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| --- | --- | --- | --- | --- |
| The Deed is made on |  | | | |
| **between** | | | | |
| Name | The State of Queensland acting through the Department of Transport and Main Roads | | | |
| of | | | | |
| Address |  | | | |
|  | ‘the Principal’ | | | |
| **and** | | | | |
| Company name |  |  | **ACN** |  |
| of |  |  | |  |
| Address |  | | | |
|  | ‘the Warrantor’ (which expression shall include its successors and assigns) | | | |

**Recitals**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1. The Principal and | | **Name of Contractor** | |  | |
|  | | | ‘the Contractor’ | | |
| **have entered into a Contract described as follows:** | | | | | |
| **Contract number** |  | | | **Date of Contract** |  |
| ‘the Contract’ | | | |  |  |
| **to carry out the following work —** | | | | | |
|  | | | | | |
| ‘the Works’ | | | | | |

1. The Warrantor has manufactured and/or supplied the following goods, materials or services —

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|  |

‘the Equipment” in connection with the Works’

1. The Warrantor has agreed to give the warranties and indemnity herein contained to the Principal.

**Now this Deed witnesses** that—

1. The Warrantor hereby
   1. warrants to the Principal that the Equipment shall be in accordance with the quality or standard stipulated by the Contract and to the extent that the quality or standard is not so stipulated, shall be of merchantable quality and be fit for the purpose for which it is required, and
   2. gives the warranty more particularly set out as follows —

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The above warranties shall be in addition to and shall not derogate from any warranty implied by the law or any statute in respect of the Equipment.

1. The Warrantor covenants with the Principal to replace or make good to the reasonable satisfaction of the Principal but at the expense of the Warrantor, so much of the

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| Equipment as within |  | years after the Date of Practical Completion of the Works |

shall be found to be of a lower quality or standard than that referred to in Clause 1 or shall show deterioration of such extent that in the opinion of the Principal the Equipment ought to be made good or replaced in order to achieve fitness for the purpose or purposes for which it is required and whether this is on account of utility, performance, appearance or otherwise.

1. The Warrantor further covenants with the Principal to meet the cost of any work necessary to any part of the Works to enable the requirements of Clause 2 of this Deed to be carried out or necessary to make good the Works afterwards.
2. The decision of the Principal as to —
   1. the Equipment failing to comply with quality or standard as above mentioned or otherwise failing to comply with the foregoing warranties, or
   2. the extent of replacement or making good which shall be necessary to properly remedy the defects, or
   3. the extent of any work required under Clause 3 of this Deed,

shall be notified in writing to the Warrantor and shall be final and binding upon the parties.

1. The Warrantor further covenants that within a reasonable time after written notification to the Warrantor of a decision of the Principal as to work required as aforesaid, the Warrantor will replace or make good the Equipment or parts thereof or meet the cost of any work required by Clause 3 of this Deed, whether or not any dispute or difference exists between the parties hereto, and the Warrantor hereby agrees to indemnify and keep indemnified the Principal against any direct, indirect or consequential loss or damages of any nature whatsoever sustained by them or either of them, directly or indirectly arising out of any breach of the warranties, covenants or other conditions hereby given by the Warrantor however arising.
2. If within the time prescribed in Clause 5 (and the Principal’s decision as to what is a reasonable time in any case shall be final and binding upon the parties) the Warrantor shall fail to fully and properly carry out the said work, the Principal may carry out such work, or cause the same to be carried out, and the Warrantor hereby agrees to indemnify and keep indemnified the Principal against all the costs and expenses of and incidental to the carrying out of the work and also against any direct, indirect or consequential loss or damages sustained by the Principal as a result of the Warrantor’s failure as aforesaid.
3. The provisions of this Deed shall come into operation in favour of the Principal as soon as it has been executed by the Warrantor, notwithstanding that it may not have been or may not thereafter be executed by the Principal.
4. Nothing contained in this Deed is intended to nor shall render the Principal in any way liable to the Warrantor in relation to any matters arising out of the Contract, the Works, the Equipment or otherwise.
5. The parties agree that this instrument is and shall operate as a Deed.
6. This Deed shall be governed and construed in accordance with the laws of the State of Queensland and the Parties submit to the non-exclusive jurisdiction of the courts of that State.

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| --- | --- | --- |
| Authorisation | | |
| Executed as a Deed on the date first appearing above. | | |
| For the Principal | | |
| Signed, sealed and delivered for and on behalf of the State of Queensland acting through the Department of Transport and Main Roads by | | |
| Name/Position | Signature | Date |
|  |  |  |
| as delegate of the Director-General of the Department of Transport and Main Roads | | |
| in the presence of | | |
| Name of witness | Signature of witness | Date witnessed |
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| For the Warrantor (where the Warrantor is a company) | | | |
| Signed, sealed and delivered for and on behalf of | | | |
| Company name | | ACN | The company seal (where applicable) |
|  | |  |  |
| by its duly authorised attorney | | |
| Attorney’s name | | Date executed |
|  | |  |
| Attorney’s position | Attorney’s signature | |
|  |  | |
| pursuant to a power of attorney dated | Date of power of attorney | | and the attorney hereby declares that he/she has not received notice of revocation of the power of attorney |
|  | |
| in the presence of | | | |
| Name of witness | Signature of witness | | Date witnessed |
|  |  | |  |

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| For the Warrantor (where the Warrantor is a person) | |
| Signed by and on behalf of the Warrantor by | |
| Name | |
|  | |
| who certifies his/her authorisation to execute this Deed | |
| Signature | Date |
|  |  |
| Witnessed by | |
| Signature | Date |
|  |  |