



Chapter Partner Agreement Task Force

Thursday, February 17, 2011
APICS Headquarters
Chicago, IL

MINUTES

Attending:

Tony Zampello, Chair
John Drzik
Tom Geraghty
Buck Crouch
Wayne Collins
Ron Gilmour
Rick Leach
Erica Dickson
Jim Timmons

Staff:

Abe Eshkenazi
Pamm Schroeder
Dean Martinez
Henri Wingfield

Absent:

Lyle Henning
Dave Lehman

Call to Order

The meeting was called to order by chair, Tony Zampello.

Follow Up Assignments for Task Force Members: Comments Received in Response to the Standard Language Draft

The task force members reported on their efforts to gather input from the chapter leaders in their districts. The following is a sampling of the feedback they received:

- Most have reviewed the language but need further clarification.
- Some feel they may need input from legal counsel
- Many are eager to see verbiage specific to their chapter
- Most agree with the concept of using CMS as the basis for metrics
- There is still a concern of trust between the chapters and corporate and a great sensitivity to corporate taking advantage.

Questions to be addressed:

- Under chapter names, multiple district names - will we be able to create our own programs or do we have to get APICS approval?
- The contract contains language that seems to entitle corporate to access attendee contact info. Is this accurate?
- Will chapters be able to cross their established boundaries to deliver education?

There was additional discussion regarding the membership requirements. Currently, the chapter bylaws state: "The control and management of the affairs, property, and funds of each chapter shall be vested in the officers of that chapter, who shall be voting members of APICS." NOTE: APICS can not dictate the composition of the board but officers must be voting members of APICS.

It was also pointed out that a non-member on a chapter board will not be allowed to access the membership database. The database is an APICS asset and can only be shared with active members.

Discussion of "Sections to be Added"

The group focused on the first of the sections to be added to the final agreement and began a list of potential expectations for the chapters. Expectations for APICS will be discussed at the next meeting:

General: Expectations

- Chapters
 - Maintain a minimum membership of 25
 - Incorporation (good standing in accordance with state or provincial statutes)
 - Financial letter of assertion
 - Educational territories?
 - Chapter officer participates in one district meeting per year
 - Chapter maintains a Web site according to APICS standards
 - Chapter must have four active officers

The task force spent a great deal of time discussing whether the agreements should address geographic territories. The group was evenly split and no decision was made.

TASK FORCE TO-DO:

- Think about what a territory means. Is it just for education? Membership? Multiple things?
- Flesh out remaining sections to be added.

STAFF TO-DO:

- Henri will produce a list of chapters with 30 or fewer members.
- Pamm will poll the group to find a weekend in March for a face-to-face meeting

Next Call and Adjournment

The next call is scheduled for Friday, March 4 at 10:00 am (Central)

The call was adjourned at 3:35 pm (Central)

ADDENDUM

The following document contains boilerplate provisions that are generally contained in existing APICS agreements (IA and AEP Agreements) along with “tracked changes” as suggested by the CPA Taskforce. Please note that additional changes are likely to be made as the agreement evolves as the CPA Task Force continues to refine the suggest language for the Channel Partner Agreements.

PROPRIETARY AND CONFIDENTIAL INFORMATION

1. APICS shall retain sole and exclusive ownership, title, and interest in all APICS-owned intellectual property rights in the Licensed Products, Examinations, promotional and other APICS materials (including ownership of all trade secrets, copyrights, and trademarks pertaining thereto).
2. Channel Partner acknowledges that it may be given access to confidential and proprietary information solely for purposes of authorized use, as provided in this Agreement. Any information, which APICS considers to be confidential or proprietary shall, if tangible, be marked as such or, if communicated orally, designated at the time and promptly confirmed in writing as such. Information which is so marked or designated and confirmed in writing and past, present, or future research, technology development plans, business plans, client lists, business operations, finances, transactions, agreements, or proprietary products, materials, services, or technical knowledge, and other similar information. The Examinations, Licensed Products and other APICS materials made available to Channel Partner hereunder, regardless of form or designation shall be confidential information of APICS. All such information described in this section shall be considered “**Confidential Information**” of APICS and subject to the terms of this Agreement. *If Confidential materials does not include those that are to be used in the delivery of education, and the student materials as part of that to its customers, much of the confidentiality clauses have to be changed in my mind.*

RESPONSE (2-2-11): The key term here is “authorized use.” The intent of this clause is to be a catch-all to protect APICS’ proprietary property.

3. Channel Partner will protect the confidentiality of the Confidential Information in the same manner that iChapter protects the confidentiality of its own proprietary and confidential information of like nature, but with no less than a reasonable degree of care.
4. Confidential Information and any copies thereof that APICS party may have permitted Channel Partner to make shall at all times remain, as between the parties, the sole property of APICS.

5. Confidential Information may not be copied or reproduced by Channel Partner without APICS' express prior written consent except as necessary for performance under the Agreement or under another agreement between the parties. If APICS' consent is granted, any such copies shall contain such proprietary rights notices as appear on the original thereof. "... except as necessary for performance under the Agreement or under another agreement between the parties. " It has been stated in the task force meetings or in our call between Abe Eskanazi and Tony Zampello, that this CPA replaces and supercedes any and all existing agreements either in writing or by handshake between the chapter and APICS. This seems to conflict with those comments.

RESPONSE (2-2-11): Intent of the clause is to allow channel partners and APICS to enter into additional agreements after signing this agreement. It is true that any agreements (verbal or written) will become null and void.

6. Confidential Information shall not include information: (a) previously known to Channel Partner from sources other than APICS that were without an obligation of confidence, (b) that was generated independently by Channel Partner; (c) that is published or otherwise made known to the public by APICS, or that otherwise is or becomes publicly available through no breach of the Agreement by Channel Partner. In the event Channel Partner receives a subpoena or other validly issued judicial process demanding Confidential Information, the recipient shall promptly notify APICS and tender to it the defense of such demand. Unless the demand shall have been timely limited, quashed (nullified) or extended, Channel Partner shall thereafter be entitled to comply with such demand to the extent permitted by law. If requested by APICS, Channel Partner shall cooperate (at the expense of the disclosing party) in the defense of such a demand. The wording needs to be changed to reflect that the Channel Partner may have information in writing and past, present, or future research, technology development plans, business plans, client lists, business operations, finances, transactions, agreements, or proprietary products, materials, services, or technical knowledge, and other similar information that from the Channel Partners point of view would be considered confidential and that the APICS organization would be required to treat with the same respect and degree as APICS expects of its own.

RESPONSE (2-2-11): Clause may be adjusted pending direction from the task force.

7. Channel Partner agrees that the Confidential Information shall be disclosed only to those employees or agents of Channel Partner who have a "need to know" such information and are under a binding obligation of confidentiality with respect to any such information received. Confidential Information shall not be disclosed to any other third party without the prior written consent of APICS. Channel Partner shall defend, indemnify and save APICS harmless from and against any and all damages, including reasonable attorney's fees, sustained as a result of the unauthorized use or disclosure of APICS' Confidential Information. Channel Partner acknowledges that the Confidential Information is valuable to APICS and that any threatened or actual breach of this Article (TBD) "Proprietary and

Confidential Information” by the Channel Partner or the failure of the Channel Partner to return or turn over Confidential Information as required in the Agreement would cause irreparable injury to APICS, for which monetary damages would be inadequate. Accordingly, Channel Partner agrees that APICS shall have the right to seek an immediate injunction enjoining any such breach, threatened breach or failure by the Channel Partner. Channel Partner agrees to be responsible for all costs, including but not limited to, attorney fees, incurred by APICS in any action against the Channel Partner arising out of the Channel Partner’s breach of the terms of this Article 9 and/or the Agreement's Confidential Information return requirements. Not a problem but noteworthy that in the section Proprietary and Confidential subsection 7, we are required to have NDA paperwork in place with anyone we disclose info to such as instructors

RESPONSE (2-2-11): No response required.

8. Channel Partner shall promptly advise APICS in writing of any unauthorized use or disclosure of Confidential Information of which Channel Partner becomes aware and shall provide reasonable assistance to APICS to bring about the cessation of such unauthorized use or disclosure.

On the section concerning Non Disclosure - because the Chapter is a separate legal entity, will it be responsible for the actions of a rogue Board member who decides to disclose sensitive information? Will the chapter need to have it's Board Members sign a confidentiality agreement?

RESPONSE (2-2-11): This should be covered in the chapter bylaws as part of the board’s fiduciary responsibility. Chapters must determine for themselves whether their current bylaws are adequate in this area.

ASSIGNMENT AND TRANSFER OF RIGHTS:

Channel Partner’s rights and obligations under this Agreement may not be transferred, leased, assigned, or sublicensed to another entity without the prior written approval of APICS. This Agreement shall be binding upon and inure to the benefit of the parties' permitted successors and assigns. Again not a problem but noteworthy that Under Assignment and Transfer, we cannot “lease” the materials to any third party, this third party will have to teach under the chapter name/authority.

RESPONSE (2-2-11): No response required.

ETHICAL STANDARDS

Both parties shall at all times follow the highest legal and ethical standards. Channel Partner agrees to act in accordance with APICS’ Code of Conduct, a copy of which will be supplied on the APICS website.

APICS’ RIGHTS AND RESPONSIBILITIES

1. All rights and/or licenses not specifically and expressly granted to the Channel Partner in the Agreement are reserved by APICS.
2. APICS shall have the right to cease production of any Licensed Products and/or Examinations by Channel Partner at any time. APICS shall have the right to cease production of any Licensed Products and/or Examinations by Channel Partner at any time". There has already been some pushback that there should be prior notification of the plan to discontinue a Licensed Product or Examination of some agreed upon interval to Channel Partners to assist in marketing, planning and inventory control.

RESPONSE (2-2-11): Per task force direction, language will be revised to indicate "reasonable notice."

GENERAL INDEMNIFICATION

Channel Partner hereby agrees to and shall indemnify, defend, and hold harmless APICS from and against any and all claims, demands, or actions and any losses, expenses, and damages resulting directly there from (including without limitation, court costs and reasonable attorney's fees) based on any use, promotion, advertising, marketing or distribution of the Licensed Products, Third Party Materials and/or Examinations, including but not limited to, the violation of any applicable statute, law, treaty, regulation, code, standard or requirement, worldwide.

PROPRIETARY RIGHTS INDEMNIFICATION

APICS hereby does agree to and shall indemnify, defend, and hold harmless Channel Partner from and against any and all claims, demands or actions and any losses, expenses, and damages resulting directly there from (including court costs and reasonable attorney fees) based on any claim that the Licensed Products and/or Examinations, or portion thereof, violate any copyright, trademark, patent or other intellectual property rights held by any third party in the United States provided Channel Partner promptly advises APICS of any such claim in writing, and shall allow APICS to control the defense. Channel Partner agrees to reasonably cooperate at APICS' request in the defense. In no event shall Channel Partner settle any claim, lawsuit or proceeding without APICS' prior written approval. Notwithstanding the foregoing, APICS shall have no obligation to indemnify, defend, or hold harmless Channel Partner if the claim of infringement arises out of: (1) Channel Partner's modification, revision, change or alteration of the Licensed Products, Third Party Materials or Examinations; or (2) Channel Partner's failure to comply with the terms of this Agreement, including without limitation, its applicable foreign trademark and copyright requirements.

WARRANTIES

1. Channel Partner Representation and Warranties Channel Partner represents, warrants and covenants throughout the term of this Agreement, that:

- a. It is not and will not be bound by any agreements to the contrary; and that the persons executing this Agreement are fully authorized to do so;
- b. It will not modify or revise the text or the cover of the Licensed Products, Examinations, Third Party Materials or any other materials provided to Channel Partner by APICS, except as may be expressly authorized or licensed in this Agreement or by a writing signed by APICS; Under Warranties, subsection b, it looks to me to say that we cannot revise any sections of any APICS material, this would mean we could not add material, we could not correct mistakes without violation here
- c. It will ensure that all permits, licenses, and other government approvals have been obtained or maintained (at its own expense), and will provide evidence of such to APICS upon request;
- d. It will perform all services under this Agreement in a workmanlike manner and to a professional standard;
- e. It will not disparage, misuse, defame or otherwise cast the "APICS" name, the Licensed Products, Third Party Materials or Examinations in a negative light; It will not disparage, misuse, defame or otherwise cast the "APICS" name, the Licensed Products, Third Party Materials or Examinations in a negative light;" This clause will not preclude discussion of erroneous practices and procedures which negatively impact Channel Partner operations or business. Discussions should be conducted in a typical business-like manner on the part of the Channel Partner and APICS representatives
- f. It will comply with all applicable statutes, laws, regulations, codes, standards, or other requirements, worldwide, including, but not limited to, foreign trademark and copyright registration and the fair trade and competition laws in each country a Channel Partner operates;
- g. It will, upon request from APICS, provide any requested data and information pertaining to the sale, reprinting, and distribution of APICS educational materials and programs being conducted by Channel Partner; It will, upon request from APICS, provide any requested data and information pertaining to the sale, reprinting, and distribution of APICS educational materials and programs being conducted by Channel Partner;" Reprinting is not allowed under violation of copyright. If copy of copyrighted APICS education materials is allowed, that allowance must be provided for and documented under the standard boilerplate language. The request in g. from APICS should be supported only when the APICS HQ organization has viable and documented and shared information of illegal activities and is presented with a court ordered or legal discovery request
- h. Unless licensed and authorized herein, Channel Partner shall not resell or distribute the Licensed Products, Third Party Materials and/or Examinations for further resale or distribution by another person or entity, and in this regard, Channel Partner shall take appropriate and reasonable measures to ensure that its customers

do not resell or distribute the Licensed Products, Third Party Materials and/or Examinations; and Unless licensed and authorized herein, Channel Partner shall not resell or distribute the Licensed Products, Third Party Materials and/or Examinations for further resale or distribution by another person or entity, and in this regard, Channel Partner shall take appropriate and reasonable measures to ensure that its customers do not resell or distribute the Licensed Products, Third Party Materials and/or Examinations; and" . Channel Partners, and Chapters more specifically, resell and distribute Licensed Products in the delivery of education to customers. Is the position being taken now by APICS, that chapters no longer have permission to sell APICS educational material?. Licensed Products are protected from resale without further action by chapters as is stated, or should be stated in license language and other than restating the obvious, chapters should have no further responsibility in that regard. Third Party materials are subject to same law regarding resale of copyright materials. I am not sure under what conditions a chapter comes into possession of APICS Examinations but they would fall under the realm of copyright or licensure regulations.

Under Warranties, subsection h, I do not think we can take reasonable measures toward our students to keep them from selling the materials (books) when they are finished with them. In fact, some do re-sell them to chapters, Amazon, etc. I think this statement should be deleted.

- i. Channel Partner is, and shall remain throughout the term of this Agreement, a not-for-profit organization located in the Geographic Area. Under Warranties, subsection i, it references in the Geographic Area.....I don't see where any Geographic Areas are defined in the agreement.
- j. The above warranties shall be binding upon Channel Partner's successors and permitted assigns.

2. Licensed Products Warranty

- a. APICS warrants that the Licensed Products, if and as delivered to Channel Partner shall be free from material defects in materials and workmanship for a period of 90 days after the date the Licensed Products are supplied from APICS' facility. APICS shall, at Channel Partner's option, provide a credit voucher based upon the purchase price paid by Channel Partner in lieu of a replacement unit, or provide a cash refund.
- b. APICS represents and warrants that it is not bound by any agreements to the contrary; and that the persons executing this Agreement are fully authorized to do so. APICS represents and warrants that it is not bound by any agreements to the contrary; and that the persons executing this Agreement are fully authorized to do so. " Is a repeat of the same clause under Warranties.
- c. The foregoing states the entire liability of APICS and the exclusive remedies of Channel Partner with respect to APICS breach of the warranty with respect to the Licensed Products and Channel Partner hereby waives any other rights with regard to breach of the warranty set forth above.

- d. THE LICENSED PRODUCTS, THIRD PARTY MATERIALS, EXAMINATIONS AND ANY AND ALL UPDATES THERETO ARE PROVIDED "AS IS" WITH THE EXCEPTION OF THE WARRANTIES EXPRESSLY PROVIDED HEREIN. THE WARRANTIES IN THIS ARTICLE ARE LIMITED WARRANTIES AND ARE THE SOLE AND EXCLUSIVE WARRANTIES MADE BY APICS. APICS MAKES AND CHANNEL PARTNER RECEIVES NO ADDITIONAL WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF CHANNEL PARTNER HAS BEEN INFORMED OF SUCH PURPOSE. APICS MAKES NO WARRANTY THAT THE LICENSED PRODUCTS DO NOT INFRINGE THE INTELLECTUAL PROPERTY RIGHTS OF ANOTHER PERSON OR ENTITY OUTSIDE OF THE UNITED STATES. NO AGENT, CONTRACTOR OR EMPLOYEE OF APICS IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF APICS AS SET FORTH HEREIN.

LIMITATION OF LIABILITY

1. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL APICS BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE LOSSES, COSTS OF DELAY, LOST PROFITS, FAILURE OF DELIVERY, DAMAGES OR EXPENSES OF CHANNEL PARTNER ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF HOW SUCH LOSSES, DAMAGES OR EXPENSES ARISE AND IRRESPECTIVE OF WHETHER OR NOT CHANNEL PARTNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES, DAMAGES OR EXPENSES.
2. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE RESPECTIVE MAXIMUM LIABILITY OF APICS TO CHANNEL PARTNER UNDER THIS AGREEMENT, FOR ANY AND ALL CLAIMS, SHALL NOT EXCEED THE FEES PAID TO APICS BY CHANNEL PARTNER.

TAXES, DUTIES

1. Channel Partner shall be solely responsible for payment of all taxes, withholdings, duties or other charges relating to its receipt and/or use (including any sale, resale or distribution) of the Licensed Products, Third Party Materials, and/or Examinations.
2. The prices and fees in this Agreement do not include any customs duties or federal, state or local taxes of any nature, including without limitation, Value Added Tax, which may be assessed in connection with the sale or delivery of the Licensed Products, Third Party Materials and/or

Examinations. Channel Partner shall be solely responsible for the payment of all such taxes and duties in full.

NON-DISCRIMINATION

Including but not limited to the authorized promotion, reprinting, distribution, or revision of the Licensed Products, Third Party Materials and/or Examinations, Channel Partner shall not discriminate against any individual, or otherwise deny equal access to its products, on the basis of corporate affiliation, race, sex, national origin, age, disability or protected status.

INTELLECTUAL PROPERTY

1. Channel Partner agrees to include APICS' copyright notice on all copies of materials used in promoting, advertising, and marketing the Licensed Products and/or Examinations that have been provided by APICS. Unless otherwise provided in the Agreement, said notice shall be printed in English in the following form, which must be updated upon APICS' request to include the applicable year. *Comments on the IP section, item 1. Why would a chapter be required to add a copyright notice to any APICS promotional materials? APICS is the holder of copyright on licensed product and anything it puts in print and is responsible for marking its promotional or any of its materials. Only the copyright owner can claim copyright. Use of the notice is the responsibility of the copyright owner and can't be assumed by one who is not the copyright owner. If APICS wants to license or assign ownership to its materials, then Chapters might assign notice where HQ has not. Channel Partner agrees to include APICS' copyright notice on all copies of materials used in promoting, advertising, and marketing the Licensed Products and/or Examinations that have been provided by APICS. Unless otherwise provided in the Agreement, said notice shall be printed in English in the following form, which must be updated upon APICS' request to include the applicable year:*
Under the IP section, subsection 1, I think it is probably not practical to put the APICS copy write notice on all marketing, advertising and promotions materials.
2. "This product is the proprietary property of the American Production and Inventory Control Society ("APICS"). Any unauthorized use, reproduction, or transfer of this product is strictly prohibited. Copyright © APICS _____ [insert year from the applicable material]. All rights reserved." *Section 2 should not be numbered, it is a continuation of copyright wording in section 1. Also, is this even required in the contract as copyright law states the form of the declaration with adjustments regarding copyright in other countries. Also, use of the copyright notice is optional but use provides for different infringement claims. But since the notice is standard, and not the responsibility of the Chapter, I do not understand why its inclusion would be part of the standard boilerplate. "This product is the proprietary property of the American Production and Inventory Control Society ("APICS"). Any unauthorized use, reproduction, or transfer of this product is strictly prohibited. Copyright © APICS _____ [insert year from the applicable material]. All rights reserved." As previously commented in a prior submittal to the Task Force, APICS is responsible for all copyright notices as the holder/owner of copyright. Copyright should already be included on all APICS published material including marketing material. Chapters have no responsibility as to copyright regarding APICS materials, licensed product and/or examinations or marketing materials provided by APICS. If the chapter develops, produces and delivers material materials, education products independent of APICS content, the Chapters hold copyright on those materials.*

3. Neither party shall, during the term of this Agreement or at any time thereafter, indicate or imply an endorsement of presentations, activities, or programs by the other party without the prior written approval of that party. *Section 3. Would this apply to chapter presentations made by APICS officers or staff? Neither party shall, during the term of this Agreement or at any time thereafter, indicate or imply an endorsement of presentations, activities, or programs by the other party without the prior written approval of that party." Materials, presentations made available to chapters and members via the APICS website shall be considered approved by APICS since much would be considered in the public domain or readily available to any member.*
4. Except as expressly authorized herein, neither party shall use the other party's name, trademarks, service marks, logos, copyrighted material or other intellectual property outside of this Agreement without the other party's prior written approval. *Under the IP section, subsection 4, I don't see where we are authorized anywhere in the document to use the logo, trademarks, etc. It prohibits us using them except as expressly authorized. Since I cannot find it, it may not be expressed clear enough Under General, subsection 1, it has a similar statement about trademarks like IP subsection 4. Same comments.*
5. This Article shall survive termination of this Agreement and shall continue to bind the parties hereto.

APICS LINK AND LOGO

Channel Partner agrees to place APICS' logo and maintain a link to APICS' website on the home page of Channel Partner's website. Channel Partner further agrees that in the event the display of APICS' logo and the link to APICS' website violates the terms of this Agreement, including Article (TBD), Channel Partner shall immediately remove or revise said link and/or APICS logo as required by APICS. *I thought the discussion in the Wednesday call indicated that the Chapters could/should not use the APICS logo but use the Chapter form of the logo instead following the APICS branding and website guidelines..*

ENTIRE AGREEMENT

1. This Agreement, and any Appendices hereto (which may be updated or revised by APICS from time to time), shall constitute the entire Agreement between APICS and Channel Partner, there being no other representations to the contrary, and shall supersede all prior arrangements and communications between the parties concerning such matter, whether oral or written. Except for changes made by APICS as expressly set forth herein, any agreement hereafter made shall be ineffective to change, modify, add or discharge in whole or in part the obligations and duties under this Agreement, unless such Agreement is in writing and signed by the chief officer of both organizations who are authorized to do so by the governing bodies of both APICS and Channel Partner.

2. It is acknowledged and agreed by the parties that this Agreement shall be deemed to have been prepared and drafted jointly by the parties, and that, therefore, the terms and conditions herein shall not be construed or interpreted in favor of, or against, either party on this basis.

SEVERABILITY

In the event any provision of this Agreement is held invalid by an Illinois court of competent jurisdiction, this Agreement shall be modified to delete any provisions held to be invalid for any reason. In that event, all limitations of liability and exclusions of damages shall, to the greatest extent possible, continue in full force and effect and apply to the remaining provisions. This Agreement shall be construed and enforced as if said invalid provision had never been inserted herein.

WAIVER

1. Waiver by either party of any term or condition of this Agreement or any breach shall not constitute a waiver of any other term or condition or breach of this Agreement.
2. The failure of either party to enforce, in any one or more instances, any of the terms or conditions of this Agreement, shall not be construed as a waiver of the future performance of any such term or condition.

GENERAL

The rights and remedies of the parties provided in this Agreement are in addition to any other rights and remedies provided at law or in equity.

1. Other than as expressly permitted within this Agreement, Channel Partner shall not use APICS' name and/or trademarks for any purpose without APICS' prior written approval.
2. Each party agrees that it shall not publicize in any way, shape, or form the terms and conditions of this Agreement to any third party (excepting its attorneys, accountants, and financial advisors) without the prior written consent of the other party.
3. Notices under this Agreement shall be addressed to the parties at the addresses set forth on the first page of this Agreement.
4. Notice shall be sent by a traceable express courier, registered or certified mail, postage prepaid, return receipt requested. The date of notice shall be deemed to be the date on which such notice was actually received. Each party shall promptly give the other party written notice of any change of address. All communications and correspondence shall be in the English language, unless otherwise agreed to in writing by each party.

5. This Agreement shall be governed by the laws of the State of Illinois and the United States without giving effect to any choice of law principles. Each party hereby submits to the exclusive jurisdiction of the state and federal courts within the State of Illinois in respect of any dispute arising out of, or in connection, with this Agreement.
6. This Agreement may be executed in one or more counterparts, each of which taken together shall be considered one and the same document.
7. Unless specifically limited in this Agreement, neither party shall be liable for any default or delay on its part in performing any obligation under this Agreement if such default or delay is caused by superior power (natural disaster, accident, war, civil disorder, strike, or any other cause beyond the reasonable control of such party or its agents or employees). In the event that either party is prevented by such an occurrence or circumstance for a period of more than 90 days from fulfilling its obligations under this Agreement, the other party may terminate this Agreement upon 90 days written notice.
8. Each party agrees that no offer, promise, or authorization of any kind to any government official will be made for the purpose of influencing decisions in order to assist party in obtaining or retaining related business.

Misc. Comments:

What will APICS do and or how will it execute the decertification of a local chapter in order to protect the Brand ? I used the case of the Detroit Chapter and I did not hear a complete answer to this. I feel it is important to have this in the Standard Language so that all Chapters, who are also invested in the APICS brand, understand how they are benefiting from APICS protecting the Brand.

would suggest at least of one additional area be considered part of standard language. Since this should be common to all chapters, I think it appropriate to be included in the standard boilerplate. This area should be the performance, process improvement, and goals/metrics directed at the HQ organization to meet the needs and problems between HQ operations and the chapters. These should be developed with the input of all Chapters across all Districts to document and communicate operational performance issues and measures as well as frequency. I would suggest the Chapters and not just this District nor HQ should prioritize those issues and identify performance resulting goals. It does not make sense to have each chapter negotiate its own metrics for HQ as all chapters should benefit and those metrics should be considered part of that common experience model mentioned as part of the justification for this process.

Seems to me that there needs to be a section titled "rights and authorities of chapters"