

**AMERICAN FEDERATION OF MUSICIANS
OF THE UNITED STATES AND CANADA**

**COMMERCIAL ANNOUNCEMENTS -
MUSICIANS' RECORDING AGREEMENT
FOR CANADA**

December 1, 2004 – November 30, 2007



UNITY • HARMONY • ARTISTRY

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Commercial Announcements – Musicians’ Recording Agreement for Canada

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**COMMERCIAL ANNOUNCEMENTS -
MUSICIANS' RECORDING AGREEMENT
FOR CANADA
(CAMRAC)**

(December 1, 2004 – November 30,2007)

American Federation of Musicians
of the United States and Canada,
75 The Donway West, Suite 1010,
Don Mills, Ontario
M3C 2E9

Gentlemen:

1. BASIC STATEMENT OF CONTRACTUAL AGREEMENT

In consideration of the mutual covenant herein contained and of other good and valuable considerations, the American Federation of Musicians of the United States and Canada (herein called the "Federation"), agrees with the Producer upon the terms, conditions, provisions and covenants in the paragraphs below.

This agreement relates only to the engagement of person(s) in classifications covered by this agreement (sometimes herein called "musicians") in connection with the making of recorded television, radio and internet commercial announcements. "Commercial announcements" are the same devices which were called "jingles and spot announcements" in prior agreements between the Federation and Producers thereof.

A commercial announcement consists of words accompanying music, or of words under or over the music, or of music intended to be performed without words (not including theme music for a programme),

2. CANADIAN AGREEMENT

This agreement applies to commercial announcements produced and recorded in Canada by members of Canadian Locals. It being further clarified that bona fide member(s) of United States Locals are also eligible to be engaged hereunder provided a "work authorization" is granted to said member(s) in conformity with the requirements/rules of Immigration Canada.

3. OBLIGATION OF FEDERATION & AFM BYLAW RECOGNITION

The Federation shall exercise full authority in order that its' Locals and members shall do nothing in derogation of the terms and intent of this agreement. In this regard, the parties hereto agree, that all present provisions of the bylaws, rules and regulations of the Federation and all present, bylaws, rules and regulations of the Federation and all present bylaws, rules and regulations of the local in whose jurisdiction the musicians perform, insofar as the foregoing do not conflict with any of the provisions of this Commercial Announcements Musicians' Recording Agreement for Canada, are made part of this agreement. For greater certainty and in the event any such conflict should occur, the provisions of this agreement shall prevail. It being

understood, that the provisions contained in AFM Bylaws and/or Local constitutions/bylaws are not subject to the grievance procedure detailed under Section 20.

4. OBLIGATIONS OF THE PRODUCER

A. Recognition of Federation as Bargaining Agent

The producer hereby recognizes the Federation, in respect of the varied and skilled disciplines covered by this agreement, as the exclusive bargaining representative of AFM Local members engaged by the Producer who provided professional services as instrumental musicians, orchestrators, arrangers, music proofreaders and librarians, copyists, sideline musicians, and members performing a musical service on any electronic device in connection with the making of commercial announcements.

B. Commercials Made in Canada

For commercials produced in Canada, which require music that is specifically composed and/or arranged for said commercial(s), or which require the disciplines stipulated under clause 4, A. above, the Producer shall only engage members of AFM Locals to render these professional services. For further clarity, the Producer agrees not to record music outside of Canada, wherein the primary purpose is to avoid engaging member musicians as provided hereunder.

C. Minimum Fees and Conditions (to apply)

For the professional services rendered hereunder, the Producer shall pay no less than the minimum (scale) fees prescribed hereunder and shall fully observe and faithfully perform all other terms and conditions set forth herein, which by reference, are made part and parcel of any individual agreements with the AFM Local member(s) engaged hereunder.

D. Reporting

(1) Producer's Intent to Produce Form

Regarding any commercial to be produced hereunder, the signatory/producer shall, no less than forty-eight (48) hours prior to the time of the original recording session, provide to the Local a form entitled "Producers Intent to Produce Form" containing the following information:

1. Name of the leader and/or contractor, if applicable;
2. Name of the advertiser;
3. Name of the commercial(s) and product(s) being advertised;
4. Length of the music track(s) for each commercial;
5. AFM Form B contract reference number(s) intended to be used for the original session;
6. Type of commercial(s) and the intended media use(s); i.e. national, regional, local, demo, public service, etc. television, radio, etc.*

For radio commercials only, and where issues arise that prevent the signatory/producer from forwarding the “Producer’s Intent to Produce Form”, as required herein, the signatory/producer must contact the Local office prior to the recording session and give notice of the session, the signatory/producer’s name, type of commercial, number of musicians to be engaged, leaders name and date/time/location of session.

(* Note for Clarification: A separate original Form ‘B’ contract must be completed and filed for any different media use which commences prior to the expiration of the ‘initial use cycle’ as provided herein, see section 9.A.(1).)

(2) Re-Use Reports

Within fifteen (15) days following the commencement of any re-use cycle of a commercial announcement, the Producer shall report the following information to the Local in whose jurisdiction the recording session took place, or elsewhere if required by the Federation: title of the commercial announcement, advertiser for whom made, product advertised, date of the recording or dubbing session, broadcast medium for which made, and date upon which re-use cycle commenced. Such report shall be made either in form of a copy or a Form B contract or otherwise.

(3) New Use Reports

Within fifteen (15) days following the commencement of any use of a commercial announcement in a different broadcast medium, the Producer shall report the following information to the Local in whose jurisdiction the recording session took place, or elsewhere if requested by the Federation: title of the commercial announcement, advertiser for whom made, product advertised, date of the recording or dubbing session, broadcast medium for which originally made, additional broadcast medium in which such different use has commenced, and date upon which such use has commenced. Such report shall be made either in form of a copy of a Form B contract or otherwise. The aforesaid provisions shall also apply when a commercial announcement is used in the foreign countries.

(4) List of Announcements

Following the execution of this agreement, the producer shall furnish to the Federation, upon its reasonable request, a list of commercial announcements containing music made hereunder.

(5) Information. Announcements and/or Contracts (Survival Clause)

The Producer shall respond promptly to requests by the Federation for information relating to the Producer’s performance of the terms, conditions and covenants of this agreement and of any individual agreement with a person covered by this agreement. Upon request by the Federation, the Producer shall promptly furnish to it, a copy of any commercial announcements owned produced, distributed, used, or the use of which has been permitted by the Producer, and if the right so to do has been purchased or otherwise acquired by

the Producer, a copy of the contract under which such right was acquired. The Producer shall also furnish, upon request by the Federation, copies of any contract of sale, rental or other distribution or form contract of sale, rental or other distributions covering any of such commercial announcements. The provision of this paragraph shall survive this agreement.

(6) Notice of Dubbing Sessions

The Producer shall advise the applicable Local or elsewhere, if requested by the Federation, whenever a music track covered by this agreement has been dubbed into a new commercial. Such advice shall include the information specified in three (3) above.

(7) Notice of First Use

The Producer or advertising agency shall advise the applicable Local or elsewhere, if requested by the Federation, of the first air date of each commercial covered by this agreement, if such information has not been included on the Form B contract filed for the session, dubbing or new-use.

(8) Copy of Payment Authorization

Whenever the Producer authorizes another organization or company to pay musicians for re-use, dubbing or new-use, and whenever such authorization is in writing, Producer will send a copy thereof to the applicable Local at the same time it sends such authorization to the organization or company.

5. **INDIVIDUAL CONTRACTS**

The Producer shall enter into individual contracts with persons in classifications covered by this agreement, and such contracts shall be on the blank forms not in conflict with this agreement authorized from time to time by the Federation. No person shall be placed on a Form B contract unless the person actually performs a musical service covered by this agreement and that Form B contract.

A. **Nothing. Contrary to Agreement**

The Producer shall not require, request, induce, or in any manner attempt to influence any person in a classification covered by this agreement to play, perform, or render services in a manner contrary to this agreement.

B. **Single Advertiser**

Only commercial announcements advertising the products of a single advertiser may be made during any one session and the overtime related thereto.

6. **NATIONAL RECORDING FEES AND WORKING CONDITIONS FOR MUSICIANS, LEADERS AND CONTRACTORS**

Instrumentalists, leaders and contractors shall be paid not less than the fees set forth below and the conditions set forth shall apply.

A. Minimum Call Session

There shall be a minimum call session of one (1) hour during which three (3) different commercial announcements or less may be recorded, the total length of which may not exceed three (3) minutes in the aggregate.

B. Guaranteed Length of Call

Each call must be for a specified and guaranteed period of time, which may be extended, although no musicians shall be obligated to more than forty (40) additional minutes without his consent.

C. Minimum Fees

The minimum fee per musician, per session, is as follows:

December 1, 2004	\$158.80
December 1, 2005	\$162.00
December 1, 2006	\$165.20

D. Overtime

(1) Continuous Overtime

Overtime continuously following a session, during which one (1) additional one (1) minute of commercial announcement, may or may not be recorded for each twenty (20) minutes or such overtime shall be paid for at the rate of.

December 1, 2004	\$53.00
December 1, 2005	\$54.00
December 1, 2006	\$55.10

(2) Non-Continuous Overtime

Any work which is not continuous shall be paid for as additional sessions.

(3) Rest Periods

There shall be a rest period of not less than five (5) minutes duration during the first hour of work. In each subsequent hour of work, there shall be a rest period of not less than ten (10) minutes duration. Any breach of the foregoing shall require an additional payment equivalent to twenty (20) minutes overtime.

E. Contractor Required

On all sessions where ten (10) or more musicians, including leader, are engaged to perform, one (1) of them shall be recommended for appointment as playing contractor who shall be in attendance throughout the session. The leader must indicate his choice in writing to the Secretary of the Local in whose jurisdiction the session takes place. The contractor's appointment is subject to the approval of the Executive Board of the Local concerned or, in an emergency, to the approval of the President of the said Local.

F. Leaders and Contractors Paid Double

The minimum fee, per session, for leaders and contractors shall be double the minimum fee applicable to the musicians engaged on the session. The leader cannot perform the services of a contractor, and receive payment for both services.

G. Single Musicians

If only one (1) person actually performs, whether or not more than one (1) person has been engaged for the session, such sole performer shall be paid double the minimum fee applicable to such performance.

H. Contract Service Fee

A contract service fee of \$100.00 shall be paid by the Producer, and made payable to the Local in whose jurisdiction the original recording took place. This fee is payable, and shall be included with the filing of each ORIGINAL contract whether it be a demo, local, regional, national, Pay-TV, non-broadcast commercial, or CD ROM and Internet. The fee does not apply to the upgrade of a demo or to re-use or new-use contracts. Fifty percent (50%) of the total service fee collected by the AFM Local shall be remitted to I.C.A. and A.C.A. (twenty-five percent [25%] each) on a quarterly basis, through the Canadian office of the AFM.

I. Doubling

When one (1) or more doubles are requested to be played by an instrumentalist during any one (1) session and the overtime related thereto, for the first double, the instrumentalist who doubles shall be paid not less than thirty percent (30%) extra of the minimum fee otherwise applicable for the session and the overtime related thereto, plus an additional fifteen percent (15%) extra of such minimum fee for each double beyond the first. When a leader or contractor doubles, the additional fee due shall be computed at the sideman's fee and not on the leader or contractor's fee, even when the leader is the only musician engaged to render services.

(1) Not Construed as Doubling

Instruments within the following respective groups are not construed as doubling:

- i. Drummers standard outfit consisting of bass drum, snare drum, cymbals, gongs, piatti, small traps and tom toms when used as part of a standard outfit.
- ii. Tympani
- iii. Mallet instruments; xylophone, bells and marimbas
- iv. Latin rhythm instruments; any Latin instruments when used in less than eight (8) bars in connection with any other instrument or used not in a rhythm pattern.

(2) Instruments Requested but not Played

A \$5.00 fee will be paid to each musician directed by the Producer or his representative, to bring to an engagement an additional instrument, which would require a doubling fee if played, if such instrument is not actually played at the engagement.

J. Multiple Parts and Electronic Musical Devices

If a musician performs multiple instrument parts (other than doubles), he shall be paid the total of all payments which would otherwise have been payable had a separate musicians been used for the parts. When a musician records a track, then strengthens same by recording the same part on top of the original track, the musicians shall be paid an additional session fee.

The recording of tracks that are combined in a manner which results in a final music track which sounds as if it had been recorded by a larger group of musicians than actually rendered services, is strictly prohibited. Any violation of this paragraph will result in double payment to the musicians involved.

K. Cartage

Whenever the Producer requests a musician to bring a heavy instrument to an engagement, the Producer shall specify whether the musician shall transport such heavy instrument either by public or private transportation and public transportation shall be used if it is the only practicable manner of transportation. If a public carrier is used, Producer will pay cartage bills as submitted. If private transportation is used, the Producer will pay musician cartage fees as follows:

Harp
\$60.00

String bass, tuba, all drums, all amplifiers, baritone sax, bass sax, cello, marimba, chimes, vibraphone, accordion, cordovox and contra-bass clarinet
\$10.00

L. Premium Rates

All work performed between midnight and 8:00 a.m., on Sundays, and on the following holidays shall be paid for at two (2) times basic scale: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, and Christmas Day. With respect to the above, holidays will be observed on the date recommended by the Government of Canada.

M. Dismissal

Musicians shall be dismissed after the recordings for which they have been employed have been finished, regardless of whether the time limit in which recordings can be made has expired.

N. Cancellation

A session, once called, shall not be cancelled or postponed without the consent of the Vice-president from Canada.

7. EDITING

A. Limitation on Use

A sound track or recording made hereunder shall not be used or dealt with for any purpose whatsoever except to accompany or to be part of the single television or radio commercial announcement for which such sound track or recording was originally prepared.

B. Federation Permission

The announcers' copy and/or singers which accompany or are under or over the music of a sound track, shall not thereafter be altered, nor shall any words be added after the music is recorded.

- 1) Permission is granted to add advertising copy over recorded music but not later than ten (10) weeks subsequent to the recording of the music. No announcers' copy may be added or changed after the first broadcast in any medium unless otherwise provided for in this agreement.
- 2) Permission is granted to add advertising copy before or after a commercial as lead in or lead out.
- 3) Overdubbing, Tracking and Sweetening

Producer may add;

- i. Live performances to a recording made at the same session without notice and without any additional payment to the musicians employed for the session.
- ii. After completion of any original session, vocal performances to the recordings made at that original session without any additional payment to the musicians employed at the original session for their services thereat.
- iii. At a session subsequent to the completion of the original session at which music was first recorded additional instrumental performances to such recorded music without any additional payment to the musicians employed at the original session for their services thereat.

C. Mechanical Editing

Nothing contained in this agreement is intended to permit the mechanical editing of any sound track or recording made hereunder for the purpose of making a shorter or longer version for use hereunder unless the musicians are paid therefore under this agreement, except as specifically permitted by the section 7.C (1), (2) and 7.D. below.

(1) Shorter or Longer Music Tracks Radio only.

Whenever a music track is mechanically shortened or lengthened to a different music track length, the musicians whose services are utilized on the shortened or lengthened track shall be paid a dubbing fee.

(2) No Bearing on Total Length of Commercial

This mechanical editing provision applies only with respect to lengthening and/or shortening recorded music tracks(s) and bears no relationship whatsoever to the length of the commercial in which said music tracks(s) is incorporated or to the use of music track(s) in the length originally recorded.

D. Television Commercials Produced in Two (2) Lengths

When the video portion of a commercial is mechanically edited to make a single shorter or longer commercial, and the music track is identical or the music track has been lengthened or shortened a dubbing fee will be paid. After the first thirteen (13) week cycle, both the original and the edited version will be considered one (1) commercial for re-use purposes.

8. CHANGES REQUIRED BY LAW, AND LANGUAGE TRANSLATION

The following alternations may be made in a commercial announcement without changing it into a new or additional commercial for the purpose of this agreement:

- a) The on and/or off camera message of a commercial announcement made for a designated advertiser and/or product shots contained therein may be varied (but only to the extent necessary) to comply with legal requirements, government regulations, or specific network and/or station codes relating to advertising standards. Written notice must be given to the Vice-president from Canada before broadcast.
- b) The off-camera message of a commercial announcement or any words shown in a commercial announcement made for a designated advertiser may be recorded or translated in Canada in two (2) languages. Each additional language beyond two (2) will require an additional payment of seventy-five percent (75%) of the dubbing fee.

A. Informational Changes

The original commercial cannot be altered except to insert; destination, points of departure, times, telephone numbers, rates, prices, cross references to alternate media information etcetera. Inserts of this nature may be made without additional fee on national commercials only.

9. NATIONAL USE FEES

A. Initial Use

- 1) For the initial payments set forth in this agreement, the commercial announcements recorded at any one session, may be broadcast either by television stations or by radio stations, but not by both, during a period of thirteen (13) weeks (“initial cycle”) from the date of the first broadcast. If any commercial announcement recorded is used in a second broadcast medium, during the initial thirteen (13) week cycle, each musician designated to that commercial must receive a fee amounting to one hundred percent (100%) of the original session fee. Refer to Section 15F for use of commercials on the Internet and CD ROM.
- 2) Up to three (3) commercials may be recorded in the original session and they must be broadcast for the first time within nine(9) months following the session. Seasonal commercials may be recorded and will include advertising messages for Christmas, Valentine’s Day, Easter, Mother’s Day, Father’s Day, Canada Day, Thanksgiving Day and Halloween. For these seasonal commercials the period shall be twelve (12) months. Commercial not broadcast within the time frame of this paragraph are considered dormant.

B. Re-use

- 1) The first additional broadcast after the expiration of the initial cycle in the same broadcast medium shall start a new thirteen (13) week cycle. The first broadcast in such broadcast medium following the second thirteen (13) week cycle shall start a new thirteen (13) week cycle, etc. The end of one (1) thirteen week cycle and the commencement of the next such cycle need not be contiguous.
- 2) If only one (1) commercial announcement is produced at a session and such commercial announcement is not changed, visually or orally in any manner, each re-use cycle beyond the first must be paid for at the applicable fees. It is not permitted to produce one (1) commercial only and declare two (2) or three (3), unless the second and third are different commercials either visually or orally.

C. Dubbing and New-Use Fees

“Dubbing” is defined as the transfer of a single music track into one or more commercials used in the same broadcast medium.

“New –Use” is defined as the transfer of a single music track into one or more commercials used in a different broadcast medium.

Each time a single music sound track which was originally recorded for one or more commercials is:

1. Incorporated into additional commercials for the same product used in the same medium, which commercials exceed the number included on the Form B contract filed for the original session, or
2. Included on the Form B contract filed for the session but the announcer copy is not added until more than ten (10) weeks after the recording session, or
3. Incorporated into commercials for the same product produced for a different medium

the applicable re-use fees shall apply

D. Re-use Fees

For each such additional thirteen (13) week cycle, payment for each original commercial announcement shall be fifty percent (50%) for all services performed under the original contract. For each such additional thirteen (13) week cycle, payment for each commercial that has been dubbed or transferred to new-use shall be fifty percent (50%) for all services performed based on the current rate. All services referred to in this paragraph shall include leader, contractor, doubling, arranging, copying and pension, but not transportation, cartage, or overtime.

Re-use on negotiated fees will be based on fifty percent (50%) for one (1) commercial, sixty-six percent (66%) for two (2) commercials and one hundred percent (100%) for three (3) commercials.

A regional commercial may be re-used as a national commercial provided that a step-up fee from regional to national is paid, plus fifty percent (50%) of the national fee to all musicians who performed a service under the original contract.

A national commercial may be re-used as a regional commercial provided fifty (50) percent of the regional fee is paid to all musicians who performed a service under the original contract.

E. Prepayment For One Year

Applies to national commercials and does not apply to regional or local commercials.

National commercials may be produced and utilized for one (1) year without payment of re-use, provided that a full session payment is made at the time of recording for all commercials produced, plus three (3) re-use payments (three (3) cycles) and that total is discounted by fifteen percent (15%). Prepayment must be declared at the time of the original recording session. Re-use for an additional year(s) shall be one hundred percent (100%) of the original payment,

When a single commercial is produced, with a single music track, unlimited audio or video changes may be made on such a single national commercial, if it is so designated in advance on the contract and advanced payment is made at five hundred percent (500%) of the basic fee for all services performed on the contract. Subsequent one (1) year cycles shall be payable in advance at the same fee.

F. Commercial Not Used For Two Years

If any commercial, after its' initial use, is not utilized for two (2) years, the first thirteen (13) week cycle of use thereafter must be paid at the full applicable one (1) hour session fee rate provided for in the AFM Commercials Contract which is in effect at the time re-use is activated. Subsequent thirteen (13) week cycles must be paid at the re-use rate which is in effect at the time re-use is activated.

G. Public Service Commercials

Public Service Commercials which includes recognized charities may be produced provided the original session fee is paid to all members providing a service on the commercial. Re-use payments may be waived with the permission of the Vice-president from Canada prior to the session and provided that all musicians are notified when engaged for the session.

H. National Short-Life And Promotional Commercials

There shall be minimum call session of one (1) hour during which three (3) different commercial announcements may be recorded for one medium only and the total length may not exceed three (3) minutes in the aggregate. The rate is a one time payment for thirty-one (31) days or less at the discounted rate of 15% off the national fee for the first three (3) commercials; up to three (3) additional commercials at the discounted rate of 25% off the national fee; up to three (3) additional commercials at a further discounted rate of 30% off the national fee. Commercials over nine (9) in number shall be paid at the last mentioned discounted rate of 30% for each set of three (3) or less commercials.

The number of commercials must be declared at the time of the session.

All commercials in this pool must be broadcast with ninety (90) days of the initial broadcast.

Side musician's Fee	12/01/2004	12/01/2005	12/01/2006
when 3 commercials declared...	\$135.00	\$137.70	\$140.40
when 4-6 commercials declared...	\$254.10	\$259.20	\$264.30
when 7-9 commercials declared...	\$365.20	\$372.60	\$379.00
for each set of three (or less) additional commercials an additional...	\$111.20	\$113.40	\$115.60

If any commercials are used after the ninety (90) day period, the payment provisions of this paragraph will apply starting with the first three (3) commercials.

(2) National Short-Life Commercials

This applies to a single music track that may be recorded in a one (1) hour session that will produce at least twelve (12) commercial spots.

- i. At the time of the session, the producer must declare the number of commercial spots to be made, and the number of cycles for which they are intended.
- ii. There may be unlimited copy changes in the commercials recorded.
- iii. A change in the original declaration on the number of cycles to be used will involve a penalty charge on the applicable rate of fifty percent (50%) over and above the single session fee i.e. \$79.40 (12/01/2004); \$81.00 (12/01/2005); \$82.60 (12/01/2006).
- iv. All payments for the entire declared use are due and payable upon completion of the session.
- v. The above conditions apply to one (1) medium only (radio or television), and not both. Additional use in another medium shall be paid in accordance with the terms of this agreement (one hundred percent (100%) additional), and all provisions of the agreement, i.e. leader, contractor, doubling, cartage, arranging and copying will apply.

(3) National Short-Life Fees

<u>Length of Use</u>	<u>Single Music Track For Pool of 12 Commercials</u>	<u>Extra Cost Per Commercial Over 12</u>
1st cycle	3 x national fee	\$15.00
2nd cycle	2 x national fee	\$10.00
3rd cycle	2 x national fee	\$10.00
4th cycle	2 x national fee	\$10.00

I. Demo Fees

A demo fee is fifty percent (50%) of national fee plus \$10.00 transportation cost to each musician for each service performed and listed on the Form B contract including those done on electronic musical devices even though the demo (creative or tracks) may not result in an acceptable commercial. Transportation cost not to be confused with the cartage fee. **All** other provisions contained in this agreement shall apply. This fee will apply to all advertisers located in Canada, for the recording of music for broadcast commercials to be used for demo non-broadcast purposes only. It cannot be used by any advertiser located in the United States. The conditions are as follows:

- 1) Cartage for heavy instruments, when applicable, is paid over and above the transportation cost referred to above.

- 2) Client and advertiser must be stated on the report form, and the musicians must be advised, prior to the session, that it is for demo purposes only.
- 3) If the demo is subsequently broadcast in its original form, the fees will be stepped up to the applicable national or regional fee. (An additional fifty percent (50%) of the national or regional session fee.) If there is any change in the demo, it must be re-recorded at the national or regional fee.
- 4) The Producer must decide whether or not they intend to upgrade the demo. This decision must be made within ninety (90) working days after the session and/or before the airing of the commercial. The additional fee as outlined in (3) above must be paid when the demo is upgraded. If the Producer fails to notify the Local within ninety (90) working days of its intent to upgrade and wishes to do so at a later date, a penalty of \$2.00 per day will be imposed payable to each musician performing a service on the contract. This penalty commences with the ninety-first (91st) working day after the session.

J. Dealer Tags

A. Dealer Tags

- i. A single national commercial may be produced and edited to permit Local dealer advertising copy and visual information to be included in the national commercial. This information may be inserted into the commercial for up to, but not exceeding, ten (10) seconds provided that the musicians are paid the session fee, plus a dubbing fee, and a re-use fee for the initial thirteen (13) week cycle. Each subsequent thirteen (13) week cycle will require payment of a dubbing fee, plus a re-use fee.

	December 1/04	December 1/05	December 1/06
Initial Fee	\$317.60	\$324.00	\$330.40
Each Subsequent 13 week cycle	\$158.80	\$162.00	\$165.20

- ii. A single national commercial that has been broadcast and is in cycle, for which the appropriate fees have been paid to the musicians, may be edited to permit local dealer advertising copy and visual information over the national commercial. This information may be inserted into the commercial for up to, but not exceeding ten (10) seconds provided that the musicians are paid a dubbing fee and a re-use fee for the initial thirteen (13) week cycle. Each subsequent thirteen (13) week cycle will require payment of a dubbing fee plus a re-use fee.

	December 1/04	December 1/05	December 1/06
First Cycle	\$158.80	\$162.00	\$165.20
Each Subsequent 13 week cycle	\$158.80	\$162.00	\$165.20

iii. All other conditions of the Agreement apply to the above fees.

iv. Dealer tags may not be inserted into Regional or Local commercials.

K. Quantity Production Fees

This applies only to commercials in which the minimum call session shall be three (3) hours during which twelve (12) different commercial announcements are declared, the total length of which may not exceed twelve (12) minutes in the aggregate in one (one (1) medium). Re-use payments shall apply upon usage of each commercial after thirteen (13) weeks from first broadcast date. Commercials out of this pool which are not broadcast within twenty-six (26) weeks from the first broadcast date shall be considered unusable.

10. LOCAL FEES AND CONDITIONS

A. Local Commercials

A “local” commercial is an advertisement for a product or service marketed or sold and broadcast in a single city.

“Local” commercials as outlined above, may be produced for unlimited use and broadcast in one (1) medium only as follows:

- 1) During the original session (one (1) hour), two (2) commercials may be produced for the same advertiser.
- 2) Prepayment at a rate not less than \$69.40 (12/01/2004); \$70.80 (12/01/2005) and \$72.20 (12/01/2006) and not more than the national rate for all services performed on the contract provides unlimited use for eighteen (18) months. (See appendix “A”)
- 3) Unlimited audio or video changes allowed during the eighteen (18) month period.
- 4) Subsequent eighteen (18) month cycles shall be paid for at one hundred percent (100%) of the applicable one (1) hour session fee.
- 5) The commercials do not have to be recorded in the city for which their use is intended. The minimum fees shall be not less than the fee of the Local in whose jurisdiction the services are rendered, or the minimum of the Local where the commercial is broadcast, whichever is greater.
- 6) All musicians must be advised prior to the session that the commercials are to be used in a single city only, and the selected medium shown.

- 7) If the commercials are broadcast in any medium other than the original recording or broadcast, the fees shall be double.
- 8) All other conditions of this agreement apply to the above, i.e. leader, contractor, arranger copyists, etc.

B. Test Market Commercials

A “test market” commercial is an advertisement for a product or service where the marketability of the commercial is being tested prior to contemplated national release. All Test Market commercials must be so designated, in advance, on the contract.

- 1) Such a commercial may be aired in a single city for a thirteen (13) week period upon payment of the appropriate Local fee(s) as per Appendix “A”, or
- 2) Such a commercial may be aired in two (2) cities, located in separate regions (as defined in Article 11) for a thirteen (13) week period upon payment of the fee(s) for Regional Commercials (Article 11).
- 3) If such commercial is aired in more than two (2) cities located in different regions the National fees and conditions will apply.
- 4) For additional test marketing in the same cities, payment shall be made at the rate of one hundred percent (100%) of the original Test Marketing fee, for each subsequent thirteen (13) week period.

11. REGIONAL COMMERCIALS

All provisions of the national commercials shall apply to regional commercials. All advertisers may use the fees and conditions as outlined, but the commercials are restricted to use in the following areas:

- (a) Maritimes and Newfoundland
- (b) Province of Québec
- (c) Province of Ontario
- (d) Prairie Provinces
- (e) British Columbia
- (f) Toronto
- (g) Montréal
- (h) Vancouver

Regional Fees

December 1, 2004	\$129.30
December 1, 2005	\$131.90
December 1, 2006	\$134.50

If a commercial is used in more than one region as outlined above the national fees and conditions apply.

A. Unlimited Use For Regional Commercials

Unlimited audio or video changes are allowed during each thirteen (13) week cycle or during a one (1) year cycle on all regional commercials that are produced in any Local for use in any region (as defined above) under the following conditions:

- 1) A one (1) hour session at two hundred percent (200%) of the basic national rate for all services performed on the contract:

December 1, 2004	\$317.60
December 1, 2005	\$324.00
December 1, 2006	\$330.40

One (1) commercial sound track only may be produced at the session.

- 2) Re-use in thirteen (13) week cycles at one hundred percent (100%) of the basic national session fee:

December 1, 2004	\$158.82
December 1, 2005	\$162.00
December 1, 2006	\$165.20

- 3) Any new-use or dubbing to be paid at one hundred percent (100%) of the basic national session fee as in (2).

December 1, 2004	\$158.80
December 1, 2005	\$162.00
December 1, 2006	\$165.20

- 4) Prepayment at the time of the session is permitted upon payment of four hundred percent (400%) of the basic national fee, which allows for one (1) year use of a commercial sound track

December 1, 2004	\$635.20
December 1, 2005	\$648.00
December 1, 2006	\$660.80

12. COMMERCIALS PRODUCED OR USED IN NON-BROADCAST MEDIA

When commercials produced under the jurisdiction of this agreement have been broadcast and are subsequently used in non-broadcast media (i.e. CNE, Royal Winter Fair, PNE, test-mobiles, theatres, stadiums, in-flight, etc.) all musicians will be paid for a new-use in another medium as directed in paragraph 9.(D). of this agreement except the re-use cycle is extended to twenty-six (26) weeks. Commercials produced originally for non-broadcast media can be produced and paid under the terms of this agreement except the original and re-use cycle is extended to twenty-six (26) weeks. Commercial announcements, while in cycle, may be utilized in non-broadcast media without extra fee.

13. CORPORATE LOGO

i. Corporate identification only containing no commercial message, up to but not more than five (5) seconds in length. Session rates same as national fee, minimum call, one (1) hour during which five (5) corporate logos may be made for the same advertiser. Re-use based on one-fifth (1/5) of the national scale for each cut.

ii. Stings

- One (1) hour session – single advertiser – One (1) sting - maximum five (5) seconds.
- Inserted at beginning or end (not in body) of other commercial for the same advertiser.
- Unlimited inserts (for same advertiser) for one year from first broadcast – National Fees plus an additional 150%.

14. FOREIGN USE

“Use of any commercial announcement in a broadcast medium outside of Canada or the United States, its territories and possessions, shall require an additional fee.”

New Formula:

- one (1) year use.
- unlimited language changes per Continent.
- Fees:
 - i. Europe - additional 100% of original fee.
 - ii. All others – additional 50% of original fee per continent.
 - iii. World use - (pre-paid) additional 250% of original fees.

15. COMMERCIALS PRODUCED FOR SPECIALTY PAY-TV USE AND HOME VIDEO USE

A. The rate for commercials produced specifically for Specialty Pay-TV is based on the fee of \$99.70 (12/01/2004); \$101.70 (12/01/2005); \$103.70 (12/01/2006) for all cities in Canada.

A session call of one (1) hour during which three (3) different commercial announcements or less may be recorded, the total length of which may not exceed three (3) minutes in aggregate.

This rate includes use fees for twenty-six (26) weeks.

- (1) The re-use, dubbing and new use fee will be fifty percent (50%) of the Specialty Pay-TV rate for each commercial. The fifty percent (50%) is payable for all services performed on the original contract including leader, contractor, doubling, arranging, copying, pension, but not transportation cartage, or overtime.

This rate also includes use fees for twenty-six (26) weeks.

B. Broadcast of Conventional TV Commercials on Specialty Pay-TV

- 1) In the event an existing conventional TV commercial announcement is transmitted on Specialty Pay-TV.
 - i. In Cycle - there will be no extra payment incurred.
 - ii. Out-of Cycle - the national rate re-use fee will apply and allows unlimited use for twenty-six (26) weeks.
- 2) A commercial produced specifically for Specialty Pay-TV may not be used on conventional TV unless national session fee is paid (includes up to three (3) different commercials).
- 3) Except as otherwise provided, all terms and conditions of the Commercial Announcements Musicians' Recording Agreement for Canada will apply.

C. Commercials in Videos

- 1) When an existing commercial, in or out of cycle, is included in videos for sale or rent to the public, an additional fee equal to the basic National fee will be paid.
- 2) When commercials are produced specifically for inclusion in videos for sale or rent to the public, the terms and conditions of National Commercials will apply except that a fee equal to double the National fee will be paid.

D. Infomercials

Definition: An Infomercial is a programme in excess of three (3) minutes and not more than thirty-one (31) minutes in length, the intent of which is to sell a product or service

Minimum Call

There shall be a minimum call session of two (2) hours during which a maximum of fifteen (15) minutes of music may be recorded for use in the specific Infomercial.

Fees

The minimum fee per musician is double the minimum session fee as outlined in paragraph 6.C. of this agreement.

Continuous Overtime

Overtime continuously following a session, during which five (5) additional minutes of music may or may not be recorded for each forty (40) minutes of such overtime shall be paid for at the rate of one-third (1/3) of the rate applicable to the minimum call session.

Length of Call

Each call must be for a specific and guaranteed period of time, which may be extended; although no musician shall be obligated to more than forty (40) additional minutes of continuous overtime without his/her consent.

Use of recorded music in Infomercial

The music recorded in the minimum call session (and any additional session) for a specific Infomercial may be used to accompany any portion of the video of that specific Infomercial, and may be used more than once within it.

Commercials from Infomercials

The music used in Infomercials may be edited to create one or more commercial announcements provided that all instrumentalists, leaders, contractors, arrangers, orchestrators and copyists are paid in accordance with the national fees and conditions as outlined in this agreement.

Specific Provisions of this Agreement to apply

The following paragraphs and sections apply to Infomercials:

1;2;3;4: A, B, C, D; 5A; 6D, E thru to N; 7 A, B; 8; 9 A 1, 2; 9B 1, 2; 9D; 9E; 9F; 12; 14; 15C; 15D; 15E; 16 thru to 22.

E. Any extraordinary circumstances and/or situations not covered by this agreement may be discussed and resolved by the engager and the office of the Vice-president from Canada. If necessary, representation from The Institute of Canadian Advertising and The Association of Canadian Advertisers, will become involved with the resolution of the matter.

F. INTERNET and CD ROM

1) **Internet** - shall be considered a “third” broadcast medium in addition to television and radio and national recording fees and working conditions shall apply to all commercials released on the Internet.

a) Initial use and subsequent “cycles”

i. Single Website:

- National fees and conditions apply and initial use is for a period of one (1) year from the date of the first use.
- Subsequent cycles for use on the same website shall be for a period of one (1) year at 100% of the original contracted fees.

b) Multiple Websites – use on an unlimited number of websites upon payment of an additional 200% of the fees in “a)” above. Same use and re-use conditions.

2) **CD-ROMs**

Commercials may be included on CD-ROMs under the following conditions:

a) Recorded initially for use on CD-ROM:

i. 100% of National Fees (same working conditions apply) for first 10,000 copies or less

ii. 50% of fees in “a)” above for each additional 10,000 copies or less.

b) Used on a CD-ROM subsequent to or simultaneously with an initial cycle in the Radio, Television or Internet Medium:

- 50% of original contracted fees for each 10,000 copies or less.

16. AFM-EPW FUND (CANADA)

The Producer shall contribute an amount equal to ten percent (10%) of all earnings, exclusive of transportation, cartage, late penalty payments, etc., computed at the minimum basic fee as set out in this agreement, to the AFM-EPW Fund (Canada) created pursuant to Agreement and Declaration of Trust, dated April 9, 1962.

17. PAYMENTS

A. Place and Time

(1) Place

Each and every payment to be made pursuant to this agreement, including without limitation, payments for original performances and services, dubbing, additional payments based on broadcast of commercial announcements following the first thirteen (13) weeks of broadcast, and payments of contributions to the American Federation of Musicians and Employers Pension Welfare Fund (Canada), shall be made through such agency or agencies of the Federation as may be designated from time to time by the Federation.

(2) Time

Payment for the original recording session shall become due and payable within fifteen (15) working days after the session. Payment for demo upgrade, re-use, new-use or dubbing, shall become due and payable within twenty (20) working days after the date that the demo upgrade or the dubbing took place. In the case of re-use or new-use, it would be twenty (20) working days after the first broadcast date.

B. Late Payment Penalty

Failure to make payments by the due dates for the original session shall require payment of an additional amount as required below. Days exclude Saturdays, Sundays and holidays observed by the Producer.

Between 16th and 30th days	5% over and above original payment
Between 31st and 60th days	10% over and above original payment
Between 61st and 90th days	50% over and above original payment
after 90th day	100% over and above original payment

Failure to make payments for demo upgrades, re-use, new-use or dubbing shall require payment of an additional amount as required below. Days exclude Saturdays, Sundays and Holidays observed by the Producer.

Between 21st and 35th day	5% over the original payment
Between 36th and 65th day	10% over the original payment
Between 66th and 95th day	50% over the original payment
After 95th day	100% over the original payment

C. Payment Information

The following information will accompany each payment, either printed on the cheque stub or attached thereto:

- | | |
|------------------------|--------------------------------|
| 1. Name of Advertiser | 4. Date of Original Session |
| 2. Product | 5. Medium of Use (TV or Radio) |
| 3. Title of Commercial | 6. Re-use Cycle |

18. GENERAL CONDITIONS

A. No Wild Tracks

Persons covered by this agreement, (a) shall not be required or permitted to record a music sound track for general usage or for any purpose whatsoever except as authorized herein or in another written agreement with the Federation, and (b) shall not be required or permitted to use a music sound track in violation of the terms of this agreement.

B. Transfer of Rights

(1) Federation Approval

Unless the written permission of the Federation is first had and obtained, neither the Producer, any controlling interest in it, nor any subsidiary of either will use or grant any rights to use (whether by way of sale, assignment, mortgage, lease, gift, license or other transfer of title or permission to use, and whether by operation of law or otherwise), in whole or in part (hereafter called "transfer"), any commercial announcement, film or videotape, or recording, which, in whole or in part, embodies pictures of musicians rendering musical performances or which embodies or is accompanied by performances by such musicians which are recorded and/or photographed under this agreement, for purposes other than in connection with television or radio broadcasts, where no admission or other fee is charged.

(2) Assumption Agreement

Any transfer of a commercial announcement, film, videotape or recording produced under this agreement, or of any rights therein, shall be subject to the rights and duties of the Producer established by this agreement. No such transfer shall be effective unless and until (i) the Federation shall have received and approved an assumption agreement substantially in the form and substance set forth in Exhibit C hereof (which approval the Federation will not unreasonably withhold), duly executed by the person, firm or corporation receiving such transfer.

C. Canadian Employment

The following provision contained in this paragraph shall apply to services to be rendered hereunder in Canada. Such provision shall also be included in, and whether or not so

included, shall be deemed part of all contracts calling for such services, at places under circumstances as aforesaid, between the Producer and person employed in classifications covered by this agreement: “only the services of members in good standing of the American Federation of Musicians of the United States and Canada shall be used for the performance of any work within a classification covered by this agreement”.

D. Non-Discrimination

The parties mutually reaffirm their policy of non-discrimination. The Producer reaffirms its policy that no member shall be discriminated against in employment hereunder, because of race, colour, creed, sex, or national origin, provided the member is qualified and has the physical ability to perform the work required hereunder by the Producer. The Federation reaffirms its policy of non-discrimination with respect to admission to membership and rights of membership.

E. Federation Representatives

The duly authorized business representative of the Federation and also the Local (affiliated with the Federation), upon presentation of proper identification to the Producer, shall each be granted access to the studio or other place where services are being performed hereunder. Each shall be permitted to visit during working hours, that studio or other place where services are being performed hereunder for the proper conduct of the business of the Federation or of such Local.

F. Federation By-laws

All present provisions of the bylaws, rules and regulations of the Federation are made part of this agreement as though fully set forth herein to the extent to which their inclusion and enforcement as part of this agreement are not prohibited by any applicable law. No changes in the Federation’s bylaws, rules and regulations which may be made during the term of this agreement shall be effective to contravene any of the provisions hereof. The Producer acknowledges its responsibility to be fully acquainted, now and for the duration of this agreement, with the present contents of the Federation’s bylaws, rules and regulations.

G. Waivers

No conduct or failure to act (with or without knowledge) by the Federation other than a statement in writing signed by a duly authorized officer thereof shall constitute a waiver by it of any provision of this agreement.

H. Music Preparation

Arrangers, orchestrators, and copyists fees and conditions, may be obtained from the Local office or the Canadian office of the Federation for the original session if it is necessary. Re-use fees are based on paragraph 9.D. of this agreement, but not less than the following: Arrangers and orchestrators fifty percent (50%) for each commercial based on leaders fees; copyists fifty percent (50%) for each commercial based on musicians fees.

19. SIDELINE MUSICIAN

A “sideline musician” is a person covered by this agreement who is engaged to mime the playing of a musical instrument on camera. The minimum fees are as follows:

For a single musician:

December 1, 2004	\$299.40
December 1, 2005	\$305.40
December 1, 2006	\$311.50

When two (2) or more musicians are engaged, a leader is required.

	<u>12/01/04</u>	<u>12/01/05</u>	<u>12/01/06</u>
Musician	\$262.50	\$267.80	\$273.10
Leader	\$525.00	\$535.60	\$546.20

The above fee is the minimum guarantee for an eight (8) hour working day or less.

Overtime over eight (8) hours in segments of fifteen (15) minutes or fraction thereof:

	<u>12/01/04</u>	<u>12/01/05</u>	<u>12/01/06</u>
Single Musician	\$14.10	\$14.40	\$14.70
Musician	\$12.00	\$12.20	\$12.50
Leader	\$24.00	\$24.40	\$25.00

For all other conditions relating to sideline musicians, contact the Canadian office of the Federation.

20. GRIEVANCE AND ARBITRATION:

Step 1. A written grievance involving the interpretation, application, administration or an alleged violation of this Agreement shall be dealt with by the engager at the request of the AFM, on its own behalf or on behalf of an musician, or in the alternative by the AFM at the request of the engager at the time of actual production.

In the event that any grievance remains unresolved within 30 days from the date of filing of the written grievance, either party may place the grievance before the Joint Committee in writing for disposition.

Step 2. The Joint Committee will be composed of four (4) representatives of the ICA/ACA, and four (4) representatives of the AFM. The four (4) representatives of the AFM shall include at least one(1) rank-and-file player representative who, when the grievance emanates from a circumstance involving a Metro Toronto production, shall be a representative of the Toronto Chapter of the Recording Musicians' Association of the United States and Canada. Six members of the Committee shall constitute a quorum. Each party shall have equal voting rights at any meeting of the Committee, i.e., when only three (3) representatives of the ICA/ACA are present then the AFM shall be entitled to three (3) representatives only at that meeting.

In dealing with the grievance, the Joint Committee shall hear such representations and such evidence as either party wishes to present.

The Joint Committee shall be empowered to decide on each grievance submitted to it for disposition in accordance with the provisions of this Agreement and provide redress to the aggrieved party.

A grievance shall be settled when a majority of the members of the Committee agree upon a decision. The decision of the Committee shall be reduced to writing and available to both parties. Where the Committee so decides, the terms of the decision shall be communicated to the members of either the Joint Committee or the AFM or both.

- Step 3.
- a) In the event that the Joint Committee is unable to come to a decision within sixty (60) working days from the date the grievance was first filed, either party may give written notice to the other that it wishes to submit the grievance to arbitration. The grievance will be referred to an arbitrator on the list agreed upon by the parties. Grievances will be heard by each arbitrator in rotation. If an arbitrator is not available to hear the grievance, then the grievance will be referred to the next arbitrator on the list. The arbitrator shall be governed by the applicable Labour Relations Act.
 - b) The time limits provided under this grievance and arbitration procedure may be extended by mutual agreement of the parties.
 - c) The arbitrator shall not alter, amend, add to or delete from the terms of this agreement.
 - d) The fees and expenses of the arbitrator shall be borne equally by the parties.
 - e) The decision of the Arbitrator shall be final and binding on all parties to this agreement.

Step 4. A grievance must be filed within six (6) months of the occurrence giving rise to the grievance.

21. JOINT COMMITTEE

The parties to this agreement agree to the establishment of an eight (8) member joint committee, which will have equal representation from The Institute of Canadian Advertising and the Association of Canadian Advertisers (representing the “producers”) and Canadian representatives of the American Federation of Musicians of the United States and Canada (representing the “Federation”). The joint committee shall meet quarterly and be empowered to:

- A. Discuss and resolve problems emanating from the terms and conditions specified in this agreement, including but not limited to late payment penalties and the reporting of first broadcast dates, re-use dates and new-use dubbing to the Local and/or Federation.

- B. Develop a working relationship between the industry and the Federation in order to discuss and resolve related problems.

Any joint committee resolution to a problem that entails any alteration to the terms and condition of this agreement shall be ratified by ICA/ACA and qualifying members of the Federation before becoming part of this agreement.

22. TERM OF AGREEMENT

The Producer's right to engage persons under the terms of this agreement shall commence as of December 1, 2004 and shall terminate at midnight on November 30, 2007.

EXHIBIT C

FORM OF ASSUMPTION AGREEMENT

The undersigned transferee of the commercial announcement(s) identified below acknowledges to

(Transferor)

that such commercial announcement(s) and the use thereof is/are subject to the terms and conditions of the American Federation of Musicians' Television, Radio and Internet Commercial Announcements Agreement (November 1, 2001 - October 31,2004) a copy of which the undersigned has read and with which the undersigned is acquainted, The undersigned hereby agrees expressly for the benefit of the American Federation of Musicians' ("Federation"), and of the persons covered by such agreement with respect to such commercial announcement(s), to abide by and perform the provisions of said agreement and, without limitation of the foregoing, to make the payments for the use and re-use of said commercial announcement(s) required thereby. It is expressly agreed that the Federation, in its own behalf and on behalf of the persons covered by said agreement, in addition to any other rights and remedies available to it in the event of breach of this agreement by the undersigned, shall be entitled to injunctive relief for the enforcement of this agreement.

Date: _____, 2 _____

Transferee

By: _____
Title

Address

Identification of Commercial Announcement(s):

APPENDIX "A"

The following rates apply to the production of "Local" commercial announcements, as outlined in paragraph 10 of this agreement.

DECEMBER 1, 2004 – NOVEMBER 30, 2007

	<u>Dec. 1, 2004</u>	<u>Dec. 1, 2005</u>	<u>Dec. 1, 2006</u>
Calgary	\$69.40	\$70.80	\$72.20
Edmonton	\$69.40	\$70.80	\$72.20
Halifax	\$69.40	\$70.80	\$72.20
Hamilton	\$69.40	\$70.80	\$72.20
Kitchener	\$69.40	\$70.80	\$72.20
London	\$69.40	\$70.80	\$72.20
Ottawa	\$69.40	\$70.80	\$72.20
Regina	\$69.40	\$70.80	\$72.20
Windsor	\$69.40	\$70.80	\$72.20
Winnipeg	\$69.40	\$70.80	\$72.20
Montréal	\$93.40	\$95.30	\$97.20
Toronto	\$93.40	\$95.30	\$97.20
Vancouver	\$93.40	\$95.30	\$97.20

AFM / ICA-ACA Producer's Intent To Produce Form

Signatory Engager _____

Advertiser _____

Ad Agency _____

Production Co. _____

Session Date _____ Call Time _____

Location _____

Leader _____

Contractor _____

INTENDED ORIGINAL USE:

Country Canada USA Other _____

Type National Regional Local Demo

Seasonal Dealer Tags PSA Infomercial

Short Life Other _____

Medium TV Radio Internet Non Broadcast

ANNOUNCEMENTS TO BE PRODUCED:

Identification (Title/Code)

Length of music track

Product

Intended AFM Form B contract reference # _____

**THIS FORM MUST BE FAXED OR E-MAILED TO THE LOCAL AFM OFFICE
NOT LESS THAN 48 HOURS PRIOR TO RECORDING SESSION**

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