

Teamsters Local 817

AICP

2013

COMMERCIALS AGREEMENT

LOCATION SCOUTS/MANAGERS

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Teamster Commercial Agreement
Location Scouts/Managers

This Agreement dated as of the 24th day of March 2013, by and between LOCAL NO. 817 of the INTERNATIONAL BROTHERHOOD OF TEAMSTERS ("Local 817"), and the ASSOCIATION OF INDEPENDENT COMMERCIAL PRODUCERS, Inc. is binding on those commercial and promo¹ production companies that have consented to be bound hereby ("Employer" or "Employers"). The prior collective bargaining agreement which by its terms expired on December 31, 2012, was extended by agreement of the parties in full force and effect through and including March 23, 2013.

Employer is engaged in the physical production of commercial and promos pursuant to contracts with advertising agencies and/or advertisers intended for exhibition. Local 817 represents professional Location Scouts/Managers, many of whom work in the production of commercials and promos.

Commercial and promo production services the advertising industry by providing filmed and taped commercials and promos for television, the internet, movie theaters and other screens. While the physical production processes of commercials and promos parallels that of motion picture production, the process is creatively controlled by advertisers and their agencies whose requirements affect personnel selection, production schedules, work practices and budgets.

This Agreement is intended to recognize and address the special needs of the commercial and promo production process. It is the intent of the parties hereto that this Agreement establish the wage and working conditions applicable to professional Location Scouts/Managers employed in the production of commercials and promos.

ARTICLE I - RECOGNITION

The Employer recognizes Local 817 as the exclusive collective bargaining representative of professional Location Scouts/Managers employed by the Employer in the states of New York, New Jersey, Connecticut and Rhode Island to perform services either within or without said states in the production of commercials or promos. This Agreement is not applicable to production assistants, office clerical employees or guards as defined by the National Labor Relations Act.

¹ As used herein, the term "promo" refers to advertisements by a broadcast, cable or satellite promoting one of its shows.

Nothing in this Agreement shall require the Employer to transport Location Scouts/Managers from New York, New Jersey, Connecticut or Rhode Island to another state.

ARTICLE II - UNION SECURITY

Employees covered by this Agreement, as a condition of employment, shall become and thereafter remain members in good standing of Local 817 on and after the thirtieth day of their employment or thirty days following the execution of the Agreement, whichever is the later date. The foregoing shall be subject to and limited by the National Labor Relations Act and applicable State law and to the extent that any applicable State law does not permit the form of union security herein provided, then and in the event, this Agreement shall be deemed to provide for the maximum form of union security permitted by State law.

ARTICLE III - MULTI-EMPLOYER UNIT

For purposes of the Industry Experience Roster provisions of Article VIII of this Agreement, employees hired by the Employer in the states of New York, New Jersey, Connecticut and Rhode Island perform services covered by this Agreement in the states of New York, New Jersey, Connecticut and Rhode Island, or hired by the Employer in the states of New York, New Jersey, Connecticut and Rhode Island to perform services outside said states shall be deemed to be within a multi-employer bargaining unit established by this Agreement. Employers agreeing to be bound to this Agreement shall be deemed to have consented to becoming part of such multi-employer bargaining unit.

ARTICLE IV - NO DISCRIMINATION

The Employer and Local 817 agree that there shall be no discrimination against any employee or prospective employee due to race, color, creed, sex, age, physical handicap, union membership, or national origin, or as otherwise provided in applicable State or Federal legislation.

ARTICLE V - GRIEVANCE PROCEDURE

Any dispute between the Employer on the one hand and Local 817 on behalf of itself or an affiliated Local Union and/or any covered employee(s) on the other hand concerning the interpretation and/or application of this Agreement which cannot be initially resolved between the parties shall be referred to the designated representatives of Local 817 and AICP for resolution. If they are unable to resolve the matter, it may be submitted to arbitration by either Local 817 or the Employer. If an arbitrator cannot be mutually selected, then one shall be selected by lot from an arbitration panel obtained from the Federal Mediation and Conciliation Service. The arbitrator and parties shall follow the labor arbitration rules of the American Arbitration Association. Any claim not reduced to writing and submitted to the other party within forty-five (45) calendar days following the incident giving rise to the claim or within forty-five (45) calendar days after the affected employee(s), Local 817 or affiliated Local Union had a reasonable opportunity to become aware of the incident, whichever is the later, but in no event more than one year after the incident, shall be deemed to be waived.

ARTICLE VI - NO STRIKE - NO LOCKOUT

During the term of this Agreement, there shall be no strikes, picketing, or work stoppages by Local 817, affiliated Local Unions or by any covered employee, or lockout by the Employer. The Producer will not discipline any employee covered by this Agreement because of his refusal as an individual to cross a picket line.

ARTICLE VII - ACCESS

The designated representatives of Local 817 shall be permitted reasonable Access to all production sites where persons covered by the Agreement are performing services, subject to reasonable limitations (e.g. signing non-disclosure agreements) relating to the protection of design, patent or trade secrets and other confidential matters.

ARTICLE VIII - EMPLOYMENT OF LOCATION SCOUTS/MANAGERS

(a) Location Scout/Manager must be hired on any production for locations that are not self-contained. For the purposes of clarification a "self-contained location" includes, but is not limited to, the following:

- 1.) Studio lots
- 2.) Warehouses;
- 3.) Stages;
- 4.) Filming;
- 5.) Locations with sufficient parking for the production other than

on public streets.

(b) The professional duties of a Location Scout/Manager consist of finding and arranging film locations, as more specifically set forth below. Location Scout/Manager duties include, but are not limited or exclusive to:

- 1.) Locating sites, whether through file search or scouting.
- 2.) Contacting property owners.
- 3.) Negotiations of property rental and use rates between owners and production companies.
- 4.) Obtaining necessary permission or permits for location sites and location parking from appropriate governmental agencies.
- 5.) Maintaining the negotiated condition and use of the location site in accordance with the rental contract or government permit.
- 6.) Contacting appropriate area film office and maintaining a liaison with same during the course of location use.

The foregoing description of duties is not intended, nor shall it be construed, either to enlarge or diminish the duties of Location Scout/Managers, as such duties are presently and were heretofore customarily performed in the commercial industry. The Employer agrees that the utilization of location Scout/Managers shall not be unreasonably withheld.

(c) The Employer shall inform or instruct its payroll company to inform the Union, in writing, within ten (10) days (Saturdays, Sundays and holidays excluded) from the first day of employment pursuant to this Agreement, of the name and date of the first day of employment of any employee subject to this Agreement.

(d) The Employer may cancel the call of any employee subject to this Agreement by notifying the employee of the cancelled call no later than 8:00 p.m. on the evening before the day of the call. If the Employer fails to notify an employee of a cancelled call by 8:00 p.m. on the evening before the day of the call, such employee shall be paid as if he or she worked the call.

(e) The parties hereby establish an Industry Experience Roster, which will be maintained under this Agreement, composed of the employees subject to this Agreement who were employed as Location Manager/Scouts in the industry as of the signing of this Agreement and employees who thereafter satisfactorily fulfill all of the eligibility provisions set forth below, including the actual performance of services hereunder in the

states of New York, New Jersey, Connecticut and Rhode Island or who have been hired hereunder in said states and performed such services outside said states. The physical maintenance of said roster shall be under the supervision of Local 817.

(f) i) persons employed under the terms and conditions of this Agreement for thirty (30) days or more within a two (2) year period may, upon application to Local 817, have their name added to the Industry Experience Roster. The employees shall have the burden of establishing their eligibility for such Industry Experience Roster placement.

ii) During each year of this Agreement, the AICP may place up to five (5) individuals whom it certifies possess the skills and abilities of a Location Scout/Manager on the Industry Experience Roster.

(g) For Location Scout/Managers employed to work in New York, New Jersey, Connecticut and Rhode Island or employed in New York, New Jersey, Connecticut and Rhode Island to work outside said states, preference of employment shall be given to individuals named on the Industry Experience Roster. The Employer shall not be required to provide such preference of employment if the number of Location Scout/Managers available for work on the first date of employment is fifteen (15) or less.

ARTICLE IX - BENEFIT FUNDS CONTRIBUTIONS

(a) For all employees covered under the terms of this Agreement, contributions shall be made to the Motion Picture Industry Pension and Health Funds (MPIPH), for all hours worked or guaranteed in the following amounts:

Active Health Plan	-\$7.1650
Retiree Health	-\$1.4100
Pension Plan	-\$3.4980

The Pension and Welfare contributions to the MPIPH herein may be modified to rates set by the Board of Directors of the MPIPH upon a determination by the Actuaries and Consultants to those plans.

(b) For all employees covered by this Agreement, contributions shall be made into the MPIP Individual Account Plans based upon the scale minimum rates contained in this Agreement, for all hours worked or guaranteed such employees during said period. Contributions payable to the

MPIP Individual Account Plan are 6% of the applicable scale regular basic hourly rate of pay. Reallocate to the Active Employees Fund the thirty and five-tenths cents (\$0.305) per hour Employer contribution to the Motion Picture Industry Individual Account Plan ("IAP") for each hour worked by or guaranteed to an Employee effective March 24, 2013.

(c) Commencing with the quarter ending April 10, 2013 and at the end of every subsequent calendar quarter during the term of the Agreement, the consultants for the Health and Pension Plans shall project the level of reserve in the Active Employer Fund for the term of the Agreement. If at any time during the term of this Agreement, the consultants project that the level of reserves in the Active Employees Fund will fall below six (6) months, or that the level of reserves in the Retired Employees Plan will fall below eight (8) months, then the Union will reallocate up to one percent (1%) from the Individual Account Plan until such time as the reserves are restored to the six (6) or eight (8) month level as applicable. It is understood that this may occur more than once during the term of this Agreement.

(d) These rates shall be reviewed and subject to change not more frequently than once per year. MPIP shall give the Employers not less than ninety (90) days advance notice of change of in such rates.

(e) The Employer will on the 10th day of each month pay to Local 817 Scholarship Fund, a sum equal to 2% of the gross compensation paid to each employee covered by this Agreement for the preceding month for the purpose of providing educational training and scholarships for qualified employees, their families or dependents.

(f) The Employer shall execute the necessary trust acceptance forms in order to make contributions to the Benefits Funds hereinabove referred to.

ARTICLE X - MINIMUM TERMS AND CONDITIONS

The wage scales and working condition provisions of the Agreement shall be minimums and employees shall not be precluded from obtaining "better conditions" as that term is understood in the motion picture and television industry. Any employee enjoying such better conditions shall not have their wages or working conditions reduced as a consequence of this Agreement. The following language shall be included in all deal memos or personal service contracts: "All provisions of this deal memo (or personal service contract) are subject to and must provide no less than the terms and conditions of the Local 817 2011 Commercials Location Managers Agreement".

ARTICLE XI - WAGES

(a) Daily Employees

All Location Scout/Managers shall be deemed to be daily employees. No Location Scout/Manger shall be deemed to be an independent contractor. Location Scout/Managers are considered non-exempt employees.

(b) Time Records

The employee's start times and end times shall be accurately recorded each shoot day on time cards and any production reports.

(c) Hourly Wage Rates

Effective March 24, 2013	Effective July 1, 2014
Hourly Rates and Rate for Five Consecutive Work Days	Hourly Rates and Rate for Five Consecutive Work Days
Hourly rate -First 8 hours: \$43.94/hr.	Hourly rate -First 8 hours: \$44.82/hr.
Overtime rate -1½ times hourly rate \$65.91/hr.	Overtime rate -1½ times hourly rate: \$67.22/hr.
Minimum 12 hour call-first 5 days: \$615.12	Minimum 12 hour call-first 5 days: \$627.42
Hourly Rate for Sixth(6) and Seventh (7) Consecutive Work Days	Hourly Rate for Sixth (6) and Seventh (7) Consecutive Work Days
Hourly rate -\$65.91	Hourly rate--\$67.22
Minimum 12 hour call-: \$790.87	Minimum 12 hour call: \$806.69

ARTICLE XII- HOURS OF WORK

(a) Work Week

The workweek shall consist of any seven (7) consecutive days, commencing with the first of such seven (7) days.

(b) Work Day

The minimum daily work day call shall be no less than twelve (12) hours.

(c) Time Records

The employee's start times and end times shall be accurately recorded each shoot day on time cards and any production reports.

(d) Overtime

Daily Overtime: For all hours worked after eight (8) daily hours on the first five (5) days of employment, Location Scouts and Location Managers shall be paid premium pay of time and one half (1.5) of the hourly rate in effect for the first eight (8) hours.

Sixth and Seventh Day overtime: For all hours worked on the sixth (6th) and seventh (7th) consecutive days of employment, Location Scouts and Location Managers shall be paid premium pay of time and one half (1.5) of the hourly rate in effect for the first eight (8) hours of work during the preceding 5 days.

There shall be no layoffs or other reductions solely to avoid daily, sixth (6) or seventh (7) day premiums

(g) Replacing a bargaining unit employee who works as a Scout with another bargaining unit employee who works as a Manager is not a violation of this Agreement.

ARTICLE XIII - REST PERIODS

Location Managers should be entitled to a minimum nine (9) hour rest period between calls. Such rest period shall not be invaded unless specifically authorized by the Production Coordinator or an authorized representative of the Producer on such production. When the rest period is so invaded as authorized, the Location Manager shall receive an additional premium equal to one-half (1/2) of the applicable daily rate.

ARTICLE XIV - PSA, SPEC, LOW-BUDGET

With respect to Low Budget commercials (defined as those with a single day production cost that does not exceed \$75K and an aggregate cost of that does not exceed \$300K), Public Service Announcements, and Spec Spots (demonstration commercials funded by the Employer and made for the purpose of showcasing the talent of Producers and Directors to prospective clients), wage rates shall be subject to individual negotiations, between

the Employer and Employee. All other provisions of the contract shall be applicable. Where the Employer maintains that a production is low budget commercial as herein defined, it shall give Union notification prior to booking of a location scout or location manager, for a low budget commercial and shall upon request of the Union provide verification of the budget for such production. Public Service announcements are commercials produced for non-profit or governmental agencies to disseminate information or promote services, which the public interest, no commercial products, service or corporate names may be referenced or shown in PSAs.

For Low Budget non-traditional commercials, defined as those utilizing methods of production that are substantially different from traditional television commercial production and where neither the daily cost exceeds \$50,000 nor the aggregate cost exceed \$750,000, wage rates shall be individually negotiated with the employee. All other provisions of the contract shall apply.

For Low Budget Commercials, PSAs and Spec Spots (as defined above) consistent with contract and practice, wages are a matter of individual negotiation between the Employee and the Employer. If subsequent to its making, a spec spot is sold to an agency, client, or distributed for public audience either domestically or internationally, the Employee who performed covered work on the production shall be fully compensated for their work according to the terms of the Agreement. In representing the interests of its members, the Union, acting in good faith, will not discourage or prevent such negotiations nor seek to impose directly or indirectly any particular contractual or non-contractual minimums or conditions.

ARTICLE XV - HOLIDAYS

(a) Recognized holidays shall be the same as those designated in the then current Screen Actors Guild Commercials Contract: New Year's Day, Martin Luther King, Jr.'s Birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

(b) If any of the above holidays falls on a Saturday, the preceding Friday shall be considered the holiday and if a holiday falls on Sunday, the following Monday shall be considered the holiday, except that on distant location, Saturday holidays will be recognized on Saturday.

(c) For all work on holidays, employees covered by this Agreement shall receive two (2) times their regular daily rates.

Article XVI Meals

For Location Scouts and Location Managers employed on shooting days only, it is agreed that the twelve (12) hour minimum call shall be deemed to include a thirty (30) minute meal period to be scheduled by the

Employer and which may be at such time as the Employer determines to break for meals.

ARTICLE XVII - LOCATIONS/TRAVEL

(a) Employees shall report to work at designated local production locations within the Studio Zone. The Studio Zone shall be the area within a circular thirty (30) mile zone, the radius of which shall be calculated from Columbus Circle, New York City, New York.

(b) Employees on overnight locations shall be provided with a per diem allowance and either housing or a housing allowance.

(c) The Employer shall provide transportation to and from overnight locations. All travel by commercial jet shall be not less than coach class. All other travel by commercial carriers shall be by the best class available.

ARTICLE XVIII - REIMBURSEMENT OF EXPENSES

(a) The Employer shall reimburse all employees covered by this Agreement for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, provided that expenditures other than ordinary and customary ones (e.g. parking) have been approved in advance by the Employer.

(b) Reimbursement for mileage traveled on behalf of the Employer shall be at the current rate recognized by the Internal Revenue Service (currently 56.5 cents per mile).

(c) Reimbursement for use of the employee's entire kit (e.g., computer, cell phone, cameras, printer, maps) shall be no less than \$50.00 per work day, including shoot days.

ARTICLE IX - CONFIDENTIALITY AGREEMENTS

The parties recognize that new and modified products often are introduced through advertising. Accordingly, when required by an Agency or Advertiser, bargaining unit employees may be required as a condition of employment to sign a Non-Disclosure/Confidentiality Agreement provided by the Employer which may, among other things, limit the use of cell phones and cameras on set.

Article XX - EXCLUSIVITY

Until the Employer releases the Employee from their employment duties, on any day which is subject to minimum call under this Agreement (and as a condition to be compensated), the Employee will not engage in any work for any other Employer.

ARTICLE XXI - TERM

The term of this Agreement shall commence on March 24, 2013 and terminate on December 31, 2015.

LOCAL 817 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF THE UNITED STATES AND CANADA:

BY: _____

ITS: _____

DATED: _____

**ASSOCIATION OF INDEPENDENT
COMMERCIAL PRODUCERS, INC.**

BY: _____

ITS: _____

DATED: _____

