

ASAP MEMORANDUM OF UNDERSTANDING

For Medallion Participating Carriers

Revision # 4

1. **GENERAL.** This is an Aviation Safety Action Program (ASAP) Memorandum of Understanding (MOU) for a continuing program between certain Medallion Foundation member carriers operating under Title 14 of the Code of Federal Regulations (14CFR) and the Federal Aviation Administration (FAA). The employees are not represented by a labor association.

The Medallion Foundation is a non-profit aviation safety organization that provides management resources, training and support to the Alaska aviation community. The Medallion Five Star Program is an enhanced Safety Management System (SMS) that takes a business-like approach to safety, providing for the setting of goals as well as planning and measuring performance in specific areas through the use of System Safety concepts. The Medallion Five Star Program is voluntary and focuses on establishing and sustaining an elevated level of safety performance through:

- The development of safety culture that holds safety as a core value
- Continuous professional development of individual skills and competence
- Proactive sharing of operational control responsibilities
- Hazard identification and risk management
- Management practices that support the organization's safety objective

Medallion Foundation members who are certificate holders, or other authorized operators desiring an ASAP may become party to this agreement. These Medallion Foundation members shall be referred to as Medallion Participating Carriers (MPCs) and identified by the signature of the operator's authorized representative on Appendix One of this MOU. To be considered an eligible Medallion Participation Carrier, the carrier must hold and maintain a least one Medallion Foundation Program Star.

2. **PURPOSE.** The Federal Aviation Administration (FAA), Medallion Foundation and MPCs are committed to improving flight safety in Alaska. Each party has determined that safety would be enhanced if there were a systematic approach for designated employees to promptly identify and help to correct potential safety hazards. The primary purpose of the Medallion ASAP is to improve flight safety through employee self-reporting, cooperative follow-up, and appropriate corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.
3. **BENEFITS.** The program will foster a voluntary, cooperative, non-punitive environment for the open reporting of safety of flight concerns. Through such reporting, all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop corrective actions to help solve safety issues and possible eliminate deviations for 14 CFR. For a report accepted under this MPC ASAP MOU.

4. **APPLICABILITY.** This ASAP applies to all covered employees of MPCs and only for events that occur while the employee is performing duties as an employee of the carrier. Appendix One identifies the employee groups that are covered under the terms of the ASAP MOU for each respective MPC.

- a) Reports of events involving apparent noncompliance with 14 CFR that are not inadvertent or that appear to involving an intentional disregard for safety, criminal activity, substance abuse, controlled substance, alcohol, or intentional falsification are excluded from the program.
- b) Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the Voluntary Disclosure Policy, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. (See the current versions of AC 00-58 and FAA Order 2150.3 as revised).
 - The fact that the FAA may become aware of a carrier's violation revealed in an ASAP report before submission of the voluntary disclosure of that violation by the carrier does not preclude FAA acceptance of the Voluntary Disclosure, provided the disclosure meets all other criteria for acceptance under the Voluntary Disclosure Reporting Program.

5. **PROGRAM DURATION.** This is a Continuing Program subject to review and renewal every two years by the FAA.

- a) The MPC or the FAA may terminate this MPC ASAP at any time for any reason; however, the withdrawal of any individual MPC will not terminate the applicability of any individual MOU to any other MPCs.
- b) An MPC's termination or modification of their participation in Medallion ASAP will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action. For example, when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed. Failure of any MPC to follow the terms of the program applicable to that MCP ordinarily will result in termination of the program to that MPC.
- c) Failure of any MPC to follow through with corrective action acceptable to the FAA or the MPC's failure to resolve any safety deficiencies ordinarily will result in termination of the offending MPC from this program.
- d) Failure of any MPC to hold and maintain at least one Medallion Foundation Program Star will result in termination of the program to that MPC.

6. **STEERING COMMITTEE.** Since numerous Medallion Participating Carriers participate in the Medallion Foundation ASAP, a Steering Committee will be voluntarily established to provide overall program recommendations. The Steering Committee will

be composed of members from different MPCs and Chaired by the Medallion ASAP Manager. Recommended changes developed by the Steering Committee will be circulated to all MPCs via Committee Minutes.

7. **EVENT REVIEW COMMITTEE.** The Event Review Committee (ERC) will be comprised of the following:
- One qualified/authorized management representation of the respective MPC
 - One qualified/authorized employee representative of the respective MPC
 - One qualified/authorized FAA employee designated by the Alaskan Region Flight Standards Division as the ASAP representative or in their absence, a designated qualified alternate
 - The Medallion Foundation ASAP Manager acting as a facilitator. The ASAP Manager is a non-voting ERC participant.
- a) The FAA ERC voting member may include the appropriate Certificate Management Team (CMT) member as a subject matter expert (SME) in the ERC. In addition, the Medallion Foundation will designate one person and an alternate who will serve as the Medallion ASAP Manager.
- b) The Event Review Committee (ERC) will collaboratively review and analyze reports submitted by covered employees under the program, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems to the MPC. Each convened ERC meeting will be comprised of the three voting members noted above. The ERC will provide feedback to the individual who submitted the report through the Medallion ASAP Manager.
- c) The Medallion ASAP Manager will be responsible for the administration of the Medallion ASAP and will maintain a database that continually tracks each reported event and the analysis of those events including trending. The Medallion Foundation database will be structured to share needed safety information while maintaining anonymity of the reporter.
- d) The Medallion Foundation ASAP Manager and ERC voting members will conduct semi-annual reviews of the MPC ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include, as necessary, recommendations for corrective action for recurring events indicative of adverse safety trends. This review is to be conducted in addition to any other reviews completed by the FAA.
- e) If an application for renewal of the continuing program is anticipated, the Medallion ASAP Manager will submit a request for continuation of the ASAP to the FAA 60 days in advance of the termination date of the existing continuing program.
8. **ERC PROCESS.** The ERC will meet as necessary to review and analyze reports that will be listed on an agenda prepared by the Medallion Foundation ASAP Manager. The

Medallion ASAP Manager will determine the time and place of the meeting. The number of reports that have accumulated or the need to acquire time or safety critical information will determine the frequency of meetings. The ERC members will review reports to make the determination if a report is time or safety critical and will request the ERC be expeditiously scheduled. The ERC should normally meet within 30 days following the submission of an ASAP report. Telephonic meeting may be used when necessary.

- a) The ERC will make its decisions involving ASAP issues based on the consensus of all members in accordance with this Medallion ASAP MOU. Consensus of the ERC is described as the voluntary agreement of all voting members of the ERC. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the results falls within each member's range of acceptable solutions for that event in the best interest of safety.
- b) In order for this concept to work effectively, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. The ERC representatives will strive to reach consensus on whether a reported event is covered under the program, how that event should be addressed and the corrective action that should be taken as a result of the report. For example; the ERC should strive to reach a consensus on the recommended corrective action to address a safety problem such as an operation deficiency or airworthiness discrepancy reported under ASAP.
- c) The corrective action process could include working the safety issue(s) with the appropriate departments at the MPC and the FAA that have the expertise and responsibility for the safety area of concern. Recognizing the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in the Title 49 of the United States Code and FAA Order 2150.3 (as amended).
- d) In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation, qualification issue, medical certification or medical qualification issue, the FAA ERC representative will decide how the report should be handled. The FAA will not use the content of the ASAP report in any subsequent enforcement action except as described in paragraph 12a (3) of this MOU.
- e) It is anticipated that three types of reports will be submitted to the ERC:
 - 1) Safety-related reports that appear to involve a possible noncompliance with 14 CFR
 - 2) Reports notifying the ERC of a general safety concern, but do not appear to involve possible noncompliance with 14 CFR. (All safety related reports shall be fully evaluated and appropriately investigated.)
 - 3) Other reports, e.g., involving catering and passenger ticketing issues.

- f) The Medallion ASAP Manager will forward non-safety reports to appropriate MPC management representative to allow the operator to resolve the issue on an internal basis. For reports related to flight safety, including reports involving possible noncompliance with 14 CFR, the ERC will analyze the report, conduct interviews of reporting crewmember, and gather additional information concerning the mater described in the report.
- g) The ERC should also make recommendations for corrective action(s) relating to systemic issues. Root cause analysis and systems safety principles will be used by the ERC to develop recommendations. For example, such corrective actions(s) might include changes to MPC's flight operations procedures, aircraft maintenance procedures or modifications to the training curriculum for crewmembers. The FAA ERC Member will work with the MPCs to develop appropriate corrective actions for systemic issues. The Medallion ASAP Manager will track the implementation of the recommended corrective action(s) and report on associated progress as part of the regular ERC meetings. Any recommended corrective action(s) not implemented should be recorded along with the reason it was not implemented.
- h) When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC's FAA Representative must immediately advise the appropriate Regional Flight Surgeon of the issue. The FAA ERC member will work with the Regional Flight Surgeon, the MPC and/or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in processing of the ASAP report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.
- i) Any corrective action recommended by the ERC for a report accepted under Medallion ASAP must be completed to the satisfaction of all voting members of the ERC or the ASAP report will be excluded from the program and the event will be referred to the FAA for further action.
- j) Use of the MPC ASAP Report: Neither the submitters written report nor the content of the ASAP report will be used to initiate or support any company disciplinary action or as evidence for an FAA enforcement action, except as provided an paragraph 12a(3) of the MOU. The FAA may conduct an independent investigation of an event disclosed in a report.

9. ANNUAL MEETING FOR ERC MEMBERS. To ensure continual improvement of the ASAP Program, the Medallion Foundation ASAP Manager will conduct an annual ASAP meeting for all ERC members participating in the Medallion Foundation ASAP. The meeting will cover changes to the program in addition to issues which have come up during the previous year. All ERC members will be strongly encouraged to participate in this event.

10. ASAP REPORTING PROCEDURES. When a covered employee observes a safety problem or experience a safety-related event, he or she should note the problem or event and describe it in enough detail so it can be evaluated by a third party.

- a) ASAP Report Form: At an appropriate time during the workday (e.g. after the trip sequence has ended for the day), the employee should complete and submit electronically the web-based MPC ASAP Report Form for each safety problem or event. The employee may wish to print to copy for his/her own records. If the safety event involves a deviation from an ATC clearance, the pilot should note the date, time, place, altitude, flight number, and ATC frequency and with enough other information to fully describe the event and any perceived safety problem.
- b) In order for all employees to be covered under the ASAP for an apparent noncompliance with 14 CFR resulting from an event, he or she must each submit separate reports for the same event using the web-based reporting system. If web-based reporting is not available to the covered employee(s) at the time he/she needs to file a report, the employee(s) may contact the Medallion ASAP Manager and file a report via fax or telephone within 24 hours after the end of the flight sequence or assigned shift for the day occurrence, absent extraordinary circumstances. If the report is faxed in lieu of the preferred web-based report, all involved parties may sign the faxed report. Reports filed telephonically or by fax within the prescribed time limit must be followed by an electronic report submission within three calendar days thereafter.
- c) Time Limits: Reports that the ERC determines to be sole-source will be accepted under ASAP regardless of the time frame within which they are submitted provided they otherwise meet the acceptance criteria noted in paragraphs 12 (a) (2) and (3), of this Medallion Foundation MOU. Reports which the ERC determines to be non-sole-source must meet the same acceptance criteria and must also be filed within one of the following two possible timeframes:
 - (1) Within 24 hours after the end of the flight sequence for flight crewmembers.
 - o For example, if the event occurred at 1400 hours on Monday and a pilot completes the flight sequence for that day at 1900 hours, the report should be filed no later than 1900 hours on the following day (Tuesday). Non-flight crew covered employees must submit a report within 24 hours of completion of the duty shift for the day of occurrence.
 - (2) Within 24 hours of having become aware of a possible non-compliance with 14 CFR provided the following criteria are met:
 - o If a report is submitted later than the time period after the occurrence of an event stated in paragraph 10 c (1) above, the ERC will review all available information to determine whether the employee knew or should have known about the possible noncompliance with 14 CFR within that time period. If the ERC determines that the employee did not know or could not have known about the possible noncompliance with 14 CFR until informed of it, then the

report would be included in ASAP provided the report was submitted within 24 hours of having become aware of the possible noncompliance with 14 CFR and provided that the report otherwise met the acceptance criteria of the MOU. If the employee knew or should have known about the possible noncompliance with 14 CFR then the report will not be included in ASAP.

- d) Non-reporting employees covered under this ASAP MOU. If an ASAP report identifies another covered employee in an event involving possible noncompliance with 14 CFR and that employee has neither signed that report nor submitted a separated report, the ERC will determine on a case-by-case basis whether that employee knew or reasonable should have known about the possible noncompliance with 14 CFR. If the ERC determines that the employee did not know or could not or have known about the apparent possible noncompliance with 14 CFR and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ASAP report. If the non-reporting employee submits his/her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee provided all other ASAP acceptance criteria are met. If the non-reporting employee fails to submit his/her own report within 24 hours of the notification from the ERC, the possible noncompliance with 14 CFR by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and /or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.
- e) Non-reporting employees not covered under this ASAP MOU. If an ASAP report identifies another employee of the same MPC who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance with 14 CFR, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with the information about ASAP and invite the employee to submit an ASAP report. If the employee submits an ASAP report within 24 hours of notification from the ERC, that report will be covered under ASAP, provided all other ASAP acceptance criteria are met. If the employee fails to submit an ASAP report within 24 hours of notification from the ERC, the possible noncompliance with 14 CFR by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination, enforcement action, and/or appropriate referral to law enforcement agencies.

11. MEDALLION FOUNDATION ASAP MANAER. When the Medallion ASAP Manager receives the report, he or she will record the date and time of any event described in the report and the date and time the report was submitted. The Medallion ASAP Manager will immediately forward the de-identified report to the appropriate ERC members. The Medallion ASAP Manger will enter the report with supporting data on the agenda for the ERC meeting.

- a) The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded a timely submission. To confirm that a report was received, the Medallion ASAP Manager will send an electronic receipt to each employee who submits a report.
- b) The Medallion ASAP Manager will serve as the focal point for information and inquiries concerning the status of ASAP reports and for the coordination and tracking of ERC recommendations.

12. FAA ENFORCEMENT RESPONSE. Criteria for acceptance:

- a) The following criteria must be met in order for a report to be covered under MPC ASAP:
 - (1) The employee must submit the report in accordance with the time limits specified under paragraph 10(c) of this MOU.
 - (2) Any possible noncompliance with 14 CFR disclosed in the report must be inadvertent and must not appear to involve and intentional disregard for safety, and
 - (3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving those events will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under the Medallion ASAP. Such reports will be accepted under the Medallion ASAP provided they otherwise meet the acceptance criteria contained herein.
- b) Sole-Source Reports: For the purposes of FAA action, a report is considered a sole-source report when all evidence of the event available to the FAA is discovered by or otherwise predicated on the report. Apparent violations disclosed in ASAP reports that are covered under the program and are sole-source reports will be addressed with an ERC response (no FAA action required). It is possible to have more than one sole-source report of the same event.
- c) Reports Involving Qualification Issues: MPC ASAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a FAA certificated employee of a MPC will be addressed with corrective action, in such action is appropriate and recommended by the ERC. If the employee fails to complete the corrective action in a manner satisfactory to all members of the ERC, then his/her report will be excluded from ASAP. In these cases, the ASAP event will

be referred to an appropriate office within the FAA for any additional investigation and reexamination and /or enforcement action, as appropriate.

- d) Excluded from Medallion ASAP: Reported events involving possible noncompliance with 14 CFR that are excluded from ASAP will be referred by the FAA ERC voting member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.
- e) Corrective Action: FAA Certificated Airman who employed by a Medallion Participating Carrier will be excluded from the Medallion ASAP and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC recommended corrective action (applicable to that individual) in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.
- f) Repeated instances of noncompliance with 14 CFR: Reports involving the same or similar possible noncompliance with regulations that were previously addressed with Medallion ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph 12(a) above. The ERC will consider a case-by-case basis the corrective action that is appropriate for such reports.
- g) Closed Cases: A closed Medallion ASAP case may be reopened and appropriate enforcement action taken if evidence is discovered that establishes that the violation should have been excluded from the program.

13. EMPLOYEE FEEDBACK. The Medallion ASAP Manger will publish a summary of the reports received from MPC covered employees in a monthly publication sent to each MPC. The summary will include enough information to allow the covered employees to identify his or her own reports. Employee names will not be included in the summary. The outcome of each report will be published. Any employee who submitted a report may also contact the Medallion ASAP Manager to inquire about the status of his/her report. In addition, each employee who submits a report accepted under MPC ASAP will receive individual feedback on the final disposition of the report from the Medallion ASAP Manager.

14. INFORMATION AND TRAINING. The details of the Medallion ASAP will be made available to all covered employees and their manager(s) by publication on the Medallion Foundation website and distributed by each MPC. Each MPC covered employee and their manager(s) will receive written guidance and complete documented training which will outline the details of the program. Each flight crewmember will receive additional instruction concerning the program during the next regularly scheduled recurrent training session and on a continuing basis in recurrent training thereafter. All new-hire flight crewmember employees will receive training on the program during initial training. Other covered employees will receive instruction and information concerning the program in training sessions appropriate to their positions. Each individual who will be participating

in the ERC will be trained on the MOU; the ASAP process, root cause analysis, and consensus decision-making by the Medallion Foundation or other individual(s) designated by the Medallion ASAP Manger.

15. **REVISION CONTROL.** Any modification of the Medallion MOU must be coordinated with and accepted by all parties to the agreement. If acceptable, the revision will be inserted into the MOU and all the parties will sign the revised MOU.
16. **RECORDKEEPING.** All documents and records regarding this program will be kept by the Medallion ASAP Manager and made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable laws including the Pilot Records Improvement Act. The FAA will maintain whatever records it deems necessary to meet their needs.
17. **SIGNATORIES.** All parties to the Medallion ASAP are entering into this agreement voluntarily. Individual MPC signatories are listed in Appendix 1.
18. **EFFECTIVE DATES:** The MPC and the FAA agree to be bound by all the terms, conditions, and provisions contained in this MOU immediately upon signature of both parties authorized agents as evidenced in Append 1. Any party may withdraw from this agreement at any time for any reason upon written notice served by certified mail – return receipt requested or hand delivery to the other party’s designated agent. The effective date of withdrawal shall be the date of service of the written notice. Where service is by certified mail, the date of service is the date of mailing.
19. **FAA REVIEW:** This MOU has been reviewed and accepted for the use in the Alaska Region.

Unless otherwise superseded, this MOU shall be effective for twenty-four months beginning on:

By: _____ Date: _____

By: _____ Date: _____

Mr. Gerard Rock
Executive Director
Medallion Foundation, Inc.
1250 North Post Road
Anchorage, AK 99501