

# **Constitution of The Australian Federation of Travel Agents Limited**

**ACN 001 444 275**

*As approved at 21 June 2023 Annual General Meeting.*

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## 1 Preliminary

### Name of the Association

- (1) The name of the company is The Australian Federation of Travel Agents (AFTA) Limited ACN 001 444 275 (the **Company** or **Association**).

### Type of company

- (2) The Association is a not-for-profit public company limited by guarantee.

### Liability of members

- (3) The liability of members is limited to the amount of the guarantee in clause 3.

### Reading this constitution with the Corporations Act

- (4) Except to the extent otherwise required by law, the replaceable rules set out in the Corporations Act do not apply to the Association.
- (5) A word or expression that is defined in the Corporations Act, or used in the Corporations Act and covering the same subject, has the same meaning as in the constitution.

## 2 Definitions and interpretation

### Definitions

- (1) In this constitution unless the context otherwise requires:
- (a) **"Accredited"**, in respect of an Entity, means that the Entity is a participant in the ATAS.
  - (b) **"Alternate"** means an alternate Director appointed under clause 59.
  - (c) **"Appointor"** in relation to an Alternate, means the Director who appointed the Alternate.
  - (d) **"Arbitration Panel"** means the arbitration panel convened pursuant to clause 37.
  - (e) **"ATAS"** means the Australian Travel Accreditation Scheme.
  - (f) **"Associate Member"** means a Member that satisfies the requirements of clause 12 and is admitted as such a Member.
  - (g) **"Auditor"** means the Auditor of the Association appointed pursuant to clause 88.
  - (h) **"Board"** means the Directors acting collectively in accordance with the quorum and voting provisions for meetings of Directors in this constitution.
  - (i) **"Chair"** means the person elected to be the Association's chair under clause 53.
  - (j) **"Chief Executive"** means the chief executive officer appointed under clause 90.
  - (k) **"Concessional Member"** means a Member of the Association which has, pursuant to a determination of the Board under clause 45(2), paid to the Association a Fee less than the full Fee determined by the Board and is a member of a Travel Group.
  - (l) **"Controlling Shareholder"** means a person who has, in respect of a corporation, power:
    - (i) to exercise, or to control the exercise of, the right to vote attached to, or
    - (ii) to dispose of, or to exercise control over the disposal of,not less than fifty percent (50%) of the issued voting shares in the capital of the corporation or otherwise controls the corporation within the meaning of section 50AA of the Corporations Act.
  - (m) **"Corporate Partner Member"** means a Member that satisfies the requirements of clause 13 and is admitted as such a Member.
  - (n) **"Corporations Act"** means the *Corporations Act 2001 (Cth)*.

- (o) "**Deputy Chair**" means a person elected as such pursuant to clause 53.
- (p) "**Directors**" means all or some of the directors acting as a board.
- (q) "**Entity**" means a sole trader, partnership, trust or company (proprietary limited or limited). It does not include independent contractors, sub-agents or branch offices.
- (r) "**Fee**" means the annual Membership fee described in clause 45 and as detailed in Schedule 1 (as that Schedule may be amended by the Board from time to time in accordance with clause 45).
- (s) "**Full Member**" means a Member that satisfies the requirements of clause 11 and is admitted as such a Member.
- (t) "**General Meeting**" means a meeting of the Members and includes the annual general meeting, held in accordance with clause 70.
- (u) "**Honorary Life Member**" means a Member appointed as such a member by the Board under clause 14.
- (v) "**Member**" means a member whose eligibility for Membership is as set out in clause 11.
- (w) "**New Application Fee**" has the meaning given in Schedule 1.
- (x) "**Office**" means the registered office of the Association.
- (y) "**Office-bearers**" means, collectively, the Chair, and the two Deputy Chairs elected pursuant to clause 53.
- (z) "**Person**" includes an individual and an entity.
- (aa) "**Schedule of Fees and TTV bands**" means the Schedule of Fees and TV bands forming Schedule 1 to this constitution, as may be revised by the Directors from time to time pursuant to clause 45(3).
- (bb) "**Special Board Resolution**" means a resolution passed by not less than seventy five percent (75%) of the Directors.
- (cc) "**Travel Arrangements**" means any transport, accommodation, tourist services or facilities, travel insurance, holidays, packages, provided by Travel Suppliers or any other products or services provided by Travel Suppliers specifically identified as travel arrangements by the Directors, from time to time.
- (dd) "**Travel Group**" means an entity determined as such by the Board for the purposes of this constitution, being an entity who carries on business in Australia as the franchisor, principal or head office of, or in the opinion of the Board performs a similar role in respect of, a Travel Intermediary franchise group, buying group, network or similar association.
- (ee) "**Travel Intermediary**" means an entity, domiciled or incorporated in Australia, who provides a Travel Service on behalf of a Travel Supplier including, but not limited to, a travel agent, travel management company, aggregator, distributor, online travel agent, inbound tour operator, wholesaler or a consolidator.
- (ff) "**Travel Service**" means the sale of tickets or rights of passage relating to Travel Arrangements.
- (gg) "**Travel Supplier**" means an entity that provides transport, accommodation, tourist services or facilities, travel insurance, holidays, packages, or any other similar arrangements identified by the Directors from time to time.

## **Interpretation**

- (2) In this Constitution unless the context otherwise requires:
  - (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) words importing natural persons include corporations;
  - (c) headings are for ease of reference only and do not affect the construction of this constitution;
  - (d) notes do not affect the construction of this constitution;
  - (e) a reference to \$ is to Australian currency;
  - (f) the meaning of general words is not limited by specific examples introduced by “including” or similar expressions; and
  - (g) where this Constitution requires or permits any action to be taken on a day which is a Saturday, Sunday or public holiday that action may be taken on the next following day which is not a Saturday, Sunday or public holiday.

## **LIABILITY**

### **3 Limited liability of Members**

- (1) Each Member undertakes to contribute up to a maximum of \$30 to the assets of the Association if it is wound up while the Member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the Association exceeds its assets. The liability of each Member is limited to making such contribution and no more.
- (2) If upon the winding up or dissolution of the Association there remains any property, income or assets, after the satisfaction of all its debts and liabilities, this must be given or transferred to some other institution or institutions which have objects similar to the objects of the Association and which also prohibit the distribution of its or income and property among its Members.

## **PURPOSE OF THE ASSOCIATION**

### **4 Objectives**

The objectives of the Association are to:

- (1) champion Members and be a trusted, transparent and consistent association that represents Australia’s travel industry;
- (2) identify and establish initiatives that improve the performance of Travel Intermediaries;
- (3) be an effective representative for Members through meaningful advocacy to support, defend and influence decision makers for the benefit of the tourism and travel sector;
- (4) promote and defend the importance of industry led regulation that enhances business and consumer outcomes through the increasing of domestic and international travel by Australians;
- (5) uphold a nationally recognised accreditation scheme for Travel Intermediaries that demonstrates to consumers their professional standing within the travel industry;
- (6) drive the best practice of service delivery by requiring Members to meet the requirements set out in the ATAS Charter as well as the ATAS Code of Conduct, and providing for suitable consequences when these requirements are not met;
- (7) facilitate the resolution of disputes arising between Members and consumers in the travel industry;
- (8) ensure the professionalism of the Travel Intermediary industry into the future;



- (9) ensure best practice governance principles are followed by the Board, management and Members at all times.

## **5 Powers**

Subject to clauses 6(1) and 6(3), the Association has the following powers, which may only be used to carry out its purposes set out in clause 4:

- (1) the powers of an individual; and
- (2) the powers of a company limited by guarantee under the Corporations Act.

## **6 Application of income and property**

- (1) The income and property of the Association must only be applied towards the promotion of the objects of the Association as set out in clause 4.
- (2) The Association must not distribute any income or assets directly or indirectly to its Members, except as provided for in clauses 3(2) and 6(3).
- (3) This clause 6 does not stop the Association from paying a Member for any goods or services they have provided or expenses they have properly incurred, provided they are done in good faith or making a payment to a Member in carrying out the Association's purposes.
- (4) Any payment to a Member pursuant to this clause must be approved by the Directors.

## **INDUSTRY**

### **7 Nature of industry**

The industry for which the Association is formed is that situated within the Commonwealth of Australia and its Territories in, or in connection with, the conduct of the business of Travel Intermediaries; providing advice, booking options for transport, accommodation, tourist or travel business services or facilities, travel insurance, holidays, packages, or any other arrangements to facilitate the passage for domestic and international travel.

## **MEMBERSHIP**

### **8 Number of Members**

The number of Members for the time being of the Association is unlimited.

### **9 Membership applications**

Applicants for membership of the Association must make a written application to the Association in such form as the Board may from time to time determine. The Board must determine membership applications in accordance with this constitution.

### **10 Ineligibility for Membership**

The Board may determine that a Person is ineligible for membership of the Association on the ground that the Person:

- (1) being a natural person, has:
  - (a) been an undischarged bankrupt;
  - (b) suspended payment of debts or is compromised with their creditors;
  - (c) been convicted of an offence involving fraud or dishonesty

- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (e) is a Controlling Shareholder or a director of a corporation which is ineligible for membership by virtue of this clause; or
  - (f) has been a Controlling Shareholder or a director of a corporation which has gone into liquidation (except for the purpose of reconstruction or amalgamation) or has had a receiver appointed in respect of any of its assets or has suspended payment of its debts or has compromised with its creditors;
- (2) being a corporation:
- (a) is in liquidation (except for the purpose of reconstruction or amalgamation) or has had a receiver appointed in respect of any of its assets, or has suspended payment of its debts or has compromised with its creditors;
  - (b) has, during the period of ten years immediately preceding the determination of its membership application or at any time thereafter, been convicted of an offence whether within Australia or elsewhere, involving fraud or dishonesty;
  - (c) has a Controlling Shareholder or director who is ineligible for membership under paragraph clause 10(1)(f); or
  - (d) is in partnership with a person who is ineligible for membership by virtue of clause 10(1) or 10(2).

## **ADMISSION TO MEMBERSHIP**

### **11 Eligibility for Full Membership**

Subject to clauses 10 and 15, an Entity is eligible for Full Membership if the Entity:

- (1) has a commitment to the purposes of the Association set out in clause 4;
- (2) meets any of the following criteria:
  - (a) lawfully carries on business as a Travel Intermediary in the Commonwealth of Australia or in any of its Territories and is Accredited; or
  - (b) is determined by a resolution of the Board to be a Travel Group;
- (3) completes and lodges a membership application in accordance with clause 9, with the associated application fee set out in clause 45 and Schedule 1; and
- (4) supports its application with evidence that the applicant is a participant in the ATAS; and
- (5) ensures that all information provided when applying for membership of the Association is true and accurate and not misleading or deceptive.

### **12 Eligibility for Associate Membership**

Subject to clauses 10 and 15, a Person is eligible for Associate Membership if the Person:

- (1) has a commitment to the purposes of the Association set out in clause 4;
- (2) meets any of the following criteria:
  - (a) is an Entity, lawfully carries on a business as a travel business outside the Commonwealth of Australia and its Territories; or
  - (b) is an individual, is engaged or employed in the travel industry and resides in the Commonwealth of Australia or in any of its Territories;
- (3) completes and lodges a membership application in accordance with clause 9, with the associated application fee set out in clause 45 and Schedule 1; and

- (4) ensures that all information provided when applying for membership of the Association is true and accurate and not misleading or deceptive.

### **13 Eligibility for Corporate Partner Membership**

Subject to clauses 10 and 15, an Entity is eligible for Full Membership if the Entity:

- (1) is not wholly engaged in the business of Travel Intermediary but is regularly engaged in the travel industry or an industry related to the travel industry in the Commonwealth of Australia or in any of its Territories;
- (2) completes and lodges a membership application in accordance with clause 9, with the associated application fee set out in clause 45 and Schedule 1; and
- (3) ensures that all information provided when applying for membership of the Association is true and accurate and not misleading or deceptive.

### **14 Eligibility for Honorary Life Membership**

Subject to clause 10, the Board may admit to Honorary Life Membership by Special Board Resolution any individual who has rendered distinguished, meritorious or exceptional service to the Association and Industry.

### **15 Board to admit**

The Board may, upon being satisfied by an applicant for Membership of the eligibility of that applicant, in its absolute discretion admit the applicant to Membership if, in its opinion, the applicant is fit and proper to be a Member of the Association.

### **16 Factors to be taken into account by the Board**

Without limiting the generality of the factors that the Board may take into account for the purposes of the exercise of its discretion under clause 15, the Board must, when considering an application for Membership by a Person who is a Travel Intermediary (for the purposes of clause 11(2)), take into account whether the applicant:

- (1) is Accredited; and
- (2) holds a professional indemnity insurance policy complying with clause 23.

### **17 Notification of rejection of Membership application**

If, on consideration of an application for Membership, the Board decides to reject the application, then it must notify the applicant by email shown on the application and provide to the applicant a written statement of the Board's reasons for rejecting the application.

### **18 Right of appeal**

An applicant for Membership whose application is rejected has the same rights of appeal as are set out in clauses 36 to 43.

## **OBLIGATIONS OF MEMBERSHIP**

### **19 Australian operation**

- (1) A Member must register with the Association an Australian address and Australian Business Number (ABN).
- (2) A Member must notify the Association of any change in such address within fourteen days after such change.

## **20 Financial soundness and accounts**

A Member that is an Entity must:

- (1) maintain its affairs in a financially sound position;
- (2) keep proper financial records which correctly record and explain its transactions and financial position and which are in accordance with accounting standards generally accepted in Australia and the requirements of any legislation relating to such Member; and
- (3) immediately notify the Association if it becomes unable to pay its debts as they fall due.

## **21 Financial soundness and accounting of Member**

Without limiting the generality of clause 20, a Member that is a corporation must:

- (1) comply in all respects with the Corporations Act or such equivalent legislation as is applicable;
- (2) immediately inform the Association:
  - (a) if its Directors fail to provide an annual report on the corporation's financial affairs as required by the Corporations Act or any equivalent statute; or
  - (b) if the Auditor reports that the corporation's accounts do not meet appropriate accounting standards or are otherwise not properly drawn up or otherwise qualifies such accounts in any way.

## **22 Proof of maintaining financially sound position and accounts**

The Board may at any time require a Member to produce evidence satisfactory to the Board of the Member's compliance with clause 20 and / or (if applicable) clause 21. The Member must be provided at least 21 days to provide such evidence.

## **23 Maintenance of Professional Indemnity Insurance**

- (1) Subject to clause 23(2), a Member which carries on business as a Travel Intermediary must at all times maintain a professional indemnity insurance policy consistent with the requirements under ATAS . The Board may at any time require a Member to produce this policy to the Board together with a certificate by the insurer as to the currency of the policy.
- (2) On written application from a Member or an applicant for membership, which carries on business as a Travel Intermediary, the Board may exempt that Person from complying with clause 23(1) for such period and on such terms and conditions, if any, as the Board sees fit. Any such exemption can be revoked by the Board at any time without prior notice to the Member by posting written notification of the revocation to the Member's address.

## **GENERAL MEMBERSHIP RIGHTS AND OBLIGATIONS**

### **24 Code of conduct**

A Member must comply with the ATAS Code of Conduct.

### **25 Right to appoint representative**

- (1) A Member which is an Entity (not being an individual) may appoint any individual as its representative to exercise on its behalf all or certain of its rights and powers as a Member and may terminate such appointment at any time.
- (2) The Association is only bound by such an appointment or by a termination of such an appointment upon receipt by the Association of written notice.

**26 Membership rights not assignable**

The rights and privileges of every Member are personal to it and are not assignable.

**27 Change of ownership**

If a change occurs in the respect to a majority shareholder or directors of a Member that is a corporation, the corporation must immediately notify the Association of such change and must satisfy the Board that the change does not affect the corporation's eligibility for membership.

**CESSATION OF MEMBERSHIP**

**28 Resignation**

Every Member of the Association has the right at any time to resign its membership by lodging a written resignation with the Association.

**29 When Membership ceases**

The membership of a Member ceases if the Member:

- (1) is determined by the Board pursuant to clause 10 to be ineligible for membership of the Association;
- (2) fails to satisfy a demand for payment of any moneys due to the Association within thirty (30) days after service of such demand where the Board has determined that the failure to satisfy the demand will result in cessation of membership and the Member has been informed of that determination at the time of such demand;
- (3) resigns in writing;
- (4) is expelled pursuant to this Constitution; or
- (5) having been Accredited, ceases to be Accredited provided that for so long as that Member has a right of appeal against loss of such Accreditation or has exercised such a right and the appeal has not been determined, the membership of that Member shall not cease until it ceases to have any such right or such appeal is determined.

**30 No refund of fees on cessation of Membership**

On the cessation of membership for any reason whatsoever, the Board may, in its discretion, refund either the whole or part of the membership fee to the former Member.

**31 Return of certificate and Association material**

On cessation of membership for any reason the former Member must immediately return to the Association any certificate of membership and any bromide, stereo or artwork of the Association (if applicable), and all property of the Association in that Member's possession and must immediately cease to display in any form whatsoever the symbol of the Association or any reference to membership, or any indication that that Member has any connection whatsoever with the Association.

**CENSURE, SUSPENSION AND EXPULSION**

**32 Board's power to censure, suspend or expel**

The Board may by Special Board Resolution censure, suspend or expel from the Association a Member:

- (1) who fails to observe and comply with this Constitution;
- (2) who fails to comply with a requirement imposed pursuant to clauses 22 or 23;

- (3) makes a wilful misrepresentation to the Association in its application for membership or in any other statement to the Association or the Board; or
- (4) who is, in the opinion of the Board, not a fit and proper person to be a Member of the Association.

### **33 Notice of meeting**

Any question of the censure, suspension or expulsion of a Member must be dealt with by a meeting of the Board. At least 14 days' notice of this meeting must be given to each Board member and the Member whose conduct is under consideration. This notice must specify the date, time, and place of meeting and the nature of the business, but should not identify by name the Member whose conduct is under consideration. The Member must also receive with the notice full particulars of the facts, matters and circumstances which might justify action being taken by the Board in respect of that Member under clause 32.

### **34 Right of appearance**

Such Member is entitled to be heard personally or by their agent (who may be a practicing legal representative) at such a meeting. The procedure of the meeting is at the discretion of the Board. The Board is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

### **35 Notice of result**

If the Board determines the Member should be censured, suspended or expelled, it must issue a notice of resolution containing its determination to the Member.

### **36 Right of appeal**

A Member who is the subject of such resolution has a period of 14 days after the date of service of notice of the Board's resolution to lodge a written notice of appeal to the Chief Executive setting out in succinct manner the grounds of appeal. If the Chief Executive does not receive a notice of appeal within this time, the resolution will become effective and binding and all Members must be informed accordingly by way of direct mail, email, or such other means as the Board or Chief Executive sees fit.

### **37 Arbitration panel**

If a notice of appeal is received within the period specified in clause 36, the Chief Executive must convene an arbitration panel consisting of:

- (1) a Member of the Association appointed by the appellant who must submit the name of such appointee and a signed statement of the willingness of such appointee to act as a member of the Arbitration Panel together with and at the same time as lodging the notice of appeal;
- (2) a Member willing to act who was not present at the meeting of the Board against the decision of which the appeal is lodged, appointed by the Chair; and
- (3) a Person having no financial or executive connection with the travel industry who shall act as Chair of the Arbitration Panel and who shall be appointed by the two Members mentioned in paragraphs (1) and (2).

### **38 Failure to appoint Chair**

If the Members referred to in paragraphs (1) and (2) of clause 37 fail within 14 days from whichever is the later of their dates of appointment to appoint a third Member, then the Board must appoint the third Member as soon as is practicable.

**39 Notice of hearing of appeal**

The Chief Executive must give the appellant at 14 days' notice of the time and place of the meeting of the Arbitration Panel. The hearing will commence within 28 days from the date of appointment of the Chair of the Arbitration Panel.

**40 Legal representation**

The Association may present its case in support of a resolution of censure, suspension or expulsion by any Person nominated by the Board. The appellant is entitled to appear either in person, or if a corporation by its duly appointed representative, or by another Member, or by a practicing legal representative. The appellant must notify the Association no later than 10 days before the hearing date whether or not a legal representative will appear on its behalf at the hearing. The Association is not entitled to employ practicing legal representative to appear on its behalf unless the appellant has engaged a practicing legal representative to appear.

**41 Rehearing on appeal**

Any appeal as provided in this Constitution must be by way of a complete rehearing and the Arbitration Panel may uphold, reverse or vary a finding or determination of the Board. The procedure of the hearing is at the discretion of the Arbitration Panel. The Arbitration Panel is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

**42 Arbitration Panel voting**

Decisions of the Arbitration Panel are by majority vote and the Chair of the Arbitration Panel has a deliberative vote only.

**43 Arbitration decision**

Within 28 days of the completion of the hearing of the appeal the Arbitration Panel must hand down its finding by way of written memorandum addressed to the Board, a copy of which must be served on the appellant by the Association.

**44 Stay of suspension or expulsion**

If within 14 days of the Arbitration Panel handing down a decision of suspension or expulsion of a Member, the Association is served by the Member with Court process for injunctive or other relief in relation to the suspension or expulsion, the decision is stayed.

**FEES**

**45 Annual Membership Fees**

- (1) Each Member must pay a Fee to the Association annually in accordance with the Schedule 1.
- (2) The Fee paid by certain Concessional Members will be less than the Fee determined under clause 45(1), on the basis that:
  - (a) those Members are part of a Travel Group that has paid a full Fee.
- (3) The Fees and TTV Band as outlines in Schedule 1, may be determined and amended by the Board from time to time. The Board must provide all Members notice of any such amendments within 28 days of the making of such resolution. Such notice may be provided by the Board to all Members on the AFTA website.

## BOARD OF DIRECTORS

### 46 Powers

The affairs, business, control and management of the Association are under the control of and are managed by the Directors who are responsible for managing and directing the activities of the Association to achieve the purposes set out in clause 4 and who may exercise all powers, authorities, and discretions of the Association which are not by this Constitution or the Corporations Act to be exercised by the Association in General Meeting.

### 47 Delegation of Directors' powers

The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as the Chief Executive) or any other Person, as they consider appropriate.

### 48 Number of Directors

The Association must have at least nine (9) and no more than twelve (12) Directors.

### 49 Eligibility to be a Director

An individual shall be eligible to be a Director only if:

- (1) at the time of nomination for election as a Director, is a Full Member or director or full time employee of a Full Member;
- (2) is, and has been for the immediately preceding period of six months, engaged or employed in the travel industry on a full time basis;
- (3) has given the Association their signed consent to act as a Director, if so elected; and
- (4) is not ineligible to be a Director under the Corporations Act.

### 50 Term of office

- (1) Each of the Directors shall take office for a term commencing at the conclusion of the annual general meeting in the year of their election and expiring at the conclusion of the annual general meeting in the second year following.
- (2) A retiring Director may act as a member of the Board throughout the annual general meeting at which they retires and may be eligible for election or appointment for one or more further terms by any method provided for in this constitution.

### 51 Election of Directors

Each year the Chief Executive must conduct a ballot in accordance with clause 52 for the election of six (6) Directors to be declared and effective at each annual general meeting.

### 52 Electronic ballot procedures

- (1) The following provisions apply to each ballot conducted pursuant to clause 51:
  - (a) Each year the Chief Executive must send notice to each Full Member (not being a Concessional Member) by email or other electronic method calling for nominations for an election of Directors. Nominations will be open for the period stated in the call for nominations, which must be a period of no less than 21 days from the date the call for nominations is sent.
  - (b) If the number of nominations for election is not greater than the number of vacancies to be filled, then those individuals nominated shall be declared elected at the next annual general meeting.



- (c) If following receipt of nominations an election is required the Chief Executive must send by email or other electronic method to each Full Member entitled to vote in the ballot a voting pack which sets out relevant biographical material regarding each candidate as has been provided by that candidate (subject to any restrictions concerning such material as the Board may impose from time to time). The voting period must be no less than 21 days and must end no later than 7 days before the date of the next annual general meeting.
  - (d) Each voting pack must:
    - (i) state the voting entitlement of the Member the voting paper is being emailed to;
    - (ii) contain a statement of the number of vacancies on the Board to be filled by the ballot; and
    - (iii) set out the names of all duly nominated candidates in the order selected by the Chief Executive or a Person authorised by the Chief Executive in the presence of the Auditor or suitably qualified Person appointed by the Auditor.
  - (e) Following receipt of the voting paper, the voter must:
    - (i) place a cross next to the names of candidates, to an amount equal to or less than the number of vacancies to be filled;
    - (ii) sign the voting paper (including electronically); and
    - (iii) return a copy of the completed and signed voting paper by way of reply email or other electronic method.
- (2) Subject to clause 52(3), only voting papers received by the Association by 5.00 p.m. local Sydney time 21 days after voting period has been open in the relevant year can be admitted to the ballot.
  - (3) In any case of minor irregularity in compliance with clause 52(1) shall be determined by the Person counting the ballot pursuant to clause 52(4) in their absolute discretion and the determination of that Person in that regard shall be final and conclusive.
  - (4) The ballot must be counted by the Auditor or suitably qualified Person appointed by the Auditor. The Person counting the ballot must ensure that the manner in which a Member has voted in that ballot is kept secret. The Person counting the ballot must prepare a paper setting out:
    - (a) the total number of votes cast in the ballot; and
    - (b) the number of formal votes received by each candidate,
 this paper must be sent to the Chief Executive by no later than 7 days prior to the annual general meeting in the relevant year.
  - (5) The candidates who receive the highest number of votes, relevant to the vacancies to be filled in the election, will be declared at the next annual general meeting as elected. In the event of a tie for the vacancy or vacancies to be filled the Chief Executive shall determine by lot in the presence of the Auditor or suitably qualified Person appointed by the Auditor which of the tied candidates shall fill the relevant vacancy or vacancies.
  - (6) The ballot will not be invalidated because any Member entitled to vote does not receive the material referred to in clause 52(1) of this section.

### **53 Election of Office-bearers**

- (1) Immediately after the Annual General Meeting each year, the Directors must pass a resolution to determine who will fill the positions of Chair; Deputy Chair (1); and Deputy Chair (2), until the conclusion of the following Annual General Meeting.
- (2) No person may be elected to more than one office at any one time.
- (3) A retiring Office-bearer may be re-elected to the position held by that Office-bearer.

- (4) The result of the election of Office-bearers shall be made known to the Members by the Chief Executive, in such manner as the Board may from time to time resolve, as soon as practicable after such election.
- (5) If at any time a casual vacancy occurs in the office of an Office-bearer, the Board must elect one of their number to fill such vacancy until the next Annual General Meeting.

#### **54 Vacancy in office of Director**

The office of a Director will become vacant if they:

- (1) cease to be a Director by reason of the Corporations Act;
- (2) become ineligible for any category of membership under clause 10 or becomes ineligible to be a Director under clause 49;
- (3) resign from office by notice in writing to the Association;
- (4) cease to be a Member except if, on the same day, they become a director or full time employee of a Member;
- (5) having been at the time of their appointment, election or nomination as a Director a full time employee or director of a Member which is a company, ceases to be a full time employee or director of that company;
- (6) was a full time employee or director of a company which was a Member at the time of their election or appointment as a Director and that company ceases to be a Member; or
- (7) or their Alternate does not attend three (3) consecutive meetings of the Board without leave of absence granted by the Board.

#### **55 Removal of Directors**

- (1) The Association may by Special Board Resolution remove any Director from office.
- (2) The Board may appoint a person to fill the position left vacant by reason of such removal provided that such person is eligible to be a Director pursuant to clause 49.
- (3) Any person appointed as a Director under this section, will, subject to this constitution, retain office until the conclusion of the term of office of the Director whose position has become vacant.

#### **56 Vacancies on Board**

The continuing Directors must not act if the number of Directors falls below nine (9), except for the purpose of filling vacancies on the Board or calling a general meeting.

#### **57 Filling of vacancies**

If at any time a casual vacancy occurs on the Board, the provisions of clause 55(2) and (3) shall apply as if the reference in those provisions to the person removed is a reference to the person whose office as Director has fallen vacant.

#### **58 No remuneration payable to Directors**

The Association must not pay fees or other remuneration to a Director.

#### **59 Alternate Director**

- (1) Subject to clause 49, a Director (other than an Alternate) may appoint a person to act as Alternate for a specified period or each time the Appointer is unable to attend a Board meeting or act as a Director.
- (2) The Association need not give notice of Board meetings to an Alternate Director unless the

Appointor has requested the Association to give notice.

- (3) An Alternate Director:
  - (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
  - (b) if also a Director, has a separate right to vote as Alternate Director;
  - (c) if Alternate for more than 1 Appointor, has a separate right to vote in place of each Appointor;
  - (d) when acting as Alternate, is an officer of the Association and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director; and
  - (e) with the approval of the Board, is entitled to reimbursement of expenses on the same basis as other Directors but is not entitled to any other remuneration from the Association.
- (4) The Appointor may at any time revoke the appointment of a person as an Alternate whether or not that appointment is for a specified period. Any appointment of an Alternate immediately ceases if:
  - (a) the Appointor ceases to be a Director; or
  - (b) an event occurs which would cause the Alternate Director to cease to be a Director under clause 55 if the Alternate Director were a Director.
- (5) The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Association.

## **DIRECTORS' MEETINGS**

### **60 When the Directors meet**

The Directors may hold meetings (including by technological means) for the conduct of the Association and regulate them as they think fit.

### **61 Calling of Directors' meetings**

- (1) A Director may call a Directors' meeting by giving reasonable notice to all the other Directors.
- (2) A notice of a Directors' meeting must:
  - (a) be given in a way permitted by clause 93;
  - (b) specify the time and place of and, if relevant, the form of technology for, the meeting; and
  - (c) state the nature of the business to be discussed at the meeting.

### **62 Quorum at Directors' meetings**

- (1) No business may be transacted at a meeting of Directors unless there is a quorum of at least 50% of Directors at the time the business is dealt with.
- (2) Unless the Directors determine otherwise, a quorum for a Directors' meeting is as determined by the Directors.
- (3) For the avoidance of doubt, a Director is present at a meeting if participating by electronic means.

### **63 Chair**

- (1) The Chair is entitled to take the chair at every Directors' meeting. If the Chair is absent or unwilling or unable to act, a Deputy Chair shall be entitled to take the chair.

- (2) If at any meeting the Chair or a Deputy Chair is not present within 10 minutes after the time appointed for holding the meeting, the Directors present may choose a chair of the meeting.
- (3) The Chair does not have a casting vote.

#### **64 Passing Directors' resolutions**

A Directors' resolution must be passed by a majority of the votes cast by the Directors present and entitled to vote on the resolution.

#### **65 Minutes**

- (1) The Board must make and keep Minutes that record:
  - (a) the names of Directors present at all meetings of the Board;
  - (b) all proceedings at all meetings of the Association and of the Board; and
  - (c) every Board resolution passed pursuant to clause 64.
- (2) The minutes must be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting and when signed will be conclusive evidence of the facts set out unless some manifest error be established within three (3) months of the date of signing.

#### **66 Circular resolutions of Directors**

- (1) The Directors may pass a circular resolution without a Directors' meeting being held.
- (2) A circular resolution is passed if fifty percent (50%) of the Directors entitled to vote on the resolution sign or otherwise agree to the resolution.
- (3) Each Director may sign:
  - (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (4) The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (5) A circular resolution is passed when the last Director signs or otherwise agrees to the resolution.

### **COMMITTEES**

#### **67 Committees**

The Board may delegate any of its powers, authorities and discretions (other than that of delegation) to committees consisting of Members or any other such persons as the Board thinks fit, as it may determine, and may from time to time revoke any such delegation.

#### **68 Advisory committees**

The Board may appoint one or more advisory committees consisting of Members and such other persons as the Board thinks fit. Such advisory committees shall act in an advisory capacity only. They shall conform to any charter or terms of reference and regulations that may be given by the Board. Any person appointed to such committee shall not be entitled to remuneration for their services on such committee but shall be entitled to reimbursement for out-of-pocket expenses incurred in respect of the business of any such sub-committee.

**69 Conduct of committees**

Any committee formed pursuant to clause 67 or clause 68 must conduct its affairs according to the procedures of the Board in so far as they are applicable.

**GENERAL MEETINGS**

**70 Annual General Meeting**

A General Meeting of the Association, called the annual general meeting, must be held at least once a year at such time, and at such place, as the Board may determine in accordance with the Corporations Act.

**71 General Meetings called by the Board**

- (1) The Board may convene a General Meeting at any time, and at such place, as it may determine;
- (2) The Board must convene a General Meeting if at least twelve (12) Full Members make a written request to the Association for a General Meeting to be held ("Members' Request"). As soon as practicable after receiving the Members' Request, the Board must:
  - (a) within 21 days' of the Members' Request, give all Members notice of a General Meeting; and
  - (b) hold the general meeting within 2 months of the Members' Request.
- (3) The Members who make the request for a General Meeting under clause 71(1) must:
  - (a) state in the request any resolution to be proposed at the meeting;
  - (b) sign the request; and
  - (c) give the request to the Association.

**72 General Meetings called by Members**

- (1) If the Directors do not call the general meeting within 21 days of being requested under clause 71(1), 50% or more of the Members who made the request may call and arrange to hold a general meeting.
- (2) to call and hold a meeting under clause 71(3) the Members must:
  - (a) as far as possible, follow the procedures for general meetings set out in this constitution;
  - (b) call the meeting using the list of Members on the Association's Member register, which the Association must provide to the Members making the request at no cost; and
  - (c) hold the general meeting within three months after the request was given to the Association.
- (3) The Association must pay the Members who request the general meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

**73 Notice of General Meetings**

- (1) Notice of a General Meeting must be given to:
  - (a) each Member;
  - (b) each Director; and
  - (c) the Auditor (if any).

- (2) Subject to any relevant law relating to Special Board Resolutions and consent to short notice, notice of:
  - (a) an annual general meeting must be provided in writing at 21 days' before the meeting; and
  - (b) any other General Meeting, must be given at least 21 days' before the meeting.
- (3) A notice of general meeting must specify:
  - (a) the date, time and place of the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (b) the general nature of the business to be transacted at the meeting;
  - (c) if applicable, that a Special Board Resolution is to be proposed and the words of the proposed resolution;
  - (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
    - (i) the proxy does not need to be a Member of the Company;
    - (ii) the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
    - (iii) the proxy form must be delivered to the Company at least 48 hours before the meeting.
- (4) If a General Meeting is adjourned (put off) for one month or more, the Members must be given new notice of the resumed meeting.

#### **74 Quorum at General Meetings**

- (1) No business shall be transacted at any General Meeting unless a quorum of twelve (12) Full Members is present at the time when the meeting proceeds to business.
- (2) A Person may attend a General Meeting:
  - (a) as a proxy of one or more Members;
  - (b) as a duly appointed representative of one or more corporations each of which is a Member;
  - (c) as a Member; or
  - (d) in more than one of the above capacities.
- (3) Subject to clauses (4)(4) and (5), for the purpose of determining whether a quorum is present, where a proxy or a duly appointed representative of a Member attends a General Meeting pursuant to clause 7(4)(2), that Member shall be deemed to be present at that General Meeting.
- (4) If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
  - (a) where the meeting was convened by, or at the request of, a Member or Members, the meeting must be dissolved; or
  - (b) in any other case:
    - (i) the meeting stands adjourned to the day, time and place as the Board determines, or if no determination is made by the Board, to the same day in the next week at the same time and place; and
    - (ii) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.
- (5) A reference in this clause to a Member is to a Member which is entitled to vote.

**75 Chair at General Meeting**

- (1) The Chair is entitled to take the chair at every General Meeting. If the Chair is absent or unwilling or unable to act, a Deputy Chair shall be entitled to take the chair.
- (2) If at any General Meeting neither the Chair or a Deputy Chair is present or willing to act, the Members present may choose another Member of the Board to act as Chair and if no Member of the Board is present shall choose one of their number to be Chair of that General Meeting.
- (3) The Chair is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions.
- (4) The Chair of a General Meeting does not have a casting vote.

**76 Adjournments**

The Chair of a General Meeting may with the consent of the meeting adjourn such General Meeting from time to time and from place to place.

**VOTING AT GENERAL MEETINGS**

**77 Right to vote**

- (1) Only Full Members are entitled to vote at a General Meeting of the Association in accordance with clause 78.
- (2) An Associate Member is not entitled to vote.
- (3) A Concessional Member is not entitled to vote.
- (4) A Corporate Partner Member is not entitled to vote.
- (5) A Honorary Life Member is not entitled to vote

**78 Numbers of votes**

Each Full Member is entitled to the following number of votes:

- (1) on a show of hands – one vote;
- (2) on a vote in writing or by other method determined under clause 79(3) – the following number of votes attributed to that Member’s category (determined by reference to the Member’s TTV Band, as set out in Schedule 1):
- (3) where a Member has elected to be a Concessional Member, their votes are transferred to their nominated Travel Group at a rate of 50%.
- (4) For category 8, the number of votes shall increase by 80 for each category 8 TTV Band value set under Schedule 1:
  - (a) Where a member has exceeded the TTV Band threshold set for category 8 by 20%, 40%, 60% or 80%, their votes shall be prorated accordingly. *For example: where the TTV Band threshold is set at \$1b and a member achieves TTV of \$1.45b, their votes shall be 80 + (40% x 80) = 112.*

Category	1	2	3	4	5	6	7	8
Number of votes	2	4	6	8	10	60	70	80

## **79 How voting is carried out**

Voting must be conducted and decided by:

- (1) a show of hands;
- (2) a vote in writing; or
- (3) another method chosen by the Chair that is fair and reasonable in the circumstances.

## **80 Appointment of proxy**

- (1) A Member who is entitled to attend and vote at a General Meeting may appoint a proxy to attend and vote at a General Meeting on their behalf.
- (2) A proxy does not need to be a Member.
- (3) An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:
  - (a) the Member's name and address;
  - (b) the Association's name;
  - (c) the proxy's name or the office held by the proxy; and
  - (d) the meetings at which the appointment may be used.
- (4) A proxy appointment may specify the way the proxy must vote on a particular resolution.
- (5) Proxy forms must be received by the Association at the address stated in the notice of meeting at least 48 hours before a meeting.
- (6) A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.

## **81 Voting by proxy**

- (1) A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a member on a show of hands).
- (2) When a vote in writing is held, a proxy:
  - (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
  - (b) if the way they must vote is specified on the proxy form, must vote that way; and
  - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

## **CHAPTERS AND DIVISIONS**

### **82 Recognition**

- (1) The Board may by Special Board Resolution recognise as a chapter any proposed or existing local association or grouping of Members the recognition of which as a chapter is in the opinion of the Board desirable.
- (2) The Board may also by Special Board Resolution recognise as a division of the Association any association or grouping of Members the recognition of which as a division is in the opinion of the Board desirable.

### **83 Withdrawal - Chapter or division recognition**

The Board may by Special Board Resolution at any time and for any reason withdraw recognition of any chapter or division on 21 days written notice to the president or chair of the chapter or division.



**84 Operations under by-laws**

Chapters and divisions shall operate in accordance with bylaws as approved from time to time by the Board. The Board shall have power to amend the bylaws of a chapter or division.

**ACCOUNTS**

**85 Accounts**

The Board must cause accounts to be kept of the assets and liabilities, receipts and expenditure of the Association, and the books of account may be kept at such place as the Board shall think fit. The accounts shall at all times be open to inspection by the Directors. At least once every year the accounts of the Association shall be examined and the income and expenditure accounts and balance sheet shall be the subject of a report by one or more properly qualified auditor or auditors.

**86 Balance sheet, profit and loss account**

The Board shall from time to time cause to be prepared and laid before the Annual General Meeting a balance sheet and profit and loss account and report of the Board.

**87 Audit**

At least once per year the accounts of the Association must be examined by the Auditor who must report to the Members in respect of those accounts in accordance with the Corporations Act.

**88 Appointment and removal of Auditors**

Auditors of the Association shall be appointed and may be removed, and their remuneration, rights and duties shall be regulated in accordance with the provisions of the Corporations Act.

**89 Bank**

All moneys including application fees, annual fees, and other revenue received by or on behalf of the Association shall be paid to the bankers of the Association. Such bankers shall be appointed by the Board.

**CHIEF EXECUTIVE**

**90 Chief Executive - Appointment and removal**

- (1) The Board will appoint the Chief Executive and determine the remuneration and conditions of the Chief Executive.
- (2) The Board may, subject to the Chief Executive's engagement, suspend or remove the Chief Executive.
- (3) Unless the Board otherwise determines, the Chief Executive will also be the Secretary of the Association.

**91 Chief Executive – Authority and powers**

- (1) Subject to any contrary direction by the Board, the Chief Executive is by this clause authorised on behalf of the Association to bring or defend or cause to be brought or defended in the name of the Association any action prosecution or complaint in any Court of Law and/or Arbitration and/or Conciliation touching or concerning any property or any right or claim to property of the Association and in particular to sue for or institute proceedings in respect of arrears of contributions, subscriptions, fees, levies or other money payable by Members.

- (2) Without restricting the generality of clause 91, the Board may:
  - (a) delegate such powers to the Chief Executive as it sees fit including, without limitation, the power to approve membership applications and its power under clause 30 to refund all or part of a membership fee to a former Member; and
  - (b) appoint and remove employees and fix their salaries and delegate such powers to the Chief Executive.

## **NOTICES**

### **92 Notice to the Association**

Written notice or any communication under this constitution may be given to the Company, the Directors or the secretary by:

- (1) delivering it to the Company's Office;
- (2) posting it to the Company's Office or to another address chosen by the Company for notice to be provided; or
- (3) sending it to an email address or other electronic address notified by the Company to the members as the Company's email address or other electronic address.

### **93 Notice to Members**

Written notice or any communication under this constitution may be given to a Member:

- (1) in person;
- (2) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices; or
- (3) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any).

### **94 When notice is taken to be given**

A notice:

- (1) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (2) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (3) sent by email or other electronic method, is taken to be given on the business day after it is sent; and
- (4) given under clauses 92 or 93 is taken to be given on the business day after the notification that the notice is available is sent.

## **INDEMNITY**

### **95 Indemnity**

- (1) The Association indemnifies each officer of the Association out of the assets of the Association, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that Person as an officer of the Association.
- (2) In this clause, 'officer' means a Director or secretary and includes a Director or secretary after they have ceased to hold that office.
- (3) In this clause, 'to the relevant extent' means:

- (a) to the extent that the Association is not precluded by law (including the Corporations Act) from doing so; and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another Person (including an insurer under an insurance policy).
- (4) The indemnity is a continuing obligation and is enforceable by an officer even though that Person is no longer an officer of the Association.

**96 Insurance**

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Association may pay or agree to pay a premium for a contract insuring a Person who is or has been an officer of the Association against any liability incurred by the Person as an officer of the Association.

**97 Winding up**

Any motion for the winding up of the Association shall be dealt with in accordance with the provisions of the Corporations Act and at a General Meeting called for consideration of the motion all Members shall be entitled to vote.

**GENERAL**

**98 Execution of documents**

The Association may execute a document without using a common seal if the document is signed by:

- (1) two Directors of the Association; or
- (2) a Director and company secretary.

**99 Use of logo**

- (1) Subject to paragraph (2) of this clause, a Member may use the logo of the Association in any advertisement to indicate that the Member is a Member of the Association but must not convey the impression that the Association has authorised or is in any way responsible for the advertisement or the services advertised.
- (2) Any such use by a Member of the logo of the Association is at all time subject to the approval of the Board or Chief Executive.

## SCHEDULE 1 – SCHEDULE OF FEES AND TTV BANDS

1. AFTA participation is subject to an annual subscription fee and based on an entity's 'Total Transaction Value' or TTV, as per the category.
2. TTV equals the gross total annual turnover of the Member. If a Member has multiple office selling locations then the TTV is the gross total annual turnover of all locations under that single Member entity's ABN.
3. Only TTV that is generated in Australia can be used to determine the category of membership
4. Fees and TTV bands shall be set by the Board and advised to Members no later than 31 March of each year.
5. The membership year for all Members is for the period 1 April to 31 March annually.
6. All fees are for yearly membership. If a Member joins throughout the year, their fee will be prorated to the current membership year.
7. A Travel Group fee will be determined by the Board
8. Membership fees will be same for all Full Members in each category
9. Additional fees may be levied at the discretion of the Board and may include, additional location, new application fee, overdue renewal fee, advocacy fee.
10. Each TTV band will be presented in Australian Dollars

### Membership categories:

Category	1	2	3	4	5	6	7	8
TTV Band	Less than \$1 million	\$1m-\$2.5 million	\$2.5m-\$5 million	\$5m-\$10 million	\$10m-\$100 million	\$100m-\$250 million	\$250m-\$1 billion	\$1 billion +

*2023 Membership TTV bands that are detailed above and are subject to change in accordance to clause Schedule 1 point 4*