

APPENDIX E2 – SUBCONTRACTOR’S BOND IN LIEU OF RETENTIONS – DEFECTS LIABILITY PERIOD

Project:

Trade:

This deed is made on: (date)

By:

(“The Subcontractor”)

And:

of:

And:

of:

(“The Sureties”)

It is made in the following circumstances

- a) The Contractor has entered into agreement with (the Principal Contract) for (the Head Contract).
- b) The Subcontractor has entered into an agreement with the Contractor to construct, complete, deliver and maintain certain work described in the Subcontract and to carry out and fulfil the obligations imposed on the Subcontractor by the Subcontract.
- c) The Subcontractor is to provide the Contractor with security in the form of a bond in lieu of retentions.

By this Deed

1. The Subcontractor and Sureties are jointly and severally liable to the Contractor for the sum of \$NZ (bond sum in words) and unconditionally bind themselves, their successors and assigns jointly and severally for payment of the bond sum.
2. The Sureties will immediately pay the Contractor any sum or sums up to the full amount of the bond sum upon written demand from the Contractor which must include a statement from the Contractor that it has given the Subcontractor three Working Days’ notice of its intention to demand the bond sum from the Sureties.
3. The Sureties must unconditionally pay any amount demanded in accordance with this bond without reference to the Subcontractor, and without regard to the performance or non-performance of the Subcontractor or the Contractor under the terms of the contract.
4. The condition of this bond is null and void if the Contractor has given written notice to the Sureties that:
 - a) the Subcontractor has fulfilled all the obligations imposed on the Subcontractor by the Subcontract subsequent to the issuing of the notice under clause 10.4.2(a) of the Subcontract; or
 - b) the Subcontractor or the Sureties have rectified any damages sustained by the Contractor in respect of all defaults; or
 - c) this bond is null and void.
5. EXCEPT as provided in paragraph 4 above, this bond must remain in full force and effect.
6. The Sureties are not released from any liability under this bond:
 - a) By any alteration in the terms of the Subcontract between the Contractor and the Subcontractor;
 - b) By any alteration in the extent or nature of the Subcontract Works to be completed, delivered and maintained;
 - c) By any allowance of time by the Contractor under the Subcontract;
 - d) By any waiver of the Subcontractor’s obligations by the Contractor;
 - e) By any default on the part of the Subcontractor; or
 - f) By any notice from the Sureties to the Contractor.
7. The Sureties may at any time deposit with the Contractor the bond sum, or a lesser amount agreed by the Contractor. Upon payment of this amount the liability of the Sureties will be terminated.
8. This bond must not be transferred or assigned.

IN WITNESS HEREOF the parties have executed this bond the day and year set out above.

Signed by the Subcontractor:

Name: _____	Witness: _____
Company: _____	Address: _____
Position: _____	_____
Signature: _____	Signature: _____
Date: _____	Date: _____

Signed by the Sureties:

Name: _____	Name: _____
Company: _____	Company: _____
Signature: _____	Signature: _____
Position: _____	Position: _____
Date: _____	Date: _____

NOTE: This bond must be executed by the Subcontractor and by the Sureties in the manner required for the execution of a deed. Any of these parties that is a company or body corporate must execute the bond by having it signed, under the name of the company, by two or more directors, or, 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 must be witnessed. In the case of a party who is an individual, the signature must be witnessed and the witness must also add their occupation and address.
