

ARTICLE 23.

OTHER USES OF TELEVISION PROGRAMS

SECTION A.

In the event the Company intends to release a program produced for broadcast under this Agreement in media other than television, radio, closed circuits, the Internet, or home pay television, the following conditions shall obtain:

1. If a recording of a television program covered by this Agreement is released in theatrical exhibition (excluding theater pay television), the Director of such program shall be paid, as separate and additional compensation for theatrical exhibition use of such program, an additional amount equal to that which a Director employed to direct a television program of like type and budget pursuant to the Basic Film Agreement of Directors Guild of America, Inc. in effect at the time such program was recorded would have received for theatrical exhibition of such television film.
2. Except as otherwise provided to the contrary in Articles 24 and 29 hereof, in the event the Company intends to produce programs which, if produced for television broadcast, would be covered by this Agreement, but which are intended for initial release in public transportation (*i.e.*, airplanes, ships, etc.) or in theater pay television (except sports programs as hereinafter provided) or for visual electronic systems used in connection with home television receivers or otherwise, or in the event the Company intends to release a television program covered by this Agreement for any of such uses, the Company shall notify the Guild at least fifteen (15) days prior to such intended production or release, and the Guild and Company agree to bargain in good faith at such time as to Directors' fees for such production or release. If no agreement is reached within thirty (30) days from the commencement of such negotiation, the Guild may, on ten (10) days written notice, terminate this Agreement.
3. When a sports program is broadcast as a television program and is also fed to theater pay television in the originating city only (if the

originating city is blacked out), the Company shall pay to the Director additional compensation in an amount to be negotiated with the Director, but not less than an additional amount equivalent to the minimum compensation as herein listed for such program.

4. Except as otherwise provided to the contrary in Article 24 hereof, if a program covered by this Agreement is released in media other than the media specified hereinabove, including but not limited to the release of programs to educational television stations and closed circuit hotel broadcasts, and classrooms, educational, sales, medical, instructional and all other non-broadcast presentations, etc., the Company shall pay to the Director additional compensation in an amount to be negotiated with the Directors Guild, subject to the approval of the Director.

However, if at any time during the term hereof, the use in such other media, including educational television and closed circuit hotel broadcasts, of programs recorded for television or for such other media shall in the Guild's judgment become a problem of major significance, the Company, at the request of the Guild, will meet with the Guild for the purpose of negotiating with respect to such problem. Upon failure to reach an agreement within sixty (60) days, the Guild may, on not less than ten (10) days written notice, (a) elect to terminate this Agreement or (b) submit the matter to binding arbitration. If the Guild elects not to terminate this Agreement or does not submit the matter to arbitration, upon receipt of written notice from the Guild, the Company agrees that it will refrain from using recordings of programs in the manner which has been the subject of negotiation. All compensation so negotiated or made a part of the arbitration award shall be retroactive to the date of this Agreement.

SECTION B.

1. Theatrical Exhibition

- (a) If a television tape is exhibited theatrically outside of the United States and Canada, then, upon the release of such television tape for theatrical exhibition, the Director shall be

paid an amount equal to one hundred percent (100%) of the applicable theatrical minimum. If such tape is released theatrically in the United States, the Director shall be paid one hundred fifty percent (150%) of such theatrical minimum; provided, however, that the maximum payment under the provisions of this Paragraph for theatrical release of a television tape shall be one hundred fifty percent (150%) of applicable theatrical scale. The foregoing shall not apply to the incidental use of a television excerpt (as that term is generally used in the industry) in a theatrical exhibition.

- (i) For use of such an excerpt in a theatrical motion picture, the following payments will be made:
 - (A) Excerpt less than thirty (30) seconds, \$484;
 - (B) Excerpt thirty (30) seconds to two (2) minutes, \$969 per excerpt;
 - (C) Excerpt over two (2) minutes, \$969 for the first two (2) minutes plus \$390 for each additional minute or fraction thereof.
- (ii) The provisions of this subparagraph (a) relating to the use of excerpts apply to the use after July 1, 2011 of any excerpt from a television program, whenever produced.
- (iii) The actual production company which produces the motion picture containing the excerpt requiring payment is obligated to make the payment, provided the company is signatory to this Agreement. Employer shall otherwise remain liable for the payment due.
- (iv) If two (2) or more Directors are entitled to share any payment, the Guild shall determine the allocation among the Directors.

- (b) If one television program is amplified or two or more television programs (or segments of programs) are combined into one integrated program and the same is released for theatrical exhibition, then, in that event, the additional payment due the Director or Directors pursuant to Paragraph 1. above shall be divided proportionately among them.
- (i) Applicable theatrical scale shall be computed based on the combined production cost of all television segments contained in the compilation. In case of dispute as to the manner of allocation between Directors, the Guild will make the determination.
- (ii) If the Employer desires to combine two (2) or more complete television programs or episodes to make a new or expanded entity for theatrical release, the original Director (subject to reasonable availability) shall supervise any additional editing or be offered employment to shoot any additional footage required. There shall be no compensation for up to one week of editing supervision. Any additional editing supervision and any shooting of additional footage shall be compensated at a rate equal to the initial rate. If more than one Director is involved and there is a dispute, the Guild will determine which one among them will perform the above services. In any event, each Director represented by his or her work in the combination shall receive his or her respective residuals thereon, as determined by the Guild.

The Director or Directors involved shall be notified by Employer of its intent to amplify or combine such television program within five (5) days prior to the commencement of any required services hereunder.

- (iii) Credit on television tapes released theatrically shall be in accordance with the theatrical film provisions of the Basic Agreement. Employer shall contract with any distributor of its television programs and shall itself accord credit to the Director of any television tape

whenever credit with respect to such television tape is given in paid advertising to any person whomsoever in connection therewith other than the performers and other than when such advertising relates to an entire series of tapes which has a common producer or producers and has more than one Director.

2. Use of Television Tape Clips

Payment for the use on television of an excerpt from a television program covered by this Agreement or a predecessor Agreement shall be governed by the provisions of this subparagraph.

(a) No payment shall be required in the following circumstances:

- (i) When used for promotional, trailer, news or review purposes; provided, however, that the length of such excerpt(s) shall not exceed one hundred twenty (120) seconds. However, the maximum length of excerpts from a free television program, other than a long-form television program (*i.e.*, a program ninety (90) minutes or more in length), that can be used for promotional purposes without payment of excerpt fee(s) is five (5) minutes; the maximum length of excerpts from a long-form television program that can be used for promotional purposes without payment of excerpt fee(s) is ten (10) minutes; and, the Employer may use up to five (5) minutes of excerpts from a free television program or series on any DVD release to advertise or promote the series without payment of excerpt fee(s). The Guild will give good faith consideration to requests for promotional uses of excerpts which exceed these length limitations, without the payment of fees, provided the use is non-commercial and the Director receives appropriate credit.

For purposes of this subparagraph, a "promotional" use of an excerpt shall be for the purpose of advertising or publicizing the specific program or serial or series from which the excerpt is taken. As used in this subparagraph (a), the term "news" means regularly-scheduled news programs (but not magazine or documentary programs), and special news programs which are not pre-planned and which are broadcast within twenty-four (24) hours after the event which gave rise to the program. It is understood that obituary programs are deemed to be "special news programs" even if pre-planned.

- (ii) When used as a so-called "stock shot" (as customarily understood in the industry -- *i.e.*, shots excluding dialogue or identifiable characters).
- (iii) When used for purposes of recapping the story to date in the context of a serial, multi-part program, episodic series, unit series or anthology; provided, however, that if such recap shall exceed ninety (90) seconds in length when used on a program less than sixty (60) minutes in total length, or exceed three minutes in length when used on a program sixty (60) minutes or more in total length, Employer shall pay to the Director(s) of the program(s) from which the excerpts in the recap were taken an aggregate one-time-only sum equal to \$242 for each minute or portion thereof by which the recap exceeds such length limitation.
- (iv) When used as a flashback in the context of a serial, multi-part program, episodic series, unit series, one-time show or anthology; provided, however, that if such flashback shall exceed thirty (30) seconds in length, Employer shall pay to the Director(s) of the programs(s) from which the excerpts in the flashback were taken an aggregate, one-time-only sum equal to \$242 for each minute or portion thereof by which the flashback exceeds such length limitation.

- (v) As heretofore, the use of excerpts from news programs on other programs shall not require any payment.
- (b) For any use of excerpts which is not within the exceptions provided for in subparagraph (a) above nor Paragraph 4. (Television Compilations) below, the Employer shall pay, for use on television of excerpts from a television program, the following aggregate one-time-only sum to the Director or Directors determined by the Guild to be entitled to such compensation and prorated as determined by the Guild:
 - (i) ten (10) seconds or less of excerpts from such program - \$390; or
 - (ii) Over ten (10) seconds but not more than two (2) minutes of excerpts from such program - \$1,166, or the applicable rerun fee, whichever is less; or
 - (iii) Over two (2) minutes but not more than ten (10) minutes of excerpts from such program - \$1,166 for the first two (2) minutes, and \$194 for each minute or portion thereof in excess of two (2) minutes, or the applicable rerun fee, whichever is less; or
 - (iv) Over ten (10) minutes of excerpts from such program - the applicable rerun fee;

provided, however, not less than \$390 will be paid for the use of excerpts from a single program.

For the use of an excerpt in a documentary or magazine program, the excerpt fee is six percent (6%) less than the rates set forth above.

- (c) Notwithstanding the foregoing, no excerpt fee shall be payable to the Director of the program in which the excerpt is used if:
 - (i) the program is part of a series order of no fewer than thirteen (13) episodes and the Director has directed, or has a commitment to direct, ninety percent (90%) or more of the series order;

- (ii) the program is an episode of a show such as “*Letterman*” or “*Oprah*,” and the Director has been continuously employed on the show for at least one (1) year before production of the episode; or
- (iii) the Director is either a credited Executive Producer or Producer of the program and the credited Director of the program from which the excerpt is derived.

If an excerpt from a free television program is used on pay television or videodiscs/videocassettes, as such terms are used in Article 29, or basic cable, such use shall be treated in the same manner as though the excerpt were used on free television.

The provisions of this Paragraph 2. apply to the use after July 1, 2011 of an excerpt from a free television program, whenever produced.

The actual production company which produces the program containing the excerpt requiring payment is obligated to make the payment required under this Paragraph, provided the company is signatory to this Agreement. Company shall otherwise remain liable for the payment due.

If two (2) or more Directors are entitled to share any payment provided in this Paragraph, the Guild shall determine the allocation among the Directors.

If an excerpt is used in a local program and the program is broadcast in no more than one market, the payment for such use shall be fifty percent (50%) of the amount provided in this Paragraph 2. If the program is broadcast later in another market, the Director shall be paid the remaining fifty percent (50%).

3. Tapes Exhibited Without Admission Charge

If a television tape is exhibited other than on free television or in a supplemental market, such exhibition shall be deemed a theatrical exhibition with the following additional provisos: If the Employer licenses or grants to any third party the right to place in theatrical exhibition a television tape produced after August 1, 1978, which

exhibition is to be before a viewing audience which pays no fee or admission charge to view the same, Employer will pay to Director an amount equal in the aggregate to five percent (5%) of the gross amounts received by Employer derived therefrom; provided, however, the sums paid to the Director hereunder shall in no event exceed the applicable amount otherwise payable to such Director under the applicable provisions of this provision had there been a fee or admission charge paid by the viewing audience. When Employer licenses or grants any such right to a subsidiary or other related entity, the gross amounts referred to in the preceding sentence shall be the amounts specifically paid to the Employer subject to there having been good faith bargaining between the Employer and such subsidiary or related entity. Employer shall account to the Director entitled to payments hereunder on no less than an annual basis; provided that no accounting need be made for any twelve (12) month period following the twelve (12) month period during which the Employer received no gross amounts with respect thereto. There shall be no duplication of the payments provided for in this provision and the payments provided for in any other provision of this Section. That is, any payment made under this provision shall be credited against any payment which may become due the Director under all other provisions of this Section. Conversely, if a theatrical release payment is made to the Director under the provisions of this Section other than under this provision, then no further sum shall be payable under this provision.

4. Compilation Television Programs

For "compilation" television programs – *i.e.*, programs whose running time (excluding commercials and title sequences) is comprised of more than fifty percent (50%) excerpts – the Director(s) of the excerpted material contained in the compilation shall be paid, prorated as determined by the Guild, an aggregate one-time-only sum equal to two hundred fifty percent (250%) of the applicable thirty (30) minute minimum for each thirty (30) minutes of overall program length of the television program in which such excerpts are used. Exhibition of excerpts in such compilation television programs shall not be deemed reruns or other use of the television films and tapes from which the excerpts are taken. Payment pursuant to this Paragraph relating to compilations shall not reduce or affect other

payments which may become due to the Directors for use of the television films and tapes from which such excerpts are taken.

Notwithstanding the foregoing, the Director of a compilation program which utilizes excerpts from a strip variety program such as "*Jimmy Kimmel Live*" shall not be entitled to any part of the compilation fee for the use of excerpts taken from the strip variety programs he/she directed, provided that he/she has been continuously employed as a Director on that strip variety program for at least one (1) year prior to production of the compilation program.

5. Excerpt from a Theatrical Motion Picture Used on Television

For use of excerpts from a theatrical picture in any television tape (other than a magazine or documentary program), including television tapes which consist substantially of excerpts of theatrical motion pictures, the following aggregate one-time-only sum shall be paid to the Directors for directorial services performed under a Basic Agreement (the Directors entitled to payment and proration of monies shall be determined by the Guild): (a) thirty (30) seconds or less of excerpts - \$266; (b) over thirty (30) seconds but not over two (2) minutes of excerpts - \$759; (c) over two (2) minutes of excerpts - \$759 for the first two minutes and \$191 for each minute or portion thereof in excess of two (2) minutes. For use of excerpts from a theatrical picture in any taped magazine or documentary program, the following aggregate one-time-only sum shall be paid to the Directors for directorial services performed under a Basic Agreement (the Directors entitled to payment and proration of monies shall be determined by the Guild): (a) thirty (30) seconds or less of excerpts - \$250; (b) over thirty (30) seconds but not over two (2) minutes of excerpts - \$717; (c) over two (2) minutes of excerpts - \$717 for the first two (2) minutes and \$179 for each minute or portion thereof in excess of two (2) minutes. The word excerpts, as used herein, shall not be deemed to apply to excerpts which are used with the consent of the Guild as above stated or to the televising of trailers or advertising of a motion picture by shots or scenes substantially in the nature of a trailer or to the use of stock shots or to the televising of excerpts for news (as defined in Paragraph 2.(a) above) or review purposes. The provisions of this Paragraph 5. apply to the television use, after July 1, 2011, of an excerpt from any theatrical motion picture, the

principal photography of which commenced on or after May 1, 1960. As to all theatrical motion pictures, the principal photography of which commenced prior to May 1, 1960, the Guild does not and will not make any claim for compensation for the exhibition of such motion pictures, or the use of excerpts therefrom, on television.

The Guild will give good faith consideration to requests for promotional uses of excerpts which exceed permitted length limitations, without the payment of fees, provided the use is non-commercial and the Director receives appropriate credit.

The actual production company which produces the program containing the excerpt requiring payment is obligated to make the payment required under this Paragraph, provided the company is signatory to this Agreement. Employer shall otherwise remain liable for the payment due.

If two or more Directors are entitled to share any payment provided in this Paragraph, the Guild shall determine the allocation among the Directors.

If an excerpt is used in a local program and the program is broadcast in no more than one market, the payment for such use shall be fifty percent (50%) of the amount provided in this Paragraph 5. If the program is broadcast later in another market, the Director shall be paid the remaining fifty percent (50%).

The payment provisions set forth in this Section shall determine payment for the uses set forth in this Section in lieu of the provisions in any other Guild agreement.