



Volume 1
**CONDITIONS OF
CONTRACT**

<<Insert Network Name>> Network Outcomes Contract
Contract No: <<insert Contract Number>>

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DRAFT

DOCUMENT CHANGE FORMAT CODES

Black

Black text is mandatory and may not be changed without approval from the Network Outcomes Contract Model Control **Governance Management** Group.

Black

Struck out black text is used for removing mandatory content that has been prior approved by the Network Outcomes Contract Model Control **Governance Management** Group to be removed. Struck out text provides transparency of changes to an otherwise nationally consistent document. All struck out text must be confirmed within Section 7.1 of the Specifications.

Red

Red text is used for data which requires fields to be updated or at least considered for each contract. Text can also be used as is, modified or replaced. All red text adjustments must have the **Manager System Management's State Highway Manager's** approval.

Blue

Blue text is used for optional clauses which can be included as is or deleted in full.

<<Guidance Notes>>

Blue text with yellow highlighting and marked at the beginning with << and the end with >> are guidance notes for the Tender Document creator. Guidance notes must be removed prior to tender document release.

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12.1.3(c) Indicate the due date for payment which shall be the 20th of the Month following the Month of issue to the Principal of the Progress Payment Schedule

under 12.2.	31
12.2.8 The schedule amount under 12.2.2(d) or 12.2.5(d) as the case may be, together with the amount of goods and services tax payable shall be paid by the Principal to the Contractor on the 20th of the Month following the Month of issue to the Principal of the Progress Payment Schedule under 12.2.	31
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Contract Agreement

CONTRACT FOR _____

CONTRACT NUMBER _____

THIS AGREEMENT is made on _____

20 _____

BETWEEN _____

(‘the Contractor’)

AND

The NZ Transport Agency a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 (‘the Principal’)

<<Insert Local Authority Name if Joint Principals>>

IT IS AGREED as follows:

1. The Contractor shall carry out the obligations imposed on the Contractor by the Contract.
2. The Principal shall pay the Contractor the sum of \$ _____ or such greater or less 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.
3. Each party agrees to the terms and conditions as set out in the Contract.
4. The Contract comprises the following documents:
 - (a) This Contract Agreement;
 - (b) The notification of acceptance of tender or award of Contract;
 - (c) The following post-tender documents <<Guidance note: identify any agreed post-tender documents to be included, for example correspondence or minutes of pre-let meetings dealing with tender tags etc>>

 - (d) Schedule 2: Special Conditions of Contract – Other Conditions of Contract;
 - (e) Schedule 1: Special Conditions of Contract – Specific Conditions of Contract;
 - (f) The General Conditions of Contract NZS3917: 2013 (including other Schedules);
 - (g) Specifications issued prior to the Date of Acceptance of Tender;
 - (h) Appendices
 - (i) Drawings issued prior to the Date of Acceptance of Tender;
 - (j) The Schedule of Prices & Basis of Payment
 - (k) The Contractor’s tender;
 - (l) Notices to Tenderers <<guidance note: give details with dates>>:

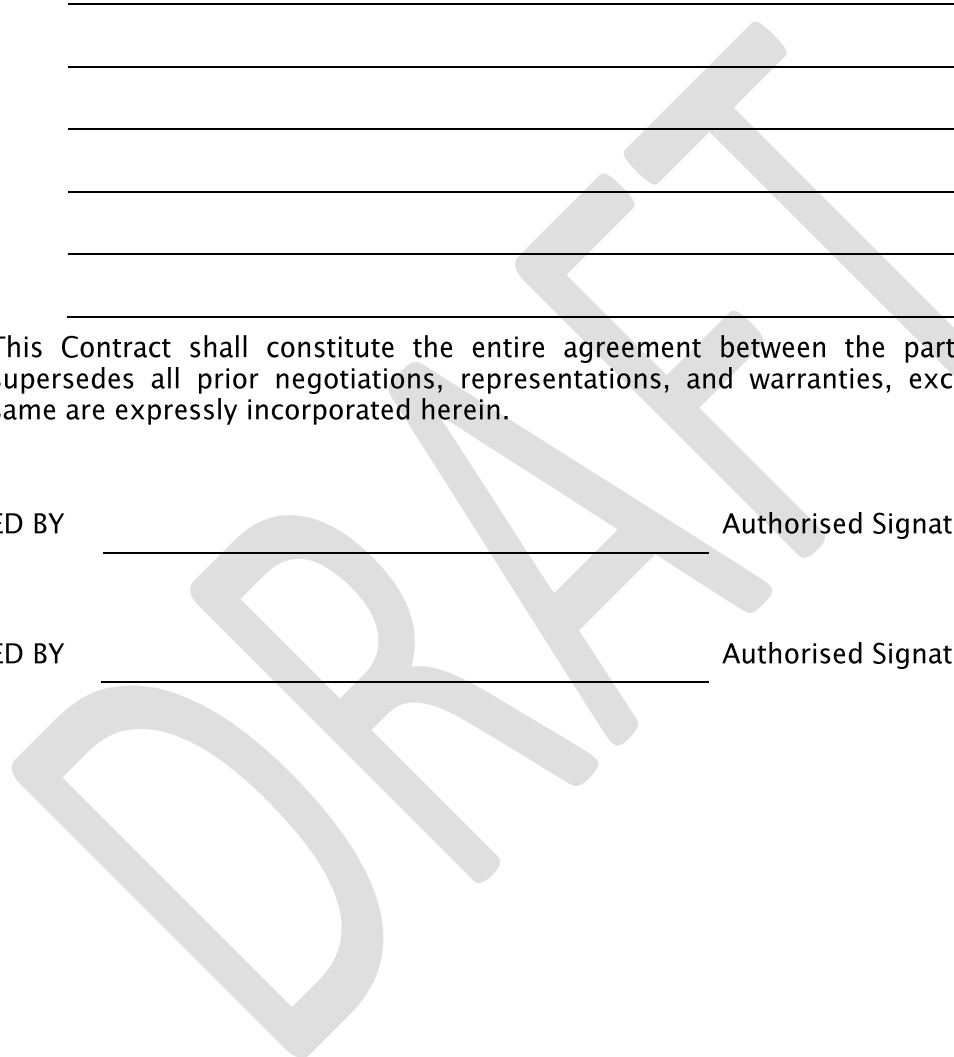
(Select if *NOT* applicable)

- (m) The Schedule to the Conditions of Tendering;
- (n) The Conditions of Tendering; and
- (o) The following additional documents: <<Identify any additional documents to be included for example agreed correspondence>>

5. 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.

SIGNED BY _____ Authorised Signatory of Contractor

SIGNED BY _____ Authorised Signatory of Principal



General Conditions

The General Conditions of Contract shall be those included in NZS 3917: 2013 **Conditions of contract for building and civil engineering – Fixed term** and the following clauses.

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Schedules to the General Conditions of Contract

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

(Clause numbers refer to General Conditions)

<<Guidance note: remove all “guidance notes” for final publication.>>

Contract for:	[Contract Number, Contract Name]	
Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
1	INTERPRETATION	
1.2	Definitions	
	The Principal is:	The Principal is: the NZ Transport Agency (Transport Agency) , a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003
	of:	Click to enter street address
	and:	<<insert Local Authority Name if Joint Principal, otherwise delete row.>>
	(a) Principal’s Joint Venture Agreement	<<include joint Principal’s agreement.>>
1.2, 10.2	Separable Portions	
	<ul style="list-style-type: none"> Are there any Separable Portions in this Contract? 	No
2	THE CONTRACT	
2.1	Type of Contract	
2.1.1	This Contract is a:	
	(a) Lump sum contract governed by 2.2 in respect of any Capital Works Services	<input checked="" type="checkbox"/>
	(b) Measure and value contract governed by 2.3 in respect of all Contract Works that are not Capital Works Services	<input checked="" type="checkbox"/>
2.4	Cost reimbursement contract	Clause 2.4 shall not apply to this contract
2.5	Local authority contracts	
2.5.1	Is this Contract a local authority contract to which 2.5.2 applies	<p>State yes or no</p> <p><<select yes if contract includes local authority roads>></p>

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
2.6	Evidence of Contract	
2.6.2	How is the Contract Agreement executed?	
	(a) As stated in 2.6.2	<input checked="" type="checkbox"/>
2.7	Documents prepared by the Engineer or Principal	
2.7.1	Copies of the Contract shall be supplied without charge to the Contractor in the following electronic format:	A single pdf copy shall be supplied.
3.	BONDS	
3.1	Contractor's Bond	
3.1.1	Is a Contractor's Bond required? Note - Bonds are accepted in principle from those insurance companies and banks approved by Transport Agency. The current approved list is scheduled in Transport Agency's "Contract Procedures Manual" (SM021).	No
3.1.2	If yes, the amount of the Contractor's Bond shall be:	Nil
3.2	Principal's Bond	
3.2.1	Is a Principal's Bond required?	No
5.	GENERAL OBLIGATIONS	
5.4	Occupancy of the Site	
5.4.4	Limits on the Contractor's right of entry to adjoining properties are:	Nil or List Details <<Nil is default. If deemed to apply, Regions are to provide details of specific right of entry requirements as required >>
5.5	Separate Contractors	
5.5.1	Separate Contractors who may be carrying out work on the Site concurrently with the Contract Works are:	<input type="checkbox"/> Traffic Counting <input type="checkbox"/> Bridge Consultancy <input type="checkbox"/> Structure Bridge Renewals <input type="checkbox"/> Tunnels <input type="checkbox"/> Traffic Signals <input type="checkbox"/> Street Lighting <input type="checkbox"/> Street Cleaning <input type="checkbox"/> High Speed Data <input type="checkbox"/> RAMM Condition Rating <input type="checkbox"/> National ITS Contracts <<check boxes and / or add where applicable>>
5.5.2	Are facilities for Separate Contractors required?	Select yes or no
	If yes, details of facilities required are:	Enter text as required

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
5.6	Care of works and Site	
5.6.6(f)	Further risks specifically excepted are:	Provided in Schedule 18
5.11	Compliance with laws	
5.11.3	Exceptions to the Principal's obligations to obtain licences under 5.11.3 are:	<< Principal to consider and list those licences that the Contractor is best placed to obtain e.g. re corridor access requests, any council consents/certificates etc.>>
5.11.4	Exceptions to the Contractor's obligations to give notices and obtain other licences under 5.11.4 are:	Nil <<Default is "Nil" unless Principal feels that the Principal is best to obtain certain licences.>>
5.11.8	Prior to the issue of the Certificate of Expiry:	<i>(select one to apply, (a), (b) or (c))</i>
	(a) Producer Statements in the form of Schedule 6 are required;	<input type="checkbox"/>
	(b) Producer Statements as set out in the following parts of the Contract are required;	<input type="checkbox"/> <i>(Specifications Section, 6.12 Pavement Rehabilitation & Section 6.13, Sealed Road Resurfacing.</i>
	(c) Producer Statements are not required	<input checked="" type="checkbox"/>
5.17	Safety plan	
	Is a Site-specific safety plan required to be prepared by the Contractor?	Yes And shall be submitted as stated under Specification Section 4.1 (Health and Safety Management Plan) And shall be submitted [20] working days following acceptance of tender, unless otherwise stated under Maintenance Section 4.1.
5.18	Quality plan	
	Is a quality plan required to be prepared by the Contractor?	Yes And shall be submitted [20] working days following acceptance of tender, unless otherwise as stated under Specification Section 4.2. (Quality Management Plan)
5.19	Traffic management plan	
	Is a traffic management plan required to be prepared by the Contractor?	Yes And shall be submitted as stated under Specification Section 4.3 (Traffic Control Plan). And shall be submitted [20] working days following acceptance of tender, unless otherwise stated under Maintenance Section 4.3
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?	No

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
5.20.1(b)	Are operation and maintenance manuals required to be prepared by the Contractor?	No
5.20.1(c)	Are maintenance records required to be prepared or updated by the Contractor?	Yes
5.22	Key Personnel	
	Key personnel to which 5.22.1 applies are:	Select (a) or (b)
	(a) As stated in the Contractor's Tender.	<input type="checkbox"/>
	(b) The following:	<input type="checkbox"/> [Enter list as required]
6.	THE ENGINEER	
6.1	Appointment of the Engineer	
6.1.2	The Engineer is:	<i>to be confirmed refer Schedule 2 – Special Conditions of Contract – Other Conditions of Contract section 6.</i>
	Whose professional qualification is:	<i>CPEng and NZ Transport Agency accredited to Engineer to Contract Level 3.</i>
6.4.6	The Principal will recover the cost for reinspection, remeasuring or retesting at the following rates:	
	• Engineer or other professional	[\$220.00] per hour (exclusive of GST)
	• Engineer's Representative	[\$150.00] per hour (exclusive of GST)
	• Contract Manager Other personnel	[\$150.00] per hour (exclusive of GST)
	• Vehicle running	[\$1.00] per km (exclusive of GST)
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 <<Guidance note: Principal (PAI) set as default. Exemption requires sub VAC approval>>
	8.9 Existing property	Select Principal if insurance is required <<Guidance note: Principal (PAI) set as default. Exemption requires sub VAC approval>>
	8.4 Plant	Contractor <<Guidance note: Default is "Contractor">>
	8.5 or 8.10 Public liability	Select Contractor or Principal <<Guidance note: Principal (PAI) set as default. Exemption requires sub VAC approval>>
	8.5.2 Motor Vehicle	Contractor

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	8.6 Professional Indemnity	Contractor <<Guidance note: Default is "Contractor" The value of the level of insurance is stated in 8.6.1 below.>>
8.1.6	The following forces of nature shall be specifically insured under 8.3 or 8.8 as applicable: (a) Landslip (b) Earthquake (c) Tsunami (d) Tornado (e) Cyclone (f) Storm (g) Flood (h) Lightning strike (i) Volcanic activity (j) Hydrothermal activity (k) Geothermal activity	<<Guidance note: Select "yes" on all items under 8.1.6 if PAI is used, otherwise yes or no, as appropriate given the location of the site, for Volcanic, Hydrothermal and Geothermal Activity.>> Yes Yes Yes Yes Yes Yes Yes Yes Select yes or no Select yes or no Select yes or no
8.3, 8.8	Construction insurance <i>(These items are required to be completed whether the Contractor or the Principal is the insuring party (see 8.1 above))</i>	
8.3.2, 8.8	The following shall have their respective interests noted in the construction insurance policy:	<<Guidance Note: list any third parties interests that need to be a named "Insured" in the insurance policy>>
8.3.3, 8.8	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 acceptance of the tender or other offer, plus the following allowances: (a) An allowance for the Cost of demolition, disposal and preparation for replacement work, equal to: (i) The amount in the right hand column: (ii) The percentage of the Contract Price adjusted as above, stated in the right hand column: (b) An allowance for professional services fees including the Cost of clerks of works and inspectors, equal to: (i) The amount in the right hand column:	
		<i>(Select one to apply, (i) or (ii))</i>
(i) The amount in the right hand column:		<input type="checkbox"/> [\$xxxxx]
(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:		<input type="checkbox"/> [5%]
(b) An allowance for professional services fees including the Cost of clerks of works and inspectors, equal to:		<i>(Select one to apply, (i) or (ii))</i>
(i) The amount in the right hand column:		<input type="checkbox"/> [\$xxxxx]

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input type="checkbox"/> [5%]
	(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>(Select one to apply, (i) or (ii))</i>
	(i) The amount in the right hand column:	<input type="checkbox"/> [\$xxxxx]
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input type="checkbox"/> [5%]
	(d) An allowance for an increase in the Contract Price due to Variations, equal to:	<i>(Select one to apply, (i) or (ii))</i>
	(i) The amount in the right hand column:	<input type="checkbox"/> [\$xxxxx]
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input type="checkbox"/> [5%]
	(e) An allowance for an increased construction Costs due to inflation, equal to:	<i>(Select one to apply, (i) or (ii))</i>
	(i) The amount in the right hand column:	<input type="checkbox"/> [\$xxxxx]
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input type="checkbox"/> [5%]
<p>The insurance shall make provision for automatic change of cover for items (a) and (e) above, to provide insurance for any additions to or deductions from the Contract Price which occur after acceptance of the tender or other offer.</p>		
8.4	Contractor arranged Plant insurance	
	Where Plant is required to be insured (see 8.1 above):	<i>(Select one to apply, (a) or (b))</i>
	(a) The Contractor shall insure the following items of Plant on Site for the amounts stated:	<input type="checkbox"/> [<i>list specific items</i>] <<Guidance note: List any items of plant of an exceptional nature and specifically critical to the timely completion of the Contract Works>>
	(b) The Contractor shall insure each item of Plant on the Site having a current market value of more than:	<input checked="" type="checkbox"/> \$200,000 <<Guidance note: default is \$200k if required, otherwise choose "Not required">>
8.5	Contractor arranged public liability insurance	
8.5.1	Where required (see 8.1 above), public liability insurance shall be effected by the Contractor for an amount not less than:	[<i>\$5,000,000</i>]
	Such public liability insurance may include sub limits:	

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>		
	<ul style="list-style-type: none"> For liability arising out of vibration, weakening or removal of support, of not less than: 	<p>[\$250,000.00]</p> <p><<Guidance note: For any contract in an urban or built up area, cover shall be increased to the full minimum limit of \$5M. Ensure your sub-limits match those listed within Schedule 9>></p>		
	<ul style="list-style-type: none"> For liability under the Forest and rural Fires Act 1977, of not less than: 	<p><<Guidance note: For any contract in forested area or vineyard, cover shall be increased to the full minimum limit of \$5M. Ensure your sub-limits match those listed within Schedule 9>></p>		
8.5.2	Where required (see 8.1 above), motor vehicle third party liability insurance shall be effected for an amount not less than:	<p>[\$5,000,000]</p>		
8.6	<p>Contractor arranged professional indemnity insurance</p> <p><<For high risk project-specific contracts Insurance Levels must be reviewed and approved by the "Insurance Risk Sub VAC" via Appendix XXIII of SM021 Manual (insurance@TransportAgency.govt.nz).>></p>			
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:			
	<ul style="list-style-type: none"> For any one claim: 	<p>\$1,000,000.00</p>		
	<ul style="list-style-type: none"> And for an amount in the aggregate of: 	<p>[\$XXXXXX]</p>		
8.6.2	Sub limits of liability for design of parts of the Contract Works by Subcontracts shall not be less than:	<p>[List specific parts] or [Not required]</p> <p><<Guidance note: list specific part(s) of Contract Works and applicable \$ sub-limits for any one claim and for an amount in the aggregate, or state if not required>></p>		
8.8	<p>Principal arranged construction insurance <i>(refer also to 8.3)</i></p>			
	In accordance with 8.7.2, the insurance policy wording title is:			
	In accordance with 8.7.2, the extraordinary exclusions, conditions, warranties or endorsements to the policy are:	<p>Specific policy wording applicable to this contract can be read at the following website: http://nz.marsh.com/Transport Agency-pai</p>		
8.8.1	Where the Principal is required to effect construction insurance (see 8.1 above).			
	The lead insurer is:	<p>[List insurer or insurers]</p> <p><<Guidance note: the insurer is reviewed annually, check http://nz.marsh.com/Transport Agency-pai>></p>		
	Address of lead insurer:			
	The Nominal Deductibles are:			
		<table border="1"> <tr> <td data-bbox="938 1966 1086 2018"></td> <td data-bbox="1086 1966 1445 2018">Original Estimated Contract Value</td> </tr> </table>		Original Estimated Contract Value
	Original Estimated Contract Value			

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>			
			>0 to 10m	>10m to 20m	>20m
	Each loss except as below:	\$10,000	\$25,000	\$50,000	\$50,000
	Major Perils	\$25,000	\$50,000	\$100,000	\$100,000
	Wet Work Contracts	\$300,000	\$300,000	\$300,000	\$300,000
	Tunnelling Contracts (including excavations / underpasses >100m)	\$300,000	\$300,000	\$300,000	\$300,000
	LEG 3/06 Defects Claims	\$250,000	\$250,000	\$500,000	\$500,000
		<p>For this contract, the Original Estimate Contract Value is in the range Select Value</p> <p><<Guidance note: Ensure the above deductibles table is consistent with the Transport Agency's latest and current PAI policy wording at the time of tender close http://nz.marsh.com/Transport Agency-pai>></p>			
8.9	Principal arranged existing property insurance	<p>Nil</p> <p><<Guidance note: default position is that this is not relevant to Transport Agency contracts. If unsure email insurance@Transport Agency.govt.nz for project specific guidance>></p>			
8.9.1(b)	Other structures in the vicinity are:	<p>Nil</p> <p><<Guidance note: default position is that this is not relevant to Transport Agency contracts. If unsure email insurance@Transport Agency.govt.nz for project specific guidance>></p>			
8.9.1(c)	Contents insurance are:	<p>Nil</p> <p><<Guidance note: default position is that this is not relevant to Transport Agency contracts. If unsure email insurance@Transport Agency.govt.nz for project specific guidance>></p>			
8.10	Principal's option to insure public liability				

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>												
	Where required (see 8.1 above), the Principal shall effect public liability insurance for an amount not less than:	\$20,000,000 <<Guidance note: Consultant to ensure the below deductibles table is consistent with the Transport Agency's latest and current PAI policy wording at the time of tender close>>												
	The lead insurer is:	[List insurer or insurers] <<Guidance note: the insurer is reviewed annually, check http://nz.marsh.com/Transport Agency-pai >>												
	Address of lead insurer:	<<Guidance note: leave this blank>>												
	The Nominal Deductibles are:													
		<table border="1" data-bbox="938 842 1449 1178"> <thead> <tr> <th data-bbox="938 842 1094 920"></th> <th colspan="3" data-bbox="1099 842 1449 920">Original Estimated Contract Value</th> </tr> <tr> <th data-bbox="938 927 1094 1005"></th> <th data-bbox="1099 927 1214 1005">>0 to 5m</th> <th data-bbox="1219 927 1334 1005">>5m to 10m</th> <th data-bbox="1339 927 1449 1005">>10m</th> </tr> </thead> <tbody> <tr> <td data-bbox="938 1012 1094 1178">Each occurrence (including Maintenance Contracts)</td> <td data-bbox="1099 1012 1214 1178">\$10,000*</td> <td data-bbox="1219 1012 1334 1178">\$20,000*</td> <td data-bbox="1339 1012 1449 1178">\$25,000*</td> </tr> </tbody> </table> <p data-bbox="938 1193 1449 1227">*Including costs and expenses</p> <p data-bbox="938 1263 1449 1518">For this contract, the Original Estimate Contract Value is in the range Select value <<Guidance note: Ensure the above deductibles table is consistent with the Transport Agency's latest and current PAI policy wording at the time of tender close http://nz.marsh.com/Transport Agency-pai>></p>		Original Estimated Contract Value				>0 to 5m	>5m to 10m	>10m	Each occurrence (including Maintenance Contracts)	\$10,000*	\$20,000*	\$25,000*
	Original Estimated Contract Value													
	>0 to 5m	>5m to 10m	>10m											
Each occurrence (including Maintenance Contracts)	\$10,000*	\$20,000*	\$25,000*											
	In accordance with 8.7.2:													
	<ul style="list-style-type: none"> <li data-bbox="320 1606 635 1639">The policy wording title is: 	Specific policy wording applicable to this contract can be read at the following website: http://nz.marsh.com/Transport Agency-pai												
	<ul style="list-style-type: none"> <li data-bbox="320 1713 906 1780">Extraordinary exclusions, conditions, warranties, or endorsements to the policy are: 	Specific policy wording applicable to this contract can be read at the following website: http://nz.marsh.com/Transport Agency-pai												
8.9.2	Such public liability insurance may include sub-limits for: <i>(specify as applicable or state 'not applicable')</i>													

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	<ul style="list-style-type: none"> Liability arising out of vibration, weakening or removal of support 	\$250,000 Specific policy wording applicable to this contract can be read at the following website: http://nz.marsh.com/Transport Agency-pai
	<ul style="list-style-type: none"> Liability under the Forest and Rural Fires Act 1977: 	\$250,000 Specific policy wording applicable to this contract can be read at the following website: http://nz.marsh.com/Transport Agency-pai
9. VARIATIONS		
9.3 Valuation of Variations		
9.3.9	For On-site Overheads:	<i>(select one to apply, (a) or (b))</i>
	(a) The prices and rates in the Schedule of Prices are inclusive of full allowance for On-site Overheads;	<input checked="" type="checkbox"/>
	(b) The prices and rates in the Schedule of Prices are exclusive of On-site Overheads;	<input type="checkbox"/>
9.3.7, 9.3.9	The allowance for On-site Overheads to be added in accordance with 9.3.9 is:	<i>(select one to apply, (i), (ii), (iii), or (iv))</i>
	(i) Agreed percentage:	<input type="checkbox"/> [XX%]
	(ii) As nominated in the Schedule of Prices.	<input type="checkbox"/>
	(iii) As nominated in the Contractor's tender.	<input checked="" type="checkbox"/>
	(iv) A reasonable percentage.	<input type="checkbox"/>
9.3.10	For Off-site Overheads and Profit:	<i>(select one to apply, (a) or (b))</i>
	(a) The price and rates in the Schedule of Prices are inclusive of Off-site Overheads and Profit;	<input checked="" type="checkbox"/>
	(b) The price and rates in the Schedule of Prices are exclusive of Off-site Overheads and Profit;	<input type="checkbox"/>
9.3.7, 9.3.10	The allowance for Off-site Overheads and Profit to be added in accordance with 9.3.10 is:	<i>(select one to apply, (i), (ii), (iii), or (iv))</i>
	(i) Agreed percentage:	<input type="checkbox"/> [XX%]
	(ii) As nominated in the Schedule of Prices.	<input type="checkbox"/>
	(iii) As nominated in the Contractor's tender.	<input checked="" type="checkbox"/>
	(iv) A reasonable percentage.	<input type="checkbox"/>
9.3.14	For processing of Variations, the percentage to be paid in accordance with 9.3.14 is:	<i>(select one to apply, (a), (b), (c,) or (d))</i>
	(a) Agreed percentage:	<input type="checkbox"/> [XX%]
	(b) As nominated in the Schedule of Prices.	<input type="checkbox"/>
	(c) As nominated in the Contractor's tender.	<input type="checkbox"/>

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	(d) A reasonable Cost of processing the Variations.	<input checked="" type="checkbox"/> <<Guidance note: This is to be agreed via negotiation with contractor on a case by case basis>>
10.	TIME FOR COMPLETION	
10.1	Date of Commencement	
	(a) For the Contract Works:	Click here to enter a date.
10.2	Date of Expiry	
10.2.1	(a) For the Contract Works:	<i>(select one to apply, (i) or (ii))</i>
	(i) [7] Years with a maximum term of [9] years	<input type="checkbox"/> Subject to Schedule 2, clause 10.5, and the performance management framework requirements as set out in section 2 of the Specifications
11.	DEFECTS LIABILITY	
11.4	Final Completion Certificate	
11.4.2(a)	Prior to issue of the Final Completion Certificate:	
	(a) Producer Statements in the form of Schedule 6 are required	<input type="checkbox"/> -As specified in the Specification or as otherwise required from time to time in respect of Capital Works Services <<Guidance note: Default option where works are of a nature where producer statements may be required e.g. capital works>>
	(b) Producer Statements as set out in the following parts of the Contract are required	Not applicable
	(c) Producer Statements are not required	<input type="checkbox"/> -<<Guidance note: Default option where works are of a nature where producer statements are not required e.g. maintenance works>>
11.4.2(b)	Prior to issue of the Final Completion Certificate:	
	(b) As-built drawings and operation and maintenance manuals are not required.	<input checked="" type="checkbox"/>
11.4.2(c)	Prior to issue of the Final Completion Certificate:	<i>(select one to apply, (a) or (b))</i>
	(a) Outstanding maintenance records are required;	<input checked="" type="checkbox"/>
	(b) Outstanding maintenance records are not required.	<input type="checkbox"/>
11.6	Warranties	
11.6.1		
	(a) No warranties are required;	<input type="checkbox"/> <<Guidance note: Only relevant if no warranties are required (e.g. where no warranties are included in Schedule 13)>>

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	(b) The Contractor shall provide warranties as set out in the Contract for the following items of work:	<input checked="" type="checkbox"/> <<Default>> The Contractor shall provide subcontractor warranties as set out at Schedule 13, and warranties as required by the Specifications or as may otherwise be required for Capital Works Services. If warranties for Capital Works Services are required, the Principal will propose a form of warranty to be delivered by Contractor and a duly executed warranty will be a pre-condition to the Contractor receiving payment in respect of such Capital Works Services]
11.7	Guarantees	
11.7.1,11.7.2		
	(a) No guarantees are required;	<input checked="" type="checkbox"/> <<Default>> <<Guidance note: despite this default position, consider if guarantees (e.g. from a parent or associated company or other guarantees (e.g. Directors' / Shareholders' guarantees) are required (e.g. if there are issues with the Contractor entity's solvency). Note Subcontractor warranties and manufacturers warranties are dealt with under clause 11.6>>
	(b) The Contractor shall provide guarantees in the following form:	<input type="checkbox"/> [State form]
12.	PAYMENTS	
12.1	Contractor's payment claims	
12.1.3(b) (iii)	Advances for Materials delivered to the Site	
	(a) Advances for Materials delivered to the Site but which have yet to be incorporated in the Contract Works shall not be made;	<input checked="" type="checkbox"/> <<Default>>
12.1.3(b) (iv)	Advances for Temporary Works or Plant	
	(a) Advances for Temporary Works or Plant shall not be made.	<input checked="" type="checkbox"/> <<Default>>
12.1.3(b) (iv)	Advances for Materials not yet on Site	
	(a) Advances for Materials not yet on Site shall not be made.	<input checked="" type="checkbox"/> <<Default>>
12.3	Retention monies	
12.3.1,12.3.2	Retentions shall or shall not apply as follows:	<i>(select one to apply, (a) or (b))</i>
	(a) Retentions shall not apply	<input type="checkbox"/>
	(b) Retentions shall apply as follows:	<input checked="" type="checkbox"/> /]

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	(ii) The retention formula in the right hand column.	<input type="checkbox"/> For the Contract Works, a total retention of: <ul style="list-style-type: none"> • 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 \$200,000, and • With a defects liability retention of half the total retention.
12.3.3	Bond in lieu of retention	
	(a) The Contractor may provide a bond in lieu of retentions.	<input checked="" type="checkbox"/> The percentage to be retained from each progress payment and the limit of the total sums retained shall be nil if the Contractor provides a Bond in Lieu of Retentions (Schedule 5). The value of the bond shall be the applicable retention amount plus a further 10%.
12.8	Cost fluctuations	<i>(select one to apply, (a), (b) or (c))</i>
	(b) Cost fluctuations shall be paid in accordance with the method described in:	<input checked="" type="checkbox"/> Schedule 17
12.13	Goods and services tax	
12.13.2	Payment Schedules provided by the Engineer:	<i>(select one to apply, (a) or (b))</i>
	(a) Shall not be in the form of a tax invoice;	<input type="checkbox"/>
	(b) Shall be in the form of a buyer created tax invoice and the parties agree not to issue any other tax invoice for items covered by the Payment Schedule.	<input checked="" type="checkbox"/>
12.14	Performance payments	<i>(select one to apply, (a) or (b))</i>
12.14.1, 12.14.2	(a) Performance payments shall not apply;	<input type="checkbox"/>
	(b) Performance payments shall apply, and the performance indicators and performance payments are contained in the following parts of the Contract:	<input checked="" type="checkbox"/> SpecificationsBasis of Payment
12.15	Liquidated damages	
12.15.1, 12.15.2	(a) Liquidated damages shall not apply	<input type="checkbox"/> <input checked="" type="checkbox"/>
13.	DISPUTES	
13.4	Arbitration	

Clause <i>in General Conditions</i>	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
13.4.3	If required, the arbitrator shall be nominated by the following Person:	[Name, Position] <<Guidance note: default is Engineer to the Contract>>
15.	SERVICE OF NOTICES	
15.1.2	For the purposes of service of written notice:	
	(a) The address of the Principal is:	
	Postal address:	
	Delivery address:	
	Mark for the attention of:	
	Email address:	
	Other agreed means of electronic communication and address detail:	
	(b) The address of the Contractor is:	
	Postal address:	
	Delivery address:	
	Mark for the attention of:	
	Email address:	
	Other agreed means of electronic communication and address detail:	
	(c) The address of the Engineer is:	
	Postal address:	
	Delivery address:	
	Mark for the attention of:	
	Email address:	
	Other agreed means of electronic communication and address detail:	

Schedule 2 – Special Conditions of Contract – Other Conditions of Contract

In addition to 1.2, Definitions, the following definitions are provided:

CAPITAL WORKS SERVICES means any additional works which the Principal instructs the Contractor to carry out under 5.1B that are in the nature of capital or construction works, as distinct from operations and maintenance.

CONTRACT MANAGEMENT PERSONNEL means the Contractor's Representative or Contract Manager (see Information for Tenderers, Clause 4.4).

CONTRACT PERIOD means the period defined in clause 10.2.1.

CONTRACT WORKS means the supply and, where applicable, installation, of all labour, Plant and Materials together with all other works and services including supervision and administration, for the management, operation and maintenance of the assets described in the Specifications in accordance with the Contract as well as all other works and services to be performed by the Contractor under the Contract, including any Capital Works Services.

NETWORK means the network described in Specifications, Section 1.

PROPOSED TIME FOR COMPLETION OF CAPITAL WORKS SERVICES has the meaning given to that term in 9.1A.1.

WINTER PERIOD means ~~June-May~~ to ~~September-October~~ inclusive.

Delete the existing working day definition and replace with the following:

WORKING DAY means any calendar day other than Sunday or a Public Holiday where the day observed as the Public Holiday falls on any day of the week, ~~except a Sunday.~~

<< Guidance note: Where the contract has joint principals the following clauses (a) to (d) are to be added otherwise delete the following clause 1.3.8.>> **Insert new clause 1.3.8 as follows:**

1.3.8

References to the Principal

- (a) References to the Principal in the contract are references to the [COMPLETE] Council and the NZ Transport Agency. Except where the entities constituting the Principal are referred to individually, all provisions in the contract relating to the Principal shall be deemed to be the references to the entities constituting the Principal acting jointly.

Several Liability of Principal

- (b) Notwithstanding 1.3.8(a), the liability of the NZ Transport Agency and the [COMPLETE] Council under the contract shall not be joint but shall be several, to the intent that:
 - i. In respect of the Transport Agency this contract shall only apply to those State Highways for which Transport Agency has statutory responsibility as described in the Schedule of Prices and the Specifications. The Transport Agency is not liable to the Contractor for the separate acts or omissions of, or for any breach of any

obligations or warranty in the contract by the [COMPLETE] Council.

- ii. In respect of the [COMPLETE] Council this contract shall only apply to those local roads for which the [COMPLETE] Council has statutory responsibility as described in the Schedule of Prices and the Specifications. The [COMPLETE] Council is not liable to the Contractor for the separate acts or omissions of, or for any breach of any obligations or warranty in the contract by the Transport Agency.

Payment for Services

- (c) In accordance with the principle of several liability, the lump sum and measure and value payments for the Contract Works shall be divided between the Transport Agency and the [COMPLETE] Council as follows:

- i. The Transport Agency shall only be liable to the Contractor for payments for Contract Works provided in respect of the State Highways for which Transport Agency has statutory responsibility as described in the Schedule of Prices and the Specifications.
- ii. The [COMPLETE] Council shall only be liable to the Contractor for payments for Contract Works provided in respect of those local roads for which the [COMPLETE] Council has statutory responsibility as described in the Schedule of Prices and the Specifications.

- (d) Whenever the Contractor submits a payment claim in accordance with clause 12.1 or 12.4 of the General Conditions, the Contractor shall specify in the payment claim the amount that is payable by the Transport Agency and the respective Council apportioned in accordance with the above requirements

Section 2 - The contract

Clause 2.8.2 is deleted and replaced with:

- 2.8.2 The Contractor shall upon request by the Engineer supply without charge hard copy sets of copies of Drawings and Specifications which have been prepared by, or on behalf of, the Contractor as provided in the Specifications.

Section 5 - General obligations

Insert a new clause 5.1B as follows:

5.1B Capital Works Services

- 5.1B.1 Following receipt of a notice to proceed from the Principal under 9.2.1(b)(ii), the Contractor shall immediately commence carrying out the relevant Capital Works Services.
- 5.1B.2 The Contractor shall use its best endeavours to complete the Capital Works Services by the Proposed Time for Completion of Capital Works Services.
- 5.1B.3 The Contractor shall carry out any Capital Works Services in accordance with Good Industry Practice and shall ensure that the Capital Works Services are free of defects and comply with, and are operable in accordance with, all applicable Acts, Regulations and licences (as this term is defined in 5.11.2).

Insert new clause 5.1.7 as follows:

- 5.1.7 During the term of the contract the Contractor must advise the Engineer of any potential or actual conflicts of interest with any individual or company engaged to complete any part of the Contract Works. This includes Subcontractors and individuals and companies engaged under any other supply arrangement to supply any part of the Contract Works. The Contractor must advise the Engineer of the means by which it intends to remove or mitigate such conflicts of interest. The Engineer must inform the Principal of any conflicts of interest notified to the Engineer by the Contractor in accordance with this clause, and the Principal will, in discussion with the Engineer and taking into account (but not bound by) the Contractor's intended action, decide the appropriate action required to remove or mitigate any actual or potential conflict of interest. The Engineer must ensure the Contractor implements such required action.

Insert new clauses 5.12.3 through 5.12.10 as follows

- 5.12.3 For the purposes of this contract, "**Intellectual Property Rights**" means all intellectual property rights and interests, including without limitation, copyright, trade marks, designs, patents and other proprietary rights whether or not registered and whether or not capable of registration, vested or contingent, in any part of the world, including any intellectual property rights in photographs and video footage taken by the Contractor at the Site, and all applications and rights to apply for registration, all renewals and extensions and all or any goodwill relating to or attached to these rights, together with any and all Confidential Information and know-how .
- 5.12.4 Intellectual Property Rights developed before the **Date of Commencement of this contract remain the property of their owner as at the Date of Commencement (Existing IP)**. The Contractor grants to the Principal, or agrees to procure the grant to the Principal of, an **unrestricted, royalty-free licence to use and copy any pre-existing intellectual property rights to the extent reasonably required to enable the Principal to use, maintain, adapt, update or amend the Contract Works**.
- 5.12.5 All new Intellectual Property Rights of the Contractor that are not developed, commissioned or created under or in connection with this contract remain the property of the Contractor (**Independent IP**).
- 5.12.6 Subject to 5.12.5, all new Intellectual Property Rights relating to Contract Works Material that are developed, commissioned or created under, or in connection with, this contract (**New IP**) will be owned by the Principal as they are created by The Contractor. For the avoidance of doubt, New IP does not include any improvements, developments, adaptations or modifications made to the Contractor's Existing IP in the performance of this contract (**Modified IP**).
- 5.12.7 Notwithstanding any other provisions of the contract, any New IP developed, commissioned or created by the Contractor under or in connection with this contract which is not related to the Contract Works Materials and/or is not predominantly for or connected to the performance of the Contract Works but which has general industry application shall be the absolute property of the Contractor, and the Contractor shall grant to the Principal an unrestricted, perpetual, non-exclusive, worldwide, royalty-free licence to use such Intellectual Property Rights for any purpose and without any obligation to obtain the Contractor's consent or to account for any future benefits.
- 5.12.8 In all cases where the Principal does not own the Intellectual Property Rights in the Contract Works (being Existing IP or Modified IP), the Contractor grants, or agrees to procure the

grant to the Principal of, an unrestricted, perpetual, non-exclusive, worldwide and royalty-free licence to use, all such Intellectual Property Rights for any purpose.

5.12.9 The Contractor warrants that any Existing IP and Modified IP provided by the Contractor and incorporated into the Contract Works do not infringe intellectual property rights of any third party. The Contractor indemnifies the Principal in respect of any direct or indirect expenses, damage or liability incurred by the Principal in connection with any third party claim that the Principal's use of the Existing IP or Modified IP infringes a third party's rights.

5.12.10 The Contractor must ensure that any sub-contract contains:

- (a) a perpetual, non-exclusive, worldwide, royalty free licence to use any New IP for any purpose, in favour of the Principal, such licence to include the right to use, copy, modify and distribute the New IP; and
- (b) a licence in favour of the Principal in respect of any other intellectual property rights on the same terms as agreed between the Principal and the Contractor.

As-built drawings, manuals, and maintenance records

The first sentence of 5.20.3(a) is deleted and replaced as follows:

Within 15 Working Days following completion of any Capital Works Services or other installation required by the Contract Works, the Contractor shall submit to the Engineer the draft as-built drawings and operations and maintenance manuals for Capital Works Services.

A new clause 5.22 Key Personnel is added as follows:

5.22.1 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 (**Key Personnel**), and ensure that the Key Personnel are dedicated to the Contract Works until they have, in the opinion of the Principal or Contract Board, completed their relevant functions in relation to the Contract Works.

5.22.2 The Contractor must use all reasonable endeavours to:

- a) Supply and retain the Key Personnel and not remove the Key Personnel from their position without the prior written approval of the Principal or Contract Board.
- b) Replace any of the Key Personnel if they are unable to undertake work due to termination of employment, resignation, illness, disability or death or other circumstances reasonably beyond the control of the Contractor. The parties acknowledge that the Contractor's primary focus is to ensure the continuity and quality of the performance of its obligations. Consequently, the Contractor must:
 - (i) Promptly advise the Principal or Contract Board if it is necessary to replace Key Personnel; and
 - (ii) Provide a suitable replacement or substitute during the period of unavailability that has at least the same or better status, skills, qualifications, expertise and experience as the Key Personnel to be replaced; and
 - (iii) Consult with the Principal or Contract Board in relation to any proposed

replacement; and

(iv) If requested by the Principal or Contract Board, provide details of the proposed replacement to the Principal or Contract Board.

c) Ensure that each of the Key Personnel is available as per the level of commitment set out in the Contractor's Tender or as otherwise required to ensure the completion of such portion of the services as are assigned to them.

Section 6 – Engineer's Powers and Responsibilities

Clause 6.2.1 is deleted and replaced with:

6.2.1 The role of the Engineer in the administration of this contract is:

- a) Independently of either contracting party, to fairly and impartially make decisions entrusted to him or her under the Contract Documents, to confirm the valuation of the Contract Works and issue certificates at due times.
- b) To deal with contract administration other than issues relating to:
 - The day-to-day programming and management of general maintenance activities; and
 - Directing the Contractor on which defects to repair and/or accepting or rejecting completed maintenance works
- c) Not to supervise the Contract Works.

A new clause 6.1.2.1 is added:

The name of the Engineer shall be notified to the Contractor by the Principal within five days following contract award. The Engineer shall be from a non-contracted party and shall not be an employee of the Principal. The Engineer shall hold the qualification of CPEng and be NZ Transport Agency accredited to Engineer to Contract Level 3.

Clause 6.3.3 is deleted and replaced with:

6.3.3 The Engineer's representative may exercise any of the powers vested in the Engineer under the contract except:

- a) The reviewing of matters in dispute
- b) The valuing of Variations above \$500,000, ~~the issuing of Payment Schedules or certificates in the form of provisional Payment Schedules;~~ the issuing of a **Final Completion Certificate**, the granting of extensions of time and any changing of the Drawings or Specifications unless expressly authorised by the Engineer by written notice to the Contractor
- c) Any other powers excluded by the Engineer by written notice to the Contractor.

Section 8 – Insurance

A new clause 8.1.7 is added as follows:

8.1.7 Responsibility for pursuing any claim under any insurance policy shall rest with the party bearing the deductible or excess. Where the Contractor is pursuing a claim, the Contractor is required to advise the Engineer of the outcome of the claim and provide the Engineer with information in relation to the claim on request.

A new clause 8.2.3 (c) is added as follows:

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

A new clause 8.5.1 (d) is added as follows:

8.5.1 (d) Public Liability Insurance shall include liability arising out of damage to Underground Services and will be for a sub limit amount not less than **\$250,000.00**.

<<Guidance note: For any contract where works are taken out above Underground Services of significant economic importance cover shall be increased to the full minimum limit of \$5M. Ensure your sub-limits match those listed within Schedule 9.>>

Section 9 - Variations

In Clauses 9.1.1, 9.1.2, 9.1.3, 9.2.1, 9.2.2 and 9.4.2 the term Engineer is deleted and replaced with the term Principal or Principal's Representative.

Clause 9.1.5 is deleted and replaced with

9.1.5 The value of Variations shall, either:

- a) Be added to, or deducted from, the Contract Price; or
- b) Be offset, in part or in full, by a Variation instructing an addition to, or deduction from, the Contract Works.

A new clause 9.1A is added as follows:

9.1A Contractor to provide information

9.1A.1 Following a request by the Principal (which request for the avoidance of doubt is not an order for a Variation) in respect of a proposed or potential Variation, the Contractor shall promptly, at its cost, prepare and submit to the Principal and the Engineer:

(a) where the proposed or potential Variation relates to Capital Works Services:

- (i) sketch plans, specifications and drawings in respect of the proposed Capital Works Services;
- (ii) a detailed and substantiated quotation for the proposed Capital Works Services which shall, to the extent applicable or appropriate, be based on the rates set out in the Schedule of Prices and may be submitted in the form of a fixed price lump sum; and
- (iii) a programme setting out the proposed date for completion of the Capital Works Service (the Proposed Time for Completion of Capital Works Services); and

(b) where the proposed or potential Variation relates to any other proposed or potential Variation, that is not Capital Works Services, a detailed and substantiated quotation for the proposed or potential Variation, which shall, to the extent applicable or appropriate, be based on the rates set out in the

Schedule of Prices and may be submitted in the form of a fixed price lump sum.

9.1A.2 The Engineer shall take into account the information submitted by the Contractor under 9.1A.1 in determining the value of the relevant Variation should an actual Variation proceed.

9.1A.3 In the event the Principal decides, in its sole and absolute discretion, to accept a fixed price lump sum quotation submitted by the Contractor under 9.1A.1(a) or 9.1A.1(b), the Contract Price shall be adjusted accordingly, the provisions of 9.3 shall not apply, and, notwithstanding anything to the contrary, the Contractor will be paid the fixed price lump sum amount for the Variation.

Clause 9.1.1 is deleted and replaced with:

9.1.1 The Principal may order any Variations to the Contract Works which:

- (a) Increase or decrease the quantity of any work;
- (b) Omit any work;
- (c) Change the character or quality of any Material or work;
- (d) Require additional work to be done;
- (e) Change the level, line, position, or dimensions of any part of the Contract Works;
- (f) Change the timing and/or sequence in which the Contract Works are to be carried out;
- (g) Change the hours within which work may be carried out.
- (h) Instructs the Contractor to carry out Capital Works Services (for the avoidance of any doubt, the Principal (and thus the Engineer) is not obliged to instruct any Capital Works Services).

Clause 9.2.1 is deleted and replaced with:

9.2.1

- (a) The Contractor shall not vary the Contract Works without an order in writing from the Principal.
- (b) The Contractor shall not commence any Capital Works Services until such time as it has:
 - (i) submitted the relevant information to the Principal and the Engineer in accordance with 9.1A.1(a) (even where the Engineer may not have requested that information); and
 - (ii) subsequently received a written notice to proceed from the Principal.

Section 10 – Time for Completion

New Clauses 10.1.3 and 10.5 are added as follows:

10.1.3 No sealing operations shall take place ~~outside~~ over the Winter Period. No sealing operations shall take place outside the construction season (October to March inclusive) ~~over the Winter Period~~ without the prior approval from the Principal.

10.5 Contract Period and Adjustments

10.5.1 The Contract Period will be seven years, as adjusted in accordance with clause 10.5.2.

Nothing in this clause 10.5 prejudices the Principal's right to terminate this contract including in accordance with this clause 10.5 or clause 14.

10.5.2 The Contract Period will be adjusted as follows:

a) Subject to clause 10.5.2(b):

- (i) The Contractor's performance will be assessed for the period to 1 July every year during the Contract Period (**Annual Performance Assessment**).
- (ii) The annual performance assessment under the Specifications will be determined quarterly, being July to September, October to December, January to March, and April to June (each an **Assessment Period**).

c) Where an Annual Performance Assessment rates the overall performance level as Minimum Condition of Satisfaction, Best Practice or Outstanding (as per the Specifications), the Contract Period is increased by a year (**Contract Extension**).

d) Any Contract Extension shall be on the same terms and conditions as the then current term of the contract, including this right to extend the Contract Period, provided that in no circumstances shall the total Contract Period (including all rights to extend) exceed 9 years from the Date of Commencement.

e) The Contractor and Principal shall document the Contract Extension in writing. Each party shall bear their own costs with regard to the preparation and execution of that document.

f) Where an Annual Performance Assessment within the contract period rates the overall annual performance level as poor (as per the Specifications), the Principal may elect to either:

- (i) reduce the Contract Period by a year until a minimum contract period of 3 years is reached from the Date of Commencement; or
- (ii) terminate the contract provided that, prior to terminating the contract under this clause 10.5.2(f)(ii), the Principal must first give written notice to the Contractor requesting that the Contractor improve its overall performance level to a standard acceptable to the Principal (in its absolute discretion) within a timeframe specified by the Principal.

h) If, following an Annual Performance Assessment, the Contract Period has less than 24 months remaining and no further Contract Extensions can be earned, no further adjustments will be made to the Contract Period and this contract will terminate at the end of the then applicable Contract Period.

i) If, following an Annual Performance Assessment, the remaining Contract Period is, or would be (but for this clause 10.5.2(f)), reduced to 12 months or less, then notwithstanding anything else in this clause 10.5.2, the Contract Period shall end on the next 30th of June.

10.5.3 The Principal will give prompt written notice to the Contractor of any Contract Extension or reduction of the Contract Period under this clause 10.5.

10.5.4 Notwithstanding anything else in this contract, the Principal is not obliged to effect any Contract Extensions if, at its absolute discretion, it determines that a Contract Extension is not in its operational interests. Before making any such determination, the Principal will consult with the Contractor.

Section 11 - Defects ~~Liability~~ Notification**Clause 11.1.1 is deleted and replaced with the following:**

11.1.1 The Contractor shall remedy all defects in the Contract Works arising prior to or within the Date of Expiry of the Contract Works Period, from defective workmanship or Materials. The Engineer's Representative shall give notice in writing to the Contractor during the Defects Notification Period or within five Working Days thereafter of defects to be remedied, including a date by which their remedy is required. In setting this date, the Engineer's Representative shall make an assessment of what is a reasonable time for the remedy of each of the defects identified. That date shall not be more than 20 Working Days from the date the defect is notified to the Contractor unless the Engineer's Representative agrees otherwise in writing.

Clause 11.1.2 is deleted and replaced with the following:

11.1.2 If the Contractor fails to complete the remedial works by the required date as set out under clause 11.1.1, the Principal shall be entitled, after giving the Contractor notice, to employ others to carry out such remedial work. The Principal shall be entitled to recover the reasonable cost of such work from the Contractor, including all reasonable costs and expenses of assessment and supervision whether by the Engineer or otherwise, and a reasonable allowance for associated administrative and professional costs and expenses.

New Clauses 11.1.4, 11.1.5, 11.1.6 and 11.1.7 are added as follows:

- 11.1.4** The Contractor is liable for all defects on renewal sites constructed within the last two years before contract completion. The Defects Notification Period applies to each renewal site within that period. All defects as defined in the Specifications Section 6.1.1 shall be addressed, to the satisfaction of the Principal, which are deemed to be as a result of poor construction.
- 11.1.5** For pavement rehabilitation sites constructed within the last two years before contract completion the Pavement Rehabilitation Post Construction Design Assessment requirements as defined in Specifications, Section 6.1.2 shall apply. The assessment outside the Contract Period shall be completed by the Principal.
- 11.1.6** For resurfacing sites constructed within the last two years before contract completion the Chip Seal and AC Post Construction Design Assessment requirements as defined in Specifications, Section 6.1.3 shall apply. The assessment outside the Contract Period shall be completed by the Principal.
- 11.1.7** The Defects Notification Period shall be in respect of the renewal sites:
- (a) In respect of the Contract Works:
 - i. Term of the Contract (all works), plus
 - ii. Sealed Road Resurfacing, constructed in the last two years of the contract – 104 weeks commencing at practical completion at each site.
 - iii. Pavement Rehabilitation, constructed in the last two years of the contract – 104 weeks commencing at practical completion at each site

Section 12 – Payments

Clause 12.1.3(c) is deleted and replaced with the following:

12.1.3(c) Indicate the due date for payment which shall be the 20th of the Month following the Month of issue to the Principal of the Progress Payment Schedule under 12.2.

Clause 12.2.8 is deleted and replaced with the following:

12.2.8 The schedule amount under 12.2.2(d) or 12.2.5(d) as the case may be, together with the amount of goods and services tax payable shall be paid by the Principal to the Contractor on the 20th of the Month following the Month of issue to the Principal of the Progress Payment Schedule under 12.2.

New Clause 12.2.10 is added as follows:

12.2.10 The Principal reserves the right to deduct moneys from payments, otherwise due to the Contractor in respect of the implementation of schemes covered in Section 2 and Section 6 of the Specifications, in addition to and not in substitution for the Principal's other rights and remedies under the contract arising from any breach by the Contractor of its obligations under the contract.

DRAFT

Schedule 3 – Form of Contractor’s performance bond

CONTRACT FOR _____

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 NZ Transport Agency <<and <<insert Local Authority name>> (“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** conditions of this bond are that it shall be released if and when:
 - (a) The Final Completion Certificate has been issued for the Contract Works in accordance with 11.4 of the General Conditions;
 - (b) The surety receives a notice from the Principal releasing the Contractor and surety from this bond; or
 - (c) The surety receives a notice from the Principal confirming that a replacement Contractor’s Bond has been received and accepted and releasing the Contractor and surety from this bond.
3. **EXCEPT** as provided in clause 2 above this bond shall be and remain in full force and effect.

- 4. **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.

- 5. **THIS** bond shall be governed by New Zealand law.

In witness of which this deed has been executed.

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 Contractor and by the surety in the manner required for execution of a deed. Any of these parties which are a company shall execute the bond 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 bond 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 the 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. 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 must also add his or her occupation and address.

Schedule 4 – Form of Principal’s bond

CONTRACT FOR _____

This Section Not Used

DRAFT

Schedule 5 – Form of Contractor’s bond in lieu of retentions

CONTRACT FOR _____

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 NZ Transport Agency <<and <<insert Local Authority name>> (“the Principal”) to carry out and fulfil the obligations imposed on the Contractor (‘the Contract’).
- B The Contractor has agreed to provide the Principal with security in the form of a bond in lieu of retentions additional to any other bond required 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** conditions of this bond are that it shall be released if and when:
 - (a) The Final Completion Certificate has been issued for the Contract Works in accordance with 11.4 of the General Conditions; or
 - (b) The surety receives a notice from the Principal releasing the Contractor and surety from this bond.
- 3. **EXCEPT** as provided in clause 2 above this bond shall be and remain in full force and effect until << insert expiry date>> (the "Expiry Date").
- 4. **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.

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

In witness of which this deed has been executed.

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 Contractor and by the surety in the manner required for execution of a deed. Any of these parties which are a company shall execute the bond 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 bond 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 the 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. 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 must also add his or her occupation and address.

Schedule 6 – Form of Producer Statement – Construction

ISSUED BY _____ (Contractor)

TO The NZ Transport Agency _____ (Principal)

IN RESPECT OF _____ (Description of Contract Works)

AT _____
_____ (Address)

_____ has contracted to the NZ Transport Agency
(Contractor) (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 particular of the contract works in accordance with the Contract

Date _____

(Signature of Authorised Agent on behalf of)

(Contractor)

(Address)

Schedule 7 – Information on Contractor arranged construction insurance

<<Guidance note: For contracts where PAI is used, delete the following schedule and replace with the words **This Section Not Used**>>

To whom it may concern:

From _____ (Name of Insurance Company)

(Branch)

(Address)

We confirm having effected construction insurance for:

(The Contractor)
The NZ Transport Agency _____ (The Principal)
In respect of **[Contract Number, Contract Name]** _____ (Project Title)
Policy wording title is _____

The following provisions apply:

- Project specific policy
- Annual run-off policy
- Annual cut-off policy

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

8.1.6

The following forces of nature are insured:

- | | | |
|--|--|--|
| <input type="checkbox"/> landslip | <input type="checkbox"/> earthquake | <input type="checkbox"/> tsunami |
| <input type="checkbox"/> tornado | <input type="checkbox"/> cyclone | <input type="checkbox"/> storm |
| <input type="checkbox"/> flood | <input type="checkbox"/> lightning strike | <input type="checkbox"/> volcanic activity |
| <input type="checkbox"/> hydrothermal activity | <input type="checkbox"/> geothermal activity | |

8.3.3

The sums insured are (GST exclusive):

Contract Price	\$ _____
(a) Costs of demolition	\$ _____
(b) Professional fees	\$ _____
(c) Value of items to be incorporated	\$ _____
(d) An allowance for an increase in construction costs	\$ _____

(e) An allowance for increased reconstruction costs \$ _____

TOTAL SUM INSURED \$ _____

The policy deductibles are (GST inclusive)

Non-earthquake \$ _____

Natural disaster _____ % of _____ minimum of \$ _____

Other (name) _____ \$ _____

8.2.3(a)

Construction period from _____ to _____

Insurance maintenance period _____

Policy expiry date _____

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 with prior notification Yes/No

Policy extensions included are:

Sub limit (if applicable)

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 \$ _____

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.

The 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 3917:2013.

Insurance Company

Stamp

Date

(Or name of insurance broking company confirming cover)

SIGNED BY _____

SIGNATORY TITLE _____

(Clause numbers refer to NZS 3917:2013 and are for information only)

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 **[Contract Number, Contract Name]** _____ (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 _____

8.4

The 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.

The 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 3917:2013.

**Insurance Company
Stamp**

(Or name of insurance broking company confirming cover)

Date _____

SIGNED BY _____

SIGNATORY TITLE _____

(Clause numbers refer to NZS 3917:2013 and are for information only)

DRAFT

Schedule 9 – Information on public liability insurance

<<Guidance note: As PAI is applied to this contract, download and insert Schedule 9 from the Marsh insurance portal <http://nz.marsh.com/Transport Agency-pai>>>

DRAFT

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 **[Contract Number, Contract Name]** _____ (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.

The 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 3917:2013.



DRAFT

**Insurance Company
Stamp**

(Or name of insurance broking company confirming cover)

Date

SIGNED BY

SIGNATORY TITLE

(Clause numbers refer to NZS 3916: 2013 and are for information only)

DRAFT

Schedule 11 – Information on 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 **[Contract Number, Contract Name]** _____ (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 limits of liability are (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.

The 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 3917:2013.

Insurance Company

Stamp _____ **Date** _____

(Or name of insurance broking company confirming cover)

SIGNED BY _____

SIGNATORY TITLE _____

(Clause numbers refer to NZS 3917:2013 and are for information only)

Schedule 12 – Information on Principal arranged construction and existing property insurance

Guidance note: As PAI is applied to this contract, download and insert Schedule 9 from the Marsh insurance portal <http://nz.marsh.com/Transport Agency-pai>>>

DRAFT

Schedule 13 – Form of Contract (or Subcontractor) warranty

This Section Not Used

DRAFT

Schedule 14 – Agreement for off-site Materials

<<Guidance note: Payments as provided for under 12.1.3(b)(iv) are not include under this contact

This Section Not Used.

DRAFT

Schedule 15 – Certificate on Expiry

This Certificate on Expiry is issued under 10.3.1.

Contract for [Contract Number, Contract Name]

Principal The NZ Transport Agency a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 *(‘the Principal’)*

Contractor _____ *(‘the Contractor’)*

This certificate relates to:

- (a) The whole of the Contract Works referred to above;
- (b) The following Separable Portion _____ *(specify)*

In accordance with 10.3.1, the Engineer certifies that the Contract Works or Separable Portion to which this certificate relates qualify for a Certificate on Expiry under 10.3, notwithstanding that there may be obligations of the Contractor under the Contract which remain unperformed or not properly performed (as listed in the attached list of outstanding obligations) in terms of 10.3.2.

- (a) By this certificate the Engineer gives notice to the Contractor under 11.3.1 that the Engineer may instruct others to undertake those obligations listed in Part A of the attached list of outstanding obligations; *(delete if not applicable)*
- (b) The Contractor is required to carry out and complete those obligations listed in Part B of the attached list of outstanding obligations by the date stated against the relevant obligation, failing which the Engineer may give notice under 11.3.1. *(delete if not applicable)*

The Contract Works Period expired at the end of _____ *(insert date).*

Signed by the Engineer _____

Name _____

Date _____



LIST OF OUTSTANDING OBLIGATIONS

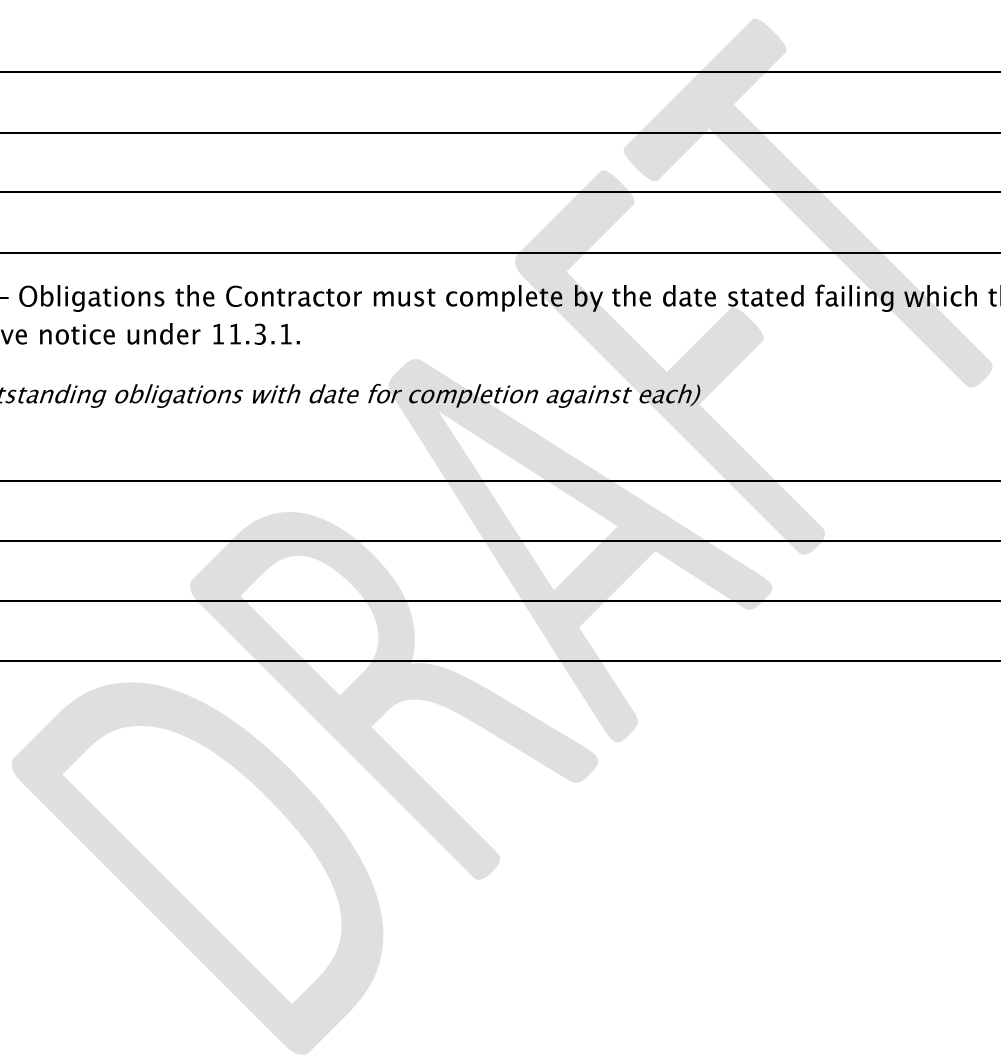
Obligations of the Contractor under the Contract which remain unperformed or not properly performed in terms of 10.3.2 and were identified during an inspection carried out by the Engineer or Engineer's Representative on(insert date)

Part A – Obligations which may be completed by others at the Contractor's Cost in accordance with 11.3.2 and 11.3.3

(list outstanding obligations)

Part B – Obligations the Contractor must complete by the date stated failing which the Engineer may give notice under 11.3.1.

(list outstanding obligations with date for completion against each)



Schedule 16 – Final Completion Certificate

This certificate is a Final Completion Certificate issued under 11.4.1.

Contract for [Contract Number, Contract Name]

Principal The NZ Transport Agency a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 *(‘the Principal’)*

Contractor _____ *(‘the Contractor’)*

This certificate relates to:

- (a) The whole of the Contract Works referred to above;
- (b) The following Separable Portion _____ *(specify)*

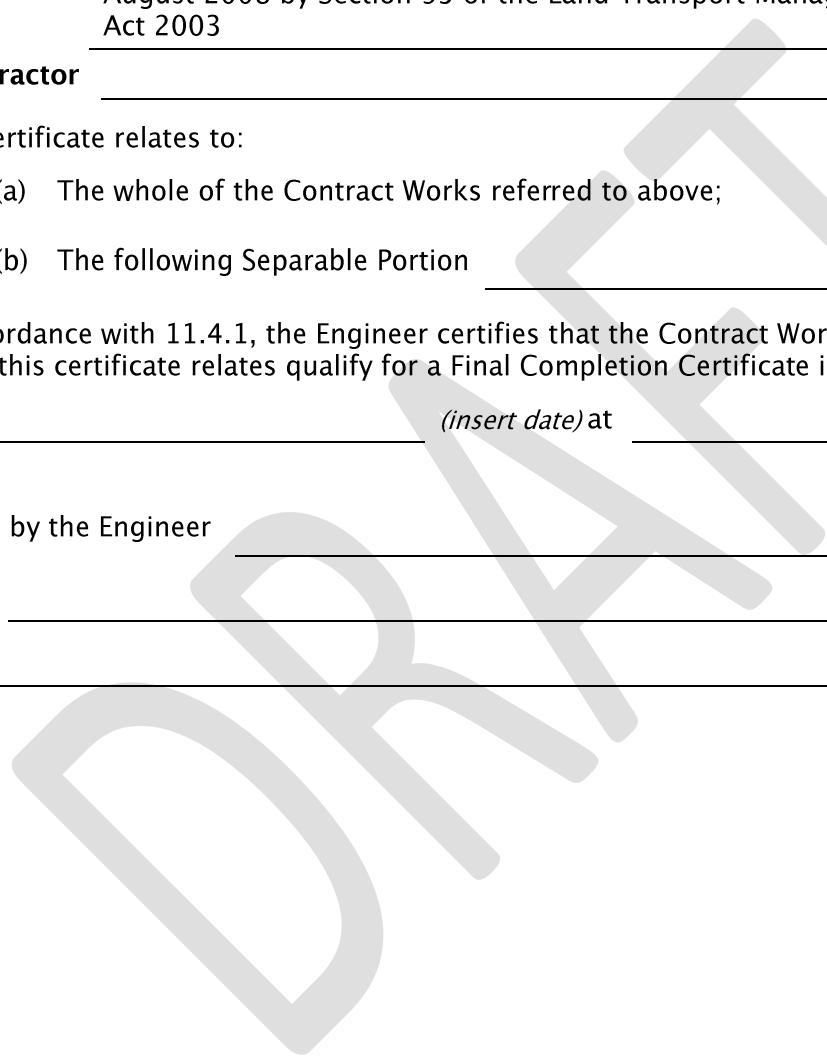
In accordance with 11.4.1, the Engineer certifies that the Contract Works or Separable Portion to which this certificate relates qualify for a Final Completion Certificate issued under 11.4

on _____ *(insert date)* at _____ *(insert time)*

Signed by the Engineer _____

Name _____

Date _____



Schedule 17 – Cost Fluctuations

Contract for: <<insert number and name>>

1. The provisions of this Schedule shall apply when provided for in the Special Conditions.
2. The amounts payable by the Principal, to the Contractor under the contract shall be adjusted up or down by amounts calculated in accordance with the following two-part formula on a monthly basis:

$$C = CI + CB$$

Where

C = Cost fluctuation adjustment for the month under consideration

CI = [(Value x (p₁ / 100) x (p₂ / 100)) x (I / I' - 1)]

CB = [Volume x (Bit - Bit')]

And

Value = Valuation of work completed during the month under consideration taken from the Payment Schedule but without deduction for retentions and excluding the cost fluctuation adjustment

p₁ = The proportion of costs excluding bitumen supply (an estimate of total contract costs excluding bitumen supply divided by an estimate of total contract costs) is fixed for the duration of the contract and has a value of 91%

p₂ = The proportion of costs to be adjusted by the index after excluding bitumen supply is fixed for the duration of the contract and has a value of 100%

I / I' = The value of the index defined in clause 3 for the month under consideration divided by the value of the index for the month during which tenders closed

Volume = Volume of residual bitumen binder applied during the month under consideration (litres) taken from the Payment Schedule. Residual bitumen is the non-volatile fraction of the bitumen binder that remains in service after evaporation. Volume is measured at 15 degrees Celsius

Bit = Value of the *NZ Transport Agency Bitumen cost adjustment series* for the month under consideration, published on the NZ Transport Agency website

Bit' = Value of the *NZ Transport Agency Bitumen cost adjustment series* for the month during which tenders closed, published on the NZ Transport Agency website.

3. The index shall be the *NZ Transport Agency network outcome index (costs excluding bitumen)* as published on the NZ Transport Agency website.
4. Cost Fluctuation provisions shall be applied from the commencement of the contract period except that for months 1 to 12 of the contract period CI shall be deemed = \$Nil.
5. For the purpose of calculating the cost fluctuation adjustment in clause 2, any Daywork,

Prime Cost Sums, Variations and other payment items which are based on actual cost, or current prices and any advances shall be excluded from the valuation of work completed.

6. The Contractor shall not be entitled to claim cost fluctuation adjustment for work completed after the Due Date for Completion greater than that which would apply had the work been completed on the Due Date for Completion.
7. The index values to be used in the calculation of the cost fluctuation in clause 2 shall be those first published by the NZ Transport Agency for the appropriate quarter.
8. Where the index for the quarter has not yet been published, interim payments shall be made on the basis of the index for the most recent quarter for which an index is available. A correction to the interim monthly payment will be made following the publication of the applicable index and will be processed with subsequent progress payments.
9. If at any time any of the Statistics New Zealand indexes which are inputs into the NZ Transport Agency index(es) referred to in clause 2 or later clauses are no longer published, or if the basis of any index is materially changed, the adjustment shall thereafter be calculated by using such other input index, or in such other manner as will fairly reflect the changes as previously measured by that index.
10. If at any time any of the inputs into the *NZ Transport Agency bitumen cost adjustment series* referred to in clause 2 or later clauses are no longer published, or if the basis of the *NZ Transport Agency bitumen cost adjustment series* is materially changed, the adjustment shall thereafter be calculated by using such other inputs, or in such other manner as will fairly reflect the changes as previously measured by the *NZ Transport Agency bitumen cost adjustment series*.
11. The Principal has developed a web based tool, called "The Adjuster" that is available to Suppliers, refer <https://adjuster.nz/>. The Adjuster calculates contract price adjustments for cost fluctuation using the bitumen volume based method.

Schedule 18 – Contract Risk Profile

Contract for: <<insert number and name>>

The Contract Risk Profile describes known risks and states describes whether the risk is the payment mechanism for each item. the Contract.

Subject to clause 5.6.6, all other risks not specifically listed in the following schedule are deemed to be Contractor's risk the contract and therefore need to be considered in the Contract Price.

Contract Risk Profile			
Risk Description	Contract Risk Owner	Contract Payment Mechanism	
Contract Works			
1	Changes to Network centreline length.	Principal	By agreed variation
2	Maintaining private accessways and pedestrian facilities located outside the kerb line and/or edge of seal in the urban areas except where listed in Appendix Table 1.5.3. as defined in the RAMM database.	Principal	Not in scope
3	Maintaining private accessways in rural areas.	Contractor and Principal	Where there is a pre-existing seal this is within the lump sum but excluded from OPM measurement. Where there is not a pre-existing seal, NZTA may choose to seal on a case by case basis.
4	Clean culverts under accessways in maintained side drains.	Contractor	Within the Lump Sum items
5	Legislative, regulatory, or Principal's policy and MOU changes during Contract Period.	Principal	By agreed variation
6	Maintaining pavement and surfacing, within 7.5m of any rail, at railway level crossings. This includes obtaining permits.	Contractor	Measure and Value applicable items Within the Lump Sum items
Value Management Proposition			
7	Any change in any individual KRA, KPI, measure or weightings for the KRA system including KPIs, measures, reporting or weightings.	Contractor	Within the Lump Sum items

Contract Risk Profile

Risk Description		Contract Risk Owner	Contract Payment Mechanism
8	Maintenance of asset additions and deletions growth during the Contract Period.	Contractor	Variation to the Lump Sum by an asset growth rates. For major additions by agreed variation. Measure and Value applicable items
9	Increased lump sum cost from Principal initiated reduction Changes to the accumulated annual pavement rehabilitation programme as reconciled against the Contractor's tendered accumulated Pavement Rehabilitation Baseline Plan.	Principal	Measure and Value applicable items Agreed holding repairs paid at Principal Risk rates
10	Increased lump sum cost from Contractor initiated reduction to the accumulated annual pavement rehabilitation programme as reconciled against the Contractor's tendered accumulated Pavement Rehabilitation Baseline Plan.	Contractor	Within the Lump Sum items
11	Decreased lump sum cost from increase to the accumulated 3-yearly NLTP pavement rehabilitation programme as reconciled against the Contractor's tendered accumulated Pavement Rehabilitation Baseline Plan.	Principal	Lump Sum adjustment
12	Increased lump sum cost beyond due to a 10% change reduction to the accumulated annual resurfacing programme as reconciled against the Contractor's tendered accumulated Resurfacing Baseline Plan.	Principal	Repairs paid at Principal Risk rates
13	Increased lump sum cost due to incomplete delivery of approved programme in a given year.	Contractor	Within the Lump Sum items
Contract Management			
14	Unscheduled General, Principal and Special structure inspections and reporting after a significant flood (or similar) event.	Principal	By agreed variation
15	Maintenance, use of and management of stockpile and disposal Sites.	Contractor	Within the Lump Sum items
16	Liability for unplanned damages to services and assets which were not agreed and were caused by the Contractor's operation, excluding planned reinstatements.	Contractor	Within the Lump Sum items
17	Lump sum activity related land entry agreements.	Contractor	Within the Lump Sum items

Contract Risk Profile			
Risk Description	Contract Risk Owner	Contract Payment Mechanism	
18	Deterioration to assets beyond the limit of Contract Works resulting from any traffic diversion or detour: a) to the extent that the event causing the traffic diversion or detour is the Principal's risk; b) where the traffic diversion or detour is instructed or implemented by the New Zealand Police, provided that the Contractor diligently completes works to allow the highway to be reopened to traffic.	Principal	By agreed variation
19	Pavement and surfacing damage resulting from Heavy Traffic Growth greater than the length weighted mean (=sum(treatment length x Heavy ADT)/total contract area length) growth rate of 5% compounded annually. Traffic growth greater than the length weighted mean (=sum (treatment length x AADT)/total contract area length) growth rate of 5% compounded annually or 10 HCVs per day whichever is the greater.	Principal	By agreed variation refer to Basis of Payment Preamble iii
Network Management			
20	RAMM updating as a result of third party activities or other Principal-engaged Contract Works.	Principal	By agreed variation
21	Asset integrity after the Period of Defects Liability Notification for third party works that have been consent-approved by the Principal and monitored by the Contractor.	Contractor	Within the Lump Sum items
22	Defects on projects completed by other Principal-engaged suppliers within the individual liability periods.	Principal	By agreed variation
23	The first 10 hours of any Incident Response event, from notification as defined in Section 6.8.1 Incident Response.	Contractor	Within the Lump Sum items
20	Development of Incident Recovery Plans following an incident where there is a follow up requirement	Principal	Within the Lump Sum items
24	Monitoring geological threats not included in Appendix 5.10, Geological Hazard Site Inspection Register.	Principal	By agreed variation
25	Preparation of geotechnical preliminary and detailed assessment Reports	Principal	By agreed variation
22	Monitoring geological threats not included in Appendix 5.10, Geological Hazard Site Inspection Register.	Outside	
26	Resource consent application and compliance activities for all lump sum work completed during this contract.	Contractor	Within the Lump Sum items
27	Resource consent and designation compliance activities that existed prior to commencement of the contract, as shown in Appendix 5.6, Statutory Approvals – Resource Consents and Designations.	Contractor	Within the Lump Sum items
28	Routine Surveillance inspections of bridges and other structures and reporting.	Contractor	Within the Lump Sum items

Contract Risk Profile			
Risk Description		Contract Risk Owner	Contract Payment Mechanism
29	General, Principal and Special inspections of bridges and other structures inspection and reporting.	Principal	Outside scope
30	Treatments of Priority A Sites, as identified within the annual skid resistance exception report, on road sections not treated by the Contractor excluding the Contractor's own completed work, and are not flushed.	Principal	By agreed variation
31	On road aggregate ESC value (polishing) below the specified ESC value (IL-0.02), as measured at minimum after 24 months from construction by the Principal's SCRIM survey.	Contractor	Within the Lump Sum items
29	Areas within a carriageway \geq 10m long that are flushed and constitutes a safety hazard (i.e. macrotexture is \leq the threshold level for macrotexture as specified in Transport Agency T/10 "Specification for State Highway Skid Resistance Management") and either: a) In addition to low texture the SCRIM coefficient is \leq 0.35 unless a joint inspection has determined that SCRIM improvement is not warranted, or b) The texture will impact negatively on the life of a surfacing renewal treatment.	Inside	Within the Lump Sum items
32	Treatment of flushed sites as identified in the flushing assessment report	Principal	Repairs paid at Principal Risk rates
33	Area requiring pre-reseal texturing to enable the application of a single coat chip seal and is less than or equal to 6% of the total area to be sealed	Contractor	Within the Lump Sum items
34	Area requiring pre-reseal texturing to enable the application of a single coat chip seal and is greater than 6% of the total area to be sealed	Principal	Measure and Value item
35	Involvement with capital project development and coordination for projects scheduled within Appendix 3.3.	Contractor	Within the Lump Sum items
Physical Works			
36	Work required addressing vibration and road noise complaints as a result of work completed by the Contractor, or completed by third parties who were consent-approved, which was monitored by the Contractor and the work is outside the Period of Defects Liability Notification.	Contractor	Within the Lump Sum items
37	Work required addressing vibration and road noise complaints for pavements that are otherwise in good condition, i.e. no defect(s).	Principal	By agreed variation
38	Completion of second coat seals on capital works projects completed under other contracts.	Principal	Outside scope
39	Planned and agreed reinstatement of all traffic detector loops and weather meters sensors due to physical works as a result of lump sum work completed under this Contract.	Principal	Outside scope
40	Renewal or installation of culverts.	Principal	By agreed variation

Contract Risk Profile

Risk Description		Contract Risk Owner	Contract Payment Mechanism
41	All bridge and other structures structural component repairs.	Principal	By agreed variation
42	Bridge and other structures component replacements, including graveyard barriers. with the exception of any: a) Sight rails b) Handrails	Principal	By agreed variation
43	Reinstatement of all damaged structure railings, barriers including terminal end systems guardrail and wire rope and structure sightrails and handrails. as a result of vehicle crash damage beyond the first 20m in length.	Principal	Principal risk non-routine rates or by agreed variation
44	Removal of debris and aggregate from bridge abutments and piers.	Principal	By agreed variation
40	Reinstatement of barrier guardrail terminal end systems as a result of vehicle crash damage.	Outside	
45	Repair of debris protection fences.	Principal	By agreed variation
46	Maintaining privately owned signs, such as heritage trail signs and signs owned by Local Authorities.	Principal	By agreed variation
47	Reinstatement of all standard and non-standard signs and supports with a sign face area greater than 2.025m ² area from vandalism (other than graffiti), theft and vehicle crash damage. to all standard and non-standard signs and supports with a sign face area greater than 2.025m ² area.	Principal	By agreed variation
48	Renewal or component replacement of sign gantries.	Principal	By agreed variation
49	All maintenance and replacement of signs with a face area greater than 2.025m ² area.	Principal	By agreed variation
50	Cleaning of signs with a face area greater than 2.025m ² area.	Contractor	Within the Lump Sum items
51	Renewal of noise walls.	Principal	By agreed variation
52	Maintenance of noise walls.	Contractor	Within the Lump Sum items
53	Rectification of existing barrier height and alignment non-compliance.	Principal	By agreed variation
54	All frost and ice treatment, and snow gritting clearance work, apart from the inspection and monitoring for the need.	Principal	Measure and Value applicable items
55	All snow clearance work All monitoring to establish the need to respond to winter hazards, outside of the defined winter period, apart from the inspection and monitoring for the need.	Contractor	Within the Lump Sum items
56	Renewal of non-repairable rest area furniture, and facilities, including rubbish bins.	Principal	By agreed variation
57	Emptying of stock effluent disposal receptors.	Principal	Outside of scope
58	Structural maintenance of weigh station platform and control gear.	Principal	Outside of Scope

Contract Risk Profile

Risk Description		Contract Risk Owner	Contract Payment Mechanism
59	Maintenance and operation of heavy commercial facilities facility buildings.	Principal	Outside of Scope
56	Cleaning of electronic signs.	Inside	Within the Lump Sum items
60	Replacement, maintenance and repair of electronic signs.	Contractor and Principal	Paid in accordance with Appendix 6.11, Electronic Sign Scope and Responsibility.
61	Installation, Maintenance or Replacement of audio tactile profiled road Marking by lump sum activities e.g. resurfacing, pavement rehabilitation, rip and remake or other maintenance activities.	Principal	Measure and Value applicable items
59	Maintenance and renewal of audio tactile profiled road markings.	Outside	Measure and Value applicable items
62	Energy costs associated with operating the Principal's assets.	Principal	Outside of scope
63	Maintenance of all electrical wiring beyond the Montrose box. In the absence of a Montrose box, beyond the base of a pole.	Principal	Outside of scope
64	Crash damage or structural renewal of for street light assets.	Principal	By agreed variation
65	Work qualifying as Emergency Reinstatement under Work Category 141, see Transport Agency's Planning and Investment Knowledge Base. Risk profile numbers 23 and 66 takes precedence.	Principal	By agreed variation
66	The removal of the first 50 cubic metres in total volume of slip, rockfall or slope debris material.	Contractor	Within the Lump Sum items
67	Road slumping settlement / slumping / dropout / washout of any part of the formation and pavement between the edge lines where more than: a) 100mm of gradual vertical subsidence or horizontal movement has occurred at each location and every such site in any 12-month period calendar year b) 100mm of vertical subsidence or horizontal movement has occurred at each location and every such site in any single event.	Principal	By agreed variation
68	Road slumping settlement / slumping / dropout / washout / over slip of any part of the formation and pavement on the sites listed within Treatment of recurring hazards as defined in Appendix 6.15, Recurring Hazards.	Principal	By agreed variation
69	Maintenance of rail level crossing warning devices	Principal	Outside of scope
70	Renewal of existing stock-truck effluent disposal facilities	Principal	Outside of scope
71	Renewal of catch fences provided for protection of the carriageway from slip material	Principal	By agreed variation

Contract Risk Profile

Risk Description		Contract Risk Owner	Contract Payment Mechanism
72	Renewal of any special treatment of stormwater run-off from the road not related to contract works to maintain water quality	Principal	By agreed variation
73	Maintenance and renewal of ramp metering equipment	Principal	Paid in accordance with Appendix 6.11, Electronic Sign Scope and Responsibility.
74	Surveillance devices and traffic monitoring equipment, such as closed-circuit television systems	Principal	Paid in accordance with Appendix 6.11, Electronic Sign Scope and Responsibility.
75	Tunnel ventilation systems operation	Principal	By agreed variation
76	Maintenance and operation of emergency telephones	Principal	Outside of scope
77	Specialist Culvert Inspections: Use of specialist equipment such as CCTV to determine culvert condition where this can't be ascertained by visual inspection	Principal	By agreed variation
78	Traffic signal maintenance and repairs	Principal	Outside of scope
79	Rectification of damage to assets caused by falling trees	Principal	By agreed variation
80	Removal and disposal of unauthorised signs	Contractor	Within the Lump Sum items
81	Adjustments to service covers located within maintenance or renewal works	Contractor and Principal	Items-Within Measure and Value applicable items for renewals. All other sites by agreed variation.
82	Renewal of separated foot paths, cycle paths, shared paths and bridle paths	Principal	By agreed variation
83	Repairs to rock face mesh protection and catch fences	Principal	By agreed variation
84	The installation, maintenance, replacement and removal of flexible posts and temporary fencing not part of the Contractor's works	Principal	By agreed variation
85	Treatment of rutting other than on Contractors own work	Principal	Principal Risk non-routine rates or By agreed variation
All			
86	Accuracy of Principal's information provided to the Contractor at tender and Contract commencement	Contractor	Within the Lump Sum items

The Contractor will not be penalised for non-compliance on a performance measure where the defect lies within a Principal risk item. The Contractor will be expected to manage the process for bringing these items within compliance through collaboration with the Principal.

If a Principal's risk eventuates as a result of the Contractor's non-compliance, then the risk exclusion for that event becomes the Contractor's risk, including all costs and reinstatement.

Order of Documentation Precedence

In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

- a) The Contract Agreement
- b) The notification of acceptance of tender or award of Contract
- c) The post-tender documents, for example correspondence or minutes of pre-let meetings etc.
- d) Notices to Tenderers
- e) Schedule 2: Special Conditions of Contract – Other Conditions of Contract
- f) Schedule 1: Special Conditions of Contract – Specific Conditions of Contract
- g) The General Conditions of Contract NZS3910: 2003 (including other Schedules)
- h) Specifications issued prior to the Date of Acceptance of Tender
- i) Appendices
- j) Drawings issued prior to the Date of Acceptance of Tender
- k) The Schedule of Prices & Basis of Payment
- l) The Contractor's tender.