

STANDARD CONCERT SINGERS BASIC AGREEMENT

AGREEMENT made, executed and delivered in the City, County and State of New York this December 1, 2007, by and between the AMERICAN GUILD OF MUSICAL ARTISTS, INC., (hereinafter referred to as "AGMA") a membership corporation organized and existing under and by virtue of the laws of the State of New York, and having its principal office at 1430 Broadway, New York, New York 10018, and The Discovery Orchestra having its principal place of business at, 50 Mount Bethel Road, 2nd Floor, Warren, New Jersey 07059 (hereinafter referred to as "EMPLOYER").

## WITNESSETH:

In consideration of the mutual agreements herein contained, the parties agree as follows:

SECTION I - DEFINITIONS1. DEFINITIONS

Whenever used in this Agreement, unless otherwise provided:

- (a) CITY OF ORIGINATION - the term "city of origination" shall mean the city of New York.
- (b) CHORISTER - the term "Chorister" describes an ARTIST who sings only as a member of the chorus.
- (c) ENSEMBLE SOLOIST - the term "Ensemble Soloist" describes an artist who in addition to singing as a member of the chorus, voluntarily agrees to sing solo parts which shall be limited to small solo step-out parts and shall include but not be limited to duets, trios and quartets. Ensemble soloist assignments are to be made no later than the first rehearsal. The Ensemble Soloist shall be compensated at the Ensemble Soloist Rate.
- (d) SOLOIST - the term "Soloist" describes an ARTIST who sings only as a soloist and is not a member of the chorus.
- (e) CONTRACTOR - the Contractor as "Contractor" is the agent of the EMPLOYER. The Contractor may or may not be a singer in the Chorus.
- (f) ENGAGEMENT – the term "Engagement" refers to any or all performances of a single program of work(s) and the rehearsals leading up to the performance(s).

SECTION II - GENERAL2. EMPLOYEES COVERED

- (a) The EMPLOYER hereby recognizes AGMA as the exclusive collective bargaining agent for solo singers, ensemble vocalists, dancers, narrators, all hereinafter referred to collectively as "ARTISTS", employed by the EMPLOYER. The EMPLOYER agrees that AGMA represents, for collective bargaining purposes, a majority of the ARTISTS.

(b) Employer shall not utilize amateur performers and shall engage all performers, including all SOLOISTS, CHORISTERS, DANCERS and NARRATORS, under and subject to the provisions of this Agreement.

### 3. APPLICATION OF BENEFITS

The EMPLOYER agrees that the provisions of this Agreement shall apply to and inure to the benefit of all ARTISTS employed or otherwise engaged by the EMPLOYER, directly or indirectly, or through agents or independent contractors, notwithstanding anything herein to the contrary. Whenever there shall be used in this Agreement any phrase of a more restricted meaning, such as, for example, "ARTISTS employed by the EMPLOYER" such phrase shall be deemed to mean "ALL ARTISTS employed or otherwise engaged by the EMPLOYER, directly or indirectly, or through agents or independent contractors".

### 4. PARTIES BOUND BY THE AGREEMENT

This Agreement shall be known as the "Basic Agreement" and shall be binding upon and shall inure to the benefit of the signatories hereto and all parties who by reason of merger, consolidation, reorganization, sales assignments, transfer, or the like shall succeed to or be entitled to a substantial part of the business of any signatory.

### 5. MEMBERSHIP IN AGMA

(a) Until and unless the union security provisions of the Labor Management Relations Act, 1947, as amended, or repealed or amended so as to permit a stricter union security clause, the following provisions shall apply:

"The EMPLOYER shall employ and maintain in its employment only such persons covered by this AGREEMENT who are members of AGMA in good standing or shall make application for membership on the thirtieth (30th) day following the beginning of employment hereunder or the date of execution of this AGREEMENT, whichever is the later, and thereafter maintain such membership in good standing as a condition of employment."

In the event said Act is repealed or amended to permit a stricter union security clause the above provision shall be deemed amended accordingly. The provisions of this paragraph are subject to said Act.

(b) AGMA agrees that it is and will continue to be an open union and will keep its membership rolls open and will admit to membership all ARTISTS engaged by the EMPLOYER and will not impose unreasonable entrance fees or dues upon its members; provided, however, nothing contained in this AGREEMENT shall be deemed to limit the right of AGMA to suspend, expel, otherwise discipline or to refuse to admit to membership or readmit a member, pursuant to the rules, regulations, Constitution and By-Laws of AGMA, and provided, further, that nothing contained herein shall require the EMPLOYER to discharge or refuse to engage any ARTIST by reason of any action of AGMA which is in violation of the said Labor Management Relations Act.

(c) Nothing contained within this Agreement or the Standard Artist's Contract for Employment in any way shall abrogate the artistic prerogatives of the management, which shall be the sole judge and arbiter of any and all artistic matters.

(d) AGMA acknowledges the right of the EMPLOYER to manage the Company.

(e) AGMA agrees to consider and act upon all charges filed in writing by the EMPLOYER against AGMA member(s) and shall conduct a hearing when warranted in accordance with the AGMA Constitution and By-Laws. The EMPLOYER agrees that such charge filed in writing with AGMA and acted upon by AGMA shall not be a subject of arbitration.

## 6. DEDUCTIONS

(a) The EMPLOYER shall deduct all Social Security, Withholding Taxes, Disability Insurance and other Taxes, required by law, to be paid by the EMPLOYER for Employees. (All ARTISTS engaged by the EMPLOYER covered by this BASIC AGREEMENT are considered Employees within the meaning of the law.)

(b) The EMPLOYER agrees that it will deduct ("Check-Off") from the gross compensation earned and to be earned by each ARTIST covered under this Agreement, for whom there shall be filed with the EMPLOYER a written assignment in accordance with Section 302 of the Labor Management Relations Act, 1947, the applicable "Working Dues" as prescribed by AGMA. For purpose of such deduction, travel expenses, meal money, per diem (to the extent provided for in this Agreement) and any compensation earned under the jurisdiction of any union other than AGMA shall not be considered a part of the "gross compensation" and shall not be subject to such deduction. The EMPLOYER shall commence making such deductions with the first wage payment to be made to such ARTIST following the date of the filing of his or her said written assignment, and such deductions shall continue thereafter with respect to each and every subsequent wage payment to be made to each such ARTIST during the effective term of said written assignment.

Thirty days prior to the first rehearsal or as soon as possible thereafter, the EMPLOYER shall submit to AGMA a list of ARTISTS and their Social Security numbers. The AGMA Membership Department will then return to the EMPLOYER a form (Dues Deduction Request Form) stating monies to be deducted from each ARTIST's check.

Within ten (10) business days after the end of each engagement, the EMPLOYER shall remit to AGMA, by check drawn to the order of the American Guild of Musical Artists, the total amount of all deductions made during the said period for all such ARTISTS. The EMPLOYER further agrees that, upon written request of AGMA, delinquent dues and initiation fee payable to AGMA shall be deducted from the compensation of ARTISTS and paid by the EMPLOYER to AGMA by separate check.

At the time of such remittance, and together therewith, the EMPLOYER shall also furnish to AGMA a record certifying the names, Social Security numbers and total wage and deductions for the pay period of the ARTISTS on whose account such deductions were made. The EMPLOYER will not be liable for failure to make a deduction or deductions; however, the EMPLOYER will use reasonable care in making deductions.

The EMPLOYER agrees that a special written assignment in the following form, which may be contained in the ARTIST's individual contract with the EMPLOYER, will be acceptable for the purpose of this Paragraph:

"The actual compensation of the ARTIST shall be set forth herein, and there shall be no remissions, rebates, discounts, booking fees, commissions or other payments or deductions whatsoever from the ARTIST's compensation except such taxes or withholdings as are required by statute, and except further that the ARTIST hereby assigns to AGMA from any compensation to be earned in connection with this Contract such amounts for dues, initiation fee, and assessments certified by AGMA as due and authorizes and directs the deduction of such amounts from the ARTIST's compensation and the remission of same to AGMA. This assignment, authorization, and direction covers all compensation earned as a result of employment under this Contract (regardless of how characterized or when paid). This assignment, authorization and direction shall remain in effect and be irrevocable, and shall be continued automatically, unless the ARTIST revokes it by giving written notice to the EMPLOYER and AGMA by

registered mail not more than 30 days and not less than 15 days prior to the expiration of each successive one year period or of each successive Collective Bargaining Agreement, whichever occurs sooner. Such revocation shall become effective the first day of the calendar month following its receipt."

## 7. DISCRIMINATION AND SEGREGATION

(a) AGMA may represent its member in any dispute which may arise with the EMPLOYER. The EMPLOYER agrees that it will not discriminate against any AGMA member in compensation, performances, engagements or in its general relationship with any member, because of any such member's activities on behalf of AGMA. The EMPLOYER shall not dismiss or otherwise penalize any ARTIST for fulfilling duties or obligations as a delegate or as an AGMA member. Any AGMA delegate or member who claims that the EMPLOYER has given him/her notice, or otherwise penalized or discriminated against him/her for fulfilling duties, either as a delegate or as an AGMA member, may present ARTIST's case to AGMA which shall give the EMPLOYER an opportunity to be heard if ARTIST desires to avail himself/herself of the opportunity. If AGMA is satisfied that such activities are the real cause of dismissal or of any penalty, it may permit the ARTIST's claim to be arbitrated and shall have the power to determine the character and the amount of the claim to be submitted. If the member's claim is sustained, ARTIST shall be reinstated with back pay from the date of dismissal to date of reinstatement plus any penalty which the arbitrators shall deem appropriate in the circumstances.

(b) The EMPLOYER agrees that it will not discriminate against any ARTIST because of race, color, creed, gender, age, national origin, disability, marital status or sexual orientation.

(c) No ARTIST shall be required to appear in any theater or place of performance where discrimination is practiced, because of race, color, creed, gender, age, national origin, disability, marital status or sexual orientation, against any (1) ARTIST or (2) Patron as to admission or seating arrangements.

## 8. SECURITY DEPOSIT

(a) At least one (1) week before the commencement of any rehearsal, engagement or series of engagements or at least one (1) week before the ARTIST commences to travel in pursuance of any engagements, or series of engagements, whichever is earlier, the Employer shall deposit with AGMA, at 1430 Broadway, New York, N.Y. 10018, as a security deposit, not less than full compensation for all ARTISTS engaged by the EMPLOYER for said engagement or series of engagements, unless the EMPLOYER utilizes the method set forth in Paragraph 8(e).

(b) This security deposit shall represent a guarantee by the EMPLOYER that it will faithfully fulfill its obligations under the terms of this Basic Agreement or under the terms of any agreement entered into in writing between the EMPLOYER and any ARTIST.

(c) AGMA agrees to return such security deposit two (2) weeks after notice by the EMPLOYER to AGMA that any engagement or series of engagements has been terminated and that every ARTIST has been returned to the city of origination, less an amount equivalent to any claims filed or any arbitration instituted as provided in this Basic Agreement.

(d) The EMPLOYER agrees that AGMA shall have the right to use the funds in the security deposit account without any requirement of consent by the EMPLOYER to fulfill any obligation of the EMPLOYER for failure to pay such compensation due under the individual ARTIST's contracts or in order to return ARTISTS to the city of origination where such transportation has not been furnished by the EMPLOYER.

(e) In lieu of(a),(b),(c),(d) above, EMPLOYER shall, no less than two days prior to the first performance of any production (whether a single engagement or otherwise), deliver or cause to be delivered

to AGMA a notice from its bank and/or the entity responsible for dispensing EMPLOYER's payroll containing the name, address and social security number of each AGMA member employed for the production, along with notice to AGMA that sufficient funds are available to pay each such member all amounts due. Notice to AGMA shall be by fax or mail so long as receipt is timely.

#### 9. STANDARD ARTIST'S CONTRACTS

- (a) ARTISTS shall be employed on a single engagement basis as set forth in this Basic Agreement.
- (b) All contracts and agreements made by the EMPLOYER with ARTISTS employed under this Agreement shall conform in every respect to all the provisions of this Agreement and shall be executed only on the "Standard Artist's Contract for Employment" form appended to this Agreement as "Exhibit A".
- (c) Standard Artist's Contracts shall be executed in quadruplicate; a copy to be retained by the ARTIST, the duplicate by the EMPLOYER, and the remaining two copies to be filed with AGMA. AGMA's copy of all Standard Artist's Contracts shall be kept confidential and made available only (1) to the National Executive Secretary or other officer having equivalent position or (2) when a dispute arises under the contract, and then only to the extent required.
- (d) The terms of the Standard Artist's Contract for Employment shall not be inconsistent with this Agreement or less favorable to such ARTIST; however, Standard Artist's Contracts for Employment may contain such additions or modifications as may be agreeable to the EMPLOYER, to AGMA and to the ARTIST.
- (e) No ARTIST shall take part in any performance or rehearsal without first signing an Standard Artist's Contract.
- (f) If an ARTIST who has signed a Standard Artist's Contract is subsequently assigned duties qualifying ARTIST for a higher salary category, the ARTIST will be signed to a new contract stipulating the new category and compensation not later than one (1) week following the assignment of the additional duties. The new rate of compensation will become effective as of the date the additional duties are assigned.
- (g) At the option of the EMPLOYER, EMPLOYER may, after consultation with and approval by the manager of AGMA's membership department, use a computer generated form of the individual contract attached as Exhibit A, to be executed as and conforming to the requirements of this paragraph 9. Each form must contain a number within a range to be determined by AGMA. It is understood and agreed that a list of signatures appended to an individual contract(s) shall not be deemed to be in compliance with this paragraph.

#### 10. WAIVERS

EMPLOYER shall make no waiver requests of any individual ARTIST without the prior written consent of AGMA. No waiver of any of the terms and conditions of this Agreement or of any contract between any ARTIST and the EMPLOYER shall be effective without the prior written consent of AGMA. The EMPLOYER further agrees that nothing in this Agreement shall be deemed to prevent any ARTIST from negotiating for or obtaining better terms than the minimum terms provided for herein.

#### 11. ASSIGNMENT OF ARTIST'S CONTRACT

The EMPLOYER agrees that the Standard Artist's Contracts between any ARTIST and the EMPLOYER may not be assigned or transferred to any Individual or Corporation unless the written consent of

AGMA, which shall not be withheld unreasonably, and the ARTIST concerned, shall have been endorsed on the face of the contract or the transfer or assignment thereof. Any attempt to assign or transfer said Standard Artist's Contract without such written consent shall be deemed null and void.

## 12. CONTRIBUTIONS TO EMPLOYER PROHIBITED

(a) No officer, director, employee or agent of the EMPLOYER and no person who occupies a relationship of independent contractor to the EMPLOYER shall act as manager, agent, or personal representative of any member of AGMA or receive, directly or indirectly, any compensation or remuneration of any kind or nature whatsoever from any member of AGMA. The EMPLOYER shall be responsible for enforcing compliance with the preceding sentence. Within ten (10) days after notice is given by AGMA to the EMPLOYER of any violation of this paragraph, the EMPLOYER shall correct such violation. If the EMPLOYER shall fail to correct such violation within such time, the EMPLOYER shall be deemed to have committed a material and substantial breach of this Basic Agreement.

(b) The EMPLOYER agrees that no ARTIST will be solicited or required to make any payments or contributions of any kind or nature whatsoever, or to have such payments or contributions made by any other person, firm or corporation to or for the benefit of the EMPLOYER or anyone else, in order to acquire or continue employment by the EMPLOYER, or as a condition of acquiring or continuing such employment or any preferment in such employment, and the EMPLOYER agrees that it will not accept or receive any such payments or contributions.

## 13. PAYMENT OF SALARIES

(a) ARTISTS who are engaged for a single engagement shall be paid by EMPLOYER immediately preceding the commencement of the performance for which they have been engaged. If the contract applies to more than one performance of the same program, scheduled over a time period not to exceed two (2) weeks, the ARTIST will be paid immediately preceding the commencement of the last performance. If there are less than two (2) business days between the day of the first rehearsal and the date of the last performance, the EMPLOYER will have two (2) business days after the date of the last performance to issue checks.

(b) All overtime payments, penalty payments, or any other payments which arise separate and apart from single performance minimum salaries shall be paid by the EMPLOYER to the ARTIST no later than seven (7) business days following the week the liability arises.

(c) The following cumulative penalty payment shall be added to the compensation due and payable to the ARTIST for each day, beginning with the day following the day of default on which payment remains not made: four dollars (\$4.00) per ARTIST for each day's delinquency up to thirty (30) days (excluding Saturday, Sunday and holidays which the Company observes). The "day of default" according to this section of the agreement shall be defined as the eighth (8<sup>th</sup>) day following the date such compensation becomes due and owing. Thereafter, the penalty payment shall cease unless either AGMA or the ARTIST gives written notice by certified mail to the EMPLOYER of non-payment of any compensation due and payable to the ARTIST. In the event such notice is given and full payment including accrued penalties is not made within ten (10) working days thereafter, the penalty payment shall be resumed on the eleventh (11<sup>th</sup>) day and continues without limitation. The above such payments shall be in addition to any and all remedies which AGMA or the ARTIST may have against the EMPLOYER.

(d) All payments required to be made by the EMPLOYER to the ARTISTS shall be in the legal tender of the United States.

#### 14. ARTIST'S CLOTHING

(a) The EMPLOYER will provide clothes racks in or near the dressing rooms and proper security for ARTISTS' personal property, while in the theater. Where such property is wholly or partly in the possession or control or under the supervision of the EMPLOYER, or under that of any of its representatives, or while said property is in the theatre, building, or any other place in which the production covered by the ARTIST's Standard Artists' Contract for Employment has been given or is being given, or is to be given, the EMPLOYER will reimburse the ARTIST for loss and/or damage to the personal clothing worn by the ARTIST in the theatre.

(b) Specific standard concert attire required will be made known at the time of hiring. It is understood and agreed that all ARTISTS will provide their own standard concert attire (for men: tux or tails; for women: long black and/or white blouse). Whenever the EMPLOYER shall require ARTISTS to wear particular and specific types of uniform or non-uniform costumes, shoes and/or clothing, the EMPLOYER agrees to furnish such costumes, shoes and/or clothing without charge to the ARTISTS. If such costumes, shoes and/or clothing provided by the EMPLOYER require alterations, such alterations will be done at the expense of the EMPLOYER.

#### 15. ADVERTISING OF ARTIST'S NAME

(a) The EMPLOYER agrees that it will not, in any shape or form or manner, advertise or announce the name or identity of such ARTISTS in connections with any production of said EMPLOYER nor will it employ or use any individual photograph, picture or likeness of such ARTISTS in connection with any production unless prior thereto said EMPLOYER and said ARTISTS shall have entered into a written contract of employment pursuant to the terms of this Agreement, or shall have received written permission from such ARTIST permitting the use of ARTIST's photograph, picture or likeness for the purposes stated above.

(b) The EMPLOYER shall not be responsible for the public appearances of the ARTIST's name, likeness, photograph, or picture in connection with any performance if it shall be proved that the name or likeness of the AGMA member was placed before the public by the AGMA member, personal representative or manager, or without the knowledge or consent of the EMPLOYER, by the local manager in the city where the performance shall be scheduled to take place.

#### 16. FILMING, RECORDING, BROADCASTING, TELEVISIONING, ETC.

(a) All taping, filming, broadcasting, televising, airing, or exhibiting such films, tapes, and recordings, and any similar media which in the future may be developed will be made according to the following conditions:

(i) For all taping, filming, broadcasting, televising, airing or exhibiting such films, tapes and recordings, the EMPLOYER will negotiate an agreement with AGMA in a timely fashion and will compensate all ARTISTS in accordance with the terms of that agreement.

(ii) Upon prior written notice to AGMA, AGMA will permit a maximum of three (3) minutes of live video or audio tape to be used for radio and video news or magazine programs for publicity purposes, for which purposes EMPLOYER may record a maximum of thirty (30) minutes per production of ARTIST's rehearsals and/or performances. These tapings and broadcasts are restricted to news or magazine format broadcasts only. Under no circumstances may these segments be utilized for any other purposes in the absence of an explicit written waiver from AGMA granting permission for such other uses.

(iii) Solely for archival and study purposes, EMPLOYER may cause or allow to be recorded (audio and/or visual) upon 24-hour prior notification to AGMA and the ARTISTS, dress rehearsal or performance, provided that such tapes shall remain at all times in the custody of EMPLOYER and that there shall be no duplication of these archival/study tapes. Such tapes may be reviewed for study purposes solely by the Stage Director, Conductor/Music Director, or other parties directly involved in the production, including the ARTISTS themselves. All such tapes shall bear the following permanent inscription:

This is an archival study tape for the sole use of EMPLOYER; it is a record of the physical production only and in no way is intended to represent the creative or artistic talents of the ARTISTS involved. This tape may not be reproduced or used for commercial purposes.

(iv) The foregoing section notwithstanding, a copy of an archival or study tape may leave the custody of EMPLOYER for the sole purpose of presentation with grant applications. Such tape may also be used for the purpose of securing concert appearances for EMPLOYER, on the condition that EMPLOYER shall stipulate that such tape shall not be copied and shall be returned to EMPLOYER.

(b) For self-produced concerts, EMPLOYER agrees to include the following statement in the program or, if there is a booking agency, EMPLOYER agrees to submit the following statement to the booking agency:

"The use of cameras and/or any kind of recording equipment is strictly forbidden."

(c) If, as the result of the intent or negligence of the EMPLOYER there is a violation of this Article, EMPLOYER will compensate all ARTISTS involved at no less than the applicable prevailing minimums. In cases of unauthorized distribution not covered by the union having jurisdiction, ARTISTS will be compensated at the rate of individuals in their category (e.g. "principals," "chorus," etc.) under the national contracts of the union having jurisdiction.

#### 17. WORKER'S COMPENSATION

The EMPLOYER must carry at its expense adequate Worker's Compensation Insurance, securing to all of the ARTISTS, wherever they may work for the EMPLOYER, compensation for disability or death from injury arising out of and in the course of their employment without regard to fault as a cause of the injury, except that there shall be no liability for compensation when the injury has been solely occasioned by intoxication of the injured ARTISTS while on duty, or by willful intention of the injured ARTIST to bring about the injury or death of himself/herself or another.

#### 18. UNEMPLOYMENT INSURANCE

The EMPLOYER will obtain coverage for all ARTISTS under the New York State Unemployment Law (or, if the origination point of the company shall be in a state other than New York, unemployment insurance coverage as provided by the laws of such state).

#### 19. FEDERAL SOCIAL SECURITY AND NEW YORK DISABILITY LAW

(a) The EMPLOYER will make required contributions for all ARTISTS under the Federal Social Security Laws and the Disability Benefit Law of the State of New York (or if the origination point of the company shall be in a state other than New York, disability benefits as provided by the laws of such state).

(b) Upon request of AGMA, the EMPLOYER shall disclose to AGMA evidence of the EMPLOYER's compliance with the provisions of Paragraphs 17, 18 and 19 of the Basic Agreement.

(c) The contribution made by the EMPLOYER for Unemployment Insurance or Social Security tax purposes shall be based upon the compensation provided for in the ARTIST's Standard Artist's Contract, or the actual gross compensation paid to the ARTIST, whichever shall be the greater.

## 20. HEALTH

(a) Employer shall contribute an amount equal to five percent (5%) of Gross Earnings due each ARTIST to the AGMA Health Fund Plan "B" (payable to AGMA Health Fund Account No. 2). The EMPLOYER contribution made on behalf of the ARTISTS shall be limited to five percent (5%) of each ARTIST's compensation up to a maximum of five percent (5%) of Twenty Thousand (\$20,000) Dollars per ARTIST per production.

\*The Term "Gross Earnings" for the purpose of this Section shall mean all taxable income; provided, however, that per diem, meal money, clothing allowance, etc. shall not be considered as part of such gross earnings or gross compensation.

In the event the EMPLOYER enters into an agreement for services of (F/S/O) an ARTIST to be furnished by a "loan-out company" (i.e., a corporation which is controlled by an ARTIST and which furnishes ARTIST'S services to others under an F/S/O agreement), contributions shall be based on the amount the EMPLOYER pays the loan-out company for furnishing the ARTIST'S services.

## 21. ARBITRATION

### (a) INDIVIDUAL CONTRACT

Every contract entered into between the EMPLOYER and any ARTIST during the term of this Agreement shall be deemed to contain the following provisions:

(1) Any controversy or claim arising out of this contract or the breach or interpretation thereof, shall be settled by arbitration in accordance with the Expedited Labor Arbitration Procedures, then obtaining, of the American Arbitration Association. Either party may demand such arbitration in writing. An award of the arbitrator shall be binding upon both parties and judgment upon such award may be entered by either party in the highest court of the forum, State or Federal, having jurisdiction.

(2) In any such arbitration, AGMA may appear as *amicus curiae* with all the rights of a party thereto.

### (b) BASIC AGREEMENT

Any controversy or claim arising out of this contract or breach or interpretation thereof, shall be settled by arbitration in the same manner as is provided in Paragraph 21.

### (c) PLACE OF ARBITRATION

All arbitrations between the EMPLOYER and any ARTIST and/or between the EMPLOYER and AGMA shall take place in New York City.

22. FORCE MAJEURE

It is agreed that if the EMPLOYER cannot perform because of fire, accident, strikes, riot, Act of God, war, the public enemy, or for any other cause of the same general class which cannot be reasonably anticipated or prevented, or if the conductor suffers injury or illness which would prevent him or her from performing the function of conductor, and if the EMPLOYER does not have available to it a conductor or conductors capable of conducting the performance, then the EMPLOYER shall notify the ARTISTS thereof in writing and thereafter the ARTISTS shall be entitled to payment only for all services performed by the ARTISTS prior to receipt of the aforementioned written notice. The term "war" shall not include a war in which the United States of America is not a party, unless such a war between foreign governments makes the execution of this contract impossible or unfeasible.

23. ADMITTANCE OF AGMA REPRESENTATIVE ON EMPLOYER'S PREMISES

Any officer or other duly authorized representative of AGMA shall be admitted to the premises of the EMPLOYER, or such other place where the company is working, and the EMPLOYER agrees to cooperate with such representative in dealing with all matters pertaining to the official business of AGMA.

24. ELECTION OF AGMA DELEGATE

For every engagement an AGMA delegate shall be elected by ARTISTS at the first break of the first rehearsal. Such election may be held confidentially with the exclusion of EMPLOYER, CONTRACTOR, Chorus Preparer, or other employee or agent of EMPLOYER. The AGMA delegate shall function as ARTIST(S)' representative to EMPLOYER on matters related to this agreement. EMPLOYER shall supply delegate with a list of singers at the first rehearsal.

25. REPORTING TIME - REHEARSALS, PERFORMANCES

(a) ARTISTS must be prepared to begin rehearsing at the announced rehearsal time. ARTISTS will report for performances not later than fifteen (15) minutes prior to curtain time or fifteen (15) minutes prior to the time that the ARTISTS are to perform, whichever is later. Such time may not be used for rehearsal, warm-up or notes. ARTISTS must report for bus departure five (5) minutes prior to the announced time of departure.

(b) Sound checks shall be no longer than one (1) hour in length (including the appropriate break), and shall be paid as one full hour at one and one-half (1-1/2) times the regular rehearsal rate. Sound checks shall take place no more than two (2) hours before curtain.

26. TRAVEL

When traveling from the New York Metropolitan Area to the New Jersey Performing Arts Center in Newark, New Jersey, Employer will pay Artist a travel fee of Eight Dollars (\$8.00) per round trip. In the event that Artist is required to travel to any other location beyond the area regularly served by the New York City mass transit system (e.g. bus, subway), for rehearsal or performance, or if the total of rehearsal, travel and performance time in any day exceeds a span of Eight (8) hours, Employer and AGMA will negotiate terms and conditions with respect to travel expenses, meal money, hourly pay and/or per diem.

SECTION III - SINGLE ENGAGEMENT27. SINGLE ENGAGEMENT - CONDITIONS OF EMPLOYMENT

- (a) The per performance compensation and hourly rehearsal rate for ARTISTS employed hereunder shall not be less than set forth below:

	As of 12/1/07- 11/30/08	As of 12/1/08- 11/30/09	As of 12/1/09- 11/30/10
Soloists*/Narrators	\$566.87	\$606.55	\$649.00
Ensemble Soloists*	228.55	244.55	261.67
Choristers*	157.77	168.81	180.63
Hourly Rehearsal Rate	26.28	28.12	30.09
Rehearsal Overtime Rate (per ½ hr)	30.04	32.14	34.39
Concert Overtime (per ½ hr)	78.11	83.58	89.43
* See Definitions Paragraph 1.			

Rehearsal overtime shall be paid at the rate prescribed above and shall be paid in one half (1/2) hour increments. Concert overtime shall be paid at the rate prescribed above and shall be paid in one half (1/2) hour increments

(b) The EMPLOYER may engage ARTISTS for student performances in primary and secondary schools provided that such engagement shall guarantee ARTISTS two (2) such student performances in one (1) day. For such two (2) student performances, the ARTIST shall be paid the appropriate single performance fee provided in this paragraph, providing that each of the student performances does not exceed fifty (50) minutes in length.

(c) The EMPLOYER agrees that Lecture/Demonstrations shall be paid at fifty percent (50%) of the applicable concert fee listed above and shall be of no more than two (2) hours in duration. Lecture/Demonstrations of more than two (2) hours in duration shall be paid at half the Concert Rate described in subparagraph 27(a).

(d) No rehearsal call with orchestra shall be deemed to be of less than two (2) hours duration irrespective of the actual amount of time spent in rehearsal. Rehearsals in excess of two (2) hours minimum call shall be compensated for in one-half (1/2) hour increments.

No rehearsal call without orchestra shall be deemed to be of less than two and one-half (2 1/2) hours duration irrespective of the actual amount of time spent in rehearsal. Rehearsals in excess of two and one half (2 1/2) hours minimum call shall be compensated for in one-half (1/2) hour increments.

(e) Rehearsal schedules shall be submitted in writing to the ARTISTS one (1) week in advance of the first rehearsal subject to change no later than seventy-two (72) hours prior to the rehearsal. However, the EMPLOYER may make changes in schedule subject to the availability of the ARTIST.

(f) ARTISTS shall be allowed an ten (10) minute rest period within each hour of rehearsal. However, the EMPLOYER, in consultation with ARTISTS, shall have the option to combine the rest periods and schedule rest periods after not more than one and one-half (1-1/2) hours of rehearsal. Such rest periods shall be counted as rehearsal time. Except for force majeure no rest period may be designated at the beginning of the rehearsal session. Rest periods will not be interrupted by company business nor shall rest periods be used as travel time from one rehearsal location to another.

(g) During rehearsals with orchestra, the rest period for the ARTISTS shall coincide with and be equal in length to that of the orchestra, but not shorter than ten (10) minutes per hour as stated in Paragraph 27 (g) above.

(h) CHORISTERS shall not be called upon to rehearse more than six (6) hours during any one day.

(i) ARTISTS may not be called for rehearsals on any day when they are required to give two (2) performances.

(j) ARTISTS are prohibited from rehearsing or doing any work for the EMPLOYER during performance intermissions.

(k) A verbal call to an ARTIST stating the work(s) to be performed, the dates, time and place of rehearsals and performance(s), attire, and whether memorization is required, shall be deemed a binding contractual commitment and the EMPLOYER agrees that after the call is made, the risk of performer's competence is assumed by the EMPLOYER. The EMPLOYER agrees that as soon as possible after the verbal call, but in no event later than the first (1st) rehearsal or performance, whichever is sooner, said contractual commitment shall be reduced to writing on an AGMA Standard Artists Contract for Employment, but the failure of the EMPLOYER to do so shall not nullify the commitment which arises with the verbal call.

(l) The EMPLOYER agrees to furnish chairs for the ARTISTS for all rehearsals and performances. There shall be adequate heat, light and ventilation in all performance and all rehearsal areas. However, ARTISTS may be required to stand when stage movements or actions are rehearsed, it being the intent of this provision that ARTISTS be allowed to sit during purely musical rehearsals. The ARTISTS may be asked to stand as they would in performance when the conductor wishes to judge balance either within the group itself or with orchestra.

(m) In the event that memorization of the program or any part of the program is required, such memorization will take place within the scheduled rehearsal time.

(n) Overtime: ARTISTS shall be compensated in not less than one-half (1/2) hour increments for every one-half (1/2) hour of rehearsal or concert overtime, according to the rates as specified in Section 27(a) for the period covered by the term of this Agreement. Overtime applies when:

- (i) a concert performance exceeds three (3) hours, or
- (ii) an opera performance or performance of a single choral work exceeds three and one-half (3 ½) hours.
- (iii) a rehearsal exceeds the scheduled rehearsal time without 24-hours notice.

#### SECTION IV - TERM OF AGREEMENT AND SIGNATURE

##### 28. TERM OF THIS AGREEMENT

The term of this Agreement shall commence on December 1, 2007 and shall terminate on November 30, 2010, provided that all contracts with ARTISTS which expire after that date shall be deemed subject to such new Agreement as may be entered into between AGMA and the EMPLOYER for the next or succeeding seasons.

##### 29. AUTHORITY OF SIGNATORIES

It is understood and agreed that Virginia Johnston, who is signing this Agreement on behalf of the EMPLOYER as agent and representative of the EMPLOYER, hereby warrants and represents that he/she has the

requisite authority as an agent and representative of the EMPLOYER to sign this Agreement on behalf of, and to bind, the EMPLOYER. The EMPLOYER warrants that it is not a limited partnership.

30. SEPARABILITY

If any provision of this Agreement shall be held invalid, it shall be deemed separable from the remainder of this Agreement, and it shall not affect the validity of any other provisions thereof.

31. NO WAIVER BY AGMA OR EMPLOYER

The failure of AGMA or the EMPLOYER to insist upon the strict performance of any of the provisions of this Agreement shall not be deemed a waiver of any rights or remedies that AGMA or the EMPLOYER may have and shall not be deemed a waiver of any subsequent breach or default on the part of either contracting party.

32. GOVERNING LAW

It is the intention of the parties that the validity, construction, performance and application of this Agreement shall be governed by applicable State of New York and Federal law.

33. INDEMNIFICATION

The EMPLOYER retains the exclusive responsibility to provide a safe and healthful workplace, and is exclusively liable under its Workers' Compensation Insurance Policy and indemnifies and holds AGMA harmless in the event of job-related injuries, illnesses or deaths which come thereunder.

34. UNION CREDIT

The EMPLOYER agrees to provide sufficient space in each concert/playbill to print the following: "The artists\* in this concert are represented by AGMA, the American Guild of Musical Artists, AFL-CIO, the union that represents artists performing in opera, ballet, modern dance and choral presentations, as well as choreographers, stage directors and stage managers.

\* In a concert including instrumentalists, this shall read "choral artists" or "singers".

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above set forth.

FOR  
THE AMERICAN GUILD OF MUSICAL ARTISTS

FOR  
THE DISCOVERY ORCHESTRA

BY:

BY:

\_\_\_\_\_  
TITLE:

\_\_\_\_\_  
TITLE:

IN THE PRESENCE OF:

IN THE PRESENCE OF:

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**BASIC AGREEMENT  
FOR CONCERT SINGERS  
SINGLE ENGAGEMENTS**

**December 1, 2007– November 30, 2010**

**Between**

**AMERICAN GUILD OF MUSICAL ARTISTS, AFL-CIO**

**and**

**THE DISCOVERY ORCHESTRA**

## TABLE OF CONTENTS

Provision	Page
<u>SECTION I - DEFINITIONS</u>	
1. DEFINITIONS .....	1
(a) CITY OF ORIGINATION .....	1
(b) CHORISTER .....	1
(c) ENSEMBLE SOLOIST .....	1
(d) SOLOIST .....	1
(e) CONTRACTOR .....	1
(f) ENGAGEMENT .....	1
<u>SECTION II - GENERAL</u>	
2. EMPLOYEES COVERED .....	1
3. APPLICATION OF BENEFITS .....	2
4. PARTIES BOUND BY THE AGREEMENT .....	2
5. MEMBERSHIP IN AGMA .....	2
6. DEDUCTIONS .....	3
7. DISCRIMINATION AND SEGREGATION .....	4
8. SECURITY DEPOSIT .....	4
9. STANDARD ARTIST'S CONTRACTS .....	5
10. WAIVERS .....	5
11. ASSIGNMENT OF ARTIST'S CONTRACT .....	5
12. CONTRIBUTIONS TO EMPLOYER PROHIBITED .....	6
13. PAYMENT OF SALARIES .....	6
14. ARTIST'S CLOTHING .....	7
15. ADVERTISING OF ARTIST'S NAME .....	7
16. FILMING, BROADCASTING, TELEVISIONING, ETC. ....	7
17. WORKER'S COMPENSATION .....	8
18. UNEMPLOYMENT INSURANCE .....	8
19. FEDERAL SOCIAL SECURITY AND NEW YORK DISABILITY LAW .....	8
20. HEALTH .....	9
21. ARBITRATION .....	9
(a) INDIVIDUAL CONTRACT .....	9
(b) BASIC AGREEMENT .....	9
(c) PLACE OF ARBITRATION .....	9
22. FORCE MAJEURE .....	10
23. ADMITTANCE OF AGMA REPRESENTATIVE ON EMPLOYER'S PREMISES .....	10
24. ELECTION OF AGMA DELEGATE .....	10
25. REPORTING TIME - REHEARSALS, PERFORMANCES .....	10
26. TRAVEL .....	10
<u>SECTION III - SINGLE ENGAGEMENT</u>	
27. SINGLE ENGAGEMENT - CONDITIONS OF EMPLOYMENT .....	11

SECTION IV - TERM OF AGREEMENT AND SIGNATURE

28. TERM OF AGREEMENT.....	12
29. AUTHORITY OF SIGNATORIES.....	12
30. SEPARABILITY.....	13
31. NO WAIVER BY AGMA OR EMPLOYER.....	13
32. GOVERNING LAW.....	13
33. INDEMNIFICATION.....	13
34. UNION CREDIT.....	13