

**MEMORANDUM OF AGREEMENT FOR
DIRECTORS GUILD OF AMERICA – ASSOCIATION OF
INDEPENDENT COMMERCIAL PRODUCERS
NATIONAL AGREEMENT OF 2017**

This Memorandum of Agreement is entered into between the Directors Guild of America, Inc. (“DGA”) and the Association of Independent Commercial Producers, Inc. (“AICP”) on behalf of those production companies that have authorized it to negotiate and execute this Memorandum of Agreement on its behalf. Each such production company is hereinafter referred to as the “Employer” or “Producer.”

The terms of the National Commercial Agreement of 2014 (including all side letters) shall be incorporated in the Directors Guild of America – Association of Independent Commercial Producers National Agreement of 2017 (“Agreement” or “NCA”) except as modified below and subject to conforming changes. The terms of this Memorandum of Agreement shall prevail over any inconsistent provision in the 2014 NCA. The language in this Memorandum is not in contract language, except when so designated or when the context clearly indicates otherwise.

This Memorandum of Agreement shall require approval by the Directors Guild of America’s National Board of Directors and ratification by the members of the Directors Guild of America. Upon ratification, the provisions herein shall be effective as of December 1, 2017, except as otherwise stated.

1. Term

The term of the 2017 NCA shall be from December 1, 2017 through and including November 30, 2020.

Article 10 (“Duration of Agreement”) shall be modified to read as follows:

“Section 10-100 DURATION OF AGREEMENT

(A) This Agreement shall be effective as of December 1, 2017 and shall be terminated at midnight on November 30, 2020, unless sooner terminated as herein provided. The parties agree that sixty (60) days prior to November 30, 2020, they shall in good faith negotiate with respect to a new agreement to take place upon termination hereof.”

(B) AICP Member production companies who are parties to the 2014 NCA and who have as of April 1, 2018 submitted written authorizations to AICP shall be party signatories to the 2017 NCA. AICP production companies who are not party signatories to the 2014 NCA, and new AICP production companies members, after the effective date of the 2017 NCA may become party signatories to the 2017 NCA at anytime during the term thereof by filing signatory documents with the AICP.

2. Compensation

Minimum salaries in the 2017 NCA shall be increased as follows:

The minimum rates of pay (daily and weekly) for Directors, Unit Production Managers, First Assistant Directors, Second Assistant Directors and Second Second Assistant Directors shall be increased by 2.5% effective December 1, 2017, by an additional 3% effective December 1, 2018 and by an additional 3% effective December 1, 2019.

In addition to such general wage increases, minimum rates of pay (daily and weekly) for Second Assistant Directors shall be increased by an additional 2.25% effective December 1, 2017.

3. Pension and Health

- A. Amend Article 3-101 to increase the rate upon which contributions are made to the Pension Plan by 0.5% effective December 1, 2017.
- B. The DGA shall have the right to allocate up to one-half percent (0.5%) of the negotiated wage increases in each of the second and third years of the Agreement to the Employer contribution rates to the Directors Guild of America-Producer Pension Plan or to the Directors Guild of America-Producer Health Plan. The DGA shall give notice of any such election applicable to the second and third years of the Agreement to the AICP at least six (6) months prior to December 1, 2018 and December 1, 2019, respectively.
- C. Amend Article 3-104(A) of the AICP Sideletter to increase the presumed annual earnings of Principal Directors by 2% each year of the Agreement.
- D. Amend Article 3-104(B) of the AICP Sideletter to increase the presumed salary for Non-Principal Directors one-time to \$9,500 on December 1, 2017.

- E. Amend Article 3-104(C) of the AICP Sideletter to increase the presumed annual earnings of Principal UPMs, Staff UPMs, Principal ADs and Staff First ADs by 2% each year of the Agreement.
- F. Amend Article 3-104(D) of the AICP Sideletter to increase the presumed annual salary of Staff Second ADs by 2% each year of the Agreement.

4. Live Commercials

Replace Article 7-112 as follows:

“EMPLOYMENT ON ‘LIVE & TAPE’ COMMERCIALS

An Employee who performs any of the duties of a Director set forth in Article 2, Section A of the DGA Freelance Live and Tape Television Agreement (“FLTТА”) on a commercial shall receive no less than the applicable minimum salary for a twelve hour day as set forth in Sideletter 2 of the FLTТА for each day of employment. All other terms and conditions of employment shall be the terms and conditions applicable to Directors under the NCA, except that Paragraph 1 of the AICP Sideletter will not apply to Directors performing FLTТА Article, Section A duties only.

For the avoidance of confusion, the Director of a commercial who performs the duties set forth in Article 1-301 of the NCA, but also performs duties covered by FLTТА Article 2, Section A incidental to his or her primary assignment, shall continue to be covered in full by the terms of the NCA and AICP Sideletter.

An Employee who performs any of the duties of an Associate Director or Stage Manager set forth in FLTТА Article 2, Sections B & C on a commercial shall receive no less than the applicable minimum salary for a twelve hour day as set forth in FLTТА Article 10, Part 2, Sections A & B for each day of employment. Additional Stage Managers shall receive no less than the Second Assistant Director minimum salary set forth in Article 5-201 of the NCA for each day of employment. All other terms and conditions of employment shall be the terms and conditions applicable to Assistant Directors under the NCA, except that Associate Directors and Stage Managers shall not be required to be on a Commercial Qualification List. Associate Directors and Stage Managers must meet employment criteria set forth in FLTТА Article 10, Part 3, Section A.”

5. Director Fee Payment

Amend Article 4-101 and add new subparagraph (D):

“A Director shall be paid total gross compensation, excluding profit participation, associated with a specific production no later than the period provided in applicable state law.”

6. Safety Training

Add new Article 6-102:

“MANDATORY SAFETY TRAINING

The Directors Guild – Producer Training Plan Safety Passport Training Course (“Course”), which includes the CSATF ‘A’ course and any training specific to a particular region, all of which training shall be made available online, shall be mandatory for all Unit Production Managers and Assistant Directors hired in the United States under this Agreement on or after November 30, 2018.

It is understood that the Training Program Trust Fund will fund all aspects of the mandatory training, including a stipend to Employees who attend the Course at a rate not less than that paid to employees covered under the DGA Basic Agreement.

The Commercial Qualification List shall be updated to reflect an individual’s successful completion of the Course. For individuals not on any Qualification List, the parties, in consultation with the Training Program Administrator, will devise a method to reflect the individual’s successful completion of the Course.

Any Unit Production Manager or Assistant Director who fails to successfully complete the Course by November 30, 2018, or ninety (90) days from their initial date of employment (whichever is later), will be suspended by the Commercial Qualifications Administrator from the Commercial Qualification List until he or she successfully completes the Course. Upon successful completion of the Course, any such Unit Production Manager or Assistant Director who was suspended from the Commercial Qualification List shall regain his or her status on the Qualification List. Any individual not on a Qualification List who fails to successfully complete the Course, will be ineligible to work until he or she successfully

completes the Course. Upon successful completion of the Course, any individual not on the applicable Qualifications List shall regain eligibility for employment.

Completion of the Course shall be a condition of initial placement on the Commercial Qualifications List for any placement occurring on or after December 1, 2018.

As part of the implementation of this mandatory training, the DGA shall, by June 30, 2018, provide notice to the AICP of those individuals on a Commercial Qualifications List who have not yet completed the Course.

During the first six months of the implementation of this provision after December 1, 2018, no Producer shall be in violation absent prior notice from the DGA to that Producer that an Employee has not completed the Course.”

7. Diversity

Add new subparagraph to Article 7-108 as follows:

“In addition to meetings set forth in 7-108 (F), representatives of the DGA and the AICP Advisory Board, including the administrator of the Diversity Program, shall meet three times annually, if practicable, to discuss progress of the Program and explore opportunities for the Parties to support further development and expansion of the Program.”

8. Non-Disclosure Agreements

Amend and modify Article 7-115 and add attached Exhibit “J” to the Agreement:

“Employees may be required to sign a the Non-Disclosure Agreement set forth in Exhibit “J”. ~~which may require the Employee to keep in confidence the substance and content of the production and may include a limitation on the use of cell phones and cameras on set.~~

Such Agreements shall be for the exclusive purpose of ensuring confidentiality, and shall neither limit an Employee’s ability to perform covered duties, nor grant any party the right to utilize the Employees voice, likeness, actions and statements in any audio, video, or photographic display or other recording.

Nothing herein shall preclude any party from contracting separately with an Employee for the right to utilize his or her voice, likeness, actions and statements in audio, video, or photographic displays or other recordings.”

9. Outbound Travel Day Outside North America

Amend 5-310(C) as follows:

“An Employee who travels to a distant location shall have all travel time counted as time worked and paid for such, except that travel on the sixth (6th) or seventh (7th) day or a holiday to a distant location shall be paid at one-fifth (1/5) the weekly rate, or one (1) day’s pay at the daily rate for each travel day, providing no work has been performed on such sixth (6th) or seventh (7th) day or holiday. In addition, for commercials that start outside North America, or are entirely shot outside North America, the outbound travel day shall not start the work week for purposes of calculating subsequent sixth (6th) and seventh (7th) day payments provided no authorized work is performed by the Employee on that travel day.”

10. Contract Publication

The Guild and the AICP will use their best efforts to have the new contract published no later than 3 months following ratification by the Guild.

11. Preference of Employment Overseas

Amend 1-202(B) and AICP Sideletter Paragraph 13 (C) as follows:

“1-202 (B) In those situations where an applicable foreign labor restriction, quota or law prohibits the assignments 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). A First Assistant Director employed pursuant to this provision who does not live within commuting distance of the location of the commercial may, subject to individual negotiation, be employed as a local hire pursuant to this Agreement.”

“13 (C) In such situations, the Employer shall give preference of employment to DGA 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). A First Assistant Director employed pursuant to this provision who does not live within commuting distance of the location of the commercial may, subject to individual negotiation, be employed as a local hire pursuant to this Agreement.”

12. 1AD Prep

Amend 5-308 (E) as follows:

“(E) When the 1st AD resigns voluntarily from an assignment, the replacement 1st AD will be paid only for the prep days actually worked. The Employer will give the Guild prompt written notice when a 1st AD is replaced and submit a revised CPLF. Notwithstanding the foregoing, there shall be no mandatory day of preparation for a replacement AD, provided the minimum prep period has been afforded to the prior 1st AD.”

13. Rest Period

Amend Article 5-305 as follows:

“An eight (8) hour rest period shall be provided between calls. If such rest period is not provided, Employees shall receive an additional one (1) day’s pay for each period of six ~~(6) five (5)~~ hours or portion thereof worked until an eight (8) hour rest period is provided.

14. Overtime Calculations

Add new section 16 to the AICP Sideletter modifying 5-303 with respect to 1ADs only:

“For purposes of the thirteenth (13th), fourteenth (14th) and fifteenth (15th) consecutive work hours, overtime payment shall be made in half-hour increments.

Add OT multiplier table as follows with respect to 1ADs only:

Hour	Multiplier
13	1.75
14	2.000
15	2.333
16	7.917
17	0.000
18	14.00

15. AICP Administrative Fund

Add the following Article 3-109 to the NCA:

“Commercial Industry Administrative Fund: The AICP shall establish or has established a Commercial Industry Administrative Fund (“CIAF”). The CIAF shall be utilized solely for the purposes of defraying the cost and expenses of the AICP incurred in labor relations, contract negotiations with the Guild and ongoing contract administration including, but not limited to, administration, legal fees, consultant fees, staff costs, web site and seminar costs, publication and distribution of contract/negotiation/administration related bulletins, labor relations costs and costs involved in administering the grievance and arbitration process. The funds of the CIAF shall not be used to support non-Guild productions, discourage or undermine membership in the Guild, nor fund any actions adverse to the Guild, or the Guild’s members including, but not limited to, litigation, administrative proceedings, lockouts or strikes, and legislative activities. It is agreed that such adverse actions do not include the administration or negotiation of the Agreement or actions taken in the protection of this Agreement’s provisions, rights and remedies in any forum.

The CIAF shall be funded by Employer contributions in the amount equal to 0.25% of the compensation base upon which the Employer makes contributions to the DGA-Producer Pension & Health Plans for each such Employee. Contributions to the CIAF shall be paid to the AICP (or its designated collecting fund) and held in a separate AICP (CIAF) account (or by its designated collecting fund for transmittal to AICP) and administered as determined by AICP in accordance with the purposes of the CIAF as set forth in this Section. The AICP on behalf of the CIAF, or AICP’s assigns or designee (not the Guild) shall be responsible for enforcement of delinquent contributions to the CIAF and such parties, or any of them, in their own name shall have all enforcement rights, remedies and procedural standing to maintain any action or proceeding, at law or equity, necessary to audit and/or recover delinquent contributions along with court cost, reasonable attorney’s fees, and pre-judgement interest.”

16. Geographic Scope

Amend AICP Sideletter 13:

- (A) Notwithstanding the Geographical Scope provisions set forth in Article 1-202 of the Agreement, an Employer shall not be required to transport a First Assistant Director from the United States ~~on commercial shoot days outside North America~~ where the commercial involves three or fewer foreign shoot days outside North America or where the commercial's total production costs (excluding "Editorial and Finishing" and "Talent Costs & Expenses") as set forth on the AICP Film Production Cost Summary do not exceed ~~\$300,000~~ \$350,000.
- (D) On a commercial shot entirely ~~with shoot days~~ outside North America where the Employer transports a First Assistant Director from the United States where the total production costs (excluding "Editorial and Finishing" and "Talent Costs & Expenses") as set forth on the AICP Film Production Cost Summary do not exceed ~~\$450,000~~ \$500,000, the terms and conditions of the First Assistant Director's employment shall be individually negotiated. Pension and Health contributions shall be paid on the minimum rates of pay set forth in Article 5 of this Agreement. Producer shall submit to the Guild, no later than thirty (30) days after the last shoot day, the AICP Film Production Cost Summary. Upon request, the Producer will submit verification of the final budget for such commercial. The Guild shall have the right to audit records related to the cost of the commercial.

17. Assistant Director Assignments

Amend AICP Sideletter 3(A) as follows:

"Members of the AICP shall not be required to employ a 1st AD on any particular production unit unless there are more than six (6) persons (of whom not more than ~~one (1)~~ two (2) may be a member of the cast), exclusive of the Director, employed by the AICP member for said production unit."

18. Housekeeping

Amend Article 3-104 (B)-(D) as follows:

- “(B) With respect to Directors, UPMs and ADs (who are not Principals) who are engaged to work solely in a DGA-covered capacity, total gross compensation includes, but is not limited to, all salary, wages, fees (except cancellation fees set forth in Article 5-314), profit participation and expenses, except those expenses which are incurred solely and exclusively in connection with a specific production.
- (C) With respect to Directors, UPMs and ADs (who are not Principals) who are engaged to work in multiple capacities (e.g., Producer/Director, Director/Cameraman, Producer/AD), total gross compensation includes, but is not limited to, all salary, wages, fees (except cancellation fees set forth in Article 5-314), profit participation and expenses (except those expenses which are incurred solely and exclusively in connection with a specific production), paid for services rendered in a DGA-covered capacity. A reasonable allocation between DGA-covered work and non-DGA work will be allowed provided that sufficient documentation (e.g., time sheets for each capacity, daily production reports, call sheets, deal memos, contracts, etc.) is maintained by the Employer to support the allocation.
- (D) With respect to Principals (Directors, UPMs and ADs), without regard to whether or not they perform work solely in DGA-covered capacities or in multiple capacities, total gross compensation includes, but is not limited to, all salary, wages, fees (except cancellation fees set forth in Article 5-314), profit participation and expenses, except those expenses which are incurred solely and exclusively in connection with a specific production. Such contributions shall be made on salaries up to a maximum of two hundred fifty thousand dollars (\$250,000.00) in a calendar year.”

19. Termination of Signatory Status

Add new Article 7-117 as follows:

“Except as provided in Article 7-114, if the Guild determines that the Producer is not exercising operational control over the production of a commercial in the United States as a *bonafide* Producer, the Guild may, in addition to other remedies available under the terms of this Agreement, terminate the Producer’s signatory status pursuant to the expedited arbitration procedures of the American Arbitration Association, such hearing to begin no later than thirty (30) days from service of the Notice of Arbitration.

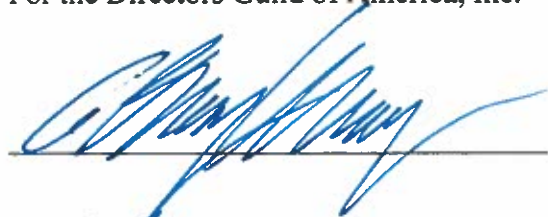
For the purposes of this section, indications of operational control include the following (i) the Producer is the common law employer of the Director and Assistant Director(s) (which may include their loan-out companies as defined in Article 3-103(C)), (ii) the Producer has agreements with the stages and/or locations where production is scheduled, and (iii) the Producer establishes and controls the budget.

The Employer has the burden of proof to establish the Employer is a bona fide Producer. The Arbitrator's authority under this Expedited Arbitration Procedure is limited to the sole question of whether the Guild's determination under Article 7-117 of this Agreement, that an Employer is not the bona fide Producer of a commercial was unjustified. The Arbitrator shall have no power to award monetary damages, injunctive relief, or any other remedy under this Expedited Arbitration Procedure."

20. DGA Information Request

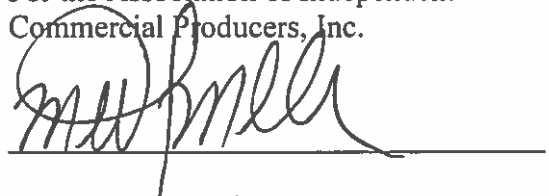
The Guild request for information dated October 6, 2017 is withdrawn.

For the Directors Guild of America, Inc.



October 31, 2017
Date

For the Association of Independent
Commercial Producers, Inc.



10 | 31 | 2017
Date

Exhibit "J"

NON-DISCLOSURE AGREEMENT

The undersigned employee:

- (A) acknowledges that pursuant to the confidentiality/non-disclosure Article contained in the collective bargaining agreement by which Employee is covered:

In recognition of the confidentiality requirements imposed on the Employer by the advertising agencies and their clients, Employees covered by this Agreement shall, with respect to any commercial production on which they are employed hold in strictest confidence all non-public information, trade secrets, creative material and production techniques and shall not disparage or give out unauthorized publicity concerning any aspect of the production process except as protected or required by applicable labor laws, rules and regulations. Employer strictly forbids the capturing of images and/or recordings except as authorized by Employer as an essential function of Employee's specific job; and

- (B) agrees to comply with the provisions of the confidentiality/non-disclosure Article contained in the collective bargaining agreement by which Employee is covered with respect to the commercial production described below.

Date signed: _____

Name of Employee

Production Company

Category

Description of Commercial

Signature of Employee