

## MEMORANDUM OF UNDERSTANDING

This **Agreement** is made on 01 July 2022

### Between

- (1) **Air New Zealand Limited (Air NZ)**, a company organised under the laws of New Zealand with a principal place of business at 185 Fanshawe Street, Auckland 1010, New Zealand; and
- (2) **New Zealand Tourism Board (TNZ)**, trading as Tourism New Zealand and having its principal place of business at Level 1, 1 Nelson Street, Auckland 1142, New Zealand.

### Introduction

- (A) This Memorandum of Understanding (**Agreement**) is intended to document the terms pursuant to which the parties may engage in certain mutually beneficial cooperative business arrangements (**Cooperative Arrangements**) on and from 1 July 2022 (**Effective Date**).
- (B) The purpose of this **Agreement** is to set out the framework for the working relationship between Air NZ and TNZ in relation to the Cooperative Arrangements.

### It is agreed

#### 1. Purpose

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- 1.1 The purpose of this Memorandum of Understanding is to record the intention of both parties to work in partnership on activity that supports each party's purpose;
  - (a) Air NZ: To enrich our country by seamlessly connecting New Zealanders to each other and New Zealand to the world.
  - (b) TNZ: To enrich Aotearoa New Zealand, industry and manuhiri by inviting exploration in the spirit of manaakitangi

#### 2. Objectives

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- 2.1 Subject to the provisions of this Agreement, the parties have agreed to identify opportunities to work together on Cooperative Arrangements to achieve the following objectives:
  - (a) Increase the economic contribution of international and domestic tourism for New Zealand;
  - (b) Build brand awareness and demand for destination New Zealand in international markets;
  - (c) Convert demand for New Zealand into high-quality visitors to New Zealand and passenger revenue for Air NZ;
  - (d) Support the sustainable development of New Zealand tourism; and
  - (e) Increase the effectiveness of each organisation's marketing investment.

- 2.2 The Cooperative Arrangements are intended to be non-exclusive. Neither of the parties shall be prevented from entering or continuing any business or activity similar to the Cooperative Arrangements with any other party. Notwithstanding the above, where TNZ is planning new cooperative marketing activity, with a third party that TNZ has not already entered into an understanding or agreement with, in a market in which Air NZ operates, TNZ will offer Air NZ the first opportunity to participate in the cooperative marketing activity.
- 2.3 Either party may, where relevant and acceptable to the other party, involve third party travel sellers or in the case of Air NZ, its airline alliance partners, in cooperative marketing activity (as further described in clause 3.1(c) below) (**Cooperative Marketing Activity**).

### 3. Areas of Cooperation

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- 3.1 The following constitute (without limitation) the areas of cooperation that Air NZ and TNZ will seek to undertake, subject to each party's commercial judgement and applicable legal requirements, in order to satisfy the objectives specified in clause 2.1:
- (a) Development of strategies and plans to market New Zealand and Air NZ in domestic and international markets, including:
    - (i) Identification of markets and segments that both parties agree to jointly target;
    - (ii) Development of an annual plan of Cooperative Marketing Activity;
    - (iii) Sharing of each party's individual marketing communication plans with a view to avoiding duplication of marketing activity by the parties.
  - (b) Co-operative activity to establish New Zealand as a world-class sustainable visitor destination, including:
    - (i) Development and promotion of Tiaki-Care for New Zealand;
    - (ii) Promotion of Qualmark and Qualmark-endorsed businesses;
    - (iii) Development of strategy and initiatives to address impact of air travel emissions on tourism to New Zealand.
  - (c) Cooperative Marketing Activity, including:
    - (i) Identification of high-quality audiences for targeting;
    - (ii) Marketing campaigns (including brand or tactical campaigns) promoting destination New Zealand and Air NZ;
    - (iii) Cooperative marketing activity to promote shoulder season travel within New Zealand;
    - (iv) Cooperative activity to promote New Zealand in association with a film, television series or event where both parties individually have the right to promote an association with a film, television series or event;
    - (v) Trade marketing activity including tradeshow attendance, trade training and trade familiarisations to New Zealand;

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- (vi) Marketing activity targeting business events, premium, cruise or any other sectors, as mutually agreed;
  - (vii) PR activity including hosting of international media to visit New Zealand under the International Media Programme (**IMP Programme**);
  - (viii) Digital marketing, including data-sharing, in accordance with Schedule 1;
  - (ix) Any other mutually agreed cooperative marketing activity;
  - (x) Regular monitoring and reviewing of results of cooperative marketing activity;
- (d) Regular sharing of market intelligence and future plans;
  - (e) Identification and sharing of opportunities to jointly grow tourism to New Zealand; and
  - (f) Examination of operational efficiencies e.g. potential opportunities for joint purchase of research.


## 4. Contribution to Cooperative Marketing Activity

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4.1 Subject to clause 6.1,:

- (a) The parties will agree upon an annual plan of Cooperative Marketing Activity and an annual budget for Cooperative Marketing Activity spend which each party proposes to contribute to, in each market (**Cooperative Marketing Plan**).
- (b) The parties may determine to vary the markets in which Cooperative Marketing Activity is undertaken and to vary the amounts contributed by market, at any time by mutual agreement, provided any existing binding commitments are honoured.
- (c) Funding of Cooperative Marketing Activity may be undertaken by both parties, with each party separately undertaking and funding agreed activity to agreed amounts or by one party solely undertaking and funding agreed activity to agreed amounts on behalf of both parties and invoicing the other party on completion of the activity. The allocation of each party's respective duties and funding of Cooperative Marketing Activity in each market is subject to agreement by both parties and must be documented in an annual Cooperative Marketing Plan for the relevant market.
- (d) Each party's respective contribution towards Cooperative Marketing Activity may be in the form of cash or contra, to the equivalent cash value.
- (e) Funding of each Cooperative Marketing Activity is subject to each party receiving the required approvals in accordance with its delegated financial authority policy and other relevant governance procedures.
- (f) All contributions payable under this Agreement are stated exclusive of GST and any other applicable taxes. Any GST or other taxes payable is to be paid in addition to the contributions invoiced under clause 4.1 (d).

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## 6. Status of Agreement

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- 6.1 While this Agreement is a sincere reflection of the parties' intentions at the date of this agreement, the parties do not intend any provision of this Agreement (other than clauses 7 (Trademarks and IP), 8 (Confidentiality), 9 (Official Information Act), 10 (Disputes) and 11 (Governing Law) and Schedule 1) to be legally binding or to create any legal liability or claim by either party against the other.
- 6.2 This Agreement may be terminated by either party providing three months' written notice of termination to the other party.
- 6.3 Unless otherwise agreed by the parties in writing, any and all costs and expenses incurred by either party as a result of meeting that party's commitments or through performing any activities under this Agreement shall be the responsibility of that party separately and individually.
- 6.4 The parties agree that, unless terminated earlier by either party pursuant to clause 6.2, this Agreement shall expire three years from the Effective Date. Notwithstanding the expiration or termination of this Agreement the parties agree that clauses 8 (Confidentiality) and 9 (Official Information Act) and Schedule 1 will remain in force and be binding. The parties may extend this Agreement for a further period on terms to be agreed in writing prior to expiry. Both parties will meet to review the working relationship between the parties on an annual basis. The parties intend to hold regular meetings at the regional level to review specific Cooperative Marketing Activity and identify any additional projects involving Cooperative Marketing Activity.
- 6.5 TNZ and Air NZ shall each appoint one (1) overall Contract Manager to coordinate and supervise this Agreement and to ensure that the executive teams of each party are updated on the progress of the projects.
- 6.6 No amendment or variation of this Agreement is valid or binding on a party unless made in writing and executed by both parties.
- 6.7 Nothing contained in this Agreement nor anything done by the parties shall create a joint venture, partnership or agency relationship between the parties and neither party shall represent that it is the joint venturer, the partner or the agent of the other party, nor incur debts on behalf of nor pledge the credit of the other party.
- 6.8 This Agreement and its Schedules contain the entire agreement between the parties with respect to its subject matter and from the Effective Date supersedes all prior agreements and understandings between the parties (including, the Memorandum of Understanding between the parties dated 01 July 2019) in connection with it.

## 7. Trademarks and Intellectual Property

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- 7.1 Nothing in this Agreement transfers any right, title or interest in any logos or trademarks or other intellectual property of a party.
- 7.2 Air NZ agrees to submit to TNZ for its approval, all advertising and promotional material containing references to TNZ's trademarks including business names or logos, or other intellectual property (including marketing slogans and domain names) before it is published or distributed. Air NZ agrees to comply with TNZ's brand guidelines (a copy of which will be provided by TNZ).
- 7.3 TNZ agrees to submit to Air NZ for its approval, all advertising and promotional material containing references to Air NZ's trademarks including business names or logos, or other intellectual property (including marketing slogans or domain names) before it is published or distributed. TNZ agrees to comply with Air NZ's brand guidelines (a copy of which will be provided by Air NZ).
- 7.4 All intellectual property rights in any material which is produced exclusively by a party during the Term and any variation of such material vests in that party on creation. Any intellectual property funded jointly by the parties vests in the parties jointly on creation and each party consents to the other party using all such jointly owned intellectual property including following termination or expiry of this Agreement.

## 8. Confidentiality

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- 8.1 Subject to clauses 8.2 and 8.3, each party (the **Recipient**) must keep any oral or written information (the **Confidential Information**) provided by or on behalf of the other party (the **Provider**) in connection with this Agreement in the strictest confidence and shall be responsible for maintaining the confidentiality of the Confidential Information and must not at any time, without the prior written consent of the Provider:
- (a) in any way use the Confidential Information or any knowledge that it may acquire as a result of receiving the Confidential Information for any purpose other than the purpose for which it was disclosed; or
  - (b) directly or indirectly disclose, distribute or allow to be disclosed or distributed the Confidential Information to any person.
- 8.2 The obligations of a Recipient under clause 8.1 shall not prevent use, disclosure or distribution of any information to the extent that:
- (i) such use, disclosure or distribution is required by law, the rules or regulations of any regulatory authority having jurisdiction over the Recipient or the rules or regulations of any relevant stock exchange;
  - (ii) such information is or becomes available in the public domain without breach by a party of its confidentiality obligations under clause 8.1 or at law; or
  - (iii) such information is independently acquired or developed by the Recipient without the use or benefit of any of the Confidential Information.
- 8.3 The Recipient may disclose the Confidential Information to its directors, contractors and employees, but only if the director, contractor or employee is bound by obligations of

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confidentiality on the same terms as clause 8.1 and only to the extent necessary to enable the director, contractor or employee to evaluate the Confidential Information.

- 8.4 Neither party will make any public announcement without the other parties' written consent, such consent not to be unreasonably withheld or delayed.

## 9. Official Information Act 1982

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The parties acknowledge that any information supplied by one party to the other party may be subject to the provisions of the Official Information Act 1982. If such a request is made of TNZ concerning information included in or related to the Agreement, TNZ will immediately notify Air NZ of the request and TNZ's intention to release the information. Subject to the requirements of the Official Information Act 1982, TNZ will allow Air NZ a reasonable opportunity to advise TNZ of reasons why such information should be withheld.

## 10. Disputes

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A party must not start proceedings (other than urgent interlocutory relief) or any external dispute resolution in relation to this Agreement unless:

- (a) it has first notified the other party in writing of its reasons for wishing to seek external dispute resolution (including the details of any claims it may have against the other party);
- (b) a relationship manager from each party with sufficient authority to resolve any dispute identified in the notice have met for the purpose of resolving discussed the dispute and failed to resolve it within 30 days of receiving the notice; and
- (c) the dispute has been referred in writing to the senior management of each party who have met for the purpose of resolving the dispute and failed to resolve the dispute within a further 14 days.

## 11. Governing Law

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This Agreement shall be governed by the laws of New Zealand. Each party submits to the non-exclusive jurisdiction of the courts of New Zealand in connection with matters concerning this Agreement.



**Execution**

Executed as an agreement for

**Air New Zealand Limited** by



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Title: Chief Executive Officer

\_\_\_\_\_  
Print Name: Greg Foran

**New Zealand Tourism Board** by



\_\_\_\_\_  
Title: Chief Executive Officer

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Print Name: Rene de Monchy

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