



Conditions of Contract for Consultancy Services

Guidance Note

This contract template is based on the Conditions of Contract for Consultancy Services 4th edition December 2017 (**CCCS**) with Special Conditions developed and approved by the New Zealand School Property Agency (**NZSPA**). It is for the engagement of consultants in property projects by a Board of Trustees (**Board**).

These contract templates will help Boards choose the correct contract with the right terms and conditions for each engagement, remove inconsistencies, and give certainty to contractors and consultants providing services to the NZSPA and Boards. These contract templates are alternatives to the Government Model Contracts, which are not designed to be used for construction projects.

This contract is designed so that the NZSPA approved variations to the CCCS terms and conditions are contained in Special Conditions Part A and Part B. Specific contract details can be entered in the Special Conditions Part A, and the Appendices to the contract. You must not change the terms and conditions of the contract. If you have any questions please contact your Property Advisor or email Property Help at PropertyHelp@schoolproperty.govt.nz

When to use this contract

The following are guidelines for when you should use the contract; you may find that this contract is suitable even though the work falls outside some of the guidelines. If you are in doubt, please contact your Property Advisor.

When to use this contract	
Type of engagement	Professional services
Value	Over \$50,000 excluding GST
Suitable for	Any consultancy or advisory services for construction or property projects, particularly complex work involving design
Not suitable for	If the services required are low complexity and valued under \$50,000 then it may be more suitable to use the Short Form Agreement for Consultant Engagement (Contract 3)
Examples	Engineering, architectural, design services etc

Getting started

Because you are acting on behalf of the community, using public money, you need to use processes that can be verified by your auditor and the NZSPA. Even when you may know and trust the person who will be doing the work, there are certain basics that you need to remember when dealing with a building contract for your school.

Legal authority

- The only “person” with the legal authority to enter into a contract on behalf of the school is the Board, or someone the Board has formally appointed at a Board meeting to act on its behalf.
- The person or people authorised to deal with the construction project on the Board’s behalf should be recorded in the Board minutes for the meeting the Board made the decision.
- It is important to have details of the construction work agreed and the contract signed, before the contractor starts any work on the project.

Executing the contract

- Check that you have the latest version of the contract available from the Property Toolbox. The consultant should sign the contract before the Board’s authorised signatory(ies) signs, so you can check that no alterations have been made by the consultant before the Board signs it.
- The consultant should initial every page of the contract, to confirm they have read and agreed to what is on the page. This can be important if disagreements arise later.
- Before any payments are made, check that the consultant has signed the contract and you have confirmed that:
 - they have done all work you are paying for; and
 - the work has been done to the standard required.

Conflict of interest

The consultant and all members of the Board are required to disclose any likely conflict of interest in writing to the Board before signing the contract. A conflict of interest includes any family or business relationship between:

- the consultant including the consultant’s directors and senior managers, and
- any member of the Board or any staff at the school.

In the contract itself, the consultant is also required to declare:

- that they are not aware of any further conflict of interest that has not already been disclosed in writing to the Board;
- any conflict that arises after signing the contract; and

- any claims by the NZSPA, the Ministry or any school Board against the consultant (including a majority shareholder or director) in relation to any services of a similar nature.

Making variations to the contract

If the proposed variation is less than 10% of the project budget and will be paid for by funds held by the school for contingency purposes (i.e. outside the contract price), the Board can approve the variation. If the variation is outside these guidelines, then the variation requires pre-approval from the NZSPA, and you will need to contact your Property Advisor. We recommend contacting your Property Advisor for guidance if you are in doubt.

Completing the contract details

It is important that you read over the whole contract to ensure you understand what you are committing the school to, and what you are entitled to expect from your consultant.

You should keep a record of this contract stored for reference during the time that the consultant carries out the services, and for ten years afterwards in case any issues with the services provided are discovered later. As there is a high probability that key people in the school will change over that time, it is important to make sure that all property documentation is kept together, and that the Board and principal have clear records of where they are stored and how to access them. This should include any passwords or other security measures.

The contract contains guidance notes and colour coded text to help you to complete it with the relevant information required. The guidance notes and any options provided in the document which are not required should be deleted before the contract is issued and signed.

Who are the parties?

The Parties	
Client	The Board of Trustees is the legal body that has the authority to enter into contracts on behalf of the school Insert the name of the Board: • where indicated on the cover page; • where indicated on page 2; and • in the signing block on page 3.
Consultant	It is important to use the full legal name of the consultant. Is it a company, individual, or a company trading under a different name? Insert the consultant's full legal name: • where indicated on the cover page; • where indicated on page 2; and • in the signing block on page 3.

What are the specific provisions of this contract?

Special Conditions Part A	
Limitation of liability	The limitation of liability is five (5) times the fee with a maximum of \$2,000,000 except in respect of weathertightness claims where the maximum payable is five (5) times the fee with a maximum of \$250,000. This value cannot be amended
Duration of liability	The contract provides for a standard period of six (6) years from completion of the services
Public liability insurance	The minimum amount of public liability Insurance is \$5,000,000 per occurrence
Professional indemnity insurance	The minimum amount of professional indemnity insurance required shall be an amount equal to five (5) times the fee with a maximum limit of \$2,000,000 per occurrence