



2020/2021
Delta Gift Card Participation Agreement

THIS AGREEMENT is made and entered into on this ____ day of _____, 2020, by and among _____, a property management company or lodging company ("PMC") and PARK CITY AREA LODGING ASSOCIATION ("PCALA").

RECITALS

- A. PCALA is a non-profit organization of various members of the tourism industry.
- B. PMC is a member in good standings of the Park City Area Lodging Association and is engaged in the business of arranging lodging packages for destination visitors to the Park City area.
- C. PCALA has received a grant from the Summit County Restaurant Tax Association in the amount of \$400,000 (the "Grant") to offer \$300 Delta gift cards (the "Gift Cards") to visitors to Park City who meet certain criteria to attract visitors to Park City (the "Program").
- D. PMC desires to offer the Gift Cards to its lodging customers.
- E. Only PCALA lodging members may participate in the Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Gift Card Program Description and Refunds.

- a. PCALA will offer the Gift Cards to the PMC and other participating management companies and lodging companies on a first come, first served basis.
- b. PCALA will offer the Gift Cards to PMC guests (the "Guest") who, pursuant to the following criteria (the "Criteria"), completes a reservation ("Reservation"):
 - 1) The Guest must book a minimum stay of three consecutive nights at the PMC;
 - 2) The total value of the Guest's reservation must exceed \$300.00;
 - 3) At least one night of the reservation must be made for dates between November 20 – December 23, 2020, January 3 - 21, 2021 and February 1 – 10 and February 22 – April 12, 2021 excluding blackout dates from December 24, 2020 - January 3, 2021; January 21 - 31, 2021; February 11 - 21, 2021 ("Stay Dates");
 - 4) The Guest must complete a web-based information form(s) pursuant to instructions provided by PCALA ("Website");
 - 5) The Guest cannot be an Owner of a condominium unit, time share interest, or other property interest in the PMC or property managed by the PMC;
 - 6) Complimentary, group, trade or in-kind reservations are strictly prohibited;

- 7) Only one Gift Card is permitted per reservation;
- 8) Voucher will be released via email to guest upon checkout;
- 9) PMC must reimburse PCALA for the value of the Gift Card (\$300.00) if reservation is incorrectly approved through automated confirmation process and voucher is released to guest who does not meet program guidelines. PMC will return/reimburse the PCALA the \$300.00 within 30 days of voucher being issued incorrectly, and not later than April 30, 2021 ("Reimbursement");
- 10) PMC agrees to not fill out online forms(s) on behalf of guests, that guest must do so themselves;
- 11) Gift Card promotion is valid for NEW RESERVATIONS ONLY booked August 1, 2020 or later and is thus not valid for existing reservation made prior to August 1, 2020. Strict enforcement of this policy is required. Reservations made prior to August 1, 2020 are not eligible.

c. For Guests who meet the Criteria, the Program will operate as follows:

- 1) The PMC will establish a dedicated point of contact, providing his/her name, email and direct telephone ("PMC Contact") to facilitate communications with the PCALA;
- 2) The PCALA will not manage or provide bookings. The PMC is responsible for creating and managing the bookings of its Guests;
- 3) After the Guest completes the Reservation and the Website Registration, the PMC will confirm that the Guest is booked through the automated email confirmation system to the PMC Contact;
- 4) The PMC will confirm the Reservation through an email from PCALA. The email will link the PMC to a web-based form that the PMC will complete to fully authorize the Reservation;
- 5) Upon checkout, PMC will confirm reservation was utilized through an email from PCALA automated system from PCALA;
- 6) The PCALA will then send the Guest the Gift Card electronically;
- 7) Gift card will not be released until guest has checked out;
- 8) The Gift Card can be used for travel beyond the lodging reservation dates in 1(b)(3) and is valid anywhere Delta flies;
- 9) The Gift Cards are subject to availability.

d. PMC may:

- 1) Send marketing communications to their existing guest database or;
- 2) Post information about the program on the PMC's website, and distribute the promotion to their existing guest database.

e. PMC agrees:

- 1) THAT ANY MARKETING OR DISTRIBUTION OF PROMOTION WILL BE DONE ONLY USING PROVIDED AND APPROVED DIGITAL COLLATERAL PROVIDED BY PCALA, TO ENSURE GRANT REQUIREMENTS ARE MET. Approved digital assets will be provided to PMC upon receipt of signed participation agreement.

2. Accounting; Reconciliations; Distribution of Revenues.

a. PCALA will maintain the books and records pertaining to the Program in accordance with generally accepted accounting principles.

b. PCALA expressly disclaims any guarantee of a certain number or amount of Gift Cards to the PMC. When the Grant is completely used up, PCALA will no longer offer Gift Cards. The PCALA will promptly inform the PMC and all participating management companies and lodging companies when the Grant is exhausted, but expressly disclaims any requirement or guarantee of informing the PMC of precisely when the Grant is exhausted.

3. Default; Termination.

a. The occurrence of any of the following shall be deemed to be an event of default under this Agreement:

- 1) The failure of the PMC to reimburse the PCALA for a voucher incorrectly approved through automated confirmation process and voucher released to guest who does not meet program guidelines
- 2) A request of a Gift Card for a Guest who does not meet the Criteria; whether or not such Gift Card is given;
- 3) If the PMC ceases to operate a lodging facility; or
- 4) If the PMC becomes insolvent or bankrupt, or otherwise ceases to do business as a going concern.

b. If any event of default exists, any non-defaulting party may terminate this Agreement immediately upon Notice to the defaulting party or may sue to enforce the defaulting party's performance of their obligations under this Agreement.

c. In the event of termination under (3)(a)(1) or (2) the PCALA will have no obligation to send a Gift Card to any Guest who does not meet the Criteria or who cancels his or her reservation. In the event of termination for any reason, the PCALA may, at its discretion, immediately cease fulfilling any Gift Card requests that have not yet been fulfilled.

d. None of the above remedies are exclusive, but each is cumulative and in addition to any other remedy available to the parties. No delay or failure on the part of any party to exercise any right hereunder shall operate as a waiver of any rights under this Agreement.

e. This Agreement shall automatically terminate in the event of a revocation of the Grant.

4. Disclaimer of Joint Venture, Partnership or Subsidiary Relationship. Nothing herein contained shall be construed to place the parties in the relationship of partners or joint ventures or agents of one another, and no party shall have the power to obligate or bind another in any manner whatsoever except as expressly provided herein. No party in any way represents itself as guarantor of the quality of any products or services of another.

5. Attorneys' Fees. In any suit or action brought to enforce any of the covenants or agreements of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs and expenses incurred by the prevailing party in connection with such suit or action.

6. No Assignment. No party shall have the right to sell, assign, transfer or encumber its rights and/or any interest in this Agreement or any part hereof, by operation of law, merger, consolidation or otherwise, without the prior written consent of the others.

7. Notices. Any notice herein contemplated to be given to any party shall be sufficient if given in writing, by registered or certified mail, or if delivered personally or if sent by facsimile transmission, and in any case addressed to:

PCALA

Dany Williams
Board President
Park City Area Lodging Association
Mailing Address: P.O. Box 4256
Park City, Utah 84060
Email: info@pcala.org

PMC

 Street Address: _____
 Mailing Address: _____

 Fax: _____

with a copy to:

 Street Address: _____
 Mailing Address: _____

 Fax: _____

or to such other address or addresses as any party shall hereafter designate to the others in writing. Notices by mail shall be deemed effective and complete forty-eight (48) hours following the time of mailing. Notices delivered personally shall be deemed effective and complete upon delivery. Notices sent by email or facsimile transmission shall be deemed effective and complete upon sending, provided a copy thereof is deposited the same day in the United States mail.

8. Controlling Law. This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Utah.

9. Severability. The unenforceability, invalidity or illegality of any provision herein shall not render any other provisions herein unenforceable, invalid or illegal.

10. Entire Agreement. This Agreement (i) represents the entire agreement between the parties relating to the subject matter hereof, (ii) supersedes all prior agreements, understandings, representations and warranties relating to the subject matter of this Agreement, and (iii) may only be amended by a writing signed by all parties.

11. Headings. Section headings used herein are for convenience only and shall not be used to broaden or limit this Agreement.

12. Construction. This Agreement represents the wording selected by the parties to define their agreement, and no rule of strict construction shall apply against any party. Whenever the context reasonably permits, the singular shall include the plural, the plural shall include the singular, and the whole shall include any part thereof.

13. Waiver. Any waiver of, or promise not to enforce, any right under this Agreement shall not be enforceable unless evidenced by writing signed by the party making said waiver or promise.

14. Execution. This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The persons signing below represent that they are duly authorized to execute this Agreement for and on behalf of the party for whom they are signing.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

PARK CITY AREA LODGING ASSOCIATION

By _____
Danny Williams
Board President / PCALA

PMC

By _____

Title _____