



# Producer-Writers Guild of America Pension Plan Writers' Guild-Industry Health Fund



Terence L Young, Chief Executive Officer

**TO: PARTICIPATING COMPANIES THAT ARE OR WILL BECOME SIGNATORY TO THE WGA 2011 THEATRICAL AND TELEVISION MINIMUM BASIC AGREEMENT**

**RE: PRODUCER-WRITERS GUILD OF AMERICA PENSION PLAN  
WRITERS' GUILD-INDUSTRY HEALTH FUND**

On May 2, 2011, we will enter the first period of the 2011 Minimum Basic Agreement (MBA).

- 1<sup>st</sup> period May 2, 2011 through May 1, 2012
- 2<sup>nd</sup> period May 2, 2012 through May 1, 2013
- 3<sup>rd</sup> period May 2, 2013 through May 1, 2014.

Network prime time minimums, other than network prime time minimums and daytime serial script fees will increase **2.0%** per year, compounded.

## **PENSION PLAN**

The signatory Employer is required to contribute to the Plan an amount equal to **7.5%** of all "gross compensation" (as that term is defined in Article 17 of the MBA) earned, paid, or due to writers. This rate is applicable to week-to-week and term reportable amounts as well as flat-deal contracts dated 5/2/11 or later. Optional services are reportable at the rate and ceiling in effect on the date the optional service is exercised (default to pay date if unknown). **The rate for pilots and the first season of a new one-hour series will remain at 6%.**

*\*In each of the 2<sup>nd</sup> and 3<sup>rd</sup> periods of the contract, the Guild will have the sole discretion to divert 0.25% from minimums to the Pension Plan.*

The Employer must identify contributions related to pilots and the first season of a new one-hour series using either:

- the Project Type field on the Report of Contributions (Field 19)\*\* using either code PILOT or NEW, as appropriate (whether submitted manually or electronically)
- Some other notification (e.g., email or correspondence) which accompanies the check or Report of Contributions (ROC) and clearly indicates the line items on the ROC which are exceptions from the 7.5% rate.

Failure to comply with this procedure will result in the Employer being charged interest on the delinquent 1.5% contribution.

\*\* See *Contribution Reporting Guide*. If you need a copy, please contact Employer Compliance at [www.employercompliance@wgaplans.org](mailto:www.employercompliance@wgaplans.org).

For flat-deal contracts dated on or after February 13, 2008, the reportable ceiling for theatrical motion pictures and long-form television motion pictures and multi-part, closed-end series (MOW's, mini-series), which are 120 minutes or more in length, remains at **\$225,000** for a single writer or *bona fide* team of two writers or **\$450,000** for a team of three writers. Theatrical residuals are not reportable.

### **HEALTH FUND**

The signatory employer is required to contribute to the Health Fund an amount equal to **8.5%** of all "gross compensation" (as that term is defined in Article 17 of the MBA) earned, paid, or due to writers for guaranteed flat-deal writing services covered under the terms of a WGA Collective Bargaining Agreement, provided the writer's employment contract is dated on or after November 1, 2004 or is employed on a week-to-week or term deal. Optional services are reportable at the rate and ceiling in effect on the date the optional service is exercised (default to pay date if unknown).

For flat-deal contracts dated on or after February 13, 2008, the reportable ceiling for long form television motion pictures and multi-part, closed-end series (MOW's, mini-series), which are 120 minutes or more in length, remains at **\$250,000** for a single writer or *bona fide* team of two writers or **\$500,000** for a team of three (3) writers. The Health Fund reportable ceiling for theatrical motion pictures remains at \$250,000 for contracts dated on or after November 1, 2004. Theatrical residuals are not reportable.

*\*In the 2<sup>nd</sup> and/or 3<sup>d</sup> periods of the contract, the Trustees may agree to increase or reduce the Health Fund contribution rate by up to 0.5%, in increments of not less than one-quarter (0.25%), by reducing or increasing minimums a corresponding percentage if they determine that additional contributions are needed/not needed to maintain the level of benefits in existence on May 1, 2011.*

### **TELEVISION REPORTING LIMITS (does not apply to MOW, mini-series as shown above)**

Contributions are due and payable on **the greater of** (i) the aggregate of 2 ½ times the applicable minimum as set forth in the MBA, or (ii) the initial compensation agreed upon in the individual employment contract. The applicable minimum is the "Other than Network Prime Time" rate for the services being rendered. (See Article 13.B.7. of the MBA). Residuals are reportable up to the ceiling per project. Supplemental market residuals are not reportable unless the project was originally made for a Supplemental Market.

### **RATES AND CEILINGS**

**Guaranteed flat-deal employment** (screenplays, episodic scripts, MOW's, etc.) is reportable at the contribution rate and ceiling in effect on the writer's contract date. **Optional services** are reportable at the contribution rate and ceiling in effect on the date the optional service is exercised (default to pay date if actual date is unknown).

**WEEKLY AND TERM EMPLOYMENT**

The Health Fund contribution rate payable on week-to-week and term employment is the rate in effect during the work week (see charts below for Article 14.K. "Writers Employed in Additional Capacities" a/k/a Writer-Producers/Showrunners/Hyphenates and Article 14.E.2. "Additional Capacity Television Development Writers").

<b>ARTICLE 14.K. – 20 or more weeks</b>	<b>Weekly Reportable Pension and Health Amount</b>	<b>Pension Plan Rate</b>	<b>Health Fund Rate</b>
May 2, 2011 – May 1, 2012	\$5,830	7.5%	8.5%
May 2, 2012 – May 1, 2013	\$5,947	7.5%	8.5%
May 2, 2013 – May 1, 2014	\$6,066	7.5%	8.5%

<b>ARTICLE 14.E.2. – Additional Capacity Television Development Writers</b>	<b>Weekly Pension Reportable (\$250,000/year) Effective 5/2/11</b>	<b>Weekly Health Reportable (\$250,000/year)</b>	<b>Pension Plan Rate Effective 5/2/11</b>	<b>Health Fund Rate</b>
May 2, 2011 – May 1, 2012	<b>\$4,807.69</b>	\$4,807.69	7.5%	8.5%
May 2, 2012 – May 1, 2013	<b>\$4,807.69</b>	\$4,807.69	7.5%	8.5%
May 2, 2013 – May 1, 2014	<b>\$4,807.69</b>	\$4,807.69	7.5%	8.5%

**SIDELETTER TO ARTICLE 14.E.2.**

When a writer is employed under a development deal as stated in Article 14.E.2. and, under the same contract, is employed to perform Article 14.K. services on a series for which the writer receives additional money which is not creditable, contributions shall be payable as set forth in Article 14.E.2. for the full term of employment and shall be paid on the non-creditable Article 14.K. services, except for those periods of time when the writer is not performing development services and is receiving Article 14.K. compensation on the series outside of the Article 14.E.2. guarantee (a/k/a fresh cash). In that case, contributions shall be payable on the non-creditable Article 14.K. minimum, script fees, program fees and on 50% of the amount otherwise due under Article 14.E.2.

**WHEN IS COMPENSATION REPORTABLE**

Generally, **the writer's initial compensation is reportable in the month in which it is earned, not the month in which it is paid.** Residuals are reportable in the month in which the program re-airst, default to the month paid if air date unknown or not applicable. **Salary advances are reportable when the writer is paid.** The Trusts will not bill for contributions unless we discover a delinquency. It is the responsibility of the Signatory Employer to make contributions in a timely manner. Please note that under ERISA, the Trusts are required to charge interest on delinquent contributions.

**PURCHASE OF LITERARY MATERIAL - IRS Code Section 401(a)(17)**

Compensation for the purchase of literary material from a "professional writer" is reportable up to the IRS limit (\$245,000, effective 1/1/09) if the same writer is also hired to perform additional writing services such as a rewrite or polish on the project. Compensation for the purchase and hired services are reportable up to the ceiling per project.

**NOT REPORTABLE**

Options, clips, royalties, character payments, separated rights, interest, late fees, expenses, publication fees, trainee salary.

**REPORTABLE**

Story Editors, regardless of title (e.g. Story Supervisor, Creative Consultant, etc.) are 100% reportable.

Please contact the Trusts for more information.

**BONUS**

A bonus is reportable up to the ceiling per project (ceiling determined by writer's contract date).

**TEAMS**

A *bona fide* two person writing team usually shares the compensation and ceiling equally. An unequal division of compensation requires the approval of the Writers Guild of America. The percentage of compensation paid to each writer will determine the allocation of the ceiling. If a writer earns 75% of the reportable compensation, he/she is reported on 75% of the ceiling. A *bona fide* team of two writers is considered one writer for the ceiling calculation.

**MEMBERSHIP**

Membership in the Guild is not required for compensation to be subject to contributions. Any writer performing covered services for a signatory employer is reportable. Please contact the Guild for more information if your writer is performing services outside the United States.

**SERIALS COVERED UNDER ARTICLE 13.B.5. OF APPENDIX A**

For serials covered under Article 13.B.5. of Appendix A, the reportable ceiling for a single writer or *bona fide* team of 2 writers per Company per calendar year is \$350,000 or \$700,000 per Company per calendar year for a team of three (3) writers.

**10% OWNER REPORTING REQUIREMENTS**

In order to curtail practices which appear to circumvent the intent of the Trust Agreements and create a drain on the assets of the Trusts, on January 1, 2001, the Board of Directors/Trustees adopted the following revised rules of the Trusts governing eligibility for benefits thereunder:

- Contributions on the Writer's compensation do not count toward the Writer's eligibility for benefits when the Writer directly or indirectly owns

ten percent (10%) or more of the equity of the contributing employer\*, or where a contributing employer is a non-profit entity as defined under Internal Revenue code, for which a writer is an officer, board member, director (or serves in another similar capacity of such non-profit), and the employer hires the Writer to perform only writing services unless an unrelated third party directly utilized and paid for the Writer's services. In no event shall contributions be due on amounts in excess of the amounts paid by the third party to the contributing employer for covered services.

- Contributions on the Writer's compensation do not count toward the Writer's eligibility for benefits when the Writer directly or indirectly owns ten percent (10%) or more of the equity of the contributing employer\*, and the Writer performs writing and other services (other than under Article 14 of the Basic Agreement). Contributions do not count toward eligibility under this provision even if the contributing employer is hired by an unrelated third party.

**Notwithstanding the above**, contributions will count toward eligibility for benefits if the contract with the unrelated third party specifically states the amount allocated for such Writer's covered writing services. In this case, contributions shall be due on the greater of the amount so specified or the Basic Agreement's minimum for such writing services.

In addition, if the contract with the unrelated third party does not specifically state the amount allocated for such Writer's covered writing services, contributions will count toward eligibility for benefits when contributions are based on the **lower** of one of the following:

- (a) five percent (5%) of the total compensation the contributing employer received from the unrelated third party for producing **non-dramatic programming**\*\*\* or ten percent (10%) of the total compensation the contributing employer received from the unrelated third party for producing **dramatic programming**, or
- (b) at least \$125,000\*\*

In either case (a) or (b), the employer must contribute on at least the Basic Agreement's minimum for writing services.

\*The term "indirectly owns...the equity of the contributing employer," includes (a) equity ownership by the Writer's spouse, the Writer's (or spouse's) parent, sibling or lineal descendant, or (b) funding of the employer by the Writer or the Writer's spouse, the Writer's (or spouse's) parent, sibling or lineal descendant.

\*\*The Fund's actuary estimated that contributions on compensation of \$125,000 were the amount necessary in 2000 to pay the cost of the annual Health Fund coverage for an eligible active participant. Periodically, this figure will be

adjusted to approximate the annual cost to the Health Fund of coverage. Note – the current cost of a year of coverage is \$141,859.

\*\*\*For this purpose, “non-dramatic programming” includes all types of programming other than those that are specifically dramatic in nature (e.g., comedy-variety, documentary, quiz and audience participation).

### **New Media – 100% Self-Funded Owner/Writer**

- If the Owner/Writer does not receive any outside financing and is **fully self-funded**, contributions on the Owner/Writer’s compensation will count towards the Owner/Writer’s eligibility for benefits when there is a legitimate project produced and distributed. Contributions are payable upon first receipt of revenues\* and are deemed earned and due at that time. The writing fee reportable amount would be 10% for Dramatic programming or 5% for Non-Dramatic programming based on the actual production budget.

\*Revenues are fees received from an unrelated third party for availability or exhibition of the project, *i.e.*, program(s) or series, on New Media, including but not limited to, the internet and mobile devices (such as cell phones and PDA’s).

**Note: If the New Media Owner/Writer’s project is not 100% self-funded, the “10% Owner Reporting Requirements” and “Other Reporting Requirements” provided herein will apply to the Owner/Writer.**

### **OTHER REPORTING REQUIREMENTS**

- Contributions on the Writer’s compensation do not count toward the Writer’s eligibility for benefits when the Writer is employed for writing and other services (other than under Article 14 of the Basic Agreement) and the Writer’s contract does not separate writing compensation from compensation for other services unless the employer contributes on the lower of:
  - (a) one hundred percent (100%) of the Writers’ total compensation under the contract, or
  - (b) \$125,000\*\*

**Please call the Employer Compliance Department for more information on the Owner/Writer reporting requirements to confirm that your project is covered under these rules.**

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Please contact the Contribution Processing Department for information regarding electronic submission of your Report of Contributions at (818) 846-1015 or at [contributions@wgaplans.org](mailto:contributions@wgaplans.org).

You can obtain a copy of the reporting rules and report of contributions on the Contributions tab at [www.wgaplans.org](http://www.wgaplans.org).

If you have any questions, please feel free to contact the Administrative Office at (818) 846-1015 or at [employercompliance@wgaplans.org](mailto:employercompliance@wgaplans.org)

Thank you.