue; there is no initial threshold; payments are made from the first "sale".)*

## **5. Conversion Payments:**

A structure to address the new reality of low budget licenses of recordings and licenses in non-traditional media, has been established. This will provide a payment structure to address new business models that are developing in the wake of the current economic climate and emerging technology.

### Low budget license in traditional media:

Low budget licenses are defined as licenses of \$7,500 or less for use of a recording in a program exhibited in certain areas: local television broadcast, regional cable exhibition, or exhibition on certain basic cable networks other than those listed on the attached exhibit, or a motion picture with a budget of less than \$1,000,000. *(Even in cases where the license is less than \$7,500, , this low budget formula does not apply to use of recordings in network or pay TV, the top basic cable systems or motion pictures with budgets over \$1,000,000).*

Payment to the singers on recordings licensed under the low budget license formula will be an amount equal to six (6%) percent of the license fee, or \$150, whichever is greater, which shall be divided among and paid to the performers on the recording. In addition, AFTRA Health and Retirement Contributions shall be paid to the AFTRA Health & Retirement Funds on behalf of the performers.

### Licenses in "non-traditional" media:

Defined as use of a recording in (1) a digital chip (or its equivalent) used in a consumer product (such as chips used in greeting cards, toys, gift boxes, etc.) or (2) in an audio/visual program made for initial exhibition in "new media" (e.g., webisodes, video podcasts, etc.).

Payment for recordings licensed in "non-traditional" media will be 3% of the label's revenue from such license (including license fee, per item royalty or other form of payment for such license). Non-traditional use under this provision shall not include use of recordings in educational children's books. The 3% shall be paid to the jointly administered Fund for distribution to the performers.

Use of a recording in “supplemental content” for a video game, will be paid under the non-traditional media rate. Use of a recording that is included with the original purchase of the game will be paid pursuant to the normal Interactive video rates.

## 6. Recording of Live Performances:

*Prior Sound Recordings Codes were not structured to address the new reality of promotional live appearances that may be recorded. Examples are live appearances at in-store events to promote the release of an album or a tour, appearances in the general exhibition venue at conferences such as South by Southwest, etc. Such recordings are low budget, with limited commercial sales value. This will establish payment for singers where previously, recording of these appearances were not paid. This will not change the structure for live album recordings of concerts and other non-promotional live appearances:*

Promotional live performances are defined as promotional in-store, music conferences (e.g., SxSW) or radio performances made to promote the artist or recording, where no admission charge or cover charge is required. (For purposes of the preceding sentence, payment of a general per event fee that provides general access to a conference or large event shall not be considered an admission or cover charge). The rate below shall apply to non-royalty artists, who are otherwise on tour or associated with the royalty artist and located in the city of the appearance.

Non-royalty artists will be paid an amount equal to 75% of the applicable two-hour minimum call rate, which covers audio or audio-visual release of up to six sides. For each additional six (6) sides released from the promotional appearance, each singer is paid an additional payment of 75% of the applicable two hour minimum call rate. For this purpose, the term “side” means an individual song, regardless of length of such song.

If the recording is released in physical form and reaches the relevant contingent scale threshold in physical sales, contingent scale payments will be made based on the full side rate at the time of the release. In addition, if there are any sales through digital download, the digital download payment formula will apply.

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### For Further Information: AFTRA LOCAL OFFICES

Atlanta	(404) 239-0131	New York	(212) 532-0800
Boston	(617) 262-8001	Philadelphia	(215) 732-0507
Chicago	(312) 573-8081	Phoenix	(623) 687-9977
Cleveland	(216) 781-2255	Pittsburgh	(412) 281-6767
Dallas/Ft. Worth	(214) 363-8300	Portland	(503) 279-9600
Denver	(720) 932-8228	San Diego	(866) 634-8100
Detroit	(248) 228-3171	San Francisco	(415) 391-7510
Hawaii	(866) 641 8100	Seattle	(206) 282-2506
Houston	(800) 922-3872	St. Louis	(314) 231-8410
Kansas City	(816) 753-4557	Tri-State *	(513) 579-8668
Los Angeles	(323) 634-8100	Twin Cities	(651) 789-8990
Miami	(305) 571-9891	Washington/Baltimore	(301) 657-2560
Nashville	(615) 327-2944	All Other Locals	(866) 855-5191
New Orleans	(800) 330-2387		

\* Tri-State includes Cincinnati, Columbus, & Dayton, OH; Indianapolis, IN. & Louisville, KY.

## EXHIBIT A – EXCLUDED CABLE NETWORKS

A&E	Independent Film Channel
ABC Family Channel	Investigation Discovery
AMC	Lifetime Movie Network
Animal Planet	Lifetime Television
BET	LOGO
Bravo	MSNBC
Cartoon Network	MTV
CMT	Nick Jr.
CNBC	Nickelodeon/Nick At Nite
CNN/HLN	OWN: Oprah Winfrey Network
Comedy Central	Oxygen Network
C-SPAN	Spike TV
Discovery Channel	Syfy
Disney Channel	TBS
Disney XD	TCM
E! Entertainment Television	The Style Network
ESPN/ESPN HD	The Weather Channel
ESPN2	TLC
ESPNU	TNT
Food Network	Travel Channel
FOX News	truTV
FX Network	TV Land
G4	USA
Golf Channel	VERSUS
Hallmark Channel	VH1
HGTV	WE tv
History	