

MEMORANDUM OF UNDERSTANDING
Medallion Participating Carriers
Revision Two

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

The Medallion Foundation, Inc. is a non-profit aviation safety organization that provides management resources, training and support to the Alaskan 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 a 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 objectives.

Medallion Foundation members who operate in accordance with 14 CFR, Part 121 and Part 135 desiring an ASAP may become parties to this agreement. These Medallion Foundation members shall be referred to as Medallion Participating Carriers (MPC) and identified by signing Appendix 1 of this MOU.

2. PURPOSE. The Federal Aviation Administration (FAA), Medallion Foundation and MPC's are committed to improving flight safety in Alaska. Each party has determined that safety would be enhanced if there were a systematic approach for covered employees to promptly identify and correct potential safety hazards. The primary purpose of the MPC 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, nonpunitive 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 possibly eliminate deviations from 14 CFR. For a report accepted under this MPC ASAP MOU, the FAA will use lesser

enforcement action or no enforcement action, depending on whether it is a sole-source report, to address an event involving possible noncompliance with 14 CFR. This policy is referred to in this MOU as an “enforcement-related incentive.”

4. APPLICABILITY. This ASAP applies to all covered employees of MPC’s and only to events that occur while acting in that capacity. Appendix 1 identifies the employee groups that have entered into the ASAP MOU for each MPC. Reports of events involving apparent noncompliance with 14 CFR that are not inadvertent or that appear to involve an intentional disregard for safety, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.

a. 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 version of AC 00-58 and FAA Order 2150.3A, Appendix 1: Compliance/Enforcement Bulletins, Bulletin No. 90-6.)

b. The fact that the FAA may become aware of an operator violation revealed in an ASAP report before submission of the voluntary disclosure of that violation by the operator 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 this MOU as to other MPC’s. The termination or modification of a program 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 as to that MPC ordinarily will result in termination of the program to that MPC.

b. 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.

6. EVENT REVIEW COMMITTEE (ERC) Membership. The ERC will be comprised of one appropriate MPC management representative, one appropriate MPC employee representative, one appropriate FAA inspector assigned by the Alaskan Region Flight Standards Division as the ASAP representative; or their designated and trained alternates in their absence. In addition, the Medallion Foundation will designate one person who will serve as the Medallion ASAP manager. The Medallion Foundation

ASAP manager will be a non-voting member and will be responsible for the ASAP program administration.

7. EVENT REVIEW COMMITTEE (ERC) Duties. The ERC will 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. The ERC will provide feedback to the individual who submitted the report through the Medallion ASAP manager.

a. The Medallion ASAP manager will maintain a database that continually tracks each event and the analysis of those events. The MPC database will be structured to share needed safety information and still maintain anonymity. The ERC 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 recommendations for corrective action for recurring events indicative of adverse safety trends.

b. This review is in addition to any other reviews conducted by the FAA. 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.

a. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda prepared by the Medallion 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 critical information will determine the frequency of meetings. Telephonic meetings may be used when necessary.

b. The ERC will make its decisions involving ASAP issues based on consensus. Under the MPC ASAP, consensus of the ERC means the voluntary agreement of all representatives 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 result falls within each member's range of acceptable solutions for that event in the best interest of safety. 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 or any enforcement 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 operating deficiency or airworthiness discrepancy reported under ASAP. The corrective action process would 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 that 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 Title 49, United States Code, and FAA Order 2150.3A, (or as amended). In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation, a qualification issue, or 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 11a(3) of this MOU.

c. It is anticipated that three types of reports will be submitted to the ERC: safety-related reports that appear to involve a possible noncompliance with 14 CFR; reports that are of a general safety concern, but do not appear to involve possible noncompliance with 14 CFR; and other reports, e.g., involving catering and passenger ticketing issues. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.

d. The Medallion ASAP Manager will forward non-safety reports to the appropriate MPC management representative for his/her information and, if possible, internal resolution. For reports related to flight safety, including reports involving possible noncompliance with 14 CFR, the ERC will analyze the report, conduct interviews of reporting crewmembers, and gather additional information concerning the matter described in the report, as necessary

e. The ERC should also make recommendations for corrective action for systemic issues. Root cause analysis and systems safety principles will be used by the ERC to develop recommendations. For example, such corrective action might include changes to MPC's flight operations procedures, aircraft maintenance procedures, or modifications to the training curriculum for crewmembers. The FAA will work with MPC's to develop appropriate corrective action for systemic issues. The Medallion ASAP manager will track the implementation of the recommended corrective action and report on associated progress as part of the regular ERC meetings. Any recommended corrective action that is not implemented should be recorded along with the reason it was not implemented.

f. When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue. The ERC will work with the Regional Flight Surgeon and the MPC or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that 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.

g. Any corrective action recommended by the ERC for a report accepted under MPC ASAP must be completed to the satisfaction of all 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, as appropriate.

h. Use of the MPC ASAP Report: Neither the written report nor the content of the written ASAP report will be used to initiate or support any company disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in paragraph 11a(3) of this MOU. The FAA may conduct an independent investigation of an event disclosed in a report.

9. REPORTING PROCEDURES. When a covered employee observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that 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 a 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, along 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 any apparent noncompliance with 14 CFR resulting from an event, they must all 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's office and file a report via fax or telephone within 24 hours after the end of the flight sequence (or their assigned shift) for the day of occurrence, absent extraordinary circumstances. If they fax a report in lieu of the preferred web based report, they may all 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 the ASAP, regardless of the timeframe within which they are submitted, provided that they otherwise meet the acceptance criteria of paragraphs 11 (a), (2) and (3), of this 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 or the end of the duty shift for employees other than flight crewmembers. 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 possible non-compliance with 14 CFR provided the following criteria are met: If a report is submitted later than the time period after the occurrence of an event stated in paragraph 9c(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 is submitted within 24 hours of having become aware of possible noncompliance with 14 CFR, and provided that the report otherwise meets the acceptance criteria of this 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 separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance with 14 CFR. If the ERC determines that the employee did not know or could not 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. However, if the non-reporting employee fails to submit his/her own 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 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 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 and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

10. MEDALLION FOUNDATION ASAP MANAGER. 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 manager will enter the report, along with all supporting data, on the agenda for the ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the Medallion ASAP Manager will send an electronic receipt to each employee who submits a report. The receipt will confirm whether or not the report was determined to be timely. The Medallion ASAP manager will serve as the focal point for information about, and inquiries concerning the status of, ASAP reports and for the coordination and tracking of ERC recommendations.

11. 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 9c of this MOU,
- (2) Any possible noncompliance with 14 CFR disclosed in the report must be inadvertent and must not appear to involve an 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 ASAP. Such referred back reports will be accepted under MPC ASAP provided they otherwise meet the acceptance criteria contained herein.

b. Administrative and Informal Action. Notwithstanding the criteria in paragraph 205 of FAA Order 2150.3A, possible noncompliance with 14 CFR disclosed in a non sole-source ASAP report that is covered under the program and supported by sufficient evidence will be addressed with administrative or informal action (i.e., a FAA Warning Notice or FAA Letter of Correction, as appropriate for administrative action, or written or oral counseling for informal action). Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. In order to be considered sufficient evidence under ASAP, the ERC must determine through consensus that the evidence (other than the individual's safety-related report) would likely have resulted in the processing of a FAA enforcement action had the individual's safety-related report not been accepted under ASAP. If the ERC determines that sufficient evidence supports a violation for an accepted non-sole-source report, the ERC may employ the Enforcement Decision Tool

(EDT)-Individual matrix and associated guidance found in FAA Order 2150.3A, CHG 31, to determine, through ERC consensus under the ASAP process, whether the accepted non-sole-source ASAP report should be closed with administrative or informal action (and corrective action if appropriate). Accepted non sole-source reports for which there is not sufficient evidence will be closed with a FAA Letter of No Action.

c. Sole-Source Reports. 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 for the same event.

d. 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, if 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.

e. Excluded from MPC ASAP: Reported events involving possible noncompliance with 14 CFR that are excluded from ASAP will be referred by the FAA ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

f. Corrective Action: FAA certificated employees initially covered under an MPC ASAP will be excluded from the program 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.

g. Repeated instances of noncompliance with 14 CFR. Reports involving the same or similar possible noncompliance with regulations that were previously addressed with administrative action under MPC ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph 11(a) above. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

h. Closed Cases: A closed MPC ASAP case including a related enforcement investigative report involving a violation addressed with the enforcement-related incentive, or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

12. EMPLOYEE FEEDBACK. The Medallion ASAP Manager 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 so that the covered employees can identify their own reports. Employee names, however, 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.

Unless there are at least five (5) carriers in the MPC ASAP the summary report will be prepared exclusively for each MPC and contain only the information from that MPC. The information will not be shared between carriers.

13. INFORMATION AND TRAINING. The details of the MPC ASAP will be made available to all covered employees and their supervisors by publication on the Medallion Foundation website and distributed by each MPC. Each MPC covered employee and their manager(s) will receive written guidance outlining the details of the program at least 2 weeks before the program begins. Each flight crewmember will also 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 this MOU; the ASAP process, root cause analysis and consensus decision-making by the Medallion Foundation or other individual(s) designated by the Medallion ASAP Manager.

14. REVISION CONTROL. Any modifications of this 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.

15. 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 law including the Pilot Records Improvement Act. The FAA will maintain whatever records it deems necessary to meet their needs.

16. SIGNATORIES. All parties to this MPC ASAP are entering into this agreement voluntarily. Individual MPC signatories are listed in Appendix 1.

17. 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 Appendix 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.

18. FAA REVIEW: This MOU has been reviewed and is accepted for use in the Alaskan Region:

Signed: Ms. Marion Blakey
FAA Administrator

Date:
7/5/07

**MEMORANDUM OF UNDERSTANDING
Medallion Foundation Participating Carrier**

Appendix 1.
Change 3

Medallion Participating Carrier (MPC)

Company Name: _____

The following employee groups are covered under this MOU:

___ Pilots ___ Flt Attendants ___ Mechanics ___ Dispatchers
___ Flight Followers ___ Ground Support ___ Others (list)

_____.

Company Executive, Name: _____

Title: _____

Signature: _____

Date: _____

FAA Certificate Holding District Office: _____

Name: _____

Signature: _____
Manager, CHDO

Date: _____

The above named carrier has: (circle one)

- 1) Voluntarily withdrawn, or
- 2) Been removed by operation of paragraph 5(a) or (b) of this MOU.

Name: _____

Signature: _____

Title: _____

Effective Date: _____

