

SCHEDULE 5

Whale Watching and Swimming Regulations 2013

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FORM OF WAIVER & INDEMNITY.

Service Provider and All Their Employed Staff. Whale Watching or Whale Swimming.

Mask, fins and snorkel.

I the above named (hereinafter called the Provider) hereby covenant you:

A Knowledge

1 I undertake full responsibility for having full knowledge and awareness of the hazardous activities that I wish to undertake and all of the risks of personal injury and property damage loss. I expressly exonerate you from any responsibility for providing me with the knowledge of the risks of injury whether minor or serious. All of those items are my full responsibility.

B Invitation to Activity

2 I invite you to assist me to undertake the activity nominated by me, but in all respects upon the premise that:

(a) it is my responsibility to decide whether or not to engage in any physical activity:

(b) it is my risk and responsibility before engaging in any hazardous activity to:

(i) accept full responsibility for inviting you to participate with me;

(ii) exonerate you and all of your associates, employees, the Government, contractors, and assigns from any personal injury, damage or death should result; and

(iii) indemnify you against any of my actions should they give rise to personal injury or death, or property loss or damage on the part of any other person.

3 I acknowledge that you have made it plain that I am electing a hazardous activity, that there is no criminal or civil remedy whatsoever available to me against you or your company or your associates, employees, the Government, invitees in any way whatsoever, and that I must undertake the hazard on my own personal knowledge, responsibility and acceptance.

4 I undertake and acknowledge that:

To: Activity: Equipment:

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You have not offered any particular expertise or skill and are not expert for the purpose of this contract. You will provide an opportunity for me to carry out my chosen hazardous activity and direct me to potential areas and routes but this is the whole extent of the service that you provide.

I will pay you a fee for providing the opportunity and if requested equipment for that opportunity and if requested you or a member of your staff will accompany me. I do not rely on your skill or judgment. I expressly acknowledge that in all the circumstances it is unreasonable for me to rely on your skill and judgement and I do not do so.

C Property

5 I undertake not to do any action which may cause loss or damage to your property, or the property of any other person or injury or loss to you or any other person who is present by reason of your invitation, employment, contractual arrangements or otherwise.

D Fee

6 I undertake to pay you the agreed fee to help me facilitate my agreed wish to undertake a hazardous activity with full knowledge it is my risk and responsibility and on these terms.

E Indemnity

7 I indemnify you expressly from and against all liability from any injuries or damage, and from any claim or prosecution by me, my family, estate, agents, heirs or assigns whatever, arising in any way from my participation in any or all activities in association with you or your company.

F Special Cancellation Rights

8 I formally acknowledge that if at any time you notify me that you are not prepared to accompany me or facilitate my nominated hazardous activity then I will accept and abide by your direction that you are entitled to cancel any arrangements with me.

G Acknowledgement

9 I expressly acknowledge that I have carefully read and considered the above, and that it is no defence that I lack knowledge and information AND I accept that I am not entitled to suggest that any knowledge or information is not available to me.

Client Name: _____ **Witness Name:** _____ **Address:** _____

_____ Date _____ Signature _____

