

## COLLECTIVE BARGAINING AGREEMENT

Agreement reached this 1<sup>st</sup> day of February 2022, by and between **Associated Musicians of Greater New York, Local 802 AFM** (“Union”) located at 322 West 48th Street, New York, NY 10036, and **The Midori Foundation, Inc.** (the “Organization” or “M&F”) located at 352 Seventh Avenue, New York, NY 10001.

### ARTICLE 1: RECOGNITION

A. The Organization recognizes the Union as the sole and exclusive bargaining representative of all musicians employed to provide music education programs as Teaching Artists (hereafter “Teaching Artists”) with respect to wages, hours, and other terms and conditions of employment. The parties further agree that where Teaching Artists also provide educational performance(s) and workshops at which they perform, such work shall not be covered by the terms of this Agreement. Excluded from the unit are all other employees, office clerical employees, guards, and supervisors as defined in the National Labor Relations Act, as amended. Further excluded from the unit are: (i) musicians engaged and/or hired by the Organization for the purpose of providing educational performance(s) and workshops at which they perform; (ii) Teaching Artists without regular assignment(s) who substitute for another Teaching Artist; (iii) the Organization’s Educational Consultant and/or Director of Education whom the parties agree shall be permitted to perform bargaining unit work and shall not be considered part of the unit; and (iv) such other consultants engaged by the Organization in its sole discretion to perform non-bargaining unit work.

B. Unpaid interns and volunteers are not covered by the Agreement.

### ARTICLE 2: UNION SECURITY AND DUES CHECKOFF

A. The Organization agrees that all Teaching Artists who, on the date of the signing of this Agreement, are members of the Union shall maintain their membership in the Union as a condition of employment. The Organization further agrees that Teaching Artists hired after the signing of this Agreement, and who are covered by this Agreement, shall as a condition of employment, be members or become members of the Union no later than their 31<sup>st</sup> workday of employment, and thereafter they shall maintain their membership in the Union. Excluded from the requirements in this paragraph are those Teaching Artists excluded under Article 1 above.

B. The Union shall provide the Organization with a duly executed authorization for check-off of work dues signed by each Teaching Artist covered by this Agreement who shall be subject thereto, and such authorization shall conform with the requirements of the Labor Management Relations Act of 1947, and any amendments thereto. The Organization agrees to deduct work dues (which shall not be interpreted to mean membership dues or initiation fees) from the wages of the Teaching Artists in the bargaining unit who provide the Organization with such written authorization. Such deductions will be made by the Organization from the wages of Teaching Artists on a monthly basis.

### ARTICLE 3: WAGE RATES

A. The following minimum rate per class period (for teaching) and per hour (for other paid work) shall apply to all Teaching Artists:

Effective 7/1/22  
\$60

Effective 7/1/23  
\$61

Effective 7/1/24  
\$62

B. The wage rate for non-teaching work shall be paid at the TA’s class rate. Professional development

shall be paid at the minimum class rate in effect at the time, with a minimum payment of two classes.

C. If Teaching Artists are requested to prepare materials for use at Professional Development, and choose to do so, then the Teaching Artist shall be paid at the Teaching Artist's hourly rate, provided that M&F pre-approves the amount of hours to be spent on preparing such materials. Both M&F and the Teaching Artist shall have the right to use the works created.

D. Teaching Artists who lead group Professional Development sessions for other Teaching artists shall be paid at \$130 per hour for a 2-hour session. This payment (but no other professional development payments) will be subject to a pension contribution. Leading of Professional Development sessions will be assigned by M&F in its sole discretion. Accepting the assignment shall be the option of the Teaching Artist.

E. Teaching artists who serve as in-classroom Mentors shall be paid at a rate of \$95 per hour for a 2-hour mentoring session. Mentoring (both who is a mentor and who receives mentoring) will be assigned by M&F at its sole discretion. Accepting the assignment shall be the option of the Teaching Artist.

F. Teaching Artists that shadow other Teaching Artists shall be paid at the current professional development rate. Shadowing (both who is being shadowed and who does the shadowing) will be assigned by M&F at its sole discretion.

G. All Professional Development is to be assigned at the sole discretion of M&F and performed by the teaching artists only with the prior written approval of M&F.

#### H. Minimum Payments

1. Minimum payment for all work held at a school shall be two hours at the applicable rate, unless held on a day when the Teaching Artist is otherwise scheduled to be at the school.

2. Teaching Artists will be assigned a minimum of 2 classes per day at any one school.

#### I. Performance Evaluations

Each Teaching Artist shall participate in one meeting each school season to review a performance evaluation and will be paid for one class hour at his/her then current teaching rate for this meeting. M&F may require a second meeting to review a performance evaluation. If a second meeting is required, the Teaching Artist shall be paid for one class hour at his/her then current teaching rate.

#### J. Inventory

Payment for Inventory work will be addressed in initial offers of work and will continue to be governed by the M&F Handbook (i.e., one hour per class at the beginning and end of each residency). Additional inventory work hours that would surpass the amount allowed in the M&F Handbook will be addressed prior to the performance of the Inventory. M&F agrees to have discussions with Teaching Artists as necessary to address any circumstances pertaining to additional time required for such work and any additional time required shall be approved as appropriate.

#### K. Student Assessment

Written student assessment work that is offered and voluntarily accepted will be paid at an hourly rate of 50% of a 2-hour of Professional Development (i.e., in 2013-2014, that rate would be \$34.50 per hour).

L. On occasion, Midori & Friends may request a musical composition or arrangement from a Teaching Artist. As such, Midori & Friends will negotiate a fee directly with the respective Teaching Artist.

**ARTICLE 4: WAGE INCREASES**

Effective 7/1/22  
5%

Effective 7/1/23  
3.5%

Effective 7/1/24  
3.5%

**ARTICLE 5: PROBATIONARY PERIOD**

The duration of a Teaching Artist’s probationary period shall be two full school seasons, which is defined as the period of time between the starting date of the school program after September 1 and its ending date prior to June 30 (the “School Season”), but in no event less than twelve (12) months of actual service. Where the Organization chooses to offer a regular assignment to a substitute Teaching Artist as defined in Article 1 of this Agreement, his or her period of actual service as a substitute shall be credited towards the probationary period provided that such regular assignment is offered and accepted for the following School Season only. The discharge or discipline of an employee during the probationary period shall not be subject to the dispute resolution procedures of either Articles 11 or 17 below.

Probationary Teaching Artists will be notified no later than July 15 of each year of probation regarding whether they have satisfactorily completed the preceding portion of probation.

**ARTICLE 6: PENSION CONTRIBUTION**

A. The Organization shall contribute to the American Federation of Musicians and Employers’ Pension Fund (“AFM-EPF”) for all Teaching Artists covered by this Agreement as follows:

Effective 7/1/22  
13.5%

Contributions shall be based solely on gross wages earned in connection with actual teaching hours and shall not include a Teaching Artist’s other compensation pursuant to Articles 3(B), 3(C), 3(D), 3(E), 8 and/or any other provision of this Agreement. All contributions to the Fund shall be made by check payable to the AFM-EPF. All such checks shall be accompanied by a remittance form identifying for each employee for whom a contribution is made, the Teaching Artist’s name, social security number, period covered, wages on which pension is paid and the amount of pension contribution. The check(s) and remittance information shall be transmitted to Local 802 for forwarding to the Fund within thirty-one (31) days following the end of the month during which the services for which such contributions are payable were rendered. If the Employer is unincorporated, no contributions will be paid on behalf of any owner or part-owner of the Employer.

The Employer agrees to be bound by the Agreement and Declaration of Trust establishing the American Federation of Musicians and Employers’ Pension Fund, as it may be amended from time to time, which is incorporated by reference into this Agreement.

The Employer adopts the American Federation of Musicians and Employers’ Pension Fund rehabilitation plan adopted by the Board of Trustees of the Fund on April 15, 2010, and updated June 27, 2018, including all contribution schedules, which is incorporated here by reference. The contribution rate is inclusive of all amounts required under the rehabilitation plan.

**ARTICLE 7: HEALTH FUND CONTRIBUTION**

A. M&F will make contributions to the Local 802 Health Benefit Fund (“HF”) for all teaching hours and other paid work (i.e., Professional Development, Inventory, Planning Meetings, etc.) in the amounts as follows:

<u>Effective 7/1/22</u>	<u>Effective 7/1/23</u>	<u>Effective 7/1/24</u>
\$14/class period or hour	\$15/class period or hour	\$16/class period or hour

Beginning on July 1, 2022, health fund contributions shall be made in two-lump sum payments to the Plan or to the bargaining unit members pursuant to the cafeteria plan program as set forth below, each year payable on or before February 15<sup>th</sup>, provided, however, that M&F shall make a good-faith effort to make the payments on or before February 1<sup>st</sup> (for the preceding period of July 1 through January 15<sup>th</sup>), and on or before August 1<sup>st</sup> (for the preceding period of January 16<sup>th</sup> through June 30<sup>th</sup>), , provided, however, that M&F shall make a good-faith effort to make the payment on or before July 15<sup>th</sup>, respectively M&F and the Union will work to develop a cafeteria plan program whereby bargaining unit members may elect to receive a cash contribution towards the purchase of other health insurance in lieu of contributions to the Local 802 Health Fund. The parties will work to reduce the administrative work required by any such program. The plan may not result in any negative tax consequences for M&F or any bargaining unit member.

The Employer agrees to be bound by the provisions of the Agreement and Declaration of Trust establishing the Local 802 Musicians Health Fund, as it may be amended from time to time, which is incorporated by reference into and made a part of this Agreement, to the extent not inconsistent with the CBA.

Either party may request, on ten (10) days’ written notice, a limited reopener of the contract to address the tax and penalty implications of the Affordable Care Act with respect to contributions that are made to the Local 802 Health Fund and/or the Section 125 cafeteria plan created to provide an alternative for bargaining unit members’ health contributions. The purpose of any such reopener would be to reduce or avoid unintended tax and penalty implications for all parties and to work together to reduce the impact the Affordable Care Act may have on the Teaching Artists’ aggregate compensation, without increasing M&F’s costs. The terms of Article 19 (the parties’ no-strike/no-lockout agreement) will remain in full effect during any such reopener.

B. The rules of the NYC Earned Sick Time Act and New York State Sick Leave Law (the “Sick Time Laws”), as they pertain to Midori & Friends Teaching Artists will be incorporated into this Collective Bargaining Agreement, as of the effective date of the agreement, as a contractual obligation. Accordingly, M&F shall provide, as a contractual obligation, paid sick leave to TAs in accordance with all of the accrual and usage terms of the Sick Time Laws. In light of the fact that the time off benefits meet or exceed those provided under the applicable Sick Time Laws, the provisions of these Sick Time Laws are hereby waived.

C. M&F shall provide an annual statement of accrued and used sick leave to each TA and a copy to the Union, at the beginning of each school year.

## **ARTICLE 8: REIMBURSEMENT OF TRANSPORTATION EXPENSE/ FINGERPRINTING**

### **A. Transportation Reimbursement**

The Organization expects Teaching Artists to utilize public transportation (i.e. bus and subway) to travel to and from assignments. Where public transportation (including one transfer to, on or from a bus route) places a Teaching Artist more than six (6) blocks from the assigned school, the Organization agrees to pay the Teaching Artist reasonable transportation costs of up to \$7.50 each direction (\$15.00 round trip) per assignment. Receipts are required in order to obtain reimbursement for transportation expenses.

### **B. Fingerprinting**

Teaching Artists shall be responsible for the costs associated with fingerprinting.

## **ARTICLE 9: SCHEDULING AND OTHER ISSUES**

A. M&F will inform the Union and all bargaining unit members of any open/new assignment or any position that becomes open/available. The parties will meet and discuss the process by which M&F provides the Union with information regarding vacancies, and how that information is shared to the bargaining unit and others.

B. M&F will make a reasonable effort to include Teaching Artists in an initial schedule meeting with the School as early in the process as possible.

C. Teaching Artists may not perform work for any school with which M&F has a contractual agreement to provide music services (or has a reasonable expectation of renewing such an agreement) without first notifying M&F of the potential employment and discussing the issue with M&F to address any possible issues relating to competition with M&F or other conflicts of interest.

D. M&F will issue the attached memo regarding the submission of Time Sheets.

E. M&F have agreed upon the attached side letter regarding the current practice of Guitar tuning.

F. M&F will notify the Union of newly hired Teaching Artists within thirty (30) days of their employment.

G. Teaching artists must inform M&F of engagement by a M&F student for private instruction, and must provide a signed acknowledgment/release form from the student's parent or guardian in the form attached hereto.

## **ARTICLE 10: SENIORITY**

### **A. General**

"Seniority" shall be defined as the length of service with the "Organization" with respect to a Teaching Artist's Instrument (e.g., clarinet or oboe, etc.)\* or Category (e.g., brass, strings, woodwinds, general music, vocal), subject to and in accordance with the provisions of subparagraphs i. and ii. below. Each Instrument or Category will have its own separate and distinct seniority list. No seniority shall be credited for any year in which the Teaching Artist does not work for the organization.

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\* For purposes of seniority, the term "Instrument" includes general music and vocal/choral instruction.

i. Teaching Artists hired prior to 2002 shall accrue seniority with respect to the instrument(s) in a Category that each Teaching Artist has actually taught for the Organization based upon the length of service each Teaching Artist has taught the particular instrument(s) for the Organization. Teaching Artists hired prior to the date of this Agreement who teach general music or vocal, shall accrue seniority based upon the length of service each Teaching Artist has taught the particular class within the Category for the Organization.

ii. Teaching Artists hired after 2002 shall accrue seniority in an Instrument based upon his/her length of service teaching that instrument for the Organization. If the Organization, in its sole discretion, chooses to assign a class to a Teaching Artist in addition to his or her Instrument, he/she shall accrue seniority in that additional Instrument based upon length of service teaching such additional instrument.

iii. The parties agree that seniority, as defined herein, shall govern only in circumstances where among Teaching Artists potentially affected, the abilities and/or qualifications to perform all of the Organization's available work are relatively equal. The parties further agree that the Organization will be the sole judge of a Teaching Artist's abilities and/or qualifications, subject to the Union's right to invoke the Dispute Resolution provisions of Article 17 of this Agreement to challenge the Organization's compliance with this process.

#### B. Layoffs and Recalls

In layoffs (including reductions in hours) and recalls following layoffs, the Teaching Artist with the greatest seniority in accordance with and subject to paragraph A above shall be entitled to preferential consideration.

A Teaching Artist shall retain recall rights, in accordance with and subject to seniority as defined in paragraph A, for one full School Season. A Teaching Artist is required to accept the total number of offered classes or assignments, unless the Organization's Executive Director in his/her sole discretion agrees in writing to a partial acceptance.

#### C. New Classes or Assignments

Where the Organization is expanding its program at a school where it is currently providing services, the Organization may first offer those additional classes or assignments to the Teaching Artist then assigned to the school, notwithstanding the seniority provisions of paragraph A. Where classes or assignments are offered at a school where the Organization is not otherwise providing services (a "new school"), those classes or assignments shall be offered first to the Teaching Artist with the most seniority, in accordance with and subject to paragraph A, provided that the Teaching Artist has previously taught the instrument or class required by a particular assignment for the Organization. Nothing in this paragraph is intended to prohibit the Organization from considering a Teaching Artist for an assignment in addition to his or her Instrument(s) or Category where the Organization in its sole discretion determines that the Teaching Artist is otherwise qualified and able to perform all of the duties of a specific assignment.

#### D. Offer of Classes or Assignments/Scheduling

1. Classes may be offered either in writing, by email, by text message, or phone call. M&F will also utilize its best efforts to offer classes via the smartphone application. To alleviate the overall time for M&F to fill TAs positions for open classes, M&F will distribute the "tentative" class schedule offer to all TAs, who will advise as to their availability to accept or reject the offered classes. TAs will then be

notified which classes they accepted that they will be assigned, which will be based on seniority as set forth in this Agreement. If Midori does not hear back from a TA within 2 business days, they shall make best efforts to contact the TA via text, email, and smartphone application. If the TA notifies Midori that he/she needs additional time to respond, the TAs shall receive an additional 3 business days to respond.

If an acceptance or rejection is not received by the Organization from the Teaching Artist within two (2) business days of the initial tentative offer, the offer shall be deemed rejected, unless additional time has been provided. A Teaching Artist is required to accept the total number of offered classes or assignments at a particular school, unless the Organization's Executive Director in his/her sole discretion agrees in writing to a partial acceptance.

2. New classes will be assigned based on the seniority provisions of this Agreement. Under no circumstance, however, shall M&F be obliged to offer to a Teaching Artist a new class or new assignment that conflicts in any way with classes or assignments already accepted by that Teaching Artist.

3. For all purposes under the collective bargaining agreement, a program shall be considered "commenced" once the Teaching Artist has accepted the offer of classes.

#### E. Bumping

The seniority rights granted herein shall not include the right to bump another Teaching Artist except as follows. A Teaching Artist may bump a junior Teaching Artist who has had his/her assignment for less than one full School Season provided, however, such bumping shall not become effective until commencement of the following School Season. Under no circumstances shall bumping be permitted during the term of a School Season. The bumping rights provided herein shall be implemented in accordance with and subject to the provisions of paragraph A above and Article 11 below. Nothing contained in this paragraph shall be construed to prohibit modification or elimination of any school program.

#### F. Reductions in Hours

Reductions in hours among Teaching Artists at each particular school shall be determined in accordance with and subject to the seniority provisions of paragraphs A-D.

#### G. Offer of Classes or Assignments Outside of Teaching Artist's Instrument or Category

M&F agrees to consider the application by a Teaching Artist for an assignment in addition to his or her Instrument or Category where M&F in its sole discretion determines that the Teaching Artist is qualified for, and able to perform all of the duties of, a specific assignment. All non-probationary Teaching Artists may send M&F a resume of their qualifications for other assignments, together with a request that they be given serious consideration for such assignments which may become available. Only a Teaching Artist who has satisfactorily completed the Probationary Period is eligible to submit an application for an assignment contemplated herein. Teaching Artists shall accrue seniority only in the Instrument(s) or Category in which he/she is actually teaching but shall not forfeit any seniority in a different Instrument or Category already accrued. M&F's decision to award, or not award an assignment to a Teaching Artist under this paragraph shall not be subject to the grievance and arbitration provisions of this Agreement. A Teaching Artist who is awarded an assignment in a new Instrument shall be required to satisfy a new Probationary Period equal to one full school season but in no event less than six (6) months. The Teaching Artist's pay rate shall not be reduced upon commencing an assignment in the new instrument. The bumping provisions of the agreement shall not apply to the new instrument.

## H. Acceptance of Work

If for two consecutive years a TA neither teaches for M&F nor attends a Professional Development workshop, M&F will contact the TA to see if s/he intends to continue working for M&F. The TA shall have ten (10) business days to respond. If there is no response, then the TA will be dropped to the bottom of the Seniority List.

## **ARTICLE 11: DISCHARGE OR DISCIPLINE**

### A. Just Cause

A Teaching Artist who has successfully completed the probationary period shall not be disciplined or discharged without just cause, subject to the limitations of paragraph C below. Employment decisions pertaining to Article 11 of this Agreement are not subject to the just cause limitations of this paragraph.

### B. Evaluations

The Organization will conduct periodic performance observation(s) and written evaluation(s) of Teaching Artists. Teaching Artists will be provided no less than one calendar day's (excluding weekend and holidays) advance notice of one such observation during each School Season. The standards for performance evaluations shall be determined by the Organization. The written evaluations shall become a part of the Teaching Artist's personnel file and shall be made available to the Teaching Artist and the Union. The Teaching Artist and Union shall acknowledge receipt of such evaluation in writing within two calendar days (excluding weekends and holidays) of receipt. The Teaching Artist shall be afforded the opportunity to provide a written response to an evaluation and any such response shall be included in, and made part of, the personnel file. Nothing in this paragraph shall be construed to prohibit or limit the Organization's right to conduct periodic observations of class activities with or without notice to the Teaching Artist.

### C. Warning or Discharge for Deficiencies in Teaching Skills - Exclusive Procedure

#### i. General

Where the Organization warns or discharges a Teaching Artist on account of deficiencies in teaching skills after such Teaching Artist has satisfied the probationary period, the parties agree to utilize the following procedure. Teaching skills include, but are not limited to, teaching effectiveness and efficiency, control of class/lesson, maintaining student interest, focus on elements and concepts, objectives/materials covered during the lesson, classroom/group lesson management, format of the lesson, etc. Where the procedures of this sub-paragraph are invoked, the procedures of sub paragraph (ii) below shall apply and the Dispute Resolution procedures of Article 17 of this Agreement shall not apply. Any decision resulting from the procedure herein shall be final and binding.

#### ii. Designation of Tripartite Panel

No later than August 15 of each year, the Organization and Union shall each select a representative from a panel of qualified music education teachers. Such selection shall be made in writing. The panel from which such representatives must be selected shall be designated in advance and shall be chosen from the music education departments of the Bank Street College of Education, Columbia University, and/or New York University. An arbitrator chosen using the procedure outlined in Article 17 (D) below shall be the third panel member. These three representatives shall constitute the tripartite panel (the "Panel") to hear and decide such discipline and discharge cases for the upcoming school year.



### iii. Notice

The Organization shall provide written notice to the Union of the discipline or discharge and its intent to invoke the procedures of this paragraph (the “Notice”).

### iv. Hearing and Decision

The Panel shall convene and conclude a hearing at which all parties shall be permitted to present evidence no later than thirty (30) days from the date the Union receives the Notice. The Panel shall issue its decision, which represents the opinion of a majority of the Panel, in writing not later than two (2) weeks from the conclusion of the hearing. In cases involving a warning (excluding discharge), the Panel may, in its discretion, schedule an observation or observations of the Teaching Artist. The Panel’s decision is final and binding, and not subject to the Dispute Resolution provisions of Article 17 of this Agreement. The Panel shall retain jurisdiction after the decision has been rendered. Should the Panel determine that the warning or discharge is not warranted in a particular case, the Organization agrees not to revisit the issue absent new evidence or a subsequent performance evaluation bearing negatively on the Teaching Artist’s teaching skills. In the event a subsequent hearing is necessary, the Panel shall be reconvened for a hearing. Any subsequent hearing shall follow the procedures contained in, and be subject to, the provisions of this paragraph.

### v. Costs

The Organization and Union will each bear the costs, if any, associated with their designated representative. The cost of the arbitrator shall be shared equally by the Organization and the Union.

## **ARTICLE 12: SCHOOLS**

### A. General

The parties recognize and understand that Teaching Artists are assigned by the Organization to work at schools none of which the Organization controls and that the services of the Organization are provided at the pleasure of those schools. The parties further recognize that school management may make decisions which affect a Teaching Artist’s employment, including whether a Teaching Artist may teach at a particular school, continue teaching at a particular school, the number of hours offered, the schedule for any program, and the scope of any assignment. In all circumstances, the school’s decision is controlling and not subject to the terms of this Agreement. Nothing contained in this Agreement shall prohibit the Organization from disciplining or discharging a Teaching Artist who loses an assignment, or any part thereof, as a result of a decision by school management.

In the event the Organization believes that it is necessary to disclose to a school the fact that a Teaching Artist who, by virtue of his/her seniority would otherwise be entitled to an assignment at a new school (“new school”) but who has been asked not to return by the school at which he/she is then teaching (“barred individual”), the Organization shall notify the Union of the intention to disclose that fact, in writing, together with the language of the disclosure. If the Union disagrees with the Organization’s intention to notify the new school, it shall file a request for Expedited Arbitration following the procedure outlined in Article 17D. In the event that the arbitrator finds in favor of the Union, the Organization shall have the option of either providing a copy of the Arbitrator’s Award, or no notice, to the new school but in such circumstance shall not make the originally proposed disclosure. If the new school does not agree to the new assignment of that Teaching Artist, then that barred individual shall not be offered the new assignment and such decision shall be final and not subject to the Dispute Resolution procedures of

Article 11 above or Article 17 below, provided that the Organization has followed the procedures of this paragraph. After receiving the Organization's notice of disclosure a Teaching Artist may choose to waive his/her seniority rights to any new assignment, which waiver must be in writing. Where a Teaching Artist waives seniority, the Organization shall not make the disclosure.

If a school no longer wishes to use a Teaching Artist, they must put their request for a new TA in writing to Midori & Friends and a copy shall be sent to the Union and the TA. The TA and the Union agree not to contact the school in response to or with respect to such notice.

For a class involving a single instrument (i.e. guitar), M&F will continue to recommend to schools that there be an additional staff member present in the classroom.

#### B. Displaced Teaching Artists

Where a Teaching Artist loses an assignment as a result of a decision by school management, the Organization will attempt to replace teaching hours lost in accordance with and subject to the seniority provisions of this Agreement.

#### C. Mixed Instrument Classes

M&F will not require teaching of mixed instrument classes during the first year of student instruction commencing in school year 2006-07.

#### D. Cancelled Classes

Teaching Artists will be paid for any class cancelled upon less than forty-eight hours notice.

E. Subject to the terms of Article 12(D), if a TA is unable to teach a class which the final schedule indicates he/she is scheduled to teach, the TA must provide at least two (2) business days' notice of the absence from a class (except in the case of illness or emergency, the school's schedule is changed, or school cancellation and shall be permitted to make up/reschedule the missed class directly in consultation with the school, provided that (i) such make up occurs prior to the final concert unless otherwise approved by M&F (which shall not be unreasonably denied), (ii) notice is provided to the office of the missed class and the related make-up date, (iii) the change in schedule is not the result of a loss of funding, program cancellation, or other similar reason, and (iv) M&F's substitute policy is not otherwise applicable and a substitute has not been paid for the class.

#### F. Substitutes

All substitutes must be selected from M&F's approved substitute list (all of whom will have provided W-4 and I-9 forms and proof of Department of Education fingerprinting). M&F will consult with members of the bargaining unit to expand the eligible substitute list.

### **ARTICLE 13: PURCHASE OF MATERIALS**

Teaching Artists will be reimbursed for classroom materials to the maximum amount of \$50 per school per Teaching Artist. Receipts must be provided in order to receive reimbursement. M&F will review requests for reimbursement above this amount on a case-by-case basis.

### **ARTICLE 14: PURCHASE OF INSTRUMENTS**

M&F will send Teaching Artists a list/catalog material of available instruments. Teaching Artists will submit recommendations to M&F no later than August 15. M&F agrees to consider recommendations of Teaching Artists regarding choice of instruments and communicate those recommendations to the schools as M&F determines appropriate. Teaching Artists in each instrument will generate one list of recommendations.

#### **ARTICLE 15: NONDISCRIMINATION**

There shall be no discrimination by the Organization or Union or its agents against Teaching Artists on account of race, creed, color, sex, age, national origin, marital status, political affiliation, union activity, sexual orientation racial identity, ethnic background, religion, spiritual beliefs, gender, gender identity, gender expression, political beliefs, age, disability, genetic information, and veteran status.

#### **ARTICLE 16: PARENTAL LEAVE**

M&F will provide up to six weeks of unpaid parental leave for Teaching Artists relating to the birth of a child or adoption. Teaching Artists must have satisfactorily completed the Probationary Period in order to be eligible for this leave and must provide three months' advance notice. In addition, the Teaching Artist seeking leave must identify a substitute acceptable to M&F, to cover the entire period.

#### **ARTICLE 17: DISPUTE RESOLUTION**

Except as provided in Articles 9, 10 and 11 above, all disputes, complaints, controversies, claims, and grievances arising between the Organization and the Union, or any group of Teaching Artists covered by this Agreement with respect to, concerning, or growing out of the interpretation, operation, application, performance or claimed breach of any of the terms and conditions of this Agreement, shall be adjusted in accordance with the following procedure:

A. There shall be an earnest effort on the part of both parties to settle same promptly and through steps hereinafter set forth, it being understood and agreed that no grievance shall be accepted for consideration unless reduced to writing and presented in the first step within fourteen (14) calendar days of the time the involved employee became aware or should have become aware of the occurrence of the incident causing the grievance.. In both cases, time being of the essence, an untimely grievance shall not be processed in the grievance procedure or arbitrated. In the event a grievance is not presented within the herein stated time limits but is erroneously accepted by the receiving party, it is understood there is no obligation to respond to or further process said untimely grievance.

B. Timely grievances shall be processed as follows:

Step 1: By conference with the Teaching Artist, the shop steward, and the Director of Education and/or Assistant Director within five (5) calendar days (exclusive of weekends and holidays) of the filing of the grievance.

Step 2: By conference between the Union official and the Executive Director within five (5) calendar days (exclusive of weekends and holidays) of the response in Step 1.

C. In the event the foregoing steps fail to bring about a settlement of such grievance or dispute, then same may be submitted for arbitration within five (5) calendar days (exclusive of weekends and holidays) of the conference required 'by paragraph B, step 2. Only the Organization and/or the Union may submit a grievance to arbitration.

D. The parties will use the American Arbitration Association under the Voluntary Labor Arbitration Rules to hear and decide every grievance arising under this Agreement, except as provided in Articles 9, 10 and 11 above. The decision of the arbitrator shall be final and binding upon both parties and shall be fully enforceable in law or in equity. It is expressly understood and agreed, however, that the arbitrator shall not have the power to amend, modify, or alter, or in any way add to or subtract from this Agreement or any provision thereof. The cost of arbitration shall be shared equally by the Organization and the Union.

E. The above grievance-arbitration procedure shall be, and the same hereby is, the sole method of settling disputes, differences or controversies arising between the parties hereto or between a Teaching Artist covered by this Agreement and the Organization, except as provided in Articles 9, 10 and 11 above; and it is further agreed that the employees covered hereunder shall be bound by any decision, determination, agreement or settlement which may be effectuated pursuant to invoking the grievance-arbitration procedure.

F. In all cases, the arbitrator will render a written opinion and decision within thirty (30) days after the date of the hearing on the specific matters submitted to arbitration, which said decision shall be final and binding upon both parties hereto.

G. The Union shall have the authority to settle or abandon grievances before or after they are submitted for arbitration. Any grievance not processed by the parties in accordance with the time limits established by this Agreement shall be deemed abandoned.

#### **ARTICLE 18: RECORDINGS**

A. The Organization may record (whether by audio, audio-visual or still photography), reproduce or transmit any class or performance in any manner or by any means whatsoever for such purposes as training, staff development, fund raising, and for other non-commercial purposes consistent with the Organization's business needs.

B. The Union shall not grieve the use of security cameras to ensure the safety of children.

C. With respect to recordings made by M&F of Teaching Artists, M&F will (a) provide Teaching Artists with an opportunity to review any such recordings, (b) provide a copy of any recording of any gala or other formal performance that is professionally produced and distributed to parents or donors, and (c) consider requests for copies of other recordings.

#### **ARTICLE 19: NO STRIKE, NO LOCKOUT**

A. There shall be no cessation of work, no strikes, no sympathy strikes, no picketing, no slowdowns, no sit downs, no job actions, or any other interference with the operation of the Organization's business by the Teaching Artists or the Union during the term of this Agreement. The Organization shall not lock out Teaching Artists during the term of the Agreement.

B. The Union, by its officers, agents and other representatives, shall promptly make every reasonable effort to prevent and stop any cessation of work, strike, sympathy strike, picketing, slowdown, sit down, job action, or other interference with the operation of the Organization's business, and shall promptly order its members to return to work without delay.

C. The Union & M&F will form a labor and management committee composed of at least three members

of the bargaining unit, three members of management, and a representative of the Union to meet periodically but not less than two times a year to discuss on a non-binding basis issues related to the workplace.

**ARTICLE 20: MANAGEMENT RIGHTS**

Except as limited by the terms of this Agreement, the Organization shall have the exclusive right to: establish reasonable rules and direct Teaching Artists in the performance of their work; hire, promote, transfer, assign and retain Teaching Artists; suspend, demote, discharge or take other disciplinary action against Teaching Artists; release Teaching Artists from their duties due to a lack of work, programming changes and other factors; reduce working hours or close any program or location; relocate its operations; maintain the efficiency of its operation; determine programming, classes, class size, and whether to cancel classes; determine class schedules and assignments and renewals of assignments; change programming including the types of classes offered; institute or discontinue the kinds of classes offered, and hire and layoff staff according to the Organization’s program changes; and determine the methods, means and personnel by which such operations are to be conducted.

**ARTICLE 21: SAVINGS CLAUSE**

The parties agree that should any Article or subdivision of this Agreement be or become unlawful, invalid, ineffective or unenforceable by virtue of any acts, law or decision of any established governmental agency or court, then any such Article or subdivision shall not affect the validity and enforceability of any other Article or subdivision thereof, and the remainder of this Agreement shall continue in full force and effect for its duration.

**ARTICLE 22: CONTRACT TERM**

This Agreement shall be in full force and effect from January 1, 2022 through midnight June 30, 2025.

**ARTICLE 22: RATIFICATION**

This Agreement is subject to ratification by the Local 802 Executive Board, the members of the bargaining unit, and by the Board of Directors of Midori & Friends.

Associated Musicians of Greater New York,  
Local 802, AFM

The Midori Foundation, Inc.

\_\_\_\_\_  
Harvey S. Mars  
Recording Vice President  
Signature

\_\_\_\_\_  
Larisa Gelman  
Executive Director  
Signature

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

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