

SHORT-TERM ACADEMIC STUDY AWAY PROGRAM (STASAP) Service Provider Agreement

DIABLO VALLEY COLLEGE

In consideration of the covenants, promises and agreements contained herein, Diablo Valley College, a Public

Educational Agency ("College") and

("Service Provider")

hereby covenant, promise and agree as follows:

1. **SCOPE OF THE AGREEMENT:** This agreement shall apply to all Short-Term Academic Study Away Programs (hereinafter collectively referred to as either "STASAP" or "Program") as defined and approved by the District's Governing Board ("Board").
2. **EFFECTIVE DATE OF THE AGREEMENT:** The effective date of this Agreement shall be the date that this agreement has been approved by Board. This Agreement shall not be effective unless all Exhibits as described herein have been submitted to and approved by College's Office of Instruction and Business Services and the Board of Trustees.
3. **INSTRUCTIONAL PROGRAM:**
 - a. College shall arrange for and provide any STASAP within the scope of this Agreement, including but not limited to appropriate course announcements, course descriptions and course registration prerequisites, student selection and course registration, pre-program informational meetings, lectures, program instruction, program instructors, and post-program evaluation.
4. **TRAVEL SERVICES:** Service Provider shall arrange for and provide all transportation and lodging (if applicable) for the Program. Service Provider shall set forth the details of said Program in Exhibit A entitled "SPECIFIC PROGRAM DETAILS" which is attached to this Agreement and incorporated herein by this reference and by this reference specifically made a part hereof. This Agreement shall not be effective unless and until Exhibit A has been submitted to and approved by College's Office of Instruction and Business Services. In the event of a conflict between the terms and conditions of any SPECIFIC PROGRAM DETAILS as set forth in Exhibit A and the general terms and conditions set forth in this Agreement, the general terms and conditions set forth in this Agreement shall control.
5. **PROMOTIONAL MATERIAL:** Service Provider may prepare and provide at its own expense promotional material concerning the STASAP, provided that any promotional material is totally accurate and is approved in writing by the Dean overseeing STASAPs before publication and distribution and provided that any promotional material prominently displays the following disclaimer:

"
and any liability arising from the travel arrangements. Diablo Valley College is NOT liable for any damages arising out of the services described herein, including, but not limited to any promises or representations, whether express or implied. Nothing contained herein shall be construed to in any way bind the College, the District, the District Governing Board, or any of its agents, employees, or representatives to any promises, obligations, covenants, or duties, whether express or implied herein."

Such promotional materials shall include College-approved language requiring students to purchase short-term study abroad medical insurance. Information on recommended providers will be listed in promotional materials.

6. **PAYMENT BY PROGRAM PARTICIPANTS:** All payments by STASAP participants for travel services hereunder shall be made to the order of Service Provider's firm name, or to such other name as Service Provider may direct. Service Provider shall manage all charges collected from STASAP participants in accordance with all applicable federal and state law and regulations, and the requirements of this Agreement. All funds received by Service Provider for the STASAP are to be received by Service Provider in trust for the benefit of the STASAP participants.

Service Provider shall account to College the total cost to STASAP participants. STASAP expenses shall detail the extent of free transportation, per diem allowances, incidental support, any direct payment to or prerequisites intended by Service Provider for STASAP instructor or any other person. Disclosure of these costs and expenses for each particular STASAP shall be set forth on Exhibit A labeled "SPECIFIC PROGRAM DETAILS."

Cost figures once disclosed and set forth: Exhibit A labeled "SPECIFIC STASAP DETAILS" will not be changed, except that costs may be based on tariffs and foreign exchange rates in effect at the time of the quote and those may be subject to change. If such tariffs and exchange rates change without modification of this Agreement, the Service Provider must still disclose that information in advance in writing to the College's Office of Instruction and Business Services. Service Provider shall determine for each STASAP a date for initial deposit of STASAP costs by participants and the amount of such deposit, as well as the date of final payment, each of which dates and payments shall be set forth in Exhibit A "SPECIFIC PROGRAM DETAILS" and published in literature about the specific STASAP made available to potential STASAP participants by either College or Service Provider. In the event a Service Provider cancels the program prior to the time of its scheduled departure,

Service Provider shall refund in full any payments received from STASAP participants. If any participant cancels from the STASAP at any time prior to departure, participant must follow the cancellation schedule referenced in Exhibit A minus any non-recoverable charges or expenses incurred by Service Provider in connection with its provision of travel services for those participants, provided that Service Provider has notified, in writing, each STASAP participant and College's Office of Instruction and Business Services of its intent to do the same. In the event of such cancellation, Service Provider shall within forty-five days

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of said cancellation, account to the Office of Instruction and Business Services for any non-recoverable charges or expenses incurred by Service Provider. Charges, if any, for College personnel shall be invoiced to the College.

7. **RESTRICTION ON STASAP PARTICIPATION:** All STASAP participants shall be enrolled in a course of study related to the Program. Though enrollment is open to the public, some individuals may be denied admission on the basis of academic prerequisites or other constraints. STASAP participation is to be determined solely by College's Office of Instruction or designee. Service Provider shall not make the Program available to individuals who are not STASAP participants of College and who have not been approved by College as STASAP participants. In the event any person participates in a Program without College permission, the Service Provider hereby assumes all liability for participation of such persons and shall indemnify and hold harmless College and its Board, trustees, agents, employees, and representatives from all claims arising out of such participation as set forth more fully in paragraph 8 labeled "INDEMNIFICATION."
Prior to the departure of any STASAP, Service Provider shall provide the Office of Instruction at the address set forth in Paragraph 19(i) below with a roster of Program participants, showing name, address, emergency contact and address, along with the same information for any other persons that College has agreed to allow to accompany the STASAP. Service Provider shall forward a copy of all correspondence between Service Provider and any Program instructor, or Program participant to the Office of Instruction at the address set forth in Paragraph 19(j) below. No person shall be allowed to participate in a Program unless that person executes all document required by College's Office of Instruction and Business Services, including but not limited to the DIABLO VALLEY COLLEGE SHORT-TERM ACADEMIC STUDY AWAY PARTICIPATION AGREEMENT. College's Office of Instruction shall be responsible for collecting these documents.
8. **INDEMNIFICATION:** Notwithstanding any insurance coverage which may be in effect, and in addition to any additional undertakings referred to herein, Service Provider, to the extent permitted by law, shall save, defend, indemnify and hold harmless College, Board, any of the Colleges, and each of their trustees, agents, employees, and representatives free and harmless from and against any and all liability, claims, losses, expenses, judgments, or demands, including the obligations of College, Board, the Colleges, and each of their trustees, agents, employees, and representatives on account of any similar agreement College has with Service Provider including, but not limited to, demands arising from damages, injuries, or death of persons (Service Provider's agents, employees, representatives, and guests included), other personal injury including, but not limited to, libel and slander, damage to or loss of property, claims arising out of any actions by Service Provider in breach of this Agreement, and all statements, comments, remarks, or promises set forth in any promotional material as described in paragraph 5 above, the participation in the Program of any person without permission of College, and for the acts and omissions of any person or entity employed, retained, or representing Service Provider for the purpose of providing any services under this Agreement including, but not limited to, Travel Agents or Travel Agencies save and except for claims and litigation arising through the willful misconduct of College, Board, the Colleges, and each of their trustees, agents, employees or representatives. Service Provider will make good and reimburse College, Board, the Colleges, and each of their trustees, agents, employees, or representatives for any expenditures, including reasonable attorney's fees, College, Board, the Colleges, and each of their trustees, agents, employees or representatives may make by reason of such matters and, if requested by College, Board, the Colleges, and each of their trustees, agents, employees, and representatives, Service Provider will defend such suit at the sole cost and expense of Service Provider.
9. **INSURANCE:** Service Provider shall, for the duration of the Program, maintain in force a commercial general liability insurance policy (or policies) insuring Service Provider's activities under this Agreement on a domestic and worldwide basis (as needed), and for the amount set forth in parentheses below against risk of loss due to (a) injury, property damage or death caused by an occurrence arising out of the Service Provider's operations (\$1,000,000 for each occurrence); (b) bodily injury, property damage or death caused by an occurrence arising out of the operation, maintenance, or use, including loading or unloading, of a hired automobile or vehicle (including a bus or truck), watercraft or aircraft (\$1,000,000 for each occurrence); (c) any negligent act, error, or omission of Service Provider or any other person for whose acts Service Provider is legally liable in the conduct of Service Provider's operations (\$1,000,000 for each occurrence). Service Provider agrees to name College, Board, each of the Colleges, and each of its trustees, agents, officers, employees, and representatives as additional insured, under each insurance policy or policies. In addition, said policy or policies shall include an endorsement whereby said Service Provider's insurance policy shall be primary as to any and all insurance and self-insured retention of District, and any insurance or self insurance maintained by College or College personnel shall not contribute with it and whereby Service Provider's insurer agrees to waive its subrogation rights against College and College personnel as set forth in paragraph 10 of this Agreement.

Said endorsement shall also provide:

It is hereby understood and agreed that the definition of "incidental Contract" is hereby amended to include the following designated contract provision:

"Additional Insured Covered Interest: Diablo Valley College, the Board, each of the Colleges, and each of their agents, officers, employees, and representatives. The named insured shall indemnify, defend and hold harmless from and against any and all claims and liabilities arising from the negligence of the insured as respects any services arranged by the insured on College's behalf."

It is further understood and agreed that all exclusions, terms, conditions, and endorsements of the policy shall also apply to the coverage afforded by this endorsement.

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At the time of the execution of this Agreement, no later than 30 days prior to the start of the Program, Service Provider shall deliver to the College's Office of Risk Services certificates of insurance showing each such insurance policy to be in full force and effect for the duration of the Program, and a copy of the policy endorsement naming College, Board, the Colleges and their trustees, agents, officers, employees and representatives as additional insureds under Service Provider's comprehensive general liability insurance policy or policies.

College reserves the right to require the Service Provider to deliver to College's Office of Risk Services, a certified copy of each such insurance policy. On a date to be specified by College, said policies, if required, certificates, and endorsements shall be attached hereto as Exhibit B and incorporated herein by this reference, and shall by this reference be made a material part of this Agreement.

Service Provider shall provide College with a 30-day notice of cancellation of each such insurance policy. This Agreement shall not be deemed to be in effect unless and until Exhibit B has been submitted to and approved by College's Risk Services Office.

10. **WAIVER OF SUBROGATION RIGHTS:** Service Provider hereby covenants, warrants, and promises to provide College with a full and complete waiver of subrogation rights against College, Board, the Colleges, and each of their trustees, agents, employees and representatives. Service Provider also covenants, warrants, and promises that its insurer providing commercial general liability insurance for the Program has waived its right to subrogation against College, Board, the Colleges, and each of their trustees, agents, employees, and representatives for any claims of bodily injury, property damage, personal injury, wrongful death, professional acts, or errors or omissions that it or they may pay by way of judgment or settlement to the Service Provider or a third party because of College's, Board's, the Colleges', or each of their trustees', agents', employees', and representatives' alleged negligence or other tortious conduct. Service Provider agrees to provide College with a copy of the endorsement evidencing the Service Provider's agreement to waive its subrogation rights pursuant to the terms set forth herein. Said endorsement shall provide as follows:
"We waive any right of recovery we may have against the person or organization shown in the Schedule (Diablo Valley College and its personnel) because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization shown in the Schedule for payments made under the policy resulting from the contract, location, or specific coverage shown in the Schedule."
11. **TRAVEL AGENTS USED:** All travel agents used by Service Provider to arrange for transportation (or Service Provider itself if it is a travel agency) shall be licensed and bonded by the International Airline Travel Agent Network (hereinafter "IATAN") or an equivalent professional travel agents association.
12. **SERVICE PROVIDER INFORMATION AND IDENTIFICATION:** Service Provider shall at all times maintain on file with College's Office of Instruction, an up-to-date accurate information sheet, as set forth in Exhibit C, which is incorporated herein by this reference and by this reference specifically made a part thereof. This Agreement shall not be deemed to be in effect until Exhibit C as described herein has been submitted to any approved by College's Office of Instruction.
13. **PROGRAM CANCELLATION:** Service Provider or College's Office of Instruction may upon written notice to the other party, in the manner set forth in paragraph 19(i) below, cancel any particular Program no later than 60 days prior to the departure of the Program if the minimum number of participants specified in the SPECIFIC PROGRAM DETAILS as set forth in Exhibit A to this Agreement, fails to sign up for the Program and no plan has been mutually agreed upon to extend the deadline as set forth in writing, signed by both parties, and notice of the same given in the manner specified in paragraph 19(i) below.
14. **TERMINATION OF AGREEMENT:** Either party may terminate this Agreement in its entirety upon 60 days prior written notice. However, notice must be given in the manner set forth in paragraph 19(i) below. The termination or expiration of this Agreement shall not relieve any party from any liability arising from breach on this Agreement or act that took place during the pendency of this Agreement.
15. **ASSIGNMENT:** This Agreement is for the particular services of the Service Provider specified herein and shall not be assignable by Service Provider in whole or in part without the prior written consent of College.
16. **CHANGE IN SERVICE PROVIDER OWNERSHIP:** During the term of this Agreement, should a change in ownership of Service Provider take place, Service Provider shall, within five days of the change notify in writing District's Human Resources Risk Management of the change in the manner prescribed in paragraph 19(i) below. For purposes of this Agreement, change of ownership is defined as follows:
 - a. If Service Provider is a corporation, any transfer or transfers of shares possessing, in the aggregate, fifty percent or more of the voting power of the Corporation.
 - b. If Service Provider is a partnership, then the withdrawal or removal of any general partner, dissolution of the partnership under California law, or any transfer, or transfers in the aggregate, of fifty percent or more of the partnership interests.

Within ten days Notice to both College and District's Human Resources Risk Management Department of a change in ownership as defined above, College, at its option, may terminate this Agreement, provided it does so in writing, and College's written notice of termination is sent in the manner set forth in paragraph 19(i) below.

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17. **DISPUTE RESOLUTION:** In the event of any dispute, claim, question, or disagreement arising out of or relating to this Agreement, prior to initiating legal action, and as a condition precedent to being entitled to file such legal action, the Parties shall use their best good faith efforts to settle such dispute, claims, questions, or disagreements. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. In the event the Parties are not able to agree after meeting and conferring, the Parties agree that as a further condition precedent to and before filing any legal action, the Parties shall submit the dispute to non-binding mediation by a mediator mutually selected by the Parties.

If the Parties are unable to agree upon a mediator, then the mediation will be held at the Sacramento or San Francisco office of the California office of Judicial Arbitration and Mediation Services, Inc. ("JAMS") or Judicate West. The complaining Party must contact JAMS or Judicate West to schedule the conference. The Parties may agree on a mediator from the JAMS panel or Judicate West panel.

If they are unable to agree, then either JAMS or Judicate West will provide a list of three available mediators and each Party may strike one. The remaining mediator will serve as the mediator at the mediation conference. If more than one name remains on the list, JAMS or Judicate West shall select the mediator. Neither Party may initiate legal action until mediation is completed. Each Party shall pay one-half the costs of such mediation. This requirement for mediation is a condition precedent to filing legal action and shall not in any way toll any applicable statute of limitations or other time bar defenses to such legal action.

18. **COMPLIANCE WITH APPLICABLE LAWS:** Service Provider agrees to comply with all applicable foreign, federal, state, and local laws, statutes and ordinances, in providing its services to College under this Agreement.

19. **GENERAL PROVISIONS:**

- a. **Waiver.** The waiver by College with respect to any breach of any term, covenant or condition herein contained shall not constitute a waiver as to any such breach that may occur in the future. College shall be deemed to have waived any breach by Service Provider hereunder only if College executes a specific written waiver with respect to such breach.
- b. **Entire Agreement.** This Agreement contains the entire understanding of the parties. Neither party is relying on any representations, covenants or warranties other than those expressly stated herein.
- c. **Severability.** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision hereof.
- d. **Paragraph Headings.** The paragraph headings are inserted for convenience only and are not part of this Agreement.
- e. **Election of Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all of the remedies at law or in equity.
- f. **Covenants and Conditions.** Each provision of this Agreement performed by either Party herein shall be deemed both the covenant and a condition.
- g. **Time is of the Essence.** Time is of the essence in the performance of each and every provision of this Agreement.
- h. **Applicable Law and Choice of Venue.** This Agreement is to be governed by and interpreted in accordance with the laws of the State of California. If any action is brought arising out of this Agreement, including but not limited to, any claim for breach of the same, interpretation of the same, cancellation or specific performance, said action shall be brought in the appropriate court in Orange County, California.
- i. **Notice.** Any notice or communication required or permitted to be given hereunder shall be in writing and served personally, delivered by courier or sent by United States certified mail, postage prepaid with return receipt requested, to the addresses below:

To College:

Diablo Valley College
321 Golf Club Road
Pleasant Hill, CA 94523
ATTN: Vice President, Business &
Administrative Services

To District:

Contra Costa Community College District
500 Court Street
Martinez, CA 94553
ATTN: Director of Risk Management

and/or to such other persons or places as either of the parties may hereafter designate in writing. All such notices personally served delivered by courier shall be effective when received. All notices sent by certified mail shall be effective forty-eight hours after deposit in the mail.

- j. **Agreement with Program Participants:** Service Provider shall not require any Program participant to execute any documents which in any way contradicts or relieves Service Provider of its duties and obligations to College, all as provided in this Agreement. College's Office of Risk Services reserves the right to review and approve all documents which Service Provider requires Program participants to sign. Failure to so review does not waive any of College's rights hereunder.
- k. **Prohibition from Offering Program Participant Medical or Health Insurance.** Service Provider shall not offer medical or health insurance to Program participants but shall require Program participants to either provide documentation of personal medical or health insurance that will cover them on domestic programs and/or recommend insurance providers for participants to purchase a plan that will cover them on an international STSAP. Service Provider shall provide written confirmation that all Program participants have purchased such short-term insurance no less than 30 days prior to departure.
- l. **Binding on Successors.** The provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective Parties hereto or of any third party beneficiaries of this Agreement.

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m. Attorneys' Fees. In any action to enforce the provisions of this Agreement, the prevailing Party shall be entitled to recover costs and reasonable attorneys' fees.

Signed:

Service Provider: Date

College: Date

District: Date

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Service Provider Agreement EXHIBIT A SPECIFIC PROGRAM DETAILS

Service Provider:

Total Cost per Student:

College:

Based upon: number of students in program.
Initial deposit and application due date:

Destination:

Deadline:
Final payment due date:

Dates of Trip:

Deadline:

Service Provider shall, in the space immediately below (or in an attached separate sheet or brochure), provide specific travel details for each specific trip handled by Service Provider. Details shall include daily trip itinerary, the name of the transportation carriers (air, land, and sea) and tariff basis, land arrangements, other specifics of travel services provided, expenses covered, refund conditions, any prerequisites accruing to College, and minimum required participants or requirements for early termination/cancellation.

Daily Trip Itinerary:	Transportation Carrier(s):	Services & Expenses Provided:	Conditional Information:
<i>Day 1:</i>	<i>Air:</i>	<i>Tariff basis:</i>	<i>Minimum Number of Participants:</i>
<i>Day 2:</i>	<i>Land:</i>	<i>Travel Services:</i>	<i>Pre-requisites:</i>
<i>Day 3:</i>	<i>Sea:</i>	<i>Covered Services:</i>	<i>Refund Conditions:</i>
<i>Day 4:</i>	<i>Comments:</i>	<i>Covered Expenses:</i>	<i>Additional Information:</i>
<i>Day 5:</i>		<i>Additional Services:</i>	
<i>Additional Days:</i>			
<i>Additional Information (attach additional sheets if necessary):</i>			

This exhibit is incorporated into and becomes a part of the Agreement between Service Provider and College setting forth the General Terms and Conditions under which Service Provider shall provide Travel Services to the College for the College's Short Term Academic Study Away Program (STASAP). In the event of a conflict between any of the terms and conditions set forth in this exhibit and the General Terms and Conditions, such General Terms and Conditions shall prevail.

IN WITNESS THEREOF, Service Provider and College have executed this Exhibit as a part of the Educational Study Abroad Travel Contractor/Service Provider Agreement previously entered into by Service Provider and College.

 Service Provider:

 Date

 College:

 Date

DIABLO VALLEY COLLEGE

GUIDELINES FOR SHORT-TERM ACADEMIC STUDY AWAY PROGRAM PROPOSAL/QUOTE

The Service Provider shall be responsible for all travel logistics of the program; shall reserve all classroom/office facilities for the exclusive use of Diablo Valley College (DVC); shall arrange all field trips; shall provide a local coordinator to assist the faculty and deal with relations between students; shall collect all fees and pay all bills pertaining to the operation of the program; and shall in general do all possible to make the program a success. The materials in **Exhibit A** should include the following information:

Program Description:

Transportation:

Housing and Meals:

Counseling and Orientation:

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Activities and Excursions:

Instruction:

On-site Support:

Facilities:

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Faculty Services:

Publicity:

Other:

Services specifically NOT included:

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PROPOSAL WORKSHEET

Please provide cost for each category based on an average of 20 student participants and an instructor (number of instructors) as indicated.

<i>Costs are per Student</i>	
Transportation	
Lodging/Food	
Excursions	
Faculty Services	
General <i>(including costs of publicity/brochure)</i>	
Total:	
<p style="text-align: center;">Cost based on 20-24 Students</p> <p style="text-align: center;">Cost based on 25-29 Students</p> <p style="text-align: center;">Cost based on 30-35 Students</p>	

EXHIBIT B

(Service Provider to attach certified copies of insurance policies and endorsements as set forth in paragraph 9 of the Service Provider Agreement.)

Date:	
Name:	
Doing Business As:	
Business Address:	
Mailing Address:	

EXHIBIT C

**TRAVEL CONTRACTOR/SERVICE PROVIDER INFORMATION AND IDENTIFICATION
(INCLUDING COPY OF PROGRAM BROCHURE)**

Name and address of officer(s) of Service Provider who is (are) authorized to do business with Diablo Valley College.

Corporation? Yes <input type="checkbox"/> No <input type="checkbox"/>		Non-profit Corporation? Yes <input type="checkbox"/> No <input type="checkbox"/>	
If Corporation, organized under the laws of what state?			
Headquarters Address:			
Names and Titles of Corporate Officers:			
Agent for service of process:			
Is the corporation in good standing? Yes <input type="checkbox"/> No <input type="checkbox"/>			
A Partnership? Yes <input type="checkbox"/> No <input type="checkbox"/>			
If Partnership, formed in what state?			Zip code:
Name, address and social security number for all general partners:			
Legal Name	Street Address,	City, ST Zip Code	Social Security Number
<i>Attach additional sheets as necessary.</i>			
Current Bank Reference:			
Insurance Carrier(s):		Primary Agent/Broker:	
<i>Main Insurer address:</i>		<i>City, State & Zip code:</i>	
<i>Coverage Limits:</i>			
Amount:		Type:	

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Names and addresses of groups (<i>preferably education</i>) for whom you have arranged tours:		
Company/ Institution Name	Mailing Address, City, ST Zip code	Contact Name Phone Number

Travel agent? Yes No If yes, IATAN Number:

If a travel promoter, name and location of the trust account or bond required by Article 2.5 of 3 of Division 7 of the California Business and Professions Code (commencing with Section 17540):

Trust Account Bond *Name and Location:* _____ *Phone:* _____

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If not a travel agent, please list the name, address and IATAN number of the travel agent(s) used for transportation arrangements:

<i>Name and Address:</i>	<i>IATAN Number:</i>

<p>LITIGATION HISTORY: List ALL litigation involving your study abroad programs over the last five (5) years. (<i>Your failure to disclose all litigation for past five (5) years may result in the immediate termination of this agreement.</i>)</p>

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VERIFICATION

I, _____ am the
for _____. I have read the foregoing document entitled exhibit A,
Specific Trip Details and know its contents.

I declare under penalty of perjury under the laws of the State of California that the information set forth herein is true and correct.

Signature

Executed on the _____ day of _____, 20____ at _____.