



ASSOCIATION OF
SOUTHERN AFRICAN TRAVEL AGENTS

ASATA CONSTITUTION

This is the constitution of the Association of Southern African Travel Agents (ASATA). It is written by our members, and it includes any annexures and any other agreements or conventions we enter into on behalf of our members.

1. ABOUT ASATA

1.1 Who we are

We're a voluntary association governed by this constitution. Our offices are in South Africa.

1.2 What we stand for

ASATA's Vision and Mission is contained in the ASATA Charter.

1.3 Our code of conduct

In order to promote a South African travel industry where members display the highest standard of integrity and service delivery, we expect that our members adhere to our code of conduct.

1.4 What we aim to achieve

Our objectives are:

- 1.4.1 To further and secure our interests and those of our members.
- 1.4.2 To reflect the consensus of our members and to present their views to all sections of the public, the government, and the business community.
- 1.4.3 To act on behalf of our members in deliberations and negotiations with other sectors of the travel industry.
- 1.4.4 To continually assess and evaluate the needs of our members in order to provide them with meaningful services and benefits.
- 1.4.5 To consider and promote the highest standards of professionalism and ethics of our members in dealing with the public and each other.
- 1.4.6 To promote training within all sectors of the travel industry that fall within our scope.
- 1.4.7 To consider all legislation that affects, or is likely to affect, the travel industry and to take action in the interest of our members.
- 1.4.8 To play an active role in the international community of travel agents and travel agent associations.
- 1.4.9 To continually raise consumer awareness of the ASATA brand and the value of using an ASATA member.
- 1.4.10 To develop the travel industry as an attractive career opportunity.
- 1.4.11 To promote transformation among our members and in the travel industry.

- 1.4.12 To promote the benefits of travel to all sectors of the public, the government, and the business community.

2. INTERPRETATION AND DEFINITIONS

2.1 Interpretation

- 2.1.1 South African law and the jurisdiction of the South African courts govern this constitution and the rights and obligations of our members.
- 2.1.2 Any questions of interpretation will be settled by the board whose decision will be final and binding. The board may take legal advice before they make the decision.

2.2 Definitions

- 2.2.1 **Business day:** Monday to Friday excluding public holidays.
- 2.2.2 **Grouping:** Any collection of members including company-owned branches and consortiums.
- 2.2.3 **Member:** Means a paid-up travel business whose membership has been approved by the board without limitations and whose core business is acting as a travel agent, wholesaler, or partner.
- 2.2.4 **Partner:** Means a paid-up supplier whose membership has been approved by the board without limitation.
- 2.2.5 **Travel agent:** Means a business selling domestic and international travel products or services or both to consumers or corporate on behalf of suppliers. These businesses focus predominantly on the outbound market.
- 2.2.6 **Wholesaler:** Means (i) a business involved in developing, preparing, marketing, and reserving tours and travel packages; or (ii) a business providing a travel agent with a wide selection of offers to destinations at varying costs for varying durations and in various seasons; and (iii) at least 80% of business conducted is between the business and a travel agent.

3. LIMITATION OF LIABILITY

ASATA is not formed for the purpose of gain. No member or board member is liable for any debts or obligations of ASATA; they are only responsible for money they legitimately owe ASATA, like subscriptions or levies.

4. BOARD OF EXECUTIVES

4.1 Composition of the board

ASATA's board of executives consists of:

- 4.1.1 A president, who must be a travel agent.
- 4.1.2 A vice president, who must be a travel agent.
- 4.1.3 The Chief Executive Officer (CEO), who is a full-time salaried officer of ASATA.
- 4.1.4 A treasurer. The treasurer must be actively engaged in the travel industry and must have time to devote to the office of the treasurer. The treasurer must preferably hold a professional qualification; for example, CA(SA), BCom, etc. The treasurer and the president cannot be the same person.
- 4.1.5 At least six, but no more than twelve travel agents nominated by the board nomination committee in accordance with the rules of the board nomination committee.

The board nomination committee consists of the president of the board, the vice president, two board members who are travel agents, and may include one co-opted, independent board member.

- 4.1.6 One wholesaler elected at the annual general meeting (AGM).
- 4.1.7 One partner elected at the AGM.

4.2 Election and terms of office of the board

How ASATA's board of executives is constituted:

- 4.2.1 At least 50% of the board must be travel agents.
- 4.2.2 The board is nominated by the board nomination committee (BNC) in terms of the BNC terms of reference.
- 4.2.3 The BNC terms of reference must be approved by the board.
- 4.2.4 According to the rules of the BNC:
 - 4.2.4.1 The BNC must approach six to twelve travel agents to nominate two or three candidates for the board. The BNC must follow the guidelines for board nomination when deciding which members to invite to nominate candidates.
 - 4.2.4.2 The BNC must decide which of the two or three candidates are nominated to the board. Only one candidate per travel agent will be nominated.
 - 4.2.4.3 The BNC is not required to accept the nominations made by a travel agent. If the travel agent fails to nominate a suitable candidate, they will forfeit the seat on the board.
- 4.2.5 At each AGM, the members must vote for the wholesaler and partner. Nominations may either be submitted to the CEO, or may be taken from the floor.
- 4.2.6 The nomination made by the BNC will be approved by the outgoing board.
- 4.2.7 The board of executives will take office immediately after the nomination has been approved by the outgoing board and their election is announced.

- 4.2.8 The board must elect a new president, vice president and treasurer at their first meeting. The treasurer cannot be president or vice president.
- 4.2.9 If the president can no longer hold the office, the vice president will automatically become president for the remainder of the board's term. If the vice president is not available, another president and vice president will be selected by the board.
- 4.2.10 If the treasurer can no longer hold the office, the board must select a new treasurer.
- 4.2.11 All board members will be eligible for re-election to a maximum of two additional terms.

4.3 Powers of the board

It is the board's responsibility to act in the best interest of ASATA and to promote its objectives. In exercising their power, the board must consult with the standing and ad hoc committees. The board has the following responsibilities:

- 4.3.1 To appoint, remove, and determine the duties and remuneration of the CEO and other officials, employees, agents, or representatives, and to engage and pay for professional services.
- 4.3.2 To establish standing and ad hoc sub-committees, approve their terms of reference, appoint members to these committees, and appoint or dismiss chairpersons to these committees.

An ad hoc committee is a members' advisory forum or a committee established for a specific purpose, or empowered to act in terms of an authority or instructions set by the board. Ad hoc committees have completion and reporting dates set down in their brief.

- 4.3.3 To co-opt and appoint an additional person as director to serve on the board where additional expertise is required. The director will serve for a specific period determined by the board but will automatically retire at the AGM.
- 4.3.4 To introduce, amend, or rescind rules and regulations that the board may consider necessary for the proper conduct of ASATA's affairs and in line with its constitution. These rules will become part of the constitution.
- 4.3.5 To institute or defend legal proceedings by or on behalf of ASATA, and occasionally seek legal advice.
- 4.3.6 To set the subscription fees and amend the payment terms as necessary.
- 4.3.7 To receive, control, administer, invest, and dispose of the funds and other assets and property, including immovable property of ASATA, and to lease premises.
- 4.3.8 To open and operate bank accounts.
- 4.3.9 To represent ASATA in all its dealings and enter into arrangements for the benefit of ASATA.
- 4.3.10 To establish services for ASATA members.
- 4.3.11 To co-ordinate and appraise programmes that ASATA adopts for the benefit of its members.

4.4 Board meetings

- 4.4.1 The board must meet at least four times per year and keep a record of their meeting on file.
- 4.4.2 Two thirds of the board members constitute a quorum. Attendance by video conference will count towards the quorum.
- 4.4.3 All board members must attend at least three board meetings.
- 4.4.4 If a vote is tied at a board meeting, the CEO will have a casting vote.

5. MEMBERSHIP

Membership is open to all travel agents, wholesalers, and partners as defined in this constitution.

5.1 Members are bound by ASATA's rules

- 5.1.1 Members are bound by ASATA's constitution, the terms of reference, and the code of conduct. Partners are not bound by the code of conduct.
- 5.1.2 Members must sign a compliance record each year to confirm that they comply with ASATA's constitution, terms of reference and code of conduct, and with the law.

5.2 The board manages the application process

- 5.2.1 The board decides on the method and terms of application for membership, set out in the terms of reference.
- 5.2.2 The board will consider, accept or refuse an application, postpone it for further consideration, or ask that the applicant provide additional information.

6. MEETINGS

6.1 Notice of meetings

Members will be notified of a meeting by email at least 14 business days before the meeting. The email will contain the agenda, and the date, time, and place at which the meeting will take place.

6.2 Representation of members

At any ASATA meeting where an individual claims to be the duly authorised representative of a member, the chairperson may challenge the authority of that individual. Unless the individual can satisfy the chairperson that he or she is in fact authorised, he or she will not be allowed to attend the meeting.

6.3 Annual general meetings

- 6.3.1 ASATA holds an AGM once a year. It is a gathering of ASATA members where officers are elected, and the year's activities and finances are discussed.
- 6.3.2 The board decides on the time and place of the meeting.
- 6.3.3 The president or vice president of ASATA will preside as chairperson of every AGM.

6.4 Extraordinary general meetings

- 6.4.1 ASATA holds extraordinary general meetings (EGM) where members gather to discuss specific ASATA activities.
- 6.4.2 The board may convene these meetings at any time.
- 6.4.3 Members may convene a meeting by submitting a written request to ASATA 14 business days before the meeting signed by no fewer than 15 members and stating the objectives of the meeting.
- 6.4.4 The president or vice president of ASATA will preside as chairperson of every EGM.

6.5 What constitutes a quorum

- 6.5.1 For all general meetings, members representing 51% of the members' market share will constitute a quorum.
- 6.5.2 Proxies will not be counted as a member for purposes of the quorum.
- 6.5.3 Members who have two or more branches or offices and who are part of the same legal entity will only be counted as a single member for purposes of the quorum.
- 6.5.4 In order for an AGM or EGM to go ahead, a quorum must be present when the meeting proceeds to business.
- 6.5.5 If a quorum is not present within 60 minutes after the time appointed for the meeting, the meeting will be adjourned to the same day in the next week at the same time and place. If that date is a public holiday, the meeting must take place on the following business day. The members who are present at that meeting will constitute a quorum.

6.6 Adjourned meetings

- 6.6.1 The chairperson may adjourn a meeting with the consent of those present.
- 6.6.2 When the meeting is reconvened, only business left over from the original agenda of the adjourned meeting may be discussed.

6.7 Votes

Voting at an AGM or EGM can be by show of hands or by poll.

- 6.7.1 Voting by show of hands
 - 6.7.1.1 At the AGM, each member present will have one vote by show of hands.
- 6.7.2 Voting by poll
 - 6.7.2.1 At the AGM, voting will take place by show of hands unless a poll is demanded on or before the declaration of the result of a show of hands. In the event of a poll, all proxies correctly signed and lodged will be taken into account. Voting by proxy is discussed in 6.7.3.
 - 6.7.2.2 When voting is done by poll, members do not have equal votes. The weight assigned to each vote is determined by an acceptable measure of the members' market share.

6.7.2.3 We calculate the market share of the groupings and we divide the remainder of the market share equally amongst the rest of the members.

6.7.3 Voting by proxy

6.7.3.1 Proxys are appointed by members in writing.

6.7.3.2 The instrument of proxy is only valid if it is submitted to the CEO at least two business days before the appointed time of the meeting.

6.7.3.3 If the proposed amendment of the constitution is on the agenda for an AGM, the CEO will send each member a proxy form when sending out the notice of the meeting. But members may submit their own form of proxy for any other business conducted at AGMs.

6.7.3.4 Any member may appoint a proxy as a representative to speak or vote on a poll at a general meeting.

6.7.3.5 A proxy also has the authority to demand a poll.

6.7.4 A majority vote

6.7.5 The chairperson has a second or casting vote, whether voting took place by show of hands or by poll.

6.7.6 Resolutions can only be passed with a majority vote, and changes to the constitution can only be passed with a majority vote of at least 60%.

6.8 Amendments to the constitution

6.8.1 Changes to the constitution may be proposed by the board, or by no fewer than 15 members.

6.8.2 Amendments to the constitution must be decided at an AGM.

6.8.3 Members must be given written notice of the AGM where the changes will be tabled, and full details of the proposed changes within 14 business days of the meeting.

6.8.4 Amendments to the constitution will take effect immediately after the close of the general meeting at which it was approved.

7. FINANCE

7.1 Membership fees

7.1.1 Entrance fees

Entrance fees are set by the board and are payable by every member when they are admitted to ASATA.

7.1.2 Subscription fees

7.1.2.1 Every member pays an annual subscription fee set by the board.

7.1.2.2 The payment terms can be amended by the board.

7.1.2.3 Membership subscription for groupings will be based on an acceptable measurement of grouping market share.

- 7.1.2.4 Subscriptions are due on the first of April each year.
- 7.1.2.5 A member admitted between the first of April and the first of October must pay the whole subscription for the current year.
- 7.1.2.6 A member admitted after the first of October must pay half the annual subscription.
- 7.1.2.7 A member who is in arrears of subscriptions or levies will receive an email reminder that payment is due. If the member does not respond, his or her membership may be terminated.

7.1.3 Levies

The board may occasionally impose levies against members.

7.2 Our financial policy

- 7.2.1 ASATA's financial year runs from 1 April to 31 March.
- 7.2.2 No member may directly or indirectly have an interest in ASATA.
- 7.2.3 ASATA may not have a share or interest in any business, profession, or occupation carried out by its members.
- 7.2.4 ASATA may not directly or indirectly distribute any of its profits or gains or funds or assets to any person other than in the course of furthering its objectives
- 7.2.5 ASATA may only use its funds to further the objectives for which it was established.
- 7.2.6 The treasurer must prepare an income and expense budget for the following year, and submit the report for board approval at the last board meeting of each financial year.
- 7.2.7 Within six months of the close of each financial year, the balance sheet and income and expense report must be prepared, audited and certified, and submitted to the board for approval.
- 7.2.8 The CEO and the board must have access to paper accounts for inspection at any reasonable time.

7.3 Expenses

- 7.3.1 Every board member, council, or co-opted committees are entitled to reasonable travel expenses
 - to attend board or council or committee meetings, except the AGM (reasonable allowances will be prescribed by the board from time to time)
 - on such occasions as the board may decide
- 7.3.2 ASATA may only pay reasonable fees for services rendered.

7.4 Entity funding

ASATA must be fully, or substantially funded by its members or from an appropriation by the government. The board will approve any funds ASATA receives before accepting the funds to ensure that the funds do not form a substantial amount in terms of the total income for a financial year.

8. OUR DISCIPLINARY CODE

8.1 Why we have a disciplinary code

ASATA has a disciplinary code to ensure that all our members are treated fairly in terms of our constitution, our terms of reference, and normal business practice. It protects us, our consumers, our members, and our board against false allegations or claims, because it acts as a mechanism for preventative and corrective control.

8.2 Automatic suspension

- 8.2.1 The board may, under certain circumstances, automatically suspend a member until the formal disciplinary procedure can be followed.
- 8.2.2 If a member is automatically suspended, the CEO must send the member immediate notification in writing (or by email or fax) of only the following:
 - The full name of the relevant member.
 - The fact that the member has been automatically suspended in terms of clause 8.2.1 of the constitution.
 - The date set for a formal disciplinary hearing to be held in terms of clause 8.3.

8.3 How we deal with disciplinary matters

- 8.3.1 It is always best for members to resolve any differences between them as individuals, or with ASATA, amicably through negotiations. If they cannot resolve their differences themselves, they may follow the steps set out below.
- 8.3.2 The matter must be brought to the attention of the ASATA CEO in writing.
- 8.3.3 If the CEO, or a representative he or she nominates, cannot resolve the matter through negotiations within 15 business days of receiving the notice, the board must elect a disciplinary committee to deal with the matter.
- 8.3.4 Whenever a matter is referred to the disciplinary committee, all efforts should be made to resolve the problem amicably through negotiation. The CEO must ensure that notice of the matter, including all written supporting documentation and claims, is forwarded to all the members of the disciplinary committee and the member in question, by email, fax, registered mail or physical delivery at least ten business days before the date of the disciplinary hearing.
- 8.3.5 The disciplinary committee may only hear cases referred to them in the timeframes set out in 8.3.3 and 8.3.4, except in cases of automatic suspension.
- 8.3.6 Disciplinary hearings are not open to the public. They may only be attended by invitation.

8.4 Hearings and procedures

- 8.4.1 The rights of the member called before the disciplinary committee:
- 8.4.2 The committee must give the member at least 10 days' written notice by email, fax, registered mail, or physical delivery, of the date, time, and place of the hearing.

- 8.4.3 In addition to the notice described in 8.4.2 the committee must give the member written details of the case against him or her as well as free access to any information or evidence that the disciplinary committee has that could be used against the member.
- 8.4.4 The member may postpone the hearing twice, whereafter the hearing will take place in his or her absence.
- 8.4.5 The member may attend the hearing in person with his or her representative. Where the member is not an individual – its legal representative may attend the meeting on its behalf. The member must send the independent chairperson a list of all the representatives who will attend the hearing and their capacity (such as the representative mentioned in 8.7.4) at least 24 hours before the hearing, or he or she will not be allowed more than one representative. The member may send the list of names by email, fax, registered mail, or physical delivery.
- 8.4.6 Members must have the opportunity to state their case to the disciplinary committee. The member may testify, bring his or her own witnesses, and cross examine any witnesses heard by the disciplinary committee, or question any evidence used or referred to by the committee.
- 8.4.7 Anyone requested to be present at the meeting may record the proceedings for as long as they are present at the proceedings.
- 8.4.8 Access to confidential information
- 8.4.9 If the disciplinary committee needs access to confidential information held by ASATA in order to make a decision, they may have access to that information, and the Independent Chairperson will ensure that the disciplinary committee have access to only the relevant sections of the confidential information.
- 8.4.10 The members of the disciplinary committee must keep the information they have access to, confidential. If they don't, they will be expelled from the committee.
- 8.4.11 The committee's findings:
- 8.4.12 When the committee has considered all the evidence, they must only decide (in camera), whether the member is innocent or guilty by means of a secret ballot on each individual issue.
- 8.4.13 A guilty verdict must be decided with a 60% majority vote.
- 8.4.14 If the member is found guilty on an individual matter, the member must be given the opportunity to make a final representation to the committee before the committee decides on appropriate disciplinary action.
- 8.4.15 Once the committee has heard the final representation, they must decide on appropriate disciplinary action by majority vote.
- 8.4.16 Within 24-hours after the committee made their final decision they must send a full written report by email stating the facts with reasons for the findings to the member.
- 8.4.17 If the member was found guilty, the committee must publish their final decision within 10 days to all members stating the following:
- The member's full details
 - The matter(s) on which the member was found guilty

- The penalty per individual matter

8.4.18 The committee must keep originals or copies of all correspondence and other documents that relate to the matter and must keep minutes of the meetings for three years from the day of final judgement.

8.5 Right of appeal

8.5.1 A member found guilty by the disciplinary committee may appeal to the board for arbitration if he or she believes that the decision was incorrect based on the available facts.

8.5.2 The member must submit a written request for arbitration to the board and the chairperson of the disciplinary committee.

8.5.3 The penalised member and the disciplinary committee must agree on a board member to act as arbiter. If they cannot agree, they may each choose a board member, and the matter will be considered by two arbiters.

8.5.4 The arbiters may decide on the way in which the dispute is resolved.

8.5.5 The arbiter must reach a decision within 30 days of receiving instructions.

8.5.6 If there is a dispute between the arbiters, the matter must be referred to a referee that the arbiters appoint in writing before they entered the dispute. The referee does not have to be a member of the board or of ASATA. The referee's decision is final and binding on both parties.

8.5.7 The referee has the right to be compensated as agreed upon before receiving instructions.

8.5.8 Arbitration is subject to and executed in terms of the rules of the Arbitration Foundation of South Africa.

8.6 Penalties and fines

8.6.1 If a member is found to have broken any of ASATA's rules or any laws, the disciplinary committee may

8.6.2 expel the member;

8.6.3 fine the member;

8.6.4 reprimand the member; or

8.6.5 any combination of the above.

8.6.6 If a member is **expelled** or **suspended**

8.6.7 he or she must immediately stop using the ASATA logo on all advertising, stationary, letterheads, websites, etc.

8.6.8 there is no refund of entrance of subscription fees.

8.6.9 If a member is **suspended**

8.6.10 the disciplinary committee must decide on the period of suspension that may not be longer than 366 days.

- 8.6.11 they will be re-admitted as full members when their suspension is over, and they have met all ASATA's criteria.
- 8.6.12 The committee may **fine** a member up to R10 000 for each count plus legal and professional costs.

8.7 How our disciplinary committee is constituted

- 8.7.1 Our disciplinary committee must consist of at least the following members who each have one vote of equal weight:
 - 8.7.2 an independent chairperson, appointed by the board, who acts as a presiding officer;
 - 8.7.3 three ASATA members; and
 - 8.7.4 one ASATA member nominated by the member appearing before the disciplinary committee, with no business or familial relationship with that member.
- 8.7.5 The disciplinary committee may choose up to two more representatives; for example, legal advisors, or a sub-committee to assist them, but these representatives and the sub-committee will not have voting rights.

9. DISSOLUTION

ASATA may be dissolved at a general meeting convened in terms of 6.4, of which notice is given in terms of 6.1. If ASATA is dissolved, its assets must be distributed in terms of Section 82 of the Companies Act, No 71 of 2008.

10. CONFIDENTIALITY

10.1 What is confidential information?

Confidential information includes:

- 10.1.1 All letters to members from ASATA
- 10.1.2 All meetings of ASATA
- 10.1.3 All the minutes of meetings
- 10.1.4 All reports, memoranda, and opinions circulated to members
- 10.1.5 The accounts, financial statements and affairs of ASATA and the like

Confidential information excludes, but only to the extent necessary:

- 10.1.6 Information or communication that is publicly available.
- 10.1.7 Information or communication explicitly identified by ASATA as being intended for the public.
- 10.1.8 Information or communication that must be disclosed in terms of a court order.

10.2 How confidential information should be treated

- 10.2.1 Members must keep all ASATA's information, affairs, and communications confidential and not disclose it to a third party without ASATA's permission.
- 10.2.2 Members are responsible for the disclosures made by their representatives, including their employees or agents.
- 10.2.3 Clause 10.2.1 survives the termination of membership.

11. ANNEXURES

The following documents form part of this constitution:

- 11.1.1 ASATA code of conduct (not applicable to partners)
- 11.1.2 Travel agent and wholesaler terms of reference
- 11.1.3 Partners terms of reference
- 11.1.4 ASATA advertising guidelines
- 11.1.5 ASATA corporate identity (ASATA logo)
- 11.1.6 The board nomination committee terms of reference and other documents that have not been included are available from the board on request.