



Education Report: Risk Management Scheme, School Contents Deed

To:	Hon Chris Hipkins, Minister of Education		
Date:	9 December 2020	Priority:	Medium
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Purpose of report

The purpose of this paper is to inform you of updates to the Risk Management Scheme, School Contents Deed and to ask you to sign the deed:

Summary

This paper asks you to sign the 2021 Risk Management Scheme (RMS) Deed between the Crown and all school Boards of Trustees who are participating in the Ministry's Risk Management Scheme (Contents).

- The Deed requires the Minister's signature as stipulated in the Education (School Risk Management Scheme) Regulations 2003 Order in Council.

Recommended Actions

The Ministry of Education recommends you:

- a. **Note** that an updated Deed has been developed in accordance with the Education (School Risk Management Scheme) Regulations 2003
Noted
- b. **Note** that this deed is for the period 1 January 2021 to 31 December 2021.
Noted
- c. **Sign** the new Deed attached for the Risk Management Scheme (Contents.)


Mark Flintoff
Chief Financial Officer

8/12/2020


Hon Chris Hipkins
Minister of Education

16/12/2020

Background

1. Tomorrow's Schools transferred the ownership of and the responsibility for the schools' contents to the Board of Trustees of each school. School buildings remain the property and responsibility of the Ministry of Education.
2. Following some issues with schools obtaining commercial insurance cover, the Risk Management Scheme was created by amendment to the Education Act.
3. The Act requires each Board to insure its school's contents, and Boards can join the Risk Management Scheme or arrange commercial insurance cover.
4. The Risk Management Scheme provides contents, legal liability insurance and cyber security insurance cover for schools that choose to join the scheme.
5. The Ministry manages the Scheme and pays for claims on contents from the Scheme's reserve. The assessment of claims is provided by a loss adjuster, currently McLarens, contracted by the Scheme.
6. The Ministry provides schools in the scheme with legal liability insurance cover and cyber security cover by purchasing the cover from a commercial insurer, currently AIG.
7. The Scheme's reserves are protected by the annual purchase of reinsurance cover.
8. Schools that join the Risk Management Scheme have fees of \$10.50 per pupil per annum automatically deducted from their Operational Grant payments to reduce compliance overheads.

2021 Deed.

9. The deed has been updated in accordance with the Regulations.
10. As part of the ongoing improvement to the Scheme the excess for hand held electronic devices has been reduced to \$100 in line with the changes introduced in response to the Covid19 requirement to send electronic devices home during lockdown.
11. The wording of the deed has been updated to reflect the Education and Training Act 2020.

Risks

12. Based on historical experience the termination of the Scheme would expose Boards to increases in insurance costs.

Financial implications

13. The Risk Management Scheme has adequate reserves to meet its current financial commitments.

14. The reserve funds are held in a separate account specifically for the use of the Scheme. Fees deducted from schools in the scheme are added each quarter.
15. Contents claims are paid out as and when required.
16. The scheme also purchases:
 - Legal liability cover and cyber security cover.
 - Reinsurance cover,
 - Brokerage services
 - Loss adjustment services.
17. The income to the scheme and the outgoings from the scheme are monitored and are currently balanced.

Annexes

Please list annexes by title. For example:

Annex 1: Risk Management Scheme Deed 2021

Annex 1: Ministry of Education Risk Management Scheme for School Contents

Proactively Released



Date 1 January 2021

MINISTRY OF EDUCATION
RISK MANAGEMENT SCHEME FOR
SCHOOL CONTENTS

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MINISTRY OF EDUCATION
RISK MANAGEMENT SCHEME FOR SCHOOL CONTENTS

THIS DEED dated the 1st day of January 2021

BETWEEN

- (1) **HER MAJESTY THE QUEEN IN RIGHT OF NEW ZEALAND** acting by and through the Minister of Education ("the Crown")
- (2) All persons who are "Participating Boards" within the meaning of Clause 1 of this Deed.

WITNESSES as follows:

1 Interpretation

- 1.1 In this Deed unless the context otherwise requires –

"Administrator" means the person for the time being appointed by the Crown to administer claims made under the Scheme;

"Buildings" includes all buildings and other temporary or permanent structures, (whether or not owned by, or the responsibility of, the Crown), including but not limited to:

- (i) the fixtures, fittings, pipes and cables pertaining to any of them, both above and below ground level;
- (ii) tanks, poles, power lines and their supports;
- (iii) all lighting and wiring;
- (iv) carpets, linoleum and other floor coverings while fixed to any floor;
- (v) walls, gates and fences;
- (vi) burglar alarms and other security systems, and fire detectors and extinguishers, and sirens (whether or not attached to a building or other structure);
- (vii) shade sails that are permanently fixed (meaning that the shade sail cannot be removed from its supporting poles or structure);

"Claim" means a claim for indemnity under this Deed;

"Commissioner" has the meaning given to it by the Education and Training Act 2020;

"Costs" means the reasonable costs specified in Clause 17;

"damage" includes destruction;

"Deductible" means the amount or amounts referred to in Clause 16;

"Drone" means a remotely piloted aircraft as defined in the Civil Aviation Rules Part 101

"GST" means goods and services tax;

"handheld electronic device" means cell phones, video data projectors, digital cameras, portable computing devices and portable data storage devices.

"Land" includes but is not limited to all outdoor sporting facilities, playing fields, sports courts and permanent swimming pools;

"Money" means current coins, bank and currency notes, cheques, postal notes, travellers cheques, money orders, current postage stamps, franking machine credits, tickets, vouchers, unrealised credit card vouchers and other negotiable instruments;

"Participating Board" has the meaning given to it in the Education and Training Act 2020;

"Property" has the meaning set out in Clause 3

"Scheme" means the indemnity arrangement established by this Deed;

"School" means the school administered by the relevant Participating Board;

"School Trustee" means a member of a Participating Board and includes a Commissioner;

"Self-Ignition" means the actual burning out of any part or parts of electrical machines, installations or apparatus caused by the electric current;

"State school and State Integrated School" have the meanings given to them by the Education and Training Act 2020;

"Tangible Property" includes:

- (i) Money that is in transit, or at any place while the holder is in the course of school activities with the Money, or that is at any of a School Board's premises during business or school hours, or in a locked safe or strongroom outside business or school hours, or in a residence of a School Board's duly authorised representative, but does not include any other Money;
 - (ii) documents, manuscripts, magnetic media, computer systems records, business books, microfilm, technical drawings, other records, but only to the extent of their value as materials;
 - (iii) commercial computer software packages, but does not include any other computer software.
- 1.2 In the Deed "indemnity" means a benefit provided to a School Board by the Crown under Clause 15, and the word "indemnify" has a corresponding meaning.
- 1.3 In this Deed, unless the context otherwise requires:
- 1.3.1 words importing any one gender include the other two;
 - 1.3.2 words importing the singular include the plural and vice versa;
 - 1.3.3 headings must be ignored and must not affect the construction of this Deed;
 - 1.3.4 reference to Clauses are references to clauses of this Deed and references to Parties and Schedules are references to parties and schedules to this Deed;
 - 1.3.5 A "person" includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of a state, in each case whether or not having a separate legal personality;
 - 1.3.6 expressions referring to "writing" must be construed as including references to words printed, typewritten, painted, engraved, lithographed or otherwise visibly represented, copied or reproduced;
 - 1.3.7 references to any statute or regulation (or any provision of any of them) must be read as if the words "or any statutory modification or re-enactment of it or in substitution for it" were added to the reference.

PART I CROWN'S LIABILITY

2 Crown's Undertaking under this Deed

- 2.1 Subject to the terms and conditions of this Deed, if during the period from and including 1 January 2021 until and including 31 December 2021, accidental loss or damage shall occur to any Property of a Participating Board, the Crown will indemnify the Participating Board in the manner and to the extent set out in this Deed.
- 2.2 The Crown's liability under this Deed will not exceed \$60million in the aggregate for any and all claims.
- 2.3 In the event that all Claims by the Participating Schools from the Crown under Part II exceed the limit of the Crown's liability under clause 2.2, then the sum of \$60million will be distributed to the Participating Schools who have made Claims during the term of this Deed on a pro rata basis, subject to the other terms of this Deed. Any Participating school that has already received a payment of a Claim before the limit of the Crown's liability was reached will refund that portion of the payment that exceeds its entitlement as a consequence of the operation of this clause.

3 Meaning of "Property"

- 3.1 Subject to Clauses 3.2 and 3.3, in this Deed "Property" means, in relation to a Participating Board, all Tangible Property that is beneficially owned by –
- (a) the Participating Board; or
 - (b) a staff social club, parent teacher association, staff member or similar entity whose activities are principally for the benefit of the School; or
 - (c) any community organisation, charitable trust or similar entity, and that is in or under the possession, custody, use or control of a School Trustee, or an employee of the Participating Board, or a student of the School with the consent of a School Trustee or the principal, in those capacities; or
 - (d) trustees on trust for the benefit of the Participating Board; or
 - (e) any person (including but not limited to lessors and hirers), to the extent that, first, the Tangible Property is in or under the possession, custody, use or control of the Participating Board under a deed, contract or other legal obligation entered into or undertaken by the Participating Board and,

secondly, the Participating Board is legally liable for accidental loss of or damage to that Tangible Property; and

3.1.1 that is situated –

- (a) at the School; or
- (b) elsewhere in New Zealand (including whilst in transit within New Zealand) while it is being used or repaired, or is in transit for the purpose of being used or repaired or in transit from or to a lessor, or in secure storage, for the benefit of the School.

3.2 Any indemnity in respect of Property referred to in paragraphs (b) to (e) of Clause 3.1 must be the property of, and any payment shall be made to, the Participating Board, but shall be held by the Participating Board for the benefit of the owner of that Property.

3.3 In this Deed, “Property” does not include any of the following:

- 3.3.1 any Tangible Property that is the subject of a contract of insurance for accidental loss or damage, except as provided in Clause 9;
- 3.3.2 jewellery, precious stones, furs, precious metals, and bullion, other than as part of any equipment or ceremonial chains of office;
- 3.3.3 motor vehicles and aircraft of any kind, and accessories contained in them or on them, except for:
 - (a) mowers, tractors and mobile equipment of any description used exclusively in or around a school; and
 - (b) Drones, but always excluding whilst in use.
- 3.3.4 standing timber and growing crops;
- 3.3.5 livestock;
- 3.3.6 Land and Buildings;
- 3.3.7 any Tangible Property that is at a School for the purposes of display or demonstration;
- 3.3.8 personal property that is located in or on a residential building; and includes property that is usually so located but is temporarily removed from the building for any reason; but does not include any property used solely or principally for educational or commercial purposes.

4 Exclusions

4.1 The Crown is not liable under this Deed or otherwise to indemnify a Participating Board for any accidental loss or damage to Property directly or indirectly arising out of, caused by or resulting from –

- 4.1.1 war, invasion, act of foreign enemy, warlike operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power, except that this Clause 4.1.1 does not apply to loss or damage caused by acts of terrorism or sabotage providing the acts are not committed in time of war by any agent acting in connection with any operation of armed forces of a government or sovereign power;
- 4.1.2 confiscation, requisition or destruction of or damage to property by order of Government or Local Authority unless the order is given for the purpose of averting or limiting loss or damage in respect of which indemnity is provided under this Deed;
- 4.1.3 nuclear weapons material;
- 4.1.4 ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel (and, for the purpose of this Clause 4.1.4, the term “combustion” includes any self-sustaining process of nuclear fission);
- 4.1.5 exposure to weather conditions unless reasonable precautions have been taken to protect the Property from those conditions;
- 4.1.6 subject to Clause 4.2, fumes, dust, smoke, or smuts;
- 4.1.7 subject to Clause 4.2, normal working, normal maintenance, wear and tear, erosion, corrosion, slowly developing deformation or distortion;
- 4.1.8 subject to Clause 4.2, action of micro-organisms or insects;
- 4.1.9 subject to Clause 4.2, the nature of the Property (including shrinkage, evaporation, loss of weight, change in flavour, or colour or texture or finish) or exposure to light;
- 4.1.10 subject to Clause 4.2, pollution or contamination;

- 4.1.11 mechanical, electrical, electronic or other internal breakdown of machinery, plant or equipment (and, for the purposes of this Clause 4.1.11, “machinery, plant or equipment” does not include electronic data processing hardware or software, and “internal breakdown” means a failure due solely to internal stress or fault, the failure not being caused by an event external to the affected machine, plant or equipment).

- 4.2 Clauses 4.1.6 to 4.1.10 shall not apply to any such loss or damage directly resulting from an event in respect of which indemnity is provided under this Deed.

5 Consequential Losses and Additional Costs of Working

- 5.1 The Crown is not liable under this Deed to indemnify a Participating Board for consequential losses. In this Deed “consequential losses” includes, but is not limited to the following:

- 5.1.1 The cost of removal of persons and Property to and from, and the rent or any payment in relation to, any temporary or other premises;
- 5.1.2 Any expenses incurred in removing, installing and/or hiring such furniture, fixtures, fittings and equipment as may be required to render the said premises suitable for occupation by the School;
- 5.1.3 Costs in respect of additional employees or transportation of employees;
- 5.1.4 Costs incurred in recreating, re-assembling or reconstituting any information contained in, or data stored on, any teaching materials, deeds, documents, plans, drawings, specifications, valuations, card indexes or books of account, computer system records, or any documents or records of a similar nature;
- 5.1.5 Additional expenditure incurred for the purpose of avoiding or diminishing a reduction in rental or hire income and/or for resuming and/or for maintaining normal educational operations;
- 5.1.6 Subject to Clause 8, any losses arising from accidental loss or damage to any electricity station or sub-station or power lines, gas works or natural gas works or water works or treatment plants the Tangible Property of any supplier from whom the Participating Board obtains electric current, gas, natural gas, water or any supplies or services of whatsoever nature within New Zealand.

6 Faulty materials, workmanship or design

- 6.1 The Crown is not liable under this Deed to indemnify a Participating Board for any of the following:

- 6.1.1 the cost of repairing or replacing faulty materials;
- 6.1.2 the cost of putting right faulty workmanship;
- 6.1.2 the cost of putting right work performed to a faulty or defective design plan or design specification;
- 6.1.3 the cost of putting right faulty or defective work where the fault or defect results from error or omission in design plan or design specifications;

- 6.2 This Clause 6 does not apply to any accidental loss or damage to Property occurring as a result of the faulty or defective materials, workmanship, or work.

7 Money

- 7.1 The Crown is not liable under this Deed to indemnify a Participating Board for any accidental loss of or damage to Money (if):

- 7.1.1 the loss or damage is due to errors in receiving or paying out the Money; or
- 7.1.2 at the time of the loss or damage, the Money was entrusted to any person other than a professional money carrier, the School Board, or any of the owner's employees or authorised agents; or
- 7.1.3 the loss or damage is due to clerical or accounting errors.

- 7.2 The Crown's liability under this Deed in respect of any one loss of or damage to Money will not exceed –

- 7.2.1 \$50,000 (which shall be reduced by the amount of any applicable Deductible), if the Money could not be immediately banked during any school fair or other educational activity because banking facilities were unavailable; or
- 7.2.2 \$10,000 (which is to be reduced by the amount of any applicable Deductible), in any other case.

8 Refrigerated Property

- 8.1 The Crown's liability under this Deed to indemnify a Participating Board for any accidental loss or damage to refrigerated Property is limited to the following circumstances:

- 8.1.1 loss of or damage to Property whilst stored in refrigerated cabinets, chambers or coolstores or refrigerated open display units, by deterioration putrefaction or contamination due to and caused solely by:
 - (a) a rise or fall in temperature following an accidental breakdown defect or stoppage of the refrigerating plant from any cause;

- (b) contamination by liquid or gas refrigerant resulting directly from escape of the refrigerant;
- (c) failure of fuses and overload devices;
- (d) failure or disconnection of the public electricity supply (except where 24 hours prior notice of the disconnection shall have been given by the appropriate supplier);

8.1.2 loss of or damage to any refrigerated cabinet, chamber, coolstore or refrigerated open display unit consequent upon an event for which indemnity is provided in terms of Clause 8.1.1. Such refrigerated cabinet, chamber, coolstore or refrigerated open display unit is to be deemed to have suffered "damage" if subsequent to an event in Clause 8.1.1 such Property cannot be used for the storage of refrigerated goods.

8.2 The Crown's liability under this Deed in respect of any one loss of or damage to refrigerated Property will not exceed \$10,000 (which will be reduced by the amount of any applicable Deductible).

9 Natural Disaster

9.1 In this Deed "accidental loss or damage" includes loss of or damage to any Property directly resulting from earthquake, , tsunami, volcanic eruption, hydrothermal activity, subterranean fire or fire caused by any of these.

10 Subsidence

10.1 In this Deed "accidental loss or damage" includes loss of or damage to any Property directly resulting from subsidence of land, but shall not include collapse consequent upon the normal settling, shrinkage, or expansion of any building or its foundations.

10.2 The Crown's liability under this Deed in respect of all loss and damage caused by any one event of subsidence of land will not exceed \$250,000 (which will be reduced by the amount of any applicable Deductible).

11 Self-Ignition

11.1 In this Deed "accidental loss or damage" includes Self-Ignition except that it shall not include Self-Ignition of any of the following:

- 11.1.1 radio, television, audio, computer and other electronic equipment of every description;
- 11.1.2 vacuum tubes and thermionic valves;
- 11.1.3 flexible or trailing leads from the point of permanent electric supply to any apparatus;
- 11.1.4 lighting or heating elements, fuses or protective devices;
- 11.1.5 switchboards and electrical reticulation;
- 11.1.6 any electrical motor or starter which individually exceeds 3.75 Kw (5 hp).

11.2 The Crown's liability under this Deed in respect of all loss and damage to any part or parts of electrical machines, installations or apparatus caused by any one event of Self-Ignition shall not exceed \$20,000 (which shall be reduced by the amount of any applicable Deductible).

12 Works of Art, etc.

12.1 The Crown's liability to compensate a Participating Board for any one event of accidental loss or damage to curiosities, memorabilia or artworks shall be limited to \$10,000 for any one item.

13 Staff Property.

13.1 The Crown's liability to compensate a Participating Board for any one event of accidental loss or damage to Staff Property used exclusively for teaching purposes within the school or tools used for the maintenance of the school shall be limited to \$2,000 per staff member.

PART II CLAIMS AND AMOUNT OF COMPENSATION

14 Claims

14.1 On a Participating Board or the principal of the School becoming aware of any loss or damage indemnified or likely to be indemnified by the Crown under this Deed, the Participating Board or principal must:

- 14.1.1 take prompt steps to minimise the loss or damage;
- 14.1.2 take reasonable steps to protect the Property from further loss or damage;
- 14.1.3 immediately notify the Administrator;
- 14.1.4 if a criminal act is suspected, inform the police;

- 14.1.5 forthwith (and in any event not more than 30 days after becoming so aware) submit full particulars of the Claim in writing to the Administrator in a form acceptable to the Administrator;
- 14.1.6 at the Participating Board's expense, provide the Administrator with any reasonably required proof and information in respect of the Claim, including, but not limited to, any register of assets or similar record maintained by the Participating Board.

15 Indemnification by Repair or Replacement

- 15.1 Subject to Clause 15.2 and 15.3, the Crown shall indemnify the Participating Board in respect of accidentally lost or damaged Property by:
 - 15.1.1 payment of the cost of restoration of the Property to a condition substantially the same as but not better or more extensive than its condition at the time of the damage; or
 - 15.1.2 if restoration under Clause 15.1.1 is not practicable, replacement of the property with property of equivalent age and condition and that performs an equivalent function to the Property; or
 - 15.1.3 if restoration or replacement under either of Clauses 15.1.1 and 15.1.2 is not practicable, replacement of the Property with new property that, in all material respects, is the same as and not better than the Property; or
 - 15.1.4 if restoration or replacement under any of Clauses 15.1.1 to 15.1.3 is not practicable, payment of the cost of replacement of the Property in accordance with Clause 15.1.2 or its indemnity value, whichever is the lesser.
- 15.2 Notwithstanding Clause 15.1, in every case the Crown may at its option indemnify the Participating Board by:
 - 15.2.1 payment of the market value of the Property at the time immediately before its loss or damage, where such Property is, in the Crown's view, obsolete or superfluous to the requirements of the Participating Board; or
 - 15.2.2 replacement of the Property with property performing an equivalent function, where, in the Crown's view, the Property is unusually expensive having regard to the cost of property performing an equivalent function, or to the resources of Participating Boards generally.
- 15.3 The Crown shall indemnify a Participating Board for accidentally lost or damaged Property comprising removable shade sails and their supporting posts:
 - 15.3.1 that are less than 5 years old at the time of loss or damage, on the basis set out in 15.1 or 15.2 of the Deed or
 - 15.3.2 that are 5 or more years old at the time of loss or damage, by payment of the indemnity value.

16 Deductible

- 16.1 There will be deducted from the amount of any loss incurred by a Participating Board which is indemnifiable by the Crown under this Deed (net of salvage and other recoveries) in respect of any one Claim the total of the sum of:
 - 16.1.1 \$100 for handheld electronic devices with a replacement value less than \$1,000
 - 16.1.2 \$500 for all other claims.
- 16.2 The Crown may, from time to time, and by written notice to the Participating Board concerned, increase or decrease any or all of the amounts specified in Clauses 16.1, or the method of their calculation, in respect of any or all Participating Boards.
- 16.3 All Claims arising from any one cause during any period of 72 consecutive hours shall be treated as one Claim for the purpose of applying the Deductible.

17 Participating Board Costs

- 17.1 The Crown agrees to indemnify each Participating Board in respect of the following costs and expenses incurred by the Participating Board in relation to accidental loss or damage giving rise to indemnity by the Crown under this Deed:
 - 17.1.1 In relation to disposal of debris and return of Property – all reasonable costs actually incurred in the necessary disposal of debris (being formerly part of the Property), and the recovery, removal, storage and return of Property, whether damaged or undamaged, following loss or damage to any of the Property;
 - 17.1.2 In relation to protection – all reasonable costs and expenses incurred by the Participating Board in protecting (or any bona fide attempt to protect) Property, upon the occurrence of any event causing loss or damage to that or other Property, from loss or damage by any cause occurring in the proximity of the Property (and, for the purposes of this Clause 17.1.2 “expenses” includes the cost of reimbursing,

repairing, or replacing any loss or damage to property, or use or refilling of any plant or equipment (whether or not being property of the Participating Board), incurred or suffered in an attempt to protect the Property).

- 17.1.3 In relation to Unharmed Property – all reasonable costs actually incurred in the demolition, damaging, removal, and subsequent reinstatement of otherwise unharmed Property, necessary to enable reinstatement of any Property following its damage (and, in this Clause 17.1.3, “costs” includes the costs of additional work necessary to comply with any Act, Regulations or By-Laws, expenses reasonably incurred to avoid or diminish damage to the Property by storage or by other means, and expenses reasonably incurred by the Participating Board in the removal of damaged and undamaged Property following loss or damage to the Property).
- 17.1.4 In relation to Temporary repairs – all reasonable costs incurred for temporary repairs and other measures necessary to secure the Property or to make it safe or suitable for continued use following its damage.

18 Other Costs

- 18.1 The Crown has no liability for any costs and expenses of the Participating Board, other than those referred to in Clause 17, and in particular shall not be liable for:
- 18.1.1 costs and expenses (including legal fees and costs) incurred by the Participating Board for the preparation, presentation, negotiation, certification and/or justification of Claims in respect of which a payment is made by or claimed from the Crown under this Deed including salaries, wages, overheads and other expenses relating to the Participating Board's employees;
- 18.1.2 costs of express freight and overtime labour incurred for the purpose of expediting the restoration or replacement of any Property;
- 18.1.3 any professional fees including engineering, surveying and clerk of works fees, salaries and other costs and expenses incurred in relation to Property.

19 Salvage

- 19.1 Subject to Clauses 19.2 and 19.3, if any Property is lost or damaged, the Crown may, by its employees or agents,
- 19.1.1 enter any building where the loss or damage has occurred and take and keep possession of the damaged Property;
- 19.1.2 deal with the salvage in any reasonable manner.
- 19.2 The Participating Board is not entitled to abandon any Property to the Crown.
- 19.3 The Crown is not entitled to sell or otherwise dispose of salvaged branded goods without the prior consent of the Participating Board. In the event of the Participating Board declining to give consent, the Participating Board will retain possession of the salvaged goods and their reasonable salvage value will be deducted from the amount of any Claim that would otherwise be payable. If it is practical to remove brands, labels or other marks, which identify the goods as supplied by the Participating Board, and the Crown agrees to such removal, the salvage value of the goods shall be determined after such removal at the Crown's expense.

20 Subrogation

- 20.1 The Participating Board must, at the expense of the Crown, do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Crown for the purpose of enforcement of any rights or remedies or of obtaining relief or indemnity from parties (other than the Participating Board or any other person who is the owner or authorised custodian of any Property in respect of Claims arising out of damage to, or loss of, or loss of use of that Property) to which the Crown shall be or would become entitled or subrogated upon the paying for or making good any loss or damage under this Deed, whether those acts and things are or become necessary or required before or after the indemnification of the Participating Board by the Crown.

21 Progress Payments

- 21.1 In the event of the Crown's liability under this Deed for any accidental loss or damage to any Property being admitted by the Crown, the Participating Board shall be entitled to obtain the amount for which the Crown is liable by reasonable progress payments so long as, if required by the Crown, an interim statement of loss or damage is supplied to the Administrator by the Participating Board and the Administrator approves this statement.

PART III MISCELLANEOUS

22 Benefit of Deed

- 22.1 For the purposes of section 4 of the Contracts (Privity) Act 1982, or any amendment thereto or replacement legislation, the benefit of this Deed is enforceable only at the suit of Participating Boards.

23 Termination or Amendment of Deed by Crown

23.1 The Crown may at any time or times, by deed entered into by the Crown do any or all of the following:

23.1.1 extend the term referred to in Clause 2;

23.1.2 amend any other provision of this Deed in respect of all or any Participating Boards after giving at least one month's written notice to every Participating Board affected;

23.1.3 terminate this Deed after giving at least two months written notice to every Participating Board.

24 Security systems and fire extinguishers

24.1 If a Participating Board has installed burglar alarms or other security systems, or fire detectors or extinguishers, in its premises, the Participating Board must ensure that these are maintained in good working order at all times.

25 Release of liability

25.1 A release is allowed without prejudice to the Crown's liability under this Deed from liability arising from loss or damage to Property from any cause if a Participating Board is required by contractual agreement to release:

25.1.1 the Crown, the Government, any Government corporation, any quasi Government organisation, any local authority, any oil company, any lift maintenance engineer, any approved fire protection, installation or service company, any warehouse or storage operator, or any signatories to a lease or mortgage; or

25.1.2 any other party if that agreement is declared to and agreed by the Administrator from time to time.

26 Fraud

26.1 If any Claim is in any respect fraudulent or if any false declaration is made or used in support thereof or if any fraudulent means or devices are used by a Participating Board or anyone acting on behalf of a Participating Board to obtain any benefit under this Deed in respect of a Claim, the Claim is forfeited except that, if the Participating Board comprises more than one School Trustee, the benefit of this Deed shall continue to accrue to any School Trustee making a bona fide Claim under this Deed.

27 Goods and services tax

27.1 If a Participating Board is liable for goods and services tax on any payment made under this Deed, the Crown will reimburse the Participating Board for that goods and services tax. The reimbursement will be made in addition to any liability that the Crown may have under Part II of this Deed.

28 Invalidity in appointment of Board

28.1 The Crown agrees to indemnify a Participating Board in the manner provided in this Deed regardless of any error or defect or invalidity in the election or appointment or co-opting of, or assumption of responsibility by, a School Trustee or Commissioner.

29 Breach of warranty or condition

29.1 The obligations of the Crown under this Deed are not invalidated by breach of any provision of this Deed if the breach occurs without any of the Participating Board, the principal of the School, and the chairperson of the Participating Board having knowledge of the breach, so long as the Administrator is advised of the circumstances immediately they become known to any of the Participating Board, the principal of the School, and the chairperson of the Participating Board.

30 Observance of terms and conditions

30.1 The due observance and fulfilment of the provisions of this Deed by the Participating Board in so far as they relate to anything to be done or complied with by the Participating Board and the truth of statements made in writing, shall be conditions precedent to any obligation of the Crown to provide any indemnity under this Deed, provided that for the purpose of this Clause 30 the benefit of this Deed to the Participating Board shall not be avoided by reason of failure to ensure due observance and fulfilment, or untrue statement, on the part of one or more individual School Trustees.


IN WITNESS WHEREOF

this Deed has been entered into by the Crown.

SIGNED by Chris Hipkins

Minister of the Crown on
behalf of Her Majesty
the Queen in Right of New
Zealand in the presence of:



Wellington

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