

2019
THEATRICAL TEAMSTERS LOCAL 817 I.B.T.
AND
ASSOCIATION OF INDEPENDENT
COMMERCIAL PRODUCERS, INC.
DRIVERS

COMMERCIAL AGREEMENT
Effective January 1, 2019
Through December 31, 2021

TABLE OF CONTENTS

ARTICLE I – RECOGNITION 5

ARTICLE II- UNION SECURITY 6

ARTICLE III- ADMINISTRATION..... 6

ARTICLE IV- NO DISCRIMINATION 6

ARTICLE V – GRIEVANCE PROCEDURE..... 7

ARTICLE VI- ACCESS..... 7

ARTICLE VII – NO STRIKE-NO LOCKOUT 7

ARTICLE VIII- LEAD DRIVER..... 7

ARTICLE IX- SCOPE OF AGREEMENT..... 8

ARTICLE X- WORKDAY AND WORKWEEK..... 8

ARTICLE XI – OVERTIME..... 9

ARTICLE XII – TRAVEL 9

ARTICLE XIII – MEAL ALLOWANCE..... 9

ARTICLE XIV –LOCATIONS/TRAVEL/STUDIO ZONE 9

ARTICLE XV – CANCELLATION OF CALLS..... 9

ARTICLE XVI – HOLIDAYS 10

ARTICLE XVII-BENEFITS 10

ARTICLE XVIII-EMPLOYMENT 10

ARTICLE XIX-DISCHARGE 11

ARTICLE XX-WAGES 11

ARTICLE XXI-NO SUBCONTRACTING..... 11

ARTICLE XXII-401(k) PLAN AND WITHHOLDINGS 11

ARTICLE XXIII-TERM AND EFFECTIVE DATE 12

ARTICLE XXIV-NEW YORK CITY EARNED SICK TIME ACT 12
ARTICLE XXV-COMMERCIAL INDUSTRY ADMINISTRATIVE FUND 12
SCHEDULE A 14

TEAMSTERS LOCAL 817
COMMERCIAL AGREEMENT

This AGREEMENT has been negotiated between LOCAL 817 of the INTERNATIONAL BROTHERHOOD OF TEAMSTERS ("Local 817") and the ASSOCIATION OF INDEPENDENT COMMERCIAL PRODUCERS, INC. ("AICP"), and is binding on those commercial production companies that have consented or hereafter consent to be bound hereby ("Employer" or "Employers"). The prior collective bargaining agreement which by its terms expired on December 31, 2018, was extended by agreement of the parties in full force and effect through and including December 31, 2021.

Employers are engaged in the physical production of commercials pursuant to contracts with advertising agencies and/or advertisers intended for television, internet or other exhibition. Local 817 represents motion picture and television drivers, many of whom work in the production of such commercials.

Commercial production services the advertising industry by providing filmed and taped commercials for television, the internet, movie theaters and other screens. While the physical production processes of commercials 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 production process. It is the intent of the parties hereto that this Agreement establish the wages and working conditions applicable to drivers employed in the production of commercials.

ARTICLE I - RECOGNITION

- A) The Employer recognizes Local 817 as the exclusive bargaining representative of drivers assigned to drive and/or operate vehicles used on productions of commercials as specified in (b) and who are employed by the Employer in the states of New York, Rhode Island, New Jersey, Connecticut, Delaware and Pennsylvania, extending from its eastern border to the parallel that encompasses the city of Lancaster, to perform services either within or without said states in the production of commercials.¹

This Agreement is not applicable to clerical employees, statutory supervisors, production assistants or guards as defined by the National Labor Relations Act.

B) Teamster Contract Covered Driver Required

- (1) Equipment and cargo vehicles regardless of size i.e. camera, grip and electrical.
- (2) Any cargo or equipment carrying vehicles larger than 15ft. box.
- (3) Specialty vehicles (i.e. mobile homes, water trucks, camera cranes, picture trucks, buses rigged with camera used in shoot (other than stunt or position), insert cars, two vehicles, stake bed trucks and honeywagons).

¹ Excluding public service announcements, spec commercials and low budget commercials. Low budget commercials are defined as those that do not exceed the following thresholds:

Single day production cost (excluding "Editorial and Finishing," "Talent Costs & Talent Expenses") as set forth in the AICP Production Cost Summary of \$100,000 nor aggregate cost of \$500,000. Further, in order to qualify as a low budget commercial, Employers must notify the union that a production is a low budget commercial no less than forty-eight (48) hours in advance of the first call time on the first shoot day.

With respect to low budget commercials, Public Service Announcements and Spec Spots, wage rates shall be subject to individual negotiation and for low budget commercials and public service announcements the benefit provisions of Article XVII shall be applicable. Where the employer maintains that a production is a low budget commercial as herein defined, it shall give the Union notification prior to booking of a crew 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 serve the public interest. No commercial products, services 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 the traditional television commercial production and where neither the daily cost (excluding "Editorial and Finishing," "Talent Costs & Talent Expenses") as set forth in the AICP Production Cost Summary exceeds \$50,000 nor the aggregate cost \$750,000, wage rates shall be individually negotiated with the employee benefits payments shall be made as provided in this Agreement.

For Low Budget Commercials, PSAs and Spec Spots (i.e. demonstration commercials made for the purpose of showcasing the talent of producers and directors to prospective clients), consistent with contract and practice, wages are a matter of individual negotiation between the employees and the Producer. If subsequent to its making, a spec spot is sold to an agency or client or distributed for a public audience either domestically or internationally, the employees who performed covered work on the production shall be fully compensated for their work according to the terms of this Agreement. In representing the interests of its members the Union, acting in good faith, will not discourage or prevent such negotiation nor seek to impose directly or indirectly and particular contractual or non-contractual minimums or conditions.

For Low Budget Commercials, PSA's and Spec Spots Article 1 (B) is modified so that a driver is only required for the following: equipment and cargo vehicles with an enclosed box larger a 19 feet, generators and specialty vehicles. And for purposes of Article X hereof there shall be full flexibility as individually negotiated under Article X including a work week consisting of any five(5) consecutive out of seven (7) consecutive days ("a 5-out-of-7 workweek").

- (4) Prop, wardrobe or set dressing cube trucks (box length 15ft. or smaller) when in excess of one per department.
- (5) Truck loader to be utilized at a stage to unload trucks not driven by Local 817 Teamsters.
- (6) Loaders for outside trucks at studio.
- (7) Teamster Helper required only for grip and electric tractor trailer.
- (8) Vehicle picking up and transporting set work from IATSE contract covered set shop for delivery to Employer on location or stage.
- (9) Video village (command car) (or any vehicle rigged and/or wired to function as video village (command car)).
- (10) Camera equipment delivered for a stage shoot by a camera equipment house that does not employ employees for whom Local 817 acts as the exclusive collective bargaining representative.
- (11) Camera cube for the load-up day prior to location shoot day(s)

C) Teamster Contract Covered Driver Not Required

- (1) On or off set, Production support vehicles 15' or smaller in box length as prop/set dressing and wardrobe, functions, but not more than 1 vehicle per department per location.²
- (2) Expendable items trucks.
- (3) Camera cube for the unload day following location shoot day(s).
- (4) Camera equipment delivered for a stage shoot by a camera equipment house employing employees for whom Local 817 acts as the exclusive collective bargaining representative.
- (5) Passenger vehicles, personal vehicles, buses, school buses, minivans, SUVs and camera vehicles supplied by public authorities.

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 or the Teamsters Local with jurisdiction where they are hired on and after the thirtieth day of their employment or thirty days following the execution of this Agreement, whichever is the later date. The foregoing shall be subject to and limited by applicable State law and to the extent that any applicable State law does not permit the form of union security herein provided, then in that event, this Agreement shall be deemed to provide for the maximum form of union security permitted by State law. Employees covered by this Agreement, as a condition of employment, shall have a valid Commercial Driver License (Class A or Class B).

ARTICLE III - ADMINISTRATION

In order to achieve consistency in the administration of this Agreement, Local 817 shall designate a special representative responsible for the administration of the Agreement. This Agreement has been negotiated on behalf of signatory Employers by the AICP which shall similarly designate a representative responsible for the administration of this Agreement.

² Vehicles driven by Teamsters from outside suppliers are not counted for purposes of this category.

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 and 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 American Arbitration Association New York City office. The arbitrator and parties shall follow the labor arbitration rules of the American Arbitration Association. The decision of the arbitrator shall be final and binding upon the parties and the parties shall share the cost of the arbitrator equally. 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-ACCESS

Designated representative of Local 817 shall be permitted reasonable access to all production sites where persons covered by the Agreement are performing services.

ARTICLE VII – 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. No employee covered by this Agreement shall be required to cross a lawful picket line nor shall such refusal to cross such a picket line constitute a violation of this Agreement or cause for discharge or any other penalty.

ARTICLE VIII – LEAD DRIVER

A lead driver will be designated by the Union for location shoots to supervise drivers and coordinate the needs of transportation. The lead driver will be assigned to

drive a vehicle. No lead driver is necessary if there is only one driver under covered employment.

ARTICLE IX- SCOPE OF AGREEMENT

(a) This Agreement covers all driving, operating, hauling, loading and unloading of vehicles utilized in commercial production as set forth in ARTICLE 1 ("RECOGNITION").

(b) The parties recognize that there are factors and requirements unique to the making of commercials for the advertising industry which may result in the Employer having no effective control over portions of pre-production work covered by this Agreement. Under such circumstances, where the Employer does not control the assignment of work, the Employer shall not be responsible or liable under this Agreement for the performance of such work.

(c) The foregoing provisions are intended to conform to existing business practices in the commercial industry and not to diminish employment opportunities for employees covered by this Agreement.

ARTICLE X-WORK DAY AND WORK WEEK ³

Notwithstanding anything to the contrary elsewhere in this Agreement, the Employer may utilize a work schedule consisting of any five (5) consecutive days out of seven (7) consecutive days ("a 5-out-of-7 workweek") when there are three (3) or more shooting days within the Local's jurisdiction.

One time during the production of a commercial, the Employer may shift the workweek, without incurring added costs, by adding one or two days off consecutive with the sixth and/or seventh days off of the prior workweek and/or by shifting a workweek commencing on Tuesday to a workweek commencing on Monday, provided that the intervening Sunday is a day off.

If the Employer otherwise shifts the workweek such that the new workweek invades the preceding workweek, the Employer shall pay the premium for the sixth and/or seventh day worked of the preceding workweek. The employee shall be advised of any shifts in the workweek prior to commencement of the workweek. In no case may the Employer shift the workweek for the sole purpose of avoiding paying for an unworked holiday.

The Union agrees that if, during the term of this Agreement, it enters into a contract with any Employer granting to such other Employer more favorable terms and conditions than those provided in Article X, the Union will notify the AICP, and the AICP shall have the option to adopt such more favorable terms or conditions.

The minimum daily work call during pre-production and production shall be ten (10) work hours inclusive of one-half (1/2) hour meal period.

ARTICLE XI-OVERTIME

All hours after the first ten shall be paid at the double time rate.

- (a) Work hours on designated holiday shall be paid at the w/e rates.
- (b) All overtime is to be completed in one-half (1/2) hourly units and overtime premiums shall not be compounded.

ARTICLE XII-TRAVEL

On a distant location shoot of two days or more outside the Studio Zone, the Employer shall offer Employees near hotel accommodations and per diem in the amount of the current IRS rate. On a one day shoot outside the Studio Zone rest periods and per diems shall be initially negotiated and agreed between the Employer and Lead Driver. Eight (8) hours of benefit contributions as provided in ARTICLE XVII shall be made for all drivers for unworked layover days.

ARTICLE XIII-MEAL ALLOWANCE

- (a) Meal periods shall not be less than one-half (1/2) hour.
The meal allowance shall be \$40.00, (not paid when the driver has taken the hot meal provided by the Employer)

ARTICLE XIV-LOCATIONS/TRAVEL/STUDIO ZONE

- (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 fifty (50) mile zone, the radius of which shall be calculated from the column in Columbus Circle, New York City.
- (b) For production locations outside of the Studio Zone to include upstate New York, Connecticut, Rhode Island and the city of Atlantic City the Employer may hire Teamsters from local unions to drive locally procured vehicles covered by this Agreement.

ARTICLE XV-CANCELLATION OF CALLS

In the event of cancellation for previously called employees, it is understood that if notification is not given by the completion of the previous day's work or by 3:00 p.m. of the day preceding the call if not a work day, then the employee shall be paid a ten (10) hour minimum call, unless the canceled call was for a travel only or wrap in which case the

employee shall be paid five (5) hours at straight time with benefits under ARTICLE XVII payable on five (5) hours at straight time.

ARTICLE XVI-HOLIDAYS

Recognized holidays shall be: New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, Day after Thanksgiving, Christmas.

ARTICLE XVII-BENEFITS

- (a) Except as provided in paragraph (c) of this Article, the Employer shall make contributions on the 10th day of each month to the Teamsters Local 817 Pension, Welfare and Scholarship Funds in the following amount:

Percentage of Employee's Daily Gross Wages

Pension Fund:	11.5%
Welfare Fund:	18%
Scholarship Fund:	2.5%

- (b) Outside a fifty (50) mile radius from Columbus Circle and with respect to a Teamsters Local Union in whose jurisdiction Employer is working, Employer may provide contributions on behalf of covered employees residing in such jurisdiction to such other Teamsters Local Union's Pension and Health Plan(s), provided that such contributions or payments will be in an amount not to exceed the amount that would otherwise be paid under paragraph (a) above.

ARTICLE XVIII-EMPLOYMENT

- (a) The parties hereto recognize that the conditions in this industry require the frequent hiring of drivers and helpers on a daily non-continuing basis. For this purpose the Union shall maintain for the convenience of the Company and the employees, a referral service which shall in all respects comply with all applicable provisions of law.
- (b) The Company agrees to hire all drivers and helpers required on a daily non-continuing basis for work covered by this Agreement from the Union. This provision is subject to the following conditions:

- (i) Applicants will be referred to the Company from the Union on a non-discriminatory basis, and such referral will in no way be affected by Union membership or any aspect thereof.
- (ii) The Company retains the right to reject any applicant referred from the Union.

ARTICLE XIX-DISCHARGE

During the term of this Agreement no employee shall be discharged except for just cause. The Employer may summarily discharge any employee for, among other acts, having caught him in, or having reasonable cause to suspect him of, a dishonest act, gross insubordination, reckless unsafe driving, substance abuse or intoxication while on duty or sexual harassment. In case of discharge for just cause, the Employer shall have the right to remove the name from payroll and the Union shall have ten (10) days from such discharge within which to submit the matter to arbitration.

ARTICLE XX-WAGES

The applicable minimum wage rates for positions covered in this Agreement are set forth on Schedule A attached. There are no guarantees of employment beyond one (1) day.

ARTICLE XXI-NO SUBCONTRACTING

The Employer shall not subcontract out or assign to any third party the performance of work covered by this Agreement, subject to ARTICLE I ("RECOGNITION") and IX ("SCOPE OF AGREEMENT").

ARTICLE XXII- 401(k) PLAN AND WITHHOLDINGS

(a) 401(k) Voluntary Withholdings

The employer will permit its employees who are eligible to participate in the Entertainment Industry 401(k) Plan (the "Plan") to authorize deductions from their payroll for the purpose of contributing to the Entertainment Industry 401(k) Plan on a pre-tax basis. These contributions are not subject to State or Federal withholdings on the behalf of the employer or employee with the exception of FICA and FUTA. FICA and FUTA payments are required on the behalf of the employer and employee. Further, these contributions should not be included in gross wages on the employee's W-2 Form. Employees may make changes at any time during the year. Employer agrees to forward all employee payroll deductions to the Plan as of the earliest date on which the contributions can reasonably be segregated from the Employer's general assets per Labor Regulation 2510.3-102(a).

(b) Roth 401(k) Withholdings

The employer will permit its employees who are eligible to participate in the Entertainment Industry 401(k) Plan (the "Plan") to authorize payroll deductions to contribute to the Plan as Roth 401(k) elective deferrals. These withholdings are subject to State, Federal and all other required taxes applicable to the employer and the employees. Employees may make changes at any time during the year. Employer agrees to forward all elective deferrals withheld from its employees' compensation, including these Roth 401(k) elective deferrals, to the Plan as of the earliest date on which the contributions can reasonably be segregated from the Employer's general assets per Labor Regulation 2510.3-102(a).

The 401(k) Plan is a Trust, operated pursuant to the terms and provisions of a written Trust Agreement and employer agrees to be bound by all the terms and conditions of the Trust Agreement(s) as they may be amended from time to time, including all decisions and determinations made by the Trustee(s) or any impartial umpire as authorized by the Trust Agreement(s).

Payment of contributions to the 401(k) Plan is otherwise subject to the rules, regulations and procedures of the 401(k) Plan.

Payments and remittance report should be mailed to:

Entertainment Industry 401(k) Plan
PO Box 6066
Los Angeles, CA 90060-0669

ARTICLE XXIII-TERM AND EFFECTIVE DATE

This Agreement shall be effective as of January 1, 2019, and shall remain in full force and effect through December 31, 2021.

ARTICLE XXIV- NEW YORK CITY EARNED SICK TIME ACT

Local 817 expressly waives, to the fullest extent permitted by law, the application of the New York City Earned Sick Time Act of 2013 to all employees employed under this Agreement.

**ARTICLE XXV- 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 Union 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-Union productions, discourage or undermine membership in the Union, nor fund any actions adverse to the Union, or the Union'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 union benefit plan for each such Employee⁴. 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 Union) 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.

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

BY: 

ITS: President

DATED: 12/19/18

ASSOCIATION OF INDEPENDENT COMMERCIAL PRODUCERS, INC.

BY: 

ITS: President - CEO

12/19/2018

⁴ In the event the AICP negotiates an increase in the CIAF contribution amount set forth in its National Commercial Agreement ("NCA") with the Director's Guild of America, Article XXV shall be deemed immediately amended to reflect said increase upon the effective date of the increase to the NCA.

SCHEDULE A

(3.0%) Effective <u>January 1, 2019</u>

	10 Hr.	10 Hr. W/E	OT
Lead Driver/Specialty Equipment Driver	627.09	817.94	109.09
Driver	570.09	743.58	99.15
Truck loader Helper Cube truck driver	543.23	708.82	94.49

(3.00%) Effective <u>January 1, 2020</u>
--

	10 Hr.	10 Hr. W/E	OT
Lead Driver/Specialty Equipment Driver	645.90	842.48	112.36
Driver	587.19	765.89	102.12
Truck loader Helper Cube truck driver	559.53	730.08	97.32

(3.00%) Effective <u>January 1, 2021</u>
--

	10 Hr.	10 Hr. W/E	OT
Lead Driver/Specialty Equipment Driver	665.28	867.75	115.73
Driver	604.81	788.86	105.19
Truck loader Helper Cube truck driver	576.31	751.99	100.24

† Outside the Studio Zone, for unaffiliated local hires, the Driver rate shall be the same as the helper rate.

The minimum wage rates in this Schedule A reflect the following compounded percentage increases effective on the dates indicated:

Three percent (3%) effective January 1, 2019.

Three percent (3%) effective January 1, 2020.

Three percent (3%) effective January 1, 2021.