

WGA CODE OF CONDUCT (as of March 27, 2019¹)

This Code of Conduct (“Code”) has been established by Writers Guild of America, West, Inc. and Writers Guild of America, East, Inc. (collectively, “Guild” or “WGA”) to regulate the conduct of talent agents, either individually or through a talent agency (collectively, “Agent”), in the representation of writers (“Writers”) with respect to the option and sale of literary material or the rendition of writing services in a field of work covered by a WGA collective bargaining agreement (“CBA”). By subscribing to this Code, the Agent agrees to be bound by all terms and conditions contained herein, including the appended Standard Representation Agreement (“Rider W”) and Rules Governing Arbitration, which are incorporated as part of this Code. The works written by Writers under a Guild CBA are referred to herein as “motion pictures.”

SECTION 1 – PURPOSE AND SCOPE OF REGULATION

The basis of the Guild’s authority to establish and enforce this Code is its status, conferred by federal labor law, as the exclusive bargaining representative of all Writers working in fields covered by a Guild CBA. Consistent with its role as exclusive bargaining representative, the Guild is authorized by law to specify the terms under which an Agent may be delegated to perform certain representational duties.

The application of this Code (including all attachments hereto) shall be limited to the Agent’s representation of Writers with respect to the option and sale of literary material or the rendition of writing services in a field of work covered by a Guild CBA. The provisions of the Code shall not apply to the Agent’s representation of a Writer with respect to the Writer’s non-writing services or other services not covered by a Guild CBA or as to which the Guild is not the exclusive bargaining representative.

SECTION 2 – SUBSCRIBING TO THE CODE OF CONDUCT

An Agent seeking to subscribe to the Code of Conduct shall submit a written application to the Guild using a form available on the WGA website. The Guild may revise the application from time to time in its discretion. In addition to the information required by the application, the Guild reserves the right to seek additional information or disclosure of matters relevant to the Agent’s professional background and ability to represent Writers in compliance with the Code. The Guild shall approve or deny the application within 30 days after the Agent’s submission of all of the requested information. In the event the Guild denies the Agent’s application, it shall state in writing the reasons therefor and the denial shall be subject to appeal by the Agent pursuant to Section 5 below and the Rules Governing Arbitration.

When the subscribing Agent is a talent agency of any legal form, including but not limited to a corporation, LLC, partnership, joint venture or sole proprietorship, the terms of the Code of Conduct shall be binding on the agency and all of its individual agents, employees, partners, principals, joint venturers, and shareholders. With respect to the obligations under this Code of Conduct, the subscribing talent agency shall at all times remain vicariously liable for the actions

¹ This Code of Conduct is as of March 27, 2019, and conforms to the WGA proposals to the Association of Talent Agents through that date. The Code is subject to further modification prior to implementation upon approval of the WGAW Board and WGAE Council.

taken by such individuals on its behalf or within the scope of the individuals' employment or agency.

SECTION 3 – STANDARDS OF CONDUCT FOR AGENTS IN PROVIDING SERVICES SUBJECT TO THE CODE

A. AGENT-WRITER RELATIONSHIP

1. Agent shall at all times act as a fiduciary of Writer, and shall comply with all fiduciary duties imposed by statute or common law.
2. Agent's representation of Writer shall not be influenced by its representation of any other Writer.
3. Agent shall promptly disclose to Writer all inquiries, offers and expressions of interest regarding employment or sale or option of literary material, and shall keep Writer apprised of the status of all negotiations.
4. Agent shall maintain confidentiality with respect to Writer's employment and financial affairs.
5. Prior to submitting Writer for employment on a project, Agent shall notify Writer if the employer or producer has not yet secured underlying rights necessary for the assignment.
6. Agent shall be responsive and professional in communicating with Writer.

B. CONFLICT OF INTEREST

1. No Agent shall have an ownership or other financial interest in, or shall be owned by or affiliated with, any entity or individual engaged in the production or distribution of motion pictures.
2. No Agent shall have an ownership or other financial interest in, or shall be owned by or affiliated with, any business venture that would create an actual or apparent conflict of interest with Agent's representation of a Writer.
3. No Agent shall derive any revenue or other benefit from a Writer's involvement in or employment on a motion picture project, other than a percentage commission based on the Writer's compensation or fee.
4. No Agent shall accept any money or thing of value from the employer of a Writer.
5. An Agent's concurrent representation on a commission basis of multiple clients employed or submitted for employment on the same motion picture project shall not be deemed a conflict of interest prohibited by this Code. Upon request by

Writer, Agent shall disclose to Writer the names of all other clients represented by Agent who are employed on, or actively being submitted for employment on, a project. Such disclosure shall be made in writing within ten (10) days of the Writer's request.

6. Agent shall disclose to Writer any fact or relationship suggesting or potentially creating a conflict of interest arguably prohibited by this Code.

C. AGENT COMPENSATION

1. Agent's commission shall be limited to ten percent (10%) of Writer's gross compensation, including Writer's profit participation, provided, however, that Agent shall not be entitled to receive commission on residuals or any other minimum payments to Writers for reuse of a motion picture under any applicable CBA.
2. Agent shall not circumvent limits on commissions under this Code by charging fees for other services, except that Agent shall be permitted to receive compensation for feature film financing and sales services on behalf of Writers, so long as: (a) the Agent fully describes the fees for such services to the Writer in advance of contracting to perform them; and, (b) the Writer has consented in writing to proceed with the Agent's performance of such services. Such compensation shall be only in the form of a percentage of funds raised from the financing and sales services. Such services include but are not limited to raising equity and debt, representing the film to domestic and international distributors, arranging co-productions, and advising the filmmakers on incentives and rebates. Such fees shall only be permitted for films with intended budgets greater than \$20 million with the consent of the Guild.
3. Agent shall provide promptly and no less frequently than quarterly to Writer and to the Guild an itemized statement showing in standardized electronic format (a) all compensation received by or on behalf of Writer; (b) all commissions received by Agent related to its representation of Writer; and (c) all fees received by Agent that has provided feature film financing and sales services on behalf of Writer. Writer and Guild shall have the right to audit such statements. Where an Agent has provided feature film financing and sales services on behalf of Writer, as described in subsection 2 above, Agent shall provide copies of these agreements and documentation of the related fees when Writer or Guild audits the Agent's commissions received by Agent related to its representation of Writer.

D. NOTIFICATION TO GUILD

1. Agent shall provide the Guild with a copy of the agreement or essential deal terms of any agreement engaging the Writer's services or acquiring the Writer's written material no later than 10 days after the earlier of (a) the existence of a binding contractual commitment; or (b) the commencement of Writer's writing services. Where such agreement is later amended or superseded by a long-form

agreement, Agent shall also provide the Guild with a copy of the amendment or long-form agreement.

2. Agent shall provide the Guild with immediate notice of Writer's commencement of services or delivery of literary material, or other material fact triggering compensation, and a copy of any invoice or other documentation relating to the payment obligation.
3. Agent shall provide the Guild with copies of all representation agreements with Writer.
4. Insofar as the notification to the Guild under this Subsection D requires the provision of confidential information relating to a specific Writer, the Guild shall use reasonable efforts to maintain the confidentiality of the information and such efforts shall in no event be less than the efforts the Guild uses to protect its own confidential information. The Guild shall maintain and use such information subject to its duty of fair representation, provided that nothing in this Subsection D shall prohibit the Guild from aggregating the data in a manner that does not disclose the confidential information of a particular Writer.

E. ENFORCEMENT OF CBA AND WRITER'S INDIVIDUAL WRITING AGREEMENTS

1. Agent shall not encourage Writer to violate any provision of a CBA.
2. Agent shall zealously advocate for Writer's best interests in all aspects of the employment relationship, including but not limited to the following:
 - a. Advocating against Writer's performance of uncompensated or speculative writing services;
 - b. Advocating in favor of multiple steps in theatrical deals; and
 - c. Protecting Writer from abusive hiring practices such as sweepstakes pitching.
3. Agent shall be aware of and monitor the contractual deadline for the payment of all compensation to the Writer, and shall immediately notify the Guild in the event a payment is late.
4. Agent shall cooperate fully with the Guild in any investigation or contract enforcement action undertaken on behalf of a Writer.
5. Agent shall not encourage Writer to violate any Guild rule.

F. NON-DISCRIMINATION AND INCLUSION

1. Agent shall comply with all state and federal anti-discrimination laws in its selection and representation of Writers.

2. Agent shall not, without prior disclosure to Writer, procure any employment where there is a reasonable basis to believe that the Writer will be subjected to a hostile work environment or other forms of workplace harassment. Agent shall not schedule or refer Writer to a meeting regarding potential employment in a hotel room or other location posing a threat to Writer's personal safety.
3. Agent shall take steps to ensure the referral of qualified diverse Writers for any open writing assignment.
4. Agent shall consult with Writer regarding diversity as a factor in their procurement of employment.
5. Agent shall provide the Guild with an annual report summarizing Agent's diversity efforts and reflecting, through anonymized data, the employment history of all Writers represented by the Agent, broken down by membership in statutorily-protected classes.

SECTION 4 – STANDARD REPRESENTATION AGREEMENT (RIDER W)

Appended to this Code of Conduct as Attachment 1 is the standard representation agreement, referred to herein as "Rider W." The terms of Rider W shall be deemed to be incorporated into any representation agreement, written or oral, between Agent and Writer. Agent and Writer may negotiate additional provisions in their representation agreement, provided, however, that (A) no term or condition of such negotiated agreement shall be less favorable to Writer than the provisions of Rider W; and (B) in the event of a conflict between the negotiated agreement and Rider W, the provisions of Rider W shall prevail.

SECTION 5 – DISPUTE RESOLUTION

- A. The following controversies between the Guild and an Agent shall be resolved by a neutral arbitrator in accordance with the procedures set forth in the Rules Governing Arbitration appended as Attachment 2:
 1. Any dispute concerning the interpretation of, or the performance of any obligation under, the Code of Conduct;
 2. Any dispute concerning the interpretation of, or the performance of any obligation under, Rider W;
 3. Any decision of the Guild to reject an Agent's application to subscribe to the Code pursuant to Section 2 above; and
 4. Any claim brought by the Guild to suspend or remove an Agent from the list of subscribing Agents based on an alleged material violation of the Code or Rider W.
- B. An arbitrator selected to hear a dispute under this section shall resolve the entire controversy. In so doing, the arbitrator shall have authority to fashion an appropriate remedy, which may include the award of damages, injunctive or declaratory relief, or imposition of disciplinary action against an Agent, including suspension or removal from

the list of subscribing agents. Upon a finding that the opposing party acted in bad faith, the arbitrator may also award attorneys' fees and costs to the prevailing party.

- C. The decision of an arbitrator under this section shall be final and binding, and may be confirmed in any court of competent jurisdiction. In an action to confirm an arbitration award, the court shall apply substantive law developed under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185.

SECTION 6 – MISCELLANEOUS PROVISIONS

- A. This Code of Conduct shall be effective as to each Agent upon the date the Agent subscribes hereto. This Code of Conduct shall not apply to, nor impair the right of Agent to receive compensation based on, services rendered by Agent before such effective date.
- B. If any provisions of this Code of Conduct are held to be void or unenforceable, all other provisions hereof shall remain in full force and effect.

SECTION 7 – TERMINATION OR MODIFICATION

- A. The Guild shall have the right to terminate or modify the terms of this Code of Conduct upon written notice to all subscribing Agents. The Guild's termination or modification shall be effective 60 days after its service of such notice.
- B. A subscribing Agent shall have the right to terminate its obligations under this Code of Conduct upon written notice to the Guild. The Agent's termination shall be effective 60 days after its service of such notice.

ATTACHMENT 1 TO WGA CODE OF CONDUCT

RIDER W

This standard representation agreement, referred to herein as “Rider W,” is attached to and made part of the Code of Conduct (“Code”) between Writers Guild of America, West, Inc. and Writers Guild of America, East, Inc. (collectively, “Guild” or “WGA”) on the one hand and a subscribing talent agent, either individually or through a talent agency (collectively, “Agent”) on the other hand. The purpose of the Code and of this Rider W is to regulate the conduct of the Agent in the representation of writers (“Writers”) with respect to the option and sale of literary material or the rendition of writing services in a field of work covered by a WGA collective bargaining agreement (“CBA”).

SECTION 1 – INCORPORATION OF STANDARD TERMS INTO REPRESENTATION AGREEMENT

By operation of the Code of Conduct, the terms of this Rider W shall be deemed to be incorporated into any representation agreement (“Representation Agreement”), written or oral, between Agent and Writer. Agent and Writer may negotiate additional provisions in the Representation Agreement, provided, however, that (A) no term or condition of such negotiated agreement shall be less favorable to Writer than the provisions of Rider W; and (B) in the event of a conflict between the negotiated agreement and Rider W, the provisions of Rider W shall prevail.

SECTION 2 – TERM AND TERMINATION

- A. The term of the Representation Agreement shall not exceed one (1) year.
- B. The Representation Agreement may be terminated by Writer during its term for any of the following causes:
 - (1) If Writer is not offered employment which is subject to this Rider W from a responsible employer with respect to services covered hereunder during any period in excess of four consecutive months, during all of which time Writer is ready, able and willing to accept employment. Writer may exercise this right of termination by written notice served on Agent by certified mail at its primary place of business. The right of termination under this section shall be deemed waived by Writer if, after expiration of the four month period but before service of a notice of termination, Writer accepts an offer of employment by a responsible employer;
 - (2) Any material breach by Agent of the provisions of the Code of Conduct or of Agent’s fiduciary obligations to the Writer;
 - (3) If Agent, during any strike by WGA, obtains employment or makes the sale or option of any literary material for any Writer with a producer or other person as to whom WGA is on strike;

- (4) If Agent represents a writer who has been denied membership in WGA or whose membership in WGA has been revoked by reason of acts prejudicial to WGA's welfare;
- (5) Agent's removal from the list of agents subscribing to the Code of Conduct, provided that such removal is final and all applicable appeal rights have been exhausted.

SECTION 3 – COMMISSIONS

- A. Agent's commission shall be limited to ten percent (10%) of Writer's gross compensation, including Writer's profit participation, provided, however, that Agent shall not be entitled to receive commission on residuals or any other minimum payments to Writers for reuse of a motion picture under any applicable CBA.
- B. Agent's commission shall be payable when gross compensation is received by the Writer (including Writer's loan-out corporation) or the Agent. If the gross compensation is received by the Agent on behalf of Writer, Agent is authorized to deduct the commission due and shall promptly remit the remaining compensation to Writer. If the gross compensation is received by Writer or Writer's loan-out corporation, Writer shall promptly remit the commission due to Agent.

SECTION 4 -- ACCOUNTING

Agent shall not collect monies belonging to Writer unless Agent has prior written authority from the Writer to do so. All monies belonging to the Writer when received by the Agent shall be faithfully accounted for by the Agent and promptly paid over to the Writer or as directed by the Writer, provided, however, that Agent may deduct from such monies any commission payable to Agent as well as any monies owing from the Writer to the Agent whether for past commission or for loans made to the Writer or monies advanced for Writer or for his account. Monies belonging to Writer shall not be commingled with monies belonging to the Agent, but shall be segregated and kept in a separate account which may be known as "client's account" or "trust account" or an account similar in nature. Agent may have one or more of such accounts and may commingle monies of other clients with the monies of the Writer in such account.

SECTION 5 - INFORMATION SHARING

Writer authorizes Agent to provide information to the Guild as required by the Code and consistent with the Guild's Working Rules.

SECTION 6 – DISPUTE RESOLUTION

- A. The following controversies between Writer and Agent shall be resolved by a neutral arbitrator in accordance with the procedures set forth in the Rules Governing Arbitration appended as Attachment 2 to the Code of Conduct:
 1. Any dispute concerning the interpretation of, or the performance of any obligation under, this Rider W;

- 2. Any dispute concerning the interpretation of, or the performance of any obligation under, the Code of Conduct;
 - 3. Any dispute regarding commission due to Agent.
- B. An arbitrator selected to hear a dispute under this section shall resolve the entire controversy. In so doing, the arbitrator shall have authority to fashion an appropriate remedy, which may include the award of damages, injunctive or declaratory relief, or imposition of disciplinary action against an Agent, including suspension or removal from the list of subscribing agents. Upon a finding that the opposing party acted in bad faith, the arbitrator may also award attorneys' fees and costs to the prevailing party.
- C. The decision of an arbitrator under this section shall be final and binding, and may be confirmed in any court of competent jurisdiction. In an action to confirm an arbitration award, the court shall apply substantive law developed under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185.

SECTION 7 – MISCELLANEOUS PROVISIONS

- A. This Rider W shall be effective as to each Agent upon the date the Agent subscribes to the Code of Conduct, and shall be deemed to be incorporated into any Representation Agreement then in effect between Agent and any Writer.
- B. If any provisions of this Rider W are held to be void or unenforceable, all other provisions hereof shall remain in full force and effect.
- C. Agent acknowledges that he has complied with all licensing requirements of any state in which he is conducting business.

WRITER AND AGENT HEREBY AGREE TO THE FOREGOING:

DATED: By _____
AGENT

DATED: _____
WRITER

THIS RIDER W TO A REPRESENTATION AGREEMENT HAS BEEN APPROVED AS TO FORM BY THE LABOR COMMISSIONER OF THE STATE OF CALIFORNIA ON

_____ .

THIS RIDER W HAS BEEN APPROVED AS TO FORM AND CONTENT BY THE WRITERS GUILD OF AMERICA.

ATTACHMENT 2 TO WGA CODE OF CONDUCT

RULES GOVERNING ARBITRATION

The following Rules Governing Arbitration (“Rules”) govern arbitrations arising under Section 5 of the WGA Code of Conduct (“Code”) and Section 5 of the Standard Representation Agreement (“Rider W”). The Rules incorporate by reference the Code and Rider W, including the terms defined therein.

SECTION 1 – EXCLUSIVITY

- A. The arbitration procedures established by these Rules shall be the exclusive method for resolving any and all controversies as defined in Section 5.A. of the Code and Section 5.A. of Rider W.
- B. The arbitrator shall have the power to rule on his or her own jurisdiction, including any questions of procedural arbitrability and any objections with respect to the existence, scope, or validity of the arbitration agreement.
- C. The arbitrator shall also have the power to determine the existence or validity of a contract of which the arbitration clause contained in the Code, Rider W, or these Rules forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause.

SECTION 2 – CLAIM

- A. A complainant initiates an arbitration under these Rules by serving a Claim on the respondent.
- B. A Claim seeks resolution of a controversy as defined in Section 5.A. of the Code or Section 5.A. of Rider W.
- C. The Claim shall be in writing and contain the following information: (i) the complainant’s name; (ii) the complainant’s address; (iii) a brief written statement of the Claim and the relief sought; and (iv) the name of the respondent.
- D. A Claim must be served on the respondent within two years from the date the complainant obtained knowledge of the facts upon which the Claim is based, but no later than four years from the date of the occurrence of the facts upon which the Claim is based.
- E. Any Claim brought by an Agent against a Writer under Section 5.A. of Rider W shall concurrently be served on the Guild. The Guild may but is not required to participate as a party in the proceeding.

SECTION 3 – COUNTERCLAIM

- A. The respondent may serve a Counterclaim on the complainant, which must be in writing and contain the same information as a Claim.
- B. A Counterclaim seeks resolution of a controversy as defined in Section 5.A. of the Code or Section 5.A. of Rider W.
- C. A Counterclaim must be served within two years from the date the respondent obtained knowledge of the facts upon which the Counterclaim is based, but no later than four years from the date of the occurrence of the facts upon which the Counterclaim is based.
- D. Any Counterclaim brought by an Agent against a Writer shall concurrently be served on the Guild. The Guild may but is not required to participate as a party in the proceeding.

SECTION 4 – ARBITRATOR

A. AUTHORIZED LIST OF ARBITRATORS

1. The Claim and, if applicable, the Counterclaim, shall be submitted to a sole neutral arbitrator (“Arbitrator”) selected from the applicable authorized list of arbitrators (“Authorized List”):

LOS ANGELES:

- Christopher David Ruiz Cameron
- Paul Crost
- Catherine Fisk
- Fredric R. Horowitz
- Barry Winograd

NEW YORK:

- Howard Edelman
- Susan McKenzie
- George Nicolau
- Joan Parker
- Janet Spencer

2. The Los Angeles Authorized List shall apply if the Writers Guild of America, West, Inc. ("WGAW") or a WGAW-represented Writer is a party to the arbitration. The New York Authorized List shall apply if the Writers Guild of America, East, Inc. ("WGAE") or a WGAE-represented Writer is a party to the arbitration. Where both the WGAW and WGAE (or both WGAW- and WGAE-represented Writers) are parties to the arbitration, the WGAW and WGAE shall decide which Authorized List applies.
3. Only an Arbitrator from the Authorized List shall have authority to adjudicate a Claim or Counterclaim or any issue arising in connection therewith.
4. The Guild may amend the Authorized Lists from time to time in its discretion and upon notice to the subscribing Agents.

B. ARBITRATOR SELECTION

1. The parties shall select the Arbitrator from the applicable Authorized List within ten (10) business days of service of the Claim on the respondent. In the event the parties cannot mutually agree upon an Arbitrator from the Authorized List, the parties shall alternate in striking a name from the Authorized List until one (1) arbitrator's name remains ("Strike Process"). The Arbitrator whose name remains shall be the Arbitrator. The complainant shall make the first strike. In the event that one of the parties fails to participate in the Strike Process, or fails to strike in order or timely, the other party may unilaterally select the Arbitrator.
2. The parties may agree in writing to extend the time period to select the Arbitrator. The extension will no longer be deemed effective if either party gives written notice to the other, in which case the parties shall select an arbitrator within ten (10) business days of service of the notice.

SECTION 5 – HEARING

- A. If the WGAW or a WGAW-represented Writer is a party to the arbitration, the hearing shall be held in Los Angeles. If the WGAE or a WGAE-represented Writer is a party to the arbitration, the hearing shall be held in New York City. Where both the WGAW and WGAE (or both WGAW- and WGAE-represented Writers) are parties to the arbitration, the WGAW and WGAE shall decide whether the hearing will be held in Los Angeles or New York City.
- B. After consulting with the parties as to their availability, the Arbitrator shall order a hearing on the Claim and, if applicable, the Counterclaim. Absent extenuating circumstances, the hearing shall commence within 60 days of the selection of the arbitrator and shall conclude within 60 days after the first day of hearing.
- C. The Arbitrator shall have the authority to issue subpoenas to compel the attendance of witnesses and/or the production of documents. Subpoenas *duces tecum* may be made

returnable on a specified date (no less than 20 days after service of the subpoena) before the arbitration hearing. Upon good cause shown, the Arbitrator shall have discretion to permit other pre-hearing discovery, including the taking of oral depositions.

- D. At the hearing, each party shall have the right to present any evidence that is relevant and material to the Claim or Counterclaim. The parties shall have the right to submit post-hearing briefs.
- E. The complainant has the burden of proving its Claim by a preponderance of the evidence. The respondent has the burden of proving its Counterclaim by a preponderance of the evidence.

SECTION 6 – DECISION

- A. The Arbitrator shall be expected to render a written decision within 30 days of the conclusion of the hearing.
- B. The Arbitrator shall not have the jurisdiction or the authority to add to, subtract from, or alter in any way the Code, Rider W, or these Rules.
- C. The Arbitrator's award shall be final and binding on the parties.

SECTION 7 – ARBITRATION COSTS

The costs of the arbitration, including the arbitrator's fee and court reporter's fee, shall be equally split among the parties, unless the Arbitrator's award specifies otherwise.

SECTION 8 – LAW GOVERNING THE ARBITRATION

- A. An arbitration governed by these Rules shall be subject to the laws of the state in which the arbitration hearing is held, unless otherwise provided in the Code or Rider W.
- B. Arbitrations subject to the laws of the State of California shall be held pursuant to Section 1700.45 of the California Labor Code. Accordingly, the complainant shall give reasonable written notice to the California Labor Commissioner of the time and place of the arbitration hearing, and the Labor Commissioner or his or her authorized representative has the right to attend the arbitration hearing. Section 1700.44 of the California Labor Code shall not govern arbitrations subject to these Rules.

SECTION 9 – SERVICE

- A. A Claim or Counterclaim must be served by certified mail or by personal delivery. All other notices or papers shall be served by email.
- B. A petition to confirm, modify, or vacate an arbitration award in any court of competent jurisdiction shall be served upon the respondent by certified mail or personal delivery.