

## **Travel Agent Agreement**

This Travel Agent Agreement ("Agreement") contains the complete terms and conditions that apply to your participation in the ASAPCOACH Travel Agent Program described in this Travel Agent Agreement. You may be referred to in this Agreement as "you," "Travel Agent," "Participant," and you and ASAPCOACH may be referred to collectively as "us" or "the Parties."

### **1. General**

- a) To commence the process of enrolling as a Participant in the Travel Agent Program, you must submit an Enrollment Application via our Web Site or as otherwise authorized by ASAPCOACH. We will evaluate your application and notify you of your acceptance or rejection within a reasonable time; which determination shall be in our sole discretion.
- b) ASAPCOACH will enter the information you provided in your Enrollment Application into ASAPCOACH'S reservation system database to qualify you to submit service requests to ASAPCOACH.
- c) You shall observe the operational guidelines set forth in the ASAPCOACH "Travel Agent Agreement".
- d) You understand and agree that ASAPCOACH may at any time, directly or indirectly, solicit client referrals and enter into similar agreements and may enter into agreements with your competitors.
- e) ASAPCOACH may from time to time amend, modify or supplement this Agreement in its sole discretion upon written, electronic or facsimile notice to you. You agree that you are bound to comply with all such amendments or modifications. All such changes shall be effective upon receipt of such notice and your acceptance of a service order or providing a referral shall evidence your acceptance of such changes. If you do not agree to such changes, you may terminate the Travel Agent Agreement in accordance with its terms.

### **2. Term**

This Agreement will commence upon ASAPCOACH acceptance of your Enrollment Application and will continue until either party terminates this Agreement, with or without cause, upon notice of termination to the other party ("Term").

### **3. Legal Compliance**

You will provide all Services in compliance with all applicable laws, codes, licensing requirements and regulations, and will be solely responsible to obtain all required governmental authorizations necessary for the full performance of the Services and this Agreement. You hereby further represent and warrant that: (a) if a corporation, you are duly organized and validly existing and in good standing under the laws of the state of your incorporation; (b) you are duly authorized and have full power and authority to enter into this Agreement and to perform your obligations hereunder; (c) you have obtained all permits, licenses, and other governmental authorizations and approvals required for your performance under this Agreement; (d) your performance of the Services and this Agreement will not conflict with or violate (i) any provision of law, rule or regulation to

which you are subject, (ii) any order, judgment or decree applicable to you (iii) any provision of Participant by-laws or certificates of incorporation, or (iv) any agreement.

#### **4. Confidentiality**

In performing the Service or this Agreement, each of ASAPCOACH and Participant may disclose to the other certain information ("Information") which is considered by the disclosing party to be proprietary or confidential information, including, without limitation, the term of this Agreement, business, marketing and financial information, customer and vendor lists, including name, address and travel information, and pricing and sales information. All Information shall remain the sole property of the disclosing party, and the receiving party shall maintain and protect the confidentiality of the Information using the same degree of care as the receiving party uses to protect its own confidential and proprietary Information, but not less than a reasonable degree of care. The receiving party may only use the disclosing party's Information to perform the Services and this Agreement and shall not disclose such Information to any third party without the prior written consent of the disclosing party. The restrictions of the use or disclosure of any Information shall not apply to any information; (i) after it has become generally available to the public without breach of this Agreement by the receiving party; (ii) is independently developed by receiving party without use of or reference to the Information provided hereunder; (iii) is rightfully in the receiving party's possession prior to disclosure to it by the disclosing party, (iv) is rightfully received by receiving party from a third party without duty of confidentiality; or (v) is disclosed under operation of law or pursuant to legal or regulatory process.

#### **5. Liability**

ASAPCOACH's aggregate liability to you for any claim arising in connection with this Agreement (weather in contract, tort, or any other theory of recovery) shall in no event exceed the applicable fees or commissions actually paid or payable to participant during the three (3) months preceding the applicable claim. In no event shall ASAPCOACH have any liability hereunder for any indirect, special, punitive or consequential damages including, without limitation, loss of profit or business opportunities, weather or not ASAPCOACH knew or should have known that such damage might be incurred.

#### **6. Indemnification**

You shall indemnify, defend and hold harmless ASAPCOACH, its affiliates, successors and assigns and their respective officers, directors, shareholders and employees, from and against any and all losses, liabilities, damages, actions, claims, expenses and costs including, without limitation, reasonable attorneys' fees, which result or arise from or are based on (i) the negligence or willful misconduct of you, your agents, servants and/or employees, (ii) your breach of this Agreement or any of the terms hereunder, (iii) any misrepresentation of a representation or warranty, or breach of a covenant or agreement made by you in this Agreement or the Enrollment Application.

#### **7. Independent Parties**

You and ASAPCOACH are independent contractors with respect to each other in connection with this Agreement. Nothing contained herein shall imply any partnership, joint venture or agency relationship between the Parties and neither of us shall have the power to obligate or bind the other in any manner whatsoever.

## **8. Promotion**

Participant shall not create, publish, distribute, or permit any written material that names or references ASAPCOACH without first submitting such material to ASAPCOACH and receiving ASAPCOACH's prior written consent.

## **9. Referrals**

- a) You may from time to time refer to ASAPCOACH a prospective client for Services that does not have an established account with ASAPCOACH.
- b) ASAPCOACH will pay you for Referrals that you provided a Referral commission.

## **10. Binding Effect**

This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns. Nothing in this Agreement, expressed or implied, is intended to confer on any person or entity other than the Parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

## **11. Severability**

if any provision of this Agreement shall be declared by any court of competent jurisdiction to be illegal, void or unenforceable, all remaining provisions of this Agreement shall not be affected and shall remain in full force and effect.

## **12. Entire Agreement**

This Agreement constitutes (a) the binding agreement between the Parties; (b) represents the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements; and (c) may not be modified or amended except as set forth herein. Notwithstanding anything to the contrary contained herein, ASAPCOACH may modify and change any of the terms and conditions of this Agreement, at any time in its sole discretion upon written or electronic notice in accordance with Section 1(e) of this Agreement.

## **13. Governing Law**

This Agreement shall be governed by, and construed in accordance with the internal laws of the State of Massachusetts without regard to conflicts of law principles thereof.

## **14. Arbitration**

Each Party hereby agrees to submit to binding arbitration, all disputes or controversies arising out of or in conjunction with this Agreement in accordance with the commercial arbitration rules of the American Arbitration Association (AAA) then in effect and judgment upon the award shall be final and unappealable and may be entered in any court having jurisdiction thereof. Nothing contained herein shall, however, be construed to limit or preclude ASAPCOACH from bringing any action in any court of competent jurisdiction for injunctive or other provisional relief as ASAPCOACH may deem to be necessary or appropriate against conduct or threatened conduct by Participant.