

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

**ARTICLE 1**  
**RECOGNITION AND GUILD SHOP**

1-100      **RECOGNITION AND GUILD SHOP**

1-101      **RECOGNITION**

The Producer recognizes the Guild as the sole bargaining representative of all Directors, Unit Production Managers, First Assistant Directors, and Second Assistant Directors (hereinafter referred to as “Employees”) working in the production of television commercials now or hereinafter employed by the Producer.

1-102      **GUILD SHOP**

- (A)      The Producer shall employ in all positions covered by this Agreement and maintain in its employ in such positions members of the Guild or persons as shall make applications for membership in the Guild within thirty (30) days after the date of hiring, unless a shorter period is permitted by applicable law. Notwithstanding anything contained herein to the contrary any Director or any person performing the duties of a Director employed by the Producer during the term of this Agreement shall be a member of the Directors Guild of America or shall make application for membership within forty-eight (48) hours of employment by the Producer. Provided, however, that nothing in this Article shall be construed to require the Producer to cease employing or refrain from employing any such person if the Producer has reasonable grounds for believing that:
- i.          Membership in the Guild was not available to him/her on the same terms and conditions generally applicable to other members or applicants; or
  - ii.        Membership in the Guild was denied or terminated for reasons other than his/her failure to tender the periodic dues and the initiation fees uniformly required by the Guild as a condition of acquiring or retaining membership.

The term 'member of the Guild' means a person who offers to pay (and if the Guild accepts the offer, pays) union initiation fees and dues as financial obligations in accordance with the requirements of applicable law.

- (B) The parties agree that whenever a Producer engages any person not a member of the Guild, it shall be the duty of the Producer to notify the Guild in writing within forty-eight (48) hours of the Producer's intention to engage such person. In the event that the Guild shall in writing inform the Producer that such person had previously been engaged for at least thirty (30) days (unless a shorter period is permitted by applicable law) as a Director, Unit Production Manager or Assistant Director, then the Producer thereupon shall agree that such person shall immediately become a member of the Guild. Such statement from the Guild shall be deemed final with respect to such person.
- (C) An individual written employment report (see attached Exhibit A, "Deal Reporting Memorandum") must be filed by the Producer with the Guild within twenty-four (24) hours of the hiring on staff of any Unit Production Manager, First or Second Assistant Director. Such report shall contain the following information: name, address, social security number, date of hiring, gross wages and guaranteed period. Said report will be signed by a responsible executive of the Producer and by the bargaining unit member. In the alternative, the above report may be supplied by the Producer by telephone to the appropriate Guild office prior to the start of employment, to be confirmed in writing within twenty-four (24) hours, or in extreme cases, upon return to home base.

In addition, for all commercial productions, a Commercial Project Listing Form (CPLF) shall be submitted to the Guild. See Article 1-303 (B) (viii) and Exhibit B, attached.

- (D) An inquiry by the Guild to any Producer as to the "date of first employment" of a Director shall be answered promptly by the Producer.
- (E) In hiring persons other than Directors to perform services covered by this Agreement, preference shall be given by signatory companies to persons who have acquired the necessary skills through prior experience as Unit Production Managers, and First and Second Assistant Directors of the Producer or of other employers engaged in making motion pictures. The preference of employment of all such qualified persons having such prior experience shall be equal, and the Producer shall have complete freedom

of selection among all such persons. The procedure for hiring Unit Production Managers and Assistant Directors is set forth in Article 6-300. It is agreed that membership in the Guild shall not be a condition of hiring, that the Producer shall administer its hiring practices without discrimination by reason of membership or non-membership in the Guild, and that the ultimate right to accept or reject any Employee is retained by the Producer.

- (F) In case of repeal or amendment of the Labor Management Relations Act of 1947, or in case of new legislation rendering permissible any union-security to the Guild greater than that specified in the foregoing Article 1-102, then such greater union security provision shall automatically be deemed substituted in lieu hereof. In such event, and if permissible under law, the Guild agrees to supply adequate, competent and qualified Unit Production Managers and First and Second Assistant Directors for the job requirements of the Producer in the classifications covered by this Agreement. If the Guild fails to do so, the Producer may secure such Unit Production Managers, First and Second Assistant Directors from any source.
- (G) Nothing herein shall be interpreted as requiring either party to take any action or to refrain from taking any action in violation or contravention of any applicable federal or applicable state law.

**1-200        DEFINITIONS**

1-201        COMMERCIAL or TELEVISION COMMERCIAL

- (A) The word "commercial" or phrase "television commercial," as used in this Agreement, shall mean the traditional production of motion picture advertising made on film, tape or otherwise, whether by means of motion picture cameras, electronic cameras or devices not yet known, without regard to their manner of distribution which production involves the performance of job duties defined in the Agreement. Any commercial as defined above is covered by the terms of this Agreement.
- (B) Tests, talent tests, test commercials, auditions or any other productions included for use or in connection with use as advertising or advertising testing without regard to their manner of distribution, shall be included in the definitions of "commercial" and "television commercial" contained in Article 1-201(A).

- (C) The word "Camera," for the purpose of this Agreement, shall mean any device used to take and/or record motion pictures.

1-202

#### **GEOGRAPHIC SCOPE OF AGREEMENT**

- (A) The provisions of this Agreement shall apply only to work on television commercials based in the United States and performed in the United States (including its territories and dependencies) and Canada; provided, however, that the provisions of this Agreement shall also apply to work performed by any person employed by the Employer in the United States to direct or to be a Unit Production Manager or an Assistant Director on a television commercial based outside the United States (including its territories and dependencies). If the Director is so employed in the United States and is sent, by the Employer, outside the United States, as defined, for photographing of principal photography on a television commercial produced by Employer, then a First Assistant Director need not be sent to any foreign production where an applicable foreign labor restriction, quota or law prohibits such an assignment or where such an assignment would result in the loss of a foreign production subsidy. The Employer shall give the Guild prompt written notice when a First Assistant Director cannot be taken due to any of the foregoing conditions.
- (B) In those situations where an applicable foreign labor restriction, quota or law prohibits the assignment of a First Assistant Director from the United States or where such an assignment would result in the loss of a foreign production subsidy, the Employer shall give preference of employment to DGA-represented First Assistant Directors (i) who reside in the country where production is taking place; or (ii) who hold a work permit or are otherwise eligible to work in said country and are eligible for employment as a local hire (i.e., the assignment does not require that the Employee be transported to that country for employment).

**1-300**

#### **DEFINITIONS OF EMPLOYEES RECOGNIZED**

1-301

#### **DIRECTOR**

- (A) It is understood that the term "Director" or "directing" includes directing all related functions and activities required for translating and transferring the premise, idea and/or concept to the audio-visual images. These directorial functions shall include, but are not limited to:

- i. Surveying and approving all locations and their use as they pertain to the directorial concept and need.
- ii. Directorial planning and breakdown of the shooting script.
- iii. Plotting the camera angle and compositions within the frame.
- iv. Participation in determining the requirements of the set, costumes, make-up, props, etc., for their proper directorial perspective and mechanical functioning.
- v. Participation in the final casting of all performers.
- vi. Rehearsing actors, extras, and any of the visual and audio devices necessary for the completion of the production.
- vii. Directing the action of all actors, extras.
- viii. Directing the dialogue as well as pre-recording and post-recording of dialogue.
- ix. Directorial supervision of the duties of the entire crew during the rehearsal and shooting periods.
- x. Making such script changes as necessary, within his/her jurisdiction, for the proper audio-visual presentation of the production.
- xi. The right to the first cut.

The Director's function is to contribute creatively to all the above elements, to guide, mold and integrate them into one cohesive, dramatic and aesthetic whole, and to direct whatever is seen and heard in the finished product.

- (B) It is the understanding and agreement of the parties hereto that the rights, functions and responsibilities of Directors will be preserved and protected against erosion. To that end, the parties agree that the provisions as specified herein shall be so construed as to foreclose and prevent practices which invade the rights, functions and responsibilities of Directors and threaten the stability and security of the industry.

- (C) No one but a Director member of the bargaining unit shall direct all, or a part of production, such as, but not limited to pre-recording, final casting, approval of location, sets, costumes, etc., as well as principal photography, first cut, post-recording.
- (D) In order to preserve the work which has been traditionally performed by Directors in the bargaining unit, it is agreed that, unless required to do so by his/her client, no signatory to this Agreement will demand or require the inclusion in the finished commercial production of any component part or parts not created under the direction of a member of the bargaining unit, unless said component or components constitute what is customarily known in the industry as "stock material," defined as material created for general usage and not for utilization in the particular finished production to be directed by the bargaining unit member.
- (E) Violation of any part of this Article 1-301 (A-D) shall, after reasonable notice to the Producer, be deemed a breach of contract sufficient for the Guild to withhold services until the Producer complies herewith. Further, this is in no way intended to infringe upon the rights and functions of any recognized crafts within the industry or participation of the Producer as set forth in Article 7-110.
- (F) A Director shall be engaged and assigned by the Producer for each production and further, every Director so engaged and assigned must be an Employee of, and paid by the Producer with regard to such employment. The Director, once engaged by the Producer and assigned to direct a specific television commercial (or self-contained segment thereof) shall continue to direct such commercial or self-contained segment, regardless of any change in the geographical location of the production thereof.
- (G) The Director shall be present on the set whenever shooting is in progress.
- (H) A Director shall always be afforded proper Guild staffing as required by this Agreement.
- (I) The services of the Director as a producer or writer, or in any other capacity, shall not serve to remove the Director from the classification of Director, with reference to directorial work performed by him/her during the period of such work.
- (J) Notwithstanding the fact that he/she may be a Director and member of the Guild, no employee or principal of an advertising agency may serve as a

Director of any commercial for which his agency represents the sponsor, unless such agency is a signatory to an agreement with the Guild.

- (K) The Producer shall use its best efforts to obtain Director cuts. The parties acknowledge, however, that there are questions of ownership rights and other legal issues which must be discussed and resolved.

1-302

#### UNIT PRODUCTION MANAGERS

- (A) The Unit Production Manager (“UPM”) specifically coordinates, facilitates and oversees the pre-production of the production unit or units assigned to him/her, and, in addition, manages all off-set logistics, has executive authority to make day-to-day production decisions, determine locations, establish and control budget, lay out schedules and supervise personnel, all under the supervision of the Producer. The prime responsibility of the UPM is to conduct the business of the unit or units assigned to him/her.
- (B) Among the duties of the UPM are the following:
  - i. Prepares script breakdown and preliminary shooting schedule.
  - ii. Prepares budget.
  - iii. Preliminary search and survey of locations and the completion of business arrangements for the same.
  - iv. Works ahead of Director in the preparation of the production to ensure continuing efficiency.
  - v. Completes Production Report for each day’s work, showing work covered and the status of production, and arranges for the distribution of that report in line with the Producer’s requirements.
  - vi. Arranges for transportation and housing of cast and crew and staff.
  - vii. Secures the release for all locations and personnel.
  - viii. Maintains a liaison with local authorities regarding locations and the operation of the Producer.

**AICP Companies: see Paragraph 15 of the AICP Sideletter.**

## FIRST ASSISTANT DIRECTORS

- (A) The First Assistant Director (“1<sup>st</sup> AD”) is the one who is assigned by the Employer as 1<sup>st</sup> AD. The 1<sup>st</sup> AD specifically organizes the entire spectrum of pre-production preparation, including organizing the crew, securing equipment and cast, and breaking down the script (or story board) into a shooting schedule. During production, he/she relieves the Director of all on-set production details, coordinates and supervises crew and cast activities, and facilitates an organized flow of production activity. The 1<sup>st</sup> AD can assume the responsibilities of the UPM. His/her prime responsibility is to service and assist the Director.
- (B) Among the duties of the 1<sup>st</sup> AD are the following:
- i. Prepares final shooting schedule, keeping within time limitations imposed by budget, cast availability and complete coverage of the script.
  - ii. Searches and surveys all locations, except when done by the Director of the project, to obtain the Director’s approval and to ascertain the specific requirements of those locations as they might affect the production.
  - iii. Checks weather reports.
  - iv. Determines cast and crew calls.
  - v. Supervises the preparation of the Call Sheet for the cast and crew to advise them of each day's work.
  - vi. Directs background action and supervises crowd control.
  - vii. Secures all cast contracts and extras releases, and is responsible for securing the signature of talent employed, verifying their categories, provided that the talent contracts and names and designations have been delivered to the AD prior to the first call for such talent.
  - viii. Completes the **DGA Commercial Project Listing Form** (see Exhibit B, attached) on every project covered by this Agreement involving the assignment of a Director for one (1) or more shoot days. Such form shall be signed by an authorized Producer

representative and submitted by fax and US Mail to the Guild prior to the first day of shooting. In the event a DGA 1<sup>st</sup> AD is not assigned to a project, the completion of the **DGA Commercial Project Listing Form** and submission to the Guild shall be assigned to a different employee by the Producer.

1-304            **SECOND ASSISTANT DIRECTORS**

The Second Assistant Director (“2<sup>nd</sup> AD”) is the one who is assigned by the Producer as an assistant to the 1<sup>st</sup> AD in conducting the business of the set or the location site. As such, the 2<sup>nd</sup> AD shall perform such duties as may be reasonably required of him/her by the 1<sup>st</sup> AD, UPM or the Producer.

1-305            **EXCLUSIVE JURISDICTION**

The duties of the Director, UPM, 1<sup>st</sup> AD and 2<sup>nd</sup> AD shall be within the exclusive jurisdiction of the Guild. The work of each category shall be performed exclusively by Employees in such categories and no one other than an Employee employed in a DGA category may assist the AD or UPM. However, this language shall not be construed as prohibiting the delegation by the Producer of routine ministerial functions to other persons.