

# **AGREEMENT**

*between*

**THE NATIONAL BALLET OF CANADA**

*and*

**TORONTO MUSICIANS' ASSOCIATION LOCAL 149  
OF THE  
AMERICAN FEDERATION OF MUSICIANS OF THE  
UNITED STATES AND CANADA**

**July 1, 2018 – June 30, 2021**

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# **Section 1 — Scope**

## **ARTICLE 1 — SCOPE AND RECOGNITION**

The National Ballet of Canada (the National Ballet) recognizes the Toronto Musicians' Association (TMA), Local 149 of the American Federation of Musicians of the United States and Canada (A.F. of M.) as the sole exclusive bargaining agent for all musicians engaged in accordance with the Collective Agreement during the term of this Agreement. This Agreement covers activities of the National Ballet in Canada or the United States of America, or elsewhere in the world as covered by this Agreement.

The term of the Collective Agreement is July 1, 2018 to June 30, 2021.

## **ARTICLE 2 — NEGOTIATIONS**

The term of this Agreement shall be three (3) years and shall expire on June 30, 2021. It is agreed between the parties that negotiations for an Agreement covering subsequent contract years shall commence prior to January 31, 2021. It is also agreed that once negotiations are complete, a signed copy of the Agreement will be made available no later than sixty (60) days from the ratification date.

## **ARTICLE 3 — SERVICES COVERED BY THIS AGREEMENT**

This Agreement covers the services of the National Ballet Orchestra in both tour and non-tour capacity in productions of the National Ballet of Canada. Where productions requiring orchestra are reproduced for electronic media, the National Ballet Orchestra shall be used to the extent of the instrumentation that the stage score requires at the rates defined in the appropriate A. F. of M. Agreement. Reduced orchestration touring arrangements shall not be used for performances at the Four Seasons Centre.

## **ARTICLE 4 — CONSTITUTION AND BYLAWS**

The present constitution, bylaws, rules and regulations of Local 149 and of the A.F. of M., are hereby incorporated and made part of this Agreement as if specifically set forth herein, but only to the extent that such constitution, bylaws, rules and regulations are not contrary to or in violation of the provisions of this Agreement.

## **ARTICLE 5 — LABOUR DISPUTE**

In the event of a labour dispute resulting in the cancellation of the dancers' performance(s), the Orchestra need not be paid for services related to such performance(s), provided the service(s) have not been rendered, and provided the Orchestra is at home and not on a run-out or tour.

## **ARTICLE 6 — SUSPENSION OF AGREEMENT**

It is agreed that in the event of war, national calamity, or any legitimate condition beyond the reasonable control of either party, the National Ballet, at its option, may suspend this Agreement without prior notice. The Agreement is re-instated upon resumption of operations.

## **Section 2 — Personnel**

### **ARTICLE 7 — THE NATIONAL BALLET ORCHESTRA**

Prior to the commencement of each contract year as defined in this Agreement, The National Ballet shall engage no fewer than sixty-two (62) musicians under Article 8, and a Personnel Manager, all of whom shall be members in good standing of Local 149 of the American Federation of Musicians (A. F. of M.). These sixty-two (62) musicians will be known as the National Ballet Orchestra.

### **ARTICLE 8 — ORCHESTRA COMPOSITION**

(a) The National Ballet shall engage, under the terms of this Agreement, fifty-six (56) musicians plus a non-playing Personnel Manager (or including a playing personnel manager) for all programmes of the National Ballet at the Four Seasons Centre, all of whom shall be members in good standing of Local 149 of the A. F. of M. The instrumentation shall be as follows:

Concertmaster	Principal Flute	Principal Trumpet
Assistant Concertmaster	Second Flute	Second Trumpet
Principal Second Violin	Principal Oboe	Principal Trombone
Assistant Principal Second Violin	Second Oboe	Second Trombone
Fourteen Section Violins	Principal Clarinet	Bass Trombone
Principal Viola	Second Clarinet	Principal Tuba
Assistant Principal Viola	Principal Bassoon	
Four Section Violas	Second Bassoon	
Principal Violoncello		Principal Timpani
Assistant Principal Violoncello		Principal Percussion
Four Section Violoncellos	Principal Horn	Second Percussion
Principal Bass	Second Horn	
Assistant Principal Bass	Third Horn	
Two Section Basses	Fourth Horn	Principal Harp

Assistant positions effective as determined.

#### **(b) Augmenting Musicians**

For all engagements for which they may be required, the National Ballet shall engage six (6) augmenting musicians, all of whom shall be members in good standing of Local

149 of the A. F. of M., in the following positions. These musicians shall have the right of first refusal:

Third Flute	Third Clarinet	Third Trumpet
Third Oboe	Third Bassoon	Third Percussion

Augmenting musicians are covered by all parts of this Agreement, except for Article 15 (Guarantee). Augmenting musicians who perform less than fifty-one percent (51%) of services in a contract year are also excluded from Article 16 (Medical Plan).

**(c) Touring Orchestra**

(i) For all engagements outside the Four Seasons Centre except as provided in this Agreement, the National Ballet shall engage thirty-one (31) musicians plus a non-playing Personnel Manager (or including a playing personnel manager) who will tour with the National Ballet. The instrumentation shall be as follows:

Concertmaster	One Section Violoncello	Principal Horn
Assistant Concertmaster	Principal Bass	Second Horn
Principal Second Violin	Assistant Principal Bass	Principal Trumpet
Assistant Principal Second Violin		Second Trumpet
Six Section Violins	Principal Flute	Principal Trombone
Principal Viola	Principal Oboe	Principal Timpani
Assistant Principal Viola	Principal Clarinet	Principal Percussion
One Section Viola	Second Clarinet	
Principal Violoncello	Principal Bassoon	Principal Harp
Assistant Principal Violoncello		

The positions listed in Article 8 (c) are positions listed in Article 8 (a). When a position appears in both lists the same musician will be contracted to fill both.

When one or more of the thirty-one (31) Article 8 (c) musicians declines a tour, the National Ballet shall engage replacements as per Article 38 (c) Temporary Vacancies. If all contracted players on the appropriate instrument decline a tour, the National Ballet may choose not to fill the vacancy.

**(ii) Non-traditional Orchestrations**

A non-traditional orchestration is a score which requires instruments other than those listed in Art. 8 (c)(i) and/or requires string sections in numbers smaller than those in Art. 8 (c)(i) (10 violins, 3 violas, 3 'cellos, 2 basses). Art 8 (c) musicians who are not required by the orchestration need not be engaged or compensated.

When repertoire for a tour does not conform to the instrumentation listed in Art. 8 (c)(i), the National Ballet may engage a musician on an instrument other than those listed in Art.8 (c)(i) or may tour with fewer than 31 musicians.

(iii) When a Section String position in the Touring Orchestra becomes vacant, the Music Director, in consultation with the appropriate section Principal(s), shall appoint a tenured musician from the Orchestra as set out in Article 8 (a). This Touring appointment will thereafter become part of the musician's Personal Contract as per Article 32 (a).

## **ARTICLE 9 — EXTRA MUSICIANS**

(a) In addition to the Orchestra [Art. 8 (a), (b), and (c)], extra musicians may be engaged as required in either tour or non-tour capacity according to the fees and conditions in this Agreement. Such extra musicians shall also be members in good standing of the A. F. of M. The National Ballet must make an effort to engage Local 149 musicians in non-tour capacity. If unavailable, then musicians may be engaged from outside the Local.

(b) While on tour or for engagements outside of Local 149's jurisdiction, the Orchestra may be added to by locally engaged members of the A. F. of M., in which case fees and conditions as established by their own Local shall apply.

## **ARTICLE 10 — PERSONNEL MANAGER**

(a) The National Ballet shall engage a TMA member as playing or non-playing Personnel Manager/Contractor.

(b) The Personnel Manager/Contractor, assisted by a stage manager, shall expedite the complete work area requirements for Orchestra services.

(c) The Orchestra Personnel Manager has the authority and responsibility to require compliance by the members of the Orchestra and the National Ballet to the terms of this Agreement.

(d) The Orchestra Personnel Manager shall be in attendance at all Orchestra services.

(e) Other duties of the Orchestra Personnel Manager include:

(i) Informing the musicians of who is required and when, for rehearsals, dress rehearsals, and performances;

(ii) Enforcing strict adherence to the scheduled times for breaks, rehearsals, dress rehearsals, and performances;

(iii) Submitting contracts to the National Ballet with a copy to the Toronto Musicians' Association;

(iv) Providing each player with a breakdown of the basic scale pay for any segment

of services, at the request of the player;

(v) Informing the Orchestra members of requests, comments, and information in the form of announcements from the National Ballet to the Orchestra members. This may be coordinated through the Orchestra Committee;

(vi) Ensuring that proper procedures are followed for the advertising and conduct of auditions and for the conduct of tenure reviews;

(vii) Ensuring that adequate and sufficient music parts are provided for every musician (all string parts bowed) at least one week before the composition is to be rehearsed, for the purpose of individual practice, barring circumstances beyond the control of the National Ballet;

(viii) Ensuring that the rehearsal area is set up and ready to use a minimum of one half-hour before the start of a rehearsal. The music required will be on the stands a minimum of fifteen (15) minutes before the start of the rehearsal;

(ix) Ensuring that an Official Clock is supplied by the National Ballet and displayed at all rehearsals;

(f) The National Ballet may choose to appoint an Assistant Personnel Manager to assist the Personnel Manager.

(g) The Orchestra Personnel Manager shall appoint a substitute from within the National Ballet Orchestra when unable to fulfill and perform the role of Personnel Manager.

(h) The Personnel Manager may appoint a stage librarian whose duties shall be to take care of music and scores for rehearsals and performances. [See Art. 34 (e)]

(i) The Orchestra shall have the right to approve or disapprove of any new Personnel Manager.

(j) The Personnel Manager shall attend all meetings between a musician or a group of musicians and the Music Director on issues that pertain to contractual matters. For such meetings, the musician or group of musicians shall be provided with at least 48 hours' notice and the option of scheduling the meeting to allow for a TMA representative to be in attendance.

## **ARTICLE 11 — ORCHESTRA COMMITTEE**

There shall be an Orchestra Committee of five (5) tenured Orchestra members. The Committee shall elect its own Chairperson. The National Ballet recognizes that the Orchestra Committee represents and speaks for the Orchestra. The Orchestra Committee shall act as liaison between the National Ballet and the Orchestra and



between the TMA and the Orchestra. The National Ballet agrees to provide a filing cabinet for the Orchestra Committee's use and a meeting room, as needed, at the Walter Carsen Centre.

## **ARTICLE 12 — STEWARD**

The Orchestra Committee shall receive a payment of ten percent (10%) of the minimum per-service fee for each orchestra service for providing the services of a steward.

## **ARTICLE 13 — BOARD OF DIRECTORS FOR NATIONAL BALLET**

Arrangements will be made for one (1) Orchestra member to be invited, as observer, to meetings of the Board of Directors of the National Ballet.

## **ARTICLE 14 — MUSIC DIRECTOR, PRINCIPAL CONDUCTOR, AND ASSISTANT CONDUCTOR**

### **(a) Appointment of Music Director or Principal Conductor**

(i) Any Search Committee formed to fill the position of Music Director or Principal Conductor will include at least two (2) playing members of the Orchestra, who will be elected by the members of the Orchestra.

(ii) The appointment of a new Music Director or Principal Conductor will be subject to consultation with the membership of the Orchestra.

(iii) The membership of the Orchestra shall be consulted prior to the first contract renewal of a newly-appointed Music Director. The Artistic Director (or designate) will meet with the Orchestra Committee to determine the best manner to carry out this consultation.

### **(b) Appointment of Assistant Conductor**

The Orchestra will be consulted regarding the engagement or re-engagement of an Assistant Conductor. The Music Director will meet with the Orchestra Committee to determine the best manner to carry out this consultation.

### **(c) Meetings with Music Director**

The Music Director will meet at least once each season (four times per year) with the Orchestra Committee to discuss matters of mutual interest. The Music Director along with the Artistic Director and the Executive Director will meet at least once per year with the entire orchestra to discuss matters of mutual interest.

## Section 3 — Guarantee and Benefits

### ARTICLE 15 — GUARANTEE

(a) Toronto Guarantee

(i) 120 services in the 2018-2019 season for mainstage productions in the City of Toronto.

(ii) 120 services in the 2019-2020 season for mainstage productions in the City of Toronto.

(iii) 120 services in the 2020-2021 season for mainstage productions in the City of Toronto.

(b) The number of services counted towards fulfilling a musician's guarantee shall be the total of:

(i) The number of services in a contract year for which a musician is contracted/scheduled and is paid no less than the contracted per-service fee for the Toronto contract year, including all paid services in Toronto falling under Article 17.

(ii) The number of services contracted/scheduled which the musician declines under Article 17 (c) and 19, provided the musician had proper notice of the service(s).

Touring services, including rehearsal services for a tour occurring prior to departure, and run-out services that occur outside of greater Toronto, cannot be used towards fulfilling the Toronto Guarantee, Article 15 (a), except as permitted under the provisions of Article 15(e).

(c) If less than thirty (30) days notice is given, members of the Orchestra will use their best efforts to accommodate the change. Members with a bona fide conflict will not be required to perform the altered or added services but will be paid for the services and said services will count towards the calculation of the guarantee.

(d) Leave of absence pursuant to Article 19 of the Collective Agreement and/or subbing covering more than twenty-four percent (24%) of the scheduled Toronto services in a contract year will disqualify the musician from entitlement to payment of any guarantee shortfall.

**(e) Alternate Uses of Guarantee Services**

No more than ten (10) services contemplated under this Article can be used towards the guarantee. All services which the National Ballet intends to use to fulfill the

guarantee under this Article are subject to the provisions of Article 33 (b), except that thirty (30) days is replaced with sixty (60) days. The National Ballet will consult with the Orchestra Committee prior to the assignment of any such services. It is understood that musicians cannot be assigned to non-musical activities as part of their guarantee commitment.

These services may be assigned as follows:

**(i) Live Engagements**

These services can be used for live engagements or live projects in which the National Ballet has financial or artistic participation. This includes any co-productions or productions the National Ballet is promoting/subsidizing through inclusion on its subscription series. Musicians whose remuneration for mainstage services does not reach the guarantee can be assigned at the National Ballet's discretion to other activities, e.g., concerts for Education and Outreach events, fund-raising events or other suitable events which promote the National Ballet or the Orchestra.

**(ii) Touring**

Up to six (6) of these services may be used for touring, including rehearsal services for a tour occurring prior to departure.

**(iii) Recording**

These services may be used to make an audio recording of a newly commissioned work pursuant to Article 41 (a) (ii). In this case, both the per-service fee and the additional per-service fee may be credited toward the guarantee. These services may be used toward the creation of commercial recordings of the National Ballet or the Orchestra. If the appropriate AFM fee is greater than the musician's per-service fee under this Agreement, the National Ballet will pay the musician the difference. This additional payment will not count towards the guarantee.

(f) If there is a shortfall in the implementation of the guarantee with respect to an individual member at the end of the contract year (June 30), compensation will be paid at the rate of the fees set out in Article 34 (a), (b), (d), including Musicians' Pension Fund of Canada and Seniority Pay. The shortfall shall be paid in a lump sum at the end of the contract year.

## **ARTICLE 16 — MEDICAL PLAN**

The National Ballet will enroll contracted members of the Orchestra in the National Ballet's Group Insurance Plan providing extended health and dental benefits. The Plan for which premiums shall be paid is attached hereto and is incorporated by reference into this Agreement. The National Ballet shall pay the musician's premium at the single

premium rate for twelve months during the contract year for all musicians who are actually providing services to the National Ballet Musicians electing family coverage and benefits under the Plan shall pay the difference between the single and family premiums by way of a payroll deduction by the National Ballet or post-dated cheques from the Orchestra member. Should the National Ballet make changes to the Plan or provider, there shall be no reduction to the current coverage level.

The National Ballet shall not pay the premium for musicians on Article 19 leave of absence if such leave prevents the actual performance of at least fifty-one percent (51%) of scheduled services for the contract year. Musicians who do not actually perform at least fifty-one percent (51%) of scheduled services will be permitted to pay the premiums for their benefits. Services missed due to Article 17 leave will be considered as performed services for the purpose of this calculation. The calculation of this percentage shall be based on the April 1st schedule.

## **ARTICLE 17 — SICK LEAVE, COMPASSIONATE LEAVE, PERSONAL DAYS, MATERNITY/PATERNITY LEAVE**

Article 17 leave will be granted to members of the Orchestra who are not otherwise on leave of absence during the period for which leave has been requested.

The National Ballet shall be responsible for the payment of substitutes, if required for these periods.

All Article 17 leave shall be included in the fulfillment of the National Ballet's obligation to provide a guaranteed number of services in accordance with Article 15 of this agreement.

### **(a) Sick Leave and Compassionate Leave**

Sick leave shall include leave due to a musician's illness or illness of a person listed under the Ontario *Employment Standards Act, 2000* Personal Emergency Leave provisions. Compassionate leave shall include leave due to the death or serious illness/accident of a person listed under the Ontario *Employment Standards Act, 2000* Personal Emergency Leave provisions.

At the time of the execution of this Agreement persons listed listed under the Ontario *Employment Standards Act, 2000* Personal Emergency Leave provisions are:

1. The musician's spouse.
2. A parent, step-parent or foster parent of the musician or the musician's spouse.
3. A child, step-child or foster child of the musician or the musician's spouse.

4. A grandparent, step-grandparent, grandchild or step-grandchild of the musician or of the musician's spouse.
5. The spouse of a child of the musician.
6. The musician's brother or sister.
7. A relative of the musician who is dependent on the musician for care or assistance. 2000, c. 41, s. 50 (2); 2004, c. 15, s. 4; 2016, c. 23, s. 46.

A doctor's certificate may be required at the request of the National Ballet. Musicians are entitled to Article 17 (a) leave without loss of salary as follows:

**(i) Members of the Article 8 (a) Orchestra**

twelve (12) days

**(ii) Augmenting Musicians (Members of the Article 8 (b) Orchestra)**

Engaged for at least 51% of the services for the year: five (5) days

Engaged for at least 26% but less than 51% of the services for the year: three (3) days

If a player is absent due to illness on a day in which one or more services are scheduled he or she will be charged with a full day's sick leave. Where a player, due to illness, misses one of two services on a day when two services are scheduled, the player shall be charged with one-half (1/2) of a day's sick leave.

**(b) Extended Illness**

Tenured musicians with extended illness shall qualify for up to an additional thirteen (13) days of paid leave per contract year upon receipt of a doctor's certificate. An extended illness shall be defined as an absence due to illness or injury that exceeds twelve (12) consecutive calendar days. In the event of an extended illness, the musician shall use these additional thirteen (13) paid days first, before using the regular sick days granted in Article 17 (a) above.

**(c) Personal Days**

A member of the Article 8 (a) Orchestra may take up to four (4) unpaid Personal Days. A member of the Article 8 (b) Orchestra who is engaged for at least 26% of the scheduled services in a contract year may take up to two (2) unpaid Personal Days.

Personal Days shall be granted, with at least fourteen (14) days written notice, for events of a non-remunerative nature. Personal Days requested for the day of a final dress rehearsal or first performance of a work in a season, or for the day of a taping or broadcast performance, will be granted only with the agreement of the Music Director.

**(d) Maternity/Paternity Leave**

Maternity/Paternity leave is to be taken for the birth and care of a contracted musician's child or for the coming of a child into the custody, care and control of a musician for the first time.

(i) Leave may be taken by tenured members of the Orchestra who are not otherwise on leave of absence. Leave will not affect tenure or seniority. A musician is entitled to seventeen (17) consecutive weeks of leave commencing no later than the date of birth of the child, or the date of coming into custody, care and control of the child. During these weeks, the musician shall receive the contracted per-service fee, for a maximum of sixty-four (64) services that the musician would have been contractually providing to the National Ballet. A leave of more than seventeen (17) weeks without fee must be mutually agreed upon by the musician and the National Ballet.

Where both parents are tenured musicians, each musician will be entitled to seventeen (17) weeks of paid leave. Where both parents are contracted musicians but one or both are not tenured, leave may be shared between the spouses at different but consecutive times totaling no more than seventeen (17) weeks. However, both parents will be entitled to paid leave beginning on the day of birth, or date of coming into custody, care and control of the child and continuing for a maximum of one week.

A musician may elect to suspend his or her leave to rehearse or perform with the National Ballet; in this case the leave will nonetheless end not more than seventeen (17) weeks after the commencement of the leave. Unless otherwise permitted by the Music Director, the musician will only be permitted to exercise this option in order to perform the entire run of a production.

(ii) A musician in her last two (2) months of pregnancy shall not be required to perform services in run-outs and tours, and shall nonetheless be paid the contracted per-service fee for such missed services. Such payment will count towards the maximum paid maternity leave but will not necessarily be included in the seventeen (17) consecutive weeks of leave.

(iii) All paid services during leave, all unpaid services if the sixty-four (64) maximum is exceeded, and all unpaid services during a mutually agreed upon extension (over and above the 17 weeks) shall be included in the fulfillment of the National Ballet's obligation to provide a guaranteed number of services in

accordance with Article 15 of this agreement.

## **ARTICLE 18 — LONG-TERM MEDICAL ABSENCE**

(a) A musician who has been absent due to illness or injury for more than fifty percent (50%) of the musician's scheduled services in each of three consecutive contract years will be deemed to be on a long-term medical absence.

(b) A musician on a long-term medical absence who wishes to return to work must provide medical documentation to demonstrate his or her fitness to return to work and must perform at least fifty percent (50%) of the services in that contract year. Should he or she be unable to perform fifty percent (50%), the musician will be deemed to have vacated his/her position and that year will be counted as the first of two transition years described in (c) below. The musician will receive a payment equal to sixty (60) services, less the services that were actually worked in that contract year.

(c) A musician on a long-term medical absence who does not wish to return to work or who cannot provide medical documentation to support his or her fitness to work will be deemed to have vacated his or her position. In this event, the musician will receive a payment equal to sixty (60) services at the musician's contracted per-service fee in each of the following two (2) transition years. During these two transition years, the musician will continue to be enrolled in the Medical Plan (Article 16).

## **ARTICLE 19 — LEAVES OF ABSENCE, SUBBING**

The musician must inform the Personnel Manager in writing of all intended long and short term leaves.

"Suitability" of a replacement is at the Music Director's discretion, which will not be unreasonably exercised.

All services missed due to Article 19 leave are unpaid but, with the exception of Article 19 (d), shall be included in the fulfillment of the National Ballet's obligation to provide a guaranteed number of services in accordance with Article 15 of this Agreement.

### **(a) Long-term Leave**

Long-term leave of one full contract year or longer will be granted to tenured members of the Orchestra with at least sixty (60) days notice. Leave will be granted with less than sixty (60) days notice when a suitable replacement is available. The maximum consecutive permitted leave is two (2) years. A musician returning from long term leave is expected to perform fifty-one percent (51%) of scheduled services in the contract year following the leave.

**(b) Short-term Leave**

Short-term leave for a duration of less than a full year will be granted with at least thirty (30) days notice. Leaves will be granted with less than thirty (30) days notice when a suitable replacement is available. Leaves are to be taken for a complete program, unless the Music Director agrees to allow the musician back, and not for the occasional day (this is to be distinguished from subbing and Personal Days).

**(c) Subbing**

Subbing is a requested absence for one or more services of a program. Subbing may be allowed with a suitable replacement. Permission shall not be unreasonably denied.

**(d) Leave for a Foreign Tour**

Leaves for confirmed foreign tours will be granted with at least ninety (90) days notification. Leaves will be granted with less than ninety (90) days notification when a suitable replacement can be found.

**ARTICLE 20 — MUSICIANS' PENSION FUND OF CANADA**

The National Ballet agrees to contribute an amount equivalent to the following percentage of the contracted per-service fee for each musician to the Musicians' Pension Fund of Canada for all services covered by this agreement:

2018-2019:	11.5%
2019-2020:	11.5%
2020-2021:	11.5%

This applies at home and on tour. The address for the Musicians' Pension Fund of Canada is as follows:

200 Yorkland Blvd Suite 605  
Toronto, ON M2J 5C1

**ARTICLE 21 — SENIORITY PAY**

Seniority Pay shall be paid to each tenured musician at the following rate per service for each year with the National Ballet Orchestra since July 1, 1990, to a maximum of thirty (30) years.

2018-2019:	80¢
2019-2020:	80¢
2020-2021:	80¢



Seniority Pay shall be payable at the end of the National Ballet contract year, and covered by Article 20 — Musicians' Pension Fund of Canada.

## **ARTICLE 22 — VACATION PAY**

The National Ballet agrees to pay to each musician four percent (4%) of the contracted per-service fee in lieu of vacation weeks or vacation pay. This payment shall be based on minimum contracted fees only, and will not include per diems, hotel allowance, or Musicians' Pension Fund of Canada contributions.

## **ARTICLE 23 — DEDUCTIONS FROM FEES**

### **(a) Work Dues**

The National Ballet agrees to deduct work dues from contracted per-service fees and Seniority Pay paid to all local members engaged by the National Ballet in the amount established by the TMA. Said deductions will be remitted by separate cheque or EFT made payable to the Local after each season unless otherwise agreed to by the Local. The TMA must certify the percentage rate, in writing, to the National Ballet. It is understood that the percentage applies to minimum contracted fees only, and does not include negotiated fees, vacation pay, per diems, hotel allowance, or Musicians' Pension Fund of Canada contributions.

### **(b) OCSM/OMOSC Dues**

The National Ballet agrees to deduct the annual OCSM/OMOSC assessment from amounts payable to the members of the National Ballet Orchestra. The OCSM delegate shall provide to the National Ballet all necessary supporting documentation with respect to the assessment to be deducted. Based on the information provided by the OCSM delegate of the National Ballet Orchestra, the deduction will be made and remitted as soon as practicable thereafter, by the National Ballet to the Organization of Canadian Symphony Musicians, on behalf of the National Ballet Orchestra.

### **(c) Association Dues**

Upon written notice from the TMA, the National Ballet agrees to deduct from any fees payable to the musicians the amount of any dues or assessments levied by the TMA for National Ballet activities.

## **Section 4 — Auditions, Reviews, Contract Conditions**

### **ARTICLE 24 — CONFLICT OF INTEREST**

(a) It is understood that a musician may not serve on an Audition, Review or Appeal Committee if he/she has an obvious conflict of interest. Any dispute regarding a

perceived conflict of interest must be dealt with in a timely manner by referring it to the Local.

(b) If a musician under review does not receive tenure, no musician who served on that Review Committee may audition for the resulting vacancy.

## **ARTICLE 25 — AUDITION AND REVIEW COMMITTEES**

### **(a) Restrictions for eligibility to serve on Committees**

It is understood that a non-tenured player, a player who is resigning his/her position, or a player who has received a notice of dismissal may not serve on an Audition Committee. All musicians may serve on Audition or Review Committees, except Oboe III, Clarinet III, Bassoon III.

### **(b) Scheduling of Committee Meetings**

(i) The scheduling of auditions and reviews will, whenever possible, be included in the year's schedule distributed on April 1st. Each scheduled session may contain more than one audition or review.

(ii) If two or more of the Committee members are unable to attend Review Committee meetings, the meeting will be rescheduled.

### **(c) Audition Committee Leave**

#### **(i) Notification**

Up to two weeks prior to the audition date, a Committee member will be given leave from serving on the Committee on request. Less than two weeks prior to the audition date a member of the Committee may request a leave, but such leave shall be conditional on the availability of a suitable replacement.

#### **(ii) Replacement for Non-Attendance**

If members of the Audition Committee are unable to attend, the first replacement member will be selected by the Music Director (or designate). The second replacement member will be selected by the remaining members of the Audition Committee, with subsequent replacements alternating between the Music Director and the Audition Committee. The Personnel Manager may select replacements on an emergency basis.

### **(d) Committee Composition**

Unspecified members of an audition committee will be elected by the specified

members of the committee plus those players who are eligible for the unspecified position in question as outlined for each committee. The Personnel Manager will confer with the Orchestra Committee to verify the list of voters and to determine the best manner in which to carry out each election. Ballots may be cast electronically, in which case the Personnel Manager will specify a deadline for submission of ballots, which will be not less than 48 hours after the ballots are distributed. With respect to the violin section representatives only, no unspecified member may serve on two consecutive audition committees.

**Concertmaster:** All other principal strings (4), assistant concertmaster, assistant principal second violin, two section violins, two principal wind, brass, or percussion, principal harp.

**Assistant Concertmaster:** All principal strings (5), assistant principal second violin, two section violins, one principal wind or brass.

**Principal Second Violin, Viola, and Cello:** All other principal strings (4), assistant principal of the section concerned, three other members of the section concerned, one principal wind or brass.

**Principal Bass:** All other principal strings (4), assistant principal bass, two section basses, one principal wind, one principal brass.

**Assistant Principal Second Violin:** Concertmaster, principal second violin, principal viola, principal cello, two section violins, one principal wind or brass. (If a principal string must be replaced, principal bass is the first alternate.)

**Assistant Principal Viola:** Concertmaster, principal second violin, principal viola, principal cello, two section violas, one principal wind or brass. (If a principal string must be replaced, principal bass is the first alternate.)

**Assistant Principal Cello:** Concertmaster, principal viola, principal cello, principal bass, two section cellos, one principal wind or brass. (If a principal string must be replaced, principal second violin is the first alternate.)

**Assistant Principal Bass:** Concertmaster, principal viola, principal cello, principal bass, two section basses, one principal wind or brass. (If a principal string must be replaced, principal second violin is the first alternate.)

**Section Violin:** Concertmaster, principal second violin, principal viola, principal cello, three section violins. (If a principal string must be replaced, principal bass is the first alternate.)

**Section Viola:** Concertmaster, principal second violin, principal viola, principal cello, assistant principal viola, two section violas. (If a principal string must be replaced, principal bass is the first alternate.)

**Section Cello:** Concertmaster, principal viola, principal cello, principal bass, assistant principal cello, two section cellos. (If a principal string must be replaced, principal second violin is the first alternate.)

**Section Bass:** Concertmaster, principal viola, principal cello, principal bass, assistant principal bass, one section bass, one principal wind or brass. (If a principal string must be replaced, principal second violin is the first alternate.)

**Principal Flute:** All other principal winds (3), second flute, concertmaster, one other principal string, one principal brass. (If second flute must be replaced, third flute is the first alternate.)

**Principal Oboe:** All other principal winds (3), second oboe, concertmaster, one other principal string, one principal brass. (If second oboe must be replaced, third oboe is the first alternate.)

**Principal Clarinet:** All other principal winds (3), second clarinet, concertmaster, one other principal string, one principal brass.

**Principal Bassoon:** All other principal winds (3), second bassoon, concertmaster, one other principal string, one principal brass.

**Section Flute:** All principal winds (4), one section flute, one other section woodwind, one principal brass.

**Section Oboe:** All principal winds (4), one section oboe, one other section woodwind, one principal brass.

**Second Clarinet:** All principal winds (4), two section winds, one principal brass.

**Third Clarinet:** All principal winds (4), second clarinet, one other section wind, one principal brass.

**Second Bassoon:** All principal winds (4), two section winds, one principal brass.

**Third Bassoon:** All principal winds (4), second bassoon, one other section wind, one principal brass.

**Principal Horn:** All other principal brass (3), two section horns, concertmaster, one principal wind.

**Principal Trumpet:** All other principal brass (3), two section trumpets, concertmaster, one principal wind.

**Principal Trombone and Tuba:** All other principal brass (3), two section trombones, one principal wind, one of concertmaster, principal cello, or principal bass.

**Section Horn:** All principal brass (4), two section horns, one principal string or wind.

**Section Trumpet:** All principal brass (4), one section trumpet, one section trombone, one principal string or wind.

**Section Trombone:** All principal brass (4), one section trombone, second trumpet, one principal string or wind.

**Principal Harp:** Concertmaster, three other principal strings, three principal wind, brass, or percussion.

**Principal Timpani:** Principal percussion, two section percussion, concertmaster, one other principal string, one principal wind, one principal brass.

**Principal Percussion:** Principal timpani, two section percussion, concertmaster, one other principal string, one principal wind, one principal brass.

**Section Percussion:** Principal timpani, principal percussion, one section percussion, concertmaster, one other principal string, one principal wind, one principal brass.

**(c)      **Audition Committee Payment****

Members of the Orchestra who serve on an Audition Committee shall be reimbursed at pro-rated per-service rates with a one-hour minimum call, extra time calculated in half-hour increments. Calculation of payment commences from committee call time and ends when the committee is released.

Only voting members of the Audition Committee shall be paid and payment will be made no later than the end of each contract year.

(d)      All tenured members of the Orchestra may attend any audition as auditors, but must leave before discussion and voting. Anyone wishing to attend as an auditor must inform the Personnel Manager at least seven (7) days in advance of the audition to facilitate accommodation.

Auditors are not permitted in Review meetings.

**ARTICLE 26 — GENERAL VOTING PROCEDURES**

(a)      Non-voting Reviews do not require a quorum.

(b)      Tie votes (in Auditions or Reviews) do not prevent a candidate from being hired. In the event of a tie vote, the decision to hire will rest with the Music Director.

(c)      There will be no abstentions during votes.

- (d) Votes are held by secret ballot.
- (e) A simple majority determines the outcome of the vote.
- (f) All Committee members (Review, Appeal, etc.) shall vote either yes or no. Any spoiled ballots shall result in a re-vote without discussion or revealing the count, with the exception of clarifying the voting procedure.
- (g) If a spoiled ballot re-occurs, the voting results shall be valid. The spoiled ballot counts as a no vote.

## **ARTICLE 27 — AUDITIONS**

The purpose of an audition is to fill a vacancy with the best-qualified musicians available who will contribute to the continuous artistic growth of the Orchestra.

- (a) Applicants to fill vacancies in the Orchestra will be subject to the audition procedure. All applicants auditioning shall be heard by the appropriate Audition Committees.
- (b) The results of any audition shall not compromise the existing position of any auditioning Orchestra member.

### **(c) Vacancy**

When a vacancy or addition to the Orchestra occurs, auditioning of applicants for the position shall be the responsibility of the Music Director (or designate), whom Audition Committees as set forth in Article 25 (d) shall assist. When a vacancy occurs, the procedure shall be as follows:

#### **(i) Notification of Vacancy**

Within 48 hours, a bona-fide vacancy will be announced to the Orchestra. The Personnel Manager shall call a round of National Auditions and choose an audition date that has been approved by the appropriate Audition Committee within one month of notification of vacancy. It is understood that this notification schedule may begin as soon as the Personnel Manager receives written confirmation of a musician's intent to resign his or her position, but in any event no later than the date on which the resignation takes effect.

#### **(ii) Pre-Audition Notification**

The National Ballet agrees to inform the Local at least ninety (90) days before auditions are scheduled to take place, and the Local agrees to notify members of the Local. The National Ballet agrees to notify Orchestras Canada of the intent of

the National Ballet at least sixty (60) days before the audition is scheduled to take place.

(iii) All audition notices shall specify the position as Touring [Article 8 (a) and 8 (c)], Toronto [Article 8 (a) only], or Augmenting [Article 8 (b)].

**(d) Repertoire**

The repertoire for auditions shall be the responsibility of the Music Director (or designate) and at least two playing members of the Orchestra, including the principal and/or assistant principal, or principals of related sections involved. If the second playing member is not otherwise specified, that member will be selected mutually by the Music Director and the player named above.

**(e) Screening of Applicants' Resumes**

Upon screening of applicants' resumes, the National Ballet reserves the right to inform any of said applicants in writing, based on the information supplied in said resumes, that it is recommended that they not audition at this time. However, the National Ballet cannot refuse the right of any applicant to audition, even if he/she has received such notice.

Members of the Audition Committee may be asked to assist in screening applications for auditions. The Personnel Manager will inform the Committee when applications are available and provide access upon request. Members of the Committee who are able to participate will examine and screen all applications and inform the Personnel Manager of the suitability/unsuitability of the applicants.

Best efforts will be made to share only the necessary, non-identifiable information required to determine suitability for an audition.

**(f) Screens**

A screen shall be used for all auditions. All applicants will perform behind the screen for all rounds of the audition, including the finals.

**(g) Dismissing Candidates**

The National Ballet, in conjunction with the Music Director (or designate), and the Audition Committee, reserves the right to dismiss any candidate, after hearing at least five (5) minutes of any audition.

**(h) Audition Personnel**

(i) The Music Director shall act as non-voting Chairman of the Audition Committee. The Chairman, the Local representative and the Orchestra Committee's

representative will settle any procedural disputes after referring to the Master Agreement. If necessary, a vote by secret ballot by these three shall settle the dispute. A simple majority prevails. The audition will then proceed.

(ii) The Personnel Manager solely administers the audition according to the Master Agreement, but does not render artistic comments on the suitability of the candidates.

(iii) The Local and the Orchestra Committee shall each have a representative present at all auditions for the purpose of supervising the votes. The Orchestra Committee representative may not be a member of the Audition Committee. If an Orchestra Committee representative cannot be there, the TMA representative will suffice.

(iv) A quorum is achieved when the full Committee less one is present. The only reason allowed for less than a full Committee is if unforeseen circumstances prevent a member from getting to the audition. Any other variation must be approved by the TMA.

**(i) Voting Procedures**

(i) The Audition Committee, without discussion, will vote by secret ballot on the preliminary rounds, whether to hear the candidate again. A simple majority of positive votes will determine which candidates advance from this round. In the case of a tie vote, the candidate shall advance to the next round.

(ii) In the second and subsequent rounds, after full discussion, the Audition Committee will vote whether to advance each candidate. If more than one candidate advances, after full discussion, the Committee will vote, by show of hands, whether to hold another round of the audition. If the Committee elects not to hold another round, the Committee will vote again, this time by secret ballot and considering only the advanced candidates, on the acceptability of each remaining candidate.

(iii) After the vote for acceptability, and after it has been determined which candidates have a positive majority vote, if more than one candidate has achieved a positive majority vote, the Audition Committee will vote by secret ballot, to indicate preference. Each member of the Audition Committee will vote for either one or more or none of the candidates, and the results of the vote will be communicated to the Committee and the Music Director, but will not be binding.

(iv) After full discussion, the Music Director may offer a contract to a candidate who receives a positive majority vote from the full membership of the final Audition Committee, or the Music Director may invite one or more candidates who received positive majority votes to a further audition by playing with the Orchestra for two or more weeks, after which the full membership of the final Audition Committee shall



vote on the acceptability of the candidate or candidates. If more than one candidate achieves a positive majority vote, the Audition Committee will conduct a preference vote, as described in Article 27(i)(iii). Trial periods shall not be extended or repeated once named.

(v) All Audition Committee members shall vote either yes or no. Any spoiled ballots shall result in a re-vote without discussion. When the vote is being counted, the results shall not be revealed to the Audition Committee until the Personnel Manager and the TMA representative agree that the vote is valid. Following completion of the audition, no candidate's name or status shall be revealed to the Audition Committee, the sole exceptions being the winning candidate and the finalists.

**(vi) Negative Majority Vote**

The Music Director (or designate) shall take under advisement the results of such votes in subsections (ii) and (iii), but in no case shall the Music Director engage a candidate (including Concertmaster) who has received a negative majority vote from the final Audition Committee.

**(j) Notifying Candidates**

All candidates shall be informed whether or not they were successful at the audition. The Music Director is the sole vocal contact from the Audition Committee to the candidate.

**(k) Position Declined by Winning Candidate**

Should the winning candidate decline the contract as offered, the Music Director may elect to offer the contract to any other candidate from the same audition who received a positive majority vote.

**(l) Confidentiality**

Proceedings of the Audition Committee are CONFIDENTIAL. Members of the Audition Committee, TMA, Orchestra Committee and Personnel Manager will respect this confidentiality and this will be communicated to the relevant parties by the Personnel Manager. Audition personnel will not reveal vote counts, committee discussions, or the opinions of other committee members. The only exception to this confidentiality is that after the audition procedure, the Music Director and the Principal of the relevant section may suggest an audition candidate who would be acceptable as an extra musician as described in Article 9.

**(m) Reporting of Results**

The Personnel Manager will report the results of all auditions to the Orchestra, the

Local, Orchestras Canada, and the Management of the National Ballet, upon completion of all auditions.

**(n) National and International Auditions**

(i) National Auditions will be open only to Canadian Citizens and Permanent Residents.

(ii) If a vacancy remains after the first round of National Auditions, the Music Director may elect to hold a second round of National Auditions, with the consent of the Audition Committee, the Orchestra Committee, and the TMA; otherwise (at the appropriate time) an International Audition will be held.

**(o) Concertmaster**

A vacancy in the Concertmaster position may be filled by audition. If the Music Director wishes to use an alternate method to fill this vacancy, the Music Director, Audition Committee, and a representative from the Orchestra Committee will meet to determine an appropriate process; the TMA may also choose to send a representative to this meeting. This process will be subject to the approval of the Audition Committee, the Orchestra Committee and the TMA. The details of this process will be communicated to the members of the Orchestra before the process begins.

**ARTICLE 28 — INVITATION TO FILL A VACANCY**

When a vacancy exists in the Orchestra, the Music Director may propose a musician for that vacancy whom he or she believes to be of such outstanding quality that the normal mandatory audition should be waived. The Personnel Manager shall confirm the candidate's interest and availability before proceeding further. Agreement must then be obtained from the Audition Committee for the position, which includes the Music Director (or designate), the Orchestra Committee, and the Local, in that sequence. Agreement must be by a majority vote (secret ballot) within each Committee, and each group vote must be positive in order to allow the proposed musician to fill the vacancy for the normal review period of two years as set out in Article 29. In considering the proposed musician, the Audition Committee shall vote on the acceptability of the candidate based on whether the musician is of such outstanding quality that the normal mandatory audition should be waived. The candidate's history with the Orchestra may be considered in making this determination.

**ARTICLE 29 — REVIEWS**

In order to receive tenure, a musician must undergo the following two-year Probation and Review procedure.

(a) Midway through a musician's first full year, a Review Committee shall meet with the Music Director to discuss the performance of the non-tenured musician. After

completion of the musician's first full year, this same process will occur and the Review Committee shall vote by secret ballot on the suitability of the musician and whether or not to recommend the offer of a contract for the following year. The process shall be repeated in the second year.

During the review meeting, the Personnel Manager will record the key areas of feedback offered by the Committee about the musician under tenure review. Before the conclusion of the meeting, the Committee will determine what key points of feedback, that reflect the opinions of the Committee, shall be included in the written report to the musician.

The results of votes shall be communicated by the Music Director as soon as practicable. All review results must be reported to the candidate in writing within two (2) weeks of the review. The Music Director will take the results of the vote under advisement before deciding whether to offer a contract to the musician for the following contract year. The Music Director may not offer a contract to a candidate who has received a negative majority vote.

(b) Review Committees shall consist of the same personnel as the Audition Committee. The Review Committee may differ from the Audition Committee in that the "acting" Committee member shall be replaced by the proper Committee member when that person becomes available. Musicians who did not serve on an Audition Committee due to a conflict of interest will not serve on the Review Committee.

Proceedings of the Review Committee are CONFIDENTIAL. Members of the Review Committee, TMA, Orchestra Committee and Personnel Manager will respect this confidentiality and this will be communicated to the relevant parties by the Personnel Manager.

(c) The Review meeting dates and times will be arranged with Review Committees at least one (1) week prior to each occurrence. If Review meetings are not scheduled to occur within two (2) hours of the beginning or end of a scheduled service, Committee members shall be reimbursed at pro-rated per-service rates with a one-hour minimum call, extra time calculated in half-hour increments. Calculation of payment commences from committee call time and ends when the committee is released.

(d) If a musician does not receive tenure, the resulting vacancy will be deemed a new vacancy, as of the date the decision is made not to renew the musician's contract.

## **ARTICLE 30 — TENURE**

### **(a) Status and Probation**

A tenured musician is a musician who, having completed the probationary period, is offered a personal contract. When musicians become members of the Orchestra part

way through the contract year, the probationary period of two years shall commence from that date. The date of the Reviews may be adjusted accordingly after consultation with the Orchestra Committee. Musicians who take a leave of absence during their probationary period may have their review date postponed in accordance with the length of their leave.

**(b) Change of Position**

For the sake of clarity, it is understood that musicians who have achieved tenure are deemed to have tenure in their position.

(i) Any tenured musician who steps up to a permanent new position in the Orchestra will be reviewed by the appropriate Review Committee and the procedures followed as in Article 29. In the event that the musician is denied tenure in his/her new position, the musician will return to his/her former tenured position.

In the event that tenure is granted, the musician's new position will become his/her permanent position and a vacancy declared in his/her former position.

(ii) Upon initiation by a tenured musician, by mutual agreement between the Music Director and the tenured musician, and subject to the approval of the TMA and the Orchestra Committee, the musician shall step down into a new position without an audition. Notwithstanding the foregoing, the tenured musician shall remain tenured in the new position. A vacancy shall then be declared in the former position. If a musician with fifteen (15) or more years of service in a principal or assistant principal position is subject to dismissal within two (2) years of stepping down into a new position, Severance Pay will be calculated as if the musician still held his or her former position, using the per-service rates in effect at the time of the dismissal.

**ARTICLE 31 — DISMISSAL**

**(a) Procedure for Tenured Musicians**

If the National Ballet desires not to re-engage a tenured member of the Orchestra, the following procedure must take place. The Music Director will not be permitted to initiate dismissal proceedings in the first year of his or her engagement or if he or she has tendered a resignation.

(i) The Music Director will meet with the musician in question to explain and discuss areas where the musician's performance is alleged to be unsatisfactory. The Music Director will also present this information to the musician in writing. The musician may elect to accept dismissal and will be entitled to Severance Pay, as described in Article 31 (b), or to continue in the review procedure.

(ii) The musician will have a period of not less than sixty (60) days after this meeting to rectify the alleged inadequacies presented by the Music Director.

(iii) After the sixty-day period has elapsed, the Music Director will evaluate the performance of the musician over a period of not less than one complete season in which the musician is engaged.

(iv) After this evaluation period has passed, the Music Director will meet with the musician. If, at this point, the Music Director still wishes to proceed with dismissal, the musician may accept dismissal and be entitled to Severance Pay as described in Article 31(b). If the musician does not accept dismissal within forty-eight (48) hours, the Dismissal Appeal Committee will be activated, and the musician will no longer be entitled to Severance Pay.

(v) The Dismissal Appeal Committee will consist of nine tenured members of the Orchestra, plus the chair of the Orchestra Committee (or substitute from the Orchestra Committee), who will act as non-voting chair. A representative of the TMA and a representative of the National Ballet's management will be present at all meetings of the Dismissal Appeal Committee. The composition of the Dismissal Appeal Committees for each instrument is specified in Appendix B; members specified cannot unreasonably decline to serve on the Dismissal Appeal Committee. The Personnel Manager and the Chair of the Dismissal Appeal Committee will meet to confirm the composition of the Committee.

(vi) The Dismissal Appeal Committee will be notified that the Music Director wishes to dismiss the affected musician. The Dismissal Appeal Committee will evaluate the performance of the musician over a period of not less than two complete seasons in which the musician is engaged.

(vii) The Dismissal Appeal Committee will meet within seven (7) days of the beginning of the evaluation period. Both the Music Director (or designate) and the musician in question (or designate) will have the opportunity to address this meeting.

(viii) The Dismissal Appeal Committee will meet within forty-eight (48) hours of the end of the evaluation period. Both the Music Director (or designate) and the musician in question (or designate) will have the opportunity to address this meeting. The Dismissal Appeal Committee will vote by secret ballot on whether or not the musician should continue to be engaged. If a two-thirds majority (i.e. six or more members) of the Dismissal Appeal Committee votes to retain the musician, the Music Director may not dismiss the candidate. Otherwise, the Music Director, at his or her sole discretion, will determine whether or not to dismiss the musician. This decision will be final and binding in that contract year.

(ix) Proceedings of the Dismissal Appeal Committee are CONFIDENTIAL. All members of the Committee, TMA, and the NBOC management representative will respect this confidentiality and this will be communicated to the relevant parties by the Chair of the Committee.

(x) The member shall complete the contract year in progress unless mutually agreed upon.

(xi) Notwithstanding the above procedure, the National Ballet shall have the right to terminate for just cause the engagement of a musician without prior notice and without payment of Severance Pay. The affected musician may appeal such termination in accordance with the Grievance Procedure set out in Article 43.

**(b) Severance Pay**

A musician who is entitled to Severance Pay under Article 31 (a)(i) or Article 31 (a)(iv) will receive an amount equivalent to twenty (20) services plus four (4) services for each continuous year of engagement, to a maximum total of one hundred and twenty (120) services. This amount will include minimum contracted overscale where applicable. The National Ballet will make the contracted Musicians' Pension Fund of Canada pension contribution on the entire amount.

**ARTICLE 32 — PERSONAL CONTRACTS**

(a) Each tenured member of the National Ballet Orchestra shall receive a personal contract (see Appendix A) and tentative schedule for the following contract year by April 1st. Non-tenured members of the National Ballet Orchestra shall receive a personal contract and schedule no later than sixty (60) days before the first scheduled service following the end of the musician's first full year. When required, the date for issuing the personal contract will be agreed among the National Ballet, Orchestra Committee, and TMA on a case-by-case basis. The contract shall specify if the position is Touring [Article 8 (a) and 8 (c)], Toronto only [Article 8 (a)], or Augmenting [Article 8 (b)].

The twelve-month book-form schedule, including a contact list for the National Ballet Orchestra, shall be mailed to Orchestra members by July 1.

**(b) Acceptance/Rejection of Personal Contracts**

When a musician receives his/her contract, he/she shall signify his/her acceptance or rejection of such contract, in writing, within one month from the date of such submission, and if accepted, the National Ballet shall file one copy of each contract with the Local.

**ARTICLE 33 — PERFORMANCE AND REHEARSAL SCHEDULE**

**(a) Contract Year/Season**

A contract year is defined as a period of time which includes both tours and seasons scheduled between July 1st and June 30th. A Season is a limited period of time within a contract year during which the Company performs either in Toronto or on Tour or on

Run-Out (i.e. Fall Tour; November Season; Nutcracker Season). A tour or season commencing on or before June 30th and extending beyond June 30th shall be considered part of the contract year in which it begins.

**(b) Schedule Notification**

(i) Dates and locations of services for the entire contract year must be made available in writing by April 1. Any changes or additions in the schedule (excluding a change in location), as well as detailed rehearsal schedules, must be provided, in writing, not later than thirty (30) days before the dates concerned. All changes or additions in rehearsal and performance schedules proposed on shorter notice must be put to a simple majority vote of the Orchestra members affected by the proposed change. [NOTE: Refer to Article 15 (e) (ii)]

(ii) For Augmenting Musicians (members of the Article 8(b) Orchestra) only, if a musician who was originally engaged for a program is no longer required for that program, the musician will receive ninety (90) days' notice of the change. If the required notice is not provided, the musician will be paid for all of the cancelled services.

## **Section 5 — Toronto**

### **ARTICLE 34 — FEES — THE CITY OF TORONTO**

Throughout the Agreement, the “contracted per-service fee” will be construed to include all relevant fees and premiums stipulated in this Agreement. Fees are on the basis of three (3) hours per service at the following rates:

**(a) Per-Service Fees**

- (i) The minimum per-service fee will be \$245.00 for the 2018-2019 contract year.
- (ii) The minimum per-service fee will be \$251.00 for the 2019-2020 contract year.
- (iii) The minimum per-service fee will be \$256.00 for the 2020-2021 contract year.

**(b) Principal and Assistant Principal Fees**

- (i) Minimum Concertmaster and Concertmaster step-up fees shall be fifty percent (50%) over and above the minimum per-service fee.
- (ii) Minimum Principal, Principal step-up, Assistant Concertmaster and Assistant Concertmaster step-up fees shall be forty percent (40%) over and above the minimum per-service fee.

(iii) Minimum Assistant Principal and Assistant Principal step-up fees shall be twenty percent (20%) over and above the minimum per-service fee.

(iv) When there are more principal parts than are normally present (e.g. three violin parts), the Music Director (or designate), the Personnel Manager (or designate), relevant section principal(s), and a representative from the Orchestra Committee will determine by consensus whether principal and/or assistant principal premiums apply.

**(c) Doubling**

Musicians who are required to double on other instruments shall be paid the following additional amounts for all services over and above the minimum per-service fee:

First Double:	Fifty percent (50%)
Second Double:	Twenty-five percent (25%)
Third Double:	Fifteen percent (15%)

The following doubling by an instrumentalist is permitted without payment of any additional fee:

- Piano and celeste when furnished by the National Ballet;
- Any two of the clarinet family other than bass clarinet or Eb clarinet, or contrabass clarinet;
- Any two of the saxophone family other than bass saxophone, soprano saxophone and baritone saxophone;
- Drums and accessories;
- Timpani;
- Mallet instruments: xylophone, vibraphone, chimes, glockenspiel and marimba;
- Latin-American instruments.

**(d) Personnel Manager, Assistant Personnel Manager, Contractor, Leader/Conductor, Assistant Conductor**

The Personnel Manager/Contractor and the Assistant Conductor shall receive not less than fifty percent (50%) over and above the minimum per-service fee. The Assistant Personnel Manager shall receive not less than twenty-five percent (25%) over and above the minimum per-service fee. The Leader/Conductor shall receive not less than one-hundred percent (100%) over and above the minimum per-service fee.

**(e) Stage Librarian**

Librarian duties when required for a rehearsal or performance will be assigned to the Personnel Manager as part of the Personnel Manager's duties or to a musician as an additional duty. When the librarian duties are performed by a musician not contracted as the Personnel Manager, the musician shall be paid the following additional amounts



over and above the minimum per-service fee for each service where an additional library duty is performed:

Music set-up and pick-up:	25%
Music set-up or pick up:	12.5%
Setting Conductor's score:	10%

Non-performance/rehearsal librarian duties will be the subject of negotiation between the National Ballet and the musician.

## **ARTICLE 35 — SERVICE CONDITIONS — TORONTO**

(a) The City of Toronto is considered to be the home base of the National Ballet.

(b) A work week shall be defined as Monday through Sunday. There shall be one (1) designated day off during each work week and not more than six (6) consecutive work days between each day off.

### **(c) Services**

(i) A normal performance week shall consist of not more than ten (10) services, Monday through Sunday. A service may be a performance, rehearsal or dress rehearsal. A maximum of eleven (11) services may be permitted, if needed, either in a week where there is a gala, competition, special guest artist, or similar extraordinary circumstance, or in the week prior to. The eleventh (11th) service will be paid at one hundred-fifty percent (150%) of the contracted per-service fee. Any service occurring on the designated day off and each subsequent work day until a day off occurs, shall be paid at two-hundred percent (200%) of the contracted per-service fee.

(ii) Services will be a maximum of a three (3) hour call. There will be no more than two (2) services in one (1) day. Rehearsals of three and one-half (3 1/2) hours with overtime pro-rata may be utilized not more than once per week, and on not more than four (4) occasions during the contract year.

Exceptions to these paragraphs must be discussed with the Local and the Orchestra Committee, which shall not unreasonably refuse such exceptions where repertoire and programme so require.

### **(d) Overtime**

#### **(i) Scheduled**

Overtime on any service exceeding three (3) hours shall be pro-rated in fifteen-minute segments.

**(ii) Unscheduled**

Any service that continues beyond the scheduled service call will have overtime calculated in fifteen-minute segments at one-hundred-fifty percent (150%) of the contracted per-service fee.

**(e) Statutory Holidays**

Any service scheduled on New Year's Eve, New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and Christmas Day, shall be paid at the rate of two-hundred percent (200%) of the contracted per-service fee.

**(f) Double Performance Days**

(i) The sixth performance on three (3) consecutive days will be paid at two-hundred percent (200%) of the contracted per-service fee.

(ii) The second performance on Sunday will be paid at one-hundred-fifty percent (150%) of the contracted per-service fee. If that performance is the fourth in two consecutive days (Saturday and Sunday), the fourth performance will be paid at two-hundred percent (200%) of the contracted per-service fee. If the second performance on Sunday is also the sixth performance in three (3) consecutive days, the premium shall remain at two-hundred percent (200%).

(iii) If the fourth or sixth performance is the eleventh service, it will be paid at the rate of two-hundred-fifty percent (250%) of the contracted per-service fee.

**(g) Rehearsals**

Rehearsals shall not commence before 10:00 a.m. or after 8:00 p.m.

**(h) Intermissions for Rehearsals**

Intermission in rehearsals shall be ten (10) minutes per hour, five (5) minutes per one-half (1/2) hour, which intermission shall not be taken during the first one-half (1/2) hour of any scheduled rehearsal exceeding one (1) hour, provided that two (2) or more rest periods may be taken together. It is agreed that the Orchestra may not rehearse more than one and one-half (1 1/2) hours without intermission.

**(i) Dress Rehearsals**

(i) For each ballet, the Company will designate a dress rehearsal. The National Ballet may designate more than one (1) dress rehearsal but is not obligated to do so.

(ii) A dress rehearsal may include working time at the beginning or end of each act to deal with specific problems related to said act. Should any rehearsal time remain upon completion of the ballet, such time may be used to rehearse any musical problems related to said ballet. No other works may be rehearsed.

(iii) Intermissions during dress rehearsals may occur between acts, provided they add up to the equivalent of at least ten (10) minutes per hour.

(iv) The National Ballet shall post on the Orchestra bulletin board the estimated finishing time of a dress rehearsal prior to such rehearsal.

(v) If two (2) acts of a ballet are performed consecutively without intermission, the total running time of the two acts shall not exceed one hour and forty-five minutes without incurring overtime payments.

#### **(j) Run through prior to Opening**

On the day of an opening, the National Ballet may schedule a run through of that night's program, or selected repertoire from that program. The run through may include re-starts to accommodate problems on stage, plus working time to deal with specific musical problems. This working time may not exceed ten (10) minutes. If this is the only rehearsal with stage, the provisions in Article 35 (i) apply.

#### **(k) Intermissions for Performances**

All performances where the Orchestra is on call for more than one and one half (1 1/2) hours shall include an intermission of not less than fifteen (15) minutes. In cases where there is more than one and one half (1 1/2) hours of playing because of the nature of the work, the parties will meet in advance and discuss an alternative arrangement.

#### **(l) Change of Location During Service**

The starting location of the Orchestra will be designated as the pit or the stage. If it is necessary for the entire Orchestra to move once only from the pit to the stage or vice-versa, there will be a premium payable of twenty-five percent (25%) of the minimum per-service fee. If it is necessary for any part of the Orchestra to move from the pit to the stage or vice-versa, there will be paid to each musician so moving a premium of fifty percent (50%) of the minimum per-service fee.

## **Section 6 — Touring**

### **ARTICLE 36 — TOURING**

The National Ballet Orchestra, as per Article 8(a) or (c), will be engaged for all performances, either live or recorded for electronic media, of the National Ballet in Canada, the United States, and elsewhere in the world, except as provided in Article 42. The National Ballet agrees to inform the Orchestra Committee of any upcoming or

projected tours upon receiving the first written offer. The National Ballet agrees that it will not perform with any non-A.F. of M. orchestra while on tour, without the written consent of the Association.

**(a) Per-Service Fees (minimum three-hour call)**

Per-service fees, as per Article 34 (a),(b),(d),(e) will be paid in Canadian currency. For tours in the U.S., the premium U.S. funds over Canadian, not to exceed twenty percent (20%), will be paid.

Effective July 1, 2011, musicians will no longer be paid a minimum number of services equal to the number of days on tour.

**(b) Doubling**

Musicians who are required to double on other instruments shall be paid the following additional amounts for all services over and above the minimum per-service fee:

First Double:	Twenty-five percent (25%)
Second Double:	Seventeen and one-half percent (17 1/2%)
Third Double:	Eight and three-quarters percent (8 3/4%)

The following doubling by an instrumentalist is permitted without payment of any additional fee:

- Piano and celeste when furnished by the Ballet;
- Any two of the clarinet family other than bass clarinet or Eb clarinet, or contrabass clarinet;
- Any two of the saxophone family other than bass saxophone, soprano saxophone and baritone saxophone;
- Drums and accessories
- Timpani;
- Mallet instruments: xylophone, vibraphone, chimes, glockenspiel and marimba;
- Latin-American instruments

**(c) Per Diem**

Effective July 1, 2018, the per diem allowance shall be \$84.44. It will be increased in accordance with changes in the Dancers' CAEA (Canadian Actors' Equity Association) Agreement: 2019-2020 and 2020-2021 to be determined.

For U. S. tours, per diem will be paid in U. S. funds (\$1.00 Canadian = \$1.00 U. S.).

Per Diem will be paid to each musician on tour with the National Ballet by direct deposit on the pay day of the week prior to the week it applies to.

If departure is after 10:00 a.m., seventy-five percent (75%) per diem will be paid. If departure is after 2:00 p.m., fifty percent (50%) per diem will be paid. If arrival in Toronto at the end of a tour is before 2:00 p.m., fifty percent (50%) per diem will be paid.

The aforementioned per diem is in addition to payment on behalf of each musician for one-half of the actual cost of designated hotel rooms.

**(d) Itinerary Notification**

The National Ballet shall notify each musician as early as is practical of all details of a tour including, but not limited to, time and place of departure, mode of travel, scheduled arrival time, return to point of origin, etc.

**(e) Service Conditions - Tour**

**(i) Days Off**

A mandatory twenty-four hour day off, midnight to midnight, is required after nine (9) days, with no travel, rehearsal or performance provided that not more than six (6) consecutive days are work days, i.e. rehearsal and/or performance. Should a seventh, eighth or ninth consecutive workday occur, each day shall be paid an additional contracted per-service fee.

**(ii) Rest Period**

Unless rehearsal is required by reason of Local minimum number of musician requirements, no musical service shall be required to commence less than three hours after time of arrival. Musicians will be given reasonable opportunity to check in at a stated hotel or other accommodation prior to being called for a musical service.

In the event that the three-hour rest period is shortened by reasons other than local minimum rehearsal requirements, each musician will be paid the pro-rata contracted per-service fee for each half-hour or fraction thereof.

(iii) Toronto Conditions in Article 35 (c)(ii), (d) through to (l) shall also apply on tour.

**(f) Hotel Arrangements**

The National Ballet shall supply the name of the designated hotel and provide a room at double occupancy. A musician for whom there is no shared accommodation will receive single accommodation. Check-in arrangements at hotels shall be made so that rooms may be available as swiftly as possible. The National Ballet shall make best efforts to assign two musicians of compatible lifestyle to a room. The National Ballet

will not be required to compensate a musician who elects to stay anywhere other than the designated hotel.

**(g) Transportation**

Transportation from Toronto (city centre) to the airport at the beginning of a tour, and from the airport to Toronto (city centre) at the end of a tour must always be provided. Musicians will be reimbursed for taxi expenses, upon submission of receipts, for return transportation from home to the Walter Carsen Centre or other designated place of departure not to exceed \$25.00 per trip. The National Ballet shall furnish transportation to and from the place of performance or rehearsal if more than one mile from the musicians' place of lodging. When the National Ballet provides additional transportation to all other artists on tour, including before and after the tour, similar transportation will be provided to musicians.

**(h) Departure**

Each musician shall be prompt for all bus and/or departure calls and shall make his/her baggage available for loading at least fifteen (15) minutes prior to the scheduled departure time. If the musician is responsible for a delay at any time, such delay shall not be counted as part of the travel time of the National Ballet. The National Ballet may, for the convenience of the National Ballet, schedule a second pick-up in which event travel time shall commence from the scheduled departure of the second pick-up.

**(i) Travel Time**

**(i) Maximum hours of travel per day:**

Double Service Day:	Three Hours
Single Service Day:	Six Hours
Non-Service Day:	Nine Hours

**(ii) Calculating Travel Time**

Travel time shall commence at the time the conveyance is scheduled to leave the designated point of departure and shall end upon arrival at the National Ballet hotel. One-half (1/2) hour will be added to travel time for transportation to the point of departure.

While on tour, travel time will commence from the scheduled time of departure from the hotel.

**(iii) Travel Overtime**

If the applicable travel time set forth in Article 36 (i) (i) is exceeded, each musician shall be paid the pro-rata per-service rate for each one-half (1/2) hour or fraction

thereof of overtime travel up to two (2) hours of overtime. No more than two (2) hours of overtime travel will be scheduled unless the TMA expressly consents.

There shall be a two and one half (2 1/2) hour tolerance for delays caused by inclement weather, mechanical failure, carrier departure delays, or other conditions over which the National Ballet has no control, including time lost due to customs and immigration delays at international borders.

(iv) For each one-half (1/2) hour of travel time occurring before 9:00 a.m., or after midnight, each musician will be paid the pro-rata per-service rate, except when the National Ballet tour schedule cannot accommodate these times due to carrier scheduling restrictions. The Orchestra Committee will be informed thirty (30) days in advance of any such situations.

**(j) Bus Travel**

Buses shall be equal in comfort, condition and safety to those used by first class long distance bus companies and shall be equipped with heat, air conditioning, separate luggage quarters, and seating accommodations for each musician. The National Ballet shall instruct the bus driver to obey all traffic regulations, speed limits and safety rules of the cities and provinces.

**(i) Comfort Stops**

There shall be a minimum of one (1) twenty (20) minute comfort stop during each two (2) hours of travel unless the bus has lavatory facilities, in which event there will be one (1) ten (10) minute stop each two (2) hours, or within each two (2) hours.

**(ii) Meal Stops**

Within the first four (4) hours of travel time, there shall be no less than a one (1) hour stop for a meal. After this first stop, meal stops shall occur at reasonable intervals. If, however, the trip does not start until after noon, the first meal stop need not occur for five (5) hours. The actual time utilized for such meal stops shall not be considered part of travel time.

**(k) Smoking**

A non-smoking section shall be provided during travel, wherever possible.

**(l) Bulky Instruments**

Bulky instruments shall be transported and insured against loss or damage by the National Ballet and, unless agreed to otherwise in contract with the individual musician, must be delivered by the musician to the place designated by the National Ballet for pick-up within twenty-four (24) hours prior to the start of the tour. For the purposes of

this section, the following shall be considered bulky instruments:

String Bass and case	Piano
Harp	Celeste
Contrabassoon	Harmonium
Bass Saxophone	Cymbalom
Tuba	Organ and its Appurtenances
Amplifying Equipment and Speakers	Timpani
Percussion Instruments and cases	

**(m) Run-outs**

A run-out is a service or services performed outside of the City of Toronto with no scheduled overnight stay required.

All touring provisions except Article 36 (f) (Hotel Arrangements) apply to run-outs.

Full per diem will be paid unless departure time is after 2:00 p.m. or return is before 6:00 p.m., in which case fifty percent (50%) per diem will be paid.

**(n) Tours Outside Canada and U.S.A.**

When the Orchestra is engaged for tours outside Canada and the United States, conditions shall be discussed in advance with the Local.

## **Section 7 — General Conditions**

### **ARTICLE 37 — WORKING CONDITIONS**

The National Ballet shall make every reasonable effort to ensure the safety and comfort of the musicians in the rehearsal and performance areas.

**(a) Music**

Adequate and sufficient music parts shall be provided for every musician (all string parts bowed), at least one week before the composition is to be rehearsed, for the purpose of individual practice, barring circumstances beyond the control of the National Ballet.

**(b) Rehearsals and Performances**

The rehearsal or performance area will be set up and ready to use a minimum of one-half (1/2) hour before the start of a service. The music required for that service will be on the music stands a minimum of fifteen (15) minutes before the start of the service.



**(c) Official Clock**

An Official Clock will be supplied by the National Ballet and displayed at all rehearsals.

**(d) Dress Code**

**Men:** The dress code for all performances at the Four Seasons Centre is black shirt with long sleeves and collar, black pants, black socks and black dress shoes. The dress code for all performances outside the Four Seasons Centre is tuxedo or black suit, white shirt, black bow tie (evenings) or long tie (matinees), black socks, and black dress shoes.

**Women:** The dress code for all performances is black dresses (mid- to full-length) or black tops with black skirts (mid- to full-length) or black tops with black slacks, and black shoes. No sleeveless tops.

The following are not permitted: jeans, tee-shirts, and sweatshirts.

The National Ballet may request a change to the dress code for special events such as Gala Performances, Opening Nights and Simulcasts. The National Ballet will make such requests to the Orchestra Committee sixty (60) days in advance. Permission will not be unreasonably withheld. The orchestra must be given at least thirty (30) days notice of the change.

**(e) Health and Safety**

The National Ballet shall inform the Orchestra Committee of new or updated productions as soon as information is available. The Orchestra Committee will send a representative to discuss possible hazards with the Production Director before the production is rehearsed with orchestra.

The National Ballet shall make every reasonable effort to maintain a safe and comfortable environment for the musicians particularly when pyrotechnical devices, smoke, and/or dry ice are used in the production. The National Ballet shall be responsible for having Material Safety Data Sheets (MSDS) available in the area required by Provincial Regulation.

The National Ballet is responsible for providing and installing an orchestra pit cover at the Four Seasons Centre. The pit cover, and other conditions in the orchestra pit, must meet or exceed the standards recommended by the Ontario Ministry of Labour (MOL) in the 'Safety Guidelines for Live Performance in Ontario'. On tour the National Ballet will make best efforts to protect musicians with a pit cover (should one be available at the venue), a 'cow-catcher' or similar contrivance.

Hearing conservation is the mutual responsibility of musicians and management. The National Ballet will take all measures reasonably necessary to protect musicians from

exposure to hazardous sound levels, and in any case shall ensure that no one is exposed to a sound level greater than an equivalent sound exposure level of 85 dBA,  $L_{ex,8}$ .

It may be necessary to periodically assess average sound exposure levels. When the exposure limit prescribed by the 'Safety Guidelines for Live Performance in Ontario' is exceeded, the National Ballet is required to put in place measures to reduce musicians' exposure. Protective measures may include a re-configuration of the pit set-up, and personal protective equipment in the form of hearing protection devices. The National Ballet must post warning signs in areas where the sound level exceeds 85 dBA,  $L_{ex,8}$ .

**(f) Children**

If musicians need to bring children to the theatre during performances or rehearsal services, they may do so providing that the children are adequately supervised.

**(g) Harp Tuning**

The National Ballet will make its best efforts to ensure that there is a period of silence in the hall, within a reasonable time before the beginning of the performance, for the tuning of the harp(s). The National Ballet will inform the harpist(s) of the times designated for tuning.

**(h) Safe and Respectful Workplace**

The Parties acknowledge a joint commitment in providing and maintaining a work environment free from discrimination, workplace harassment, and sexual harassment, where all individuals are treated with respect and dignity, can contribute fully, and have equal opportunities. In support of this, the National Ballet complies with the Ontario Human Rights Code and the Occupational Health and Safety Act.

Discrimination and workplace harassment, including sexual harassment, is not tolerated in the workplace from any person and will be treated seriously.

The TMA recognizes and supports the National Ballet's Anti-Discrimination and Workplace Harassment (Including Sexual Harassment) Policy published on July 1, 2018. The National Ballet shall post the Policy in a location accessible to the Musicians and shall provide copies upon request.

## **ARTICLE 38 — SEATING**

**a) String Rotation**

Rotational seating will apply to the first and second violin sections and will involve all contracted players within each section up to but not including the first desk of each section. Non-contracted players will be seated at the discretion of the Music Director in

consultation with the section principal.

The rotation is to occur by program, but may be suspended if the Music Director and section principal agree that assigned seating is required for a particular program due to the nature of the repertoire involved. A seating plan will be distributed with the music prior to each season.

Similar rotation may be applied to the viola and cello sections at the discretion of the Music Director in consultation with the section principal. The Personnel Manager must be informed thirty (30) days in advance of the season.

**b) Substitutions**

Substitutions may be filled at the discretion of the Music Director from within or outside the Orchestra in accordance with Article 19(c).

**c) Temporary Vacancies**

Temporary vacancies created by a leave of absence may be filled at the discretion of the Music Director from within or outside the Orchestra. The Music Director (or designate) will, when possible, consult with the section principal before hiring any substitute or extra musicians. Nonetheless, the Music Director's decision will be final.

Contracted musicians on the appropriate instrument will be given consideration for any step-up. If the Music Director determines that a step-up is not appropriate, the principal of the section and the affected player(s) will be informed of the Music Director's decision in writing. Any player denied a step-up may request an explanation from the Music Director, which must be given verbally and in a timely manner.

Once the Music Director decides to hire a replacement from outside the Orchestra, the Music Director may then consult with either the principal of the section or all principals in the appropriate family of strings, woodwinds, brass, or percussion in order to determine a suitable replacement.

The principal of the section shall deal with temporary vacancies in an emergency situation.

**ARTICLE 39 — CHAMBER MUSIC**

A chamber music group is defined as any group of fewer than thirteen (13) musicians. The size of the group is to be determined solely by the specific instrumentation of the repertoire.

When a chamber work is scheduled, the Personnel Manager must inform the musicians and the Orchestra Committee not less than sixty (60) days prior to the first rehearsal.

The National Ballet shall propose fees to the members of the chamber group. The chamber group may request the TMA to negotiate on their behalf if the proposed fee is deemed inadequate.

## **ARTICLE 40 — PROGRAMME ACKNOWLEDGEMENTS**

(a) The names of contracted musicians must appear in all programmes over which the National Ballet exercises control. The names of extra musicians must appear whenever possible. Such list must appear immediately after the page devoted to the List of Dancers and the page must indicate the logos of the American Federation of Musicians of the United States and Canada, and the TMA.

(b) Once every two years there will be an article in the Toronto house programme devoted to some aspect of the music and musicians coordinated through the Publicity Department in consultation with the Orchestra Committee. All costs for the article must be borne by the National Ballet.

(c) The name of the National Ballet Orchestra will appear on the credits for all electronic media performances that use the Orchestra.

(d) Each year there will be a photo call for the Orchestra. The photo call must be scheduled with proper notice as per Article 33 (b) unless it occurs during a scheduled service in which case notice requirements may be waived.

## **ARTICLE 41 — ELECTRONIC MEDIA**

### **(a) Recording**

(i) No service shall be recorded, broadcast, reproduced or transmitted from the place of performance in any manner or by any means whatsoever in the absence of a specific written agreement with the A. F. of M. specifically executed for that purpose, except for the use of regular television or radio news and public affairs broadcasts, when not more than five (5) minutes of a performance or rehearsal is used, in which case this shall be permitted without additional compensation.

(ii) The National Ballet may make an audiotape of a newly commissioned work. The purpose of this new work tape is for National Ballet of Canada rehearsal purposes. The Orchestra will be paid the contracted per-service fee, as per this agreement, for the length of the session plus an additional contracted per-service fee. Conditions and compensation for any use other than National Ballet rehearsal purposes are to be negotiated with the TMA and the A. F. of M.

### **(b) Recorded Music**

Recorded music of any type shall not be used as a substitute for orchestral rehearsals covered by this agreement without the specific approval, in writing, of the Toronto

Musicians' Association.

In performances for which the Orchestra is engaged and paid, repertoire for segments of such performances may be performed without the use of the Orchestra.

Notwithstanding, The National Ballet agrees not to use a virtual orchestra or any other mechanical, synthetic or technological manifestation of a virtual orchestra to reproduce or perform music except with the specific written approval of the Toronto Musicians' Association.

It is understood that use of recorded music as previously used in the past during productions, or as permitted under Article 41, which do not affect the use of live musicians during other portions of the service is acceptable. Compositions written expressly for live musicians with synthesized, electronic or pre-recorded sound, but excluding the use of a virtual orchestra (or similar type) machine, will also be acceptable.

**(c) Recordings**

(i) The National Ballet may make an archival video of a dress rehearsal or performance provided that such tapes are used exclusively for teaching purposes and will not diminish employment of rehearsal pianists. These tapes shall not be used for any commercial purpose whatsoever. The members of the Orchestra must be notified in advance of each occurrence. A complete list of such tapes must be filed with the TMA each contract year.

(ii) For repertoire where a piano reduction does not exist or was not used as a rehearsal tool, the archival recording of a first dress rehearsal may be used only after the first performance of a run, for additional rehearsals in the theatre.

**(d) Internet**

For a maximum of seven (7) full seasons after the close of the original production, a maximum of five (5) minutes, not to exceed 50% of the total length of the work, of recorded performance or rehearsal may be presented on the National Ballet's website without additional payment to the musicians on the following conditions:

The National Ballet

- (i) uses its best efforts to ensure that the material cannot be downloaded;
- (ii) does not receive any revenue for the use of the material;
- (iii) warrants that it is responsible for any misuse of the material;
- (iv) notifies the TMA in advance, in writing, of all particulars of the website;
- (v) will not make the material available on the Internet unless it has been approved by the Music Director and the Orchestra Committee;
- (vi) will inform and secure written permission and approval from any guest artist musicians recorded in the clips used on the website;

- (vii) will credit the orchestra musicians, personnel manager and conductor on the page containing the audio-video clip or on a page linked from it;
- (viii) will include on the page containing the video clip the Toronto Musicians' Association Logo and the sentence, "The musicians of the National Ballet Orchestra are members of the Toronto Musicians' Association, Local 149, American Federation of Musicians of the United States and Canada."

**(e) Subscription/Educational Recording**

The National Ballet may distribute not more than two (2) minutes of previously recorded rehearsal or performance material as part of the annual subscription campaign and to teachers as part of the background material on the National Ballet, without additional payment to the musicians.

The National Ballet must receive approval of the material from the Music Director and the Orchestra Committee prior to production. The National Ballet will provide a copy of the material to the Association and each member of the Orchestra Committee. The National Ballet Orchestra will be credited in accordance with Article 40 (c).

**ARTICLE 42 — EXCEPTIONS TO USE OF ORCHESTRA**

The National Ballet Orchestra, as per Article 8 (a) or (c), will be engaged for all performances, either live or recorded for electronic media, of the National Ballet in Canada, the United States, and elsewhere in the world, except as provided herein. The National Ballet agrees to inform the Orchestra Committee of any upcoming or projected tours upon receiving the first written offer. The National Ballet agrees that it will not perform with any non-A.F. of M. orchestra while on tour, without the written consent of the Association.

**(a) Repertoire Not Requiring Orchestra**

In performances for which the Orchestra is engaged and paid, repertoire for segments of such performances may be performed without use of the Orchestra, provided that permission is granted by the Local and the A. F. of M. prior to the commencement of the contract year, which permission will not be unreasonably withheld. Notwithstanding, The National Ballet agrees not to use a virtual orchestra or any other mechanical, synthetic or technological manifestation of a virtual orchestra to reproduce or perform music except with the specific written approval of the TMA. [See Article 41 (b)]

**(b) Special Events**

The National Ballet Orchestra need not be engaged in the circumstance where the National Ballet is invited to present a segment of a programme at a special event where the National Ballet's presentation is not the exclusive focus, such as a gala featuring additional dance companies and/or other performances or a showcasing opportunity where the segment performed by the National Ballet is tangential to the

main purpose of the event. The National Ballet will make every reasonable effort to use the National Ballet Orchestra, or members of the Orchestra, for these special events and will advise the Orchestra Committee and the Local of the circumstances of such performances where the National Ballet proposes not to engage the Orchestra.

**(c) Concert Group**

Up to sixteen (16) days per contract year the National Ballet can perform outside the Four Seasons Centre without the Orchestra as follows:

- (i) Where the National Ballet performs with twenty (20) or fewer dancers.
- (ii) Up to eight (8) of the sixteen (16) days can be used by the National Ballet with forty (40) or fewer performers. No more than three (3) of these eight (8) performances can occur in any single destination per contract year.
- (iii) Where members of the National Ballet perform as part of a juried choreographic workshop at the Premiere Dance Theatre. This appearance is not limited to 3 performances as in (ii) above.

The provisions of this Article 42 (a) Concert Group may not be used for National Ballet of Canada tours to Montreal or Western Canada. The National Ballet shall advise the Orchestra Committee in advance of all performances where the National Ballet is performing without the Orchestra as provided for in this article.

**(d) Tours**

- (i) The National Ballet will be permitted to perform without an orchestra while on tour, as long as all works performed were originally conceived without an orchestral accompaniment.
- (ii) If members of the Touring Orchestra are not required because of circumstances created by the repertoire or orchestration, the Company need not engage or compensate them.

**(e) Tours in Canada**

- (i) Company tours to Montreal and Western Canada require the engagement of the Touring Orchestra except as provided in (d) (i) and (ii).
- (ii) Orchestra size on Maritime tours may be reduced to fewer than thirty-one (31) musicians, but all Touring Orchestra musicians not used will be paid the minimum contracted fees. (except as provided in Article 8 (c) (ii)).
- (iii) The Touring Orchestra need not be engaged for performances at the National Arts Centre, Ottawa, when the National Arts Centre requires the National Ballet of

Canada to use the services of the National Arts Centre Orchestra. This exception shall not apply when the N. A. C. Orchestra is unavailable for such engagement. This exception shall not be exercised with respect to more than three (3) N. A. C. engagements in any two (2) consecutive contract years, not to total more than twenty- one (21) days.

**(f) Foreign Tours**

Outside of Canada it is recognized that there may be circumstances in which an engagement depends on agreement by the National Ballet to permit the engager or promoter to provide a local orchestra to accompany performances. The National Ballet will make every reasonable effort to require the engager or promoter to use the Touring Orchestra, but if not successful, it is agreed that the Local shall be advised of the circumstances, and such performances will not require the use of the Orchestra.

**ARTICLE 43 — GRIEVANCE PROCEDURE**

Prior to invoking the grievance procedure, the parties shall be allowed up to thirty (30) days from the date of the circumstances giving rise to the possible grievance to resolve the situation. During this time period, any musician who believes he or she has a justifiable complaint or dispute should either discuss the situation with the Personnel Manager, or should ask the Orchestra Committee to discuss the situation with the Personnel Manager, who will attempt to resolve the situation or at least provide an explanation.

After this review, if the musician or Orchestra Committee wish to pursue the complaint or dispute, they may request a meeting with the Music Director and/or Executive Director (or designate) depending on the nature of the dispute. The musician may have a member of the Orchestra Committee and/or a member of the TMA present at this meeting, if he or she chooses.

Should a resolution not be achieved or if either party decides to proceed directly to a grievance the following procedure must be followed in the event the complaint or dispute is related to the interpretation, application, administration or alleged violation of this Agreement, including whether any matter is arbitrable:

- Step 1        Any grievance shall first be taken up *in writing* by the National Ballet or by the Local, and the parties shall have thirty (30) days to resolve the matter.
  
- Step 2        In the event the National Ballet and the Local are unable to resolve the grievance at Step 1, the National Ballet and the Local shall meet within ten (10) business days thereafter and make every effort to amicably resolve the grievance.
  
- Step 3        If the grievance remains unresolved fourteen (14) days after the



conclusion of Step 2, or if the parties choose to proceed directly to arbitration, either party may refer the grievance to a single arbitrator for final and binding determination. The parties shall endeavour to agree on an arbitrator to hear the grievance. If the parties are unable to agree on an arbitrator then the Ministry of Labour will be asked to appoint an arbitrator who will have the duties and powers contained in the Labour Relations Act. The decision of the arbitrator shall be final and binding upon the parties to this Agreement and the musicians covered by it. The expenses of the arbitrator shall be shared equally between the TMA and the National Ballet.

The time limits set out in this procedure may be waived or extended by mutual agreement between the Executive Director of the TMA and the Executive Director of the National Ballet or their designates.

**APPENDIX A**

**NATIONAL BALLET ORCHESTRA  
ORCHESTRA MUSICIAN'S CONTRACT**

JULY 1, \_\_\_\_\_ TO JUNE 30, \_\_\_\_\_

THIS CONTRACT for the personal services of \_\_\_\_\_

INSTRUMENT \_\_\_\_\_

POSITION \_\_\_\_\_ Article 8(a) — Toronto  
Article 8 (b) — Augmenting  
Article 8 (a) and 8 (c) — Toronto and Touring

STATUS \_\_\_\_\_

FEE \_\_\_\_\_

Made this \_\_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year).

Between the National Ballet of Canada (hereinafter called "the National Ballet"), and the Musician whose signature is affirmed hereto (hereinafter called "the Musician").

Witnessed that the National Ballet engages the personal services of the Musician according to all the terms of the current Agreement (hereinafter called "the Agreement"), between the National Ballet and the Toronto Musicians' Association, Local 149 of the American Federation of Musicians. All terms and conditions of said Agreement are made part of this contract.

ACCEPTED BY THE MUSICIAN

ACCEPTED BY THE NATIONAL  
BALLET

\_\_\_\_\_

\_\_\_\_\_

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

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

## APPENDIX B — COMPOSITION OF DISMISSAL APPEAL COMMITTEE

The composition of the Dismissal Appeal Committee (see Article 31) for each instrument is listed in the following tables. If a member is unavailable due to conflict of interest, vacancy of the position, or unavoidable conflict, the position on the Dismissal Appeal Committee will be filled by an alternate from the box to the right of the specified member. Alternates will be used in the order indicated. If the Committee is still not complete after all designated alternates have been used, alternates designated for other positions on the committee will be used, starting with the uppermost box. If the Committee is still not complete, additional members will be selected at random. Unspecified Committee members will be selected at random from among the eligible musicians.

Position	Committee	Alternate
Concertmaster	All other principal strings (4)	Assistant principal of relevant section, assistant principal of other string section, member of relevant section
	Assistant concertmaster	Assistant principal second violin, assistant principal of other string section, section violin
	Principal oboe, principal flute	Principal clarinet, principal bassoon, other principal
	Principal horn, principal trumpet	Principal trombone, principal tuba, other principal
Assistant concertmaster	All principal strings (5)	Assistant principal of relevant section, assistant principal of other string section, member of relevant section
	Assistant principal second violin	Section violin
	1 section violin	
	Principal flute	Principal oboe, principal clarinet, principal bassoon
	Principal trumpet	Principal horn, principal trombone, other principal
Principal or assistant principal second violin	All other titled violins (3)	Assistant principal of other string section, section violin
	All other principal strings (3)	Assistant principal of relevant section, assistant principal of other string section, member of relevant section
	2 section violins	
	Principal flute	Principal oboe, principal clarinet, other principal

Position	Committee	Alternate
Principal or assistant principal viola	Other titled viola, 3 section violas, concertmaster, principal second violin, principal cello	Principal bass, section viola, assistant concertmaster, assistant principal second violin, assistant principal cello, assistant principal bass, section string
	Principal horn, principal bassoon	Principal oboe, principal clarinet, other principal
Principal or assistant principal cello	Other titled cello, 3 other cellos, concertmaster, principal viola, principal bass	Principal second violin, section cello, assistant concertmaster, assistant principal second violin, assistant principal cello, assistant principal bass, section string
	Principal bassoon, principal horn	Principal trombone, principal tuba, other principal
Principal or assistant principal bass	All other basses (3), all other principal strings (4)	Assistant principal cello, assistant principal viola, assistant concertmaster, assistant second violin, section cello
	Principal bassoon, principal trombone	Principal tuba, second bassoon, bass trombone, second trombone, other principal
Section violin	All titled violins (4)	Section violin
	Principal viola, principal cello	Assistant principal viola, assistant principal cello, principal bass, section violin
	3 section violins	
Section viola	All other violas (5), all other principal strings (4)	Assistant principal cello, assistant concertmaster, assistant principal second violin, assistant principal bass, section violin
Section cello	All other cellos (5), all other principal strings (4)	Assistant principal bass, assistant principal viola, assistant concertmaster, assistant principal second violin, section viola
Section bass	All other basses (3), all other principal strings (4), 2 section cellos	Assistant principal cello, assistant principal viola, assistant concertmaster, assistant principal second violin, section cello

Position	Committee	Alternate
Principal flute	All other flutes (2), all other principal winds (3), second oboe, principal horn, principal trumpet	Second clarinet, second bassoon, principal trombone, other principal
	Concertmaster	Assistant concertmaster, other principal
Principal oboe or clarinet	All other principal winds (3), second flute, second oboe, second clarinet, principal horn, principal trumpet	Second bassoon, third flute, principal trombone, other principal
	Concertmaster	Assistant concertmaster, other principal
Principal bassoon	All other principal winds (3), second clarinet, second bassoon, second oboe, principal horn, principal trombone	Second flute, third flute, principal tuba, principal trumpet, other principal
	Concertmaster	Assistant concertmaster, other principal
Section woodwind	All other eligible winds (8)	Principal horn, principal trumpet, principal trombone, other principal
	Concertmaster	Assistant concertmaster, other principal
Principal horn	All other horns (3), principal trumpet, principal trombone, principal tuba	Second trumpet, second trombone, bass trombone, third trumpet, other principal
	Principal clarinet, principal oboe	Principal flute, principal bassoon, other principal
	Concertmaster	Assistant concertmaster, other principal
Principal trumpet	All other trumpets (2), principal horn, principal trombone, principal tuba	Second horn, second trombone, third horn, bass trombone, fourth horn, other principal
	Principal flute, principal oboe, principal clarinet	Principal bassoon, other principal
	Concertmaster	Assistant concertmaster, other principal
Principal trombone	All other trombones (2), principal horn, principal trumpet, principal tuba	Second trumpet, second horn, third trumpet, third horn, fourth horn, other principal
	Principal bass, principal cello, principal bassoon	Principal clarinet, principal viola, other principal
	Concertmaster	Assistant concertmaster, other principal

Position	Committee	Alternate
Principal Tuba	All principal brass (3), all other trombones (2)	Fourth horn, second horn, second trumpet, third horn, third trumpet, other principal
	Principal bass, principal cello, principal bassoon	Other principal
	Concertmaster	Assistant concertmaster, other principal
Section horn	All other horns (3), principal trumpet, principal trombone, principal tuba, second trumpet, second trombone	Bass trombone, third trumpet, principal viola, principal cello, other principal
	Concertmaster	Assistant concertmaster, other principal
Section trumpet	All other trumpets (2), principal horn, principal trombone, principal tuba, second trombone, bass trombone, second horn	Third horn, fourth horn, other principal
	Concertmaster	Assistant concertmaster, other principal
Section trombone	All other trombones (2), principal horn, principal trumpet, principal tuba, second trumpet, second horn, fourth horn	Third horn, principal bassoon, other principal
	Concertmaster	Assistant concertmaster, other principal
Percussion or timpani	All other percussion or timpani (3), concertmaster, principal cello, principal flute, principal bassoon, principal horn, principal trumpet	Other principal
Harp	All principal strings (5), principal flute, principal oboe, principal horn, principal trumpet	Principal clarinet, principal bassoon, other principal

## **APPENDIX C — SIDELETTER REGARDING USE ON THE INTERNET AND OTHER TECHNOLOGIES**

This Sideletter will be in effect for the same term as the 2018-2021 National Ballet Orchestra Agreement but shall expire at 11:59 p.m. on June 30th, 2021. It is agreed and understood that neither party will have to buy back these provisions from the other party during the next round of negotiations, expected to take place in 2018. The current language in Article 41 shall continue to apply unless specifically modified by this Sideletter.

### **ARTICLE 1 — GENERAL TERMS**

(a) This agreement applies only to non-revenue generating uses of any kind. Any use which generates revenue, including but not limited to membership fees to a website and/ or merchandising, must be negotiated with the TMA in advance of the proposed use.

(b) Only the uses specifically named in Article 2 of this Sideletter may be accessed under this Sideletter. Any other new and/or additional use must be negotiated with the TMA in advance of such use.

(c) The National Ballet will notify the TMA when it uses pre-approved audio clips for future uses. This notification process cannot delay such use.

### **ARTICLE 2 — APPROVED USES**

In addition to the allowances under Article 41 of the National Ballet Orchestra Agreement, the National Ballet may use a recording of the current or upcoming season to a maximum of five (5) minutes without additional payment to the Musicians for the following uses:

(a) TV screens for lobby loops, including the lobbies of the Four Seasons Centre for the Performing Arts and any other venues where the National Ballet performs.

(b) Promotion on social media and new media platforms.

(c) Marketing e-blasts to current and potential patrons and sponsors.

(d) Archival exhibits where the material has been displayed.

(e) Educational or promotional videos for exhibition in theatres where the presentation of the live performance takes place.

(f) Promotional Screens including but not limited to screen in elevators, Toronto's underground PATH and in public transit stations.

(g) Up to thirty (30) seconds of recorded material for transmission to personal digital assistants (PDAs) and mobile phones or use in a “mobile app” without additional payment to the Musicians.

### **ARTICLE 3 — APPROVAL AND CREDITS**

(a) The provisions of Article 41 shall apply to these additional uses. The Orchestra Committee will be given 48 hours to review and approve the clips. If no response is received within 48 hours, the decision will be made by the Music Director.

(b) Permission to film rehearsal material other than a Dress Rehearsal must be specifically sought from the Music Director at least 48 hours in advance of the proposed shooting date.

(c) All Musicians involved in the production must be credited as “The Musicians of the National Ballet Orchestra”. However, such rolling lists of credits shall not be included in the time limits as specified above. Additionally, there shall be a credit stating that the Musicians have been recorded by permission of the Toronto Musicians’ Association, Local 149, American Federation of Musicians of the United States and Canada. The requirement to credit either the Musicians or the TMA does not apply to clips appearing on public screens, including lobby screens. However, all material appearing on any website shall include these credits.



**SIGNATURES TO THIS AGREEMENT**

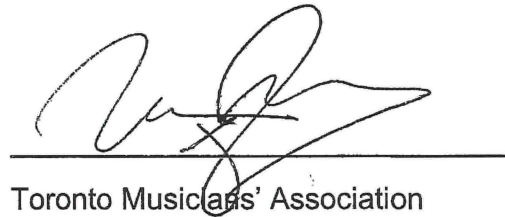
**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed

this 4<sup>th</sup> day of September, 2018



A handwritten signature in blue ink, consisting of a large, stylized 'N' followed by a horizontal line and a large loop.

National Ballet of Canada



A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line and a large loop.

Toronto Musicians' Association