

Contract [Number]
[Contract Name]
Contract Documents

Minor Works – Direct Appoint

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DOCUMENT CHANGE FORMAT CODES

This proforma document provides the basis for the development of physical works contract documents for Waka Kotahi NZ Transport Agency's (Waka Kotahi) **Measure and Value and Lump Sum (under \$200,000)** specific project contracts. The purpose of the proforma is to provide consistency throughout Waka Kotahi regional operations.

Black

Black text is mandatory and may not be changed without approval prior to issue by the Waka Kotahi Project Manager, who will consult with the Waka Kotahi Procurement Team on all material changes made.

Red

Red text is used for data which requires fields to be updated or at least considered for each contract and marked at the beginning with [and the end with]. Text can also be used as is, modified or replaced. All red text adjustments must have the Waka Kotahi Project Manager's approval. Red text must be converted to Black text, prior to tender document release.

Blue

Blue text is used for optional clauses which can be included as is or deleted in full. Blue text must be converted to Black text, prior to tender document release.

<<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.

SET NO. _____

Contractor: _____

Address: _____

Contact Numbers: [Phone] _____

Engineer: [TBA] _____

Address: [Engineer Address] _____

Contact Numbers: [Phone] _____

Principal: New Zealand Transport Agency (Waka Kotahi NZ Transport Agency)

Address: [Principal Address] _____

Contact Numbers: [Phone] _____

CONSULTANT QUALITY RECORD			
Compiled by:	[Signature]	[Date]	<<Name Printed or Typed>>
Reviewed by:	[Signature]	[Date]	<<Name Printed or Typed>>
Released by:	[Signature]	[Date]	<<Name Printed or Typed>>
Document prepared by:	[Consultant Name, Street Address, PO Box, CITY]		
File No:	<<<to be advised>>>		
Document Release No:	[1]	Document Release Date:	[Date, Month, Year]
Computer Ref:	<<<to be advised>>>		

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- e) Implement proactive strategies to enable optimal quality outcomes from the Contract Works to be achieved;
- f) Develop and implement innovative work methods and/or materials that result in enhanced quality, performance and an optimal asset whole of life cycle;
- g) Commit to paying a living wage rate to any employee or Subcontractor that performs security or cleaning services in connection with the Contract Works (including any such services provided in respect of the Site). The Contract sets out the obligation on the Contractor and also allows the Principal to conduct a compliance audit while also requiring the Contractor to submit a self-declaration confirming compliance on an annual basis.
- h) << Guidance note: Other as maybe specifically applicable to the Contract but would need clearance from the Waka Kotahi Project Manager.>>

2 SCHEDULE OF PRICES

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Guidance Notes for preparing the Schedule of Prices (SoP)

1. When preparing the schedule of prices (SoP) The Consultant shall consider the use of the SoP by the contractor and the consultant in the Implementation phase, with the aim of efficient financial management during the construction phase of the project, to this end:
 - a. The Schedule should be in Excel Format, and in a form that can be issued to tenderers electronically.
 - b. The Consultant shall, as far as practicable:
 - structure the items in the SoP in accordance with the "standardised costing model" used in the Waka Kotahi SM014 *Cost Estimation Manual*.
 - Arrange the items sequentially in the SoP so as to follow the construction sequence of the works.
 - Structure items in the SoP so as to assist the contractor in the financial management of the project. The items should be scheduled to coincide with the sequencing of the construction of the works or the grouping together of works that are likely to be subcontracted out.
2. The Consultant is to refer to the Waka Kotahi Specifications, which may require items to be itemised and scheduled in a particular way.
3. Each item in the schedule of prices shall have a corresponding method of payment in the basis of payment.
4. Where there is a risk of variations to a scheduled item (e.g. quantity), to the extent possible, items shall be scheduled with the appropriate unit of measurement (m, m², m³ etc.) so that any Variations can be fairly valued.
5. Where there is a risk of an item of work, which is not indicated on the contract drawings, the consultant shall consider the use provisional sums, where the Consultant nominates the amount the Contractors add to their tenders (and are removed from the price evaluation of tenders)

3 PREAMBLE TO BASIS OF MEASUREMENT AND PAYMENT

3.1 Introduction

3.1.1 This section outlines the basis of payment for this contract. The following overrides any basis of payment specified or implied elsewhere in the Contract Documents or in any Waka Kotahi NZ Transport Agency (Waka Kotahi) standard specification, other standard, manual or publication referred to.

3.2 Item Description

3.2.1 The item description identifies the work covered and shall be read in conjunction with the basis of payment. The Contractor shall determine the nature and extent of the work from the Drawings, Project Specifications and Conditions of Contract.

3.3 Item Quantity

3.3.1 Metric units shall be used for measurement throughout this contract.

3.3.2 The Contractor shall not rely on the quantities provided in the schedule of prices, or dimensions provided on the Design Drawings for ordering Materials or pricing.

3.3.3 For items not measured as Lump Sums, the quantity shall be measured net from dimensions stated in the contract. No allowance shall be made for over excavation, laps, cutting, waste etc. unless specifically stated. All cubic metre measurements shall be on a solid measure basis unless stated otherwise.

3.4 Item Unit

3.4.1 Units of measurement shown in the "unit" column of the schedule of prices have been abbreviated as follows:

Abbreviation	Description
Day	Calendar Day
Hr	Hour
LS	Lump Sum
m	Linear metre
m ²	Square metre
m ³	Cubic metre
No.	Number
%	Percent
t	Tonne

3.5 Item Rate

- 3.5.1 The rate shall be deemed to include the costs of complying with all conditions, obligations and liabilities in the Contract Documents, and the supply of all Plant, labour, Materials and transportation required to complete the item of work.
- 3.5.2 Unless scheduled separately, all rates shall include allowances for miscellaneous items, accommodation, supervision, normally expected risks, transport of equipment, temporary works, setting out, inspections, reporting, attendances at meetings, communications, programming, records, quantity measurement, claims for payment, testing and quality control measures, permits, administration, plus On-Site Overheads and Off-Site Overheads and Profit.

3.6 Provisional Items

- 3.6.1 Provisional Items provide for work that may or may not be carried out by the Contractor, but which must still to be priced by the Contractor. This work shall only be performed on the instruction of the Engineer.
- 3.6.2 The amount payable to the Contractor for work covered by provisional items shall be for the quantity or work directed by the Engineer, at the rate.
- 3.6.3 The rate for provisional items shall fully compensate the Contractor for all their costs for that item, including but not limited to: labour, Plant, Materials, On-Site Overheads, Off-Site Overheads and Profit.

3.7 Provisional Sums

- 3.7.1 Provisional Sums are amounts of money entered in the schedule of prices by Waka Kotahi. These sums provide for work that may or may not be carried out by the Contractor. Such work shall only be performed on the written instruction of the Engineer.

3.8 Monthly Statements

- 3.8.1 Unless the Principal and the Contractor agree otherwise in writing, the Contractor shall each month submit to the Engineer a progress payment claim. The progress payment claim shall:
- a) Claim the appropriate payment for each item identified in the schedule of prices.
 - b) Include an editable electronic file version of the claim.
 - c) Comply with the requirements of clause 12.1 of the Contract.
- 3.8.2 Before payment, the Engineer will check all amounts claimed by the Contractor for work, and process the payment claim in accordance with 12.2 of the Contract.

3.9 Payment Details

- 3.9.1 Progress payments will be made in accordance with clauses 12.1 and 12.2 of the Contract,.
- 3.9.2 All payments will be by direct credit only.

3.10 Quality Assurance

- 3.10.1 All costs incurred by the Contractor in undertaking and completing all quality assurance testing as specified in the Contract shall be deemed to be incorporated in the rates, unless scheduled separately.
- 3.10.2 Further to clause 12.1.3 of the Contract payment of 80% of the rate will be made for any item for which the compliant test results are available, but have not been submitted to the Engineer, until such time as all records and IANZ, or other approved, certified test results required by the Contract Documents have been submitted and accepted by the Engineer.

3.11 Variations

- 3.11.1 Variations, including Dayworks that constitute a change to the detailed design must be ordered by the Engineer in writing and shall be valued according to the procedures outlined in section 9 of the General Conditions of Contract.
- 3.11.2 Variations may be valued as positive (increased scope) or negative (reduced scope).
- 3.11.3 Variations will be valued in accordance with clause 9.3 of the Contract.

3.12 Unscheduled Work

- 3.12.1 No payment shall be made for any unscheduled work without the written approval of the Engineer.
- 3.12.2 Where payment is made on Dayworks, the Contractor's representative shall certify and provide to the Engineer the priced "daily job record sheet(s)" for all unscheduled works undertaken to meet the project specification. The representative must provide the original record sheet within 24 hours of the work being carried out.
- 3.12.3 Each record sheet shall contain the following:
 - a) Description of work undertaken, including date undertaken, location and extent
 - b) Labour Hours
 - c) Type of plant, total plant hours, rate and total value claimed for each item of plant
 - d) All invoices for Materials used, certified by the contractor as being accurate. Invoices for materials used which are not available within 24 hours of the work being carried out shall be forwarded to the Engineer within **48** hours of receipt from the supplier
 - e) Signature, and name of the Contractors personnel supervising the work.

4 BASIS OF MEASUREMENT AND PAYMENT

4.1 Description of Item in Schedule of Prices

SoP Item(s) <<give SoP item reference numbers here>>

- 4.1.1 <<Guidance Note: **The Consultant must tailor this part of the document to project specific needs.** The intention is that the order of the SoP follows the construction sequence. The order item split, is up to the Consultant to develop to best meet the needs of their project. No lump sum should be greater than 5-10% of the Engineers Estimate for the contract. Each item in the Schedule of Prices must have a corresponding basis of payment describing what work is included, and how it will be measured and paid. In writing this section consideration should be given to the particular method of measuring progress made, for each item>>.

5 CONTRACT AGREEMENT

CONTRACT FOR _____

CONTRACT NUMBER _____

THIS AGREEMENT is made on _____ 20 _____

BETWEEN _____ ('the Contractor')

AND New Zealand Transport Agency, a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 ('the Principal')

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 award of Contract;
 - (c) Schedule 1: Special Conditions of Contract – Specific Conditions of Contract
 - (d) Schedule 2: Special Conditions of Contract – Other Conditions of Contract
 - (e) The General Conditions of Contract NZS3910: 2013 (including other Schedules);
 - (f) Specifications issued prior to the award of Contract;
 - (g) Drawings issued prior to the award of Contract;
 - (h) The Schedule of Prices <<Delete if not applicable>>
 - (i) The following additional documents: <<Identify any additional documents to be included for example agreed correspondence>>

5. The documents comprising the Contract shall be taken as mutually explanatory, but in the case of ambiguity or conflict the priority of documents shall be as listed in clause 4 above, with each document prevailing over a document lower in the list.
6. This Contract shall constitute the entire agreement between the parties. This Contract supersedes all prior negotiations, representations, and warranties, except insofar as the same are expressly incorporated herein.
7. This Contract may be executed in counterparts and by electronic signature, and provided each party has executed a counterpart, the counterparts together shall constitute a binding and enforceable agreement between the parties. A party shall be entitled to transmit an electronic copy of this Contract by email (or other electronic means) to the other party.

SIGNED BY _____ Authorised Signatory of Contractor

SIGNED BY _____ Authorised Signatory of Principal

6 GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract shall be those included in NZS 3910: 2013 **Conditions of Contract for Building and Civil Engineering Construction** and the following clauses.

<<Important Guidance note: **When preparing any part of this document, if there are sections/schedules that you do not require e.g. Schedule 17 - Cost Fluctuations within the Conditions of Contract, , DO NOT DELETE these schedules and ensure that you insert text at top of page "This Section Not Used">>.**

7 SCHEDULE TO THE GENERAL CONDITIONS OF CONTRACT

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

(Clause numbers refer to General Conditions)

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:	New Zealand 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
1.2, 10.2	Separable Portions	
	<ul style="list-style-type: none"> Are there any Separable Portions in this Contract? 	Select yes or no
	<ul style="list-style-type: none"> If yes, the Separable Portions are as follows and as further defined in the Contract. 	Click to enter reference
2	THE CONTRACT	
2.1	Type of Contract	
2.1.1	This Contract is a:	<i>(select one to apply, (a) or (b))</i>
	(a) Lump sum contract governed by 2.2	<input type="checkbox"/>
	(b) Measure and value contract governed by 2.3	<input type="checkbox"/>
2.5	Local authority contracts in public places, and road contracts	
2.5.1	Is this Contract a local authority contract to which 2.5.2 applies	Select yes or no
2.5.2	Is this Contract a contract in a public place to which B1 and B2 of Appendix B apply?	Select yes or no
2.5.4	Is this Contract a road contract to which Appendix B applies?	Yes
	If yes, the allowance under B3 shall be:	Refer to Schedule 1, 10.3.1
2.6	Evidence of Contract	
2.6.2	How is the Contract Agreement executed?	

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>
	(a) As stated in 2.6	<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:	pdf
2.8	Documents prepared by the Contractor	
2.8.2	Copies of the documents referred to in 2.8.2 shall be supplied without charge to the Engineer:	
	<ul style="list-style-type: none"> Number of hard copy sets: 	Three (3)
	<ul style="list-style-type: none"> In the following electronic form: 	pdf
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 bond companies who hold a minimum interactive S&P rating of 'A'.	Select yes or no <<Guidance note: Default is no for performance bonds. Refer to section 1.9.8, 1.9.9, and 1.9.10. of the Waka Kotahi Contract procedures manual (SM021) for guidance on the bonding policy>>
3.2	Principal's Bond	
3.2.1	Is a Principal's Bond required?	No
5.	GENERAL OBLIGATIONS	
5.4	Possession of the Site	
5.4.1	The Contractor shall be given possession of the Site:	<input type="checkbox"/>
	(a) On the following date:	<input type="checkbox"/> Click to enter a date
5.4.3	Limits on the Contractor's right of entry to adjoining properties are:	Nil or "As detailed in the Specification"
5.5	Separate Contractors	
5.5.1	Separate Contractors who may be carrying out work on the Site concurrently with the Contract Works are:	Contract Number, Contract Name [Contractor to be named]
5.5.2	Are facilities for Separate Contractors required?	Select yes or no
	If yes, details of facilities required are:	Click to enter text
5.6	Care of works and Site	
5.6.6(g)	Further risks specifically excepted are:	Nil <<Guidance note: default is NIL. Insurance should be consulted if you wish to change from the default>>
5.10	Programme	

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>
5.10.4	Is the programme required to be a Comprehensive Programme?	Click to enter text
5.10.4(e)	If yes, other requirements for the Comprehensive Programme are:	Programme shall be consistent in principle, philosophy and milestones with the submitted Tender Methodology and Tender Programme unless exception is requested and approved by the Engineer.
5.10.5	The Comprehensive Programme shall use the following software:	Click to enter text <<To be determined based on the nature of the work e.g. fortnightly, monthly>>
5.10.6	Updates of the Comprehensive Programme shall be provided at the following intervals:	Click to enter text <<To be determined based on the nature of the work e.g. fortnightly, monthly>>
5.11	Compliance with laws	
5.11.3	Exceptions to the Principal's obligations to obtain licences under 5.11.3 are:	Nil <<Default is "Nil" unless Principal feels that the Contractor is best to obtain certain licences.>>
5.11.4	Exceptions to the Contractor's obligations to give notices and obtain other licences under 5.11.4 are:	Nil
5.17	Safety plan	
	Is a Site-specific safety plan required to be prepared by the Contractor?	Yes
5.18	Quality Management Plan	
	Is a Quality Management Plan (QMP) required to be prepared by the Contractor?	Select yes or no
5.19	Traffic management plan	
	Is a traffic management plan required to be prepared by the Contractor?	Select yes or no
5.20	As-built drawings and operation and maintenance manuals	
5.20.1(a)	Are as-built drawings required to be prepared by the Contractor?	Yes, as set out in the project specification
5.20.1(b)	Are operation and maintenance manuals required to be prepared by the Contractor?	Yes, as set out in the project specification
6.	THE ENGINEER	
6.1	Appointment of the Engineer	
6.1.2	The Engineer is:	Name, Company, Street Address
	Whose professional qualification is:	

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>
6.4.6	The Principal will recover the cost for reinspection, remeasuring or retesting at the following rates: <ul style="list-style-type: none"> • Engineer or other professional • Other personnel • Vehicle running • Sub-consultant invoices 	 [\$250.00] per hour (exclusive of GST) [\$200.00] per hour (exclusive of GST) [\$1.00] per km (exclusive of GST) Cost plus [15%]
7. INDEMNITY		
7.1.5	Liability Cap	[Insert amount of cap] <<Guidance note: click here for detailed guidance. For any Liability Cap assistance email Procurement@NZTA.govt.nz with the subject "Liability Cap assistance" >>
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: Default is "Principal">>.

Clause in General Conditions	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	8.8 Existing structure(s) and contents	<p>Select Principal if insurance is required</p> <p><<Guidance note: Approval for insurance levels by the Senior Managers Procurement and Risk and Assurance is required for any contract where construction work is contemplated on significant strategic parts of the Waka Kotahi asset, e.g., the Auckland Harbour Bridge, Newmarket Flyover, Thorndon Elevated Motorway, Christchurch Lyttleton Road Tunnel. While Waka Kotahi does not insure the roading network, bridges or tunnels, it is possible that Waka Kotahi may need to insure the asset being worked on. Note that this would only apply to contracts where the structure supporting the asset was being worked upon and there is a serious risk of structural damage. Note whether insurance currently exists on the structure. Existing property can include existing structures, buildings, plant, stock, machinery, equipment, supplies, contents and real property of every description either owned by the Named Insured or for which they assume responsibility, but only in respect of Events during the course of completing the Insured Operations. Existing Property is specifically excluded under this Policy unless an amount is specified against this item in the Schedule. Contract Works limit of liability for Principal's Existing Property is 25% of the estimated contract value at commencement subject to a minimum of \$2,500,000 and a maximum of \$25,000,000 on any one Occurrence on any one contract.>></p>
	8.4 Plant	<p>Contractor</p> <p><<Guidance note: Default is "Contractor">></p>
	8.5 or 8.9 Public liability	Principal
	8.5.2 Motor Vehicle	Contractor
	8.6 Professional Indemnity	<p>Not required</p> <p><<Guidance note: Default is "not required" however if there is an element of design that the Contractor is required to do e.g. retaining wall, then they should be required to insure. The value of the level of insurance is stated in 8.6.1 below.>></p>
8.1.6	The following forces of nature shall be specifically insured under 8.3 or 8.8 as applicable:	<p>Yes<<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 activity>></p>
	(a) Earthquake	Select yes or no
	(b) Tsunami	Select yes or no
	(c) Tornado	Select yes or no
	(d) Cyclone	Select yes or no

Clause in General Conditions	Title and subject matter	Specific condition data <i>(Expand cells if required or add reference to further detail provided in Schedule 2.)</i>
	(e) Storm	Select yes or no
	(f) Flood	Select yes or no
	(g) Lightning strike	Select yes or no
	(h) Volcanic activity	Select yes or no
	(i) Landslip	Select yes or no
	(j) Hydrothermal Activity	Select yes or no
	(k) Geothermal Activity	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 "interested" 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 offer, plus the following allowances:	
	(a) An allowance for the Cost of demolition, disposal and preparation for replacement work, equal to:	
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input checked="" type="checkbox"/> 5%
	(b) An allowance for professional services fees including the Cost of clerks of works and inspectors, equal to:	
	(ii) The percentage of the Contract Price adjusted as above, stated in the right hand column:	<input checked="" 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) The amount in the right hand column:	<input type="checkbox"/> [\$xxxxx] <<Guidance Note: Use absolute values if known>>
	(d) An allowance for an increase in the Contract Price due to Variations, equal to:	
	(i) The amount in the right hand column:	<input type="checkbox"/> [\$xxxxx] <<Guidance Note: If this amount is over 15%, you must contact insurance@nzta.govt.nz>>

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>
	(e) An allowance for an increased construction Costs due to inflation, equal to:	
	(i) The amount in the right hand column:	<input checked="" type="checkbox"/> \$0.00
	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 offer.	
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"/> [list specific items] <<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:	N/A
	Such public liability insurance may include sub limits:	N/A
8.5.2	Where required (see 8.1 above), motor vehicle third party liability insurance shall be effected for an amount not less than:	[\$5,000,000]
8.6	Contractor arranged professional indemnity insurance <<Guidance Note: For low risk contracts the PI level should be calculated at 5 x the design fee at a minimum amount of \$500k and maximum of \$2M. For high risk project specific contracts Insurance Levels must be reviewed and approved by the Senior Managers Procurement and Risk and Assurance via Appendix XXIII of SM021 Manual (insurance@nzta.govt.nz). Contracts are considered high risk where: 1) the contract period is greater than 3 years, OR 2) the contract value is greater than \$50M, OR 3) bridge construction or retaining walls or other structures with a cost greater than \$10M OR 4) the contract involves works generally considered to be of a high risk nature e.g. particularly challenging geology, or a significant amount of work in a tidal zone.>>	
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:	[\$XXXXXX]
	• For any one claim:	[\$XXXXXX]
	• And for an amount in the aggregate of:	[SXXXXXX]

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>																							
8.6.2	Sub limits of liability for design of parts of the Contract Works by Subcontracts shall not be less than:	[List specific parts] or [Not required] <<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>>																							
8.8	Principal arranged construction insurance <i>(refer also to 8.3)</i>																								
	In accordance with 8.7.2, the insurance policy wording title for 8.8.1 and 8.8.2 (a), (b), and (c) is:	Specific policy wording applicable to this contract will be provided by Risk and Assurance																							
	In accordance with 8.7.2, the extraordinary exclusions, conditions, warranties or endorsements to the policy for 8.8.1 and 8.8.2 (a), (b) and (c) are:	Specific policy wording applicable to this contract will be provided by Risk and Assurance																							
8.8.1	Where the Principal is required to effect construction insurance (see 8.1 above).																								
	The lead insurer can be found at:	https://www.marsh.com/nz/industries/transportation/nz-transport-agency-pai.html																							
	The Nominal Deductibles are:	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th rowspan="2"></th> <th colspan="3">Original Estimated Contract Value</th> </tr> <tr> <th>0 to 10m</th> <th>>10m to 50m</th> <th>>50m</th> </tr> </thead> <tbody> <tr> <td>Each loss except as below:</td> <td>\$10,000</td> <td>\$25,000</td> <td>\$50,000</td> </tr> <tr> <td>Major Perils</td> <td>\$25,000</td> <td>\$50,000</td> <td>\$100,000</td> </tr> <tr> <td>Wet Work Contracts</td> <td>\$150,000</td> <td>\$200,000</td> <td>\$300,000</td> </tr> <tr> <td>Tunnelling Contracts (including excavations / underpasses >100m)</td> <td>\$150,000</td> <td>\$200,000</td> <td>\$300,000</td> </tr> </tbody> </table> <p>For this contract, the Original Estimate Contract Value is in the range >\$0 to \$10m <<Guidance note: Consultant to ensure the above deductibles table is consistent with the latest and current Waka Kotahi PAI policy wording at the time of tender close>></p>		Original Estimated Contract Value			0 to 10m	>10m to 50m	>50m	Each loss except as below:	\$10,000	\$25,000	\$50,000	Major Perils	\$25,000	\$50,000	\$100,000	Wet Work Contracts	\$150,000	\$200,000	\$300,000	Tunnelling Contracts (including excavations / underpasses >100m)	\$150,000	\$200,000	\$300,000
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Tunnelling Contracts (including excavations / underpasses >100m)	\$150,000	\$200,000	\$300,000																						
8.8.2(a)	The existing structures are:	N/A																							

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>												
		<<Guidance note: default position is that this is not relevant to Waka Kotahi projects. If unsure email insurance@nzta.govt.nz for project specific guidance. If there are Waka Kotahi existing structures that are part of the physical works (i.e. additions, alterations, repairs, maintenance) then 8.8.2(a) and 8.8.2(c) need to be completed>>												
8.8.2(b)	Other structures in the vicinity are:	N/A <<Guidance note: default position is that this is not relevant to Waka Kotahi projects. If unsure email insurance@nzta.govt.nz for project specific guidance>>												
8.8.2(c)	Contents insurance are:	N/A <<Guidance note: default position is that this is not relevant to Waka Kotahi projects. If unsure email insurance@nzta.govt.nz for project specific guidance>>												
8.9	Principal's option to insure public liability													
8.9.1	Where required (see 8.1 above), the Principal shall effect public liability insurance for an amount not less than:	Select an option												
	The lead insurer can be found at:	https://www.marsh.com/nz/industries/transportation/nz-transport-agency-pai.html												
	The Nominal Deductibles are:	<<Guidance note: The Nominal Deductibles should be inserted from https://www.marsh.com/nz/industries/transportation/nz-transport-agency-pai.html >> <table border="1" style="margin-top: 10px;"> <thead> <tr> <th></th> <th colspan="3">Original Estimated Contract Value</th> </tr> <tr> <th></th> <th>0 to 5m</th> <th>>5m to 10m</th> <th>>10m</th> </tr> </thead> <tbody> <tr> <td>Each occurrence (including Maintenance Contracts)</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> *Including costs and expenses For this contract, the Original Estimate Contract Value is in the range >\$0 to \$5m		Original Estimated Contract Value				0 to 5m	>5m to 10m	>10m	Each occurrence (including Maintenance Contracts)			
	Original Estimated Contract Value													
	0 to 5m	>5m to 10m	>10m											
Each occurrence (including Maintenance Contracts)														
	In accordance with 8.7.2:													
	<ul style="list-style-type: none"> The policy wording title is: 	Specific policy wording applicable to this contract will be provided by Risk and Assurance												
	<ul style="list-style-type: none"> Extraordinary exclusions, conditions, warranties, or endorsements to the policy are: 	Specific policy wording applicable to this contract will be provided by Risk and Assurance												

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>
10. TIME FOR COMPLETION		
10.1 Commencement		
10.1.3	Winter Period	[1 May] through [31 August] inclusive. <<Guidance Note: The Consultant shall consider the appropriate Winter Period for pavement and surfacing construction exclusion, noting that this will vary with the location of the works. If uncertain the Consultant shall consult with the Waka Kotahi Pavement Team. Any changes to the Winter Period will require consequential change to the Construction Season.>>
	Construction Season	[1 September] through [30 April] inclusive. <<Guidance Note: Any changes to the Winter Period above will require changes to the Construction Season.>>
10.2 Due Date for Completion		
10.2.1	The periods to be used for calculating the Due Date for Completion are:	<i>(select one to apply, (a), (b) or (c))</i>
	(a) For the Contract Works:	Click to enter number of Working Days <i>(Working Days)</i>
	(b) For any Separable Portions:	Click to enter number of Working Days <i>(Working Days)</i> Click to enter details
10.3 Extensions of time		
10.3.1(b)	An allowance for inclement weather:	Click to enter number of Working Days <i>(Working Days)</i>
10.4 Practical Completion Certificate		
10.4.5	Prior to issue of the Practical Completion Certificate:	<i>(select one to apply, (a), (b) or (c))</i>
	(a) Producer Statements in the form of Schedule 6 are required;	<input checked="" type="checkbox"/> <<Default>>
	(b) Producer Statements as set out in the following parts of the Contract are required:	<input type="checkbox"/> [Project Specification Section X]
	(c) Producer Statements are not required.	<input type="checkbox"/>
10.5 Damages for late completion		
<<Guidance note: Where liquidated damages are provided for, the amount must be a genuine pre-estimate of the likely loss that would result from delay of completion. Where liquidated damages are provided for Separable Portions it may be necessary to provide different rates for each Separable Portion. Where liquidated damages are not provided, the Principal can recover and the Contractor will be liable only for such actual loss as the Principal can prove has resulted from the late completion, being loss of a kind reasonably foreseeable to the parties at the time the contract was made as being likely to result>>		

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>
10.5.1	Liquidated damages shall be applied as follows:	
	• In respect of the Contract Works:	<input type="checkbox"/> [\$XXX] per Working Day
	• In respect of the Separable Portions:	<input type="checkbox"/> [\$XXX] per Working Day for each Separable Portion
11. DEFECTS LIABILITY		
11.1	Defects Notification Period	
	The Defects Notification Period shall be: (3 Months unless otherwise stated)	
	• In respect of the Contract Works:	[52] weeks
• In respect of the Separable Portions:	[52] weeks	
11.3 Final Completion Certificate		
11.3.2	Prior to issue of the Final Completion Certificate:	<i>(select one to apply, (a), (b) or (c))</i>
	(a) Producer Statements in the form of Schedule 6 are required;	<input checked="" type="checkbox"/> <<Default>>
	(b) Producer Statements as set out in the following parts of the Contract are required:	<input type="checkbox"/> [Project Specification Section X]
	(c) Producer Statements are not required.	<input type="checkbox"/>
11.5 Warranties		
11.5.1		<i>(select one to apply, (a) or (b))</i>
	(a) No warranties are required;	<input checked="" type="checkbox"/>
	(b) The Contractor shall provide warranties as set out in the Contract for the following items of work:	<input type="checkbox"/> [State the items]
11.6 Guarantees		
11.6.1, 11.6.2		<i>(select one to apply, (a) or (b))</i>
	(a) No guarantees are required;	<input checked="" type="checkbox"/> <<Default>>
	(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	

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>
	(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"/> <<Guidance note: This is the default. The Waka Kotahi Project Manager's approval is required if option (b) below is selected>>
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"/>
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"/> <<Guidance note: This is the default. The Waka Kotahi Project Manager's approval is required if option (b) below is selected>>
12.3	Retention monies	
12.3.1, 12.3.2	The percentage to be retained from each progress payment and the limit of the total sums retained shall be in accordance with the following:	
	(a) For the Contract Works, 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 	<input checked="" type="checkbox"/>
	The amount to be retained in respect of the Contract Works in accordance with this clause shall not be reduced, until all Asset Register (RAMM) information, draft as-builts and operations and maintenance manuals required to be submitted at or before Practical Completion, have been submitted to the Engineer. The retention monies shall not be reduced, until all RAMM information, final as-builts and operations and maintenance manuals required to be submitted at or before the end of the Defects Notification Period has been submitted to the Engineer <<Guidance Note: Project Specification to detail all RAMM information required from the Contractor for RAMM updates.>>	
12.3.3	Bond in lieu of retention	<i>(select one to apply, (a) or (b))</i>
	(a) The Contractor may provide a bond in lieu of retentions. 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%	<input type="checkbox"/> <<Guidance note: only select this clause if contract value greater than \$100,000>>
	(b) The Contractor may not provide a bond in lieu of retentions	<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>
		<<Guidance note: only select this clause if contract value less than \$100,000>>
12.8	Cost fluctuations	
	(a) Cost fluctuations shall not be paid;	<input checked="" type="checkbox"/> <<Guidance note: for some contracts it may be appropriate to allow cost fluctuations – advice on same can be sought from procurement@nzta.govt.nz >>
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 type="checkbox"/>
13.	DISPUTES	
13.4	Arbitration	
13.4.3	If required, the arbitrator shall be nominated by the following Person:	The then President of the New Zealand Law Society or his or her nominee
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 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 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 the attention of:	

Clause <i>in General</i> <i>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>
	Email address:	
	Other agreed means of electronic communication and address detail:	

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

These conditions amend and supplement the General Conditions. Clause numbers refer to NZS 3910:2013.

SECTION 1 - INTERPRETATION

In addition to 1.2 Definitions, add in the following definitions:

- **CONSTRUCTION SEASON** means the period specified in Schedule 1.
- **DATA BREACH** means any incident involving facilities, systems, personnel, suppliers and/or Subcontractors that:
 - (a) involves (or gives rise to a real risk of) unauthorised or accidental access to, or use, disclosure, alteration, loss or destruction of, any of the Principal's Personal Information; or
 - (b) prevents the Principal from accessing the Principal's Personal Information on either a temporary or permanent basis; or
 - (c) would prompt a reasonable and prudent person in the Principal's position to notify (or consider notifying) the incident to the Privacy Commissioner and/or one or more individuals under the NZ Privacy Laws.
- **HSAW ACT** means the Health and Safety at Work Act 2015.
- **JOINT VENTURE** has the meaning given to that term in 17.1.1.
- **LIABILITY CAP** has the meaning given to that term in 7.1.5.
- **LIVING WAGE RATE** means the higher of:
 - (a) \$22.75 per hour; and
 - (b) The New Zealand living wage hourly rate promoted by Living Wage Aotearoa New Zealand (or a similar or equivalent nationwide living wage hourly rate) at the time the relevant Contract Works are carried out.
- **NZ PRIVACY LAWS** means the Privacy Act 2020, and any New Zealand laws, regulations, codes of practice and approved information sharing agreements insofar as they regulate the collection, processing, storage, use and/or disclosure of information about individuals.
- **OIA** means the Official Information Act 1982.
- **PERSONAL INFORMATION** has the meaning given in the Privacy Act 2020.
- **PRINCIPAL'S PERSONAL INFORMATION** has the meaning given in the Privacy Act 2020.
- **RMA** means the Resource Management Act 1991.
- **STATUTORY FUNCTIONS** has the meaning given to that term in 1.3.11.
- **UNDERGROUND SERVICES** means existing pipework, cables, conduits, conveying services such as electricity, gas, water, waste and electronic communications, located below the existing ground service.
- **WILFUL DEFAULT** means an intentional or reckless act or omission carried out with disregard for harmful and avoidable consequences.
- **WINTER PERIOD** means the period specified in Schedule 1.

Insert new 1.3.9 – 1.3.11 as follows:

- 1.3.9** If any one or more of the provisions contained in the Contract is invalid, illegal or unenforceable in any respect under any applicable Act or Regulation, the validity, legality and enforceability of the remaining provisions contained in the Contract will not in any way be affected or impaired.
- 1.3.10** No amendment to the Contract will be binding on the parties unless in writing and signed by an officer or representative of each party having the authority to do so.
- 1.3.11** The Contractor recognises that the Principal has certain statutory powers, functions and/or regulatory roles, and is bound by particular statutory responsibilities (**Statutory Functions**). The Contractor acknowledges and agrees that the Contract does not seek to derogate from such Statutory Functions and, accordingly:
- (a) nothing in the Contract in any way influences or restricts the exercise of the Statutory Functions, or binds the Principal to make a particular decision in respect of any Statutory Function exercised by it; and
 - (b) if there is a conflict between an obligation under the Contract, and a Statutory Function, the applicable Statutory Function prevails to the extent of the conflict.

SECTION 2 – THE CONTRACT

Delete 2.2.5 and replace with the following:

- 2.2.5** No discrepancy in the Schedule of Prices shall be treated as a Variation.

Delete 2.6 and replace with the following:

- 2.6.1** There is no contract or other legal relationship between the Contractor and the Principal until the Contract Agreement is executed by both parties, unless the parties agree otherwise in writing (including under any signed and countersigned notification of acceptance of tender or letter of award).

Delete 2.10 and replace with the following:

- 2.10.1** Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Contract by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under the Contract.
- 2.10.2** A waiver or consent given by a party under the Contract is only effective and binding on that party if it is given or confirmed in writing by that party.
- 2.10.3** Any waiver by a party of its rights, powers and/or remedies under 2.10.2 will not operate as a waiver of its rights, powers and/or remedies in respect of any subsequent or continuing breach of the Contract.

SECTION 4 – SUBCONTRACTS

Add the following at the end of 4.1.3:

The Contractor will be responsible for the acts, omissions and defaults of every Subcontractor (notwithstanding that the Subcontractor may have been approved by the Principal or the Engineer) in relation to or in connection with the Contract Works, including their officers, employees and agents, as if they were the acts, omissions or defaults of the Contractor (all such acts, omissions and defaults will be deemed to be acts, omissions and defaults of the Contractor), and the Contractor will remain primarily liable to discharge all of its obligations under the Contract.

Add a new 4.1.4 as follows:

- 4.1.4** Each subcontract entered into or proposed to be entered into by the Contractor will prohibit any assignment or novation of the subcontract by the Subcontractor and will prohibit any further subcontracting without the prior approval of the Engineer.

SECTION 5 – GENERAL OBLIGATIONS

Add new 5.1.7-5.1.11 as follows:

- 5.1.7** The Contractor must advise the Engineer of any potential or actual conflicts of interest within its own organisation or with any individual or organisation engaged to complete any of the Contract Works. This includes individuals and organisation's engaged in any Subcontractor or other supply arrangement.
- 5.1.8** The Contractor must advise the Engineer the means that it intends to use to remove or mitigate such conflicts of interest.
- 5.1.9** The Engineer must inform the Principal of any conflicts of interest notified to the Engineer by the Contractor under 5.1.7, and the Engineer will, in discussion with the Principal 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.
- 5.1.10** It is essential that the Contractor always acts in its dealings with the Principal, its officers, employees, advisers, contractors and agents in a manner consistent with the highest standards of probity. The Contractor must, if required by the Principal, comply with any probity guidelines and principles promulgated by or on behalf of the Principal from time to time, and must ensure that all Subcontractors do the same.
- 5.1.11** The Contractor must comply with the *Standards of Integrity and Conduct* issued by the State Services Commission (see <https://www.procurement.govt.nz/assets/procurement-property/documents/supplier-code-of-conduct.pdf>) and any other relevant codes of conduct notified by the Principal to the Contractor from time to time.

Delete 5.7.1 and 5.7.2 and replace with the following:

- 5.7.1** The Contractor and the Principal shall comply with the HSAW Act. So far as the Site and the Contract Works are under the Contractor's control, the Contractor shall take all reasonably practicable steps to keep them in an orderly state and in such a condition as to avoid damage to Persons and property.
- 5.7.2** The Contractor shall take all reasonably practicable steps to:
- (a) provide and maintain a safe working environment;
 - (b) identify and manage all risks to health and safety;
 - (c) ensure that any employee, Subcontractor, visitor to the Site and other persons are protected as far as reasonably practicable from risks which are under the Contractor's control; and
 - (d) have proper procedures for dealing with emergencies that may arise.

Delete 5.7.4 and replace with the following:

- 5.7.4** The Contractor shall give to the Principal through the Engineer a copy of any report which the Contractor is required to make to a public authority under the HSAW Act.

Add a new 5.7A as follows:

5.7A Further health and safety provisions

- 5.7A.1** The Contractor will implement and carry out an audit and inspection regime as required by the Principal and/or any relevant health and safety requirements.
- 5.7A.2** The Contractor warrants to the Principal that the Contractor will, so far as is reasonably practicable, ensure that no act or omission of it, any Subcontractor and any Worker on any part of the Site (or any other area), does or is likely to give rise to the issue of an improvement or prohibition notice, enforcement proceedings or a prosecution under the HSAW Act against the Principal, the Contractor, a Subcontractor and/or any other Worker.

5.7A.3 The Principal (or the Engineer) may, at any time during performance of the Contract Works, conduct a compliance audit with respect to the Contractor's compliance with its health and safety obligations under the Contract. The Contractor must immediately comply with all requests and requirements of the Principal (or the Engineer) in relation to or in connection with any such audit. In addition, if the Principal or the Engineer is of the opinion that the Contractor has failed to comply with any health and safety obligations under the Contract, the Principal or the Engineer may advise the Contractor and instruct the Contractor to cease or not commence the Contract Works or part of the Contract Works until the Contractor complies. Any such instruction will not constitute a Variation.

Insert a new 5.10.11 as follows:

5.10.11 Any programme required by 5.10 is intended for use as a management and reporting tool. Nothing stated in any such programme, and no consent or approval given by the Principal or the Engineer in respect of any such programme, will relieve the Contractor of its obligation to proceed with the Contract Works and complete the Contract Works on or by the Due Dates for Completion and nor will anything in any such programme modify or vary amounts to be paid and/or the payment terms under the Contract.

Delete 5.11.1 and replace with the following:

5.11.1 In respect of the Contract and the Contract Works, the Principal and the Contractor shall comply with all statutes, secondary legislation, instruments, and bylaws that may be applicable to the Contract Works.

Delete 5.11.10 and replace with the following:

5.11.10 If, after the closing date for tenders, the Cost to the Contractor of performing the Contract increases or decreases by reason of:

- (a) the making of or an amendment to any statute, secondary legislation, instrument, or bylaw; or
- (b) the imposition by the Government or a local authority of any royalty, fee, levy, or toll or any amendment to them,

and the effects are not otherwise provided for in the Contract, the effect shall be treated as a Variation.

Replace the word "The" with the words "The Principal (via the Engineer), the" before the word "Contractor" at the start of 5.21.1.

Replace the word "Either the" with the words "The Principal (via the Engineer), the" at the start of 5.21.2.

A new 5.22 is added as follows:

5.22 Information and Security

5.22.1 The Principal expects the Contractor will ensure that it and its personnel (including Subcontractors) providing the Contract Works will:

- (a) consistently demonstrate the principles and behaviours set out in the Principal's information management and security policies, processes, procedures and supporting controls (as advised to the Contractor from time to time);
- (b) not access the Principal's information or systems except to the extent necessary to provide the Contract Works and for no other reason;
- (c) take all reasonable steps to prevent breaches of records storage, information technology systems and equipment or no unlawful disposition or sharing of any data, information or records, including:
 - (i) preventing unauthorised use or destruction;

- (ii) preventing unauthorised persons obtaining, or attempting to obtain access to the Contract Works or any of the Principal's data/information;
 - (iii) using or attempting to use any of the Principal's data/information for purposes not authorised or permitted by the Contract;
 - (iv) taking all steps necessary to prevent the introduction, contamination and spread of any virus or other malware into computer systems, and only use equipment, software and parts which are free of viruses; and
 - (v) except with the Principal's written permission, not introduce or use magnetic media, flash drives or any other form of portable data storage.
- (d) provide interim and final data/information sets, created in the delivery of the Contract Works such as research, asset, customer or geo-coded data with metadata to minimum standards, appropriately structured and described, and in formats as agreed;
 - (e) notify all information and security incidents and concerns to the Principal and the Engineer in a timely manner to facilitate a prompt response to help resolve issues and prevent or minimise any potential damage to data/information and equipment; and
 - (f) return all material relating to physical and system access privileges immediately to the Principal at the end of the Contract.

Add new 5.23 as follows:

5.23 Resource Management Act 1991

5.23.1 In undertaking the Contract Works, the Contractor warrants to the Principal that neither it nor any Subcontractor will do or omit to do (or permit the same) anything, or use materials, substances or processes which:

- (a) would or could discharge a contaminant into the environment that is not in compliance with any Act, Regulation or licence (as defined in 5.11.2);
- (b) is a breach of any duty or obligation under the RMA; or
- (c) does or is likely to give rise to the issue of an abatement notice, enforcement proceedings or an excessive noise direction under the RMA against the Principal, the Contractor, Subcontractor or any other Person.

5.23.2 To the extent permitted by law, the Contractor will indemnify the Principal against any loss, claim, damage, expense, liability or proceeding suffered or incurred at any time by the Principal, as a direct or indirect result of an enforcement order, abatement notice, or excessive noise direction being issued to the Principal under the RMA or other legislation or any notice (including any order, direction or other enforcement mechanism), where such order, notice or direction is issued because the Contractor failed to comply with the provisions (including any conditions) of any outline plan, designation, resource consent, building consent, archaeological authority, other consent or other licence (as defined in 5.11.2) issued in respect of the Contract Works, or for failure to obtain any licence (as defined in 5.11.2) for the Contract Works.

Add a new 5.24 as follows:

5.24 Living Wage

5.24.1 The Contractor must pay any employee or Subcontractor that performs security or cleaning services in connection with the Contract Works (including any such services provided in respect of the Site), a gross hourly rate (before deductions) equal to or more than the Living Wage Rate. The Contractor shall also use reasonable endeavours to ensure that any employee or contractor engaged by a Subcontractor that performs security or cleaning services in connection with the Contract Works (including any such services provided in respect of the Site) is paid a gross hourly rate (before deductions) equal to or more than the Living Wage Rate.

- 5.24.2** The Contractor shall maintain a complete and correct set of records relating to the Contractor's compliance with its obligations under 5.24.1 and will use reasonable endeavours to ensure that each relevant Subcontractor also maintains a complete and correct set of records relating payment by that Subcontractor as contemplated by 5.24.1.
- 5.24.3** The Principal (or the Engineer) may, at any time during the performance of the Contract Works, conduct a compliance audit with respect to the Contractor's obligations (or a relevant Subcontractor's obligations) under 5.24.1. The Contractor must immediately comply with (and will use reasonable endeavours to ensure each relevant Subcontractor complies with) all request and requirements of the Principal (or the Engineer) in relation to or in connection with any such audit.
- 5.24.4** Any change to the Living Wage Rate shall be treated as a Variation and the value will be determined in accordance with 9.3, provided that the Contractor will not be entitled to recover any more margin than the Contractor would have received but for the change to the Living Wage Rate.
- 5.24.5** The Contractor must submit to the Principal on an annual basis throughout the duration of the Contract and on issue of the Final Completion Certificate, a signed declaration (in a form approved by the Principal) certifying that the Contractor (or a relevant Subcontractor) does comply with and has at all times complied with the obligations to pay a Living Wage Rate in accordance with this 5.24.

SECTION 7 – INDEMNITY

Add new 7.1.5-7.1.8 as follows:

- 7.1.5 Liability Cap:** Notwithstanding any other provision in the Contract but subject to 7.1.6, the Contractor's maximum aggregate liability to the Principal under this Contract (including any indemnity under this Contract) arising out of or in connection with the performance of the Contract Works and any other obligation under the Contract shall be limited to the sum set out in Schedule 1 – Special Conditions (**Liability Cap**).
- 7.1.6 Exclusions from the Liability Cap:** The Liability Cap does not apply to nor will it be reduced by the Contractor's liability:
- (a) for Wilful Default, fraudulent or criminal acts, including by the Contractor's officers, employees, Subcontractors, consultants, or agents;
 - (b) for the Contractor's repudiation of the Contract;
 - (c) arising from abandonment of the Contract Works;
 - (d) under 7.1.1(b) and 7.1.1(c) (insofar as such Costs relate to liability under 7.1.1(b));
 - (e) under 5.12.2;
 - (f) that cannot be excluded at law;
 - (g) for the amount of any insurance proceeds recovered under an insurance policy, including any proceeds that would have been recovered, but for any failure to claim and/or breach of the relevant insurance policy by the Contractor, or due to the failure by the Contractor to maintain an insurance policy;
 - (h) for the breach of any statutory obligation; or
 - (i) for any costs or expense which the Contractor is obliged to expend in order to carry out or complete the Contract Works in accordance with the Contract.
- 7.1.7 Consequential Loss:** Notwithstanding any other provision of the Contract, but subject to 7.1.8, neither party will be liable to the other party (whether based on contract, infringement, negligence, strict liability, tort or otherwise) for any loss of profit, loss of anticipated profits, loss of revenue, loss of use, loss of production or down time costs, loss of opportunity, loss of business, loss of contract,

loss of goodwill, or the cost of obtaining any new financing or maintaining any existing financing nor for any indirect or consequential loss or damage in relation to the Contract Works.

7.1.8 Exclusions to Consequential Loss: Notwithstanding 7.1.7, the Contractor shall remain liable for the following losses, which for the purpose of this 7.1.8 will be deemed direct losses:

- (a) liability for Wilful Default, fraudulent or criminal acts of the Contractor, including by the Contractor's officers, employees, contractors, consultants or agents;
- (b) liability in the case of the Contractor repudiating the Contract;
- (c) liability to indemnify the Principal under 5.12.2, 7.1.1(b) or 7.1.1(c);
- (d) liability of the Contractor to the extent of amounts received (or, but for an act or omission of the Contractor or the Contractor's officers, employees, contractors, consultants or agents) by the Contractor in respect of any such liability pursuant to any of the insurance policies required to be effected and maintained in accordance with the Contract;
- (e) liability that cannot be limited by law; and
- (f) liability for any liquidated damages or damages for delay.

SECTION 8 – INSURANCES

A new 8.1.7 is added as follows:

8.1.7 Responsibility for pursuing any claim under any insurance policy shall rest with the party with whom the fault lies. 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 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.

Delete 8.5.1(c).

Delete 8.9.2(c).

Section 10 – TIME FOR COMPLETION

New 10.3.8-10.3.14 are added as follows:

10.3.8 No pavement or surfacing construction shall take place over the Winter Period without the prior approval from the Engineer. Delivery of pavement and surfacing work shall be completed in the Construction Season. No final surfacing is to be undertaken within the prior written approval of the Engineer.

10.3.9 Where an extension of time granted by the Engineer necessitates surfacing and pavement construction activities to be programmed in the Winter Period, the Engineer may instruct that the Contract be suspended to avoid the completion of surfacing works in the Winter Period. In such a case the Contractor shall be entitled to only the direct and on-site overhead costs to maintain the site over the period of suspension. The Engineer may require that the Contractor apply a temporary holding surfacing or any other works required to maintain the site to an acceptable standard. No off-site overheads or profits shall be payable over this period regardless of the reason for the extension of time.

10.3.10 Where no extension of time is granted, the Contractor is responsible for applying a temporary holding surfacing or to complete any other works that may be necessary to maintain the site over the Winter Period, at no additional cost to the Principal.

10.3.11 Where there has been a delay to the Contract Works that does not entitle the Contractor to an extension of time pursuant to 10.3.1, or if in the Engineer's opinion it is likely that the Contractor will not achieve Practical Completion by the relevant Due Date for Completion, the Contractor shall, at

its own cost, take all steps as the Engineer may reasonably require to expedite progress, including by applying additional resources, airfreighting items, working longer hours and/or otherwise accelerating the works, so as to ensure compliance with the schedule and programme requirements under the Contract.

10.3.12 The following rules will be applied to assessing a claim for an extension of time:

- (a) the Contractor's delay allowance included in any programme will be ignored;
- (b) the event or circumstance which causes delay must be one which is mentioned in 10.3.1;
- (c) the event or circumstance in respect of which the extension of time is sought must or will (either in isolation or borne out of other events or circumstances for which the Contractor does not assume responsibility for under the Contract) cause actual delay to the critical path elements of the Contract Works, which the Contractor must show and demonstrate to the reasonable satisfaction of the Engineer;
- (d) for events or circumstances that concurrently cause the delay the Contractor will be entitled to an extension of time for only the net effect of the concurrent delay; and
- (e) to the extent that the delay could have been reasonably avoided or mitigated, the Contractor will not be entitled to an extension of time.

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

10.3.14 The Principal may, at its sole and absolute discretion and notwithstanding any other provision of the Contract to the contrary, at any time and from time to time and for any reason it considers sufficient but without being under an obligation to do so, by notice to the Contractor unilaterally extend any Due Date(s) for Completion. For the avoidance of any doubt, any such extension will not require the Contractor to slow down the progress of the Contract Works and the Contractor is entitled to complete the Contract Works prior to the date of any such extended Due Date(s) for Completion. The Principal is not entitled to exercise its right under this 10.3.13 in order to defeat an entitlement of the Contractor under 10.3.7.

Add a new 10.5.4 as follows:

10.5.4 The parties agree that the liquidated damages represent no more than a genuine pre-estimate of the loss likely to be suffered by the Principal in the event of the Contractor failing to achieve Practical Completion by the respective Due Date for Completion and/or the liquidated damages are reasonable and proportionate to the Principal's legitimate interests in the Contractor achieving Practical Completion by the respective Due Date for Completion, and are not a penalty.

SECTION 11 – DEFECTS LIABILITY

Delete 11.2.3 and replace with the following:

11.2.3 The Principal shall be entitled to recover the Cost of the work undertaken by others under 11.2.2 from the Contractor, including all 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. As soon as practicable after the completion of the work the Engineer shall notify the Contractor of the work undertaken and its Cost.

A new 11.2.9 is added as follows:

11.2.9 An additional defects notification period equivalent in length to the original defects notification period shall apply to all works required to be remedied as a defect or required as a consequence of the remedy of a defect, unless the Engineer agrees otherwise in writing.

SECTION 12 – PAYMENTS

Add new 12.3.4-12.3.5 as follows:

- 12.3.4** The Principal shall be entitled to use retention monies to cover any costs, expenses, losses or damages incurred or to be incurred in connection with any default, omission or non-performance of the Contractor, including where the Principal resumes possession of the Site or terminates the Contract under 14.2.
- 12.3.5** Prior to the Principal using retention monies as provided in 12.3.4, the Principal will give the Contractor at least ten (10) Working Days written notice setting out:
- (a) the Principal's intention to use the retention money for that purpose; and
 - (b) details of the default, omission or non-performance to be remedied.

Add a new 12.14 as follows:

12.14 Set-off

The Principal is entitled to set-off, deduct or withhold against and from any sums that would otherwise be due to the Contractor amounts in respect of any genuine claims it may have against the Contractor in relation to or in connection with the Contract or the Contract Works, including damages for breach of contract by the Contractor, liquidated damages, omissions or defects or under any indemnities. This right of set-off, deduction and withholding is without prejudice to any other right of set-off, deduction or withholding provided for pursuant to the Contract or otherwise.

SECTION 14 – FRUSTRATION AND DEFAULT

Add a new 14.4 as follows:

14.4 Termination for convenience

- 14.4.1** Notwithstanding any other provision of the Contract, the Principal may, at any time and at its absolute and sole discretion, terminate the Contract for convenience by giving written notice of this to the Contractor. If the Principal exercises its right under this 14.4.1 it shall not be obliged to give the Contractor any reason or justification for doing so.
- 14.4.2** In the event the Principal exercises its right to terminate for convenience under 14.4.1, the Contract will terminate on the date given in the written notice under 14.4.1 and the Contractor shall be entitled to be paid:
- (a) the value of the Contract Works carried out at the date of termination, less the amounts previously paid;
 - (b) the Cost of Materials ordered for the Contract Works which have been delivered to the Contractor or of which the Contractor is legally obliged to accept delivery, and which the Contractor delivers to the Principal. These Materials shall become the property of the Principal upon delivery to the Principal;
 - (c) any Cost reasonably incurred by the Contractor in the expectation of completing the Contract Works in so far as such Cost is not covered by other payments under 14.4.2(a) or (b); and
 - (d) the Cost of any works necessitated by the removal of the Contractor's Plant and the carrying out of the Engineer's instructions for the making safe of the Contract Works.

A new Section 16 is added as follows:

SECTION 16 – PRIVACY OBLIGATIONS

16.1 Privacy

- 16.1.1** The Contractor must comply at all times with all NZ Privacy Laws and not do anything with the Principal's Personal Information likely to cause the Principal to breach any NZ Privacy Laws.
- 16.1.2** The Contractor must comply at all times with *Privacy at Waka Kotahi the NZ Transport Agency – A Guide for Suppliers and Service Providers* (<https://www.nzta.govt.nz/about-us/about-this-site/privacy-guide-for-suppliers-and-service-providers/>).
- 16.1.3** The Contractor must not use or disclose the Principal's Personal Information (including to any Subcontractors) except as strictly necessary to deliver the Contract Works and comply with the Contract. The Contractor must ensure that any Subcontractors to whom it discloses the Principal's Personal Information are subject to contractual restrictions on the handling, use and disclosure of that information no less strict than those in the Contract.
- 16.1.4** The Contractor must implement and maintain reasonable security safeguards to protect the Principal's Personal Information, including from unauthorised access or disclosure.
- 16.1.5** Except as agreed in writing, the Contractor must not store or process (or permit the storage or processing of) the Principal's Personal Information in any location outside New Zealand.
- 16.1.6** The Contractor must promptly return and/or irreversibly erase all the Principal's Personal Information (at the Principal's option), once it is no longer required for the purposes of the delivery of the Contract Works, and otherwise where directed by the Principal.
- 16.1.7** If the Contractor becomes aware of, or has reason to suspect the existence of, a Data Breach, the Contractor must as soon as practicable notify the Principal, take all practicable steps to mitigate the effects of the Data Breach, and co-operate with the Principal's investigation of the Data Breach as the Principal reasonably considers necessary to enable the Principal to meet its obligations under the NZ Privacy Laws.
- 16.1.8** Unless required by law, the Contractor will not notify affected individuals or the Privacy Commissioner of any Data Breach except with the Principal's prior written agreement.
- 16.1.9** The Contractor will comply with any reasonable direction from the Principal, where the Principal reasonably considers that this is necessary to enable the Principal to comply with a notice or direction given to the Principal by the Privacy Commissioner.
- 16.1.10** The Contractor will not comment publicly, including to the media, about any Data Breach or any breach of this Section 16, without the written consent of the Principal.

A new section 17 is added as follows:

SECTION 17 – JOINT AND SEVERAL LIABILITY

17.1 Joint and several

- 17.1.1** To the extent that the Contractor is comprised of more than one Person in joint venture, partnership, consortium or other unincorporated grouping of two or more persons (Joint Venture):
- (a) those Persons will be jointly and severally liable to the Principal for all obligations, duties and liabilities of the Contractor under the contract;
 - (b) the Contractor will notify the Principal in writing as to which of those persons (if not each of them) will have the authority to bind the Contractor and in the absence of such written notification each such Person will be deemed to have the authority to bind the Contractor for all purposes (which cannot be retrospectively changed by the Contractor);

- (c) the Contractor must ensure that the composition or legal status of the Joint Venture is not altered or changed in any way whatsoever without the prior written consent of the Principal; and
- (d) all references to “Contractor” in the contract will be deemed to be a reference to each and every Person comprising the Contractor, together.

A new section 18 is added as follows:

SECTION 18 – CONFIDENTIALITY

18.1 Confidentiality

18.1.1 The Contractor and the Principal will ensure that any information identified as confidential, or which should reasonably be recognisable as confidential, acquired by it as a result (either directly or indirectly) of its entering into the Contract will be kept confidential subject to the following exceptions:

- (a) information which is in the public domain or could have been legally acquired by a party had it not entered into the Contract, will not be considered confidential;
- (b) a party may disclose confidential information to its professional advisors and insurers and otherwise to the extent required by law or pursuant to the requirements of any stock exchange;
- (c) disclosure by the Principal of confidential information to any ministry or other government agency performing a monitoring, oversight, or guidance role in relation to the Principal, or at the request of an officer of parliament, a parliamentary select committee, a royal commission, or a minister of the Crown (including for the purposes of a parliamentary question);
- (d) a party may disclose specific items of confidential information to a third party in accordance with the terms of any prior written consent between the parties; and
- (e) a party may disclose confidential information as reasonably necessary for the purposes of the Contract Works provided that the party shall ensure that such recipient is required to maintain such information as confidential on the same terms.

18.1.2 The Contractor must ensure that its Subcontractors are bound by confidentiality undertakings equivalent to this Section 18.

18.1.3 The Contractor will not make any statements to the media or others regarding the contents of the Contract or the execution of the Contract Works without the prior written approval of the Principal. Media requests for information relating to the Contract Works or the Principal’s assets or its business will be immediately referred by the Contractor to the Principal.

18.1.4 The Contractor acknowledges that the Principal is subject to the OIA and the Contractor agrees to cooperate fully in providing the Principal with any documents or other information that the Principal is required to provide in accordance with a request made under the OIA, or pursuant to questions raised in Parliament or in any select committee concerning the Contract.

7.2 Schedule 3 – Form of Contractor’s performance bond

THIS SECTION IS NOT USED

7.3 Schedule 4 – Form of Principal’s bond

THIS SECTION IS NOT USED

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

<<Guidance note: only use this schedule if 12.3.3(a) is selected, otherwise delete schedule and replace with the words **This Section Not Used**>>

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
of (“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 11.3 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.
- 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.

7.5 Schedule 6 - Form of Producer Statement - Construction

ISSUED BY _____ (Contractor)

TO New Zealand Transport Agency _____ (Principal)

IN RESPECT OF _____ (Description of Contract Works)

AT _____
_____ (Address)

_____ has contracted to New Zealand 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)

7.6 Schedule 7 – Information on Contractor arranged construction insurance

THIS SECTION IS NOT USED

7.7 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 3910:2013.

**Insurance Company
Stamp**

Date _____

(Or name of insurance broking company confirming cover)

SIGNED BY _____

SIGNATORY TITLE _____

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

7.8 Schedule 9 – Information on public liability insurance

<< Guidance note: For contracts where PAI is used, delete the following schedule and replace with Schedule 9 as downloaded from the Marsh insurance portal <http://nz.marsh.com/nzta-pai>>>

7.9 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 3910:2013.

**Insurance Company
Stamp**

Date _____

(Or name of insurance broking company confirming cover)

SIGNED BY _____

SIGNATORY TITLE _____

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

7.11 Schedule 12 – Information on principal arranged construction insurance

<<Guidance note: For contracts where PAI is used, insert Schedule 12 as downloaded from the Marsh insurance portal <http://nz.marsh.com/nzta-pai>. For contracts where PAI is not used, insert the words This Section Not Used >>

7.12 Schedule 15 – Practical Completion Certificate

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

Contract for [Contract Number, Contract Name]

Principal New Zealand Transport Agency (Waka Kotahi NZ Transport Agency), a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 (Waka Kotahi) *(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)*

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

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

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

Practical Completion was achieved
on _____ *(insert date)* at _____ *(insert time)*

Signed by the Engineer _____

Name _____

Date _____

SCHEDULE

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

(list minor omissions and defects) _____

7.13 Schedule 16 – Final Completion Certificate

This certificate is a Final Completion Certificate issued under 11.3.1.

Contract for [Contract Number, Contract Name]

Principal New Zealand Transport Agency (Waka Kotahi NZ Transport Agency), a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 (Waka Kotahi) *(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 11.3.1, the Engineer certifies that the Contract Works or Separable Portion to which this certificate relates qualify for a Final Completion Certificate issued under 11.3

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

Signed by the Engineer _____

Name _____

Date _____

8 PROJECT SPECIFICATION

8.1 Introduction

- 8.1.1 This project Specification describes the Principal's requirements for the construction, completion and correction of defects of the Contract Works.
- 8.1.2 The Contractor shall be responsible for the construction, completion and correction of defects of the Contract Works in line with, and so as to meet all requirements and provisions of this project Specification.
- 8.1.3 Unless otherwise described, all statements refer to the whole of the Contract Works.

8.2 Scope

- 8.2.1 The Scope of the Contract is as described below:

<<Guidance Note: It is essential that an accurate and complete description of the Scope of the contract is provided. It must define all the features of the contract that are fundamental to the project and cannot be changed by the Contractor.

[Consultant to complete]

8.3 Health and Safety

- 8.3.1 The Contractor must implement processes that meet or exceed the requirements of the *Health and Safety at Work Act 2015*, its regulations, supporting codes of practice's and any guidance material that represents good practice.
- 8.3.2 The Contractor must also comply with all health and safety requirements of Waka Kotahi, and any other relevant asset owner or authority (e.g. utilities company). Meeting these requirements will not relieve the contractor of any of its responsibilities to comply with the *Health and Safety at Work Act 2015*.
- 8.3.3 As a minimum, the Contractor must comply with the provisions outlined in the Waka Kotahi [Contractor Health and Safety Expectations](#), and the minimum standard guidelines found on the Highways Information Portal and the requirements of this Section [11].
- 8.3.4 The Contractor must comply with the provisions outlined in the Waka Kotahi [Contractor Expectations: Health and Safety Incident Notification, Investigation and Reporting](#).
- 8.3.5 All Waka Kotahi projects/work sites require workers to be competent in health and safety prior to entry. Waka Kotahi endorses the CHASNZ Site Access Requirements (https://secure.chasnz.org/downloads/resources/CHASNZ_Site_Access_Requirements_FINAL.pdf) . Workers entering the site who have not attained this level of competency are not authorised to enter the site or must be supervised at all times while on site.
- 8.3.6 The Contractor will allow the Principal or the Engineer to conduct a site inspection and Audit on a monthly basis. During this time the Contractor will provide unrestricted access to any documentation or people.
- 8.3.7 The Contractor must meet or exceed Roadng NZs Guideline for Controlling Reversing Vehicles and the provisions of the Code of Practice for Temporary Traffic Management.
- 8.3.8 Waka Kotahi recommends that all personnel working within 5 metres of hot bitumen be appropriately trained, by a recognised training provider, in the safe handling of bitumen.

8.4 Traffic Management

- 8.4.1 The Contractor shall ensure that disruption to road users and third parties during construction is kept to the minimum possible. The Contractor shall ensure that they provide for all vehicular and pedestrian traffic an alternative of an appropriate standard to all existing roads, footpaths, all accesses and premises adjacent to and affected by the Contract Works.
- 8.4.2 Traffic management (including cyclist and pedestrian traffic) shall be carried out as described by the Waka Kotahi Code of Practice for Temporary Traffic Management. The code of practice sets out the minimum requirements for traffic management and site safety for the Contract Works.
- 8.4.3 The level of Traffic Management required for this Contract is Level [1, 2 or 3].
- 8.4.4 Prior to opening the Works for use by the general travelling public, a pre-opening safety review shall be undertaken by the Engineer and the Principal's Road Safety Audit team, to approve the removal of any temporary works, speed limits and traffic management.
- 8.4.5 Prior to the issue of Practical Completion, a post construction safety audit must be completed by the Engineer and the Principal's Road Safety Audit team. The Contractor must endeavour to complete work instructed as a consequence of a post construction safety audit as soon as possible. Any instructed work associated with an identified serious or significant audit classification is to be rectified within 10 working days of receipt of the instruction. Where any such work cannot be completed within the 10 days, the Contractor must immediately seek arrangement from the Engineer for the timing of this work. Where work cannot be completed within 10 days then consideration must be given to completing appropriate temporary mitigation works until the work is undertaken.

8.5 Statutory Approvals and Compliance

- 8.5.1 The Contractor must comply with the conditions of all relevant Statutory Approvals and permitted activity requirements under the Resource Management Act 1991 and other relevant environmental legislation. If these requirements have not been confirmed by the Principal prior to works commencement, clarification must be sought.
- 8.5.2 The Contractor will have responsibility to maintain up to date records of compliance with all Statutory Approvals, including maintaining compliance records in CSVUE, the Waka Kotahi compliance management system, if requested.
- 8.5.3 The Contractor shall report any environmental incidents and non-compliances with Statutory Approvals gained in the name of Waka Kotahi to the Waka Kotahi Project Manager within 24 hours, along with the proposed mitigation.

9 TECHNICAL SPECIFICATION

9.1 [Consultant to Complete]

10 APPENDICES

APPENDIX REFERENCE	SUBJECT
A	[Consultant to Complete]
B	[Consultant to Complete]
C	[Consultant to Complete]
D	[Consultant to Complete]

11 DRAWINGS

DRAWING REFERENCE	DRAWING TITLE
[XXXX-XX-XXX]	[Consultant to Complete]
[XXXX-XX-XXX]	[Consultant to Complete]
[XXXX-XX-XXX]	[Consultant to Complete]
[XXXX-XX-XXX]	[Consultant to Complete]