Major Works Contract

Relating to:

[insert name of school] School
[insert name of project]

The Secretary for Education

as Principal

[insert name of Contractor]

as Contractor
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[Note: amend/add to as appropriate.]

1 Schedule of Prices
2 Specifications
3 Drawings
4 [insert any others]
CONTRACT AGREEMENT

Contract Agreement to NZS 3910:2013, Conditions of contract for building and civil engineering construction, is amended and replaced by the following.

CONTRACT FOR .............................................................................................................................................. (Contract name)

CONTRACT NUMBER .................................................................................................................................... (Number)

THIS AGREEMENT is made on .................................................................................................................... 20........

BETWEEN ......................................................................................................................................................... (Contractor)

AND Her Majesty the Queen in right of New Zealand acting by and through the Chief Executive of the Ministry of Education or his or her duly authorised representative

IT IS AGREED as follows:

1. The Contractor shall carry out the obligations imposed on the Contractor by the Contract.

2. [EITHER if this is a lump sum contract] The Principal shall pay the Contractor the sum of $.................................. or such greater or lesser sum as shall become payable under the Contract together with goods and services tax at the times and in the manner provided in the Contract.

[OR if this is a remediation works contract] This is a remediation contract and the Accepted Tender Price (being the price accepted by the Principal as tendered by the Contractor) comprising of lump sum amounts and the specified Provisional Sums is $............................................. or such greater or lesser sum as shall become payable under the Contract together with goods and services tax at the times and in the manner provided in the Contract. It is recognised by the Principal that in remediation contracts that after work has commenced, additional work may be required, and where such additional work is required the Contractor can apply for this additional work to be treated as a Variation.

3. Each party agrees to the terms and conditions as set out in the Contract.

4. The Contract comprises the following documents:
   [Note: the following order of precedence should be reviewed on a contract by contract basis]
   (a) This Contract Agreement;
   (b) The notification of acceptance of tender or award of Contract;
   (c) The following post-tender documents:
       [Note: identify any agreed post-tender documents to be included]
       ..............................................................................................................................................................
       (d) Notices to tenderers: [Note: give details with dates]
       ..............................................................................................................................................................
       (e) Schedule 1: Special Conditions of Contract – Specific Conditions of Contract;
       (f) Schedule 2: Special Conditions of Contract – Other Conditions of Contract including Appendices);
       (g) The General Conditions of Contract based on NZS 3910:2013 (including other Schedules);
       (h) Specifications issued prior to the Date of Acceptance of Tender;
       (i) Drawings issued prior to the Date of Acceptance of Tender;
5. The documents comprising the Contract shall be taken as mutually explanatory, but in the case of ambiguity or conflict the priority of documents shall be as listed in clause 4 above, with each document prevailing over a document lower in the list.

6. This Contract shall constitute the entire agreement between the parties. This Contract supersedes all prior negotiations, representations, and warranties, except insofar as the same are expressly incorporated herein.

7. This Contract Agreement may be executed in counterparts (including facsimile and/or pdf copies) and provided that each party has executed a counterpart, the counterparts together shall constitute a binding and enforceable agreement between the parties.

SIGNED for and on behalf of the Contractor by:

…………………………………………………
Authorised Signatory of Contractor

SIGNED for and on behalf of the Principal by:

…………………………………………………
Authorised Signatory of Principal
**SCHEDULES TO GENERAL CONDITIONS OF CONTRACT**

The General Conditions of Contract applicable to this Contract are those set out in:

**NZS 3910:2013 “CONDITIONS OF CONTRACT FOR BUILDING AND CIVIL ENGINEERING CONSTRUCTION”** and as amended and scheduled herein.

### Schedule 1 – Special Conditions of Contract – Specific Conditions of Contract

<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Expand cells if required or add a reference to further detail provided in Schedule 2.)</td>
</tr>
</tbody>
</table>

#### 1. INTERPRETATION

**1.2 Definitions**
- The Principal is: The Ministry of Education
- The School is: (insert name and street address of School)

**1.2, 10.2 Separable Portions**
- Are there any Separable Portions in this Contract? *(yes or no)*
- If yes, the Separable Portions are as follows and as further defined in the Contract: *(reference)*

#### 2. THE CONTRACT

**2.1 Type of Contract**

**2.1.1 This Contract is a:** *(select one to apply, (a) or (b))*
- (a) Lump sum contract governed by 2.2. □
- (b) Remediation contract comprising of lump sum elements together with Provisional Sums □
- (c) Measure and value contract governed by 2.3. N/A
- (d) Cost reimbursement contract governed by 2.4. N/A

**2.4 Cost reimbursement contract**

**2.4.1 Allowance(s) which are to be added to Net Cost in a cost reimbursement contract or for parts of the Contract Works which are required to be carried out on a cost reimbursement basis:**
- (If percentages are shown as zero or nil, allowances for overheads and profit are deemed to be included in Net Cost)
  - Allowance for On-site Overheads: N/A
  - Allowance for Off-site Overheads and Profit: N/A

**2.4.4 Indicative estimates of the Contract Price:**
- Are indicative estimates required? N/A

**2.5 Local authority contracts, contracts in public places, and road contracts**

**2.5.1 Is this Contract a local authority contract to which 2.5.2 applies?** No

**2.5.3 Is this Contract a contract in a public place to which B1 and B2 of Appendix B apply?** No

**2.5.4 Is this Contract a road contract to which Appendix B applies?** No

If yes, the allowance under B3 shall be:
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
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<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.6 Evidence of Contract</td>
<td>How is the Contract Agreement to be executed?</td>
<td>(Expand cells if required or add a reference to further detail provided in Schedule 2.)</td>
</tr>
<tr>
<td>2.6.2</td>
<td>(a) As stated in 2.6.2.</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>(b) In accordance with the following other requirements:</td>
<td>N/A</td>
</tr>
<tr>
<td>2.7 Documents prepared by the Engineer or Principal</td>
<td>Copies of the Contract shall be supplied without charge to the Contractor in the following electronic form:</td>
<td></td>
</tr>
<tr>
<td>2.8 Documents prepared by the Contractor</td>
<td>Copies of documents referred to in 2.8.2 shall be supplied without charge to the Engineer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Number of hard copy sets:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• In the following electronic form:</td>
<td></td>
</tr>
<tr>
<td>3. BONDS</td>
<td>3.1 Contractor’s Bond</td>
<td></td>
</tr>
<tr>
<td>3.1.1</td>
<td>Is a Contractor's Bond required?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>[Note: a 5% Contractor's Bond is mandatory where the Contract sum is greater than $1M. A Bond may be required for contracts between $500K and $1M, subject to project risk factors]</td>
<td></td>
</tr>
<tr>
<td>3.1.2</td>
<td>If yes, the amount of the Contractor's Bond shall be:</td>
<td>5% of the Contract Price</td>
</tr>
<tr>
<td>3.1.2</td>
<td>The surety must be a bank registered in New Zealand or other surety approved by the Principal as follows:</td>
<td>A surety that is not a New Zealand registered bank must have a minimum Standard &amp; Poor’s financial strength rating of ‘A’.</td>
</tr>
<tr>
<td></td>
<td>The Contractor’s Bond shall be provided in the form of an unconditional bond as set out in Schedule 3 (Ministry amended NZS:3910 standard form)</td>
<td></td>
</tr>
<tr>
<td>3.2 Principal's Bond</td>
<td>Is a Principal's Bond required?</td>
<td>No</td>
</tr>
<tr>
<td>4. SUBCONTRACTS</td>
<td>4.1 General</td>
<td></td>
</tr>
<tr>
<td>4.1.4</td>
<td>Key Subcontractors to which 4.1.4 applies are:</td>
<td>(select (a) and/or (b) to apply)</td>
</tr>
<tr>
<td></td>
<td>(a) As stated in the Contractor's tender.</td>
<td></td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
</tr>
<tr>
<td>------------------------------</td>
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</tr>
<tr>
<td>4.1.5 A Continuity Guarantee is required in the form as set out in Schedule 17 from the following Key Subcontractors:</td>
<td>[Note: list key Subcontractors and relevant work or supply item – note that these should be the major subcontract trades that would cause significant delay, health and safety risk or cost to the works if this head contract were to be terminated e.g. piling, ground improvement works, civil works, structural steel, envelope, specialist pre-cast elements, mechanical, electrical and plumbing works or proprietary systems.]</td>
<td>for the Contractor to replace named sub-contractors subject to Engineers approval. ]</td>
</tr>
<tr>
<td>4.2</td>
<td>Nominated Subcontractors</td>
<td>(yes or no)</td>
</tr>
<tr>
<td>4.2.1 Are there any Nominated Subcontractors?</td>
<td>[Note: if ‘yes’ list Nominated Subcontractor(s) and nominated work or supply item.]</td>
<td></td>
</tr>
<tr>
<td>5. GENERAL OBLIGATIONS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1.3 Contractor design responsibility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does the Contractor undertake the design of any part of the Contract Works?</td>
<td>(yes or no)</td>
<td>[Note: if ‘yes’ list all design elements that the Contractor is responsible for.]</td>
</tr>
<tr>
<td>5.3 Control of Employee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.3.2 Key personnel to which 5.3.2 applies are:</td>
<td>(select (a) &amp;/or (b) to apply)</td>
<td></td>
</tr>
<tr>
<td>(a) As stated in the Contractor’s tender.</td>
<td>□</td>
<td></td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
</tr>
<tr>
<td>-----------------------------</td>
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<tr>
<td>(b) The following:</td>
<td></td>
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<td></td>
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<tr>
<td>5.4 Possession of the Site</td>
<td></td>
<td></td>
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<tr>
<td>5.4.1 The Contractor shall be given possession of the Site:</td>
<td>(select one to apply, (a) or (b))</td>
<td></td>
</tr>
<tr>
<td>(a) 10 Working Days after the Date of Acceptance of Tender:</td>
<td>N/A</td>
<td></td>
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<tr>
<td>(b) On the following date:</td>
<td>[Insert date] subject to a directive from the Principal to proceed.</td>
<td></td>
</tr>
<tr>
<td>5.4.3 Limits on the Contractor’s right of entry to adjoining properties are:</td>
<td>The Principal has not procured, and will not procure, the Contractor right of entry to any adjoining property. [Note: revise the above as appropriate if the School or the Ministry has made any access arrangements with owners of adjoining properties and provide full details]</td>
<td></td>
</tr>
<tr>
<td>5.5 Separate Contractors</td>
<td></td>
<td></td>
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<tr>
<td>5.5.1 Separate Contractors who may be carrying out work on the Site concurrently with the Contract Works are:</td>
<td>[list any Separate Contractors]</td>
<td></td>
</tr>
<tr>
<td>5.5.2 Are facilities for Separate Contractors required?</td>
<td>(yes or no)</td>
<td></td>
</tr>
<tr>
<td>If yes, details of facilities required are:</td>
<td></td>
<td></td>
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<tr>
<td>5.6 Care of the works and Site</td>
<td></td>
<td></td>
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<tr>
<td>5.6.6(g) Further risks specifically excepted are:</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>5.7 Protection of Persons and property</td>
<td></td>
<td></td>
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<tr>
<td>5.7.13 The health and safety accreditations may include:</td>
<td>(list eg:</td>
<td></td>
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<tr>
<td></td>
<td>• BS OHSAS 18001: 2001 Occupational health and safety management systems</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• AS/NZS 4801: 2001 Occupational Health Safety systems</td>
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<td></td>
<td>(or equivalent).)</td>
<td></td>
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<tr>
<td>5.7.18 Frequency of health and safety reports required to be prepared by the Contractor:</td>
<td>☑ Monthly</td>
<td></td>
</tr>
<tr>
<td></td>
<td>☐ Fortnightly</td>
<td></td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
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<td>-------------------------------</td>
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<td>-------------------------</td>
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<tr>
<td>5.10 Programme</td>
<td></td>
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<tr>
<td>5.10.4 Is the programme required to be a Comprehensive Programme?</td>
<td>(yes or no)</td>
<td></td>
</tr>
<tr>
<td>5.10.4(e) If yes, other requirements for the Comprehensive Programme are:</td>
<td>The Programme must include allowance for inclement weather that can reasonably be expected for the season in which the Contract Works are being carried out. (insert reference to any other Programme requirements eg in Specification)</td>
<td></td>
</tr>
<tr>
<td>5.10.5 The Comprehensive Programme shall use the following software:</td>
<td>MS Project or other agreed in writing by the Engineer.</td>
<td></td>
</tr>
<tr>
<td>5.10.6 Updates of the Comprehensive Programme shall be provided at the following intervals:</td>
<td>Monthly after the date of commencement of the Contract Works.</td>
<td></td>
</tr>
<tr>
<td>5.11 Compliance with laws</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.11.3 Exceptions to the Principal's obligations to obtain licences under 5.11.3 are:</td>
<td>Code compliance certificate(s), Certificate(s) of Public Use (where applicable) and Producer Statement(s) as required by the Contract.</td>
<td></td>
</tr>
<tr>
<td>5.11.4 Exceptions to the Contractor's obligation to give notices and obtain other licences under 5.11.4:</td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>
| 5.11.15 Environmental accreditations | The environmental accreditations may include: | (list eg:  
* ........................................ (or equivalent!).) |
<p>| 5.17 Safety plan             |                          |                         |
| 5.17.1 (a) Is a Site-specific risk assessment required? | Yes |</p>
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)</td>
<td>Is a Site-specific safety plan required to be prepared by the Contractor?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>If yes, details of the requirements are set out in:</td>
<td>Clause 5.17 of Schedule 2 [and (insert reference to any other Contract document)]</td>
</tr>
</tbody>
</table>

**5.18 Quality plan**

5.18.1 Is a quality plan required to be prepared by the Contractor? Yes
If yes, details of the requirements are set out in: (insert reference)

**5.19 Traffic management plan**

5.19.1 Is a traffic management plan required to be prepared by the Contractor? (yes or no)
If yes, details of the requirements are set out in: (insert reference)

**5.20 As-built drawings and operation and maintenance manuals**

5.20.1(a) Are as-built drawings required to be prepared by the Contractor? Yes
If yes, details of the requirements are set out in: (insert reference)

5.20.1(b) Are operation and maintenance manuals required to be prepared by the Contractor? Yes
If yes, details of the requirements are set out in: (insert reference)

5.20.4 Are the as-built drawings required to be in adequate detail and appropriate form to allow the Principal to update its records (including GIS records): Yes

**5.22 Environmental compliance plan:**

5.22.1 Is an environmental compliance plan required to be prepared by the Contractor? (yes or no)
If yes, details of the requirements are set out in: (insert reference)

**5.23 Project Control Group**

5.23.1 Is a Project Control Group (PCG) required to be established for this Contract? (yes or no)

**5.25 Salvaged Materials**

Does the Principal retain title to any Salvaged Materials from the Site? (yes or no)
If yes, the Salvaged Materials are: (list Salvaged Materials, or insert reference to document in which where they are listed)

**6. THE ENGINEER**

6.1 Appointment of Engineer

6.1.2 The Engineer is: (insert)
Address: (insert)
Phone: (insert)
Facsimile: (insert)
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whose professional qualification is:</td>
<td>(insert)</td>
<td></td>
</tr>
</tbody>
</table>

**6.3 Engineer's Representative**

| 6.3.1 | The Engineer's Representative is: | (insert) |
| Address: | (insert) | |
| Phone: | (insert) | |
| Facsimile: | (insert) | |

**8. INSURANCES**

**8.1 General**

| 8.1.1 | The party identified below shall arrange the following insurances referred to in the following clauses: | |
| 8.3 or 8.8 Construction | Principal | |
| 8.8 Existing structure(s) and contents | Principal | |
| 8.4 Plant | Contractor | |
| 8.5 or 8.9 Public liability | Contractor | |
| 8.5.2 Motor vehicle liability | Contractor | |
| 8.6 Professional indemnity | | [Note: this is only applicable where the Contractor is required to take design responsibility for part of the Works e.g. piling.] |

| 8.1.6 | The following forces of nature shall be specifically insured under 8.3 or 8.8 as applicable: | |
| (a) Landslip | Yes | |
| (b) Earthquake | Yes | |
| (c) Tsunami | Yes | |
| (d) Tornado | Yes | |
| (e) Cyclone | Yes | |
| (f) Storm | Yes | |
| (g) Flood | Yes | |
| (h) Lightning strike | Yes | |
| (i) Volcanic activity | Yes | |
| (j) Hydrothermal activity | Yes | |
| (k) Geothermal activity | Yes | |

**8.3, 8.8 Construction insurance**

(These items are required to be completed whether the Contractor or the Principal is the insuring party (see 8.1 above))

<p>| 8.3.2, 8.8 | The following (in addition to the Principal, the Contractor and Subcontractors) shall have their respective interests noted in the construction insurance policy: | [Note: list any party or parties other than the Principal, Contractor and Subcontractors who are required to have their interest noted on the policy, for example, suppliers separately] |</p>
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
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</tr>
</thead>
<tbody>
<tr>
<td>8.3.3, 8.8</td>
<td>Where construction insurance is required (see 8.1 above), the amount of insurance to be effected for the Contract Works and Materials shall be for not less than the sum of the Contract Price, after the acceptance of the tender or other offer, plus the following allowances:</td>
<td>appointed by the Principal to install specialist equipment that interfaces with the construction work.</td>
</tr>
<tr>
<td>(a) An allowance for the Cost of demolition, disposal and preparation for replacement work, equal to:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| (i) The amount in the right hand column: | $1,125,000  
[Note: this is a maximum limit, if amount above is insufficient contact insurance broker JLT for advice] |  |
| (ii) The percentage in the right hand column of the Contract Price adjusted as above: | N/A |  |
| (b) An allowance for professional fees including the Cost of clerks of works and inspectors, equal to: |  |
| (i) The amount in the right hand column: | $750,000  
[Note: this is a maximum limit, if amount above insufficient contact insurance broker JLT for advice] |  |
| (ii) The percentage in the right hand column of the Contract Price adjusted as above: | N/A |  |
| (c) An allowance for items to be incorporated, in the Contract Works, the Cost of which is not included in the Contract Price, equal to: |  |
| (i) The amount in the right hand column: | Nil  
[Note: or insert $ amount in respect of any Principal 'free supply' items to be included in the Contract Works.] |  |
| (ii) The percentage of the Contract Price adjusted as above, stated in the right hand column: | N/A |  |
| (d) An allowance for an increase in the Contract Price due to Variations equal to: |  |
| (i) The amount in the right hand column: | N/A |  |
| (ii) The percentage of the Contract Price adjusted as above stated in the right hand column: | 25% |  |
| (e) An allowance for increased construction Costs due to inflation equal to: |  |
| (i) The amount in the right hand column: | N/A |  |
| (ii) The percentage of the Contract Price adjusted as above, stated in the right hand column: | 10%  
[Note: this is capped at a maximum limit of $1,500,000] |  |
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>if amount above is insufficient contact insurance broker JLT for advice)</td>
</tr>
</tbody>
</table>

8.4 **Contractor arranged Plant insurance**
Where Plant is required to be insured *(see 8.1 above)*:

(a) The Contractor shall insure the following items of Plant on the Site for the amounts stated

(b) The Contractor shall insure each item of Plant on the Site having a current market value of more than:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

8.5 **Contractor arranged public liability insurance**
Where required *(see 8.1 above)*, public liability insurance shall be effected by the Contractor for an amount not less than: $5,000,000

*Note: this is the minimum limit required. There may be circumstances where this limit should be raised, particularly where there is a high degree of risk to third party property. A risk assessment should be carried out to determine the level of risk to any third party buildings or infrastructure arising from construction activity. This should assess the likelihood of damage occurring, and the potential impact of any damage e.g. business interruption costs, potential remediation and/or replacement costs that may result.

It is good practice to engage structural and services engineers to survey the condition of any existing third party buildings or infrastructure identified as being at risk. This information can be provided as a record to third party owners prior to commencing construction.*
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data (Expand cells if required or add a reference to further detail provided in Schedule 2.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Such public liability insurance may include sub-limits:</td>
<td></td>
<td>$250,000 [Note: this is the minimum limit; a proper risk assessment should be carried out to determine the level of risk (see above). If there is a real risk to third party property from vibration, etc then state &quot;No sub-limit. Total amount applies.&quot;]</td>
</tr>
<tr>
<td>• For liability arising out of vibration, weakening or removal of support, of not less than:</td>
<td>$250,000 [Note: this is the minimum limit; a proper risk assessment should be carried out to determine the level of risk (see above). If there is a real risk to third party property from vibration, etc then state &quot;No sub-limit. Total amount applies.&quot;]</td>
<td></td>
</tr>
<tr>
<td>• For liability arising out of damage to underground services, of not less than:</td>
<td></td>
<td>$2,000,000</td>
</tr>
<tr>
<td>8.5.2 Where required (see 8.1 above), motor vehicle third party liability insurance shall be effected for an amount not less than:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.6 Contractor arranged professional indemnity insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.6.1 Where required (see 8.1 above), professional indemnity insurance for design by the Contractor shall be effected for an amount not less than:</td>
<td></td>
<td>$[xx] [Note: add up the value of all of the packages for which the Contractor has design responsibility to arrive at a total insurable value and apply the following: Value = PI Cover $0-$2m = $1m $2m-$10m = $2m $10m-$20m = $5m Above $20m – refer to legal]</td>
</tr>
<tr>
<td>• For any one claim:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• And for an amount in the aggregate of:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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<tr>
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<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.6.2</td>
<td>Sub-limits of liability for design of parts of the Contract Works by Subcontractors shall not be less than:</td>
<td>None</td>
</tr>
<tr>
<td>8.8</td>
<td>Principal arranged construction insurance <em>(refer also to 8.3)</em></td>
<td></td>
</tr>
</tbody>
</table>

In accordance with 8.7.2, the insurance policy wording title for 8.8.1 and 8.8.2(a), (b), and (c) is:

8.8.1 Construction Material Damage
8.8.2(a) and (b) – Material Damage Insurance Policy
8.8.2(c) – N/A

In accordance with 8.7.2, the extraordinary exclusions, conditions, warranties or endorsements to the policy for 8.8.1 and 8.8.2(a), (b), and (c) are:

8.8.1 Hot work warranty as attached in Schedule 12.
8.8.2(a) and (b) – As per the Material Damage Insurance Policy
8.8.2(c) – N/A

8.8.1 Where the Principal is required to effect construction insurance *(see 8.1 above)*:

The lead insurer is: Vero Insurance New Zealand Limited
Address of lead insurer: Private Bag 92 – 237, Auckland

The Nominal Deductibles are:

- For damage arising out of the Contract Works: $5,000 or $25,000 for loss arising from testing and commissioning
- For other claims: $5,000

following:

Value = PI Cover

$0-$2m = $1m
$2m-$10m = $2m
$10m-$20m = $5m
Above $20m – refer to legal
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
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</tr>
</thead>
<tbody>
<tr>
<td>8.8.2(a)</td>
<td>The existing structures are:</td>
<td>[The Principal shall insure any existing structures that it owns and list these here. For the purposes of the contract, “existing structures” are defined as being those structures directly affected by construction activity e.g. where the construction involves working in, on, under, over or in connection to existing structures. Existing property insurance policies will need to be checked with the policy provider to ensure that the policy covers damage arising from construction activity]</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● The lead insurer is: Vero Insurance New Zealand Limited</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● Address of lead insurer: Private Bag 92 – 237, Auckland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Nominal Deductibles are:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● For damage arising out of the Contract Works: $25,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● For other claims: $25,000</td>
</tr>
<tr>
<td>8.8.2(b)</td>
<td>Other structures in the vicinity are:</td>
<td>[The Principal shall insure any other structures it owns and list these here. For the purposes of the contract “other structures in the vicinity” are those structures within the defined boundary of the construction site. Any existing property insurance policies already in place will need to be checked with the policy provider to ensure that it covers damage arising from construction activity]</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● The lead insurer is: Vero Insurance New Zealand Limited</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● Address of lead insurer: Private Bag 92 – 237, Auckland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Nominal Deductibles are:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● For damage arising out of the Contract Works: $25,000</td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>--------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Expand cells if required or add a reference to further detail provided in Schedule 2.)</td>
</tr>
<tr>
<td>• For other claims:</td>
<td></td>
<td>$25,000</td>
</tr>
<tr>
<td><strong>8.8.2(c)</strong> Contents insurance:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• The replacement value to be insured is:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>• The lead insurer is:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>• Address of lead insurer:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>The Nominal Deductibles are:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• For damage arising out of the Contract Works:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>• For other claims:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>8.9</strong> Principal's option to insure public liability</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>8.9.1</strong> Where required (see 8.1 above), the Principal shall effect public liability insurance for an amount not less than:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>The lead insurer is:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Address of lead insurer:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>The Nominal Deductible is:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>In accordance with 8.7.2:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the policy wording title is:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>• extraordinary exclusions, conditions, warranties, or endorsements to the policy are:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>8.9.2</strong> Such public liability insurance may include sub-limits for: (specify as applicable or state 'not applicable')</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Liability arising out of vibration, weakening or removal of support:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>9. VARIATIONS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>9.3</strong> Valuation of Variations</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>9.3.9</strong> For On-site Overheads:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) The prices and rates in the Schedule of Prices are inclusive of full allowance for On-site Overheads.</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>
| (b) The prices and rates in the Schedule of Prices are exclusive of On-site Overheads and the allowance for On-site Overheads to be added in accordance with 9.3.9 is: | ☑                      | [Note: this should generally be the default position. On-site Overheads are generally those expenses that can’t be directly attributed to a specific item of work e.g. general management and supervision costs, site office costs, bonds and insurances etc.]
<p>| (i) Agreed percentage: | [N/A]                    |                        |
| (ii) As nominated in the Schedule of Prices; | ☑                      | [Note: this should generally be the default position. The Schedule of Prices should include a Preliminaries and General Section prepared by] |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>the Quantity Surveyor which sets out a list of items, which are defined as either time related or fixed costs (priced by the Contractor at the tender stage). Valuation of the variation is made by the Engineer with reference to this, the impact of the variation upon these, and the Contractor’s supporting details.</td>
<td></td>
</tr>
<tr>
<td>(iii) As nominated in the Contractor’s tender;</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(iv) A reasonable percentage.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>9.3.10 For Off-site Overheads and Profit:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) The prices and rates in the Schedule of Prices are inclusive of full allowance for Off-site Overheads and Profit.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(b) The prices and rates in the Schedule of Prices are exclusive of Off-site Overheads and Profit. The allowance for Off-site Overheads and Profit to be added in accordance with 9.3.10 is:</td>
<td>☑</td>
<td>[Note: this should generally be the default position to avoid hiding these costs within the prices and rates included within the Schedule of Pricing. It is important to have transparency on the Contractor’s margin.]</td>
</tr>
<tr>
<td>(i) Agreed percentage:</td>
<td>☑ [xx]%</td>
<td>[Note: quoting a percentage should generally be the default position.]</td>
</tr>
<tr>
<td>(ii) As nominated in the Schedule of Prices;</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(iii) As nominated in the Contractor’s tender;</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(iv) A reasonable percentage.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>9.3.11 For time-related Cost, the Working Day rate in compensation for time-related On-site Overheads and Off-site Overheads and Profit in relation to an extension of time to be applied in accordance with 9.3.11 is:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Agreed rate per Working Day:</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(b) As nominated in the Schedule of Prices.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(c) As nominated in the Contractor's tender.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(d) Reasonable compensation.</td>
<td>☑</td>
<td>[Note: this should generally be the default position. Assessment of time related costs for variations that entitle the Contractor to an extension of time need to be considered by determining the extent to which time related on-site overheads in the Preliminaries</td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
</tr>
<tr>
<td>------------------------------</td>
<td>--------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td></td>
<td>and General section of the Schedules of Prices are impacted by the variation, and assessing reasonable costs with reference to the Contractor’s supporting details (e.g. revised programme, sequence of working and impact upon cost). For off-site overheads and profit the agreed percentage should be applied to the Engineer’s assessment of any time related cost.]</td>
<td></td>
</tr>
<tr>
<td>9.3.15</td>
<td>For processing of Variations, the percentage to be paid in accordance with 9.3.15 is:</td>
<td>NIL – Contractor is not entitled to any amount for processing Variations.</td>
</tr>
<tr>
<td>10.</td>
<td>TIME FOR COMPLETION</td>
<td></td>
</tr>
<tr>
<td>10.2</td>
<td>Due Date for Completion</td>
<td></td>
</tr>
<tr>
<td>10.2.1</td>
<td>The Due Dates for Completion are:</td>
<td></td>
</tr>
<tr>
<td>(a) For the Contract Works:</td>
<td>(insert date)</td>
<td></td>
</tr>
<tr>
<td>(b) For any Separable Portions:</td>
<td>Separable Portion 1: (insert date)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separable Portion 1: (insert date)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separable Portion 1: (insert date)</td>
<td></td>
</tr>
<tr>
<td>10.4</td>
<td>Practical Completion Certificate</td>
<td></td>
</tr>
<tr>
<td>10.4.2(e)</td>
<td>In addition to the items required under 10.4.2(a) to (d), the Contractor shall provide notice in writing to the Engineer at least 48 hours prior to any inspection confirming that it has:</td>
<td></td>
</tr>
<tr>
<td>(i) Reinstated all areas affected by the Contract Works;</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>(ii) Connected, tested, balanced and certified all services as fit for operation for their intended purpose in accordance with the Contract;</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>(iii) Removed all rubbish from the Site and the building; and</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>(iv) Cleaned the Contract Works properly and effectively to an acceptable standard.</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>10.4.5(a)</td>
<td>Prior to the issue of the Practical Completion Certificate the Contractor shall provide to the Engineer the following: (select one or more of those applicable to contract (i) to (iii))</td>
<td></td>
</tr>
<tr>
<td>(i) Producer Statements in the form of Schedule 6 are required.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[Note: you should check if a Producer Statement in the form of Schedule 6 is appropriate for the relevant Building Consent Authority and if not, specify what is required]</td>
<td></td>
</tr>
<tr>
<td>Clause in General Conditions</td>
<td>Title and subject matter</td>
<td>Specific condition data</td>
</tr>
<tr>
<td>------------------------------</td>
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</tr>
</tbody>
</table>
|                              | (ii) Producer Statements are required to be submitted in other form(s) as specified by the Contract: | ☐ 
|                              | ...................................(specify reference) | |
|                              | (iii) Submission of completed Producer Statements from the Design Consultants for the construction phase. | ☐ 
|                              | ...................................(specify reference) | 
|                              | [Note: where a Building Consent Authority requires the design consultants to submit Producer Statements for the construction phase specify what is required here.] | |
| 10.4.5(b)                    | Prior to the issue of the Practical Completion Certificate the Contractor shall provide to the Engineer the following: | |
|                              | (i) As-built drawings and operation and maintenance manuals required under 5.20.1 in draft form in accordance with 5.20.3(a) | Yes |
| 10.4.5(c)                    | Prior to the issue of the Practical Completion Certificate the Contractor shall provide to the Engineer the following Council Certificates to permit use of the facility: | (select one to apply, (i) or (ii)) |
|                              | (i) A Certificate of Public Use (CPU) in lieu of a Code Compliance Certificate. The Contractor must satisfy the Engineer that it has done and it will do everything as may be required to facilitate the uplifting of the CCC, including lodging a complete application for the CCC for and on behalf of the Principal. | ☐ 
|                              | [Note: a CPU is an absolute minimum requirement for Practical Completion. You should check whether the Council permits the issue of a CPU. Where Councils do not permit CPU you must select the CCC option (ii) below. Where a CPU is allowed to satisfy Practical Completion, the Contractor must provide a CCC prior to issue of the Final Completion Certificate (see 11.3.2(c)).] | |
|                              | (ii) A Code Compliance Certificate (CCC) | ☐ 
<p>|                              | [Note: if a CCC is required prior to Practical Completion you must make it clear at tender stage that the Contractor needs to allow sufficient time in the programme to achieve this.] | |
| 10.4.5(c)                    | Prior to the issue of the Practical Completion Certificate the Contractor shall provide to the Engineer the following information: | |
|                              | (iii) All test, inspection and approval certificates required for the lawful use and occupation of the | Yes |</p>
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Works from relevant authorities;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iv) All executed warranties required to be obtained by the contractor as indicated at 11.5 including (where required) the Weathertightness Warranty in the form at Appendix 18;</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(v) Confirmation from each of the Principal’s consultants that the Contract Works or any Separable Portion have been inspected and qualify for Practical Completion (together with a list of defects that are considered not to prevent Practical Completion); and</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(vi) A BMG, BUG and a communication strategy that complies with the requirements set out in MAN-6 pursuant to Appendix E2 – Users’ Guides.</td>
<td>Yes/No [Note: (vi) is optional]</td>
</tr>
</tbody>
</table>

10.5 Damages for late completion

NOTE – Where liquidated damages are provided below, the Contractor acknowledges and agrees that the amount stated is a genuine pre-estimate of the likely loss that would result from delay of completion.  
NOTE – Amounts quoted below are exclusive of GST.

10.5.1 Liquidated damages shall be applied as follows:

- For the Contract Works: $................................. per calendar day
- For any Separable Portions:
  - Separable Portion 1: $(insert figure) per calendar day
  - Separable Portion 2: $(insert figure) per calendar day
  - Separable Portion 3: $(insert figure) per calendar day
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(add more separable portions if needed)</td>
</tr>
</tbody>
</table>

[Note: liquidated damages ("LDs") must be a genuine pre-estimate of the likely loss that would result from a delay of completion. When calculating a figure for LDs consider the following costs:  
- additional consultant costs (e.g. project manager and/or architect);  
- legal costs;  
- costs for alternative student classroom space;  
- costs associated with hiring other facilities;  
- other costs to the School (e.g. discounted supplier rates which may be missed due to delays).]

10.6 **Bonus for early completion**

10.6.1 Is a bonus to be payable?  
No

- If yes, the bonus for the Contract Works is: N/A
- If yes, the bonus for any Separable Portions are: N/A

11 **DEFECTS LIABILITY**

11.1 **Defects Notification Period**  
The Defects Notification Period for the Contract Works or any Separable Portion shall be:  
12 Months

11.3 **Final Completion Certificate**

11.3.2 Prior to the issue of the Final Completion Certificate the Contractor shall provide to the Engineer the following:

(a) As-built drawings and operation and maintenance manuals required under 5.20.1 in final form in accordance with 5.20.

(b) A Code Compliance Certificate (CCC)

[Note: where the Special Conditions state that the Contractor may provide a CPU to achieve Practical Completion, the Contractor shall provide the Engineer with a CCC for the Contract Works prior to issue of the Final Completion Certificate.]
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Warranties</strong></td>
<td></td>
</tr>
<tr>
<td><strong>11.5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>11.5.1</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) The Contractor shall provide warranties for relevant items of work as set out in Appendix C – Subcontractor Warranties, to be provided in the Form as set out at Schedule 13.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(ii) Is the Contractor to provide a Weathertightness Warranty?</td>
<td>Yes ☐ No ☐ [tick the appropriate box]</td>
</tr>
<tr>
<td></td>
<td><strong>Guarantees</strong></td>
<td></td>
</tr>
<tr>
<td><strong>11.6</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>11.6.1,11.6.2</strong></td>
<td>(select one to apply, (a) or (b))</td>
</tr>
<tr>
<td></td>
<td>(a) No guarantees are required;</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>(b) The Contractor shall provide the following guarantees in the following form(s):</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>[Note: if there is some concern as to the financial standing of a Contractor or a project is high risk, high value, you may consider a parent or associated company or other guarantee is necessary – please seek legal advice if in doubt. Note: Subcontractor warranties and manufacturers warranties are dealt with under clause 11.5 above]</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>PAYMENTS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>12.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Contractor’s payment claims</strong></td>
<td></td>
</tr>
<tr>
<td><strong>12.1</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>**12.1.3(b)(iii) **</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Advances for Materials delivered to the Site</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Advances for Materials delivered to the Site but which have yet to be incorporated in the Contract Works shall not be made:</td>
<td>N/A</td>
</tr>
</tbody>
</table>
|                               | (b) Advances for Materials delivered to the Site but which have yet to be incorporated in the Contract Works may be made, subject to the following conditions: | ☑ Advances for Materials delivered to the Site but not yet incorporated into the Contract Works may be made at the sole discretion of the Principal on condition that the Materials are:  
  - on Site;  
  - set apart from other Materials and clearly and visibly marked as being the property of the Principal;  
  - protected from the weather as appropriate;  
  - fully secure from theft;  
  - safely placed and stored and fully comply with the |
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Principals Health and Safety Requirements; and - delivered in accordance with the timing requirements of the programme.</td>
</tr>
<tr>
<td>12.1.3(b)(iv)</td>
<td>Advances for Temporary Works or Plant</td>
<td>(a) Advances for Temporary Works or Plant shall not be made. ✓</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Advances for Temporary Works or Plant shall be made, subject to the following conditions: N/A</td>
</tr>
<tr>
<td>12.1.3(b)(iv)</td>
<td>Advances for Materials not yet on Site</td>
<td>(a) Advances for Materials not on Site shall not be made. N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Advances for Materials not yet on Site may be made, subject to the following conditions: ✓  (select one to apply)</td>
</tr>
</tbody>
</table>

**Advances for Materials not yet on Site**

Advances for Materials not yet on Site may be made at the sole discretion of the Principal on condition that the Contractor first enters into an Off Site Materials Agreement in the form attached at Schedule 14 provided that the Contractor acknowledges and agrees that it shall not be entitled to an extension of time in the event that the Principal decides not to exercise its discretion to make any such advance or advances.

**Or**

Advances for Materials not yet on Site will be made in respect of the following Materials:

- [list here Materials agreed as part of the tender process]; and
- such other Materials as may be agreed at the sole discretion of the Principal (provided that the Contractor acknowledges and agrees that it shall not be entitled to an extension of time in the event that the Principal decides not to exercise its discretion to make any such advance or advances) on condition that the Contractor
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><em>first enters into an Off Site Materials Agreement in the form attached at Schedule 14.</em></td>
</tr>
</tbody>
</table>

### 12.2 Progress Payment Schedules

#### 12.2.8 The Principal shall make payment to the Contractor:

<table>
<thead>
<tr>
<th>(a)</th>
<th>Within 20 Working Days after the date on which the Contractor’s payment claim was served on the Engineer under 12.1.1.</th>
<th>(select one to apply, (a), (b) or (c))</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ (select one to apply) The first option should be selected unless otherwise agreed with the Contractor. You should also ensure adequate processes are in place to obtain invoices for progress payments from the Contractor immediately upon the issuance of payment schedules to ensure timely payment.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>Within …… Working Days of issue to the Principal of the Progress Payment Schedule under 12.2.</td>
<td>□</td>
</tr>
<tr>
<td>(c)</td>
<td>On the 20th of the Month following the Month of issue to the Principal of the Progress Payment Schedule under 12.2.</td>
<td>□</td>
</tr>
</tbody>
</table>

### 12.3 Retention monies

#### 12.3.1, 12.3.2 The percentage to be retained from each progress payment and the limit of the total sums retained shall be in accordance with the following:

| (a) | For the Contract Works,  
- 10% on the first $200,000, and  
- 5% on the next $800,000, and  
- 1.75% on amounts in excess of $1,000,000, and  
- With a maximum total retention when aggregated of $500,000, and  
- With a defects liability retention which is half the total retention. | ✓ |
| (b) | The retention scale in the right hand column: | N/A |

### 12.3.3 Bond in lieu of retentions

#### (i) The Contractor may not provide a bond in lieu of retentions. |

### 12.5 Final Payment Schedule

#### 12.5.9 The Principal shall make payment to the Contractor:

<p>| (a) | Within 10 Working Days after the date of the Final Payment Schedule or 10 Working Days after the date when the provisional Final Payment Schedule becomes the Final Payment Schedule. | N/A |</p>
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(b) Within ……. Working Days of issue of the Principal of the Final Payment Schedule under 12.5.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>(c) On the 20th of the Month following the Month of issue to the Principal of the Final Payment Schedule under 12.5.1.</td>
<td>☑</td>
</tr>
</tbody>
</table>

12.8 Cost fluctuations

12.8.1 (a) Cost fluctuations shall not be paid: ☑
(b) Cost fluctuations shall be paid in accordance with Appendix A. N/A
(c) Cost fluctuations shall be paid in accordance with the method described in: N/A

12.9.1 Provisional Sums

(select one to apply, (a) or (b))

(a) There are no Provisional Sums ☐
(b) The Contract includes the following Provisional Sums: ☐ (specify)

12.13 Goods and Services Tax

12.13.2 Payment Schedules provided by the Engineer:

(a) Shall not be in the form of a GST Invoice, and the Contractor shall, upon receipt of the Engineer's Payment Schedule, issue to the Engineer and copy to the Principal, a GST Invoice for the scheduled amount. ☑
(b) Shall be in the form of a buyer created GST Invoice, and the parties agree not to issue any other GST Invoice for items covered by the Payment Schedule. ☐

13. DISPUTES

13.4 Arbitration

13.4.3 If required, the arbitrator shall be nominated by the following Person:

15. SERVICE OF NOTICES

15.1.2 For the purpose of service of written notice:
<table>
<thead>
<tr>
<th>Clause in General Conditions</th>
<th>Title and subject matter</th>
<th>Specific condition data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The address of the <strong>Principal</strong> is:</td>
<td>(Expand cells if required or add a reference to further detail provided in Schedule 2.)</td>
</tr>
<tr>
<td></td>
<td>Postal address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Delivery address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Mark for the attention of:</td>
<td>(name)</td>
</tr>
<tr>
<td></td>
<td>Email address:</td>
<td>(email)</td>
</tr>
<tr>
<td></td>
<td>Other agreed means of electronic communication and address detail:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The address of the <strong>Contractor</strong> is:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Postal address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Delivery address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Mark for the attention of:</td>
<td>(name)</td>
</tr>
<tr>
<td></td>
<td>Email address:</td>
<td>(email)</td>
</tr>
<tr>
<td></td>
<td>Other agreed means of electronic communication and address detail:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The address of the <strong>Engineer</strong> is:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Postal address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Delivery address:</td>
<td>(insert address)</td>
</tr>
<tr>
<td></td>
<td>Mark for the attention of:</td>
<td>(name)</td>
</tr>
<tr>
<td></td>
<td>Email address:</td>
<td>(email)</td>
</tr>
<tr>
<td></td>
<td>Other agreed means of electronic communication and address detail:</td>
<td></td>
</tr>
</tbody>
</table>
Schedule 2 – Special Conditions of Contract – Other Conditions of Contract

The General Conditions of Contract, NZS 3910:2013 Conditions of contract for building and civil engineering construction, are amended as set out herein.

Clause numbers refer to the General Conditions, or additional clause numbers.

1 INTERPRETATION

1.2 Definitions

Add the following definitions

Asbestos Handling Requirements
The requirements stated in Appendix F – Asbestos Handling Requirements

Environmental Requirements
The requirements stated in Appendix E – Environmental Requirements

Health and Safety Requirements
The requirements stated in Appendix D – Health and Safety Requirements

HSWA Regulator
Means Worksafe or the relevant designated regulatory agency under the Health and Safety at Work Act 2015

Ministry of Education
Means Her Majesty the Queen in right of New Zealand acting by and through the Chief Executive of the Ministry of Education or his or her duly authorised representative

Notifiable Event
Means deaths, injuries, illnesses and incidents which are required by law to be notified to the HSWA Regulator

Principal
Means the Ministry of Education and includes its executors, administrators, successors and assigns

Project Control Group or PCG
As defined in 5.23

School
Means the board of trustees of the school named in the Special Conditions acting by and through its duly authorised representative

Weathertightness Requirements

2 THE CONTRACT

[Note: clause 2.1.1 applies only if this is a remediation works contract – please delete if this is a lump sum contract]

2.1.1 This is a remediation contract comprising of lump sum elements together with Provisional Sums. It is recognised by the Principal that in remediation contracts that after work has commenced, additional work may be required, and where such additional work is required the Contractor can apply for this additional work to be treated as a Variation.
2.6 **Evidence of Contract**

2.6.1 **Delete and replace with:**
No contract or other legal relationship shall exist between the Contractor and the Principal until the Contract Agreement is executed by both parties.

2.6.2 **Delete and replace with**
No payment otherwise due under the Contract shall become payable until the Contract is signed by the Contractor and delivered to the Engineer.

2.9 **Assignment**

2.9.1 **Delete and replace with**
The Contractor may not assign the whole or any part of the Contract without the prior written consent of the Principal.

3 **BONDS**

3.1 **Contractor’s Bond**

3.1.6 **In 3.1.6(a) and (b) delete “up to Practical Completion” and replace with “up to the date of issue of the Practical Completion Certificate”**.

3.1.9 **Delete 3.1.9.**

4 **SUBCONTRACTS**

4.1 **General**

4.1.3 **Add to the end of 4.1.3**
and the Contractor shall be responsible for the acts, defaults and neglects of any Subcontractor or Subcontractor’s agents, employees or consultants as fully as if they were the acts, defaults and neglects of the Contractor or the Contractor’s agents, employees or consultants.

4.1.4 **Add new 4.1.4**
The Contractor must engage the key Subcontractors listed in the Special Conditions for the works stated in the Contractor’s tender or in the Special Conditions. The Contractor shall not terminate any such engagement or in any other way replace the named Subcontractor without the prior written consent of the Engineer whose consent shall not be unreasonably withheld. Such key Subcontractors shall not be Nominated Subcontractors.

4.1.5 **Add new 4.1.5**
The Contractor shall, promptly upon execution of any key subcontract named in the Special Conditions, procure from the key Subcontractor a continuity guarantee in favour of the Principal in the form set out in Schedule 17. No payment otherwise due under the Contract shall become payable until the key Subcontractor has executed the continuity guarantee and the Contractor has delivered the continuity guarantee to the Principal.

5 **GENERAL OBLIGATIONS**

5.1 **General responsibilities**

5.1.3 **In the first line, replace “Where the Contract” with “Where the Special Conditions.”**.

5.1.7 **Add new 5.1.7**
The Contractor shall ensure that the Contract Works (insofar as they include any design responsibility on the part of the Contractor) comply with the Weathertightness Requirements.
5.1.8 **Add new 5.1.8**
Without limiting any other provision in the Contract, the Contractor shall ensure that the Contract Works comply with all requirements of any local or other public authority having jurisdiction over the works.

5.3 **Control of employees**

5.3.2 **Number the existing “5.3.1” and add new 5.3.2**
The Contractor must employ the key personnel named in the Special Conditions in the positions nominated in the Contractor’s tender or in the Special Conditions, and ensure that such key personnel are dedicated to the Contract Works until they have, in the opinion of the Engineer, completed their relevant functions in relation to the Contract Works. The Contractor shall not remove any such key personnel from their stated position without the prior written consent of the Engineer whose consent shall not be unreasonably withheld. Where any key personnel named in the Special Conditions are removed (with the Engineer’s prior written consent), or where any key personnel has resigned or is unable to perform their role due to sickness or death, any replacement key personnel must be approved in writing by the Engineer.

5.3.3 **Add new 5.3.3**
The Contractor shall comply with all Ministry of Education police vetting requirements prior to any of its personnel or Subcontractors accessing any part of the Site. Details may be found on the following web site: http://www.education.govt.nz/school/property/state-schools/project-management/boards-of-trustees-role/police-vetting/.

5.4 **Possession of the Site**

5.4.1 **Add the following sentence to 5.4.1**
Any representative nominated by the Principal shall have access at all reasonable times to the Site and to all places where the work is being carried out. The Contractor shall afford every reasonable facility for, and assistance in, obtaining access for any such nominated representative.

5.7 **Protection of Persons and property**

Delete 5.7.1 to 5.7.7 and replace with

5.7.1 So far as the Site, Materials and the Contract Works are under the Contractor’s management or control, the Contractor shall ensure, so far as reasonably practicable, that the Site, Materials and Contract Works, including the means of entering and exiting the Site and anything arising from the Site are without risks to the health and safety of any Persons.

5.7.2 The Contractor shall ensure, so far as is reasonably practicable that the health and safety of any:

(a) workers involved in carrying out the Contract Works;

(b) workers whose activities in carrying out work are influenced or directed by the Contractor; and

(c) any other Person,

is not put at risk from the carrying out of the Contract Works.

5.7.3 The Contractor must have in place and operate throughout the carrying out of the Contract Works:

(a) ongoing hazard and risk identification and mitigation processes;

(b) processes to ensure that workers engaged in carrying out the Contract Works have the necessary information and competencies to undertake the relevant Contract Works safely and, if those workers do not, that they are adequately supervised by the Contractor;
(c) appropriate procedures for dealing with emergencies that may arise; and

(d) an effective drug and alcohol policy that applies to its workers, which must provide for a valid random testing programme.

5.7.4 The Contractor shall:

(a) keep a record of all Notifiable Events for at least 5 years from the date on which notice of the relevant event is given to the HSWA Regulator;

(b) as soon as possible after becoming aware that a Notifiable Event arising out of the carrying out of the Contract Works has occurred, ensure that the HSWA Regulator and the Principal are notified of the event; and

(c) so far as the Site and the Contract Works at which any Notifiable Event has occurred are under the Contractor’s management or control, take all reasonable steps to ensure that the Site or the Contract Works where the Notifiable Event occurred is not disturbed until authorised by the HSWA Regulator.

5.7.5 Following the Notifiable Event the Contractor shall:

(a) give to the Principal through the Engineer a copy of any information or notice which the Contractor is required to provide or make to the HSWA Regulator relating to that Notifiable Event as soon as possible and at the latest, within 24 hours of the Notifiable Event occurring;

(b) within one week of the Notifiable Event, provide the Principal through the Engineer a report giving complete details, including results of investigations, into the cause of the Notifiable Event and any recommendations or strategies for prevention of any similar Notifiable Event in the future; and

(c) provide the Principal with such assistance as may be reasonably necessary to conduct a Notifiable Event incident or accident investigation.

5.7.6 The Contractor must, as soon as possible, notify the Principal through the Engineer of any proceedings and/or enforcement action it is issued with.

5.7.7 The Contractor shall provide the Principal or its appointed representative with access to the Site and personnel in order to review, monitor or audit the Contractor’s health and safety procedures and practices, as deemed appropriate by the Principal at any time with or without notice. The Contractor shall rectify any issues raised in any health and safety audits, reviews or monitoring. If the Principal or the Engineer, acting reasonably, are not satisfied with the results of any health and safety audit, review or monitoring under this clause, the Principal may appoint (at the cost of the Contractor) an independent health and safety supervisor on the Site. The Contractor warrants that all contract(s) it has with the Subcontractors comply with all instructions given to the Engineer (or directly to the Contractor) by the health and safety supervisor appointed by the Principal under this clause. The Contractor shall ensure that any Subcontractors comply with all instructions given to the Engineer in relation to health and safety matters at the Site. Where the health and safety supervisor gives instructions directly to the Contractor, the Contractor shall ensure that it immediately requires all relevant Subcontractors to comply with those instructions.

5.7.8 The Principal shall notify the Contractor through the Engineer of any safety hazards or risks associated with the Contract Works (including any specific safety hazards or risks identified by the Contractor) or the Site, or special safety measures required, of which the Principal or the Engineer are aware, and with which an experienced contractor may not reasonably be expected to be familiar.

5.7.9 The Contractor shall provide all over-seeing and provide, erect, maintain and when no longer required remove all barricades, fencing, temporary roadways and footpaths, signs, and lighting necessary for the effective protection of property, for traffic, and for the safety of others.
5.7.10 The Contractor shall, so far as is reasonably practicable, engage with workers (including all workers of the Contractor and Subcontractors and any workers who are likely to be directly affected by the work) involved in carrying out the Contract Works in relation to health and safety matters concerning the Site or the Contract Works. The Contractor shall have procedures in place that provide reasonable opportunities for such workers to participate effectively in improving health and safety in respect of the Site and the Contract Works on an ongoing basis.

5.7.11 The Contractor shall so far as is reasonably practicable co-ordinate, consult and cooperate with all other duty-holders in relation to the Contract Works, including the Principal. The Contractor shall facilitate engagement between the Contractor, the Engineer, the Principal (and where requested by the Principal, its designers) and any other relevant third parties including the relevant school(s) in relation to health and safety matters.

5.7.12 If during the term of the Contract the Engineer considers the Contractor is:

(a) not conducting the Contract Works in compliance with the Site-specific safety plan, relevant legislation, applicable codes of practice or standards, or any other requirements for health and safety set out in the Contract, including the Health and Safety Requirements; or

(b) conducting the Contract Works in such a way as to endanger the health and safety of any workers of the Contractor or Subcontractors, or any other Person,

the Engineer may instruct the Contractor to suspend the Contract Works until the Contractor has rectified its failure to comply with its obligations to the satisfaction of the Engineer.

5.7.13 The Contractor shall hold health and safety accreditations which have been approved by the Principal and which satisfy any national management system standards stated in the Special Conditions and provide written evidence of such accreditations to the Principal on request.

5.7.14 The Contractor shall comply with the Health and Safety Requirements.

5.7.15 The Contractor shall use all reasonably practicable endeavours to go beyond mere compliance with the Health and Safety Requirements and achieve good New Zealand industry practice with regards to health and safety in the carrying out of the Contract Works.

5.7.16 The Principal or the Engineer may object to and direct the Contractor to immediately remove from the Site any personnel who fail to comply with the requirements for health and safety in the Contract, including the Health and Safety Requirements or who cause any act or omission likely to give rise to a breach of the requirements for health and safety in the Contract, including the Health and Safety Requirements. The Contractor shall pay any costs associated with such removal and subsequent replacement. Any person required to be removed (or prevented access) shall not again be employed in relation to the Contract Works without the permission of the Engineer.

5.7.17 The Contractor shall comply with the Asbestos Handling Requirements.

5.7.18 The Contractor shall provide to the Principal through the Engineer a health and safety report, the frequency of which shall be as required by the Special Conditions, and which meets any requirements for health and safety reports set out in the Contract and is in such form as may be required by the Principal from time to time.

5.7.19 The Contractor shall take all reasonable steps to avoid nuisance and prevent damage to property.

5.7.20 The Contractor shall:

(a) obtain similar undertakings as those stated in clauses 5.7.1 to 5.7.19 from all Subcontractors in relation to the subcontract works; and
actively manage and monitor each Subcontractor’s compliance with those undertakings.

To the maximum extent permitted by law, the Contractor shall be responsible for any non-compliance by any Subcontractor and the Contractor shall immediately provide evidence of compliance with this clause by all relevant Subcontractors, and by the Contractor, on request by the Principal.

5.9 Materials, labour, plant

5.9.2 Delete third sentence of 5.9.2 and replace with
All work shall be carried out in a tradesman-like manner and in accordance with best New Zealand industry standards.

Add the following additional clause

5.9.4 The Contractor must comply with the requirements of the Drawings and Specifications. Where the Contractor wishes to propose alternative products or materials to those specified by the Drawings and Specifications, the Contractor must seek the approval of the Engineer in writing. Details of the proposed substitution must be provided to the Engineer by the Contractor to highlight the advantages that will accrue as a result of implementing the proposed change. If the Contractor submits a proposal for a substitute product the Engineer may:

(a) decline to consider the alternative product or material any further;
(b) accept the alternative product or material; or
(c) request that the Contractor provide further information in relation to the alternative product or material.

The further information which might be requested by the Engineer may, without limitation, include a certificate or warranty from a body or person nominated or described by the Engineer to the effect that the technical aspects of the performance benefits of the alternative material or product which will be delivered to the Engineer are no less appropriate or beneficial than those derived through the Drawings and Specifications.

If the Engineer makes a request pursuant to paragraph (c) and the Contractor does not provide the further information the Engineer may decline to consider the alternative product or material any further.

5.11 Compliance with laws

5.11.10 Delete “date of closing of tenders” and replace with “Date of Acceptance of Tender”.

Add the following additional clauses

5.11.11 The Contractor shall comply with the Environmental Requirements and must not do anything or omit to do anything, or use materials, substances or processes which:

(a) would or is likely to discharge a contaminant into the environment that is not in compliance with any licences applicable to the Contract Works; or would or is likely to cause the total emission of noise from the Site to exceed prescribed boundary noise levels; or that would or is likely to cause any adverse effect on the environment; or

(b) is a breach of any duty or obligation of the Contractor under the Resource Management Act 1991 (RMA); or

(c) does or is likely to give rise to the issue of an abatement notice, enforcement proceedings or an excessive noise direction under the RMA against the Principal, Contractor or Subcontractor.
5.11.12 Before a Subcontractor commences work the Contractor shall obtain similar undertakings as those stated in 5.11.11 from that Subcontractor in relation to the subcontract works. The Contractor shall be responsible for any non-compliance by any Subcontractor with the Environmental Requirements.

5.11.13 The Contractor shall indemnify and keep indemnified the Principal from all costs damages, fines, penalties, loss and expense incurred or suffered by the Principal in respect of any breach of the RMA, directly or indirectly related to a breach by the Contractor of any of its obligations set out in 5.11 except that the Contractor's liability shall be reduced proportionately to the extent that the Principal or any person for whose acts or omissions the Principal is as between itself and the Contractor responsible, caused or contributed to that liability.

5.11.14 If the Contractor becomes aware that it is or may be in breach, or is likely to be in breach of any of its obligations under 5.11.11 or any Subcontractor is or may be in breach of or is likely to breach the matters set out in the agreement between the Contractor and Subcontractors pursuant to 5.11.12 then the Contractor shall immediately notify the Engineer of such breach or anticipated breach.

5.11.15 The Contractor shall hold the environmental accreditations which have been approved by the Principal and which satisfy any national management system standards stated in the Special Conditions.

5.13 Underground and above-ground utilities

5.13.1 Delete 5.13.1 and replace with:
The Contractor shall search the available records to determine the existence and position of pipes, cables and other utilities on or about the Site.

5.13.2 In the first line of 5.13.2, delete "such"

5.13.4 Delete 5.13.4 and replace with
If during the Contract the Contractor encounters on Site utilities which could not reasonably have been foreseen by an experienced contractor having to the extent practicable when tendering:

(a) fully inspected the Site; and

(b) carried out all reasonable investigations and inspected all available records as to the nature and location of the utilities on or about the Site,

and which is not indicated in or is not substantially in the position indicated in any Contract document, any extra work in physically locating its position or altering or protecting or offsetting or reinstating it shall be treated as a Variation.

5.17 Safety plan

Delete 5.17.1 and 5.17.2 and replace with

5.17.1 The Contractor shall prior to commencement of the Contract Works on Site:

(a) undertake a Site-specific risk assessment; and

(b) prepare and submit to the Engineer a Site-specific safety plan for the execution of the Contract Works.

5.17.2 The Site-specific safety plan shall:

(a) address the means by which the Contractor intends to meet its obligations under 5.7, including meeting the Health and Safety Requirements;

(b) address any critical risks that the Principal has identified in relation to the Site or the
Contract Works; and

(c) be updated as the Contract Works progress to incorporate hazards or other risks to health and safety not foreseen at the time of submitting the original Site-specific safety plan.

5.17.5 **Add to the beginning of 5.17.5:**
The Contractor must comply with the Site-specific safety plan accepted by the Engineer under 5.17.4.

5.20 **As-built drawings and operation and maintenance manuals**

5.20.4 **Add new 5.20.4**
Where required by the Special Conditions, the documents and information required to be provided by the Contractor under 5.20 shall be in sufficient detail and in a form appropriate to allow the Principal to accurately update the Principal's records, including Geographical Information System (GIS) records.

5.21 **Advance Notification**

5.21.1(b) **Add** "or any Separable Portion" to the end of 5.21.1(b).

Add the following additional clauses

5.22 Environmental compliance plan

5.22.1 Where required by the Special Conditions, the Contractor shall prepare and submit to the Engineer an environmental compliance plan for the execution of the Contract Works.

5.22.2 The environmental compliance plan shall address the means by which the Contractor intends to meet its obligations under 5.11 and any other requirements for environmental compliance set out in the Contract or in any licences obtained or to be obtained by the Principal or the Contractor under 5.11.

5.22.3 Within 5 Working Days of receipt of the Contractor's environmental compliance plan, or revised environmental compliance plan, the Engineer shall notify the Contractor in writing whether or not he or she accepts the plan. Such acceptance shall not be unreasonably withheld. Where the Engineer does not accept the plan, the notice shall include the Engineer's reasons, and the Contractor shall submit a revised environmental compliance plan.

5.22.4 The Contractor shall not commence any part of the Contract Works unless the Engineer has accepted the environmental compliance plan or revised environmental compliance plan.

5.22.5 Compliance with the environmental compliance plan shall not relieve the Contractor from any of its duties, obligations, and liabilities under the Contract.

5.23 Project Control Group

5.23.1 The Principal and the Contractor intend for the Contract to be performed within a co-operative and trusting working relationship between the parties. Where required by the Special Conditions, a Project Control Group (PCG) aimed at achieving this intention will be established prior to commencement of any works on Site.

5.23.2 The PCG shall be made up of:

(a) a representative nominated by the Principal, which may include a representative from the Ministry of Education's Schools Infrastructure Group, a School Property Advisor and/or any other agent of the Principal employed for this purpose;

(b) the Engineer; and

(c) one representative from the Contractor.
5.23.3 The Engineer shall chair the meetings and take the minutes of meeting.

5.23.4 The Principal or Engineer may request the presence of one representative from the School Board of Trustees or the School principal, the architect or the quantity surveyor at certain PCG meetings as the Principal or the Engineer (as the case may be) considers necessary.

5.23.5 The PCG shall work for the entire project duration and be responsible for providing the project with direction on all matters in which delivery of the Contract Works can be improved in terms of quality, timeliness and cost effectiveness. No consideration or concurrence of any members of the PCG will have any effect to the Contract unless the Engineer gives the Contractor a written instruction, and no decision of the PCG shall have any effect on the Contract unless the Engineer gives the Contractor a written instruction and for the avoidance of doubt, no decision at a PCG meeting shall constitute a Variation unless it is instructed in writing by the Engineer in accordance with Section 9. The Engineer shall provide prompt decisions and approvals for the PCG. The Contractor shall provide advice to the PCG on all matters relating to the construction of the Contract Works.

5.23.6 The Contractor must deliver to the Principal, and to the other regular PCG members, a monthly status report on the progress of the Contract Works, in a form which is acceptable to the Principal. The Engineer may, at any time, require that the Contractor provide a special status report. The Contractor must deliver that special status report to the Engineer within five Working Days of receiving the request. A status report must be provided as a requirement of Practical Completion of each Separable Portion of the Contract Works.

5.24 Conflict of Interest

The Contractor acknowledges and agrees that it:

(a) has no, and is not aware of any conflict of interest, that it has not disclosed in writing to the Principal prior to signing the Contract, including but not limited to any personal or professional relationship that the Contractor (or its directors, majority shareholders, or individual owner(s)) has with any member of the School Board of Trustees or a school staff member, and the Contractor undertakes to advise the Principal immediately if any conflict of interest should arise; and

(b) is not the subject of any claim brought by the Ministry of Education or any School Board of Trustees for defective workmanship, and will notify the Principal immediately if any such claim is brought.

5.25 Salvaged Materials

The Contractor shall carefully remove the materials (if any) listed in the Special Conditions as salvage from the Site (Salvaged Materials). All Salvaged Materials shall remain the property of the Principal and the Contractor shall keep the Salvaged Materials safe and secure, and shall dispose of them as directed by the Engineer. Any materials not listed in the Special Conditions may be salvaged by and shall become the property of the Contractor, and must be removed from the Site by the Contractor at the Contractor’s cost. The Contractor shall be deemed to have allowed at its entire cost everything necessary to comply with this clause and shall not be entitled to any Variation or Extension of Time in relation to compliance with this clause.

7. INDEMNITY

7.1.3 Delete 7.1.3 and 7.1.4 and replace with:
The Contractor’s liability to indemnify the Principal shall be reduced proportionately to the extent that the act or omission of the Principal or its servants or agents may have contributed to the loss, liability or Cost.

8 INSURANCES

8.1 Insurances – General
8.1.7 **Add the following new clause 8.1.7**

8.1.7 Notwithstanding any other clause in this Contract, the Contractor acknowledges and agrees that:

(a) the Principal:

(i) provides its own funding for any losses arising out of damage to the existing structures and other structures in the vicinity of the Contract Works listed in the Special Conditions (Losses) up to a certain amount per annum (Principal Liability Amount);

(ii) will have in place insurance policies required under this Contract in respect of any Losses that arise in excess of the Principal Liability Amount; and

(iii) is not in breach of its insurance obligations under this Contract despite the absence of an insurance policy for any Losses up to the Principal Liability Amount.

(b) the Principal Liability Amount:

(i) will be an amount that is determined by the Principal (in its absolute discretion) from time to time, being $12,500,000 per annum as at the date of this Contract; and

(ii) is an aggregate amount that applies across the entirety of the Principal's property portfolio. As such, the actual amount available for any Losses will vary, depending on whether the Principal has expended part, or all, of it for losses in respect of other properties owned by it;

(c) if any Losses are claimed in excess of the balance of the Principal Liability Amount at any given point in time, the Principal’s insurance policies will then apply in accordance with the terms of this Contract;

(d) every reference to a policy of insurance effected by the Principal under 8.8.2 in this Contract is to be read as being a reference to the Principal Liability Amount while any part of the Principal Liability Amount has not been expended;

(e) Nominal Deductibles are payable by the Contractor (to the extent that any Losses arise out of an act or omission of the Contractor or any Subcontractor or any employee, agent or invitee of the Contractor or any other party for whom the Contractor is responsible) in respect of any Losses covered by the Principal Liability Amount with the effect that, if Losses arise, the Contractor must pay the relevant Nominal Deductible even if the Principal Liability Amount is applicable to all or part of the Losses, as if that Nominal Deductible was an excess amount or insurance policy deductible.

8.2 **Contractor arranged insurances – General**

8.2.3 **Add new sub paragraphs as follows**

(c) The insurances are primary to and will respond in priority to any policy of insurance effected by the Principal which covers the same or similar interests; and

(d) The actions of one insured shall not affect the rights of any other insured.

8.5 **Contractor arranged public liability insurance**
8.5.1 In the fourth line of 8.5.1 after the words ", for an amount not less than that stated in the Special Conditions," add the words "and in the aggregate for products liability,"

Add new sub paragraphs to the end of 8.5.1 as follows

(d) Liability for damage to underground services;

(e) Products liability insurance;

(f) Liability arising from the use of construction machinery, including hired Plant, except when being used as a motor vehicle as defined in the Land Transport Act 1998; and

(g) Liability for loss or damage to any existing structures, or other structures in the vicinity and the contents of any of them, that are not specifically identified in Schedule 1 under 8.8.2 (a), (b) and (c).

8.7 Insurances – General

8.7.8 Add the following new clause 8.7.8

8.7.8 For the avoidance of doubt, the Contractor acknowledges and agrees that the Principal Liability Amount and the amendments to the scope of Nominal Deductibles set out in clause 8.1.7 applies in respect of any insurance requirements pursuant to clauses 8.7 and 8.8.2.

9 VARIATIONS

9.1 Variations permitted

9.1.1(b) Add to the end of 9.1.1(b) … whether or not any such work omitted is subsequently carried out by a Separate Contractor or by the Principal itself.

9.2 Variation orders

9.2.1 Add the following sentence to 9.2.1

The Contractor must give immediate notice to the Engineer of any direction received from any representative of the Principal (or, where the Principal is the Ministry of Education, any representative of the School). The Contractor shall not be obliged to comply with any such instruction unless confirmed in writing by the Engineer. The Contractor will not be entitled to any adjustment to the Contract Price or the Due Date for Completion unless and to the extent the Engineer issues an order in writing instructing a Variation.

9.2.2 In the third line of 9.2.2, delete the words "or as soon as practicable thereafter"

9.2.3 In the third line of 9.2.3, delete the words "or as soon as practicable thereafter"

9.2.4 Delete last sentence of 9.2.4

9.3 Valuation of Variations

9.3.15 Delete the last sentence of 9.3.15 and replace with

Where no such percentage is nominated, the Contractor shall not be entitled to the Cost of processing Variations whether or not they proceed.

9.4 Daywork

9.4.3 In the last sentence of 9.4.3 delete "in such case" and replace with "in the case of records signed by the Engineer".
9.5 Unforeseen Physical Conditions

9.5.1 Add the following Paragraph to 9.5.1
The term "unforeseen physical conditions" shall mean physical conditions encountered at the Site which could not reasonably have been foreseen by an experienced contractor having to the extent practicable when tendering:

(a) fully inspected the Site; and
(b) carried out all reasonable investigations and inspected all available records as to the nature and location of the physical conditions at the Site,

and which substantially increase the Contractor's Costs.

9.5.2 Delete 9.5.2 and replace with
If during the Contract the Contractor considers it has encountered unforeseen physical conditions, the Contractor shall as soon as practicable and where possible before the conditions are disturbed, but in no event later than 5 Working Days of becoming aware of the physical conditions, notify the Engineer in writing with details of the physical conditions and the reasons why the Contractor considers them to be unforeseen physical conditions.

9.5.4 Delete last sentence of 9.5.4 and replace with
To the extent that the Engineer determines that the physical conditions notified are unforeseen physical conditions, the effect of the physical conditions notified shall be treated as a Variation.

9.6 Add the following clause 9.6

9.6 Variation Price Requests (VPR)

9.6.1 The Engineer may instruct the Contractor to provide a quotation for the price of work involved in a proposed Variation. The instruction will be clearly identified as "VPR", or Variation Price Request. Such an instruction will be in writing and shall not be a Variation unless subsequently instructed in writing as a Variation by the Engineer. The Contractor shall not be entitled to the Costs of processing or responding to any VPR under this clause 9.6.

9.6.2 Upon receipt of a Variation Price Request and the provision of sufficient information to comply with the requirements of this clause, the Contractor will prepare and provide a price, and any impact on the Due Date for Completion, in accordance with the following requirements (the "Contractor's Response"):

(a) the price shall be submitted by the date (which shall be a date at least 5 Working Days after the date of the VPR) stated in the VPR, or if no such date or timeframe is stated, within 10 Working Days of receipt of the VPR by the Contractor or within such other reasonable time as may be agreed by the Engineer in writing;
(b) the price is to be fully broken down indicating all quantities, rates, costs and fees used, including references to applicable or analogous items in the Schedule of Prices;
(c) if the Contractor considers that works in the VPR will result in delay to completion of the Contract Works, the Contractor must state the period of any extension of time that it considers is necessary to carry out the works in the VPR;
(d) any time-related Costs associated with the extension of time referred to in item (c) are to be included and identified in the VPR;
(e) where requested by the Engineer, copies of any Subcontractor quotations are to be provided, and
(f) a price for a VPR is to be a fixed lump sum price.

9.6.3 Where the Contractor provides the Contractor's Response to the Engineer within the time
required, the Engineer shall be entitled to accept the Contractor’s Response or decline the Contractor’s Response, or endeavour to negotiate an agreed price and any extension of time for the works in the VPR.

9.6.4 Should the Contractor fail, without reasonable explanation, to provide the Contractor’s Response within the time required, the Engineer shall be entitled to determine a reasonable price and reasonable extension of time (if applicable) for the works in the VPR, or at the Engineer’s option, be entitled to engage Separate Contractor(s) to undertake the works in the VPR.

9.6.5 Should the Engineer decide to proceed with a VPR, the VPR shall be instructed in writing as a Variation. The price and any extension of time for the net effect of the Variation shall be that determined by the Engineer under 9.6.3 or 9.6.4, as applicable. The Engineer is not obliged to instruct a VPR as a Variation.

10 TIME FOR COMPLETION

10.3 Extension of time

10.3.1(b) Add to the end of 10.3.1(b)
… greater than the interference for inclement weather that could reasonably be expected by an experienced contractor for the season in which the Contract Works are being carried out.

10.3.1(c) Delete 10.3.1(c) and replace with
Any strike, lockout or other industrial action except where caused or to the extent contributed to by the Contractor or its Subcontractors.

10.3.1(d) Delete 10.3.1(d) and replace with
Loss or damage to the Contract Works or Materials other than loss or damage caused by any negligent act or omission or other default of the Contractor or of any person for whose acts or omissions the Contractor is as between itself and the Principal responsible.

10.3.2(b) In the second line of 10.3.2(b), delete the words ”, or as soon as practicable thereafter”.

10.3.2(c) Delete 10.3.2(c) and replace with
The notice either gives details of the period of extension sought or is followed within 20 Working Days (or such other reasonable period as may be determined by the Engineer) by a further notice giving such details.

10.3.6 Delete first sentence of 10.3.6 and replace with
The Engineer may where practicable in lieu of granting an extension, taking into account the resources available to the Contractor, instruct the Contractor to accelerate the rate of working to offset in part or in total any delay in respect of which the extension would otherwise be granted under this 10.3.

10.3.8 Add new 10.3.8
Where there has been a delay to the Contract Works which does not entitle the Contractor to an extension of time pursuant to 10.3.1, the Contractor shall take all reasonable steps as the Engineer may, taking into account the resources available to the Contractor, instruct the Contractor to take to expedite progress by applying additional resources if necessary or working longer hours or in whatever other manner he may require. Any steps taken by the Contractor under 10.3.8 to expedite progress of the work shall not entitle the Contractor to claim a Variation.

10.3.9 Add new 10.3.9
The following rules shall apply to the Engineer’s assessment of the Contractor’s entitlement to an extension of time under 10.3.1:

(a) the event in respect of which the extension of time is sought must be one listed in 10.3.1;
(b) the event in respect of which the extension of time is sought must have caused, or will cause, actual delay to Practical Completion of the Contract Works. No extension of time will be granted unless the delay has affected the critical path of the Contract Works such that Practical Completion cannot be achieved by the Due Date for Completion; and

(c) where the Contractor suffers delay in completion of the Contract Works which is caused by two or more events, at least one of which entitles the Contractor to an extension of time ("Valid Event") and at least one of which does not entitle the Contractor to an extension of time ("Invalid Event"), the Contractor shall only be entitled to the period of extension attributable to the Valid Event(s) which exceeds any period of extension attributable to the Invalid Event(s).

10.3.10 Add new 10.3.10
The Contractor will be entitled to claim and the Principal will be entitled to grant an extension of time to the relevant Due Date for Completion whether or not the qualifying extension of time ground occurs before or after the relevant Due Date for Completion (including, for the avoidance of doubt, in relation to the net effect of any Variation).

10.4 Practical Completion Certificate

10.4.2 Add to end of 10.4.2
The Contractor shall provide notice in writing to the Engineer at least 48 hours prior to any inspection confirming that:

(a) a thorough inspection of the Contract Works has been made by the Contractor, with a copy of the defects list from that inspection and a copy of the relevant consultants’ approval(s) attached;

(b) all defects on the attached defects list have been remedied (or stating the reason(s) why any defects are outstanding and when these defects will be remedied);

(c) the Contract Works are ready for inspection by the Engineer;

(d) all necessary inspections of the Contract Works have been carried out by the relevant authority; and

(e) any other Requirements as specified by the Special Conditions have been met.

10.4.5 Add to the end of 10.4.5
(a) any other Requirements as specified by the Special Conditions have been met.

10.5 Damages for late completion

10.5.3 Add the following sentence to 10.5.3
The Principal's entitlement to give notice to the Engineer in accordance with 12.2.4 and 12.5.2 requiring the deduction of liquidated damages shall not preclude the Engineer from including in his or her certification under 12.2.2(d) or 12.5.1(d) an assessment of liquidated damages payable in accordance with 10.5.1.

11 DEFECTS LIABILITY

11.3 Final Completion Certificate

11.3.2(a) Delete text and insert 'Not used'
11.3.2 Add sub paragraph (c) “Anything else required by the Special Conditions”.

11.5 Warranties

11.5.2 Add “, Schedule 18” after “Schedule 13”.

11.5.4 Add new 11.5.4:
Notwithstanding any warranty provided by any Subcontractor (including suppliers) in accordance with this 11.5, and without limiting any obligation of the Contractor under the Contract or at law, the Contractor warrants to the Principal that the Contract Works listed in Appendix C shall be free from defects in materials or workmanship for the lesser of:

(a) the Warranty Period stated in Appendix C; or

(b) 10 years from the date of Practical Completion.

12 PAYMENTS

12.2 Progress Payment Schedules

12.2.8 Add to the end of 12.2.8
… or as otherwise provided in the Special Conditions.

12.3 Retention Monies

12.3.2 Add to the end of 12.3.2(a)
… less the Engineer's assessment of the value of any Contract Works remaining to be completed other than minor omissions and minor defects under 10.4.1.

12.3.4 Add new 12.3.4
The Principal has or will establish a bank account (\textit{Retentions Account}) into which it will place all retentions from amounts payable to consultants, suppliers and contractors engaged by the Principal in connection with all construction work being undertaken by the Principal from time to time and for whom the Principal is required to hold such retentions on trust under the Construction Contracts Act 2002 (the \textit{CCA}). Without limiting the rights and obligations of the parties under the CCA the parties agree as follows:

(a) The Principal will hold the money in the Retentions Account on trust for all consultants, suppliers and contractors engaged by the Principal for whom:

(i) retentions apply under the terms of the relevant contract with such consultants, suppliers and contractors; and

(ii) the Principal is required to hold such retentions on trust under the CCA.

(b) Where any monies are retained by the Principal in accordance with 12.3.1, the Principal will as soon as reasonably practicable after making such retention, pay the retained amount into Retentions Account.

(c) The Principal may invest all or any of the retention monies in the Retentions Account and retain any returns received on such investment (including interest).

(d) If the Principal does not pay the retention monies to the Contractor on the date that it is due to be paid to the Contractor under the Contract, the Principal will pay interest to the Contractor on the unpaid amount, at the rate specified in, and calculated in accordance with, 12.7.
12.3.5 Add new 12.3.5
The Contractor acknowledges that it will hold the retention moneys for any Subcontractor in accordance with its obligations under the CCA, including using proper accounting practices to ensure that such retention moneys are easily identifiable. On the request of the Principal, the Contractor will provide evidence of its compliance.

12.5 Final Payment Schedule

12.5.9 Add to end of 12.5.9
… or as otherwise provided in the Special Conditions.

12.6 Effect of Final Payment Schedule

12.6.2 Add new 12.6.2
Notwithstanding the issue of the Final Payment Schedule the Contractor shall remain liable for fulfilment of any obligation of the Contractor under the Contract which then remains unperformed or not properly performed.

Add the following additional clauses

12.14 Set off
The Principal shall be entitled in accordance with the process under 12.2.4 or 12.5.2, to set off against any sums that would otherwise be due to the Contractor under the Contract, whether certified by the Engineer or otherwise, amounts in respect of any claims against the Contractor, including damages for breach of contract by the Contractor.

12.15 Right to make direct payments

12.15.1 Should the Principal have reasonable grounds to consider that the Contractor has defaulted in making payment to any Subcontractor in respect of any part of the Contract Works for which the Contractor has been paid by the Principal, the Principal may require that, within five Working Days of notification by the Principal to the Contractor, the Contractor:

(a) obtains written confirmation from the Subcontractor that the Subcontractor has received all monies due and owing to it from the Contractor under the terms of the agreement between the Contractor and the Subcontractor; or

(b) justifies to the Principal that the payment in question is the subject of a bona fide dispute; or

(c) makes payment to the Subcontractor to the extent required by the agreement between the Contractor and the Subcontractor.

12.15.2 If the Contractor fails to undertake one of the courses of action outlined in clause 12.15.1 within the time stipulated, the Principal shall have the right to pay that Subcontractor directly and deduct such amount from any monies payable to the Contractor or otherwise recover the amount concerned from the Contractor.

12.15.3 Any payment made by the Principal directly to a Subcontractor under this clause 12.15 shall be deemed to be in full satisfaction of any corresponding liability owed by the Principal to the Contractor.
14 FRUSTRATION AND DEFAULT

14.2.1 Add sub-paragraph (d) as follows:
The Engineer certifying in writing to the Principal that in his or her opinion the Contractor is in breach of any of its obligations under 5.7 or 5.17.

15 SERVICE OF NOTICES

Add new 15.1.9

15.1.9 Compliance by the Contractor with the obligation to give notice within a specified period under 9.2.2, 9.2.3, 9.5.2, 10.3.2(b) and 10.3.2(c), or under any other clause in the Contract where notice is required to be given by the Contractor within a specified period, shall be a condition precedent to the Contractor having any entitlement under those clauses in relation to the relevant matter.

Add new sections as follows

16 DISCRETIONARY TERMINATION

16.1 Principal's right to discretionary termination

16.1.1 The Principal may terminate the Contract at its discretion at any time until Practical Completion by written notice to the Contractor referring to this clause 16.1.1, and specifying the reason for the early termination.

16.1.2 In the event of termination under 16.1.1, the provisions of 14.1.2 shall apply.

17 CONFIDENTIALITY

17.1 Confidentiality

17.1.1 The Contractor and the Principal must use their best endeavours to keep confidential all matters relating to the Contract. The Contractor and the Principal must not disclose any information except to the extent that:

(a) The disclosure of that information is necessary for either party to carry out its obligations under this Contract or to enforce any of its rights under it; or

(b) That disclosure is required by law.

17.1.2 Subject to 17.1(a) and (b), the Contractor and the Principal must keep confidential any claim or dispute under the Contract.

17.1.3 The Contractor must not advertise its relations with the Principal or its involvement in the Contract Works without the written permission of the Principal.

17.1.4 The Contractor must ensure that its Subcontractors are bound by a similar clause in any subcontract.

18 PRIVITY OF CONTRACT

18.1 Privity where Principal is a School

18.1.1 Where the Principal is a School, the obligations of the Contractor and any of its Subcontractors under the Contract shall for the purposes of the Contracts and Commercial Law Act 2017 be
deemed to be for the benefit of the Ministry of Education (including, its successors and assigns) and shall be enforceable by the Ministry of Education against the Contractor or any of its Subcontractors but not so as to impose any greater liability on the Contractor or its Subcontractors towards the Ministry of Education than the Contractor owes or owed to the Principal.

18.2 Contract Works to vest in the Ministry of Education

18.2.1 The Contractor acknowledges that the Contract Works will on acceptance by the Principal vest in the Ministry of Education and/or its nominee and all rights of the Principal in relation to those Contract Works, including any maintenance obligations, will inure for the benefit of the Ministry of Education and will be exercisable by the Ministry of Education at its sole and absolute discretion.
Add the following Appendix:

APPENDIX C – SUBCONTRACTOR WARRANTIES

Note:

The Warranty Period runs from the date of Practical Completion (refer Schedule 13 Form of Subcontractor Warranty).

[Note: the Principal’s design consultants should add/ amend table below as appropriate for the specific requirements of the project before the Contract goes out to tender]

<table>
<thead>
<tr>
<th>SUBCONTRACT WORKS</th>
<th>WARRANTY PERIOD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade</td>
<td>Item/Material</td>
</tr>
<tr>
<td>Brick/block/stone veneer</td>
<td></td>
</tr>
<tr>
<td>Building Management System</td>
<td>Functioning</td>
</tr>
<tr>
<td>Carpentry</td>
<td>Framing</td>
</tr>
<tr>
<td>Cladding</td>
<td>Wrap/flashing tape</td>
</tr>
<tr>
<td></td>
<td>Timber weatherboards</td>
</tr>
<tr>
<td></td>
<td>Fibre cement</td>
</tr>
<tr>
<td></td>
<td>Solid plaster</td>
</tr>
<tr>
<td></td>
<td>Acrylic plaster</td>
</tr>
<tr>
<td></td>
<td>Metal</td>
</tr>
<tr>
<td></td>
<td>Insulating panel</td>
</tr>
<tr>
<td></td>
<td>High pressure laminate</td>
</tr>
<tr>
<td></td>
<td>Plywood</td>
</tr>
<tr>
<td></td>
<td>Finishing timbers</td>
</tr>
<tr>
<td></td>
<td>Fixing/weathering acces</td>
</tr>
<tr>
<td>Concrete Blockwork</td>
<td></td>
</tr>
<tr>
<td>Concrete</td>
<td>Floor slabs</td>
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<tr>
<td></td>
<td>Insitu</td>
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<tr>
<td></td>
<td>Precast</td>
</tr>
<tr>
<td>Drainage</td>
<td>Stormwater reticulation</td>
</tr>
<tr>
<td></td>
<td>Sanitary sewer reticul</td>
</tr>
<tr>
<td></td>
<td>Wastewater treatm’t vessel</td>
</tr>
<tr>
<td></td>
<td>Wastewater treatm’t activ</td>
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### Electrical

<table>
<thead>
<tr>
<th>Component</th>
<th>Warranty Inground</th>
<th>Warranty Aboveground</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-ground services</td>
<td>10 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Above-ground reticulation</td>
<td>10 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Fixtures / fittings</td>
<td>1 year</td>
<td>1 year</td>
</tr>
<tr>
<td>Switch/distribution boards</td>
<td>1 year</td>
<td>1 year</td>
</tr>
<tr>
<td>Light fittings</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Lamps - Discharge</td>
<td>1 year</td>
<td>1 year</td>
</tr>
<tr>
<td>Lamps - Fluorescent</td>
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<tr>
<td>Lamps - LED</td>
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<tr>
<td>Lamps - Halogen</td>
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</tr>
<tr>
<td>Emergency light fittings</td>
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<td>5 years</td>
</tr>
<tr>
<td>Emergency lighting batteries</td>
<td>1 year</td>
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</tr>
</tbody>
</table>

### Fire protection

<table>
<thead>
<tr>
<th>Component</th>
<th>Warranty Inground</th>
<th>Warranty Aboveground</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-ground reticulation/fittings</td>
<td>10 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Above ground cabling</td>
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<td>Above ground sprinkler reticulation</td>
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<td>Sprinkler heads</td>
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<td>Alarm control panel</td>
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<tr>
<td>Heat/Smoke detectors</td>
<td>5 years</td>
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<td>Sprinkler valves</td>
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<td>Sprinkler electronics</td>
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<td>Sprinkler pump</td>
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<td>Water storage tanks</td>
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### Fire windows/doors/curtains

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<th>Warranty Aboveground</th>
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<td>Doors timber</td>
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<td>Doors steel</td>
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</tr>
<tr>
<td>Windows steel</td>
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</tr>
<tr>
<td>Curtains</td>
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### Floor coverings

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<th>Component</th>
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<th>Warranty Aboveground</th>
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<td>Polyprop outdoor</td>
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<td>Polyprop indoor</td>
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<td>Soft</td>
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<td>Resilient</td>
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</tr>
<tr>
<td>Rubber</td>
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<td>Resin</td>
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<tr>
<td>Screed</td>
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<td>Sports surface timber</td>
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### Gas fitting

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### Glazing

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Add the following Appendix:

APPENDIX D – HEALTH AND SAFETY REQUIREMENTS

[Note: add to the below as appropriate]

(a) the Health and Safety at Work Act 2015 (HSWA);

(b) all relevant Regulations made pursuant to the HSWA;

(c) all approved codes of practice pursuant to the HSWA, to the extent relevant to the Contract Works;

(d) all guideline publications issued by the HSWA Regulator, to the extent relevant to the Contract Works;

(e) all relevant recognised standards as issued by any relevant standard issuing body; and

(f) the Principal’s health and safety processes and procedures as revised from time to time and available on the Ministry of Education’s website under the following link: www.education.govt.nz/school/property/health-and-safety-management/
Add the following Appendix:

APPENDIX E – ENVIRONMENTAL REQUIREMENTS

[Note: delete (if not required) or amend below as appropriate]

F1 Waste Management Practices

F1.1 The Contractor shall ensure that its on-site waste management practices minimise the amount of construction and demolition waste going to disposal in accordance with the Green Star New Zealand MAN-5 Waste Management technical manual, as amended from time to time during the term of the Contract (MAN-5).

F1.2 The Contractor undertakes to minimise the amount of construction and demolition waste on Site going to disposal. The Contractor shall ensure that at least 70% of construction and demolition waste by weight is reused and/or recycled. Records must be kept by the Contractor to demonstrate the actual percentage of waste reused and/or recycled by weight and these must be reported to the Principal, at quarterly intervals, throughout the construction phase of the project.

F1.3 The Contractor shall comply with the guidelines set out in MAN-5, including, without limitation, the following:

(a) establish an on-site waste management area for the sorting and segregation of waste including colour-coded and clearly marked containers for various materials;

(b) provide copies of waste disposal subcontracts for recycling including details of the costs for collection and timing of the collection service;

(c) the Contractor and all Subcontractors (as applicable) shall participate in applicable waste minimisation training as appropriate from time to time;

(d) a waste minimisation plan shall be submitted to the Principal to identify how at least 70% of on-site construction waste by weight is to be reused and/or recycled;

(e) records must be kept by the Contractor to demonstrate the actual percentage of waste recycled, including weight and volume of all wastes leaving the Site and the destination and/or name of recycler/waste hauler;

(f) the provision of waste skips or bins at the waste storage area must be made for each of the following materials (some of these may be in combined skips provided evidence is provided to demonstrate that the waste contractor will separate these materials off-site):

(i) cardboard;

(ii) timber;

(iii) metal;

(iv) soft plastic;

(v) polystyrene;

(vi) insulation;

(vii) concrete;

(viii) glass; and
F2 Users’ Guides

F2.1 The Contractor shall encourage and recognise information management that enables building users to optimise the school buildings’ environmental performance in accordance with the Green Star New Zealand MAN-6 Users’ Guide technical manual, as amended from time to time during the term of the Contract (MAN-6).

F2.2 The Contractor undertakes to develop and deliver the following information to the Principal, on or before Practical Completion, to optimise the environmental performance of the school buildings:

(a) Building Managers’ Guide (BMG) which provides detailed information for building managers on the environmental features of the school buildings;

(b) Building Users’ Guide (BUG) which provides accessible information for building users on the environmental features of the school buildings; and

(c) communication strategy outlining how the information in the BUG will be communicated to end users of the school buildings (i.e. through the school website, building tours and staff induction programmes).

[Note: delete F3 if not required to be included in Contract]

F3 Compliance with Green Star New Zealand

F3.1 For the avoidance of doubt, the parties acknowledge that all costs incurred by the Contractor in complying with the Green Star New Zealand MAN-1 Green Star NZ Accredited Professional technical manual, as amended from time to time during the term of the Contract (MAN-1), MAN-5 and MAN-6 guidelines and all other compliance requirements necessary to achieve the required five-star rating from the Green Star New Zealand Education Building Rating Tool (2009), are included in the Contract Price.

F3.2 In accordance with MAN-1, the Contractor undertakes that a principal member of the on-Site team is a Green Star New Zealand Accredited Professional and will be engaged from the commencement of the Contract Works.
Add the following Appendix:

APPENDIX F – ASBESTOS HANDLING REQUIREMENTS

Asbestos Handling Requirements as revised from time to time and available on the Ministry of Education’s website under the following link:

www.education.govt.nz/school/property/state-schools/fixing-issues/asbestos
Schedule 3 – Form of Contractor’s Performance Bond

Contract for:  

[Contract Name & Contract Number]

THIS DEED is made on …………………………………………………………………………………………………………………………

BY ……………………………………………………………………………………………………………………………………………………………..

of ………………………………………………………………………………………………………………………………………………….. ('the Contractor')

AND ……………………………………………………………………………………………………………………………………………………………. 

of ……………………………………………………………………………………………………………………………………………………... ('the surety')

…………………………………………………………………………………………………………………………………………………………………….. (Address of surety for service)

IT IS MADE IN THE FOLLOWING CIRCUMSTANCES

A The Contractor has entered into an agreement with …………………………………………… ('the Principal') to carry out and fulfil the obligations imposed on the Contractor ('the Contract').

B The Contract requires the Contractor to provide the Principal with security in the form of a bond to ensure performance of the Contractor’s obligations under the Contract.

C Words and phrases with capital initial letters that are not otherwise defined in this bond shall have the meaning set out in the Contract.

BY THIS DEED

1. THE Contractor and surety are jointly and severally held and bound to the Principal in the sum of $NZ ………………………………………………………………………………………………… and bind themselves, their successors and assigns jointly and severally for the payment of that sum.

2. THE surety irrevocably and unconditionally undertakes to pay to the Principal any sum or sums which may, from time to time, be demanded in writing by the Principal, up to an aggregate amount not exceeding the sum stated in clause 1 above. The surety shall make payment forthwith upon demand by the Principal, without enquiry as to, and without having regard to, the position as between the Contractor and the Principal, or whether or not the Contractor is in default under the Contract. Payment will be made without reference to, and notwithstanding any instruction from the Contractor to the surety to the contrary.

3. ANY notice by the Principal under this bond shall be deemed to have been properly given if signed by the Principal or on behalf of the Principal by any of its agents, directors, or employees and sent by registered mail or delivered by hand to the surety at the address stated in this bond for service.

4. THE conditions of this bond are that it shall be released if and when:

   (a) A Practical Completion Certificate has been issued for the Contract Works in accordance with 10.4 of the General Conditions; or

   (b) The surety receives a notice from the Principal releasing the Contractor and surety from this bond.
5. **EXCEPT** as provided in clause 4 above this bond shall be and remain in full force and effect.

6. **THE** surety shall not be released from any liability under this bond:

   (a) By any alteration in the terms of the Contract;

   (b) By any alteration in the extent or nature of the Contract Works to be completed, delivered, and having defects remedied;

   (c) By any allowance of time by the Principal or by the Engineer appointed by the Principal under the Contract; or

   (d) By any forbearance or waiver by the Principal or by the Engineer in respect of any of the Contractor’s obligations or in respect of any default on the part of the Contractor.

7. **NOTWITHSTANDING** any other provision of this bond, the surety may at any time pay the Principal the bond sum less any sums it may have previously paid under the bond, or a lesser amount as may be required or specified by the Principal. Any such payment shall be deemed to have been made at the demand or request of the Principal and when paid, the liability of the surety shall be at an end.

8. **THIS** bond shall be governed by New Zealand law.

In witness of which this deed has been executed and delivered.

**SIGNED** on behalf of the surety by:

____________________________________________________________________________
Director

____________________________________________________________________________
Director

**SIGNED** on behalf of the Contractor by:

____________________________________________________________________________
Director

____________________________________________________________________________
Director

NOTE – This bond shall be executed by the surety in the manner required for execution of a deed.
Schedule 4 – Form of Principal’s Bond

Not used
Schedule 5 – Form of Contractor’s Bond in Lieu of Retentions

Not used
Schedule 6 – Form of Producer Statement – Construction

ISSUED BY ……………………………………………………………………………………………………… (Contractor)
TO ……………………………………………………………………………………………………… (Principal)
IN RESPECT OF ………………………………………………………………………………… (Description of Contract Works)
AT …………………………………………………………………………………………………………… (Address)
                        (Contractor) has contracted to …………………………………….. (Principal)
to carry out and complete certain building works in accordance with a Contract titled……………….
                        …………………………………………………………………………………….. ('the Contract')
                        (Project)

I ………………………………………………………………………………………………….. (Duly Authorised Agent)
a duly authorised representative of …………………………………………………………. (Contractor)
believe on reasonable grounds that …………………………………………………………. (Contractor)
has carried out and completed:

☐ All

☐ Part only as specified in the attached particulars of the building works in accordance with the Contract

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................................................................................................................... (Contractor)
Schedule 7 – Information on Contractor arranged Construction Insurance

Not used
Schedule 8 – Information on Contractor arranged Plant Insurance

To whom it may concern:

From .............................................................................................................. (Name of insurance company)

.................................................................................................................. (Branch)

.................................................................................................................. (Address)

We confirm having effected Plant insurance for:

.................................................................................................................. (The Contractor)

In respect of ........................................................................................................ (Project title)

Policy wording title is ...........................................................................................

We advise that special terms, copy attached, have been specifically applied to this project Yes/No

The following provisions apply:

☐ Annual policy

☐ Project specific policy

Policy expiry date .................................................................................................

8.4
The sums insured are (GST exclusive):

☐ All items of Plant

Sum insured $......................................................

OR

☐ Valued schedule of construction Plant insured (copy attached)

The policy deductible (GST inclusive) is $......................................................

Policy cover terms included are:

8.2.2 Discretionary cancellation clause Yes/No

8.2.3(a) Reinstatement provision Yes/No

8.2.4 Void ab initio for non-payment of premium without prior notification Yes/No

No settlement delay due to exercise of subrogation Yes/No

We undertake that this policy will not be cancelled or amended by us within the period of insurance without written advice to the insured party which has arranged the insurances.
This insurance issued is subject to the terms and conditions of the policy. We do not warrant that this policy complies with the requirements of NZS 3910:2013.

Insurance Company Stamp ................................................... Date ........................................

(Or name of insurance broking company confirming cover)

SIGNED BY ................................................................................................................................

SIGNATORY TITLE ..................................................................................................................

(Clause numbers refer to NZS 3910:2013 and are for information only.)
Schedule 9 – Information on Public Liability Insurance

To whom it may concern:

From ............................................................................................................
(Name of insurance company)
...........................................................................................................
(Branch)
...........................................................................................................
(Address)

We confirm having effected public liability insurance to indemnify the Principal and the Contractor against legal liability to third parties for damage, loss or injury caused by an act or omission of the Contractor arising out of the performance of the Contract Works.

............................................................................................................
The Contractor
...........................................................................................................
The Principal

In respect of ..................................................................................................
(Project title)

Policy wording title is ..................................................................................................

We advise that special terms, copy attached, have been specifically applied to this project  Yes/No

The following provisions apply:

☐ Annual policy
☐ Project specific policy

Policy expiry date ..........................................................................................

8.5, 8.9

The limit of indemnity (GST exclusive) $.................................

Sub-limit insured for (GST exclusive)

Vibration, removal or weakening of support $.................................
Underground services $.................................

Deductible (GST inclusive) is $.................................

Deductible for vibration, removal or weakening of support (GST inclusive) $.................................

Deductible for underground services (GST inclusive) $.................................
The policy also covers liability arising out of:

- The ownership/use of Plant not required to be registered for road use  
  Yes/No
- The use of hired Plant  
  Yes/No
- The ownership/use of watercraft over 8 m  
  Yes/No
- The ownership/use of aircraft  
  Yes/No
- The use of explosives  
  Yes/No

8.2, 8.7

Policy cover terms included are:

- Reinstatement provisions  
  Yes/No
- Number of reinstatements  
  ……………………………
- Discretionary cancellation clause  
  Yes/No
- Void *ab initio* for non-payment of premium without prior notification  
  Yes/No
- Severally insured  
  Yes/No
- No settlement delay due to exercise of subrogation  
  Yes/No

We undertake that this policy will not be cancelled or amended by us without written advice to the insured party which has arranged the insurances.

This insurance issued is subject to the terms and conditions of the policy. We do not warrant that this policy complies with the requirements of NZS 3910:2013.

**Insurance Company Stamp** …………………………………………….  **Date** ………………………………

*(Or name of insurance broking company confirming cover)*

**SIGNED BY** …………………………………………………………………………………………………………

**SIGNATORY TITLE** …………………………………………………………………………………………………

*(Clause numbers refer to NZS 3910:2013 and are for information only.)*
Schedule 10 – Information on Contractor arranged Motor Vehicle Insurance

To whom it may concern:

From ………………………………………………………………………………………………………………………….(Name of insurance company)
……………………………………………………………………………………………………………………………..(Branch)
……………………………………………………………………………………………………………………………..,(Address)

We confirm having effected motor fleet insurance for:
……………………………………………………………………………………………………………………………..(The Contractor)

In respect of ………………………………………………………………………………………………………………..(Project title)

Policy wording title is …………………………………………………………………………………………………….

We advise that special terms, copy attached, have been applied to this policy Yes/No

The following provisions apply:

☐ Annual policy

☐ Project specific policy

Policy expiry date ………………………………………………………………………………………………………..

8.5.2

The limits of liability are (GST exclusive):

Section 2 – Liability

For any one occurrence arising out of the same event $…………………

The policy deductibles are:

Section 2 – Liability (GST inclusive) $…………………

Plus under age penalties

8.2

Policy cover terms included are:

Section 2 Liability automatic reinstatement Yes/No

Discretionary cancellation clause Yes/No

Void ab initio for non-payment of premium without prior notification Yes/No

No settlement delay due to exercise of subrogation Yes/No
We undertake that this policy will not be cancelled or amended by us within the period of insurance without written advice to the insured party which has arranged the insurances.

This insurance issued is subject to the terms and conditions of the policy. We do not warrant that this policy complies with the requirements of NZS 3910:2013.

Insurance Company Stamp  ...................................................  Date  ........................................
(Or name of insurance broking company confirming cover)

SIGNED BY ....................................................................................................................................

SIGNATORY TITLE ............................................................................................................................

(Clause numbers refer to NZS 3910:2013 and are for information only.)
Schedule 11 – Information of Contractor arranged Professional Indemnity Insurance

To whom it may concern:

From ……………………………………………………………………………………………. (Name of insurance company)
……………………………………………………………………………………………………. (Branch)
……………………………………………………………………………………………………. (Address)

We confirm having effected professional indemnity insurance for:
………………………………………………………………….……………………...................... (The Contractor)

In respect of ……………………………………………………………………….…........................ (Project title)

Policy wording title is ………………………………………………………………………………………………………………………………………

We advise that special terms, copy attached, have been applied to this policy Yes/No

The following provisions apply:

☐ Annual policy
☐ Project specific policy

Policy expiry date …………………………………………………………………………………………………………..

8.6.1

The limit of indemnity (GST exclusive) $...................... any one occurrence

$...................... in the aggregate during the period of insurance.

Deductible (GST inclusive) $......................

We undertake that this policy will not be cancelled or amended by us within the period of insurance without written advice to the insured party which has arranged the insurances.

This insurance issued is subject to the terms and conditions of the policy. We do not warrant that this policy complies with the requirements of NZS 3910:2013.

Insurance Company Stamp ................................................... Date .................................
(Or name of insurance broking company confirming cover)

SIGNED BY ………………………………………………………………………………………………………..

SIGNATORY TITLE ………………………………………………………………………………………………………..

(Clause numbers refer to NZS 3910:2013 and are for information only.)
Schedule 12 – Information on Principal arranged Construction Insurance

To whom it may concern:

From ………………………………………………………………………………………….. (Name of insurance company)
……………………………………………………………………………………………………… (Branch)
……………………………………………………………………………………………………… (Address)

We confirm having effected insurance for:
………………………………………………………………………………………………….. (The Principal)
………………………………………………………………………………………………….. (Covering property at)
………………………………………………………………………………………………….. (Class of insurance)

In respect of ………………………………………………………………………………… (Project title)

Policy wording title is …………………………………………………………………………………

We advise that special terms, copy attached, have been applied to this policy Yes/No

The following provisions apply:

☐ Material damage/construction project specific policy
☐ Annual run-off policy
☐ Annual cut-off policy

Policy expiry date ……………………………………………………………………………………………

8.1.6

The following forces of nature are insured:

☐ landslip ☐ earthquake ☐ tsunami
☐ tornado ☐ cyclone ☐ storm
☐ flood ☐ lightning strike ☐ volcanic activity
☐ hydrothermal activity ☐ geothermal activity

8.8.4

Construction period from …………………………… to ……………………………

Insurance maintenance period ………………………………………………………………………
8.8.1

This policy has been endorsed to record as an additional insured:

The Contractor ................................................................. Yes/No
Subcontractors ................................................................. Yes/No

The sums insured are (GST exclusive):
8.8.2(a) Existing structure $......................................
8.8.2(b) Other structures in the vicinity $......................................
8.8.2(c) Contents $......................................
8.3.3 Contract Price $......................................
8.3.3(a) Costs of demolition $......................................
8.3.3(b) Professional fees $......................................
8.3.3(c) Value of items to be incorporated $......................................
8.3.3(d) An allowance for an increase in construction costs $......................................
8.3.3(e) An allowance for increased reconstruction costs $......................................

**TOTAL SUM INSURED** $......................................

8.1.4 The policy deductibles are (GST inclusive):
Non-earthquake $......................................
Natural disaster ..................% of .................. minimum of $......................................
Other (name) ................................................................. $......................................

Where more than one policy is involved in insuring all of the above items a separate Schedule 12 shall be completed for each policy.

Policy cover terms included are:

8.2.2 Discretionary cancellation clause Yes/No
8.2.3 Reinstatement provision on building and contents Yes/No
8.2.3 Severally insured Yes/No
No settlement delay due to exercise of subrogation Yes/No
8.2.4 Void *ab initio* for non-payment of premium without prior notification Yes/No
8.8.2 Covers damage arising out of the Contract Works Yes/No

Policy extensions included are:

8.3.1 Transit (in New Zealand) Yes/No $......................................
8.3.1 Materials in storage (in New Zealand) Yes/No $......................................
Testing and commissioning Yes/No $......................................
Expediting expenses Yes/No $......................................
Overseas airfreight Yes/No $......................................
Partial occupation Yes/No $......................................
We undertake that this policy will not be cancelled or amended by us within the period of insurance without written advice to the insured party which has arranged the insurances.

This insurance issued is subject to the terms and conditions of the policy. We do not warrant that this policy complies with the requirements of NZS 3910:2013.

**Insurance Company Stamp** ..................................................  **Date** ........................................

*(Or name of insurance broking company confirming cover)*

**SIGNED BY** ........................................................................................................................................

**SIGNATORY TITLE** ................................................................................................................................

*(Clause numbers refer to NZS 3910:2013 and are for information only.)*

**Special Terms:**

**HOT WORKS WARRANTY**

It is warranted that in respect of the application of heat during works involving a naked flame or open heat source, the following precautions will be complied with on each occasion:

- the area of the work will be cleared of combustible material for a safe distance from or beneath the place where such work is being carried out. A safe distance will be not less than six metres when welding or cutting operations are carried out. Where such precautions are impracticable such material will be covered with fireproof blankets or similar protective equipment. Combustible parts of premises will be similarly protected;

- a fire extinguisher of a type and capacity suitable for the combustible material and the premises will be kept immediately adjacent to the area of work and available for immediate use;

- equipment will be lit or switched on for as short a time as possible before use and extinguished immediately after use;

- lighted or heated equipment will not be left unattended;

- a thorough examination for any signs of combustion will be made within one hour below the area in which work has been undertaken half an hour after the termination of each period of work;

- before applying heat to metal built into or projecting through walls, floors or ceilings an examination will be made to ensure that the other end of the metal is not in hazardous proximity to combustible material.
Schedule 13 – Form of Subcontractor Warranty

Contract for [Contract Name & Contract Number]

THIS AGREEMENT is made on ………………………………………………………………………………… (insert date)

BETWEEN ………………………………………………………………………………………………………………… (‘the Principal’)

AND …………………………………………………………………………………………………………………..……… (‘the Warrantor’)

DEFINITIONS

‘Warranted Works’………………………………………………………………………………………………………………

‘Warranty Period’……………………….. years from the date of Practical Completion of the Contract Works

‘Contractor’……………………………………………………………………………………………………………..

BACKGROUND

A The Principal has entered into a contract (the ‘Contract’) with the Contractor for carrying out the Contract Works. The Warranted Works are part of the Contract Works.

B The Contractor has agreed to arrange for the provision of a warranty in respect of the Warranted Works for the Warranty Period on the terms set out in this warranty.

C The Warrantor has agreed to provide a warranty in respect of the Warranted Works for the Warranty Period on the terms set out in this warranty.

D Words and phrases with capital letters that are not otherwise defined in this warranty shall have the meaning set out in the Contract.

IT IS HEREBY AGREED

1 The Warrantor warrants to the Principal that the Warranted Works are as required in the Contract. If not otherwise specified the works shall be in accordance with good trade practice.

2 This warranty shall be in addition to and shall not derogate from any manufacturer’s warranty or any warranty implied by law or the Defects Notification Period in the Contract, attaching to any part of the Warranted Works.

3 Warrantor’s obligations

3.1 The Warrantor agrees that, if within the Warranty Period the Warrantor is advised by the Principal in writing of any defect in the Warranted Works for which the Warrantor is liable under the terms of this warranty, the Warrantor will promptly take steps to remedy the defect.

3.2 Any remedial work which the Warrantor is liable to undertake under this warranty shall be carried out:

(a) To the standard required by the Contract;

(b) In a prompt and timely manner;

(c) Without unnecessary inconvenience to any occupants;

(d) At the Warrantor’s Cost; and
Subject to reasonable access being provided to the Warrantor for the purpose of carrying out the remedial work.

4  Failure by Warrantor to perform remedial work

4.1 If the Warrantor fails to promptly, adequately and satisfactorily carry out the remedial work or to propose acceptable repair or compensation, the Principal may then arrange for the remedial work to be carried out by others.

4.2 The Principal shall first give the Warrantor 10 Working Days’ notice, or such other reasonable time as agreed by the Principal, to carry out and complete the remedial work. If the Warrantor does not do so within that time, the Principal may then advise the Warrantor in writing that the work will be carried out by other Persons.

4.3 In such an event, the Warrantor is not released from its obligations under this warranty, which continue in full force and effect, except for the defect remedied by the Principal or by another Person contracted by the Principal.

4.4 The reasonable Cost of remedial work carried out by such other Persons including all reasonable Costs of the Principal shall be paid to the Principal by the Warrantor on demand.

5  Exclusions

The Principal agrees that the Warrantor is not liable for any defect or damage caused by:

(a) Wilful act or negligence of the Principal or any Person other than the Warrantor;
(b) Fire, explosion, earthquake, war, subsidence, and land slips;
(c) Any force of nature which the Warrantor could not have reasonably foreseen;
(d) Any neglect or unnecessary delay by the Principal in giving notice to the Warrantor of a defect in the Warranted Works becoming apparent;
(e) Design faults, errors, or discrepancies, unless the Warrantor undertook the design of the part of the Warranted Works that is the subject of the defect;
(f) Use of the Warranted Works by the Principal or any other Person in any manner or for any purpose not being the intended manner of use or purpose of the Warranted Works;
(g) Failure by the Principal or other Person to maintain the Warranted Works in accordance with good practice and any manufacturer’s stated or recommended instructions or requirements; or
(h) Fair wear and tear.

6  Assignment

The Principal may assign the benefit of this warranty to any Person.

7  Disputes

Any dispute between the Principal and the Warrantor arising out of this warranty is to be referred to arbitration before a sole arbitrator. If, within 15 Working Days of notice of dispute, the Principal and the Warrantor cannot agree on a single arbitrator, either party may request the President of the Arbitrators’ and Mediators’ Institute of New Zealand to appoint an arbitrator.

In witness of which this deed has been executed and delivered.
SIGNED on behalf of the Warrantor by:

..................................................................................................................................................
Director

..................................................................................................................................................
Director

SIGNED for and on behalf of the Principal by:

..................................................................................................................................................
Authorised Signatory

..................................................................................................................................................
Authorised Signatory

NOTE – The warranty shall be executed by the Warrantor and the Principal in the manner required for execution of a deed. Any of these parties which are a company shall execute the warranty by having it signed, under the name of the company, by two or more directors. If there is only one director, it is sufficient if the Warranty is signed under the name of the company by that director, but the signature shall be witnessed by another Person. The witness shall not only sign but shall also add his or her occupation and address. Alternatively, companies may execute under power of attorney. Any party which is a body corporate (other than a company) shall execute by affixing its seal, which shall be attested in the manner provided for in the rules of, or applicable to, the body corporate. In the case of a party who is an individual, the party shall sign and the signature shall be witnessed by another Person. The witness shall not only sign but shall also add his or her occupation and address.
Schedule 14 – Agreement for Off-site Materials

Contract for [Contract Name & Contract Number]

THIS AGREEMENT is dated the ……………day of ……………………….. 20………………

BETWEEN ………………………………………………………………………………………………………………….. ('the Principal')
AND ………………………………………………………………………………………………………………………………… (‘the Contractor')
AND ………………………………………………………………………………………………………………………………… (‘the Subcontractor')

INTRODUCTION

A By a contract dated the ……………day of ……………………………..20…………….… and known as …………………………………………………………….......................... ('the Contract') made between the Principal and the Contractor, the Contractor agreed to carry out the work and obligations imposed on the Contractor by the Contract ('the Contract Works').

B The Contractor and the Subcontractor have entered into a subcontract for the performance of part of the Contract Works and/or the supply of Materials described in Schedule A to this agreement ('the Materials') and intended to be used by the Contractor and/or the Subcontractor in the Contract Works.

C The Contractor or the Subcontractor (as nominated in Schedule C) ('the Bailee') proposes to store the Materials at the premises of the Bailee ('the Premises') as identified in Schedule B as bailee for the Principal, for the purpose of storage, fabrication, sub-assembly, or as otherwise required for the Contract Works prior to being delivered to the Site for incorporation into the Contract Works.

D The Contractor has requested the Principal to authorise the Engineer to certify payment for the Materials notwithstanding that the Materials have not been delivered to the Site.

E The Principal has agreed to authorise the Engineer to certify payment for the Materials, notwithstanding that the Materials have not been delivered to the Site, subject to all the provisions of this agreement having been fulfilled.

SCHEDULE A

Description of Materials inclusive of work performed on them:

SCHEDULE B

The location in New Zealand at which the Materials will be stored is:

SCHEDULE C

‘The Bailee’ shall be:

☐ The Contractor

OR

☐ The Subcontractor
IT IS AGREED as follows:

1. THE Materials to which this agreement relates are those described in Schedule A to this agreement, all of which Materials are currently on the Premises identified in Schedule B.

2. THE Premises identified in Schedule B are in the sole control of the party identified in Schedule C and that party shall act as bailee of the Materials until such time as the Materials are delivered to the Site or taken possession of by the Principal.

3. THE undertakings, warranties, covenants, agreements and other obligations of the Contractor or the Subcontractor shall bind and be deemed to have been given or assumed by each of them severally and by both of them jointly.

4. THE Contractor and the Subcontractor agree that they will cause the Materials to be set apart at the Premises and be clearly and visibly marked individually or in sets as being the property of the Principal and their destination as being the Site. The method used to mark the Materials and the procedures by which the mark is applied to the Materials shall be as required by the Contract or as otherwise approved by the Principal.

5. NEITHER the Contractor nor the Subcontractor will permit, allow, or cause the Materials to be taken away from the Premises, except:
   (a) For the purpose of being transported to the Site and used in the Contract Works; or
   (b) That the Principal may at its sole discretion take possession of the Materials for use other than for the Contract Works;

provided that:

   (c) Where the Principal takes possession of any Materials under clause 5(b) above, and the Contractor thereby suffers delay or the Contractor or the Subcontractor incurs additional cost, the taking of possession shall be treated as a Variation under the Contract, unless the taking of possession is pursuant to clauses 14.2.1 or 14.2.2 of the Contract; and
   (d) Where the Principal takes possession of any Materials under clause 5(b) above, and additional work has been carried out on those Materials since being paid for by the Principal, the Principal shall pay the Contractor for that additional work in accordance with the Contract before taking possession of the Materials.

6. THE Engineer, upon being satisfied that the Materials have been set apart and marked as required by this agreement, and upon the Contractor providing satisfactory evidence that the requirements of clauses 12 and 20 below have been fully satisfied, shall include in any Payment Schedule issued by the Engineer under the Contract a sum representing the reasonable value of such Materials calculated in accordance with the Contract.

7. UPON the Principal having made payment for the Materials, less any retentions or deductions prescribed in the Contract, title to such Materials shall immediately vest in the Principal free of all security interests, charges and encumbrances of any nature whatsoever.

8. WHERE the Contractor receives payment for Materials and the Subcontractor is entitled to some or all of the Principal's payment, the Contractor shall promptly pay the Subcontractor for such Materials.

9. UPON the request of the Subcontractor, the Engineer shall advise the Subcontractor whether the Contractor has received any payment from the Principal for such Materials.
10. THE Contractor and the Subcontractor agree that the Materials will be held by the Contractor or the Subcontractor solely as bailee for the Principal and such bailment will constitute a security interest in favour of the Principal for the purpose of the Personal Property Securities Act 1999 (‘the PPSA’).

11. THE Principal shall (at the Contractor’s reasonable cost) register a financing statement on the Personal Property Securities Register (‘the PPSR’) listing the Principal as secured party and the Contractor and the Subcontractor as debtors for any security interest arising from the bailment of the Materials referred to in this agreement.

12. THE Bailee shall promptly do all things including executing any documents and providing all information which the Principal requires to ensure that the Principal receives and maintains at all times a first ranking security interest in the Materials. This shall include procuring from any third party who has registered a financing statement against the Bailee, a waiver, in a form acceptable to the Principal, of any security interest or claim which might otherwise extend to the Materials or their proceeds.

13. THE Bailee shall not discharge or amend any financing statement registered under clause 11 above without the prior written consent of the Principal.

14. NOTHING in sections 114(1)(a), 133, and 134 of the PPSA shall apply to this agreement.

15. ANY rights of the Contractor and the Subcontractor as debtors under sections 116, 120(2), 121, 125, 126, 127, 129, 131, and 148 of the PPSA shall not apply to this agreement.

16. THE Bailee hereby grants to the Principal reasonable, free, and unencumbered right of access to the Premises to:

(a) Inspect the Materials, and verify or undertake the marking and setting apart of the Materials;

(b) Take possession of the Materials for the purpose of delivery to the Site and inclusion in the Contract Works;

(c) Remove the Materials from the Premises for the purpose of delivery to the Site and inclusion in the Contract Works; and

(d) Take possession of the Materials for use other than for the Contract Works,

and in each case in a manner that does not cause damage to any other property at the Premises. The Bailee shall take all steps and do all things as shall be necessary to ensure that the Principal obtains access to the Premises for the purposes of this agreement.

17. THE Bailee shall not, except as permitted in clause 5, remove or cause or permit the Materials to be moved from the Premises. The Bailee shall nevertheless be responsible to the Principal for any loss or damage thereto and for any costs of storage or handling.

18. THE Bailee shall, when required to do so by the Contractor or the Principal, arrange for the transportation of the Materials to the Site. Such transportation shall be at the cost of the Bailee in all things including loading, unloading, and freight.

19. WHERE the Materials are not insured under the construction policy provided in accordance with 8.3.1 or 8.8.1 of the Contract, the Bailee shall, at its expense:

(a) Effect a material damage insurance policy covering all of the Materials subject to this agreement in the name of the Principal to the satisfaction of the Principal, as provided in 8.2.1 of the Contract for the full duration of the off-site storage. Such insurance may include an exclusion for loss or damage sustained during processing; and
(b) Effect a transit insurance policy for transit of all the Materials from the Premises to the Site in the name of the Principal to the satisfaction of the Principal, as provided in 8.2.1 of the Contract for the full duration of the off-site storage.

20. **WITHIN** 15 Working Days of the date of this agreement, the Bailee shall furnish the Principal and the Contractor with evidence of such insurance.

21. **THE** Bailee represents and warrants to the Principal and to the Contractor (where applicable) that:
   
   (a) It has good and clear title to the Materials;

   (b) It has the ability to assign and transfer the Materials to the Principal or the Contractor; and

   (c) The Materials will be transferred to the Principal or the Contractor free of any security interest.

22. **THE** Bailee undertakes that, if it charges or mortgages all or any part of its property (either real or personal), assets, or undertaking, it will obtain written confirmation from the chargee or mortgagee that the charge or the mortgage over such property, assets, or undertaking does not extend to the Materials once they have been paid for by the Principal or the Contractor (as applicable).

23. **NOTHING** in this agreement shall be deemed to limit, waive, or affect the Engineer’s powers under the Contract to order the removal from the Site or the Premises of Materials which are not in accordance with the Contract and the substitution by the Contractor at its own risk and expense of proper Materials. Nothing in this agreement shall be deemed to limit, waive or affect any other powers conferred on the Engineer and/or the Principal under the Contract.

24. **EACH** party shall pay its own costs of and incidental to the negotiation, preparation, execution, and any amendment of this agreement.

25. **WORDS** and phrases in this agreement shall have the same meanings as are ascribed to them under the Contract except where the context or any express provision of this agreement requires otherwise.

**SIGNED BY** ………………………………………..……………………………………..…………(Authorised Signatory)

  of …………………………………………………………………………………………………………..

…………………………………………………………………………………………………………………..(Principal)

**SIGNED BY** ………………………………………..……………………………………..…………(Authorised Signatory)

  of …………………………………………………………………………………………………………..

…………………………………………………………………………………………………………………..(Contractor)

**SIGNED BY** ………………………………………..……………………………………..…………(Authorised Signatory)

  of …………………………………………………………………………………………………………..

…………………………………………………………………………………………………………………..(Subcontractor)
Schedule 15 – Practical Completion Certificate

Contract for [Contract Name & Contract Number]

This Practical Completion Certificate is issued under 10.4.3(a) or 10.4.4.

Contract for ......................................................................................................................
................................................................................................................................. (Contract name and number if applicable)

Principal ............................................................................................................................ (Insert name of Principal)

Contractor .................................................................................................................... (Insert name of Contractor)

This certificate relates to:

☐ (a) The whole of the Contract Works referred to above;

☐ (b) The following Separable Portion ............................................................................. (specify)

Receipt of the Contractor’s notice dated .................................................. and issued in accordance with
10.4.2 is acknowledged.

In accordance with ☐ 10.4.3(a) or ☐ 10.4.4 (select one), the Engineer certifies that the Contract Works or
Separable Portion to which this certificate relates qualify for a Practical Completion Certificate under 10.4,
notwithstanding that there may be minor omissions and/or minor defects (as listed in the attached
schedule) which satisfy the criteria in 10.4.1 (a), (b), and (c).

The Contractor is required to remedy all of the listed omissions or defects within the period stated in the
attached schedule against the relevant omission or defect, or at the latest within……………………..
Working Days of the date of this certificate.

Practical Completion was achieved

on .............................................................. (insert date) at ............................................................. (insert time).

Signed by the Engineer ......................................................................................................

Name ....................................................................................................................................

Date ......................................................................................................................................

SCHEDULE

The following omissions and/or defects have been assessed as being of a minor nature satisfying the
criteria in 10.4.1(a), (b), and (c) and were identified during an inspection carried out by the Engineer or
Engineer’s Representative on .......................................................... (insert date)
(list minor omissions and defects) ...........................................................................................
...........................................................................................................................................
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...........................................................................................................................................
...........................................................................................................................................
Schedule 16 – Final Completion Certificate

Contract for [Contract Name & Contract Number]

This certificate is a Final Completion Certificate issued under 11.3.1.

Contract for ............................................................................................................................................

............................................................................................................................... (Contract name and number if applicable)

Principal ..........................................................................................................................................

(Insert name of Principal)

Contractor ..........................................................................................................................................

(Insert name of Contractor)

This certificate relates to:

☐ (a) The whole of the Contract Works referred to above;

☐ (b) The following Separable Portion ................................................................. (specify)

In accordance with 11.3.1, the Engineer certifies that the Contract Works or Separable Portion to which this certificate relates qualify for a Final Completion Certificate issued under 11.3 on .................................................... (insert date) at ................................................. (insert time).

Signed by the Engineer ...........................................................................................................................

Name ...................................................................................................................................................

Date .....................................................................................................................................................
Schedule 17 – Form of Continuity Guarantee

Contract for:  [Contract Name & Contract Number]

THIS DEED is made on ................................ day of .......................................................... 20............

BY ............................................................................................................................................. ('the Subcontractor')

IN FAVOUR OF ......................................................................................................................... ('the Principal')

IT IS MADE IN THE FOLLOWING CIRCUMSTANCES

A. By an agreement dated the ....... day of ............. 20...... ('the Contract') made between the Principal and ............................................... ('the Contractor'), the Contractor agreed to carry out the obligations imposed upon the Contractor by the Contract.

B. The Contractor has with the consent of the Principal subcontracted part of the work to be carried out under the Contract to the Subcontractor ('the Subcontract Works').

C. The Contractor has agreed to procure a continuity guarantee in respect of the Subcontract Works on the terms set out in this guarantee.

D. The Subcontractor has agreed to provide a continuity guarantee in respect of the Subcontract Works on the terms set out in this guarantee.

BY THIS DEED

1. THE Subcontractor agrees that in the event of the employment of the Contractor being determined under the Contract, the Subcontractor will, if required by the Principal, complete the Subcontract Works under the same conditions and for the same consideration as originally agreed between the Contractor and the Subcontractor. The Principal's obligations for payment under those conditions shall apply from the date of issue of the requirement by the Principal under this clause.

2. THE Subcontractor acknowledges that he has read and fully understands the provisions of the Contract.

3. ANY dispute between the Principal and the Subcontractor arising out of this guarantee, shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996 or any statutory re-enactment or modification of that Act.

4. THE dispute shall be referred to a sole arbitrator agreed by both the Principal and the Subcontractor. If the Principal and Subcontractor cannot agree then a sole arbitrator shall be appointed pursuant to the procedures set out in the Arbitration Act 1996.

In witness of which this deed has been executed and delivered.

SIGNED on behalf of the Subcontractor by:

...................................................................................................................................................................

Director

...................................................................................................................................................................

Director
NOTE – This guarantee shall be executed by the Subcontractor in the manner required for execution of a deed. If the Subcontractor is a company it shall execute the guarantee by having it signed, under the name of the company, by two or more directors. If there is only one director, it is sufficient if the guarantee is signed under the name of the company by that director, but the signature shall be witnessed by another person. The witness shall not only sign but shall also add his or her occupation and address. Alternatively, companies may execute under power of attorney. Any party which is a body corporate (other than a company) shall execute in the same manner as a company by persons in a comparable position to a company director or otherwise in accordance with section 9 of the Property Law Act 2007. If the Subcontractor is an individual, the person shall sign and the signature shall be witnessed by another person. The witness shall not only sign but shall also add his or her occupation and address.
Schedule 18 – Form of Contractor’s Weathertightness Warranty

Contract for: [Contract Name & Contract Number]

THIS DEED is made on ……………………… day of …………………………………………… 20……………

BY ……………………………………………………………………………………………………. ………………

(‘the Contractor’)

IN FAVOUR OF …………………………………………………………………………………………….. ………………

(‘the Principal’)

IT IS MADE IN THE FOLLOWING CIRCUMSTANCES

A By an agreement dated the ……………… day of …………………………….20 …… (‘the Contract’) made

between the Principal and the Contractor, the Contractor agreed to carry out and complete the

Contract Works.

B The Contract requires the Contractor to provide the Principal with a weathertightness warranty on

the terms set out in this warranty.

C Words and phrases with capital initial letters that are not otherwise defined in this warranty shall

have the same meaning as set out in the Contract.

BY THIS DEED

1. THE Contractor warrants that the Contract Works when completed shall be weathertight in

accordance with the Contract and best New Zealand industry standards, and shall remain

weathertight for a period of 10 years from the date of Practical Completion (‘the Warranty Period’).

2. THE Contractor indemnifies the Principal in respect of all costs, losses and liabilities incurred by

the failure of the Contract Works to remain weathertight in accordance with the Contract and best

New Zealand industry standards, or by any failure by the Contractor to meet its obligations under

this warranty.

3. THIS warranty is in addition to and shall not derogate from any manufacturer’s warranty or any

warranty implied by law, attaching to any part of the Contract Works.

4. THE Contractor shall promptly takes steps to remedy or procure the remedy of defects and

damage in the Contract Works arising from any failure of the Contract Works to remain

weathertight in accordance with the Contract and best New Zealand industry standards, and which

are notified in writing by the Principal to the Contractor during the Warranty Period.

5. ANY remedial work which the Contractor is required to undertake under this warranty shall be

carried out:

(a) to the standard required by the Contract;

(b) to the reasonable satisfaction of the Principal;

(c) without unnecessary inconvenience to any occupants;

(d) at the Contractor’s cost; and

(e) subject to reasonable access being provided to the Contractor for the purpose of carrying

out the Remedial Works.

6. THE Contractor shall make good any damage to buildings or structures in the vicinity of the

Contact Works caused by:
(a) a failure of the Contract Works to remain weathertight in accordance with the Contract and best New Zealand industry standards; or

(b) any remedial works carried out by or on behalf of the Contractor under this warranty.

7. THE Contractor shall remedy the defects and damage notified by the Principal under this warranty within 14 Working Days of receipt of the Principal's notice or within such other reasonable time as determined by the Principal (at its discretion) as may be stated in writing in the Principal's notice under this clause.

8. IF the Contractor fails to adequately and satisfactorily carry out any work notified by the Principal under this warranty within the time required under clause 7, the Principal may, after giving 5 Working Days' further written notice to the Contractor, undertake the work itself or direct others to undertake the work. In such event:

(a) the Contractor shall not be relieved of any of its obligations under this warranty; and

(b) the cost of the work undertaken by the Principal or others (including without limitation labour, materials, travel and other charges or expenses related to the work) shall be recoverable by the Principal from the Contractor on demand.

9. THE Principal agrees that the Contractor is not liable for any defect or damage caused by:

(a) wilful act or negligence of the Principal or any Person (other than the Contractor or any third party (including any Subcontractor) for whom the Contractor is responsible);

(b) fire, explosion, earthquake, war, subsidence, and land slips, except where caused by a defect in the Contract Works or otherwise by the actions of the Contractor or any Person for whom, as between the Principal and the Contractor, the Contractor is responsible;

(c) any force of nature which the Contractor could not have reasonably foreseen;

(d) use of the Contract Works by the Principal or any other Person (other than the Contractor or any third party (including any Subcontractor) for whom the Contractor is responsible) in any manner or for any purpose not being the intended manner of use or purpose of the Contract Works; or

(e) failure by the Principal or other Person to maintain the Contract Works in accordance with accepted practice (having regard to the relevant works and usual industry practice), and any manufacturer's stated or recommended instructions or requirements which have been brought to the attention of the Principal by the Contractor.

10. NOTICES given to the Contractor under this warranty are deemed to have been effectively served on the Contractor if given in accordance with the notice requirements in the Contract.

11. THE Principal may assign the benefits and rights under this warranty.

12. THIS warranty is governed by the laws of New Zealand.

In witness of which this deed has been executed and delivered.

SIGNED on behalf of the Contractor by:

...........................................................................................................................................

Director
NOTE – This warranty shall be executed by the Contractor in the manner required for execution of a deed. If the Contractor is a company it shall execute the warranty by having it signed, under the name of the company, by two or more directors. If there is only one director, it is sufficient if the warranty is signed under the name of the company by that director, but the signature shall be witnessed by another person. The witness shall not only sign but shall also add his or her occupation and address. Alternatively, companies may execute under power of attorney. Any party which is a body corporate (other than a company) shall execute in the same manner as a company by persons in a comparable position to a company director or otherwise in accordance with section 9 of the Property Law Act 2007. If the Contractor is an individual, the person shall sign and the signature shall be witnessed by another person. The witness shall not only sign but shall also add his or her occupation and address.