

*[This sample Deed of Undertaking sets out the format to be used by principal contractor-applicant. All words in square brackets are guidance notes and shall not be included in the Deed of Undertaking submitted by the principal contractor-applicant.]*

**LABOUR IMPORTATION SCHEME FOR THE CONSTRUCTION SECTOR**  
**DEED OF UNDERTAKING BY PRINCIPAL CONTRACTOR**

To: The Development Bureau (Works Branch) of the Hong Kong Special Administrative Region (hereinafter called ‘the DEVB’ )

THIS DEED is made.....of ..... 20

*WHEREAS*

A. ....is the principal contractor (hereinafter called ‘the Principal Contractor’) in relation to Works Contract..... dated ..... (hereinafter called ‘the Works Contract’ )

B. .... (name of the principal contractor) is a company incorporated in and in accordance with the laws of ..... and whose registered office/principal place of business is situated at .....

*NOW THIS DEED WITNESSES AS FOLLOWS:*

1. In this Deed :
  - (a) ‘applicant’ means the principal contractor who submits or has submitted quota application under the Labour Importation Scheme for the Construction Sector of the Government of the Hong Kong Special Administrative Region (the Construction Sector Scheme) in relation to the Works Contract;
  - (b) ‘employer’ means any person who enters or has entered into a contract of employment to employ an employee recruited from outside Hong Kong Special Administrative Region under the importation quota allocated to the applicant, and ‘employee’ shall be construed accordingly;
  - (c) ‘agent’ means any person engaged by the applicant/employer to be responsible for (i) the recruitment and personnel management of employee (hereinafter called “personnel management”); and (ii) arranging accommodation and other support services (such as meals, transportation, etc.,) for the employee.
2. The applicant covenants that it shall comply with the requirements for personnel management of and provision of accommodation and other support services for the employee as set out in paragraphs 6.26 and 6.27 of the “Guidance Notes for Application for Labour Importation Quota” (the Guidance Notes) of the Construction Sector Scheme should the applicant be allocated a quota under the Construction Sector Scheme. Details are summarised below:
  - (a) The applicant fulfills all the obligations of the applicant/employer, complies with the requirements of the Employment Ordinance as well as other legislations related to the employment of labour and labour protection, and the relevant quota approval conditions of the Construction Sector Scheme;
  - (b) The applicant (irrespective of whether it is the employer) agrees to:
    - (i) coordinate with the employer and/or agent to properly arrange the personnel management of as well as accommodation and other support services for the employee such as requiring the employer and/or agent to report to it the above arrangements regularly;
    - (ii) take measures to ensure that the personnel management of the employee as well as the accommodation and other support services arranged for the employee by the applicant, employer and/or agent comply

with the requirements of the Employment Ordinance and other statutory provisions related to the employment of labour and labour protection, and the approval conditions of the Construction Sector Scheme. Measures include (but not limited to) (i) ensuring that employees of the applicant and the employer as well as the agent engaged understand and comply with the above requirements and conditions when performing their duties; (ii) stating the above requirements and conditions in the service contract(s); and (iii) requiring each agent to sign a deed of undertaking confirming compliance with the above requirements and conditions;

- (iii) have full knowledge of all the fees charged to the employee by the agent. The service contract should clearly state that the agent should obtain the written consent of the applicant and employer in advance on matters such as the scope of services as well as the setting, variation and collection of the fees chargeable to the employee;
- (iv) designate a senior officer under its management to oversee the personnel management of as well as the arrangements for provision of accommodation and other support services for the employee for each works contract with importation quotas approved, and handle enquiries and/or complaints from the employee regarding the above arrangements. The applicant must inform the DEVB of the name, job title and contact information of the designated officer within four weeks of the issue of the notice of application results by the Approving Authority. The applicant must also ensure that the employee is aware of the name, job title and contact information of the designated officer. If the employee contacts the designated officer regarding the relevant arrangements, the officer must respond within a reasonable time. If there is a change of personnel, the applicant must notify the DEVB within two weeks the name, title and contact information of the new designated officer;
- (v) submit to the DEVB the deed of undertaking signed by the agent within two weeks after signing of the service contract ;
- (vi) ensure that **no** individual agent is concurrently responsible for handling the recruitment and personnel management of the employee as well as arranging the accommodation and other fee-charging support services (such as meals and transportation) for the employee. This seeks to avoid putting pressure on the employee to pay unreasonable fees;
- (vii) the employee should be informed of the cost of accommodation and other support services to be paid by him/her (irrespective of whether such services are arranged by the applicant, employer or agent) in advance before his/her employment in an open and transparent manner. The fees charged should be at reasonable levels. Employee should also have the right to choose not to accept the support services arranged (such as the unreasonable charges for meal services). If the employer will not provide the accommodation for the employee free of charge, the employer may deduct the accommodation fee from the wages payable to the employee in accordance with the requirements under the Construction Sector Scheme; and
- (viii) ensure that the agent shall not subcontract the services listed in the service contract signed with the applicant and employer without their prior agreements. If the service contract is subcontracted, the applicant or employer should require the agent to take reasonable measures to ensure that the subcontractor of the service contract engaged by the agent understands and complies with the requirements of the Employment Ordinance and other legislations related to the employment of labour and labour protection as well as the quota approval conditions of the Construction Sector Scheme when delivering the obligations under the service contract.

3. The applicant understands that if the applicant, employer or agent fails to comply with the requirements for personnel management of and provision of accommodation and other support services for the employee under the Construction Sector Scheme, the applicant will be subject to administrative sanctions and such non-compliance may also be reflected in the performance evaluation of the relevant works contract.



Or

*[Sample attestation clause for use by an attorney]*

SIGNED, SEALED and DELIVERED by )

[insert the name of the principal contractor] by )

[ ] )

his/her/its attorney under power of attorney )

dated [ ] )

In the presence of )

*[Signature of the attorney]*

)

..... )

[Name] )

[Occupation] )

[Address] )