

Cooperation Agreement

AIR NEW ZEALAND LIMITED

AND

QANTAS AIRWAYS LIMITED

AND

AIR PACIFIC LIMITED

PARTIES

AIR NEW ZEALAND LIMITED (AK 104799) a company incorporated in New Zealand and having its registered office at Quay Tower, 29 Customs Street West, Auckland, New Zealand (**Air NZ**);

QANTAS AIRWAYS LIMITED (ABN 16 009 661 901) a company incorporated in Australia and having its registered office at 203 Coward Street, Mascot, New South Wales, 2020, Australia (**Qantas**); and

AIR PACIFIC LIMITED a company incorporated in Fiji and having its registered office at Maintenance and Administration Centre, Nasoso Road, Nadi Airport, Fiji Islands (**FJ**).

INTRODUCTION

- A. FJ is Fiji's principal international airline. It operates from Fiji to a number of Pacific and Asian destinations including Australia, New Zealand and the USA.
- B. Qantas is a 46.32% shareholder in FJ and has certain shareholder rights which are contained in the FJ Articles of Association.
- C. Air NZ is a 1.97% shareholder in FJ.
- D. The Fiji Government is a 51% shareholder in FJ.
- E. Qantas does not operate its own aircraft between Australia and Fiji, rather it codeshares on FJ services. Both Air NZ and FJ operate between New Zealand and Fiji.
- F. On 25 November 2002, Qantas and Air NZ entered into a number of agreements including a Strategic Alliance Agreement (**SAA**) under which, subject to certain approvals (including from the Australian Competition & Consumer Commission (**ACCC**) and the New Zealand Commerce Commission (**NZCC**)) they will co-ordinate all aspects of the pricing of passenger and Freight services on the JAO Networks and on the Sectors operated by Freedom (such terms having the meaning given to them in the SAA).
- G. Under Clause 6.1(b) of the SAA, Qantas and Air NZ have agreed that, where it is efficient and beneficial for them to do so, they will also co-ordinate scheduling and pricing, and take such other actions as are contemplated by the SAA, in respect of services, businesses and operations that are not included in the JAO Networks.
- H. On 25 November 2002, Qantas and Air NZ also entered into a Subscription Agreement under which, subject to certain approvals, Qantas will subscribe for a "cornerstone" shareholding of up to 22.5% in Air NZ.
- I. As a result of Qantas and Air NZ entering the Subscription Agreement and the SAA, Qantas and FJ will be treated as associated for the purposes of analysis by the ACCC and the NZCC.
- J. Qantas and Air NZ have agreed that, given the existing ownership links and alliance relationships between Qantas and FJ, it is appropriate to enter this Cooperation Agreement.

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

“**Agreement**” means this agreement as amended from time to time;

“**Conditions**” means the conditions set out in Clause 3; and

“**Relevant Competition Regulators**” means the NZCC, ACCC, Fiji Competition Commission and such other regulators as may be agreed between the parties from time to time.

1.2 References to the words “include” or “including” are to be construed without limitation to the generality of the preceding words.

1.3 a reference to “cooperate” in respect of any product or service shall mean cooperation taking into account differences in products or services and shall not, unless specifically stated to the contrary, require alignment of product or service offerings.

2. COOPERATION

2.1 Subject to the Conditions, where it is effective and efficient to do so, Air NZ, Qantas and FJ will (and Air NZ, Qantas and FJ will procure that each of their subsidiaries will) agree to cooperate in respect of such aspects (including pricing and scheduling) of their services, businesses or operations they consider appropriate.

2.2 For the avoidance of doubt, the parties confirm that this Agreement is being entered into pursuant to, and as contemplated by, the provisions of clause 6.1(b) of the SAA.

2.3 Air NZ, Qantas and FJ further agree that from time to time other third parties may (where, pursuant to clause 6.1(b) of the SAA, it is considered by Air NZ and Qantas to be efficient and beneficial for them to do so) be invited to become parties to this Agreement and, upon signing a copy of this Agreement, such third parties will be deemed to be bound by the provisions of this Agreement.

3. CONDITIONS

The provisions of this Agreement shall not be effective and have no force until the later to occur of:

(a) the authorisation of the parties’ performance of this Agreement by the Relevant Competition Regulators (to the extent necessary to comply with relevant competition laws) in each case on terms acceptable to the parties; and

(b) the conditions contained in clause 8.1 of the SAA being satisfied.

4. TERMINATION

Unless the parties agree otherwise, this Agreement shall immediately terminate if the SAA terminates under clause 11 of that agreement (“Termination”).

5. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement will be taken to constitute a partnership between the parties nor, except as expressly set out in this Agreement or as otherwise agreed by the parties, can either party bind the other or be or hold itself out as the agent of the other party.

6. COUNTERPARTS

(a) Number of Counterparts

This Agreement may be executed in any number of counterparts each of which is to be deemed an original, but all of which together are to constitute a single instrument.

(b) Any Counterpart May be Signed

A party may enter into this Agreement by executing any counterpart.

(c) Facsimile Exchange

This Agreement may be executed on the basis of an exchange of facsimile copies and execution of this Agreement by such means is to be a valid and sufficient execution.

EXECUTED as an agreement.

AIR NEW ZEALAND LIMITED:

Signature of Witness

Signature of Authorised Officer

Name of Witness

Name Date

QANTAS AIRWAYS LIMITED:

Signature of Witness

Signature of Authorised Officer

Name of Witness

Name Date

AIR PACIFIC LIMITED:

Signature of Witness

Signature of Authorised Officer

Name of Witness

Name Date