

ADDITIONAL MATERIAL REQUESTED BY SENATOR O'BRIEN

Index of Material Provided

Tourism Accreditation Australia Limited

1. Constitution of Tourism Accreditation Australia Limited
(Mallesons Stephen Jacques, 17 June 2004)

ANNEXURE 'A'

MALLESONS STEPHEN JAQUES

FINAL : 17 June 2004



THIS IS ANNEXURE 'A' OF
37 PAGES REFERRED TO IN
FORM 205- NOTIFICATION
OF RESOLUTION

A handwritten signature in black ink, appearing to read 'N. Hunt'.

NICHOLAS HUNT
4/2/04.

Constitution

Tourism Accreditation Australia
(Company)

A Company Limited by Guarantee

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Constitution

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Constitution

1 The objects of the company

The objects of the Company are:

- (a) to develop and manage a national tourism accreditation system which will enhance the quality, consistency and credibility of tourism accreditation programs by:
 - (i) establishing core standards suitable for inclusion in all tourism accreditation programs;
 - (ii) endorsing tourism accreditation programs that comply with these standards, consistent with the Company's policy on system sustainability, and admitting these programs into the national tourism accreditation system; and
 - (iii) setting and maintaining mandatory criteria for the endorsement of accreditation programs with respect to assessment, administration and enforcement procedures;
- (b) to promote the uptake of Company endorsed accreditation programs within the Australian tourism industry and as a result:
 - (i) improve tourism business management practices; and
 - (ii) improve the quality of services provided to tourism consumers and enhance the overall Australian tourism experience;
- (c) to facilitate the exchange of tourism accreditation information between stakeholders and interested parties;
- (d) to do everything that the Company may consider incidental or conducive to the promotion of those objects or any of them.

2 Members

2.1 Who are the members?

The Members of the Company are, subject to article 5.7, those persons who become Members under article 5.3.

2.2 What are the categories of membership?

There are four categories of Members of the Company:

- (a) Tourism Industry Associations;
- (b) Tourism Accreditation Program Managers;
- (c) Australian, State and Territory Tourism Organisations; and
- (d) Governments and Government Agencies.

3 Directors

3.1 Definitions

In this article 3:

- (a) a **person is Associated With** a Member if, and only if they are a director, officer or employee of that Member or of a Related Body Corporate of that Member;
- (b) **Corporate Member** means a Member who is not a natural person;
- (c) **Director Category** means each of the categories of TIA Director, TAPM Director, ASTTO Director and Government Nominee Director;
- (d) **Independent Director** means a Director appointed under article 3.6(e);
- (e) **Sectoral Director** means a Director from time to time other than an Independent Director; and
- (f) **Transitional Directors** means the Directors referred to in article 3.3.

3.2 The number of directors

Subject to articles 3.6 and 3.20:

- (a) until the end of the general meeting of the Company at which this constitution is adopted, the number of Directors is to be not less than 10; and
- (b) from the end of that general meeting, the number of Directors is to be not less than 11.

3.3 Transitional directors

The Directors in office when this constitution takes effect are the Directors:

- (a) in office at the end of the previous day;
- (b) who have not in the meantime resigned or been removed from office.

3.4 Term of office of transitional directors

Subject to the Corporations Act and article 3.20 the Transitional Directors hold office until the end of the general meeting of the Company at which this constitution is adopted.

3.5 Eligibility for office

Subject to the Corporations Act and articles 3.3 and 3.4:

- (a) only:

- (i) a person who is a Member; or
 - (ii) a person who has been nominated for election by a Corporate Member; or
 - (iii) a person who is nominated by ASCOT or the Minister,
may hold office as a Sectoral Director; and
- (b) only a person who is not Associated With any Member is eligible to be appointed or hold office as an Independent Director.

3.6 Composition of the board

From the end of the general meeting of the Company at which this constitution is adopted, the Directors are to comprise:

- (a) four persons elected from time to time by the Tourism Industry Association Members, at least two of whom must, in the opinion of those Members, be experienced Tourism Industry Operators. Each director elected from time to time under this article 3.6(a) is referred to in this constitution as a **TIA Director**;
- (b) two persons elected from time to time by the Tourism Accreditation Program Manager Members, one of whom must at the time of their election manage a Generic Program and the other a Sectoral Program. Each director elected from time to time under this article 3.6(b) is referred to in this constitution as a **TAPM Director**;
- (c) one person nominated from time to time by ASCOT from amongst persons employed by Australian, State or Territory Tourism Organisations. The director nominated from time to time under this article 3.6(c) is referred to in this constitution as the **ASTTO Director**. In considering its nomination of the **ASTTO Director**, ASCOT should have regard to the desirability of achieving gender and geographic balance amongst the Directors of the Company;
- (d) one person nominated from time to time:
 - (i) by the Australian Minister with responsibility for tourism issues. The director nominated from time to time under this article 3.6(d)(i) is referred to in this constitution as the **Minister's Nominee Director**; or
 - (ii) if the Minister makes no such nomination at the 2006, or any subsequent, annual general meeting of the Company, by ASCOT from amongst the employees of Australian, State or Territory Tourism Organisations or Governments. The director nominated from time to time under this article 3.6(d)(ii) is referred to in this constitution as the **ASCOT Nominee Director**.

In the remainder of this constitution, **Government Nominee Director** means the Minister's Nominee Director or the ASCOT

Nominee Director, as the case may be, from time to time. In considering a nomination of a Government Nominee Director, the Minister or ASCOT should have regard to the desirability of achieving gender and geographic balance amongst the Directors of the Company; and

- (e) three other persons from time to time appointed by the Sectoral Directors having regard to their skill and experience in:
 - (i) certification;
 - (ii) marketing;
 - (iii) law (and especially intellectual property);
 - (iv) accounting;
 - (v) corporate governance and administration;
 - (vi) tourism research, tourism forecasting and similar disciplines, including academia; and
 - (vii) any other areas considered relevant by the Sectoral Directors from time to time.

The first Independent Directors are to be appointed within three months after the general meeting of the Company at which this constitution is adopted. Each other Independent Director is to be appointed within three months of the office to which he or she is appointed becoming vacant. In considering the appointment of an Independent Director, the Sectoral Directors should have regard to the desirability of achieving gender and geographic balance amongst the Directors of the Company.

3.7 Directors elected at on the adoption of this constitution

Subject to the Corporations Act and article 3.20, the persons who are Directors from the end of the general meeting of the Company at which this constitution is adopted hold office until:

- (a) in the case of each TIA Director, the end of the Company's 2005 annual general meeting;
- (b) in the case of each TAPM Director, the end of the Company's 2005 annual general meeting;
- (c) in the case of the ASTTO Director, the end of the Company's 2005 annual general meeting; and
- (d) in the case of the Government Nominee Director, the end of the Company's 2006 annual general meeting.

3.8 Directors elected at 2005 AGM

Subject to the Corporations Act and article 3.20, with effect from the end of the Company's 2006 annual general meeting:

- (a) the TIA Director elected first at that meeting holds office until the end of the Company's 2006 annual general meeting;
- (b) the TIA Director elected second at that meeting holds office until the end of the Company's 2007 annual general meeting;
- (c) the TIA Directors elected third and fourth at that meeting each hold office until the end of the Company's 2008 annual general meeting;
- (d) the TAPM Director elected first at that meeting holds office until the end of the Company's 2006 annual general meeting;
- (e) the TAPM Director elected second at that meeting holds office until the end of the Company's 2007 annual general meeting; and
- (f) the ASTTO Director holds office until the end of the Company's 2007 annual general meeting.

3.9 Directors elected at 2006 AGM and after

Subject to the Corporations Act and article 3.20, with effect from the end of the Company's 2006 annual general meeting, and each of the Company's subsequent annual general meetings:

- (a) any TIA Director elected at that meeting holds office until the end of the third following annual general meeting of the Company. For example, a TIA Director elected at the Company's 2006 annual general meeting holds office until the end of its 2009 annual general meeting;
- (b) any TAPM Director elected at that meeting holds office until the end of the third following annual general meeting of the Company. For example, a TAPM Director elected at the Company's 2007 annual general meeting holds office until the end of its 2010 annual general meeting;
- (c) any ASTTO Director holds office until the end of the second following annual general meeting of the Company. For example, a ASTTO Director who holds office from the end of the Company's 2007 annual general meeting holds office until the end of its 2009 annual general meeting;
- (d) any Government Nominee Director holds office until the end of the second following annual general meeting of the Company. For example, a Government Nominee Director who holds office from the end of the Company's 2006 annual general meeting holds office until the end of its 2008 annual general meeting.

3.10 Independent directors

Subject to the Corporations Act and article 3.20:

- (a) the first appointed Independent Director holds office for one year from (and including) the date of their appointment;
- (b) the second appointed Independent Director holds office for two years from (and including) the date of their appointment;
- (c) the third appointed Independent Director holds office for three years from (and including) the date of their appointment; and
- (d) each Independent Director appointed subsequently (other than under article 3.16(f)) holds office for three years from (and including) the date of their appointment.

3.11 Election of chairman and deputy chairman

At the first Directors' meeting after:

- (a) the general meeting of the Company at which this constitution is adopted; and
- (b) each annual general meeting at which an election is conducted according to articles 3.7 to 3.10,

the Directors will elect a Chairman and Deputy Chairman from amongst their number.

The Chairman and Deputy Chairman hold those offices until:

- (c) the 2005 annual general meeting of the Company; or
- (d) the Company's next annual general meeting,

respectively.

3.12 Re-election, re-appointment and re-nomination

Subject to articles 3.5 and 3.20, a retiring Director, or a Director whose period of office has expired, is eligible for re-election re-appointment or re-nomination as a Director.

3.13 Service as chairman

A retiring Chairman who has held that office for two consecutive terms is eligible for re-election as a Director but, until the Directors' meeting following the third annual general meeting after his retirement from that office, is not eligible for re-election as Chairman.

3.14 Service as deputy chairman

A retiring Deputy Chairman is eligible:

- (a) for re-election as a Director;

- (b) subject to article 3.13, for election as Chairman; or
- (c) for re-election as Deputy Chairman.

3.15 Director elected at general meeting

The Company may, at a general meeting at which a TIA Director or TAPM retires or otherwise vacates office, by resolution fill the vacated office by electing a person nominated by the Members of the relevant category.

3.16 Casual vacancy

The Directors may at any time appoint a person to:

- (a) be a TIA Director, a TAPM Director or an Independent Director, to fill a casual vacancy which (in the case of a TIA Director or a TAPM Director) has not been filled under article 3.15. For the purposes of article 3.16(a), a casual vacancy in the office of the Independent Director does not arise unless a vacancy in that office has not been filled within three months; or
- (b) fill a casual vacancy in the office of Chairman or Deputy Chairman.

ASCOT may nominate a person to be a ASTTO Director to fill a casual vacancy.

The Minister or ASCOT may nominate a person to be a Government Nominee Director to fill a casual vacancy.

A person appointed under this article takes office upon appointment.

A person nominated under this article takes office from the time that notice of their nomination is received by the Company.

A person appointed or nominated under this article continues to hold office until:

- (c) in the case of a person appointed to fill a vacancy in the office of Sectoral Director, the end of the annual general meeting of the Company at which that Sectoral Director's appointment was to expire, and is eligible for election at that meeting as a Director in any Director Category for election to which they are qualified; and
- (d) in the case of a person appointed to fill a vacancy in the office of Independent Director, the end of the term for which that Independent Director was appointed, and is eligible for re-appointment as a Director of the Company.

3.17 Remuneration of directors

An Independent Director may be paid the remuneration from time to time fixed by the Company in general meeting.

A Director may be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when

travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the affairs of the Company.

3.18 Director's reimbursement must be approved

Any reimbursement to a Director must be approved by the Directors.

3.19 Director's interests

Subject to complying with the Corporations Act regarding disclosure of, and voting on matters involving, material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors; and
- (g) sign or participate in the execution of a document by or on behalf of the Company.

A Director may do any of those things despite the fiduciary relationship of the Director's office:

- (h) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
- (i) without affecting the validity of any contract or arrangement.

3.20 Vacation of office

In addition to the circumstances prescribed under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or someone who is, or whose estate is liable to be dealt with in any way under a law relating to mental health;
- (b) resigns office by notice in writing to the Company; or

- (c) is not present personally or by proxy or Alternate Director at meetings of the Directors for a continuous period of six months without leave of absence from the Directors.

4 Powers

For the purpose of carrying out its objects, the Company has all the powers conferred on it by the Corporations Act, including the power:

- (a) to establish committees to facilitate the implementation of the Company's accreditation system;
- (b) to promote and market the advantages of tourism accreditation and endorsement by the Company of tourism accreditation programs;
- (c) to provide information about the endorsement of tourism accreditation programs through discussions, publications and correspondence with public and private organisations and individuals;
- (d) to hold, assign, licence, deal with and dispose of Intellectual Property Rights;
- (e) to buy, sell and deal in all kinds of goods, literature and other items required by the Members or persons frequenting the Company's premises;
- (f) to purchase, lease, hire and otherwise acquire any real or personal property as the Company thinks fit;
- (g) to enter into arrangements with any Australian, State or Territory government department, agency or authority as the Company thinks fit;
- (h) to invest and deal with the funds of the Company as the Company thinks fit;
- (i) to borrow and raise money and to secure the payment of money and the performance of obligations in any manner as the Company thinks fit;
- (j) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferrable instruments;
- (k) to charge:
 - (i) (subject to article 6.1) an annual subscription fee for Membership; and
 - (ii) a fee payable by applications for Membership; and
- (l) to do everything that the Company may consider incidental to or conducive to the exercise of these powers or any of them.

5 Membership

5.1 Rights of members

A Member has the right:

- (a) if a body corporate, to appoint and remove Representatives according to section 250D;
- (b) to notice of and attend every general meeting of the Company;
- (c) to vote on the election of each Director of the Director Category that relates to the category of membership held by the Member; and
- (d) subject to article 5.1(c), to vote at any general meeting of the Company.

5.2 Application for membership

An application for Membership must:

- (a) be in writing in the form from time to time determined by the Directors; and
- (b) state:
 - (i) the category of Membership for which the application is made;
 - (ii) state that, if admitted to Membership, the applicant will be bound by this constitution; and
- (c) be accompanied by payment of the amount determined by the Directors from time to time to be payable by applicants for Membership of the category sought.

If an applicant satisfies the qualifications for admission to more than one category of Membership, the applicant must elect one category only for which application for Membership is made.

An application for Membership made in contemplation of (and conditional on) the adoption of this constitution by the Company is in all respects effective and is to be made as if this article 5.2 was in force at the relevant time.

5.3 Admission to membership

Applications for admission to Membership are to be considered by the Directors at their next meeting after the application is received.

Applications for Membership:

- (a) in a category created under this constitution; and
- (b) received before (and made conditional on) its adoption,

are to be considered at the general meeting of the Company at which this constitution is adopted.

An application may be rejected:

- (c) by the Directors; or
- (d) the general meeting at which this constitution is adopted respectively,

if they consider the applicant not to be a fit and proper person for admission to Membership. Reasons for the decision need not be given.

An applicant is admitted to Membership in the relevant category if their application is approved by the Directors or the meeting at which this constitution is adopted (as the case may be).

5.4 Conversion of membership status

A person who:

- (a) is a Member immediately before this constitution is adopted; and
- (b) if they were not a Member, would (after the adoption of this constitution) be qualified for admission to a particular category of Membership,

is, from the time this constitution is adopted, a Member in that category of Membership (**Transitioning Member**).

If a Transitioning Member would be qualified for admission to more than one category of Membership, they transition to the category first listed in article 2.2.

5.5 Expiration of membership of non-qualifying persons

A person who:

- (a) is Member immediately before this constitution is adopted; and
- (b) if they were not a Member, would not, after the adoption of this constitution, be qualified for admission to any category of Membership,

ceases to be a Member from the time this constitution is adopted.

5.6 Unincorporated bodies and associations as members

Where an applicant for Membership is an unincorporated body or association, it must nominate a natural person normally resident in Australia and of full legal capacity to act as its nominee to apply for and, as its nominee, hold, the relevant category of Membership.

An unincorporated body or association whose nominee applies for Membership must, at the time of the application, lodge with the Secretary the signed consent of the nominee to act in that capacity.

Where a person is a Member in a nominee capacity for an unincorporated body or association, that capacity must be disclosed in the Company's register of Members (for example "John Smith as nominee of XYZ, an unincorporated body or association").

5.7 Ceasing to be a member

A person ceases to be a Member:

- (a) on resignation;
- (b) on death;
- (c) on becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
- (d) on becoming of unsound mind or someone whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (e) if in the opinion of the Directors, that Member (or in the case of a Nominee Member, the unincorporated body or association for which they are nominee) ceases to satisfy the criteria for admission to Membership of the relevant category;
- (f) in the circumstances described in article 5.3 and 5.9 or (if they are a Nominee Member) article 5.10; or
- (g) if a corporation, unincorporated body or association, they are dissolved or otherwise cease to exist, have a liquidator or provisional liquidator appointed to it, or are unable to pay their debts.

5.8 Resignation

A Member may, by written notice to the Company, resign their Membership with immediate effect or with effect from a specified date occurring not more than 12 months after the service of the notice.

5.9 Termination

The Directors may by written notice to a Member terminate their Membership with immediate effect, or with effect from a specified date occurring after service of the notice, if:

- (a) they consider that the Member is no longer a fit and proper person to be a member, or to be a member of the relevant category of member, of the Company; or
- (b) monies payable by the Member to the Company remain unpaid for more than 14 days after the date for payment specified in a notice provided by the Company to the Member requiring payment of such outstanding amounts.

5.10 Ceasing to be a nominee

An unincorporated body or association whose nominee is a Member on its behalf, by notice in writing under the hand of its president (or equivalent officer) to the Secretary:

- (a) may from time to time revoke its nominee's appointment and appoint a new nominee in their place; and
- (b) must do so if an event of the kind referred to in article 5.7(a), (b), (c) or (d) occurs in respect of its nominee.

A nominee ceases to be a Member in that capacity when the notice of the revocation of their appointment is received by the Secretary.

A new nominee becomes, in that capacity, a Member of the relevant category when the notice of their appointment is received by the Secretary.

5.11 No claim against the Company

No Member whose Membership ends has any claim against the Company for damages or otherwise.

5.12 Membership cannot be dealt with

A right, privilege or obligation which a person has by reason of being a Member:

- (a) is not capable of being disposed of or made the subject of any trust; and
- (b) ends when that person's Membership ends.

5.13 Limited liability

The Members have no liability as Members except according to articles 6 and 19.

6 Membership subscriptions

6.1 Directors to determine

The Directors must determine the subscriptions to be paid by Members for each Financial Year.

The Directors may determine:

- (a) different subscriptions for different categories of Membership; and
- (b) that the subscription for a category of Membership is zero.

6.2 Timing

The Directors must notify the Members of the subscriptions (if any) payable by them as soon as reasonably practicable after the beginning of each Financial Year.

Subject to article 6.3, each Member must pay the subscription for which it is liable under this constitution in respect of a Financial Year no later than the date determined by the Directors.

6.3 Directors may grant concessions

The Directors may:

- (a) defer the obligations of a Member to pay their subscriptions;
- (b) reduce the subscriptions payable by a Member; or
- (c) agree to the payment by a Member of their subscription by setting off, in whole or in part, against the amount of the subscription, any amount owed by the Company to that Member,

if:

- (d) the Directors are satisfied that:
 - (i) there are reasonable grounds for doing so; and
 - (ii) the Company will not be materially disadvantaged as a result; and
- (e) in the case of the deferral or reduction of a subscription, that Member agrees to pay the amount deferred or the reduced amount (as the case may be) within a time fixed by the Directors.

6.4 Former members remain liable

Any person whose Membership ends remains liable to the Company for all subscriptions due by them to the Company before their Membership ended.

If any subscriptions have been paid in advance, no amount is refundable to any person whose Membership has ended unless first approved by the Directors.

7 General meetings

7.1 Annual general meeting

Annual general meetings of the Company are to be held according to the Corporations Act.

7.2 Power to convene general meeting

The Directors may convene a general meeting when they think fit and must do so if required under the Corporations Act.

7.3 Members have power to convene general meeting

Either:

- (a) a Director; or
- (b) any two or more Members,

may convene a general meeting at the cost of the Company if there are insufficient Directors in office to constitute a quorum according to article 11.7.

7.4 Notice of general meeting

Notice of a meeting of Members must be given according to Part 17 and the Corporations Act.

7.5 Directors entitled to attend general meetings

A Director is entitled to receive notice of and attend and speak at all general meetings.

7.6 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine.

However, this article does not apply to a meeting convened:

- (a) by Members according to the Corporations Act;
- (b) by the Directors at the request of Members; or
- (c) by a court.

7.7 Written notice of cancellation or postponement of general meeting

Notice of the cancellation or postponement of a general meeting must state in writing the reason for doing so and be given to:

- (a) each Member individually; and
- (b) each other person entitled to a notice of a general meeting under the Corporations Act.

7.8 Contents of notice postponing general meeting

A notice postponing a general meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and

- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

7.9 Number of clear days for postponement of general meeting

The number of clear days from the giving of a notice postponing a general meeting to the date specified in that notice for the postponed meeting may not be less than the number of clear days' notice of the general meeting required to be given by this constitution or the Corporations Act.

7.10 Business at postponed general meeting

The only business that may be transacted at a postponed general meeting is the business specified in the notice originally convening the meeting.

7.11 Proxy, attorney or representative at postponed general meeting

Where:

- (a) by the terms of an instrument appointing a proxy, attorney or Representative, they are authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for the meeting is postponed to a date later than the date specified in the instrument,

then that later date is substituted for the date specified in the instrument, unless the appointing Member notifies the Company in writing to the contrary at least 48 hours before the time at which the postponed meeting is to be held.

7.12 Non-receipt of notice

The non-receipt of a notice convening, cancelling or postponing a general meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of the meeting.

8 Proceedings at general meetings

8.1 Reference to a member

Unless the contrary intention appears, a reference to a Member in this Part 8 means a person who is:

- (a) a Member;
- (b) a proxy;
- (c) an attorney; or
- (d) a Representative.

8.2 Number for a quorum

Subject to article 8.5, 4 Members present are a quorum at a general meeting.

8.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it.

If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the Chairman of the meeting on their own motion or at the request of a Member present, declares otherwise.

8.4 Quorum and time

If within 30 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by, or on the requisition of, Members is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to those who were entitled to notice of the meeting.

8.5 Adjourned meeting

At a meeting adjourned under article 8.4(b), 2 Members present at the meeting are a quorum.

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

8.6 Appointment and powers of chairman of general meeting

If the Directors have elected one of their number as Chairman, that person is entitled to preside as chairman at a general meeting.

8.7 Absence of chairman at general meeting

If a general meeting is held and:

- (a) a Chairman has not been elected by the Directors; or
- (b) the elected Chairman is not present within 30 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):

- (c) the Deputy Chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present; or

- (f) a Member chosen by a majority of the Members present.

8.8 Conduct of general meetings

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is, in the chairman's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this article is final.

8.9 Adjournment of general meeting

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.

The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- (a) in exercising this discretion, the chairman may, but need not, seek the approval of the Members present. Unless required by the chairman, a vote may not be taken or demanded by the Members present in respect of any adjournment; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

8.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more.

If a meeting is adjourned for one month or more, notice of the adjournment must be given in accordance with article 7.4.

8.11 Questions decided by majority

Subject to the requirements of the Corporations Act and this constitution, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

8.12 Equality of votes - casting vote for chairman

If there is an equality of votes, whether on a show of hands or on a poll, the chairman of the general meeting is entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member.

8.13 Declaration of results

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.

A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact.

Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

8.14 Poll

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

8.15 Objection to voting qualification

Objection may not be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll except at that meeting or adjourned meeting or when that poll is taken.

Every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is valid.

8.16 Chairman to determine any poll dispute

If there is a dispute as to the admission or rejection of a vote, the chairman of the meeting must decide it and the chairman's decision made in good faith is final and conclusive.

9 Votes of members

9.1 Reference to present

Unless the contrary intention appears, a reference in this Part 9 to a Member present is a reference to a Member present in person or by proxy, attorney or Representative.

9.2 Voting rights

Subject to:

- (a) the rights and any restrictions attached to or affecting any category of Members; and
- (b) any other restrictions in this constitution,

on a show of hands and on a poll, each Member present has one vote.

9.3 Unfinancial members

A Member all or any part of whose subscription is overdue for payment is entitled to notice of, but not be present or vote at, a general meeting.

9.4 Right to appoint a proxy

Subject to the Corporations Act, a Member entitled to attend at a meeting of the Company or of any category of Members is entitled to appoint another person (whether a Member or not) as proxy to attend in the Member's place at the meeting.

A proxy has the same right as the Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.

9.5 Right to appoint attorney

A Member may appoint an attorney to act on the Member's behalf at all or any meetings of the Company or of any category of Members.

To be effective, an instrument appointing an attorney under this article, together with any evidence of non-revocation the Directors require, must be received by the Company at least 48 hours before the meeting.

9.6 Right to appoint a representative

Each Member which is a body corporate is entitled to appoint a Representative to attend general meetings of the Company.

10 Powers and duties of directors

10.1 Directors to manage company

The Directors are to manage the business of the Company. They may exercise all the powers of the Company that are not, by the Corporations Act

or by this constitution, required to be exercised by the Company in general meeting.

10.2 Specific powers of directors

Without limiting article 10.1, the Directors may:

- (a) exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
- (b) appoint such standing and ad hoc sub-committees of the Board as they think fit; and
- (c) do everything which in their opinion is necessary or convenient for implementing the Company's objects.

10.3 Appointment of attorney

The Directors may appoint any person to be the Company's attorney for the purposes and with the powers, authorities and discretions for the period and subject to the conditions they think fit.

10.4 Provisions in power of attorney

A power of attorney granted under article 10.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

10.5 Minutes

The Directors must direct minutes of meetings to be made and kept according to the Corporations Act.

11 Proceedings of directors

11.1 Directors meetings

The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.

11.2 Meeting by use of technology

A Directors' meeting may be called or held using any technology to which each Director has consented.

The consent may be a standing one.

A Director may only withdraw their consent within a reasonable time before the meeting.

11.3 Convening a meeting

Directors' meetings may be convened either:

- (a) by the Chairman; or
- (b) if required by two or more Directors.

11.4 Questions decided by majority

A question arising at a Directors' meeting is to be decided by a majority of votes of the Directors present and entitled to vote, and that decision is for all purposes a decision of the Directors.

11.5 Alternate director or proxy and voting

A person who is present at a Directors' meeting as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy.

If that person is also a Director, they have one vote as a Director in that capacity.

11.6 Chairman's casting vote

In the event of an equality of votes the chairman of the meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

11.7 Quorum

Six Directors present in person or by proxy are a quorum.

11.8 Effect of vacancy

The continuing Directors may act despite a vacancy in their number. However, if their number is reduced below 6, the continuing Directors may, except in an emergency, act only for the purpose of:

- (a) filling vacancies to the extent necessary to bring their number up to that minimum; or
- (b) calling a general meeting.

11.9 Appointment of alternate director

Subject to the Corporations Act, a TIA Director or a TAPM Director may appoint a person approved by a majority of the other Directors to be an Alternate Director in that Director's place for a period that the Director thinks fit.

Subject to the Corporations Act, ASCOT or the Minister may appoint a person to be an Alternate Director in the place of an ASTTO Director or a Government Nominee Director for a period that ASCOT or the Minister thinks fit.

11.10 Alternate director and meetings

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not attend a meeting, is entitled to attend and vote in the appointor's place.

11.11 Alternate director's powers

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor that the appointor has not exercised or performed.

11.12 Alternate director responsible for own acts and defaults

While acting as a Director, an Alternate Director is responsible to the Company for the Alternate Director's own acts and defaults and the appointor is not responsible for them.

11.13 Alternate director and remuneration

An Alternate Director is not entitled to receive from the Company any remuneration under article 3.17 but their expenses may be reimbursed in accordance with that article.

11.14 Termination of appointment of alternate director

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

11.15 Appointment or termination in writing

The appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Company.

11.16 Alternate director and number of directors

The Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

11.17 Director attending and voting by proxy

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings.

11.18 Chairman to preside over directors' meeting

The Chairman is entitled to preside at meetings of the Directors.

If the Chairman is not present and able and willing to act within 30 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) the Deputy Chairman; or
- (b) a Director chosen by a majority of the Directors present.

11.19 Directors' committees

The Directors may delegate any of their powers to committees consisting of those persons that they think fit and may revoke that delegation.

11.20 Powers delegated to directors' committees

A committee to which any powers have been delegated under article 11.19 must exercise those powers according to any directions of the Directors.

Those powers are then taken to have been exercised by the Directors.

11.21 Directors' committee meetings

Subject to article 11.20, the provisions of this constitution as to the meetings and proceedings of the Directors apply, so far as they are capable of application and with the necessary changes, to meetings and proceedings of committees.

11.22 Circulating resolutions

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last Director signs.

11.23 Validity of acts of directors

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director, are valid even if it is afterwards discovered that there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office.

12 Executive Officer

The Directors may appoint an Executive Officer, but they cannot be a current or former Director.

The Directors may give an Executive Officer any of the powers conferred on them by this constitution, including, at the Director's discretion:

- (a) for any time period;
- (b) for specific purposes; and
- (c) subject to any other terms and restrictions.

All or any of those powers may be given collaterally with or to the exclusion of the powers of the Directors and may be revoked or varied by the Directors from time to time.

13 Secretary

13.1 Appointment of secretary

There must be at least one Secretary who is to be appointed by the Directors.

13.2 Suspension and removal of secretary

The Directors may suspend or remove a Secretary from that office.

13.3 Powers, duties and authorities of secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, determined by the Directors.

14 Income, payments and property

14.1 Company's application of income

All the Company's profits (if any), other income and property, however derived, must be applied only to promote its objects.

14.2 No dividends, bonus or profit to be paid to members

None of the Company's profits or other income or property may be paid or transferred to the Members, directly or indirectly, by any means.

14.3 Payments in good faith

Subject to article 3.17, article 14.2 does not prevent the payment in good faith to an officer or Member, or to a firm of which an officer or Member is a partner:

- (a) of remuneration for services to the Company;
- (b) for goods supplied to the Company in the ordinary course of business;

- (c) of interest on money borrowed from them by the Company at a rate not exceeding the rate fixed for the purposes of this article 14.3 by the Company in general meeting; or
- (d) of reasonable rent for premises let by them to the Company.

14.4 Application of property on winding up

If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed amongst the Members but must be given or transferred to some other Organisation:

- (a) having objects similar to those of the Company; and
- (b) whose constitution prohibits the distribution of its income and property among its Members to an extent at least as great as that imposed on the Company under this constitution.

The Organisation is to be determined by the Members at or before the time of dissolution.

15 Seals

15.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

15.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only with the authority of the Directors; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

16 Inspection of records

16.1 Inspection by members

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Members (other than Directors).

16.2 Right of a member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

17 Service of documents

17.1 Document includes notice

In this Part 17, a reference to a document includes a notice.

17.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

17.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

17.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

18 Indemnity

18.1 Indemnity of officers, auditors and agents

Every person who is or has been:

- (a) a Director;
- (b) a Secretary; or
- (c) an executive officer of the Company,

is entitled to be indemnified out of the property of the Company against:

- (d) every liability incurred by the person in that capacity (except a liability for legal costs); and

- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (f) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (g) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

18.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or executive officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

19 Winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up while they are a Member or within one year after they cease to be a Member.

The contribution is for:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves,

and the amount is not to exceed \$10.00 per Member.

20 Accounts

The Directors must cause the accounts of the Company to be audited according to the requirements of the Corporations Act and any other applicable law.

21 Definitions and interpretation

21.1 Definitions

In this constitution unless the contrary intention appears:

Accreditation means the act of formally recognising that a party or parties have met certain standards.

Alternate Director means a person appointed as an alternate director by a Director in accordance with article 11.9.

article means an article of this constitution.

ASCOT means the Australian Standing Committee on Tourism.

ASCOT Nominee Director is defined in article 3.6(d)(ii).

Associated With is defined in article 3.1(a).

Auditor means the auditor for the time being of the Company.

Australian, State and Territory Tourism Organisation means an Australian, State or Territory owned Organisation which promotes and markets tourism activities within (but not necessarily exclusively within) Australia or the relevant State or Territory.

Chairman means the chairman of Directors of the Company.

Company means Tourism Accreditation Australia.

Corporations Act means the Corporations Act 2001 (Cth).

ASTTO Director is defined in article 3.6(c).

Deputy Chairman means the deputy chairman of the Directors of the Company.

Director means a director of the Company.

Director Category is defined in article 3.1(c).

Directors means all or some of the directors of the Company acting as a board.

Executive Officer means a person appointed to that office under Part 12.

Financial Year means the period from 1 July in any year to 30 June in the next (both inclusive).

Generic Program means an accreditation program which offers accreditation to tourism businesses irrespective of the sector of the tourism industry in which they operate.

Government Nominee Director is defined in article 3.6(d).

Independent Director is defined in article 3.1(d).

Intellectual Property Rights means all intellectual property including all current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967 both in Australia and throughout the world and for the duration of such rights.

Member means a member of the Company and **Membership** has a corresponding meaning.

Minister's Nominee Director is defined in article 3.6(d)(i).

Nominee Member means a person who holds their Membership as the nominee of an unincorporated body or association.

Part means a Part of this constitution.

present in relation to a Member or Members at a meeting, means present in person or by proxy attorney or Representative.

Registered Office means the registered office for the time being of the Company.

Related Body Corporate has the meaning given to it in the Corporations Act.

Representative means a representative appointed under section 250D of the Corporations Act.

Secretary means a person appointed as a secretary of the Company, and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Sectoral Director is defined in article 3.1(e).

Sectoral Program means an accreditation program which offers accreditation only to tourism businesses which operate within a specified sector of the tourism industry.

TAPM Director is defined in article 3.6(b).

TIA Director is defined in article 3.6(a).

Tourism Accreditation Program Manager means a person or organisation that manages the operation of a Tourism Accreditation Program.

Tourism Accreditation Program means a program which may or may not be endorsed by the Company, under which a Tourism Industry Operator may seek Accreditation.

Tourism Industry Association means an organisation which, directly or indirectly, represents the interests of Tourism Industry Operators throughout Australia, within a State or Territory of Australia or within a sector of the tourism industry, and which may (but need not) operate a Tourism Accreditation Program.

Tourism Industry Operator means a person or organisation that operates a tourism business.

Transitional Director is defined in article 3.1(f).

Transitioning Member is defined in article 5.3.

21.2 Interpretation

In this constitution:

- (a) the word **person** includes a firm, a body corporate, an unincorporated association or an authority;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (d) a reference to **writing** includes typewriting, printing, telex, telegram, facsimile and other modes of representing or reproducing words in a visible form;
- (e) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised from time to time and at any time;
- (f) a day is to be interpreted on the period of time commencing at midnight and each 24 hours later; and
- (g) the words "include", "includes" and "including" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

21.3 Corporations Act

In this constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) **section** means a section of the Corporations Act.

The provisions of the Corporations Act that apply as replaceable rules are displaced by this constitution and accordingly do not apply to the Company.

21.4 Headings

Headings are inserted for convenience and do not affect the interpretation of this constitution.

21.5 Powers

Powers conferred on the Company, the Directors, a committee of Directors, a Director or a Member may be exercised at any time and from time to time.

21.6 Constitution

A reference to this constitution is a reference to it as amended from time to time.