

**AMENDMENT NUMBER FIVE TO THE
AGREEMENT AND DECLARATION OF TRUST ESTABLISHING
THE AMERICAN FEDERATION OF MUSICIANS AND EMPLOYERS'
PENSION FUND**

(As Amended and Restated Effective as of April 1, 2005)

WHEREAS, the Board of Trustees (the "Board") of the American Federation of Musicians and Employers' Pension Fund (the "Fund") adopted the Agreement and Declaration of Trust Establishing the American Federation of Musicians and Employers' Pension Fund, as amended and restated effective as of April 1, 2005 (the "Trust Agreement"); and

WHEREAS, pursuant to Article X, Section 10.1 of the Trust Agreement, the Board reserves the right to amend the Trust Agreement at any time; and

WHEREAS, the Board has agreed to amend the Trust Agreement in the manner set forth herein and has delegated to the undersigned the authority to execute this Amendment.

NOW, THEREFORE, the Trust Agreement is hereby amended to read as follows, effective as of the date of adoption:

1. Section 6.1 (Officers) is amended to read as follows:

"(a) There shall be two (2) Co-Chairs of the Board, one of whom shall be the duly authorized President of the Union (or designated by the majority vote of those Union Trustees then in office, if the duly authorized President of the Union is not a Trustee), and the other of whom shall be designated by the majority vote of those Employer Trustees then in office.

(b) The term of such officers shall commence on the date of their election and continue until their successors are elected."

2. Section 7.3 (Administrative Committee) is amended as follows:

a. Subsection (a) is amended to read as follows:

"Employer Trustee members of the Administrative Committee shall be appointed by the Employer Co-Chair of the Board, and Union Trustee members of the Administrative Committee shall be appointed

by the Union Co-Chair of the Board. The members of the Administrative Committee shall select a Chairperson from their number.”

- b. Subsection (f) is amended to read as follows:

“Any member of the Administrative Committee may resign by delivering his or her written resignation to the Board and to the other members of the Administrative Committee, and another Trustee shall be appointed in his or her place in the manner set forth in subsection (a) above; provided, however, that there shall always be an equal number of Employer Trustees and Union Trustees appointed to such Committee (except in situations in which a vacancy is pending and waiting to be filled).”

3. Section 7.4(a) (Investment Committee) is amended as follows:

- a. Subsection (a) is amended to read as follows:

“Employer Trustee members of the Investment Committee shall be appointed by the Employer Co-Chair of the Board, and Union Trustee members of the Investment Committee shall be appointed by the Union Co-Chair of the Board. There shall be two (2) Co-Chairs of the Investment Committee, one of whom shall be designated by the majority vote of the Employer Trustee members of the Investment Committee and one of whom shall be appointed by the Union Co-Chair of the Board.”

- b. Subsection (e) is amended to read as follows:

“Any member of the Investment Committee may resign by delivering his or her written resignation to the Board and to the other members of the Investment Committee, and another Trustee shall be appointed in his or her place in the manner set forth in subsection (a) above; provided, however, that there shall always be an equal number of Employer Trustees and Union Trustees appointed to such Committee (except in situations in which a vacancy is pending and waiting to be filled).”

4. Section 7.5(a) (Audit Committee) is amended as follows:

- a. Subsection (a) is amended to read as follows:

“Employer Trustee members of the Audit Committee shall be appointed by the Employer Co-Chair of the Board, and Union Trustee members of the Audit Committee shall be appointed by the Union Co-Chair of the Board. The members of the Audit Committee shall select a Chairperson from their number.”

b. Subsection (f) is amended to read as follows:

“Any member of the Audit Committee may resign by delivering his or her written resignation to the Board and to the other members of the Audit Committee, and another Trustee shall be appointed in his or her place in the manner set forth in subsection (a) above; provided, however, that there shall always be an equal number of Employer Trustees and Union Trustees appointed to such Committee (except in situations in which a vacancy is pending and waiting to be filled).”

5. The first two lines of Section 7.4(b) are amended to read as follows:

“Subject to the actions of the Board and the provisions of the Investment Policy Statement and the Plan, the functions of the Investment Committee shall be to:”

6. The amendments to Sections 7.3, 7.4 and 7.5 of the Trust Agreement made by Amendment Number 2 to the Trust Agreement shall be moved to immediately after the first sentence of Sections 7.3(c), 7.4(c) and 7.5(c), respectively.


7. A new Section 9.10 shall be added to read as follows:

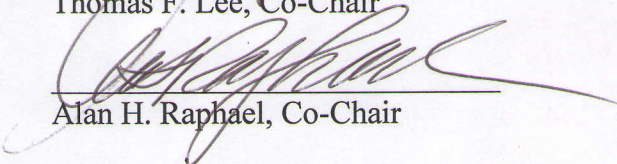
Applicability of Article IX to Statutory Employer Surcharge

For purposes of Section 9.3, 9.4, 9.5, 9.6, 9.7 and 9.9, the terms “contribution,” “contributions”, and “Unpaid Contributions” shall include employer surcharges required under Section 432(e)(7) of the Code.

* * *

IN WITNESS WHEREOF, the undersigned have executed this Amendment on this 19th day of May 2010.

By: 
Thomas F. Lee, Co-Chair

By: 
Alan H. Raphael, Co-Chair