

## **RELEVANT IMA LANGUAGE FOR ROPA PRESENTATION**

### **ARTICLE VIII: *AUDIO AND AUDIO-VISUAL NEWS AND PROMOTION***

#### **A. Capture**

- 1. No more than 40 minutes of any service may be captured for news media or promotional uses.**
- 2. The Orchestra Committee may agree to additional capture for news and promotion purposes consistent with B. and C. below.**
- 3. Archival material may be used for news or promotion in accordance with the provisions of B. and C. below.**

#### **B. Use of Captured Material for News.**

1. Audio or audio-visual material captured per A. above must be edited down to no more than ten (10) minutes from any work or movement for news or “magazine program” broadcast. In addition to use by the news broadcaster, the newscast may be distributed on the Internet, on the Employer’s own website, on television or on other media outlets, by the Employer or by third parties as defined in and in accordance with VIII.C.2.
2. In the case of a radio or television broadcast pursuant to B.1. above, up to 10 (ten) minutes of audio or A-V material captured per A. above may be provided to the broadcaster for posting on its website. This material may not include a complete work or movement longer than three (3) minutes.
3. *New Platforms:* New platforms for delivering news broadcasts (e.g. wireless) are included under “news or magazine program broadcast.” Online news magazines may have up to ten (10) minutes on their websites.

#### **C. Use of Captured Material for Promotion.**

1. Audio or audio-visual material captured pursuant to A. above must be edited down to no more than five (5) minutes for promotional uses. Such uses may be made on the Internet, on the Employer’s own website, on television or on other media outlets, by the Employer or by third parties.
- 2. Notwithstanding C.1. above, the Employer may use up to fifteen (15) minutes, provided that the fifteen minutes consists of non-consecutive segments, no one of which is longer than five (5) minutes. This option may not be used by any third party or for television or radio broadcast. The Institution may use this option for promotional purposes on its own website, in conjunction with its media or other institutional sponsors or partners on their websites, on other internet sites such as YouTube or social media sites,**

**in kiosks or monitors at its location or in tourist or other promotional locations, in cell phone or wireless transmission, in streaming e-mails, or on podcasts as long as the segments used for promotional purposes are not themselves being sold.**

**a. Not more than six (6) times per year the Employer may use up to 15 minutes of continuous captured content for promotional purposes; provided that (i) each fifteen-minute segment shall be from a different work or movement; (ii) each fifteen-minute segment shall contain either one composition up to fifteen minutes in length or one movement of one composition up to fifteen minutes in length; and (iii) the Employer does not provide media payments to anyone else.**

**b. The Employer will report the use of media pursuant to above paragraph 2.a. to the Federation on the form provided by the Federation.**

3. *New Platforms:* The Employer may use new platforms or technologies now existing or yet to be developed for promotion. Prospective treatment of new platforms or technologies is subject to negotiation at the Federation's option after reasonable notice to the Employer. If the Federation initiates negotiation regarding a new platform or technology, permission for prospective new promotional uses on that platform or via that technology ceases from three (3) months after the Federation's notice until agreement is reached.

4. *Promotion via Performance Streaming:* One time in each season, the Employer may make available on its website, for on-demand streaming, for forty-five (45) days, a concert that was free to the public, with no additional payment to the musicians. In the event that the Employer charges a nominal ticket price (in lieu of presenting the concert free to the public), the Employer shall be required to obtain Orchestra Committee approval in order to make the concert available on its website for on-demand streaming for forty-five (45) days without additional payment to the musicians. In addition, one time in each season, with orchestra approval, the Employer may make available on its website, for on-demand streaming, for forty-five (45) days, one concert that was not free to the public, without additional payment to the musicians.

5. *Contrary Provisions:* More liberal news and promotion provisions in existence in the Local CBA as of the date of this Agreement are grandfathered.

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**ARTICLE XIV: *DVDs, THEATRICAL RELEASE, STREAMING, DOWNLOADING AND ALL OTHER NON-TELEVISION AUDIO-VISUAL PRODUCTS***

**A. Rates Applicable Where the Employer Does Not Control the Product.**

Where the Employer does not retain the right to exploit the product or the right to exploit the product does not revert back to the Employer at the end of the license period, Musicians shall be paid the standard television per-minute rates for the production and release of the product, and all television terms and conditions pursuant to Article XII (National and Foreign Television) above shall apply.

## **B. Rates Applicable Where the Employer Controls the Product.**

The creation and exploitation of non-television audio-visual media where the employer controls the product shall be governed by the following provisions. The Employer shall be deemed to have retained control of the product when the Employer retains the right to exploit the product or the right to exploit the product reverts back to the Employer at the end of the license period.

### 1. Internet or Wireless Streaming

a. *Programs Streamed Without Charge to the Public.* Up to three (3) times per year, the Employer, without charge to the public, may stream a concert for an up-front payment of 4% of weekly scale (32% per-service performance rates), with a minimum payment \$57.29 per Musician, where there has been audio-visual capture of no more than one performance. Any additional streams where there is one audio-visual capture may be done at either the following one-capture rate or the following two-capture rate for a single program, at the Employer's option.

**b. *Single Program Where There Is One Audio-Visual Capture.* The rates for audio-visual streaming on the Internet or by wireless means shall be 5% of weekly scale (40% of per-service performance rates), with a minimum payment of \$63.65 per Musician, when there has been audio-visual capture of no more than one performance. As set forth in XIV.B.6. (Non-Television Audio-Visual Products) and XX.A.3. (Revenue Participation) below, the musicians' revenue participation in this circumstance shall be 60% (or 22% for opera or ballet where applicable) of the Employer's gross receipts.**

a. *Single Programs Where There Are Two Audio-Visual Captures.* The rates for audio-visual streaming on the Internet or by wireless means shall be 6% of weekly scale (48% of per-service performance rates), with a minimum payment of \$76.38 per Musician, when there has been audio-visual capture of no more than two performances.

d. *Single Programs Where There Are Three (3) or More Audio-Visual Captures.* The rates for audio-visual streaming on the Internet or by wireless means shall be 8% of weekly scale (64% of per-service performance rates), with a minimum payment of \$101.85 per Musician, when there has been audio-visual capture of three (3) performances or more.

e. *Guarantee of Five (5) or More Programs Streamed per Year.* Where the Employer guarantees the streaming of five (5) or more programs per year in addition to any programs streamed pursuant to Paragraph 1.a. above, the rates for audio-visual streaming on the Internet or by wireless means shall be 5% of weekly scale (40% of per-service performance rates), with a minimum payment of \$63.65 per Musician, when there has been audio-visual capture of no more than two performances, and 7% of weekly scale (56% of per-service performance rates), with a minimum payment of \$89.12 per Musician, when there has been audio-visual capture of three (3) performances or more.

- f. ***Internet or Wireless Streaming of 60 minutes or less:***
- i. **Thirty (30) minutes or less of a concert program may be streamed under any of these provisions XIV.B.1.a.-e. for 25% of the applicable rate. The minimum payment shall be 25% of the applicable minimum payment.**
  - ii. Sixty (60) minutes or less of a concert program may be streamed under any of these provisions XIV.B.1.a.-e. for 50% of the applicable rate. The minimum payment shall be 50% of the applicable minimum payment.
  - iii. These rates are do not apply to documentary programs.
- g. *Rights.* The payment of the above rates B.1.a. through B.1.f. shall entitle the Employer to engage in unlimited streaming, or to license the program for unlimited streaming by a third party, for three (3) years.
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## **ARTICLE XVII: *SPECIAL CALLS AND PATCH SESSIONS FOR AUDIO-VISUAL PRODUCT***

### **A. Special Calls**

1. **For each orchestra service that has been called solely for rehearsal for an audio-visual product, or for audio and/or audio-visual capture for an audio-visual product, where the Musicians are not credited with a rehearsal or performance fee under the Local CBA (“Special Call” or “Studio Session”), each Musician shall be paid the greater of \$270.53, or 25% over the per-service rate in the Local CBA, for up to a three-hour service.**
2. There shall be rest periods of not less than an average of ten (10) minutes per hour away from the stand. No musician shall be required to work more than sixty (60) consecutive minutes without a rest period of at least ten (10) minutes except during performances, or simulated performances, where the requirements of musical continuity dictate that a longer period of time is necessary, in which case the subsequent break period shall be no less than fifteen (15) minutes.
3. There shall be no more than two (2) Special Calls permitted in any one (1) day with at least a one (1) hour break between the end of the first Special Call and the beginning of the second Special Call.
4. The Employer shall provide Musicians with notice of its intent to schedule a Special Call in accordance with the notice provisions of the CBA.
5. A Special Call shall not be canceled, postponed or otherwise rescheduled less than seven (7) days prior to its scheduled date, except in the case of an emergency with the consent of the Office of the Federation President.

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**ARTICLE IX: NATIONAL AND FOREIGN RADIO AND WIRELESS AUDIO BROADCAST**

**D. Simultaneous Streaming of Local Radio Broadcasts**

**In accordance with Article I.B.1. regarding scope of this Agreement, rates for radio broadcasts that are local within the meaning of that provision shall be covered by the Local CBA. The simultaneous streaming of such local broadcasts is permitted under the terms of this Agreement with no additional payment to Musicians. On-demand streaming of such local broadcasts is subject to the audio streaming provisions of Article X.B.2.**

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**ARTICLE VI: RECORDINGS FOR PURPOSES NOT SET FORTH IN THIS AGREEMENT**

A. The Employer may not use audio or audio-visual recordings produced pursuant to this Agreement (or sell, lease, license or assign to any other party the right to use such recordings) for any purpose not expressly set forth in this Agreement (such as, e.g., motion picture soundtracks, commercial announcements (jingles), videogames, etc.) unless the Employer receives advance written permission from the Federation and pays to or on behalf of all Musicians who rendered services in the preparation, production and recording of the music, 100% of all amounts that would be required under the appropriate Federation agreement (using terms which are in effect at the time of such use), as though the recordings were originally made for the purpose set forth in such Federation agreement.

B. **If the Employer** makes use of audio or audio-visual recordings produced pursuant to this Agreement (or sells, leases, licenses or assigns to any other party the right to use such recordings) for any purpose not expressly set forth in this Agreement without having received advance written permission from the Federation, it shall pay to or on behalf of all Musicians who rendered services in the preparation, production and recording of the music, 150% of all amounts that would be required under the appropriate Federation agreement (using terms which are in effect at the time of such use), as though the recordings were originally made for the purpose set forth in such Federation agreement.

**ARTICLE I.B.3: STANDARD COMMERCIAL TELEVISION EXCLUDED**

3. *Standard Commercial Television Excluded:* This Agreement does not cover standard commercial television programs broadcast on commercial network television, nor does it cover “Olympics-type programs.” Such programs are covered by the appropriate Federation agreement for commercial television.