

CHAPTER AFFILIATION AGREEMENT

EXAMPLE DOCUMENT

THIS AFFILIATION AGREEMENT (the "Agreement"), is made this _____ day of _____, 20____, by and between the American Society for Training and Development ("NATIONAL ASTD"), a nonprofit corporation with its principal place of business in Alexandria, Virginia, and _____ ("CHAPTER"), [a/an] **[nonprofit corporation/unincorporated association]** with its principal place of business in the [city/state] of _____.

WHEREAS, NATIONAL ASTD is dedicated to training and development professionals and to other purposes otherwise consistent with its exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code;

WHEREAS, CHAPTER desires to become an affiliate of NATIONAL ASTD [and to be included in the group exemption granted to NATIONAL ASTD by the Internal Revenue Service ("IRS")];

[WHEREAS, the IRS requires NATIONAL ASTD to exercise general supervision or control over all affiliates under NATIONAL ASTD's group exemption to ensure that each affiliate's operations are, on an ongoing basis, consistent with NATIONAL ASTD's 501(c)(3) status];

NOW THEREFORE, in consideration of the premises set forth above and the promises set forth below, the sufficiency and receipt of which are hereby acknowledged, the parties hereby agree as follows:

I. Grant of Charter to CHAPTER.

A. Charter. Subject to the terms and conditions of this Agreement, NATIONAL ASTD hereby grants to CHAPTER a non-exclusive charter to be a CHAPTER of ASTD. In accordance therewith, CHAPTER is authorized to use the name "the American Society for Training and Development," acronym "ASTD," and ASTD CHAPTER logo as provided by NATIONAL ASTD in connection with CHAPTER's name with the authority to use such marks in connection with CHAPTER's activities authorized under this Agreement, subject to the terms and conditions of this Agreement and any written guidelines attached hereto, otherwise incorporated herein, or subsequently provided to CHAPTER by NATIONAL ASTD.

B. Term and Termination. The Term of this Agreement shall commence on the effective date set forth above and shall continue until revoked by NATIONAL ASTD or surrendered by CHAPTER, pursuant to the terms of this Agreement for revocation and surrender.

C. Authorized Activities. NATIONAL ASTD specifically authorizes CHAPTER to conduct activities that engage members of the training and development profession, such as chapter meetings, learning events, professional development activities, networking functions, virtual engagement, and such other activities that CHAPTER sees appropriate for its membership base and remains consistent with the mission and purposes of NATIONAL ASTD.

II. Membership.

Individual CHAPTER membership is separate from NATIONAL ASTD membership. The terms and conditions of CHAPTER membership shall be determined exclusively by CHAPTER, and shall be set forth in CHAPTER's bylaws. The terms and conditions of NATIONAL ASTD membership shall be determined exclusively by NATIONAL ASTD. National members are encouraged to join a local CHAPTER, and CHAPTER members are encouraged to be members of NATIONAL ASTD. In addition, CHAPTER is subject to such national and joint membership requirements as may be described in the most recent version of ASTD's Chapter Operating Requirements.

Comment [c1]: A customized affiliation agreement will be provided to all chapters via chapter coaches. Each chapter's specific agreement may vary depending on whether the chapter is included in national ASTD's group tax exemption as well as whether or not the chapter is incorporated.

Comment [c2]: All chapters should sign an agreement by January 31, 2010.

Comment [c3]: The wording selected here will be customized for each chapter, depending on incorporation status.

Comment [c4]: This line specifies the city and state where the chapter primarily conducts business and does not necessarily indicate the coverage area of the chapter.

Comment [c5]: The wording selected for this section will depend on whether the chapter is included in national ASTD's group tax exemption. Chapter coaches will advise if a particular chapter is included or not included in national ASTD's group tax exemption based on previous application from the chapter and chapter's fulfillment of annual IRS filing documentation.

Comment [c6]: This section verifies that national ASTD is the authority to grant chapter status, provide chapter logos, and revoke chapter charter.

Comment [c7]: This section confirms that chapters are authorized to determine chapter membership dues, duration, and benefits. The current Chapter Operating Requirements (CORE) will be referenced in regards to joint membership requirements. www.astd.org/CORE.

III. Obligations of NATIONAL ASTD.

A. Operating Requirements. NATIONAL ASTD shall operate consistently with the most recent version of ASTD's National Operating Requirements ("NORE"), as such document may be updated by NATIONAL ASTD from time to time. The most current version of NORE is attached to this Agreement as Exhibit A.

Comment [c8]: National Operating Requirements (NORE) were created to strengthen both national ASTD and chapters. National ASTD agrees to abide by the current National Operating Requirements (NORE). www.astd.org/NORE.

B. Tax-Exempt Status. NATIONAL ASTD confirms that it is currently organized exclusively for charitable, literary, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and has been granted tax-exempt status on that basis. NATIONAL ASTD agrees to promptly notify the Chapter of any change to its tax-exempt status.

IV. Obligations of CHAPTER.

A. Operational Requirements.

1. CHAPTER shall operate consistently with the most recent version of ASTD's Chapter Operating Requirements ("CORE"), as such document may be updated by NATIONAL ASTD from time to time. The most current version of CORE is attached to this agreement as Exhibit B.

Comment [c9]: www.astd.org/CORE

2. CHAPTER agrees that its governing documents are and shall remain consistent in all material respects with NATIONAL ASTD's governing documents. In particular, CHAPTER agrees that its stated purposes shall at all times be the same or materially consistent with those of NATIONAL ASTD, and that it will conduct its activities at all times in accordance with such purposes.

Comment [c10]: Per CORE element (1.1) "The chapter's mission, vision, and bylaws align with those of ASTD. Additionally, the chapter meets the ASTD brand identity guidelines." Per CORE element (1.2) "The chapter maintains written position descriptions for elected chapter board members."

3. CHAPTER warrants that it is in full compliance with all applicable laws, regulations, and other legal standards that may affect its performance under this Agreement, and shall remain in full compliance with, and otherwise conduct its activities at all times in accordance with all applicable laws, regulations, and other legal standards. Further, CHAPTER warrants that it shall at all times maintain all permits, licenses, and other governmental approvals that may be required in any jurisdiction in which CHAPTER operates.

Comment [c11]: Per CORE element (2.1) "The chapter complies with federal and state reporting requirements."

B. Corporate and Tax Status.

1. CHAPTER warrants that it is **[a nonprofit corporation in good standing/an unincorporated association]**, that it is not a private foundation as described in Section 509(a) of the Internal Revenue Code, and that it shall at all times operate in a manner consistent with the tax-exempt purposes of NATIONAL ASTD.

Comment [c12]: The wording selected will depend on whether the chapter is included in national ASTD's group tax exemption as well as whether or not the chapter is incorporated.

2. CHAPTER shall **[maintain all records related to its corporate status and]** forward to NATIONAL ASTD a copy of any adverse notice or other correspondence received from any governmental agency.

3. CHAPTER shall notify NATIONAL ASTD in writing of any audit performed by the IRS or any state revenue agency within seven (7) days of the commencement of such audit.

4. **[CHAPTER hereby authorizes NATIONAL ASTD to include CHAPTER in NATIONAL ASTD's group tax exemption.]**

V. Intellectual Property and Confidential Information.

A. Limited License.

1. NATIONAL ASTD hereby grants to CHAPTER a limited license to use (i) the name "American Society for Training and Development," the acronym "ASTD," the CHAPTER logo provided by NATIONAL ASTD (collectively, "Marks"); (ii) NATIONAL ASTD's membership lists with respect to current

Comment [c13]: The following section (A) and the nine (9) points refer to Intellectual Property which includes the ASTD name and acronym, chapter logos, and national ASTD membership lists provided to chapters by national ASTD.

members of NATIONAL ASTD located within the area of CHAPTER's operations as determined by NATIONAL ASTD (the "Mailing List"); and (iii) all copyrighted or proprietary information and materials provided by NATIONAL ASTD to CHAPTER during the Term of this Agreement (collectively, "Proprietary Information") (the Marks, Mailing List, and Proprietary Information collectively referred to as "ASTD's Intellectual Property").

2. CHAPTER hereby grants to NATIONAL ASTD a limited license to use (i) any name, acronym, or logo associated with the CHAPTER; (ii) CHAPTER's membership lists; and (iii) all copyrighted or proprietary information and materials provided by CHAPTER to NATIONAL ASTD during the Term of this Agreement (collectively, "CHAPTER's Intellectual Property").

3. Except as provided expressly herein, no property license, permission, or interest of any kind to the use of ASTD's Intellectual Property or CHAPTER's Intellectual Property is created, transferred, or acquired.

4. CHAPTER agrees that it shall not permit any person or entity to use ASTD's Intellectual Property, without the express written consent of NATIONAL ASTD.

5. CHAPTER agrees that it shall not revise or alter the Marks in any way that conflicts with NATIONAL ASTD logo guidelines.

6. CHAPTER agrees that its usage of ASTD's Intellectual Property shall be restricted solely to the activities authorized under this Agreement. CHAPTER agrees further that the exploitation of such right of usage shall protect the name and goodwill of NATIONAL ASTD.

7. CHAPTER and NATIONAL ASTD each represent and warrant that it has the full right to grant the license provided herein; that it has not previously or in any manner disposed of any of the rights granted herein or granted rights adverse to or inconsistent therewith; that there are no rights outstanding that would diminish, encumber, or impair the full enjoyment or exercise of the rights granted herein; and that its intellectual property does not and will not violate or infringe upon any patent copyright, literary, privacy, publicity, trademark, service mark, or other personal or property right of any third party, or constitute a libel or defamation of any third party.

8. Upon the termination or expiration of this agreement, CHAPTER and NATIONAL ASTD shall (i) immediately cease utilization of the other party's intellectual property; and (ii) return all originals and copies of the other party's intellectual property to the other party (whether printed, electronic, recorded, or in other tangible form) at the other party's request.

9. If CHAPTER seeks to use the name, acronym, logo, mailing list, or other intellectual property of another affiliate of NATIONAL ASTD, CHAPTER shall request permission from such affiliate prior to such use.

B. Confidential Information. The parties shall maintain the confidentiality of all of the confidential and proprietary information and data ("Confidential Information") of the other party. Confidential Information is any information or data designated as such by the party that owns the information or data and/or any information or data that the other party reasonably knows or should know to be confidential or propriety in nature. The parties also shall take all reasonable steps to ensure that no use, by themselves or by any third parties, shall be made of the other party's Confidential Information without such other party's consent. Each party's Confidential Information shall remain the property of that party and shall be considered to be furnished in confidence to the other party when necessary under the terms of this Agreement. Upon any revocation, surrender or other termination of this Agreement, each party shall: (i) deliver immediately to the other party all Confidential Information of the other party, including but not limited to all written and electronic documentation of all Confidential Information, and all copies thereof; (ii) make no further use of it; and (iii) make reasonable efforts to ensure that no further use of it is made by either that party or its officers, directors, employees, agents, contractors, or any other person or third party. Each party's confidentiality obligations under this Section shall survive any revocation, surrender or other termination of this Agreement.

VI. Relationship of Parties.

Comment [c14]: Intellectual property includes the ASTD name and acronym, chapter logos, and national ASTD membership lists provided to chapters by national ASTD.

Comment [c15]: CORE element (1.1) "The chapter's mission, vision, and bylaws align with those of ASTD. Additionally, the chapter meets the ASTD brand identity guidelines."

Comment [c16]: This section confirms that intellectual property abides by all laws (including copyright and trademark law). Any modifications to the chapter logo must meet the ASTD branding guidelines.

Comment [c17]: This section clarifies that a chapter must obtain permission to use intellectual property belonging to another chapter.

Comment [c18]: This section refers to any data belonging to national ASTD or the chapter including chapter and national ASTD member and sponsor information.

Comment [c19]: This section clarifies that national ASTD and chapters are independent entities.

Neither party, nor any of its members, officers, directors, managers, agents, employees, independent contractors or representatives will (a) be considered an agent, partner, joint venturer, employee, or representative of the other party for any purpose whatsoever, (b) have any authority to make any agreement or commitment for, or to incur any liability or obligation in the other party's name or for or on its behalf, and (c) represent to outside parties that they or any of them has any right to bind the other party to this Agreement. CHAPTER is not, and will not be deemed to be, for any purpose, an employee or agent of NATIONAL ASTD. NATIONAL ASTD will not be responsible to CHAPTER, or to any governmental authority, for the payment or withholding of any foreign, federal, state or local income, unemployment or other employment-related taxes in connection with any payments to CHAPTER contemplated by this Agreement.

Unless expressly agreed to in writing by the parties, neither party is authorized to incur any liability, obligation or expense on behalf of the other, to use the other's monetary credit in conducting any activities under this Agreement, or to represent to any third party that CHAPTER is an agent of NATIONAL ASTD.

VII. Indemnification.

Each party agrees to indemnify, save and hold harmless the other party, its subsidiaries, affiliates, related entities, partners, members, agents, officers, directors, employees, attorneys, heirs, successors, and assigns, and each of them, from and against any and all claims, actions, demands, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees and expenses), and liabilities of every kind and character whatsoever, which may arise by reason of: (i) the performance of the party's obligations under this Agreement, (ii) the failure of the party or any of its directors, officers, employees, or other representatives to comply with any term or condition of this Agreement, and/or (iii) the breach of any representation or warranty given or made by the party in this Agreement. This indemnity will require the payment of costs and expenses as they occur. Each party will promptly notify the other party upon receipt of any claim or legal action referenced in this Section VII.

Comment [c20]: This section outlines the hold harmless agreement between chapters and national ASTD.

VIII. Revocation or Surrender of Charter.

A. Revocation of Charter. The charter granted by NATIONAL ASTD to CHAPTER hereunder shall remain in full force and effect unless and until revoked by NATIONAL ASTD or surrendered by CHAPTER in accordance with the provisions of this Agreement. NATIONAL ASTD, through its Board of Directors, shall have the authority to revoke the charter of CHAPTER if the Board of Directors determines that the conduct of CHAPTER is in breach of any provision of this Agreement or as defined in NATIONAL ASTD policy. In addition, NATIONAL ASTD may revoke CHAPTER's charter for any reason by delivering to CHAPTER notice of its intention to do so no less than ninety (90) days prior to the effective date of such revocation.

Comment [c21]: This section clarifies the process of revocation taken by the ASTD Board of Directors if a chapter is not in alignment with national ASTD and/or this agreement.

B. Surrender of Charter. CHAPTER may surrender its charter by delivering to NATIONAL ASTD written notice of its intention to do so no less than ninety (90) days prior to the effective date of such surrender.

Comment [c22]: This section clarifies the ability for a chapter to surrender its charter. Both revocation and surrender require a minimum of 90 days notice.

IX. Miscellaneous.

A. Entire Agreement. This Agreement: (i) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; (ii) supersedes and replaces all prior agreements, oral and written, between the parties relating to the subject matter hereof; and (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.

B. Warranties. Each party covenants, warrants and represents that it shall comply with all laws, regulations and other legal standards applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.

C. Waiver. Either party's waiver of, or failure to exercise, any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.

D. Arbitration. Any and all disputes arising under this Agreement shall be subject to mandatory and binding arbitration. Said arbitration shall take place in the Commonwealth of Virginia. Neither party shall have any right to bring an action relating to this Agreement in a court of law, except insofar as to either enforce or appeal the results of any such arbitration. In any such arbitration, and subsequent court action, the prevailing party shall be entitled to collect its fees and costs associated therewith from the non-prevailing party.

Comment [c23]: National ASTD is located in Alexandria, Virginia, therefore is governed by the Commonwealth of Virginia.

E. Governing Law. This Agreement will be governed by, and the rights and liabilities of the parties will be determined, solely in accordance with the laws of the Commonwealth of Virginia, United States of America, except for its conflict-of-laws principles. Any legal action taken or to be taken by either party regarding this Agreement or the rights and liabilities of parties under this Agreement will be brought only before a court of competent jurisdiction located within the Commonwealth of Virginia, United States of America. Each party hereby submits to the jurisdiction of the courts located within the Commonwealth of Virginia, United States of America, in relation to any dispute arising from or in connection with this Agreement.

F. Assignment. This Agreement may not be assigned, or the rights granted under this Agreement transferred or sub-licensed, by either party without the express prior written consent of the other party, except that NATIONAL ASTD may assign this Agreement without CHAPTER's consent to any parent, subsidiary, affiliate of NATIONAL ASTD, or any successor pursuant to a merger, consolidation, reorganization, or a sale of all or substantially all of NATIONAL ASTD's assets.

Comment [c24]: This section clarifies that chapters cannot sublease their chapter rights to any other entity, and if national ASTD is sold or reorganized, the signed affiliation agreement will be reassigned to the new entity.

G. Heirs, Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each party, its subsidiaries, affiliates, related entities, partners, agents, officers, directors, employees, heirs, successors, and assigns, without regard to whether it is expressly acknowledged in any instrument of succession or assignment.

Comment [c25]: This clarifies that all chapters should sign their affiliation agreement once only to remain as an agreement abided by chapter leader successors.

H. Headings. The headings of the various paragraphs hereof are intended solely for the convenience of reference and are not intended for any purpose whatsoever to explain, modify or place any construction upon any of the provisions of this Agreement.

I. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

Comment [c26]: Chapters may sign more than one original copy if they would like a signed original. Each original copy will be counter-signed and executed as an original. If a chapter provides only one original copy, national ASTD will keep the original and the chapter will be provided with a copy of the executed agreement.

J. Severability. The invalidity in whole or in part of any provision of this Agreement will not affect the validity of other provisions.

K. Force Majeure. Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.

L. Notice. All notices and demands of any kind or nature that either party may be required or may desire to serve upon the other in connection with this Agreement will be in writing and may be served personally, by facsimile, by electronic mail, by certified mail, or by overnight courier, with constructive receipt deemed to have occurred on the date of the mailing, sending or faxing of such notice, to the following addresses or facsimile numbers:

If to ASTD: American Society for Training and Development
1640 King Street
Alexandria, Virginia 22314-1443
United States of America
Fax: 703.683.8184
Attn: Director of Chapter Services

If to CHAPTER: _____

Comment [c27]: In the event that CHAPTER lacks a permanent business address for service of notice, CHAPTER shall maintain some form of current address on record with NATIONAL ASTD for service of legal notice and other communications.

Attn.: _____,
Tele (____) _____-_____

In the event that CHAPTER lacks a permanent business address for service of notice, CHAPTER shall maintain some form of current address on record with NATIONAL ASTD for service of legal notice and other communications. NATIONAL ASTD may serve notice upon CHAPTER at such address according to the provisions of this Section.

* * * * *

IN WITNESS WHEREOF, This Agreement has been duly executed and delivered by the authorized officers of the parties to be effective as of the last date written below (the "Effective Date")

**AMERICAN SOCIETY FOR
TRAINING AND DEVELOPMENT**

[INSERT CHAPTER NAME]

Comment [c28]: Chapter bylaws should be referenced to determine authorized signers. This agreement will be signed once only and will remain as an agreement between national ASTD and chapters to be abided by chapter leader successors.

By: _____
Anthony Bingham, President & CEO

By: _____
[Name], [Title]

Comment [c29]: Tony Bingham will sign the agreement on behalf of national ASTD. This agreement will be signed once only and will remain as an agreement between national ASTD and chapters to be abided by national ASTD successors.

Date: _____

Date: ____