

Attachment B – Acceptance, release and indemnity poll

DEED POLL

Deed Poll by the party described in item 1 of Schedule 1 (**Applicant**), dated the date specified in item 2 of Schedule 1.

In favour of:

THE AUSTRALIAN FEDERATION OF TRAVEL AGENTS LTD (ACN 001 444 275), of Level 3, 309 Pitt Street, Sydney, NSW 2000 (**AFTA**) and each individual member severally from time to time and at any time of the ATAS Code Compliance Monitoring Committee established under ATAS (**ACCMC**)

1. Definitions

ACCMC	means each individual member severally of the ATAS Code Compliance Monitoring Committee appointed by AFTA.
ATAS:	means the AFTA Travel Accreditation Scheme, owned by AFTA.
Australian Consumer Law:	means the Australian Consumer Law as contained in Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth).
Claim:	means any claim, action, proceeding or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Charter:	means the AFTA Travel Accreditation Scheme Charter, as amended from time to time.
Code:	means the AFTA Travel Accreditation Scheme Code of Conduct, as amended from time to time.
Officer	has the same meaning as officer of a corporation under the <i>Corporations Act 2001</i> .
Related Body Corporate	has the same meaning as in the <i>Corporations Act 2001</i> .
Solvent	means, in respect of an entity, that the entity is able to pay its debts when they fall due.

2. Acknowledgement of receipt of Code and Charter

The Applicant acknowledges that it has received, read and understood the Code and the Charter.

3. Obligations and warranty by the Applicant

The Applicant, upon being granted accreditation under ATAS:

- (a) will comply with the Code and will use its best endeavours to ensure that its employees comply with the Code;
- (b) understands and agrees that its accreditation under ATAS is subject to the Charter;
- (c) through its corporate policies and procedures, will at all times comply with the Australian Consumer Law and will use its best endeavours to ensure that its employees comply with the Australian Consumer Law;
- (d) through its corporate policies and procedures, will provide an adequate level of continuing staff education and training with a focus on professional workforce development; and
- (e) warrants that it is Solvent; and
- (f) attests that the financial statements included with the application for ATAS accreditation, provide a true and accurate reflection of the company's trading performance and financial position.

4. Limitation of liability, release and indemnity

The Applicant:

- (a) acknowledges and agrees that neither AFTA nor ACCMC will, at any time or times be held liable or responsible for any Claims, losses, damages, liability, costs or expenses which have been, or may in the future be, directly or indirectly suffered or incurred by the Applicant arising out of or relating to any act, omission or statement (whether negligent or otherwise) made by AFTA or ACCMC pursuant to, during, or in consequence of:
 - (i) the granting of accreditation under ATAS or the failure or refusal to grant accreditation under ATAS;
 - (ii) the Applicant being accredited under ATAS;
 - (iii) removal of the Applicant's accreditation under ATAS;
 - (iv) any Code compliance monitoring activities; or
 - (v) any dealing with the Applicant or in any way related to the Applicant by virtue of or in any way concerning ATAS,

and the Applicant releases each of AFTA and ACCMC from all such liability and responsibility outlined in this clause and from all other liability that may arise in any way from their involvement in ATAS and the Applicant indemnifies each of AFTA and ACCMC against any such liability; and

- (b) indemnifies each of AFTA and ACCMC and will keep each of AFTA and ACCMC indemnified to the full extent permitted by law against any Claims, losses, damages, liability, costs or

expenses that may be suffered or incurred by AFTA or the ACCMC, (whether jointly or severally):

- (i) as a result of any act or omission by a client of the Applicant;
- (ii) as a result of any act or omission by the Applicant including without limitation any legal action; and
- (iii) as a result of any legal action by a client of the Applicant.

5. Exceptions to the release and indemnity

- (a) The indemnity set out in clause 4 of this deed shall not apply to benefit AFTA, where the loss or damage suffered or incurred by it is directly caused by the wilful misconduct of, or a breach of law or negligent act or omission by AFTA.
- (b) The indemnity set out in clause 4 of this deed shall not apply to benefit the ACCMC, where the loss or damage suffered or incurred by it is directly caused by the wilful misconduct of, or a breach of law or negligent act or omission by the ACCMC.

6. Ongoing financial viability

The Applicant must:

- (a) remain Solvent; and
- (b) inform AFTA of any changes in the Applicant's trading performance which may impact on the Applicant's Solvency.

7. Authority

The Applicant appoints and authorises the following person:

Name	
Position	

- (a) Execute on the Applicant's behalf:
 - (i) all documentation required for the Applicant to apply for accreditation under ATAS; and
 - (ii) any other ATAS related documentation requiring execution from time to time; and
- (b) to take all action on behalf of the Applicant to ensure the Applicant complies with the Code and the Charter; and

- (c) make all necessary determinations on behalf of the Applicant in relation to ATAS accreditation requirements.
- (d) The Authorised Person will be a resident in Australia and have full authority to make decisions on behalf of the business for all purposes relevant to ATAS, including the resolution of customer disputes.

This authorisation is effective until revoked by the Applicant and AFTA receives written notice from the Applicant of such revocation.

8. Right to request documents

The Applicant will, on request by AFTA, produce to AFTA any document or information requested by AFTA (in whatever medium the same may exist), in order to enable AFTA to assess the Applicant's compliance with the Applicant's obligations under ATAS and, in particular but without limitation, the eligibility criteria which are set out in section 2.5 of the Charter.

9. Warranty and Undertaking

Where the Applicant is a company, it warrants and undertakes that as at the date of this deed poll and for so long as it is accredited under ATAS no officer or member of the Applicant or any related body corporate of the Applicant nor any other person who is concerned in the management of the Applicant:

- (a) is or will be an undischarged bankrupt;
- (b) has been or will have been a director, or concerned in the management, of a company which has failed to meet its liabilities, within a period of six months prior to any such failure;
- (c) during the immediately preceding period of 10 years, has been or will have been convicted of an offence involving fraud or dishonesty or an indictable offence; or
- (d) is or will be the subject of a pending charge in relation to an alleged offence involving fraud or dishonesty or an alleged indictable offence.

10. Governing Law

This deed is governed by the law in force in New South Wales and the Applicant submits to the exclusive jurisdiction of the courts of New South Wales and courts of appeal from them.

SCHEDULE 1

Item 1

Applicant Name*:

*name of trading entity (legal entity) company, trust, partnership or sole trader.

ACN/ABN

Registered Address

Item 2

Date:

Executed as a Deed Poll:

Where Applicant is a company (sole traders and partnerships please complete the section in blue below)

Note: the execution clause below is to be used where 2 directors are executing or a director and the company secretary.

EXECUTED

by

Applicant (company) Name

ABN

In accordance with section 127 (1) of the *Corporations Act 2001* (Cth):

Signature of Director

Signature of Director/Secretary

Name of Director

Name of Director/Secretary

Where Applicant is an individual (to be completed by sole traders or partnerships)

SIGNED SEALED AND DELIVERED

Applicant Name

ABN

Signature of Witness

Signature of Applicant

Print Name of Witness

Print Name of Applicant