

SCHEDULE 3:

DEED OF UNDERTAKING

To be signed by every existing ADS Approved ITO applying for ADS Approval under the Code, and by every applicant for a new ADS Approval under the Code, and submitted with the application. The witness to the deed must be an independent third party and not be a director, shareholder or employee of the **ADS approved ITO**.



DEED dated the _____ day of _____, 20 _____

PARTIES (NAME OF ITO): _____ (“Applicant”)

NEW ZEALAND TOURISM BOARD: a Crown entity established under the Tourism Board Act 1991 trading as Tourism New Zealand and having its principal office at Wellington (“TNZ”)

BACKGROUND

- A. Applicant has applied to TNZ for approval as an ADS Approved ITO under the Code of Conduct for China ADS Approved Inbound Tour Operators (“Code”) which is administered by TNZ; and
- B. Applicant has agreed to accept, comply with and be bound by the provisions of the Code with effect from the date of application for ADS approval;

AGREEMENT

Interpretation

1. In this Deed, unless the context requires otherwise:
 - 1.1 the terms Applicant, TNZ and Code will each have the meaning given to it above; and
 - 1.2 terms used in this Deed, which are defined in the Code, will have the meanings given to them in the Code.

Application of Code

2. Applicant agrees to accept, comply with and be bound by the provisions of the Code, including any amendments to the Code made by TNZ from time to time, with effect from the date of the application for ADS approval.

Information Required for Application

3. In order to enable TNZ to consider the application, Applicant agrees to provide to TNZ:
 - 3.1 all information about the Applicant, the Applicant’s business and operations, the Applicant’s controlling persons, the Applicant’s associated persons, the Applicant’s authorised ADS representatives, the Applicant’s senior executive managing ADS tours and the Applicant’s executive officers which is required by the application form in Schedule 1 of the Code; and
 - 3.2 promptly on request by TNZ, and in any event within 10 working days after TNZ’s request, all such further information as TNZ (acting reasonably) requires to assess whether or not the application should be granted.

Information Required by Code

4. Where the Applicant is an existing ITO applying for ADS approval under the Code pursuant to section 3 of Schedule 3, the Applicant agrees to provide to TNZ all information which the Code requires to be provided to TNZ by an ADS Approved ITO throughout the period while TNZ is considering and deciding on the application:
 - 4.1 *time period:* for all time periods:
 - (a) *commencing:* commencing on and from 01 September 2012; and
 - (b) *ending:* ending on the date when:
 - (i) *application:* the application is finally granted or declined; or
 - (ii) *proceedings:* all administrative or Court proceedings issued by the Applicant in relation to the application;whichever is the later; and
 - 4.2 *as if ITO:* as if the Applicant were an ADS approved ITO throughout the time period in section 4.1 above.

Liability

- 5. Neither:
 - 5.1 TNZ nor any officer, employee or adviser of TNZ;
 - 5.2 MBIE nor any manager, employee or adviser of MBIE;
 - 5.3 GM, Tourism, MBIE; nor
 - 5.4 the Crown;

will be liable in tort, contract or otherwise for any action taken or not taken in the exercise or intended exercise in good faith of the powers or discretions conferred by the Code in relation to the application.

Term, Currency of Deed

- 6. This Deed will take effect on and from the date of the application and will continue in full force and effect until the date when:
 - 6.1 if the application for ADS is approval is granted, the ADS approval (including any renewal of ADS approval) expires, is surrendered, revoked or otherwise terminates;
 - 6.2 the application for ADS approval is finally declined; or
 - 6.3 all administrative or Court proceedings issued by the Applicant in relation to the application are finally disposed of;
 whichever is the later.

Continuing application of Deed

- 7. If the application for ADS approval is granted, from and after the time when the ITO’s ADS approval (including any renewal of ADS approval) comes to an end (whether by revocation, termination, expiry or surrender) this Deed will continue to bind the parties with respect to all acts, omissions, circumstances and events occurring before the time when the ITO’s ADS approval came to an end.

Successors

- 8. This Deed will bind the Applicant and its successors, and will continue in force in favour of TNZ and its successors.

Privity

- 9. The Applicant acknowledges that, for the purposes of the Contracts (Privity) Act 1982 section 5 of this Deed is for the benefit of, and intended to be enforceable by, the persons named or described in sections 5.1, 5.2, 5.3 and 5.4.

EXECUTED as a Deed on the date stated on the first page

SIGNED by [name of Applicant]
 by its duly authorised agent/s
 in the presence of:

 name:
 position:

 name:
 position:

name: _____

city, town of residence: _____

Occupation: _____