Collateral Warranty

**[FOR USE WITH MASC-1 2021 AND MESC-1 2021 ONLY]**

**Deed Poll made at** ………… **on** ………………………., 20……

**By: The person described in Item 1 of the Schedule ("Warrantor" which expression will include its successors and assigns)**

**In favour of: *[INSERT NAME AND ABN OF CONTRACTOR]* ("Contractor")**

Recitals

A. The Contractor and the party described in Item 2 of the Schedule (**"Subcontractor"**) have entered into the contract described in Item 3 of the Schedule (**"Subcontract"**).

B. The Warrantor is to supply the goods described in Item 4 of the Schedule (**"Equipment"**) which will be incorporated into the Subcontract Works (as defined in the Subcontract).

C. The Warrantor has agreed to give warranties to the Contractor in respect of the Equipment.

This deed poll provides

1. The Warrantor:
   * 1. warrants to the Contractor that the Equipment will be to the quality and standard stipulated by the Subcontract and will be of merchantable quality and fit for the purpose for which it is required; and
     2. gives the warranty more particularly set out in Item 5 of the Schedule with respect to the Equipment.

The above warranties are in addition to and do not derogate from any warranty implied by law in respect of the Equipment.

1. The Warrantor must make good or replace at its sole cost so much of the Equipment as within the period described in Item 6 of the Schedule:
   * 1. is found to be of a lower quality or standard than that referred to in clause 1; or
     2. shows deterioration of such extent that in the opinion of the Contractor the Equipment ought to be made good or replaced in order to achieve fitness for the purpose for which it is required, whether on account of utility, performance, appearance or otherwise.
2. The Warrantor will be liable for the cost of any work necessary to any part of the Subcontract Works to enable the requirements of clause 2 to be carried out or to make good the Subcontract Works afterwards.
3. If the Warrantor does not, within 14 days of the Contractor giving the Warrantor notice to do so, make good or replace the Equipment as required by clause 2, then:
   * 1. without limiting any other rights or remedies which the Contractor may have against the Warrantor, the Contractor may do so; and
     2. the costs, expenses, losses and damages suffered or incurred by the Contractor in making good or replacing the Equipment as required by clause 2 will be a debt due from the Warrantor to the Contractor.
4. The Warrantor will indemnify the Contractor against all costs, expenses, losses and damages suffered or incurred by the Contractor arising out of or in connection with any breach by the Warrantor of:
   * 1. the warranties given by it under this Deed; or
     2. its other obligations under this Deed.
5. Nothing contained in this Deed is intended to nor will render the Contractor in any way liable to the Warrantor in relation to any matters arising out of the Subcontract or otherwise.

Schedule

|  |  |  |
| --- | --- | --- |
| Item 1: | Name and Address of Warrantor | ***[INSERT NAME AND ABN OF WARRANTOR]*** |
| Item 2: | The Subcontractor  (Recital A) | ***[INSERT NAME AND ABN OF SUBCONTRACTOR]*** |
| Item 3: | The Subcontract  (Recital A) | ***[INSERT BRIEF DETAILS, INCLUDING PROJECT DESCRIPTION/NUMBER]*** |
| Item 4: | The Equipment  (Recital B) | ***[INSERT DETAILS]*** |
| Item 5: | Detailed Warranty of Warrantor  (Clause 1) | ***[INSERT DETAILS]*** |
| Item 6: | Period of Years  (Clause 2) | ***[INSERT]*** years from the **[Date - *if MASC-1 2021 /* date - *if MESC-1 2021*]** of Completion of the Works (each as defined in the Subcontract) |

**Executed** as a deed poll.

***[INSERT APPROPRIATE SIGNING BLOCK FOR WARRANTOR]***