

# PRODUCERS' HEALTH BENEFITS PLAN

## Participation Agreement

The undersigned General Member (“Contributing Employer”) of the Association of Independent Commercial Producers, Inc. (“AICP”) and **The Producers’ Health Benefits Plan** (“PHBP” or the Plan”) agree as follows:

### 1. **Trust Agreement**

The Contributing Employer warrants and represents that it is an employer (within the meaning of Section 3(5) of ERISA) of employees (within the meaning of Section 3(6) of ERISA) who are employed by the Contributing Employer in employment as described in Subsections 8(a), (freelance common law Covered Categories) and (b) (staff employees, where staff coverage is elected by the Contributing Employer) hereof. Contributing Employer has been offered the opportunity to review, via posting on the Plan’s website, a copy of the Agreement and Declaration of Trust (the “Trust Agreement”) establishing the Producers’ Health Benefit Plan (“the Plan”) and a copy of the Plan’s Audit, Delinquency and Collection Procedures, together with all amendments thereto. The Contributing Employer, as a sponsor of the Plan, adopts, and agrees to be bound by, the Trust Agreement and the Plan’s Audit, Delinquency and Collection Procedures and all future amendments to such documents. The Contributing Employer ratifies the selection, designation and appointment of the Board of Trustees of the Plan and their successors. Amendments to the Trust Agreement or the Audit, Delinquency and Collection Procedures that increase the Contributing Employer’s obligations to the Plan will be posted on the Plan’s website and comments thereon may be submitted by Contributing Employers and, unless the Trustees decide to delay the effective date, the amendment(s) shall become effective on the thirtieth (30<sup>th</sup>) day after posting to the Plan’s website.

### 2. **Computation of Contributions**

Commencing with the effective date for contributions under this Participation Agreement, and continuing through any renewals, extensions or amendments thereof, the Contributing Employer agrees to maintain the Plan and Plan of Benefits and to contribute the sum specified in paragraph 8 to the Plan for each employee as defined therein.

### 3. **Payment of Contributions**

Payment of contributions for employees of the Contributing Employer covered hereunder shall be made as provided in paragraph 8.

### 4. **Records, Audits and Reports**

The Contributing Employer acknowledges that applicable Federal law requires the Plan to maintain and enforce employer audit and collection procedures to ensure collection of required contributions to the Plan. The Contributing Employer agrees to the terms of the Plan’s Audit, Delinquency and Collection Procedures, incorporated herein by reference, as they may be adopted and amended from time to time.

In order for the Plan to determine eligibility and benefits for employees working in the Covered Categories set forth in paragraph 8 and to otherwise implement and administer the Plan of Benefits, the Contributing Employer shall regularly and also from time to time as the Plan directs, collect and promptly transmit, in such form as the Plan designates, subject to the requirements of applicable law, to the Plan, its Administrator, its designated insurance Carrier or other designated professional, historic and continuing employment data and other employee specific data (collectively, "Employee Data"). By way of example and not limitation, Employee Data includes wages, days/hours worked, full social security account number, name, address, marital status, insurance status, dependents and other employee specific information requested by the Plan, to the fullest extent permitted by applicable law. The Contributing Employer shall use reasonable efforts to obtain any legally required written employee authorization for it or its payroll service to comply with the preceding obligation and shall distribute to its employees or direct its payroll service to distribute enrollment forms and other Plan communications as provided to the Contributing Employer or its payroll service from time to time by the Plan, its Carrier(s) or their designees.

## **5. Default**

Should the Contributing Employer fail to make timely contributions to the Plan, interest at the rate and in the manner charged to delinquent Contributing Employer, shall accrue at the rate of interest specified in Section 6 of the Plan's Audit, Delinquency and Collection Procedures. In addition to interest and to all other remedies which the Trustees may have at law and in equity, the Trustees shall have the right to take whatever steps are necessary to secure compliance with the provisions of this Participation Agreement.

The Contributing Employer agrees that the Trustees shall have standing to bring any action, suit or proceeding in either a Federal or State Court to enforce the terms of this Participation Agreement. The Contributing Employer agrees that, in any action by the Trustees hereunder, service of process on the Contributing Employer by registered or certified mail shall be deemed to constitute personal service on the Contributing Employer within the jurisdiction of the Federal and State Courts in the State of California, City and County of Los Angeles; and that the County of Los Angeles, which is the situs of the principal office of the Plan, shall constitute proper venue for such action.

The Contributing Employer further consents that in any action, suit or proceeding against it hereunder, in which Contributing Employer is found to be delinquent, judgment may be entered against it for the full amount of any and all unpaid contributions owed by the Contributing Employer together with (a) interest on each contribution making up such total from the due date of each such contribution; (b) all expenses reasonably incurred by the Trustees in securing such judgment including, without limitation, court costs, reasonable outside legal and audit fees and disbursements; and (c) an amount equal to the greater of (i) interest as specified in (a) or (ii) liquidated damages of twenty percent (20%) of the amount of unpaid contributions.

Each Contributing Employer shall make such reports and statements to the Plan with respect to the amount and calculation of any and all contributions remitted (or required to be remitted) to the Plan as the Trustees may deem necessary or desirable. The Trustees may at

reasonable times and during normal business hours of any Contributing Employer, audit or cause the audit or inspection and copying of the records of such Contributing Employer which the Plan's auditors reasonably determine to be pertinent or desirable in connection with the said contributions and/or reports, in order to accomplish the purposes of the Plan. If outside legal fees are expended to compel such an audit or inspection or to collect amounts outstanding from a Contributing Employer, the Contributing Employer involved shall pay all reasonable attorneys' fees, all reasonable costs of the audit or inspection subsequently conducted, interest penalties or liquidated damages, and court costs incurred by the Plan in connection with any litigation necessary in this regard. In a case in which the Contributing Employer has complied with the audit, cooperated with the auditors and where no delinquency, underpayment or erroneous reporting has occurred the costs of the audit or inspection shall be borne by the Plan. If delinquent contributions for productions selected for testing by the auditors are 10% or more in the aggregate of the contributions paid and received by the Plan for the selected projects, audit fees incurred by the Plan will be charged to the Contributing Employer. Notwithstanding the preceding sentence, the Trustees shall have the power to waive or reduce such audit or inspection costs and legal fees in a particular case upon good cause shown, such as, but not limited to, a case in which the delinquency found is small in amount.

Should the Contributing Employer fail to submit required Remittance Reports when due, or fail to make its payroll records or other records available after demand, the Trustees may, in addition to all other remedies which may be available to them at law, in equity or by statute, compute the sum due for any work period in the following manner: the largest gross earnings or the largest number of work units (or portions of work units) reported by the Contributing Employer for any work period during the preceding twelve (12) months for which reports were submitted shall be increased by 10%, rounded up to the next higher whole number, and then multiplied by the current contribution rate. The resulting figure shall be deemed the amount of contributions due for the work period in question, be binding on the Contributing Employer and be payable by it together with such additional amounts as are provided for in this section.

The Contributing Employer shall indemnify, defend and hold the Plan, its Trustees, the Trust and the agents and employees of all of them harmless from any claim, damage, liability or expense arising out of or relating to Contributing Employer's breach of any obligation under this Participation Agreement or under applicable law. The foregoing is not intended to relieve the Trustees of any fiduciary obligation to any participant.

## **6. Plan of Benefits**

The Plan of Benefits, eligibility and all other rules and regulations of the Plan including the terms and conditions of Contributing Employer participation shall be determined by the Trustees and currently consists of health, medical, dental, vision and short/long term disability coverage on a fully insured basis. Unless contributions as required herein are paid to and received by the Plan, it shall have the absolute right to decline to permit participation by the Contributing Employer or permit any coverage for benefits under its policies with carriers or credit any employment for any purpose. The Trustees shall have the right, among others, and without limitation to alter, amend, revise, terminate, merge, administer, curtail, manage and direct the Trust and/or Plan of Benefits. As provided in the Trust Agreement any and all benefits provided by the

Plan of Benefits shall be on a fully insured basis only – the Plan of Benefits does not provide any benefits on a self-funded or self-insured basis.

## **7. Term of Participation Agreement, Termination and Amendments**

Unless sooner terminated by the Plan as elsewhere provided in this Participation Agreement, and except with respect to Staff Coverage under Section 8(b), this Participation Agreement shall remain in force for one year effective the date of signing by the Contributing Employer (when counter-signed by the Plan) which is the initial term. Thereafter, it shall automatically renew for successive one (1) year terms unless either party gives the other written notice thirty (30) days prior to the end of the initial term or of any renewal term of intent to terminate this Participation Agreement in which case this Participation Agreement shall terminate at the end of the initial or renewal term, as the case may be. This Participation Agreement replaces any prior Participation Agreement between the Plan and the Contributing Employer.

The Plan may amend any of the terms of this Participation Agreement at any time as follows: (i) The Plan shall give Contributing Employers thirty (30) days' notice of proposed amendments to the Participation Agreement in order to allow for Contributing Employer comments to such amendments; (ii) At or after the end of such thirty (30) day period the Plan shall advise Contributing Employer of any revisions to the proposed amendments in light of such comments; (iii) The Contributing Employer shall be given fifteen (15) days to terminate its participation by means of written notice to the Plan if it declines to accept the proposed amendments; (iv) If participation is not terminated the proposed amendment by the Plan shall become effective. Unless the Contributing Employer so objects and terminates its participation in the Plan, it shall be deemed to have accepted and agreed to such amendments; (v) Notice of amendment or other notice from the Plan may be sent to the Contributing Employer via email or other reasonable means as the Plan determines. This Participation Agreement may not be terminated only with respect to Freelance Coverage and continued as to Staff Coverage, however, the Contributing Employer may discontinue Staff coverage and continue its Freelance Coverage.

The failure of the Contributing Employer to fully comply with any provision in this Participation Agreement (or any prior Participation Agreement), or to comply with any provision of the Trust Agreement applicable to Contributing Employers or with any applicable provision of the Plan's Audit, Delinquency and Collection Procedures (as all of the foregoing may be amended from time to time) shall be deemed a material breach of this Participation Agreement in which case the Plan acting through its Trustees shall have the right, in addition to all legal and equitable rights and remedies and in their sole discretion, to terminate this Participation Agreement on prior written notice to the Contributing Employer, provided that the Contributing Employer fails to cure such breach within thirty (30) days of receipt of such notice. The forbearance by the Trustees from exercising such rights shall not be deemed a waiver of their rights. The Trustees may deny a Contributing Employer who has previously been in breach the opportunity to cure a subsequent breach before terminating this Participation Agreement.

As used in this Participation Agreement, the term "General Member" shall have the same

meaning as used in the Bylaws of the AICP. In the event the Contributing Employer ceases, by resignation or termination of its production operations or otherwise ceases to be a General Member in good standing in the AICP, and as certified by, the AICP upon request of the Plan, this Participation Agreement shall automatically terminate on the last day of the month in which the Contributing Employer's membership terminates.

In the event that the Contributing Employer ceases, by expulsion for any reason, to be a General Member in good standing of the AICP (as certified by the AICP in writing to the Plan with a courtesy copy to the Contributing Employer), this Participation Agreement shall terminate within thirty (30) days after the Plan gives the Contributing Employer written notice of its intention to terminate the Participation Agreement due to the AICP terminating the Contributing Employer's membership, provided that the Contributing Employer has not remedied the cause of the AICP's termination of the Contributing Employer's membership before the end of the thirty (30) day notice period.

The Plan may also terminate this Participation Agreement as provided in paragraphs 6, 8 and 11. The Contributing Employer's obligation to pay all contributions due and owing to the Plan accrued prior to such termination date, and the provisions of Section 3, 4 and 5, shall survive termination indefinitely and for any reason.

#### **8. Contribution Rates and Covered Employment**

The Contributing Employer shall commence contributions on the Effective Date of this Participation Agreement as set forth on the execution page of this Participation Agreement.

(a) Freelance Common Law Employees:

(i) The Contributing Employer shall contribute to the Plan nine percent (9%) of "gross earnings" (as defined in paragraph 8(a)(iii) of this Participation Agreement) of the freelance, common law employees (within the meaning of Section 3(6) of ERISA, herein "employee" and "employees") employed in Covered Categories whose employment on Covered Productions is not covered by a collective bargaining agreement to which the Contributing Employer is a party/signatory. The Plan does not accept contributions on behalf of, and does not cover under the Plan of Benefits, an independent contractor under applicable law. Gross earnings for employees working in Covered Categories must be reported or reportable on IRS Form W-2. Where a Contributing Employer misclassifies an individual working in a PHBP Covered Category as an independent contractor (e.g. the person is paid using IRS Form 1099) such that the individual qualifies as an employee under applicable law, the Plan requires contributions hereunder for all work by that employee in covered employment.

"Covered Productions" means the production and post production of commercials. As used in this Participation Agreement, a "commercial" means a moving picture work regardless of method, means or medium of production or post production (whether film/tape/digital/animation or other) that promotes or advertises a brand, product or service to the general public and regardless of the distribution format/medium/platform/channel ---but

excluding music videos.

Freelance common law employees employed by the Contributing Employer in a Covered Production with the following core terms as part of their job titles are deemed working in PHBP Covered Categories for which contributions are required, provided, however that the Contributing Employer is not signatory to a collective bargaining agreement containing the job title and covering the same work performed by the employee.

With respect to all Covered Categories, where the core job title is followed or preceded by, a modifier (e.g. adjective, prefix, suffix or descriptive term) which is included as part of the core job title, the Plan treats the modifier only as a general descriptive term which does not change the coverage requirement of the core job title nor does the Plan treat the modified core title as a different, non-covered job category. For example, the core job title of Producer when combined with a modifier such as Associate, Assistant, CG, Digital, Interactive, Post, VR etc. remains the Covered Category of “Producer”.

For all Contributing Employers, whether or not the Contributing Employer is a signatory to the current IATSE Commercial Production Agreement, the following core freelance job titles are considered PHBP Covered Categories:

- Producer
- Production Manager
- Production Supervisor
- Production Coordinator
- Bidder
- Production Assistant

If the Contributing Employer is not a signatory to the then current IATSE Commercial Production Agreement, the following core freelance job titles are Covered Categories for such Contributing Employer in addition to those listed in the preceding paragraph:

- Animator (2D or 3D)
- CG Supervisor
- Colorist
- Composer
- Designer
- Editor
- Effects Artist
- Finisher
- Flame Artist
- Render Wrangler
- Stitcher
- Technical Director

(ii) As the Plan identifies additional, different or new terms used to describe employees

working in the same or similar capacity as the positions listed above, or as job titles covering the same work change through custom and usage, the Plan shall have the right, on notice to the Contributing Employer to add to, or delete terms from, the above Covered Categories list. The “additional, different or new terms” referred to herein are limited to job titles used (or which develop through custom and usage) to describe persons employed in production or post production working in the same or similar capacity as the positions listed above and who may be described by different job titles by different Contributing Employers at different times.

(iii) Gross Earnings. As used in Paragraph 8 (a) and elsewhere in this Participation Agreement, “gross earnings” means total gross compensation, in any form, received by the employee for, or in conjunction with, or relating to his/her services for the Contributing Employer in a Covered Production including but not limited to all earnings, salary, wages, fees, charges, paid time off, cancellation pay, postponement pay, bonuses, profit participation and expenses, except for reimbursement of actual, documented out of pocket expenses incurred by the employee in the performance of work in the Covered Production. The eligibility for benefits of employees for whom contributions are made under this Paragraph 8(a) shall be determined in accordance with the Plan’s eligibility and coverage rules as amended from time to time by the Trustees.

(iv) Payment. Unless the Plan notifies the Contributing Employers that it requires wire transfers, Payment of contributions as required above shall be made by check mailed to the Plan’s third party administrator designated herein by the end of each month in respect to all employment during the preceding month, on which contributions were payable. The Plan’s right to contributions attaches on the date covered employment was performed (i.e., the work date) and not the date the employee is paid for such work. Each payment of contributions shall be accompanied by a Remittance Report in the form supplied by the Plan.

(v) Loan-out Companies. When a Contributing Employer borrows the services of a freelance employee from a loan-out company and such employee renders services to a Contributing Employer that is covered by this Participation Agreement, the Contributing Employer shall make contributions directly to the Plan with respect to the services performed by the borrowed employee. In its agreement with the loan-out company, the Contributing Employer shall separately state the compensation applicable to services covered by this Participation Agreement. Contributions to the Plan shall be based on the amount the Contributing Employer pays the loan-out company for lending the freelance employee’s covered services. As used herein the term “loan-out company” shall (A) have the same meaning as it does under the commercial production industry multiemployer employee welfare benefit plans where such plans cover persons working as loaned out employees under their plan of benefits; (B) is an entity that (C) is owned by the employee and where such entity (D) loans the employee/owner’s special skills and services to the Contributing Employer ; (E) the borrowing Contributing Employer exercises supervision and control over the borrowed employee ; and (F) there may be other indicia of employment between the Contributing Employer and the borrowed employee. A loan-out company may be a corporation or LLC or other business entity. A loan-out company is not treated by the Plan as an independent contractor in relation to the Contributing Employer, however, the Plan does not enter into Participation Agreements with loan-out companies. Notwithstanding the foregoing, the Trustees have the right, at any time on notice to the Contributing Employer, to decline to accept contributions on behalf of loaned-out/borrowed employees and to not cover such persons as participants under the Plan of Benefits where the Trustees in their sole judgment

Revised: November 9, 2017

determine to be in the best interests of the Plan and/or to comply with applicable law.

**(b) Staff Employees: [THIS IS A CONTRIBUTING EMPLOYERS OPTION WHICH REQUIRES SIGNING AND SUBMITTING THE STAFF COVERAGE ELECTION FORM PROVIDED BY PHBP]**

- (i) “Staff” employees means the permanent, common law employees (and those who are employees within the meaning of Section 3(6) of ERISA) of the Contributing Employer hired for an indefinite period of employment (i.e. are not employed on a freelance, project by project or temporary basis), who are normally and regularly scheduled to work at least thirty (30) hours per week.
- (ii) The monthly contribution rates applicable for the initial and any renewal term(s) of this Participation Agreement for staff individual, spouse, domestic partner and dependent coverage shall be determined by the Trustees for a calendar or policy year based on the policy rates negotiated with the Plan’s insurance carrier(s) plus a reasonable administrative cost component as Trustees may determine, from time to time, in their sole judgment. Such administrative charge, or projected charge, will be disclosed to the Contributing Employer with future contribution rates.
- (iii) The Contributing Employer shall enroll and cover all staff employees for individual medical coverage for the current and each successive calendar or policy year and pay the full monthly individual contribution rate directly to the Plan via check to the Plan’s third party administrator, except those staff employees who have medical coverage elsewhere and who affirmatively decline individual coverage in writing in the manner that the PHBP prescribes. If the Contributing Employer requires its staff employees to reimburse it for a portion of the total monthly contribution rate it pays for individual medical coverage or medical/dental/vision coverage (if that option package is elected), the staff employee paid portion may not exceed twenty-five percent (25%) of the Contributing Employer’s total monthly contribution rate. Payment of medical coverage for family, spouse, domestic partner and dependents shall be optional on a group basis for the Contributing Employer who, as in the case of individual coverage, shall make full monthly payment of applicable carrier premium to PHBP and may require reimbursement by the staff employee in such amount as the Contributing Employer may establish for a calendar or policy year, subject to applicable law.
- (iv) New hires must be enrolled and benefits for the new hire will begin the first of the month following thirty (30) days from date of hire. A freelance employee under paragraph 8(a)(i) above who is hired as a staff employee and was eligible and covered by PHBP at the time of hire, shall be covered as staff immediately upon commencement of employment by the Contributing Employer. Furthermore, if a new employee was covered by PHBP as a staff employee with another participating Contributing Employer at the time of hire, he/she shall also be covered immediately upon commencement of staff employment by the Contributing Employer.

- (v) Payment for staff coverage shall be billed to the Contributing Employer by the Plan's third party administrator by the first day of each month and shall be paid by the Contributing Employer (i.e. must be received by the Plan's third party administrator) by the fifteenth (15<sup>th</sup>) day of that month for coverage effective the first day of the following month and if not received, the Plan may terminate staff coverage effective on such first day of the following month. Reinstatement, if permitted, shall be in the sole discretion of the Plan and upon such terms as it determines. The Contributing Employer's payment shall be accompanied by a Remittance Report in the form supplied by the Plan. The Plan shall provide invoices for all staff coverage elected by the Contributing Employer, including any contributory spouse, domestic partner, dependent and/or family coverage based on the most current enrollment data that the Plan has. The Plan may revise/correct/supplement any invoice to conform to the proper covered staff employees, dependents, spouses and dependents. As used in the Participation Agreement including the attached Staff Coverage Election Form, the terms, "individual," "spouse," "domestic partner," "dependent" and "family" shall have such meaning as they have in the contract of insurance between the Plan and its medical insurance and dental/vision insurance carrier(s).
- (vi) Dental and Vision Coverage, as a package, is optional and may be provided as the Contributing Employer determines e.g. through its own selected carrier, by self-insurance or not at all. If the Contributing Employer elects to provide such coverage through the Plan, it is on a combined dental and vision basis only, on a group basis for all staff employees of the Contributing Employer and the individual coverage rate must be paid for entirely by the Contributing Employer that elects such coverage.
- (vii) Annual Election of Staff Coverage. The 2017 monthly Contributing Employer contribution rates and any applicable administrative expense component have been provided to the Contributing Employer in the PHBP Staff Election Form, the terms of which are incorporated herein by reference. Upon renewal, extension of or other changes the Plan's medical coverage policy with its carrier, the Contributing Employer will be advised in writing of the contribution rates for the successive calendar or policy year(s) (e.g. 2017 et seq.) by means of a new Staff Election Form for each new calendar or policy year. The Contributing Employer may continue to elect staff coverage or decline to elect staff coverage by so indicating on the Staff Election Form and returning it signed to the Plan within the time specified by the Plan. The terms of an executed Staff Election Form shall be incorporated in this Participation Agreement by reference and without the need for the Plan and the Contributing Employer to execute a new Participation Agreement. Failure to timely return the executed Staff Election Form for any renewal period shall be treated by the Plan as a Contributing Employer election to decline to renew and continue staff coverage. Failure to timely deliver the fully executed Staff Election Form to the Plan will cause termination of the Contributing Employer's staff coverage at the conclusion of the current policy year and as indicated in the Staff Election Form. Once staff coverage has been elected for a calendar or policy year, it may only be

terminated effective at the end of a calendar month, and on thirty (30) days prior written notice to the Plan.

- (viii) Formula for Staff Coverage Administrative Fee and Freelance Administrative Cost Assessment. The Trustees deem it necessary in the interests of the Plan to include a Staff Coverage Administrative Fee as part of contributions for staff coverage based on the formula in paragraph (viii) below. In addition, the Trustees have determined that a Freelance Administrative Cost Assessment must be applied to employers that fail to meet the Freelance Administrative Criteria (outlined in paragraph (viii) below). The Contributing Employer acknowledges and recognizes the right of the Trustees, in their sole discretion, to set a Staff Coverage Administrative Fee and Freelance Administrative Cost Assessment and to amend it and/or the formula in paragraph (viii) from time to time. The Staff Coverage Administrative Fee and Freelance Administrative Cost Assessment are identified in the Staff Election Form. The Contributing Employer by executing the Staff Election Form agrees to pay the Staff Coverage Administrative Fee and Freelance Administrative Cost Assessment (should the contributing employer fail to meet the criteria for freelance employment) as set forth therein and it may be amended.
- (A). Contributing Employers that have opted for staff coverage as of December 31, 2016 (“Current Contributors”):  
Staff Coverage Administrative Fee: For Current Contributing Employers, 2% of total staff contributions in 2017.
- (B). Contributing Employers that opt for staff coverage after December 31, 2016 (“New Contributing Employers”).  
Staff Coverage Administrative Fee: For New Contributing Employers, 5% of total staff contributions will be due for the first year and 2% for each year thereafter. However, when a New Contributing Employer during its initial year reaches freelance contributions of \$20,000, the Staff Coverage Administrative Fee is reduced from 5% to 2% beginning with the second month after the month in which the \$20,000 level is reached and for the balance of that year.
- (C). Freelance Administrative Criteria. In order to more fairly apportion and rebalance the Plan’s administrative costs among Contributing Employers in light of their varying proportions of covered Freelance to Staff employees, and hence contributions, the Trustees have adopted the following Freelance Administrative Criteria to determine when a Freelance Administrative Cost Assessment is due: A Freelance Administrative Cost Assessment is required where in a calendar year both  
(i) an employer’s total annual freelance contributions are less than 40% of combined freelance and staff contributions **and** (ii) the employer’s total annual freelance contributions are less than \$20,000. Each calendar year beginning with 2017 shall be a measuring year for the Freelance Administrative Criteria and the Freelance Administrative Cost Assessment, if determined due, shall be effective for the following year.

(D). Freelance Administrative Cost Assessment. If in any measuring year a Contributing Employer's total freelance contributions are less than 40% of combined staff and freelance contributions and its total annual freelance contributions are less than \$20,000, then in the succeeding calendar year the Freelance Administrative Cost Assessment of 7% shall be added to the total staff contributions payable in that succeeding calendar year plus the then current Staff Coverage Administrative Fee (i.e. 2%). (For "New Contributing Employers" first entering into the plan after the beginning of any calendar year, the \$20,000 measurement for a partial year shall be prorated to \$1667/month of participation).

(ix) Staff coverage including, not but not limited to, timing and manner of contribution payments and eligibility are governed by the Plan's rules as they may be amended by the Board of Trustees from time to time. The Plan does not accept contributions on behalf persons who are independent contractors under applicable law nor cover independent contractors under its Plan of Benefits whether as staff or freelance.

## **9. Payroll Service**

The Contributing Employer hereby authorizes and directs all payroll service companies that it uses to comply, on behalf of the Contributing Employer, with its obligations under paragraphs 2, 3, 4 and 8 of this Participation Agreement. The Contributing Employer shall issue such additional written directives and/or authorizations to its payroll service as the Plan determines are reasonably necessary to effectuate the terms of this Participation Agreement. In the event that the Plan issues a directive to the payroll service company(ies) directly, the Plan will give the Contributing Employer prior written or electronic notice, and the content, of any directive to the Contributing Employer's Payroll Service. Nothing contained in this paragraph 9 shall relieve the Contributing Employer of any obligation it has under this Participation Agreement, the Trust Agreement or applicable law.

## **10. Governing Law**

The interpretation and enforcement of this Participation Agreement shall be governed by the laws of the State of California, without regard for the choice of law rules of that state, but only to the extent not otherwise preempted by the Employee Retirement Income Security Act, as amended, ("ERISA").

## **11. Conditions to Coverage and a Plan of Benefits and Termination of Plan**

The Contributing Employer acknowledges that coverage and maintenance of a fully insured Plan of Benefits is conditional upon issuance and continuation by the Plan's underwriting insurance carrier of the group health insurance policy. The carrier has conditioned coverage and maintenance of a policy on the attainment and maintenance of specified minimum levels of

Contributing Employers participation and eligible freelance employee group size. If, for any reason, the carrier or any successor carrier cancels or does not renew any policy issued to the Plan, the Trustees may terminate the Plan, the Trust, the Plan of Benefits and/or this Participation Agreement or if the Trustees for any reason determine to terminate the Plan, the Trust or the Plan of Benefits, the Trustees may, in their sole discretion, terminate this Participation Agreement. No portion of Contributing Employer contributions made to the Plan shall be returned.

Agreed and Accepted By:

\_\_\_\_\_  
**(Full Name of AICP General Member, herein the “Contributing Employer”)**

\_\_\_\_\_  
**(Address)**

\_\_\_\_\_  
**(State of incorporation)**

\_\_\_\_\_  
**(Company EIN)**

**By:** \_\_\_\_\_  
**(Signature of Authorized Officer) (Title) (Print Name)**

**Signing Date:** \_\_\_\_\_

CONTROLLING PARTNER/ OFFICER/SHAREHOLDER INFORMATION			
Please fill in all officer/shareholder information.			
PARTNER/OFFICER/SHAREHOLDER/LLC MEMBER NAME	MEMBER	TITLE	% OF SHARES OR OWNERSHIP INTEREST
ADDITIONAL INFORMATION			
Company Type: (check one)	<input type="checkbox"/> SOLE PROPRIETORSHIP (Ownership)	<input type="checkbox"/> A Partnership: <input type="checkbox"/> General <input type="checkbox"/> Limited	Fed ID:
	<input type="checkbox"/> LIMITED LIABILITY CORPORATION (List ALL Members)		State Employer ID #:
	<input type="checkbox"/> A CORPORATION (List ALL Officers and Principals)		State Corp. ID #:
Does this Company have any affiliated/related entities? (e.g., parent company, subsidiaries, DBA's, etc.)		<input type="checkbox"/> Yes (Please List Below) <input type="checkbox"/> No	

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**Names, Titles, Phone Numbers and Email Addresses of Contact Persons at the Contributing Employer's office:**

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

**List of the Contributing Employer's Payroll Service(s):**

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

**THIS PARTICIPATION AGREEMENT SHALL NOT BE LEGALLY BINDING UPON PHBP UNTIL COUNTERSIGNED BY PHBP AT THE PLACE PROVIDED (THE DATE OF COUNTER SIGNATURE BY PHBP BEING THE "EFFECTIVE DATE" OF THIS PARTICIPATION AGREEMENT).**

**Agreed and Accepted by:**

**PRODUCERS' HEALTH BENEFITS PLAN:**

By: \_\_\_\_\_  
                     Susan       Kaiser  
                     Executive Director

Signing Date: \_\_\_\_\_

**ADDRESS OF PLAN OFFICES:**

**California-  
 Raleigh Studios  
 650 N. Bronson Avenue  
 Los Angeles, California 90004-1404**

**New York-  
 3 West 18<sup>th</sup> Street  
 (5<sup>th</sup> Floor)**

Revised: November 9, 2017

**New York, New York  
10011**

**NAME AND ADDRESS OF PHBP's THIRD PARTY ADMINISTRATOR:**

**BeneSys Administrators, Inc.  
7180 Koll Center Parkway, Suite 200  
Pleasanton, California 94566  
Attention: Bonnie Maraia  
Barry Osharow**

**Revised: November 9, 2017**