

# **OUTLINE FOR IFTTA CONFERENCE**

## **ADR IN THE TRAVEL INDUSTRY**

- I. Defining ADR
  - A. Mediation
  - B. Arbitration
  
- II. The Need for Mediation
  - A. Costs
  - B. Knowledge
  - C. Time
  - D. Privacy of Settlement and Discussions
  - E. Level Playing Field
  
- III. IFTTA's Role In Mediation
  - A. Expertise
  - B. Multi-jurisdictional
  - C. Simplicity Factor
  - D. Publicity
  - E. Ability to Train
  
- IV. The Expert Witness Factor

# **PROPOSAL FOR AGREEMENT BETWEEN IFTTA, WORLD TRAVEL DISPUTE CENTER, INC., AND TRAVEL DISPUTE MEDIATION LLC.**

The Parties hereby agree to work together in the following capacity:

1) IFFTA shall perform as sponsor of ADR seminars conducted by the World Travel Dispute Center, Inc. IFFTA shall receive the sum of \$25.00 per registrant of the ADR seminars and said sum shall enable the registrant to become an affiliate member of IFFTA. Said programs shall be conducted pursuant to the existing agreement between IFFTA and World Travel Dispute Center, Inc.

2) In consideration, IFFTA agrees to promote the World Travel Dispute Center, Inc. in all of IFFTA's activities worldwide. All ADR activities of IFFTA shall be conducted in relationship solely with the World Travel Dispute Center, Inc.

3) Travel Dispute Mediation agrees to market and conduct all of its ADR activities solely with the world Travel Dispute Center, Inc. Travel Dispute Mediation LLC agrees to comply with all of the terms and training as specified by both IFFTA and The World Travel Dispute Center, Inc. Travel Dispute Mediation LLC, agrees not to hold either IFFTA or the World Travel Dispute Center Inc., their officer or agents liable for any activities that are conducted under its name.

4) The World Travel Dispute Center Inc., agrees to a nonexclusive license to Travel Dispute Mediation, LLC to conduct ADR seminars and serve as the central mediation assignment center for graduates of the ADR seminars which it conducts. In consideration of the nonexclusive license, Travel Dispute Mediation LLC shall pay to the World Travel Dispute Center LLC the sum of \$100.00 per ADR registrant.

5) Travel Dispute Mediation LLC shall pay to the World Travel Dispute Center Inc., the sum of \$50.00 per each assignment of a mediator or arbitrator in its function as an ADR assignment center. The world Travel Dispute Center Inc., agrees to the payment to IFFTA of \$10.00 per mediation or arbitration assignment through Travel Dispute Mediation LLC. All enrollment charges for mediators and arbitrators by Travel Dispute Mediation LLC shall be split with the World Travel Dispute Center Inc. The World Travel Dispute Center Inc., shall forward to IFFTA one-half of the sums received from Travel Dispute Mediation LLC pursuant to the aforescribed enrollments.

6) All training of students for mediation or arbitration by Travel Dispute Mediation LLC shall be conducted by the World Travel Dispute Center Inc. The assignment and compensation of trainers by World Travel Dispute Center Inc., to conduct the aforescribed classes shall be in accordance with terms set by the World Travel Dispute Center Inc. may agree to direct compensation of the trainers as independent contractors through Travel Dispute Mediation LLC, or as employees or independent

contractors of the World Travel Dispute Center Inc. All training shall be conducted in accordance with the terms and conditions of the World Travel Dispute Center Inc. and shall be subject to review and approval IFTTA.

## **IFTTA AND ADR-AN UPDATE**

IFTTA's plans for an alternative dispute resolution program reached fruition in August of 2002. IFTTA's sponsorship of mediation training for travel industry professionals became a reality in Las Vegas, Nevada when, through the World Travel Dispute Center (a separate corporation under the guidance of IFTTA) the first class was completed on August 22<sup>nd</sup>. The course, offered only to established travel industry professionals, consisted of three days of mediation and travel law lectures and practice sessions was followed by a written examination.

The program was designed with the concept that graduates will not be State or Court certified mediators but specialists in pre-litigation mediation. If students wish to avail themselves of accreditation by their particular jurisdiction, they may then take the qualifying courses with the realization that the knowledge and experience acquired through the IFTTA certification will place them far ahead of beginning students and give them a skill set unlike any other. All graduates will be placed on a list maintained by the World Travel Dispute Center, currently under the assistance of Travel Dispute Mediation Inc. for referral of travel industry cases. It is hoped that, through the use of standardized travel industry contract clauses, which insist on mediation, prior to the filing of a lawsuit, mediation will become the accepted norm in travel industry disputes. The World Travel Dispute Center will be the anticipated or contractually named mechanism for referral of travel disputes. IFTTA will be the guiding force in this venture.

The next course was offered in Fort Lauderdale Florida in April of 2003 and a following course is to be offered at sea during a 1 week FAM cruise July 20<sup>th</sup> to the eastern Caribbean. There will be two distinct course offerings, one for attorneys and the other, once again, for travel industry professionals. Al Anolik joins Larry Gore and state-certified mediator Martin Zisholtz in conducting the programs. Travel Dispute Mediation Inc. will once again, be the organizing conduit for the classes.

The role of IFTTA's development of ADR in the travel industry was also a subject of discussion at a recent legal exchange in Havana, Cuba. The potential for use of mediation and arbitration in jurisdictions in which there may exist problems of dispute resolution using national legal forums can be very beneficial to development of industry, especially in Cuba, noted Laurence Gore, IFTTA's ADR committee chair, in his speech to delegates at the program. The consensus of the attendants was that tourism development in Cuba is at its infancy and about to explode. IFTTA, as a multi-jurisdictional organization can play a pivotal role with programs such as travel dispute mediation.

Worldwide, IFTTA will not only receive industry recognition for its developmental and continuing role in ADR, but participate in profits received from courses and assignment of ADR specialists. IFTTA stands at the brink of a worldwide development of travel law ADR. It is anticipated that further courses will be developed to specifically address the needs of different jurisdictions with the assistance and guidance of IFTTA. All members

of IFTTA are urged to participate in the ADR program and course development. This IFTTA Congress will provide an opportunity for further discussion and development and, time permitting, basic mediation training for interested IFTTA members. IFTTA is hopeful at this Congress of developing a mutually beneficial ADR program with UFTAA. If you have interest in participating in the formation of this joint program of IFTTA/UFTAA's ADR, your assistance will be most welcome.

## MEDIATION AND ARBITRATION

If a dispute arises out of or relates to this contract, or breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the World Travel Dispute Center under the applicable guidelines as established by IFTTA (International Forum for Travel and Tourism) before resorting to arbitration, litigation, or some other dispute resolution procedure. If mediation is not successful, the parties will settle by arbitration administered by the World Travel Dispute Center under the applicable guidelines as established by IFTTA. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

We also suggest that it may be consumer friendly in certain circumstances to add a preamble such as “\_\_\_\_\_ corporation desires to maintain friendly relationships with its clients (agents, sellers, buyers, etc.). In order to provide for a mutually beneficial relationship, \_\_\_\_\_ corporation has established an alternative mediation program in the event of a misunderstanding or dispute between \_\_\_\_\_ corporation and its clients.”