



## **SUMMARY OF NEW PROVISIONS 2016 SAG-AFTRA AUDIO RECORDED COMMERCIALS CONTRACT**

### **1. Effective Date and Term**

- a. Three years commencing April 1, 2016.
- b. For services performed in commercials made between April 1, 2016 and the date of ratification, all retroactive payments must be made not later than 30 days following ratification by the Union.
- c. The new working conditions and all other non-economic provisions shall be effective not later than 30 days following ratification by the Union.

### **2. Rates**

Increase wages, adjustments, allowances, etc. by 7%.

### **3. Health & Retirement Funds**

Health & Retirement contribution rate increases from 16.8% to 18%. The breakdown of the 18% is as follows: 17.25% to the H&R Plans, .50% to the AFTRA Industry Cooperative Fund (AICF), and .25% to the Administrative Maintenance Fund (AMF).

### **4. Title of Contract**

Amend the title of the contract and all references therein to "SAG-AFTRA Audio Commercials Contract."

### **5. Administrative Maintenance Fund (AMF)**

- a. A copy of the annual AMF audit will be provided to the Union within 90 days of completion of the audit.
- b. Clarification: the delivery and findings of the audit, as with the remainder of the AMF provision, shall be subject to grievance and arbitration.

### **6. Definition of a Producer**

Performers must be employed by a bona fide producer of commercials covered under the Radio Recorded Commercials Contract. The Union reserves the right to reject or revoke the signatory status of any company if that company is not a bona fide producer of commercials.

### **7. Waiver As to Certain Non-Professional Persons**

Where the creative for a commercial necessitates the use of non-professionals, the Union agrees to consider in good faith requests to waive coverage over such non-professionals. Additionally, under certain conditions and with a sunset date of March 31, 2019, the Union agrees to waive contract coverage over non-professionals in the following circumstances:

- a. Testimonial Endorsers: Include a new sideletter providing that coverage over non-celebrities who have never worked as principal performers shall be waived when such persons provide testimonial endorsements in commercials produced by JPC authorizers provided that such commercials comply with the Federal Trade Commission Guides Concerning Use of Endorsements and Testimonials in Advertising and that the producer explicitly casts for non-professionals. The waiver of coverage may be extended to other non-celebrities who have never worked as principal performers that appear in the same commercial due to their relationship with the main endorser, e.g., a family member or treating physician appearing in the same commercial as a patient/endorser who is describing his or her experience with a life-saving medication.
- b. Sideletter 7, Experimental Coverage Waiver for Made for Internet and Made for New Media Commercials, which was agreed to in 2013 has been renewed, extended to include all covered media and moved into the body of the Commercials Contract. Accordingly, coverage may be waived for members of the public appearing in commercials in the following circumstances, provided those persons are neither scripted to speak any dialogue nor cast for the commercial:

- i. Live Events—“Live Events” attended by at least 20 persons who are neither hired nor cast by Producer to attend the event. However, such Live Events (1) shall not be staged for the purpose of producing a commercial(s); and (2) non-covered participants at the live events may not receive individual direction but may be directed as a group.
- ii. Man on the Street—A “Man on the Street Commercial” commercial means a commercial where an interviewer interviews people on the street, at public venues, or at live events and asks them questions or makes statements or gestures to elicit a response or reaction from them. The interviewer is a Covered Person for purposes of the Contract whether or not they appear or perform in the commercial(s).
- iii. Hidden Recording Commercials—A “Hidden Recording Commercial” means a commercial(s) comprised of recordings captured by a hidden microphone(s) without direction to the individual(s) being filmed. An individual(s) performing in such recording shall not be a Covered Person(s) for purposes of the Contract. Any person(s) appearing in the capacity of an interviewer, however, shall be a Covered Person whether or not their performance remains in the commercial.

### **8. Casting and Auditions**

Remove the requirement for payment for ad lib at audition and session, and as it applies to user-generated/crowdsourced commercials. Payment is still required for a creative session call – for devising dialogue or action not suggested by a script, storyboard or by specific direction.

### **9. Minors**

A copy of the teacher/tutor’s current credentials and identification shall be provided to the parent/guardian by the Producer.

### **10. Public Service Announcements**

Any charity is now able to apply for a PSA waiver. In the past, this provision has applied to charities with 501(c)3 tax exempt status.

### **11. Payment Due**

- a. Session fees for principals are now due 15 working days after services are rendered.
- b. Audition fees are now due 15 working days after audition.

### **12. Editing – Special Offers and Promotions**

A commercial for an advertiser may be changed to reflect different special offers and promotions, sales or give-aways, sweepstakes or sales events. Separate session fees shall be payable to performers employed to render services in making each such change, but any different versions so created may be considered one commercial for the purpose of use fees.

The following shall apply:

- a. Only one reference to any special offer or promotion may be made in the commercial, although such reference may appear anywhere in the commercial.
- b. The reference to the special offer or promotion must be in the nature of a “tag” as that term is commonly used in the industry.
- c. The commercial must be produced by, and the media time bought by, the advertiser.
- d. Multiple variations may run in the same market at the same time.
- e. Each commercial is subject to a 2-week promotional limitation.

### **13. Reservation of Rights**

The JPC will be notified of any local agreement made with a local Producer or group of Producers.

### **14. Maximum Period of Use – Renegotiation Notice**

A performer or his/her agent may now submit a renegotiation letter to Producer via email, as long as the email sender requests a read receipt from recipient. The employment contract shall provide both a physical address and an email address where letters can be sent.

### **15. Simultaneous Streaming on Internet and/or New Media**

No additional payment shall be required when a commercial is simultaneously streamed (or otherwise simultaneously transmitted) on the Internet and/or New Media at the exact same time as a paid use. This provision shall sunset on March 31, 2019.

## **16. Internet & New Media**

New 4-week cycle rate on the Internet and New Media at 125% of session.

## **17. Internet/New Media Pilot Test**

The Union and the JPC will pilot test alternative methodologies for calculating use fees due to principal performers appearing in commercials exhibited on Internet and/or New Media platforms. The bargaining parties will use good faith efforts to begin the pilot test project within 90 days of the conclusion of negotiations with the goal of completing the pilot test project not later than August 1, 2018. The JPC and the Union shall each recommend to their respective trustees that the AICF and IACF approve funding for the pilot test.

## **18. Work on Holidays**

Veterans Day is now a recognized holiday under the contract.

## **19. Transfer of Rights**

Add the following language: Notwithstanding the foregoing, in the event that an advertiser becomes signatory to the Contract, or in the event that a non-signatory advertiser transfers all or a portion of its business from a non-signatory agency to a signatory agency, the Union shall waive application of this Contract to commercials that were produced prior to becoming a signatory or prior to transferring business to a signatory agency on the following condition: The advertiser, or its agency, shall provide to the Union a list of all such commercials within 60 days of the advertiser becoming signatory or transferring business to a signatory agency. The Contract will fully apply to such commercials, however, if they are edited or modified other than as permitted by Section 24, Editing of Commercials, subsequent to the advertiser or agency becoming a signatory or transferring business to a signatory agency.

## **20. Arbitration**

Revise to include that any waivers granted will be provided to the JPC along with any arbitration decisions.

## **21. Most Favored Nations**

The Union agrees to apply the same Contract provisions and waivers to all employers who become JPC authorizers after the commencement date of the contract. The Union agrees that it will notify the JPC of any contracts entered into with and/or waivers granted to with other employers that have provisions more favorable than this Contract. With respect to terms regarding payment for national commercials, the JPC may, at its election, extend such terms to JPC authorizers. The foregoing shall not apply with respect to local or regional codes or to terms negotiated with local or regional advertisers or agencies.

## **22. Non-Disclosure/Confidentiality Agreement**

- a. Revise to include the following confidentiality clause as Standard Provisions # 6: "Confidential Information' means trade secrets, confidential data, and other non-public confidential proprietary information (whether or not labeled as confidential) including any and all financial terms of, and products involved in the production and any and all scripts whether communicated orally, in written form, or electronically. Confidential information does not include information that was lawfully in Performer's possession prior to being disclosed in connection with the employment of Performer, is now, or hereafter becomes generally known to the public, or that Performer rightfully obtained without restriction from a third party. Performer acknowledges that Performer has and will become aware of certain Confidential Information. Unless otherwise required by law, Performer agrees that, without Producer's prior written approval, Performer shall hold such Confidential Information in the strictest confidence and that Performer will not disclose such Confidential Information to anyone (other than Performer's representatives in the course of their duties to Performer, which representatives shall be bound by the same restrictions as set forth in this Agreement) or utilize such Confidential Information for Performer's benefit or for the benefit of a third party. Notwithstanding the foregoing, nothing herein shall prohibit Performer from disclosing Confidential Information concerning Performer's wages, hours, and other terms and conditions of employment as that term is defined under Section 7 of the National Labor Relations Act. For clarity, except as set forth above, Producer may not demand or request that Performer execute any non-disclosure agreement that has not been approved in advance and in writing by the Union."
- b. This provision is not intended to supercede any confidentiality provisions in celebrity agreements. The parties shall execute a sideletter clarifying that "celebrity" refers to an individual who receives \$50,000 under a single contract.

### **23. Alternate Method of Compensation Study**

The parties will study alternative methodologies for calculating fees due to principal performers appearing in commercials. In addition, over the 2016 to 2019 term of this Contract, the parties agree to conduct a study of industry and technological changes so that the parties may consider the results of such study at a future negotiation. The bargaining parties will use good faith efforts to begin the project within 90 days of the conclusion of negotiations with the goal of completing the project not later than August 1, 2018. The parties shall each recommend to their respective trustees that the AICF and IACF approve funding for the project. The parties shall proceed on these studies on the basis of mutual cooperation and agreement.

### **24. New Sideletter – Determinations Made at IUSC Under Corporate-Educational & Non-Broadcast Contract**

“Dear Mr. Wood,

At the 2016 Commercials Contracts negotiations, the Joint Policy Committee (“JPC”) contended that determinations that may be reached under the SAG-AFTRA Corporate/Educational & Non-Broadcast Contract (“Co-Ed”) regarding the definition of “commercial” as it appears in that contract may unfairly prejudice signatories to the Commercials Contracts and that such determinations should therefore be made exclusively by the Joint Commercial Review Committee under the Commercials Contracts. The Union contended that the process by which agreements are reached under the Co-Ed is not a mandatory or proper subject of bargaining under the Commercials Contracts.

Nevertheless, in the interest of achieving an amicable resolution to the negotiations, the Union agreed as follows: The Union agrees to notify the JPC in the event a claim is brought to the Co-Ed Industry Union Standing Committee regarding whether certain content constitutes a ‘commercial.’ In the event that a determination is made under the Co-Ed that certain content constitutes a ‘commercial’ under that agreement, whether by agreement at the Industry Union Standing Committee or by arbitration, the Union will provide notice of that determination to the JPC. Furthermore, the Union and the JPC agree not to submit or otherwise rely upon such determination in any arbitration conducted under the Commercials Contracts.”

### **25. Drafting**

- a. Make the following changes to the Audition Reports, Radio Commercials Exhibit D:
  - i. Add the director’s name, if known, to the Exhibit D.
  - ii. Remove any references to age, ethnicity and disability.
  - iii. Change the word “Sex” to “Gender.”
- b. Revise Union Standards, Section 24.A.1. as follows: “Except as otherwise permitted, Aa producer will not engage in production....”