

AMENDMENT NUMBER FOUR
TO THE
AMERICAN FEDERATION OF MUSICIANS
AND EMPLOYERS' PENSION PLAN
(As Amended and Restated Effective as of January 1, 2014)

WHEREAS, the Board of Trustees (the “Board”) of the American Federation of Musicians and Employers’ Pension Fund (the “Fund”) adopted the American Federation of Musicians and Employers’ Pension Plan, as amended and restated effective as of January 1, 2014 (the “Plan”); and

WHEREAS, pursuant to Article 9, Section 9.01 of the Plan, the Board reserves the right to amend the Plan at any time; and

WHEREAS, the Board has authorized the undersigned to execute this Amendment Number Four to memorialize its agreement effective for claims filed on or after April 1, 2018 with respect to Section 10.04(f) and June 1, 2018 with respect to Sections 1.40 and 5.04(a);

NOW, THEREFORE, Sections 1.40, 5.04(a), and 10.4(f) of the Plan are hereby deleted in their entirety and replaced with the following:

1.40 TOTAL DISABILITY. The term “Total Disability” shall mean the total and permanent inability of an Employee, as a result of medically-diagnosed physical or mental disease or injury, to engage in Covered Employment for remuneration, and shall also mean terminal illness, as determined in the sole discretion of the Administrative Committee on the basis of medical and any other evidence satisfactory to the Administrative Committee, in accordance with Section 5.04(b).

5.04(a) Eligibility Requirements. A Participant shall be eligible to receive a Disability Pension Benefit if the Participant (i) ceases all Covered Employment with all Contributing Employers on account of Total Disability (as determined in accordance with subsection (b) below) (ii) is not eligible, at the time of his or her Pension Effective Date under Section 8.05(a), for a Regular Pension Benefit under Section 5.02 (if he or she retired and submitted all necessary documentation), (iii) has earned at least 1 Year of Vesting Service in the three calendar year period immediately preceding the Pension

Effective Date, (iv) has completed 10 Years of Vesting Service, and (v) has provided to the Plan Administrator a written application for such pension benefit which is complete in all respects on the form(s) provided by the Plan Administrator for this purpose.

10.04(f) Special Procedures for Applications for a Disability Pension Benefit.

- (1) Applications for a Disability Pension Benefit shall be subject to all of the general rules described in Section 10.04(a)-(e), except as they are amended by the specific provisions in this subsection.
- (2) The claimant will be notified of the initial decision on an application for a Disability Pension Benefit within a reasonable period of time, but no later than 45 days after the application is filed, unless additional time is required due to matters beyond the control of the Fund, in which case the Plan Administrator will notify the claimant before the end of the initial 45 days of an extension of 30 days or less. If this happens, the claimant shall receive written notification explaining the circumstances requiring the extension of time, the standards on which entitlement to a benefit is based, the unresolved issues that prevent decision on the claim and the additional information needed to resolve those issues, and the date by which the Plan expects to render a decision. If necessary, the Plan Administrator may notify the claimant of a second extension of 30 days or less, following the same procedure, with notification to be provided prior to the expiration of the first 30-day period. No additional extensions may be made, except with the claimant's voluntary consent. If any extension of the time for responding to a claimant under this Section 10.04(f) is due to the claimant's failure to submit information necessary to decide the claim, the claimant shall be afforded at least 45 days within which to provide any information so requested, and the period for making the determination will be tolled from the date on which the extension notice is sent to the date on which the claimant responds to the request for information.
- (3) For claims for a Disability Benefit that are filed after April 1, 2018, notice to the claimant of an adverse benefit determination shall be provided in a culturally and linguistically appropriate manner and must include, in addition to information described in Section 10.04(b), the following:
 - A. The internal provisions of the Plan, if any, which were relied upon in making the adverse determination, or, alternatively, a statement that such provisions of the Plan do not exist;

- B. A discussion of the decision, including an explanation of the basis for disagreeing with or deciding not to follow:
 - (i) The views presented by the claimant to the Plan of health care professionals treating the claimant and vocational professionals who evaluated the claimant;
 - (ii) The views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and
 - (iii) A disability determination regarding the claimant presented by the claimant to the Plan made by the Social Security Administration;
- C. If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
- D. The Plan will identify any medical or vocational expert whose advice was obtained on behalf of the Plan in connection with an adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination.
- E. If based in whole or in part on any internal rule, guideline, or similar criterion, the notice to the claimant of the adverse decision will either set forth the internal rule, guideline, or similar criterion, or will state that such was relied upon and will be provided free of charge to the claimant upon request.
- F. A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.

- (4) If a claim has been denied, the deadline for the claimant to request review under Section 10.04(c) will be 180 days after receipt of the written notice of the denial.
- (5) The Administrative Committee will consider the appeal *de novo*, without any deference to the initial benefit denial.
- (6) The Administrative Committee will not include any person who participated in the initial benefit denial or who is the subordinate of a person who participated in the initial benefit determination.
- (7) If the initial benefit denial was based in whole or in part on a medical judgment, the Administrative Committee will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, and who was neither consulted in connection with the initial benefit determination nor is the subordinate of any person who was consulted in connection with that determination
- (8) Before the Plan issues the notice of an adverse benefit determination on review, the Administrative Committee shall provide the claimant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Administrative Committee or any new or additional rationale relied upon by the Administrative Committee. The information must be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is required to be provided to give the claimant a reasonable opportunity to respond prior to that date.
- (9) The notice of an adverse determination on review must be provided in a manner to satisfy paragraph (f)(3) of this Section and Section 10.04(c). In addition, it will contain a description of any applicable contractual limitations period that applies to the claimant's right to file the claim in court, including the date on which the contractual limitations period expires for the claim.

IN WITNESS WHEREOF, the undersigned have executed this Amendment Number Four on this 24th day of May 2018.

/s/ Christopher Brockmeyer
Christopher J.G. Brockmeyer, Co-Chair

/s/ Raymond M. Hair, Jr
Raymond M. Hair, Jr., Co-Chair