



Minor Works Contract

{ . . . }

{ . . . }

Secretary for Education

as Principal

{ . . . }

as Contractor

FOR REFERENCE ONLY

Contract Agreement

This Contract is between:

- (a) The **Sovereign in right of New Zealand** acting by and through the Secretary for Education (the **Principal**);
- (b) { . . . } { . . . } (the **Contractor**).

Introduction

- A. The Principal has agreed to engage the Contractor to undertake the Works on the terms and conditions in this Contract.
- B. The Contractor has agreed to undertake the Works on the terms and conditions in this Contract.

It is agreed:

- 1. The Contractor shall carry out the obligations imposed on the Contractor by this Contract.
- 2. In consideration of the Contractor carrying out the obligations imposed on the Contractor by this Contract, the Principal shall pay the Contract Price, or such greater or lesser sum as shall become payable under this Contract, together with GST at the times and in the manner provided for in this Contract.
- 3. Each party shall do all things as required of them under this Contract.
- 4. This Contract comprises the following documents in descending order of precedence. Where any conflict or inconsistency exists between any of the documents listed below, the document that appears higher in the order of precedence shall prevail over the provision of any other document appearing lower in the list:
 - (a) this Contract Agreement;
 - (b) Schedule 1 – Reference Schedule;
 - (c) Schedule 2 – Contract Terms and Conditions;
 - (d) Appendix 1 – Specifications;
 - (e) Appendix 2 – Drawings;
 - (f) Appendix 3 – Principal Arranged Insurance;
 - (g) Appendix 4 – Form of Contractor’s Weathertightness Warranty; and
 - (h) Appendix 5 – Other Documents.

FOR RELEASE ONLY

SIGNED for and on behalf of
the **Sovereign in right of New Zealand**
acting by and through the Secretary for
Education by his or her duly authorised
representative:

[
{..}
{..}]

Signature of authorised signatory

[{..}]

Name of authorised signatory

[{..}]

Date of signing

SIGNED for and on behalf of
{..}
by its duly authorised representative:

[{..}
{..}]

Signature of authorised signatory

[{..}]

Name of authorised signatory

[{..}]

Date of signing

FOR REFERENCE ONLY

Schedule 1 – Reference Schedule

Works:	<p>The Works comprise the following: { . . }</p> <p>[Further details of the Works are set out in { . . }.]</p> <p>The Works also include:</p> <p>(a) [Obtaining all building consents required for the Works]</p> <p>(b) Obtaining and providing to the Principal:</p> <ul style="list-style-type: none"> • all product/material warranties and guarantees (if any) • all subcontractor warranties and guarantees (if any), and • all operation and maintenance manuals (if any). 				
Site:	{ . . }				
Commencement Date:	{ . . }				
Completion Date:	{ . . } (subject to any variation in accordance with the terms of this Contract)				
Contract Price:	<p>[[{ . . } plus GST (if any)]</p> <p>The Contract Price includes a total of { . . } in provisional sums, made up as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Provisional Sum</th> <th style="text-align: left;">Provisional Amount</th> </tr> </thead> <tbody> <tr> <td>{ . . } { . . }</td> <td>{ . . }</td> </tr> </tbody> </table> <p>]</p> <p>[[{ . . } plus GST (if any)]</p>	Provisional Sum	Provisional Amount	{ . . } { . . }	{ . . }
Provisional Sum	Provisional Amount				
{ . . } { . . }	{ . . }				
Contractor's liability limit:	<p>Subject to clauses 7.3 and 7.4 in Schedule 2 – Contract Terms and Conditions, the maximum aggregate liability of the Contractor to the Principal under or in connection with the Contract is:</p> <ul style="list-style-type: none"> • 100% of the Contract Price 				
Is a Weathertightness Warranty required?	{ . . }				
Contact details: Principal	<p>(a) <i>Physical address and address for service:</i> { . . }</p> <p>(b) <i>Postal address:</i> { . . }</p> <p>(c) <i>Authorised representative</i></p> <p>{ . . }</p> <p>{ . . }</p>				
Contact details: Contractor	<p>(a) <i>Physical address and address for service:</i> { . . }</p> <p>(b) <i>Postal address:</i> { . . }</p>				

	(c) <i>Authorised representative</i> { . . } { . . } { . . }
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FOR REFERENCE ONLY

Schedule 2 – Contract Terms and Conditions

1. FORMATION OF THE CONTRACT

- 1.1 This contract for the provision of Works as described in the contract (**Contract**) will arise on the Contractor signing the Contract and will embody the terms of the Contract and the following terms and conditions (including any Appendices).
- 1.2 The Principal may cancel a Contract by notice to the Contractor if the Contractor has not signed the Contract and delivered it to the Principal within ten (10) working days of the date of issue of the Contract.
- 1.3 No payment otherwise due under the Contract shall become payable until the Contractor has signed the Contract and delivered it to the Principal.

2. GENERAL RESPONSIBILITIES

- 2.1 The Contractor shall:
- complete, handover to the Principal, and remedy defects in the Works and provide all services, labour, materials, plant and everything, whether of a temporary or permanent nature required by the Contract;
 - comply with all proper instructions issued by the Principal in relation to the Contract or the Works;
 - comply with all applicable statutes, secondary legislation, instruments, and bylaws of government, local and other public authorities that may be applicable to the Works; and
 - if stipulated in Schedule 1 – Reference Schedule, on behalf of the Principal obtain all necessary consents producer statements and compliance certificates required by relevant authorities and pay all required consent fees.
- 2.2 The Contractor shall commence Works on the Commencement Date or as soon as reasonably practicable thereafter, and shall then proceed with the execution of the Works with due diligence.
- 2.3 The Contractor shall achieve Completion of the Works, by the Completion Date.
- 2.4 The Contractor shall ensure that the Works (insofar as they include any design responsibility on the part of the Contractor) comply with the Ministry's property design standards and legal requirements (as amended from time to time) applicable to the Works as more particularly detailed on the Ministry's website (refer to: <https://www.education.govt.nz/education-professionals/schools-year-0-13/facilities-and-operations/designing-schools-aotearoa-new-zealand-standards>).
- 2.5 Where Schedule 1 – Reference Schedule states that the Contractor must provide a Weathertightness Warranty, the Contractor shall ensure that the Works comply with the weathertightness requirements set out in the document titled "Weathertightness Design Requirements for New School Buildings" (Version 3.0, September 2020) as amended from time to time (refer to https://web-assets.education.govt.nz/s3fs-public/2024-11/Weathertightness-Design-Requirements-25-September-2020_1.pdf) and shall provide to the Principal prior to

Completion a Weathertightness Warranty in the form at Appendix 4.

- 2.6 Completion is when the Principal certifies that the Works are complete, including the Contractor having provided all warranties, documents and information stated in the Contract as being required for Completion (**Completion**).
- 2.7 The Completion Date is subject to adjustment for any extensions of time which may be granted by the Principal.
- 2.8 The Contractor shall promptly remedy all defects in the Works identified by the Principal at Completion.
- 2.9 The Contractor is not entitled to exclusive possession of the site and must co-operate with any other persons who come on to the site, including but not limited to representatives of the Principal and other third parties.

3. INFORMATION

- 3.1 The Principal shall use reasonable endeavours to provide to the Contractor upon request, all relevant information in its possession which relates to the Works. The Contractor shall not, without the Principal's prior written consent, use information provided by the Principal for purposes unrelated to the Works.
- 3.2 The Principal makes no warranty as to the sufficiency or accuracy of such information. The Contractor shall be responsible for the interpretation of all such information for the purposes of the Works.

4. VARIATIONS

- 4.1 The Contractor shall carry out any variations to the Works (provided that such variations are within the scope of the Contract) instructed in writing by the Principal. The Contractor must not vary the Works without an instruction in writing from the Principal.
- 4.2 The value of the variation must be agreed, or failing agreement, determined by the Principal based on what is fair and reasonable in the circumstances. Unless directed otherwise, the value of the variation shall be agreed or determined prior to the Contractor commencing the varied work. The value of variations will be added to or deducted from the Contract Price.
- 4.3 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 Principal in writing. Details of the proposed substitution must be provided to the Principal 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 Principal may:
- decline to consider the alternative product or material any further; or
 - accept the alternative product or material; or
 - request that the Contractor provide further information in relation to the alternative product or material.

The further information which might be requested by the Principal may, without limitation, include a certificate or warranty from a body or person nominated or described by the Principal to the effect that the technical aspects of the performance benefits of the alternative material or product which will be delivered to the Principal are no less appropriate or beneficial than those derived through the drawings and specifications. If the Principal makes a request pursuant to paragraph (c) and the Contractor does not provide the further information the Principal may decline to consider the alternative product or material any further.

5. TERMS OF PAYMENT

- 5.1 The Contract Price is the sum stated in the Contract, subject to such adjustments as provided for in the Contract.
- 5.2 The Contractor must provide the Principal with a payment claim within five (5) working days of Completion, for the full amount of the Contract Price.
- 5.3 The Contractor's payment claims must not be in the form of a GST invoice. The payment claims must be addressed to the Principal and must identify the Works carried out, detail the amounts claimed for payment and show any amendments to the original Contract Price.
- 5.4 The Principal shall issue to the Contractor a payment schedule within 15 working days of receipt of the payment claim. The payment schedule shall indicate the amount of the payment claim which the Principal proposes to pay to the Contractor (**Scheduled Amount**).
- 5.5 Where the Scheduled Amount is less than the amount claimed in the payment claim, the payment schedule must indicate:
 - (a) the manner which the Principal has calculated the Scheduled Amount;
 - (b) the Principal's reasons for the difference between the Scheduled Amount and the amount of the payment claim; and
 - (c) where the difference is because the Principal is withholding payment on any basis, the Principal's reasons for withholding payment.
- 5.6 On receipt of a payment schedule, the Contractor may then issue to the Principal a GST invoice for the Scheduled Amount. The Principal shall pay the invoice by the 20th day of the month following the month of issue to the Principal of the invoice for the Scheduled Amount.

6. INSURANCE

- 6.1 The Contractor shall arrange and maintain:
 - (a) public liability insurance of not less than \$1,000,000; and
 - (b) motor vehicle third party liability insurance of not less than \$1,000,000,
 until final completion of the Works 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 Works.
- 6.2 The Principal shall arrange and maintain contract works insurance in the joint names of the Contractor, subcontractors and the Principal, until Completion of the

Works, to cover loss or damage in accordance with its insurance policies. The insurance shall also cover loss or damage resulting from an act or omission of the Contractor in the course of remedying defects. Details concerning these insurance policies are set out in Appendix 3.

- 6.3 Where the Works are in the nature of additions, alterations, repairs, or maintenance to an existing structure, or where the Works are in the vicinity of another structure in the care of the Principal, the Principal will effect insurance in respect of:
 - (a) the existing structure;
 - (b) other structures in the vicinity; and
 - (c) any contents which are owned by the Principal and contained within the existing or other structures,
 in each case as identified in Appendix 3.
 - 6.4 Notwithstanding any other clause in this Contract, the Contractor acknowledges and agrees that:
 - (a) the Principal 'self insures', on a portfolio basis, a certain amount of loss, damage or liability (in relation to existing structures and other structures in the vicinity of the Works as set out in Appendix 3) (**Self Insurance Amount**);
 - (b) the Principal will have in place insurance policies required under this Contract for loss, damage or liability above the Self Insurance Amount;
 - (c) the Principal is not in breach of its insurance obligations under this Contract notwithstanding the absence of insurance up to the Self Insurance Amount;
 - (d) the Self Insurance Amount is an aggregate amount that applies across the entire property portfolio of the Principal. As such, the actual amount will vary from time to time, depending on whether the Principal has expended part, or all, of it for loss, damage or liability in respect of other properties owned by the Principal;
 - (e) every reference to a policy of insurance effected by the Principal under clause 6.3 in this Contract is deemed to be read as acknowledging the self insurance described in this clause 6 up to the Self Insurance Amount; and
 - (f) the Nominal Deductibles are payable by the Contractor in accordance with clause 6.5 notwithstanding that the relevant loss, damage or liability is within the Self Insurance Amount (i.e. the Contractor must pay the relevant Nominal Deductible even if the Self Insurance Amount is applicable to all or part of the relevant loss, damage or liability, as if that Nominal Deductible was an excess amount or insurance policy deductible).
 - 6.5 The Contractor must pay the full amount of any of the Principal's insurance policy deductibles or excesses where the loss, damage or liability arises out of an act or omission of the Contractor in which event the Contractor must pay the amount stated in Appendix 3 as the nominal deductible (**Nominal Deductible**) as applicable. The Nominal Deductible will be in each case an amount which is equal to or less than the actual insurance policy deductible or excess.
- 7. INDEMNITY**
- 7.1 The Contractor shall indemnify the Principal against any liability, loss, damage, claims, costs and expenses incurred in connection with any faulty workmanship, defects or non-compliance of the Works, any other breach by the Contractor of any term of the Contract or the negligent or

- wrongful act or default of the Contractor or any of its employees, subcontractors or agents in performing obligations under the Contract.
- 7.2 Subject to clauses 7.3 and 7.4 and the extent permitted by law, the maximum aggregate liability of the Contractor to the Principal and the School Board of Trustees under or in connection with the Contract whether in contract, tort (including negligence) or otherwise is limited to the amount recorded in Schedule 1 – Reference Schedule.
- 7.3 Clause 7.2 does not limit the Contractor’s liability:
- (a) in respect of any loss suffered by the Principal as a result of the Contractor breaching any intellectual property rights of a third party;
 - (b) to indemnify the Principal under clause 7.1 in respect of any liability incurred by the Principal to a third party;
 - (c) in the case of fraudulent conduct, illegal act or omission, wilful or reckless misconduct or wilful default by the Contractor in the performance of its obligations under the Contract;
 - (d) if the Contractor has abandoned the Contract; or
 - (e) in respect of any penalties applicable under any statute, secondary legislation, instrument, bylaw, or licence.
- 7.4 Notwithstanding clause 7.2, where the level of any insurance policy that the Contractor is required to effect and maintain under the Contract is greater than the maximum aggregate liability of the Contractor recorded in clause 7.2 and such policy responds to a loss (or would have responded but for any failure to claim and/or breach of the relevant insurance policy by the Contractor, or due to the failure by the Contractor to maintain an insurance policy), the Contractor’s liability in respect of such loss shall be the level of cover under the applicable insurance policy.
- 7.5 This clause 7 will survive expiry or termination of the Contract for any reason.
- 8. CONFIDENTIALITY**
- 8.1 The Contractor must use its best endeavours to keep confidential all matters relating to the Contract. The Contractor must not disclose any information related to the Contract except to the extent that the disclosure of that information is necessary for the Contractor to carry out its obligations under this Contract, to enforce any of its rights under it or where disclosure is required by law.
- 8.2 This clause 8 survives termination or expiry of the Contract.
- 9. HEALTH AND SAFETY**
- 9.1 The Contractor warrants that it and any of its employees, agents and subcontractors have complied and will comply with the Health and Safety at Work Act 2015 and all other regulatory provisions for health and safety in connection with the Works (including the Principal’s Health and Safety 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/health-and-safety-management/ and the Principal’s Asbestos Handling Requirements as revised from time to time and available on the Ministry of Education’s website under the following link: <https://www.education.govt.nz/education-professionals/schools-year-0-13/health-and-safety/managing-asbestos-schools>.
- 9.2 The Contractor warrants that it and any of its employees, agents and subcontractors have complied and will comply with all the Principal’s protocols, rules and regulations for health and safety in connection with the Works.
- 9.3 Prior to commencing the Works, the Contractor shall prepare and submit to the Principal a site specific risk assessment and a site specific health and safety plan appropriate to the scope of the Works, and shall comply with any such plan in the performance of the Works. Acceptance by the Principal of the site specific risk assessment and a site specific health and safety plan shall not relieve the Contractor of any obligation or liability under the Contract or at law.
- 10. TERMINATION**
- 10.1 Either party may terminate the Works by immediate notice if the other party materially breaches the Contract, including but not limited to the Contractor failing to perform the Works by the Completion Date or to the standard required by this Contract.
- 10.2 Termination shall not prejudice or affect the accrued rights or claims and liabilities of the parties.
- 11. DISPUTE RESOLUTION**
- The parties shall attempt to settle any dispute which arises between them by way of good faith discussions. If an agreement cannot be reached within 20 working days of any dispute being notified by one party to the other party, then the parties may by agreement refer the dispute to mediation, failing which either party may refer the matter to other forms of dispute resolution.
- 12. PRIVACY OF CONTRACT**
- 12.1 The obligations of the Contractor and any of its subcontractors under the contract shall for the purposes of the Contract and Commercial Law Act 2017 be deemed to be for the benefit of, and enforceable by, the School Board of Trustees (including, its successors and assigns) and shall be enforceable by the School Board of Trustees 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 School Board of Trustees than the Contractor owes or owed to the Principal.
- 13. ACKNOWLEDGMENT**
- 13.1 The Contractor acknowledges and agrees that it:
- (a) is qualified to carry out the Works;
 - (b) has no, and is not aware of any conflict of interest, that it has not disclosed in writing to the Principal prior to signing this 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;
 - (c) 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; and
 - (d) has complied, and will comply, with all Ministry of Education police vetting requirements before it or any of its employees, subcontractors or consultants

access the school to carry out the Works. Details may be found on the following web site: <https://www.education.govt.nz/education-professionals/schools-year-0-13/health-and-safety/police-vets-schools-and-kura>.

14. GENERAL

- 14.1 The Contract is governed by New Zealand law, and the New Zealand courts have non-exclusive jurisdiction in respect of this Contract.
- 14.2 This Contract evidences the entire agreement between the Contractor and Principal in connection with the Works and supersedes and extinguishes all prior agreements (including any quotes provided by the Contractor) between the Contractor and Principal relating to such matters.
- 14.3 The Contractor shall not assign the Contract without the Principal's prior written approval. A change in the management or control of the Contractor or the sale of the major part of the Contractor's business or assets will be deemed to be an assignment for the purposes of this clause.
- 14.4 The Contractor shall not subcontract any part of this Contract or the Works without the Principal's prior written

consent. Where the Principal consents to the Contractor subcontracting any of its obligations under this Contract to a third party, the Contractor will remain fully responsible for all obligations to the Principal under the Contract.

- 14.5 The Principal may set-off any amounts owing to the Contractor under this Contract against any amounts owing to the Principal by the Contractor under this Contract.
- 14.6 Any notice to be given under the Contract must be in writing and must be delivered or sent by post or e-mail to that party's address for notices set out in the Contract. In the case of notice by email, confirmation of receipt from the recipient is required to confirm the delivery of the notice.
- 14.7 This Contract may be executed in counterparts and by electronic signature, and provided that each party has executed a counterpart, the counterparts together shall constitute a binding and enforceable agreement between the parties. A party shall be entitled to transmit an electronic copy of this Contract by email (or other electronic means) to the other party.

FOR REFERENCE ONLY

Appendix 1 – Specifications

[Not used]

[Refer **attached**:

- [{}-{}]

FOR REFERENCE ONLY

Appendix 2 – Drawings

[Not used]

[Refer **attached**:

- [{} - {}]

FOR REFERENCE ONLY

Appendix 3 – Principal Arranged Insurance

Principal arranged contract works insurance:

In accordance with clause 6.2, the insurance policies are:

- for clause: 6.2 – Construction Material Damage
- for clause: 6.3(a) and (b) – Material Damage Insurance Policy
- for clause: 6.3(c) – N/A

Details of Principal arranged construction insurance:

Lead insurer is: Vero Insurance New Zealand Limited of Private Bag 92 – 237, Auckland.

The Nominal Deductibles are (subject to clause 6.5 Schedule 2):

For damage arising out of the works: **\$5,000** or **\$25,000** for loss arising from testing and commissioning

For other claims **\$5,000**

The existing structures to be insured by the Principal are:

[None]

- [{{. . .}}]

[{{. . .}}

]

Lead insurer is: Vero Insurance New Zealand Limited

The Nominal Deductibles are (subject to clause 6.5 Schedule 2):

\$25,000 for damage arising out of the Works and for other claims.

Other structures in the vicinity are:

[None]

- [{{. . .}}]

[{{. . .}}

]

Lead insurer is: Vero Insurance New Zealand Limited

The Nominal Deductibles are (subject to clause 6.5 Schedule 2):

\$25,000 for damage arising out of the Works and for other claims.

Contents insurance: N/A

FOR REFERENCE ONLY

Appendix 4 – Form of Contractor’s Weathertightness Warranty

Contract: Minor Works Contract - { . . }

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

BY { . . } (the **Contractor**)

IN FAVOUR OF The Sovereign in Right of New Zealand acting by and through the Secretary for Education (the **Principal**)

IT IS MADE IN THE FOLLOWING CIRCUMSTANCES

- A** By an agreement dated the day of20 (the **Contract**) made between the Principal and the Contractor, the Contractor agreed to carry out and complete the 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 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 Completion (the **Warranty Period**).
- 2.** **THE** Contractor indemnifies the Principal in respect of all costs, losses and liabilities incurred by the failure of the 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 Works.
- 4.** **THE** Contractor must promptly takes steps to remedy or procure the remedy of defects and damage in the Works arising from any failure of the 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 must make good any damage to buildings or structures in the vicinity of the Works caused by:
 - (a) a failure of the 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 ten (10) 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 five (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** Contractor shall not be 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 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) any neglect or unnecessary delay by the Principal in giving notice to the Contractor of any defect or damage in the Works becoming apparent;
- (e) use of the 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 Works;
- (f) failure by the Principal or other person to maintain the 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; or
- (g) fair wear and tear.
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.
13. **THE** Contractor's maximum aggregate liability for all claims under or in connection with this warranty and the Contract (whether in contract, tort (including negligence) or otherwise) shall be limited to the amount stated in clause 7.2 of the Contract, subject to the exclusions set out in clause 7.3 of the Contract.

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

SIGNED on behalf of the Contractor by:

Signature of director / authorised signatory

Signature of director / authorised signatory

Name of director / authorised signatory

Name of director / authorised signatory

Witnessed by:

Witnessed by:

Signature of witness

Signature of witness

Name of witness

Name of witness

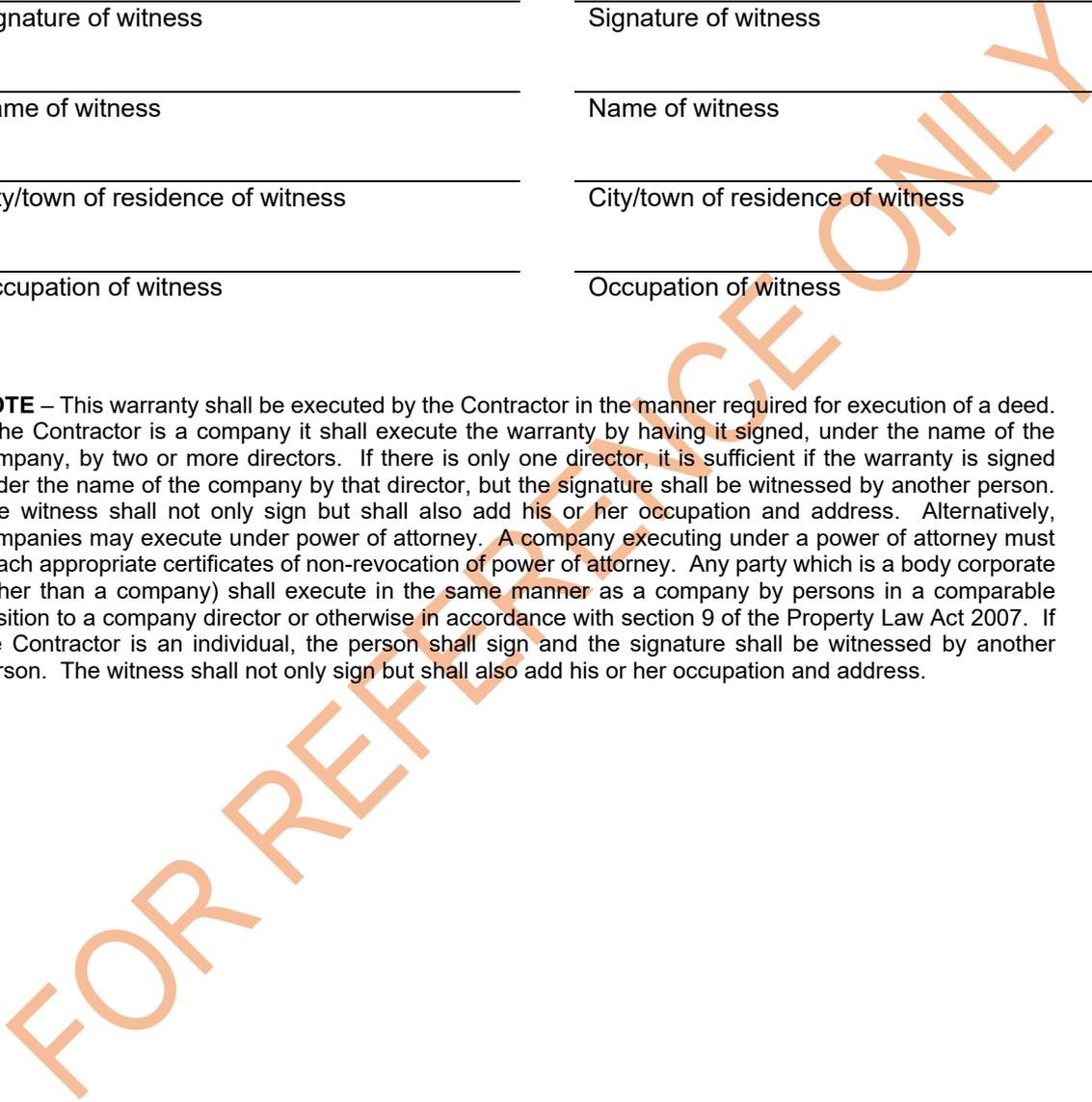
City/town of residence of witness

City/town of residence of witness

Occupation of witness

Occupation of witness

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. A company executing under a power of attorney must attach appropriate certificates of non-revocation of 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.



Appendix 5 – Other Documents

[Refer to the documents listed below, as **attached**.

These documents are listed in descending order of precedence. Where any conflict or inconsistency exists between any of the documents listed below, the document that appears higher in the order of precedence shall prevail over the provision of any other document appearing lower in the list.

- [[{ . . . } - { . . . }]]
- [The Request for Quote (RFQ) for { . . . }, at { . . . }, issued by the Ministry on or about { . . . }]
- [The Quote for { . . . }, at { . . . }, issued by the Contractor on or about { . . . }]

]

[Not used]

FOR REFERENCE ONLY