

COLLECTIVE BARGAINING AGREEMENT
-between-
ASSOCIATED MUSICIANS OF GREATER NEW YORK,
LOCAL 802, AMERICAN FEDERATION OF MUSICIANS,
AFL-CIO
-and-
JAZZ AND CONTEMPORARY MUSIC PROGRAM
THE NEW SCHOOL

Agreement made this _____ day of December, 2008, by and between the Associated Musicians of Greater New York, Local 802, American Federation of Musicians, AFL-CIO (“Union”), 322 West 48th Street, New York, New York, and the employer, Jazz and Contemporary Music Program (“Program”), 55 West 13th Street, New York, New York, The New School (“University”).

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W I T N E S S E T H

WHEREAS, the University recognizes the Union as the sole and exclusive collective bargaining representative of the regular part-time classroom faculty members hereinafter defined;

WHEREAS, it is the intent and purpose of the parties, by this Agreement, not only to set forth the compensation, terms and conditions of employment of the part-time faculty members herein covered, but also to set forth the responsibility of each part-time faculty member with respect to the educational goals and objectives of the Program's student body of performers, arrangers and composers, and to avoid interruption in the servicing and fulfillment of these goals and objectives;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

ARTICLE I: RECOGNITION

A. Pursuant to the certification of the National Labor Relations Board in Case No. 2-RC-21909, the University hereby recognizes the Union as the sole and exclusive collective bargaining representative of all regular part-time classroom faculty employed in their capacity as part-time classroom faculty (including, with respect to summer school, the Program's degree credit-bearing course(s)) and private lesson instructors at the Jazz and Contemporary Music Program ("P/T Faculty Members"), The New School, at the Program's facility located at 55 West 13th Street, New York, New York. The University further recognizes the rights and obligations of the Union, as such representative, to negotiate the wages, hours, terms and conditions of employment of said P/T Faculty Members, and to administer this Agreement on the P/T Faculty Members' behalf.

B. All others employed in the Program, including full-time faculty and all other full-time, part-time and temporary clerical and administrative employees, technical employees, student employees, cross-divisional faculty, private lesson instructors (other than those also employed by the Program as regular part-time classroom faculty), visiting faculty and confidential employees, guards, watchmen, managers and supervisors as defined under the National Labor Relations Act, shall be excluded from this Agreement.

ARTICLE II: UNION SECURITY AND DUES CHECKOFF

A. It shall be a condition of employment that all P/T Faculty Members of the Program covered by this Agreement who are members of the Union in good standing as of its effective or execution date, whichever is later, shall remain members in good standing, and those who are not members in good standing as of the effective

or execution date of this Agreement, whichever is later, shall, on or after the thirtieth (30th) calendar day following the later of the effective or execution date, become and remain members in good standing of the Union. It also shall be a condition of employment that all P/T Faculty Members covered by this Agreement who are hired on or after its effective or execution date, whichever is later, shall, on or after the thirtieth (30th) work day following the beginning of such employment, become and remain members in good standing of the Union.

B. The Program shall discharge any P/T Faculty Member covered by this Agreement within one (1) week after receipt of written notice from the Union that said individual is not a member in good standing of the Union as herein required. The term “member in good standing of the Union” shall be as construed under the National Labor Relations Act, and the Union shall take appropriate steps to ensure compliance with the Act.

C. Each payday, the Program shall deduct from a P/T Faculty Member’s wages a sum of work dues owed the Union and authorized under the National Labor Relations Act, provided the P/T Faculty Member has furnished the Program a written assignment executed in accordance with the law. The Program shall remit the same to the Union or its duly authorized representatives not later than ten (10) working days after said payday. In the event no earnings or wages are due on the payday of any month, the Program shall deduct from the first wages due thereafter the work dues so owed and remit the same to the Union within one (1) week from the time such deductions are made. Following receipt of any check-off revocation, the Program shall notify the Union, in writing, of the revocation. Should the Program fail to make the above deduction notwithstanding its receipt of a valid written authorization, the Program shall be liable to the Union for the amount thereof forty-eight (48) hours after receipt of written notice by the Union of the amount due. This shall not constitute a waiver of the right of the Program to collect or recover such moneys directly from the P/T Faculty Member.

D. The Union agrees that this Article shall be interpreted and applied solely to the extent permissible under applicable law. The Union shall hold the Program harmless from any damage, expense, claims, actions or proceedings whatsoever arising from the discharge of a P/T Faculty Member affected at the request of the Union pursuant to this Article or for any deductions made by the Program pursuant to this Article. Further, once the funds are remitted to the Union, their disposition shall be the sole and exclusive obligation and responsibility of the Union.

ARTICLE III: UNION ACCESS

A duly authorized representative of the Union shall have access and be admitted to the Program's fifth and/or sixth-floor premises at 55 West 13th Street, New York, New York, or other necessary locations, for the transaction of necessary

Union business relating to the administration of this Agreement, provided such visitation is not abused and does not disrupt normal business or otherwise interfere with the education of students or the activities of others in the Program. Absent an emergency, the Union representative shall give the Executive Director or his/her designee reasonable advance notice of the visitation and, upon arrival, the Union representative shall make his/her presence known to the Executive Director or his/her designee. Where visitation is for the purpose of meeting with a P/T Faculty Member, the Executive Director or his/her designee shall arrange for the meeting on the P/T Faculty Member's own time, at a place designated by the Executive Director or his/her designee. No classroom, lecture, private lesson meeting, performance, tutoring session, student jury, audition, registration session, advisory meeting, administrative meeting or other duty, or the like, shall be interrupted to permit such a meeting with the Union representative.

ARTICLE IV: BULLETIN BOARD

The Union shall be provided bulletin board space on the fifth floor of the Program's premises at 55 West 13th Street, New York, New York, for the purpose of posting notices pertaining to legitimate Union interests. All notices shall be approved, before posting, by a designated and responsible officer or business representative of the Union. If the Program asserts that a proposed notice is defamatory, inflammatory, untrue or otherwise beyond the scope of legitimate Union interests, the Program may submit the issue for expedited decision by an arbitrator mutually agreed to by the parties. The exact location of the bulletin board shall be subject to the mutual agreement of the parties.

ARTICLE V: NO DISCRIMINATION

A. The University reaffirms its commitment to equal opportunity, affirmative action in employment and an environment free of discrimination and sexual and other discriminatory harassment as recognized under law and/or as enunciated in the applicable policies and procedures of the University that are in effect as of the execution date of this Agreement, and reaffirms that it shall not discriminate against any P/T Faculty Member, in violation of law, on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability, citizenship status, marital status or veteran status, or, except as otherwise limited in this Agreement, because of their political or union beliefs or activity.

B. The Union reaffirms its commitment to its stated policies of equal opportunity, affirmative action in employment and an environment free of discrimination and sexual and other discriminatory harassment as recognized under law, and reaffirms that it shall not discriminate against any P/T Faculty Member, in violation of law, on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability, citizenship status, marital status or veteran status, or,

except as otherwise limited in this Agreement, because of their political or union beliefs or activity.

C. Both the Program and the Union shall be bound, as well, by any applicable substantive and/or procedural change in law during the term of this Agreement.

D. Any claimed violation of this Article that involves a P/T Faculty Member either as a claimant or as the subject of a claim, whether in his/her employment capacity or as a student, shall be governed by, and processed pursuant to the procedures of, said policies of the University. Such a claim shall not be considered a “Dispute” within the meaning of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”), nor shall it be subject to the Dispute Resolution or Arbitration procedures of this Agreement.

ARTICLE VI: ACADEMIC FREEDOM

The Program and the Union recognize and affirm their commitment to the principles of academic freedom, freedom of speech and artistic expression enunciated in the applicable policy statements of the University as of the execution date of this Agreement. Any claimed violation of said policy statements that involves a P/T Faculty Member either as a claimant or as the subject of a claim, whether in his/her employment capacity or as a student, shall be governed by, and investigated pursuant to, the procedures applicable to these policy statements. Such a claim shall not be considered a “Dispute” within the meaning of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”), nor shall it be subject to the Dispute Resolution or Arbitration procedures of this Agreement; provided, however, that if, after being processed pursuant to such policy procedures, the claim remains unresolved *and* a decision has been made to take disciplinary action, the claim may be processed pursuant to the Dispute Resolution procedure and, if then still unresolved, to Arbitration in accordance with Article XXIV (“Arbitration”).

ARTICLE VII: CONFLICTS OF INTEREST

Each P/T Faculty Member shall be subject to the applicable conflicts of interest policy statements of the University as of the execution date of this Agreement. Any claimed violation of said policy statements that involves a P/T Faculty Member shall be governed by, and investigated pursuant to, the procedures applicable to these policy statements. Such a claim shall not be considered a “Dispute” within the meaning of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”), nor shall it be subject to the Dispute Resolution or Arbitration procedures of this Agreement; provided, however, that if, after being investigated pursuant to the policy procedures, the claim remains unresolved *and* a decision has been made to take disciplinary action, the claim may be processed

pursuant to the Dispute Resolution procedure and, if then still unresolved, to Arbitration in accordance with Article XXIV (“Arbitration”).

ARTICLE VIII: CODE OF CONDUCT

Each P/T Faculty Member shall be subject to the applicable code of conduct policy statements of the University as of the execution date of this Agreement. Any claimed violation of said policy statements that involves a P/T Faculty Member shall be governed by, and investigated pursuant to, the procedures applicable to these policy statements. Such a claim shall not be considered a “Dispute” within the meaning of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”), nor shall it be subject to the Dispute Resolution or Arbitration procedures of this Agreement; provided, however, that if, after being investigated pursuant to the policy procedures, the claim remains unresolved *and* a decision has been made to take disciplinary action, the claim may be processed pursuant to the Dispute Resolution procedure and, if then still unresolved, to Arbitration in accordance with Article XXIV (“Arbitration”).

ARTICLE IX: UNIVERSITY POLICIES AND PROCEDURES GENERALLY

In addition to those P/T Faculty Members’ rights and responsibilities elsewhere set forth in this Agreement, each P/T Faculty Member shall be subject to all applicable general policies and procedures of the University that are in effect as of the execution date of this Agreement. Discipline for failure to adhere to such University policies and procedures also shall be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”). Where there is a dispute concerning the application of these University policies and procedures, but no discipline is involved, it shall be subject to the provisions of Articles XXIII and XXIV, the issue being whether the policy or procedure in question has been applied in an arbitrary or capricious manner.

ARTICLE X: CLASSROOM TEACHING RESPONSIBILITIES

A. P/T Faculty Members shall abide by the academic policies of the University and the Program for each teaching assignment.

B. Except as provided for in Article XVI (“Substitutes”), P/T Faculty Members must teach each assigned class at the designated time and in the classroom as determined by the Executive Director or his/her designee. The time and/or place of each class may not be changed by the P/T Faculty Members without prior notification to and agreement with the Executive Director or his/her designee.

C. P/T Faculty Members shall meet the educational goals and objectives for each class assignment as set forth in the approved course description as determined by the Program Administration after consultation with the Curriculum

Committee in accordance with the provisions of Article XI (“Program Rights”) and Article XII (“Committees”).

D. A current course syllabus or outline prepared by the P/T Faculty Member must be submitted to the Executive Director or his/her designee in accordance with Program deadlines for each teaching assignment each academic term. The Executive Director, in consultation with the curriculum committee, shall determine which courses will require course syllabi and which courses will require course outlines. (Whenever used in this Article or any other provision of this Agreement, “academic term” shall refer only to the Fall or Spring teaching session and “academic year” shall include only the Fall and Spring terms; neither “academic term” nor “academic year” shall include summer school session(s).) Each course syllabus or outline must contain the following information:

1. Course and educational objectives.
2. Student assignments, tests and other evaluation procedures.
3. Criteria for grading.
4. Attendance policy (if stricter than the Program attendance policy).

E. For each teaching assignment each academic term, P/T Faculty Members shall provide a copy of the course syllabus or outline, depending upon which is applicable, to each student at the student’s first class meeting of the term.

F. P/T Faculty Members must verify and keep current class rosters, maintain records of student attendance for each class meeting and submit attendance records to the Executive Director or his/her designee when requested in writing.

G. P/T Faculty Members must assign a grade to each student in each assigned class in accordance with the grading criteria outlined in their course syllabus or outline. All grades must be submitted to the Office by the date of record as determined by the University Registrar.

H. Any issue arising under this Article shall be governed by, and processed pursuant to, the procedures set forth in the applicable policy statements of the University or as otherwise expressly set forth in this Agreement, and shall not be considered a “dispute” within the meaning of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”), nor shall it be subject to the Dispute Resolution or Arbitration procedures of this Agreement; provided, however, that if, after being unresolved *and* a decision has been made to take disciplinary action, the claim may be processed pursuant to the Dispute Resolution Procedure and, if then still unresolved, to arbitration in accordance with Article XXIV (“Arbitration”).

ARTICLE XI: PROGRAM RIGHTS

A. Article XII (“Committees”) and Article XIII (“Reappointments/Course Assignments/Scheduling”) recognize and provide for a collegial and committee approach that includes P/T Faculty Members in an advisory capacity concerning certain prescribed academic and professional matters affecting the quality of education delivered by the Program. The following matters are subject to consultation in accordance with the advisory committee processes and procedures set forth in Articles XII and XIII: Appointments, Reappointments and course assignments (including, in such contexts, the need for or desirability of hiring candidates from outside the Program); leaves of absence (except in emergency cases or where the P/T Faculty Member raises privacy considerations); class sizes; health, safety and security; student life policies; committees; curriculum planning; teaching methodology; the evaluation process; student academic standing; and student admissions criteria. The following matters also are subject to a prescribed advisory committee review process in accordance with the provisions set forth in Article XII and XIII: Appointments (where a member of the bargaining unit is applying for a position), Reappointments and course assignments (including, in such contexts, the need for or desirability of hiring candidates from outside the Program); leaves of absence (except in emergency cases or where the P/T Faculty Member raises privacy considerations); the evaluation process.

B. Subject to the provisions of paragraph A above, and except where this Agreement expressly and specifically provides to the contrary, the Program retains the right, whether exercised or not: to plan, manage and operate the Program, including the admissions, education and retention of students; to hire, lay off, promote, demote, discipline, assign and schedule employees; to determine the subject matter of courses; to establish, change, combine or discontinue job classifications; to determine the size and composition of the faculty; to introduce new or improved methods or procedures or discontinue existing ones; to determine the number and location of facilities, classes and assignments; to purchase equipment and material; to establish standards, class sizes and course hours, departments and schedules; to adopt and implement reasonable rules and regulations designed to promote efficiency, safe and secure practices and discipline, and to require adherence to such rules; to sell, discontinue, consolidate, affiliate or restructure; or to relocate all or a portion of the Program elsewhere.

C. The above enumeration of Program rights is for illustrative purposes only and, except where expressly and specifically limited elsewhere in this Agreement, is intended to indicate the types of matters or rights that customarily belong to and are inherent in the Program.

ARTICLE XII: COMMITTEES

The following committee system exists or shall be established for the purpose of advising the Program on matters involving essential academic, professional and ethical issues affecting the quality of education delivered to the Program.

A. Executive Committee: Jurisdiction shall involve recommendations concerning academic policies and procedures, including appointments and reappointments; course assignments; student life policies; facility safety, health and security issues; the establishment of other committees (*ad hoc* or otherwise), subcommittees or task forces; student advisory committee issues; diversity and affirmative action issues, and membership on University and Program committees. The Committee shall be chaired by the Executive Director and comprised of seven (7) additional persons, four (4) of whom shall be P/T Faculty Members and three (3) of whom shall be full-time faculty members and/or members of the administrative staff of the Program. All of the committee members, including its chair, shall be voting members. The committee shall meet a minimum of three (3) times per term. Any recommendations it makes to the Executive Director shall be in writing.

B. Curriculum Committee: Jurisdiction shall include recommendations concerning development and revision of course and degree proposals; new programs or degrees; new course proposals submitted by individual P/T Faculty Members; and academic policies applicable to instructional and repertoire requirements. The committee shall be chaired by the Executive Director or his/her designee and comprised of nine (9) additional persons, six (6) of whom shall be P/T Faculty Members within the current BFA Curriculum and three (3) of whom shall be full-time faculty members and/or members of the administrative staff of the Program. All of the committee members, including the chair, shall be voting members. The committee shall meet a minimum of three (3) times per term. The recommendation(s) of the Curriculum Committee shall be referred to the Executive Committee prior to a final decision by the Executive Director.

C. Faculty Review Committee: Jurisdiction shall relate to recommendations arising from differences between the Executive Committee and the Associate Provost concerning reappointments and course assignments as outlined in and governed by Article XIII ("Reappointments/Course Assignments/Scheduling"). The committee shall be comprised of seven (7) persons, three (3) of whom shall be P/T Faculty Members (other than those who serve on the Executive Committee), two (2) of whom shall be full-time faculty members and/or members of the administrative staff of the Program (other than those who serve on the Executive Committee), one (1) of whom shall be a faculty member or administrator selected by the Program from other units of the University and the seventh (7th) of whom shall be an outside expert selected from the field of Jazz and acceptable to all committee members. The committee members shall elect the chair of the committee by secret ballot. All of the committee members, including the chair, shall be voting members.

D. Consistent with the provisions of this Agreement, the Program may establish such other committees (*ad hoc* and otherwise), subcommittees or task forces as it deems appropriate to meet Program and/or University needs. The Executive Director shall consult with the Executive Committee, including P/T Faculty Members, about both the establishment of such committees, subcommittees or task forces and nominations to and membership on these committees, subcommittees or task forces.

E. For each standing committee, P/T Faculty Members shall be selected on the following basis: For each academic year, the Executive Director shall solicit volunteers and nominations from P/T Faculty Members interested in serving on said committees. A secret ballot election will be held where, because of the number of candidates, the need for an election exists. If no election is necessary, those volunteering or nominated will, with their agreement, be appointed.

F. Effective September 1, 2008, P/T Faculty Members shall receive a \$200 honorarium per academic year for serving on the Faculty Review Committee (without regard to any minimum number of times the Faculty Review Committee meets during the academic year) and a \$500 honorarium per academic year for serving on the Executive Committee or Curriculum Committee, provided that the eligible faculty member attends fifty (50%) of scheduled meetings. P/T Faculty members shall receive a \$300 honorarium per academic year for each other University committee on which he/she serves (provided the committee meets at least four (4) times during the academic year. The maximum a P/T Faculty Member may receive in any academic year, regardless of the number of such committees on which he/she serves, shall be \$900. It is assumed that, when asked to meet, participating faculty will be active committee members.

G. No committee members shall vote on any matter within the committee's jurisdiction where there exists a conflict of interests.

H. Any claim that the Program has failed to adhere to the provisions of this Article shall be subject to the provisions of Article XXIII ("Dispute Resolution Procedure") or Article XXIV ("Arbitration").

ARTICLE XIII: REAPPOINTMENTS/COURSE ASSIGNMENTS/SCHEDULING

A. Each Spring term, the Executive Director shall prepare a list of proposed faculty reappointments and course assignments for the next academic year, based upon the factors set forth herein. Seniority and teaching effectiveness, as defined below, will be the most significant factors in such decisions. Professional accomplishments, as defined below, will be the next most significant factor in such decisions. Also, as defined below, service will be considered.

1. Seniority: As prescribed in Article XIV ("Seniority").

2. Teaching effectiveness: Demonstrated knowledge of the course material and quality of the P/T Faculty Member's teaching; the effectiveness of the P/T Faculty Member's communication skills in the classroom; evaluations by students and peers in accordance with guidelines developed in consultation with the Executive Committee; measures of student achievement and progress in relevant academic work; the ability of the P/T Faculty Member to adhere, in both subject matter and timely fashion, to the approved course curriculum; the P/T Faculty Member's teaching experience and teaching accomplishments; sensitivity to the policies of the Program and the University with respect to equal opportunity, affirmative action and an environment free of discrimination and sexual and other discriminatory harassment; and respect for and encouragement of the diversity of opinions and expressions of students and colleagues.
3. Professional accomplishments: The quality and productivity in performances, recordings, publications or other relevant artistic activities; professional experience; contributions to the profession and the field; and continued participation in such endeavors and activities.
4. Service: Demonstrated ability and/or willingness of the P/T Faculty Member to cooperate with other faculty members, administration, students, guests and others; to commit to the Program's policies; to participate in the Program, departmental and University activities; and to provide student mentoring, where needed.

The list and rationale for the Executive Director's proposed reappointments and course assignments shall be presented to the Executive Committee, but two weeks prior thereto, the Executive Director shall notify P/T Faculty Members, in writing, if he/she intends to propose that they not be reappointed to any course assignments they had in the previous academic year and the reason(s) for such non-reappointment. Within one week of the furnishing of such notice, or as otherwise mutually agreed in writing between the P/T Faculty Member and the Executive Director, a P/T Faculty Member so notified shall be afforded an opportunity to submit to the Executive Director, in writing, any reason(s) he/she believes he/she should be reappointed to such course assignments and, if the P/T Faculty Member desires, to meet with the Executive Director to discuss the matter. If the Executive Director adheres to his/her recommendation that the P/T Faculty Member not be reappointed, he/she shall include in his/her proposed reappointments and course assignments to the Executive Committee the above notice to the P/T Faculty Member, the P/T faculty Member's written response and his/her reason(s) for adhering to the

original recommendation. (For purposes of this Article, the term “Reappointment” shall refer only to the situation where the Program intends to continue the course assignment but is contemplating assigning someone other than the P/T Faculty Member who taught the course in the previous academic year.)

B. The Executive Committee shall review the Executive Director’s proposed list and rationale and, in writing, report to the Executive Director whether it differs in any way with the Executive Director and, if so, its rationale for such disagreement.

C. The Executive Director, after having reviewed the report of the Executive Committee, shall submit the committee’s recommendations and rationale and his/her assessment of those recommendations, in writing, to the Associate Provost.

D. If the Executive Committee and the Executive Director are in accord, and the Associate Provost agrees with their recommendations, the Associate Provost shall make his/her final recommendations to the Provost. If the Associate Provost differs with any recommendation of the Executive Committee, the Associate Provost shall solicit the input of the Faculty Review Committee before making his/her final recommendation to the Provost. In so doing, the Associate Provost shall distribute to the Faculty Review Committee the materials necessary to conduct its review, along with the deadline for the Faculty Review Committee’s response. In making his/her final recommendations to the Provost, the Associate Provost shall consider the response of the Faculty Review Committee and shall forward to the Provost the written positions of the Executive Director, the Executive Committee and the Faculty Review Committee. The Associate Provost’s recommendations, and the rationale therefor, shall be in writing.

E. The decision of the Provost as to faculty reappointments and course assignments shall be final and shall not be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) or Article XXIV (“Arbitration”) ; provided, however, that any claim that the Program has materially failed to adhere to the provisions of Sections, A, B, C and D herein shall be subject to the provisions of Articles XXIII and XXIV.

F. Class scheduling shall be determined by the Executive Director or his/her designee in consultation with the individual P/T Faculty Members. It shall be based upon the educational needs of the students, the availability of the P/T Faculty Members, classroom availability and other needs of the Program. The Executive Director or his/her designee will request the scheduling preferences of P/T Faculty Members, and P/T Faculty Members must submit same to the Executive Director or his/her designee, by February 15 of each academic year in the case of the Fall term and by October 1 of each academic year in the case of the Spring term. The decision of

the Executive Director as to class scheduling shall not be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) or Article XXIV (“Arbitration”).

G. By June 1 of each academic year, the Program shall notify a P/T Faculty Member, in writing, of his/her Fall term reappointment, assignment(s) and schedule. If, by July 1, the Program has not received a written response from a P/T Faculty Member so notified, the Program shall advise the Union and it shall attempt to contact the individual. By July 15 of said academic year, the Program must receive, in writing, the acceptance or rejection of a P/T Faculty Member so notified. By December 1 of each academic year, the Program shall notify a P/T Faculty Member, in writing, of his/her Spring Term reappointment, assignment(s) and schedule. If, by December 15, the Program has not received a written response from a P/T Faculty Member so notified, the Program shall advise the Union and it shall attempt to contact the individual. By December 31 of said academic year, the Program must receive, in writing, the acceptance or rejection of a P/T Faculty Member so notified. In the event the review process provided for in Sections D and E cannot be completed prior to these deadlines, the deadlines in such instances shall be extended, where possible, to permit such completion.

H. Notice of all new or vacant bargaining unit positions in the Program shall be posted on the Program’s bulletin board(s). A P/T Faculty Member may apply for any new or vacant courses for which he/she qualifies and in which he/she is interested. His/her application shall be considered in accordance with the provisions of this Article.

ARTICLE XIV: SENIORITY

A. P/T Faculty Members shall accrue seniority on a per course basis. Except as provided below, seniority shall be retroactive to the original date of employment at either the New School Jazz and Contemporary Music Program, whichever is earlier.

B. A seniority list shall be maintained by the Program and provided to the Union prior to the start of each academic term.

C. If a P/T Faculty Member declines to teach a previously taught course for two (2) consecutive academic terms, his/her seniority for that course shall expire for that course. A P/T Faculty Member shall not be deemed to have declined a course when he/she already has accepted another course at the Program for the same academic term that conflicts with the scheduling of the offered course or the P/T Faculty Member cannot accept the offered course because it has been rescheduled.

D. A P/T Faculty Member shall retain his/her course seniority while on an approved leave of absence.

E. While a P/T Faculty Member shall not lose his/her seniority in a given course if the course has been canceled due to a lack of student enrollment, the lack of enrollment and the reasons therefor may be taken into account in determining whether, pursuant to Article XIII (“Reappointments/Course Assignments/Scheduling”), he/she will be assigned that course in the future. In determining whether the lack of enrollment is due to scheduling or other problems unrelated to the P/T Faculty Member, the Executive Director shall consult with the Executive Committee.

F. In the event a course is renamed, a P/T Faculty Member may ask that his/her seniority for the course be transferred to the renamed course. The request shall be considered by the Executive Director after consultation with the Executive Committee in accordance with the provisions of Article XIII (“Reappointments/Course Assignments/Scheduling”).

G. Within ninety (90) days after the effective date of this Agreement, the Program shall post the seniority list by course. Following the posting, P/T Faculty Members then in the Program’s employ shall be notified, by letter sent to their last listed address, of the posting of the seniority list; of their obligation, within forty-five (45) days of the mailing of the letter, to review the list and notify the Executive Director, in writing, of any inaccuracy in the list; and, absent such timely response, of the finality of the listing as to their seniority determination. Once final, they shall be precluded from any objection as to that determination.

H. Any dispute concerning the accuracy of the seniority list shall be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”).

ARTICLE XV: PROBATION

A. All P/T Faculty Members hired to work in the Program for the first time shall be subject to a probationary period. The probationary period shall begin with the P/T Faculty Member’s first day of employment and shall end on the last day of classes of the academic term.

B. Discipline of a probationary P/T Faculty Member, up to and including discharge, shall not be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) or Article XXIV (“Arbitration”).

C. Except as expressly set forth in this or any other article of this Agreement, the provisions of this Agreement shall be applicable for all probationary P/T Faculty Members.

D. The hourly classroom rate for a probationary P/T Faculty Member shall be set at 10% below the base rate; provided, however, that the Program reserves the

right to hire a new P/T Faculty Member at a higher hourly rate where, in its discretion, such payment is necessary or appropriate.

ARTICLE XVI: SUBSTITUTES

A. In the event a P/T Faculty Member is unable, due to illness or any other reason, to conduct a class when and as scheduled, he/she shall notify the Executive Director or his/her designee of the problem, as soon as possible, to discuss all pertinent issues, including whether the class can or should be conducted as scheduled with a substitute or rescheduled and conducted by said P/T Faculty Member. If the Executive Director or his/her designee determines a substitute shall be used, the P/T Faculty Member shall be responsible for arranging, after consultation with the Executive Director or his/her designee, for an available substitute. Unless by prior agreement, no class, whether taught by the P/T Faculty Member or a substitute, shall be scheduled or otherwise held outside the normal academic term or normal University facilities.

B. A substitute shall be paid directly by the Program at the following Substitute Pay Rate: if an incumbent P/T Faculty Member, his/her hourly classroom teaching rate of pay; if an individual outside the Program (not a member of the bargaining unit here covered), at the hourly classroom teaching rate of the P/T Faculty Member for whom he/she is substituting. Under no circumstances can a P/T Faculty Member, directly or indirectly, arrange for payment to a substitute other than as above specified.

ARTICLE XVII: CLASS CANCELLATION

A. The Program reserves the right to cancel courses in the event enrollment is insufficient or for institutional, education, space or scheduling reasons.

B. If a Fall term class is canceled after July 1 of the academic year, or if a Spring term class is canceled after December 1 of the academic year, the P/T Faculty Member shall be paid for any classes taught prior to the cancellation. Additionally, if the P/T Faculty Member has taught four (4) previous terms at the Program, he/she shall be assigned a substitute course in the current or next academic term for which he/she would not otherwise have been scheduled or, if no such assignment can be made, he/she shall receive payment at the rate of 50% for the balance of the classes scheduled.

C. A decision to cancel a course pursuant to this Article shall not be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) or Article XXIV (“Arbitration”).

ARTICLE XVIII: DISCIPLINE

A. The Program shall have the right to discipline any P/T Faculty Member, up to and including discharge, for just cause. Except as otherwise expressly provided for in this Agreement, such disciplinary treatment shall be subject to the provisions of Article XXIII (“Dispute Resolution Procedure”) and Article XXIV (“Arbitration”).

B. For purposes of this Article, disciplinary treatment, up to and including discharge, shall not encompass the appointment or reappointment process or any class cancellation pursuant to Article XVII (“Class Cancellation”).

ARTICLE XIX: UNPAID LEAVES OF ABSENCE

A. A P/T Faculty Member may be considered for unpaid leave of absence for any emergency or other reason required by law. Further, for additional personal or professional reasons, upon completion of one (1) academic term of employment at the Program, a P/T Faculty Member also may be considered for unpaid leave of absence.

B. Any request for unpaid leave of absence must be in writing and set forth the nature of and reasons for the request, as well as the proposed duration of the leave.

C. Except as required by law, any unpaid leave of absence, if approved, shall not exceed two (2) consecutive academic terms in duration.

D. Except as required by law, the approval of an unpaid leave of absence, including its duration, shall be at the discretion of the Executive Director or his/her designee. Such discretion shall take into account all pertinent factors, including the needs of the Program, with the understanding that approval shall not be unreasonably withheld. The leave shall be deemed unauthorized unless approved, in writing, by the Executive Director.

E. Upon return from authorized leave, the P/T Faculty Member shall be entitled to return to a teaching assignment(s) in the Program that may or may not be the same assignment(s) held prior to the leave. The Program shall offer the P/T Faculty Member an assignment to the same number of course hours as taught just prior to the leave, with the same proportion of required courses and in accordance with the provisions of Article XIII (“Reappointments/Course Assignments/Scheduling”).

F. Any seniority held by the P/T Faculty Member pursuant to Article XIV (“Seniority”) shall be retained upon return to the Program at the completion of the authorized leave. Seniority shall not accrue, however, during the period of the authorized leave.

G. If the Executive Director or his/her designee determines a substitute shall be used during the leave of absence, the P/T Faculty Member shall be responsible for arranging, after consultation with the Executive Director or his/her designee, for an available substitute.

H. Where appropriate, requests for leave and their terms, including the nature and composition of the courses assigned upon the P/T Faculty Member's return from leave, shall be subject to the advisory consultation and review procedures of Article XI ("Program Rights") and Article XIII ("Reappointments/Course Assignments/Scheduling").

ARTICLE XX: WORKING CONDITIONS

A. The University pledges to observe all applicable federal and state law guaranteeing health and safety of the P/T Faculty Members.

B. The University shall furnish and maintain sanitary toilets and working facilities for the P/T Faculty Members. Where on notice that the health or safety of a P/T Faculty Member is endangered by a defect(s) in working conditions, the University immediately shall take reasonable steps to review and correct such defect(s).

C. In the event of any weather emergencies, the University shall continue to notify the P/T Faculty Members, through public information channel(s), of any closings.

D. The University shall make its best effort to provide P/T Faculty Members with serviceable equipment and materials necessary for their instruction of students.

ARTICLE XXI: PAYDAY

A P/T Faculty Member shall be paid on a monthly basis, in the same month the work is performed, provided he/she has submitted to the Program, in timely fashion, all paperwork necessary for the processing of said payment. The Program shall be responsible for furnishing the P/T Faculty Member, on a timely basis, all paperwork necessary for his/her submission. The precise payday shall be the same day set for others in the University who are similarly situated.

ARTICLE XXII: PERSONNEL FILES

A. A P/T Faculty Member may review his/her personnel file by appointment with the Human Resources Department of the University. Upon his/her request and at his/her own expense (not to exceed \$0.10 per page), the P/T Faculty Member will be given a photocopy of any item(s) in such file(s). Such review may occur no more than twice in any one calendar year.

B. Where the P/T Faculty Member seeks review of his/her personnel file in connection with the Dispute Resolution Procedure or Arbitration, the Union representative and/or Committee member may be present at the review and examine the documents.

ARTICLE XXIII: DISPUTE RESOLUTION PROCEDURE

A. A prompt and efficient method of settling Disputes, as herein defined, is both desirable and necessary. Moreover, notwithstanding the availability of the formal procedures of this and the succeeding Article, it is agreed an informal resolution of any Dispute is desirable. For purposes of this Agreement, a "Dispute" shall be defined as any alleged violation of this Agreement during the term of the Agreement, arising out of its interpretation, application, performance or termination. Except where otherwise expressly indicated in this Agreement, a "Dispute" shall be processed in accordance with the procedures of this Article and, should it proceed to Arbitration, Article XXIV ("Arbitration").

B. A Dispute will be timely if filed, in accordance with the procedures outlined below, within thirty (30) calendar days of its occurrence or discovery. If the time limit falls on a Saturday, Sunday or holiday, it shall be extended to the next Program business day that falls within the work week.

C. Step One. Except as provided below, a Dispute first shall be presented by the P/T Faculty Member and/or the Union, in writing, to the Executive Director of the Program. The Dispute must specify the nature of the grievance, the provision(s) of this Agreement at issue and the relief requested. Within ten (10) Program business days, the Executive Director or his/her designee shall meet with the P/T Faculty Member and Union representative to discuss the Dispute. Within ten (10) Program business days of the meeting, the Executive Director or his/her designee shall mail or deliver to the P/T Faculty Member and the Union representative a written answer to the Dispute.

D. Step Two. If a Dispute is not satisfactorily resolved at Step One of the Dispute Resolution Procedure, the P/T Faculty Member and/or the Union may appeal to the Senior Officer in charge of the Human Resources Department of the University ("Officer"). To do so, the P/T Faculty Member and/or Union representative must file a written appeal, within ten (10) Program business days of the date the Step One answer is received by the Union, specifying the nature of the grievance, the provision(s) of this Agreement at issue and the relief requested. Within ten (10) Program business days of the Step Two filing, the Officer or his/her designee shall meet with the P/T Faculty Member and Union representative to discuss the Dispute. Within ten (10) Program business days of the meeting, the Officer or his/her designee shall mail or deliver to the Union, with a copy to the P/T Faculty Member, a written answer to the Dispute.

E. Step Three. If a Dispute is not satisfactorily resolved at Step Two of the Dispute Resolution Procedure, the P/T Faculty Member and/or the Union may appeal to the Provost of the University. To do so, the P/T Faculty Member and/or Union representative must file a written appeal, within ten (10) Program business days of the date the Step Two answer is received by the Union, specifying the nature of the grievance, the provision(s) of this Agreement at issue and the relief requested. Within ten (10) Program business days of the Step Three filing, the Provost or his/her designee shall meet with the P/T Faculty Member and Union representative to discuss the Dispute. Within ten (10) Program business days of the meeting, the Provost or his/her designee shall mail or deliver to the Union, with a copy to the P/T Faculty Member, a written answer to the Dispute.

F. Step Four. If the Dispute is not satisfactorily resolved at Step Three, the Union may submit it to Arbitration, within fifteen (15) Program business days of the date of the Step Three answer, pursuant to Article XXIV ("Arbitration") below; provided, however, that within forty-five (45) Program business days of the date of the Step Three answer, the parties shall hold a conference, at a mutually agreed to location, in an attempt to resolve any Step Three grievance that remains unresolved after the completion of the Step Three process. (This does not preclude or affect the filing of a request for arbitration or the use, by mutual agreement, of mediation.)

G. The Program also may present a Dispute pursuant to this Article. Such dispute shall be presented at Step Two of the Dispute Resolution Procedure, following notice by the Program, in writing, addressed to the Union at its offices, and shall specify the nature of the grievance, the provision(s) of this Agreement at issue and the relief requested. Further, any Dispute filed by the Union on behalf of two or more P/T Faculty Members, or involving the disciplinary suspension or discharge of a P/T Faculty Member or a grievance against the Executive Director, may be initiated at Step Two. Additionally, on any other Dispute, the parties may proceed initially at Step Three if by mutual agreement, in writing.

H. The time limits specified above shall be strictly construed, absent express written agreement of the parties to waive or extend any time limit or step of the Dispute Resolution Procedure; provided, however, that if the Program (or the Union with respect to a Dispute presented by the Program) fails to answer a Dispute at any step of the Dispute Resolution Procedure, or to answer in timely fashion, it shall not be deemed acceptance of the P/T Faculty Member's or Union's position (or the Program's position with respect to a Dispute presented by the Program); rather, in such case, the P/T Faculty Member and/or the Union (or the Program with respect to a Dispute presented by the Program) may proceed to the next step of the Dispute Resolution Procedure.

I. Any disposition of a Dispute from which no appeal is taken by the P/T Faculty Member and/or Union, or by the Program, within the specified time limits

shall be deemed finally resolved, and shall not be considered subject to the remaining Dispute Resolution Procedure and/or Arbitration provisions of the Agreement.

J. No reprisal shall be taken against any P/T Faculty Member for having filed a Dispute.

K. No Dispute shall be handled by an individual P/T Faculty Member and the Program without both notice to the Union and an opportunity for a representative of the Union to be present at the adjustment of the Dispute.

ARTICLE XXIV: ARBITRATION

A. Unless otherwise expressly excluded from Arbitration in this Agreement, a Dispute that has not been satisfactorily resolved at Step Three of the Dispute Resolution Procedure may be submitted by either the Union or the Program to final and binding Arbitration in accordance with the time limit and other provisions of Article XXIII (“Dispute Resolution Procedure”).

B. Should the parties be unable to agree upon the selection of an arbitrator, the party seeking Arbitration shall refer the matter to the American Arbitration Association (“AAA”) for selection of an arbitrator and conduct of the Arbitration in accordance with the procedures then in effect under its Voluntary Labor Arbitration Rules.

C. The administrative costs of the AAA and the fees of the arbitrator shall be borne equally by the parties.

D. A P/T Faculty Member who attends an Arbitration as a grievant or Union witness shall be expected, where possible, to reschedule any class he/she otherwise might miss because of the Arbitration proceeding. Should such rescheduling not be possible, the Program shall compensate the Union steward and no more than three (3) P/T Faculty Members (including the grievant(s) and any Union witnesses) for not more than one (1) classroom teaching session lost because of the requirement that they testify on behalf of the Union at the Arbitration proceeding. Any P/T Faculty Member who is subpoenaed by the Program to appear as a witness in an Arbitration proceeding, and who is unable to reschedule a class (classes), shall be compensated for the lost classroom teaching time at the Program and other lost professional income, subject to a maximum of \$500.

E. The Arbitration shall be held at the offices of the AAA unless the parties otherwise mutually agree to a different location.

F. The arbitrator shall have no power to add to, subtract from, change or in any other way alter, amend or modify the terms of this Agreement. Further, his/her jurisdiction shall be limited not only to an unresolved Dispute as defined in

Article XXIII above, but, more particularly, to the issue(s) of said Dispute that has (have) been submitted to the Arbitrator to decide.

G. Unless the parties otherwise expressly agree in writing, any submission to Arbitration shall be confined to a single Dispute.

H. Absent express mutual written agreement by the parties, there shall be no Arbitration of any Dispute where the facts or circumstances of the Dispute arise or occur after the expiration of the Agreement.

I. The arbitrator shall draw no adverse inference from the failure of a party to call a student as a witness.

ARTICLE XXV: NO STRIKE/NO LOCKOUT

During the term of this Agreement or any extension upon written agreement of the parties:

A. No P/T Faculty Member shall engage in any strike, slowdown, sit-in, boycott, cessation, stoppage or interruption of work at the Program or its operations, and the Union, on behalf of itself, its officers, agents and representatives, shall not in any way authorize, assist, encourage, participate in or sanction such. This prohibition applies as well to sympathy strikes.

B. The Program shall not lock out the P/T Faculty Members.

C. In addition to any other right, remedy or relief to which either the Program or the Union may be entitled under applicable law or statute, should any of the conduct described in paragraphs A or B above occur, the party asserting a violation shall request that the other party undertake, on an immediate basis, all reasonable and necessary steps to terminate such conduct, and the party so requested, upon determining that the conduct is in violation of this Article, immediately shall take all such reasonable and necessary steps to terminate the conduct.

ARTICLE XXVI: COMPENSATION

A. Subject to the probationary rate provisions of paragraph D of Article XV ("Probation"), effective September 1, 2008, the minimum base hourly classroom rate for all P/T Faculty Members shall be \$77.94. Effective September 1, 2009, this minimum hourly rate shall be increased to \$80.67. Effective September 1, 2010, this minimum hourly rate shall be increased to \$83.90. Effective September 1, 2008, a P/T Faculty Member who was employed by the Program as a part-time classroom faculty member in the Fall and/or Spring 2007-2008 academic terms, or who was then on an approved leave of absence, and who is employed by the Program in such capacity in the Fall 2008 academic term, shall receive a 4.5 % increase in his/her hourly classroom rate.

B. Effective September 1, 2009, a P/T Faculty Member who was employed by the Program as a part-time classroom faculty member in the Fall and/or Spring 2008-2009 academic terms, or who was then on an approved leave of absence, and who is employed by the Program in such capacity in the Fall 2009 academic term, shall receive a 3.5% increase in his/her hourly classroom rate.

C. Effective September 1, 2010, a P/T Faculty Member who was employed by the Program as a part-time classroom faculty member in the Fall and/or Spring 2009-2010 academic terms, or who was then on an approved leave of absence, and who is employed by the Program in such capacity in the Fall 2010 academic term, shall receive a 4.0% increase in his/her hourly classroom rate.

D. Substitute Rates: As provided in Article XVI ("Substitute").

E. Private Lesson Rates: Effective September 1, 2008, a P/T Faculty Member shall receive \$91.68 per hour when teaching private lessons pursuant to the Program curriculum. Effective September 1, 2009, this hourly rate shall be increased to \$94.89. Effective September 1, 2010, this hourly rate shall be increased to \$98.69.

F. Class-size Differential: Effective September 1, 2008, a P/T Faculty Member who teaches a class that contains more than forty (40) students, shall receive a ten (10%) percent class-size differential increase over that faculty member's individual rate of pay for the duration of that class. In addition, effective September 1, 2008, the Executive Director, working with the Executive Committee, shall make best efforts to assist those P/T Faculty Members whose class sizes exceed 40 students.

G. Summer School Rates: A P/T Faculty Member who, during the University's Summer school session(s), teaches a credit-bearing or other required course(s) of the Program shall be paid the same classroom hourly rate he/she received during the immediately preceding academic year.

H. Committee Rates: As provided in Article XII ("Committees").

I. Nothing in this Agreement shall prevent the Program from paying, or a P/T Faculty Member from accepting, a rate of pay above that provided for in this Agreement.

J. Evaluation Hourly Rates: Effective September 1, 2008, a P/T Faculty Member shall receive an hourly rate of \$67.23 for the following evaluation services: Classroom Placement; Instrumental Proficiency; Jury (if evaluating, rather than accompanying). Effective September 1, 2009, this hourly rate shall be increased to \$69.58. Effective September 1, 2010, this hourly rate shall be increased to \$72.36.

K. Advisory Hourly Rate: The Program reserves sole discretion as to whom to utilize to serve as an Advisor to the students (non-bargaining unit personnel included). Where, however, the Program appoints a P/T Faculty Member to serve as

an Advisor, he/she shall receive, effective September 1, 2008, \$67.23 per student for such services. Effective September 1, 2009, this hourly rate shall be increased to \$69.58. Effective September 1, 2010, this hourly rate shall be increased to \$72.36.

M. Tuition Benefits: All faculty members and their immediate family shall be eligible for remission of tuition and fees on the basis of one course for every course taught. Courses must be taken in the same semester/session on a space available basis (excluding "income sharing" courses), or the next fall, spring or summer semester/session, provided the P/T Faculty member has not voluntarily left the University.

ARTICLE XXVII: HEALTH/DENTAL INSURANCE

A. Following a special enrollment period after the execution date of this Agreement, and thereafter following any succeeding enrollment period, each eligible P/T Faculty Member shall be entitled to participate in the health and/or dental insurance coverage provided for herein. To be eligible for such benefits, a P/T Faculty Member must have taught two (2) credit-bearing or other required courses in the Program during the academic year immediately preceding the desired enrollment and be scheduled to teach two (2) such credit-bearing or other required courses in the Program during the academic year of the enrollment or, in the alternative, must have earned a minimum of six (6) points (6 class hours or 7.5 Program private lesson hours, or a combination of class hours and Program private lesson hours totaling 6 points) in the Program during the academic year immediately preceding the desired enrollment and be scheduled to earn a minimum of six (6) such points in the Program during the academic year of the enrollment.

B. Subject to the provisions of paragraph C below, each eligible P/T Faculty Member shall have the choice of enrolling in the following plans:

1. The University sponsored health and dental plans currently applicable to the University's part-time faculty or any plan(s) applicable to such part-time faculty to which the University may convert during the life of this Agreement; or
2. the Musicians' Local 802 Health Benefits Plan.

C. During the term of this Agreement, the Program shall contribute, as follows, towards the cost of coverage on behalf of those eligible P/T Faculty Members who elect to participate in the plan(s) described in paragraph B of this Article.

1. For all those who hereafter enroll in the University sponsored health and dental plan(s) the same Premium Co-payments and Premium Increase Caps as are contained in the collective bargaining agreement between The New School and ACT-UAW,

Local 7902 effective September 1, 2005 to August 31, 2009 shall apply. In the event a PT faculty member enrolls for a portion of the year, a pro rata portion of said contribution shall be made by the Program and the P/T Faculty Members.. The University's and P/T Faculty Member's contributions shall be payable, over the course of the year, in ten (10) monthly installments proportionate to the University's share, respectively, of the health and dental plan premium costs. The P/T Faculty Member premium co-payment shall be deducted on a pre-tax basis from the P/T Faculty Member's paycheck.

2. For those P/T Faculty Members who elect coverage under the Musicians' Local 802 Health Benefits Plan, contributions shall be based on the following schedule:

- a. No later than December 31 of each year, the Program will contribute an amount sufficient to guarantee 6 months of Plan A coverage in the Local 802 Health Benefits Plan (currently \$1400). If, due to contributions from other employers, a lesser amount is needed to satisfy the eligibility requirement for Plan A above, the excess shall be carried forward to the next contribution period.
- b. No later than June 30 of each year, the Program will contribute an amount sufficient to guarantee 6 months of Plan A coverage in the Local 802 Health Benefits Plan (currently \$1400). If, due to contributions from other employers, a lesser amount is needed to satisfy the eligibility requirement for Plan A above, the excess shall be carried forward to the next contribution period.

D. Should the eligibility level for Plan A coverage increase, the Program's yearly contribution shall be limited to no more than \$3000 plus a total of 10% over the life of the Agreement. Notwithstanding the foregoing, if, commencing September 1, 2009 or at any time thereafter during the life of this Agreement, the University increases or decreases its contribution on behalf of its part-time faculty represented by ACT-UAW 7902 to the University sponsored health and dental plan(s) beyond these specified amounts for the periods indicated, the Program's contribution to this (these) University sponsored plan(s) on behalf of P/T Faculty Members also shall be increased or decreased at the same time and to the same extent.

E. Any rebate procedures permitted under the Musicians' Local 802 Health Benefits Plan shall be applicable, and made available, to those P/T Faculty

Members who participate in the plan, under the same uniform conditions offered to other participants in the plan.

F. If a P/T Faculty Member is covered, or hereafter elects to be covered, under a plan other than those specified in paragraph B above, whether through a spouse, another employer or otherwise, he/she shall not be eligible, or shall cease to be eligible, for the \$2,800 contribution (or any pro rata portion thereof) specified in paragraph C above. If, however, a P/T Faculty Member is covered elsewhere by a health plan (other than the Musicians' Local 802 health plan) that does not include dental coverage, he/she, if eligible under the provisions of paragraph A above, may elect to enroll in the University sponsored dental plan applicable to its part-time faculty during the life of this Agreement and, in that event, the Program shall contribute for such P/T Faculty Member, on a monthly basis, the same amount the University contributes to the dental plan for its part-time faculty (October 1 – September 30). The remaining cost shall be borne by the P/T Faculty Member and shall be deducted on a pre-tax basis from the P/T Faculty Member's paycheck.

G. Any P/T Faculty Members who, because of their employment experience prior to its merger with the University, shall be grandparented with those who were similarly situated and, accordingly, shall continue to be treated, for purposes of health and dental coverage, in the same manner as those with whom they are grandparented.

ARTICLE XXVIII: PENSION

A. Effective September 1, 2008, the Program shall contribute to The American Federation of Musicians and Employers' Pension Fund ("Pension Fund") 10% of each eligible P/T Faculty Member's gross Program pay as defined in paragraphs B and C below; provided, however, that if, during the life of this Agreement, the University increases its pension contribution on behalf of the ACT-UAW Local 7902 represented part time faculty to a level beyond or below 10%, the Program's pension contribution on behalf of P/T Faculty Members also shall be increased or decreased at the same time and to the same extent.

B. Eligibility: Contributions to the Pension Fund shall not be made by the Program on behalf of a P/T Faculty Member until he/she has taught, in each academic term of one (1) academic year, as a part-time classroom faculty teacher in the Program and/or in connection with the Program's private lessons. Once a P/T Faculty Member has established such eligibility, contributions to the Pension Fund shall be made by the Program, on his/her behalf, on the basis of his/her future Program earnings in accordance with the provisions of paragraph C below.

C. Gross Pay: For purposes of this Article, an eligible P/T Faculty Member's gross pay shall consist of his/her Program earnings derived from part-time classroom teaching in the Program and private lessons taught pursuant to the

Program. Effective September 1, 2001, it also shall include a P/T Faculty Member's earnings from evaluation and advisory services as provided for, respectively, in Article XXVI, Sections J and K, and from Committee Service as provided for in Article XII.

D. All contributions to the Pension Fund shall be made by check payable to "The American Federation of Musicians and Employers' Pension Fund" and shall be accompanied by a remittance form identifying, for each P/T Faculty Member for whom a contribution is made, the name, social security number, date(s) for which the contribution is based and wages on which pension is paid. The check and remittance form shall be transmitted to Local 802 for transmittal to the Fund within thirty (30) days of the payment to the P/T Faculty Member for services rendered during the period covered by the payment.

E. The Program shall be bound by the Agreement and Declaration of Trust establishing The American Federation of Musicians and Employers' Pension Fund, as may be amended from time to time, which is incorporated by reference into this Agreement.

ARTICLE XXIX: SEPARABILITY

Should any portion of this Agreement be held invalid by operation of law or by any court or administrative agency, or should compliance with or enforcement of any portion of this Agreement be restrained by such tribunal(s) pending a final determination as to its validity, the remainder of this Agreement shall not be affected thereby. Further, in such event and following receipt of written notice by either the Program or the Union of the desired amendments to address such invalidity, the parties immediately shall enter into collective bargaining negotiations for purposes of arriving at a mutually agreeable alternative during the period of invalidity or restraint.

ARTICLE XXX: TERMINATION AND RENEWAL OF AGREEMENT

This Agreement, subject to ratification by the University Board of Directors, the Local 802 Executive Board and the bargaining unit members, shall be in full force and effect from July 1, 2008 until June 30, 2011, and thereafter shall continue in effect unless notice of a desire to modify or terminate the Agreement was given by either party to the other, in writing and by certified mail, return receipt requested, at least sixty (60) days prior to the expiration of the Agreement; provided, however, that where neither party gives such sixty (60)-day notice of modification or termination prior to the expiration of the Agreement, the Agreement shall continue in effect until terminated or modified following notice by either party to the other, in writing and by certified mail, return receipt requested, of a desire to terminate or modify the Agreement, at least ninety (90) days thereafter.

ASSOCIATED MUSICIANS OF GREATER
NEW YORK, LOCAL 802, AMERICAN
FEDERATION OF MUSICIANS, AFL-CIO

By: _____

JAZZ AND CONTEMPORARY MUSIC
PROGRAM NEW SCHOOL UNIVERSITY

By: _____

June 6, 2001

Michael I. Bernstein, Esq.
Benetar Bernstein Schair & Stein
330 Madison Avenue, 39th Floor
New York, NY 10017-5002

Re: Mr. Archer's October 21st Letter

Dear Mr. Bernstein:

I have received a copy of the attached letter of October 21, 1998 from Robert Archer. In it he asks questions regarding the New School's sexual harassment policy and the guidelines regarding the procedures to handle such complaints.

I would respond to Mr. Archer's concerns as follows:

1. The nature, complexity and number of the allegations will affect the time it takes to complete an investigation and reach a determination. A thorough investigation is in everybody's interest. Certainly, the process need not take the year to year and one-half to which Mr. Archer alludes. But even if the University has yet to conclude its internal procedures, nothing with the procedures precludes anyone from preserving his/her rights by filing a claim with the EEOC within 300 days of the alleged harassment.

2. The entire process not only is investigatory, but contemplates vigorous fact gathering by the individual (at the academic division level) and by members of the University-wide Committee through the hearing. Further, the complainant and the alleged harasser are expected to identify and produce documents, witnesses and other information relevant to the establishment of the basic facts of the alleged harassing event or events.

3. Under the procedures, "[E]ither party to a case may appeal the decision [of the University-wide Committee] to the President." We also could, and would, construe the procedures to permit both parties to appeal the matter to the University-wide Committee (Step 3).

4. The heart of the process is its peer determination of the facts. Accordingly, the grounds of appeal to the President are limited, but quite

appropriate: (a) those instances where the party believes the procedures have not been followed reasonably or (b) where information is presented that previously had not been available. At the same time, the President has wide latitude to alter or modify the penalty, or to send the case back to the Committee for additional review.

5. It may be true that some sexual harassment policies contain “lay” examples of sexual harassment, but even that can be incomplete or misleading given the evolving state of the law. The policy refers to the EEOC definition and the proposed “No Discrimination” article, by its terms, is subject to substantive and procedural changes in the law.

6. The policy and procedure would be subject to the *Weingarten* doctrine and, accordingly, the process would allow for union representation, from the complaint stage forward. In the same vein, it also would allow for union representation of a complainant.

7. Personnel who are involved in sexual harassment investigations, including those individuals who may sit on any peer or other committee, are and will be trained.

8. The roles and interaction of faculty are clearly distinguishable from the roles and interaction of clericals in an educational institution. Further, faculty, unlike clericals, traditionally are subject to a collegial process. Accordingly, it is both reasonable and understandable that there be a different process for each of these constituencies.

I trust this answers Mr. Archer’s concerns and, if any questions remain, would be pleased to address those concerns as well.

Very truly yours,

Greggory Keith Spence

December 18, 1998

Dear Ms. Lanolfi:

1. Paragraph I of Article XXIV ("Arbitration") of the collective bargaining agreement provides, "The Arbitrator shall draw no adverse inference from the failure of a party to call a student as a witness." That, as we discussed, does not preclude a party, where appropriate, from attempting to call a student as a witness. Accordingly, this will confirm the right of the Union to ascertain from the Program the name and University address of a student witness in connection with its administration of the Dispute Resolution/Arbitration procedures, subject, of course, to the information being relevant and material to the matter at hand.

2. This will confirm that the policy and procedure on sexual harassment will be subject to the *Weingarten* doctrine inclusive of the Union's right to counsel an accused P/T Faculty Member within the parameters of that doctrine. In the same vein, this policy and procedure would allow for the Union to counsel a P/T Faculty Member in his/her capacity as a complainant.

Sincerely,

Michael I. Bernstein

MIB:emr