

Bailey Bridge Hire Agreement

Contract Number: [NZTA Contract No.]

Between The NZ Transport Agency and the Hirer

The Hirer [insert within signing set]

Address [insert within signing set]



NZ TRANSPORT AGENCY
WAKA KOTAHI

New Zealand Government

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Contract Agreement Form

The NZ Transport Agency

Contract Number: **[NZTA Contract No.]**

Bailey Bridge Hire Agreement

For Bailey Bridge Services to the Hirer by the NZ Transport Agency

This contract is made on the **[Number]** day of **[Month]** **[Year]**

Between

1. The NZ Transport Agency, a Crown entity, established on 1 August 2008 by Section 93 of the Land Transport Management Act 2003 (as Bailey Bridge owner) together with its assigns and successors (NZTA)

And

2. **[Name]** of **[Location]**
together with its permitted assigns and successors (Hirer)

Background

1. The NZTA, in its role as the owner of Bailey bridges and the provider of services relating to the provision of Bailey bridges for hire, has agreed to hire the Bridge to the Hirer on the terms contained in this Hire Agreement.
2. The NZTA administers its Bailey bridge programme through *[Insert name of service contractor]*.

1. Interpretation

1.1 Defined Terms

In this Hire Agreement, unless the content otherwise requires:

"Bridge" means the Bailey bridge superstructure and bearings the NZTA agrees to hire to the Hirer under this Hire Agreement, the specifications for which are set out in item 1 of the Schedule, or such other specifications as the parties agree in writing;

"Bridge Hire" means the hire of the Bridge from the NZTA to the Hirer under this Hire Agreement;

"Default Rate" means the rate per annum that is 1.5 times the prevailing 90 day rate referred to as BKBM on the due date for payment of the outstanding amount;

"Early Termination Hire Fee" means the Hire Fee applicable if the NZTA can terminate the Bridge Hire under *clause 11.2*, prior to the Termination Date as set out in item 3 of the Schedule;

“Hire Fee” means the Hire Fee set out in item 2 of the Schedule;

“Hirer’s Contractor” means each consultant, agent or contractor who is, or will be, working on or in the vicinity of the Bridge and who was engaged by:

- (a) the Hirer;
- (b) any consultant, agent or contractor engaged by the Hirer;
- (c) any consultant, agent or contractor engaged by any of the persons described in paragraph (b) of this definition;

“Government Entity” means an entity that is a regional council or district council (each as defined in the Local Government Act 1974), or a Crown entity or department (as defined in the Public Finance Act 1989), except where the NZTA has specified in writing to the entity concerned that the entity is not a Government Entity for the purposes of this Hire Agreement;

“Termination Date” means the termination date specified in the Schedule or any other date agreed by the parties.

1.2 Construction

In the construction of this Hire Agreement, unless the context requires otherwise:

Business Days: anything required by this Hire Agreement to be done on a day which is not a Business Day may be done on the next Business Day. Saturdays, Sundays, and public holidays are not Business Days;

Documents: a reference to any document (including this Hire Agreement) and any statute includes a reference to that document or statute as amended or replaced from time to time;

Fees: all fees described in or calculated under this Hire Agreement include goods and services tax;

Parties: a reference to a party to this Hire Agreement or any other document includes that party's successors and permitted assigns. Where the context allows, a reference to the NZTA includes NZTA's authorised agents.

2 Hire

The NZTA agrees to hire and the Hirer agrees to take on hire from the NZTA the Bridge during the Term upon and subject to the terms contained in this Hire Agreement.

3 Term of Hire

This Hire Agreement becomes effective upon its execution and the Term is for the period commencing on the date the NZTA notifies the Hirer that the Bridge is on site and available for use by the Hirer and ending on the Termination Date, or such other period as the parties agree.

4 Payments

4.1 Construction Fee

Subject to *clause 5.7*, the Hirer must pay the Construction Fee no later than the 20th of the month following the date of the NZTA's invoice for the Construction Fee.

4.2 Hire Fee

The Hire Fee is payable as follows:

- 4.2.1 The Hire Fee is payable for each day of the Term excluding the Termination Date and any day when the Bridge is unavailable for use by reason of any defect in or unavailability of the Bridge for which the NZTA is responsible;
- 4.2.2 The NZTA may invoice the Hirer for the payment of up to three months' Hire Fee in advance; and
- 4.2.3 The Hirer must pay to the NZTA the Hire Fee invoiced by the NZTA no later than the 20th of the month following the date of the NZTA's invoice.

4.3 Dismantling Fee

The Hirer must pay the Dismantling Fee by the 20th of the month following the date of the NZTA's invoice for the Dismantling Fee.

5 Construction of the Bridge

5.1 Obligations of Hirer

The Hirer must, to the satisfaction of the NZTA in the NZTA's discretion:

- 5.1.1 Determine the alignment, level and span arrangements for the Bridge;
- 5.1.2 Design and construct the sub-structure support system for the Bridge;
- 5.1.3 Obtain and comply with all required Resource Consents for the Bridge;
- 5.1.4 Obtain and comply with all required Building Consents for construction of the Bridge;
- 5.1.5 Provide bridge end protection and delineation for the Bridge;
- 5.1.6 Provide such signs on the bridge or on the approaches to the Bridge, including speed and maximum load signs, as the NZTA, in its discretion requires; and
- 5.1.7 Comply with its obligations under *clause 5.7* (if applicable).

5.2 Services of the NZTA

The NZTA will provide the following services for construction of the Bridge;

- 5.2.1 Design of the superstructure and bearings for the Bridge;
- 5.2.2 Transport each component of the Bridge to the site where the Bridge is to be constructed;
- 5.2.3 Construct the Bridge superstructure and bearings and, if agreed by the NZTA in writing, a pedestrian footway and/or running planks for the Bridge in accordance with the NZTA's design for the Bridge and the NZTA's Bailey Bridge Manual; and
- 5.2.4 Provision to the Hirer of a Producer Statement - Design, a Producer Statement - Construction and a Producer Statement - Construction Review for the Bridge superstructure and bearings.

5.3 Deck Surface Treatment

The Hirer may add running planks or lay chipseal on the deck of the Bridge to the NZTA's specifications (if any).

5.4 Cost of Construction

The Hirer is liable for the cost of the NZTA providing the services set out in *clause 5.2* and any materials used by the NZTA in providing those services (the *Construction Fee*). The NZTA will render an invoice to the Hirer for the Construction Fee following completion of the Bridge. In the absence of manifest error, such invoice is conclusive evidence of the Construction Fee and the other matters contained in the invoice. The Hirer may request a written estimate of the Construction Fee before the NZTA provides any of its services under *clause 5.2*.

5.5 Timing of Delivery and Construction

The NZTA and the Hirer will use reasonable endeavours to agree on a timetable for construction of the Bridge and related matters. The NZTA will use reasonable endeavours to ensure that the components of the Bridge are delivered to the site where the Bridge is to be constructed at the agreed time and date and that the Bridge is constructed within the agreed time frame.

5.6 Delay in Construction

The NZTA may delay or stop providing its services under *clause 5.2* until it is satisfied, in its discretion, that the Hirer has complied with its obligations under *clause 5.1*. The Hirer must pay any costs incurred by the NZTA arising from the delay or stop in construction. The NZTA may include those costs in its invoice for the Construction Fee or render a separate invoice.

5.7 Additional Requirements where Hirer is not a Government Entity

If the Hirer is not a Government Entity:

- 5.7.1 The NZTA will provide a written estimate of the Construction Fee and the Dismantling Fee to the Hirer before the NZTA provides any of its services under *clause 5.2*;
- 5.7.2 The Hirer must pay to the NZTA the estimated Construction Fee in advance;
- 5.7.3 The Hirer must deliver to the NZTA a bond acceptable to the NZTA for an amount equal to the estimated Dismantling Fee;
- 5.7.4 If the Construction Fee is less than the Hirer paid to the NZTA for the estimated Construction Fee the NZTA must either refund the balance to the Hirer or credit the balance as payment of the Hire Fee in advance, at the NZTA's option. If the Construction Fee is more than the estimated Construction Fee, the Hirer must pay the balance of the Construction Fee no later than the 20th of the month following the date of the NZTA's invoice for the Construction Fee.

6 Title

Title to the Bridge and ownership of all its component parts remain with the NZTA at all times.

7 Indemnity

The Hirer indemnifies the NZTA against any loss, claim, damage, expense, liability or proceeding suffered or incurred at any time by the NZTA as a direct or indirect result of any breach of any of the Hirer's obligations, undertakings or warranties contained or implied in this Hire Agreement or the conduct of the Hirer or the Hirer's Contractor.

8 Maintenance

The NZTA must maintain the Bridge in accordance with the NZTA's Bailey Bridge Manual. The NZTA will consult with the Hirer before carrying out any non-urgent maintenance or repairs and will carry out non-urgent maintenance and repairs as agreed with the Hirer or otherwise at reasonable times. The NZTA may stop vehicle and/or foot use to the Bridge while it is carrying out maintenance on the Bridge. No Hire Fee is payable for any day during which the NZTA has stopped vehicle use of the Bridge for more than 4 hours in total.

9 Access by the NZTA

- 9.1 The Hirer must, both during and after the Term, allow the NZTA reasonable access to any property or premises upon which the Bridge is situated and to any documents relating to the Bridge, its use, and any activities of the Hirer or the Hirer's Contractor on or in the vicinity of the Bridge.
- 9.2 The Hirer will reasonably co-operate with the NZTA in connection with such activities and provide the NZTA with the opportunity to meet with relevant personnel from the Hirer or the Hirer's Contractors to discuss the Bridge and any related documents.

10 Damage or Destruction to Bridge

- 10.1 If the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged, or has deteriorated in any way, or is otherwise rendered unsafe or potentially unsafe, the NZTA will at its discretion, and within a reasonable time of it becoming aware of the matter, repair and/or replace the Bridge or any part of the Bridge to the extent the NZTA considers this necessary to ensure that the Bridge conforms to the requirements of the NZTA's Bailey Bridge Manual. Where appropriate, the NZTA may defer any action under this *clause 10.1* until the Hirer has complied with *clause 5.1*.
- 10.2 If the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged or is otherwise rendered unsafe or potentially unsafe (including, without limitation, as a result of an act of god) and the matter was not caused solely by the NZTA's act or omission, the Hirer is liable for, and must pay no later than the 20th of the month following the date of the NZTA's invoice for:
 - 10.2.1 the costs incurred by the NZTA in complying with its obligations under *clause 10.1*;
 - 10.2.2 the amount the NZTA certifies as being the cost of replacing the lost or stolen parts of the Bridge or the destroyed or damaged parts of the Bridge where the NZTA determines the repair of the destroyed or damaged parts is impractical or uneconomic; and
 - 10.2.3 the costs of the removal, retrieval or dismantling of the Bridge or any part of the Bridge.
- 10.3 If the Bridge causes damage to any property of, or otherwise causes loss to, the NZTA or a third party, the Hirer will be liable to pay such damage or loss.

11 Early Termination of Hire in Emergency

11.1 Election of Early Termination Hire Fee

If the Hirer is not a Government Entity, the Hirer may elect the Early Termination Hire Fee is to apply to the Bridge Hire.

11.2 Early Termination in an Emergency

If the Hirer has elected the Early Termination Hire Fee, the NZTA may terminate the Bridge Hire by giving one week's prior written notice to the Hirer if the NZTA determines that the Bridge is required for emergency use or as back-up stock where the NZTA's Bailey bridge stocks are low as a result of an emergency or emergencies. Following termination of the Bridge Hire, the NZTA will refund any excess Hire Fee paid by the Hirer. The Hirer must pay the Dismantling Fee for the NZTA dismantling and removing the Bridge.

11.3 Reinstatement of Bridge

If the NZTA has terminated the Bridge Hire under *clause 11.2* and the Hirer requires reinstatement of the Bridge when practicable then no Construction Fee or Dismantling Fee is payable by the Hirer in respect of the subsequent supply of the Bridge.

12 Hirer's Obligations

The Hirer must:

- 12.1 Not, except as permitted or required by this Hire Agreement, in any way add to, interfere with or modify the Bridge or any sign affixed to the Bridge by or at the discretion of the NZTA or do anything which would interfere with the proper and safe working of the Bridge without the prior written consent of the NZTA;
- 12.2 Notify the NZTA immediately if the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged, or has deteriorated in any way, or is otherwise rendered unsafe or potentially unsafe;
- 12.3 Restrict or close access to the Bridge immediately it becomes aware that the Bridge has become unsafe;
- 12.4 Not sell, sublet, hire, encumber, charge or part with possession of or otherwise deal with the Bridge without the NZTA's prior written consent;
- 12.5 Comply with all relevant statutes, regulations, bylaws, resource and building consents and local authority requirements;
- 12.6 Maintain signage on the Bridge or on the approaches to the Bridge as required by the NZTA and any relevant statute, regulation, or bylaw;
- 12.7 Notify the NZTA as soon as it becomes aware that the Hirer will lose the ability to exercise control over any land on which the Bridge is located;
- 12.8 Not by signage or conduct, represent that it has any interest in the Bridge;
- 12.9 Indemnify the NZ Transport Agency for any loss or damage caused to the Bailey Bridge where such damage is caused by fire, explosion, earthquake, volcanic eruption, flood, storm or impact from road vehicle or watercraft, theft, malicious acts, riot, strike, subsidence, landslide or collapse. If the hirer is not a government or local government entity, then the hirer agrees they will at all times during the period commencing on the first day of the term and ending on the day that the bridge has been dismantled and removed to the NZ Transport Agency's storage

site insure and keep insured, for the full replacement value, the bridge on terms, and with an insurer, acceptable to the NZ Transport Agency. Such insurance shall note the interest of the NZ Transport Agency as owners.

- 12.10 Insure and keep insured their liability to third parties in respect of the hirer's use and operation of the bridge including its use and operation by any of the Hirer's Contractors; and. Such Public Liability insurance shall extend to indemnify the NZ Transport Agency for their liability as owners and be for a limit of at least \$20,000,000 for any one occurrence or series of occurrences arising out of the same cause.
- 12.11 Insure and keep insured their liability for design in respect of the provisions, which provide support to the bridge for the sum of at least \$1,000,000 any one loss, and in all in the period of insurance on terms and with an insurer acceptable to the NZ Transport Agency.
- 12.12 In respect of any insurance effected under the provisions of 12.9, 12.10 and 12.11 above, the hirer agrees to ensure that no termination of, cancellation of, change to or reduction in any insurance cover occurs or is effected without the prior written consent of the NZ Transport Agency.
- 12.13 Ensure that no termination of, cancellation of, change to or reduction in any insurance cover occurs or is effected without the prior written consent of the NZTA.

13 Hirer's Additional Obligations

The Hirer warrants and undertakes that:

- 13.1 It will ensure that each Hirer's Contractor complies with each obligation on the Hirer under this Hire Agreement (except for payment obligations and any other obligation the NZTA agrees is, or will be, the sole responsibility of the Hirer); and
- 13.2 If the Hirer has notified the NZTA that the NZTA may correspond directly with the Hirer's Contractor, any notice or other communication under this Hire Agreement may be validly made to either the Hirer's Contractor or the Hirer, at the NZTA's discretion.

14 Extension of Term Hire

- 14.1 The Hirer may, in writing and at least 6 months before the end of the Term, request that the NZTA extend the Term by a further period of not more than 2 years. The NZTA may extend the term, but is not obliged to do so. The NZTA must notify the Hirer within 1 month of the Hirer's request:
 - 14.1.1 Whether the NZTA agrees to extend the Term;
 - 14.1.2 The period for which the NZTA agrees to extend the Term; and
 - 14.1.3 The Hire Fee for the extended Term. Any increase in the Hire Fee must not exceed the increase in the Construction Price Index since the date of this Hire Agreement.
- 14.2 If the Hirer agrees to the extended Term and the Hire Fee notified by the NZTA, it must notify the NZTA of its agreement within 1 month of the NZTA's notice under *clause 14.1*. The Term and Hire Fee will be adjusted accordingly, with effect from the date upon which the Term would have expired but for the extension under this *clause 14*.

15 Termination of Hire

- 15.1 The Hirer must, not less than 2 weeks before the Termination Date, give written notice to the NZTA requesting the NZTA to dismantle and remove the Bridge.
- 15.2 If the Hirer wishes to terminate the Bridge Hire before the Termination Date, it must give the NZTA at least 2 weeks written notice. No such notice may be given within 3 months of the commencement of the Term or less than 3 weeks before the end of the Term.

16 Dismantling and Removal

16.1 Dismantling and Removal

If requested by the Hirer, the NZTA and the Hirer will use reasonable endeavours to agree on a timetable for dismantling and removal of the Bridge by the NZTA. Until the NZTA has notified the Hirer that it has dismantled and removed the Bridge, the Hirer will leave the approaches to the Bridge in place, and will allow the NZTA reasonable access to the site on which the Bridge is constructed. The NZTA will dismantle and remove the Bridge in accordance with the Bailey Bridge Manual and all applicable laws and regulations. The NZTA will use reasonable endeavours to ensure that the components of the Bridge are removed to the agreed timeframe (if there is one).

16.2 Cost of Dismantling and Removal

The Hirer will be liable for the cost of the NZTA dismantling and removing the Bridge in accordance with this Hire Agreement (the *Dismantling Fee*). The NZTA will render an invoice to the Hirer for the Dismantling Fee following dismantling and removal of the Bridge. In the absence of manifest error, such invoice will be conclusive evidence of the Dismantling Fee and the other matters contained in the invoice. The Hirer may request a written estimate of the Dismantling Fee before the NZTA commences dismantling the Bridge.

16.3 Delay in Removal

The NZTA may delay the start of dismantling or stop the dismantling and removal of the Bridge if the NZTA determines, in its discretion, that this is necessary or desirable as a result of any act or omission of the Hirer or the Hirer's Contractor. The Hirer will pay the costs incurred by the NZTA from the delay or stop in the dismantling and removal of the Bridge. The NZTA may include those costs in its invoice for the Dismantling Fee or render a separate invoice.

17 Interest on Overdue Monies

If the Hirer fails to make any payments due under this Hire Agreement on the due date for payment, the Hirer is, upon demand by the NZTA, to pay to the NZTA interest on the due amount from the due date until the date of payment of that amount to the NZTA at the Default Rate.

18 Default by Hirer

18.1 Default by Hirer

Without limiting any other rights of the NZTA, if Hirer is in breach of any of its obligations under this Hire Agreement then the NZTA will be entitled to take all steps it considers necessary to remedy the breach and to protect its interest in the Bridge. All costs,

expenses or other moneys incurred by the NZTA, or which the NZTA is liable to pay (including the NZTA's internal time costs) in remedying any breach, must be paid by the Hirer to the NZTA on demand. If the Hirer does not pay on demand then interest at the Default Rate is payable by the Hirer on the outstanding amount until the date of full repayment by the Hirer.

18.2 Other Defaults and Consequences

If the Hirer:

- 18.2.1 Fails to pay any amount due under this Hire Agreement within 14 days of it being due;
- 18.2.2 Becomes insolvent, or a liquidator is appointed in respect of the Hirer or any receiver, manager, receiver and manager, trustee or administrator is appointed in respect of any of the Hirer's assets, and such person fails, within 10 Business Days to make arrangements satisfactory to the NZTA in respect of the Hirer's obligations under this Hire Agreement;
- 18.2.3 Ceases to carry on all or substantially all of its business or operations;
- 18.2.4 Fails to strictly observe or perform any term of this Hire Agreement which it is required to perform or observe whether or not the relevant failure is capable of remedy;
- 18.2.5 Abandons or is otherwise no longer able to exercise control over any land on which the Bridge is located or is in breach or in default under any lease or licence relating to any land on which the Bridge is located;
- 18.2.6 Does or causes or permits to be done any other act or thing which may prejudice the NZTA's rights and title to the Bridge; or
- 18.2.7 Is not a Government Entity and there is any change in the effective control of the Hirer without the prior written consent of the NZTA; then Transit may by written notice to the Hirer terminate all of the Hirer's rights under this Hire Agreement and:
- 18.2.8 All amounts payable by Hirer under this Hire Agreement will immediately become due and payable (whether or not at that time due for payment) together with either:
 - (i) all costs and expenses reasonably required to restore the Bridge to a state of good and proper working order and condition; or
 - (ii) the Dismantling Fee and all costs and expenses incurred in repossessing or attempting to repossess the Bridge; and
- 18.2.9 The NZTA may immediately take possession of the Bridge and any documents related to the Bridge.

19 Exclusion of Warranties and Liabilities

19.1 Except as set out in *clause 19.2*, the NZTA is under no liability to the Hirer for:

- 19.1.1 Any interruption or loss of service or use of the Bridge caused by any reason other than negligence of the NZTA.
- 19.1.2 The Bridge being inadequate for any purpose not notified in writing to the NZTA before this Hire Agreement is executed.

19.1.3 Any liability, claim, loss, damage or expense of any kind caused directly or indirectly by the Bridge or any part of it.

19.2 The NZTA is liable to the Hirer for direct physical damage caused by the NZTA, the Bridge or any part of the Bridge to property of the Hirer to the extent that the NZTA's negligence caused the damage but is not liable to the Hirer for any consequential loss; nor is NZTA liable under this Hire Agreement to any other person.

20 Dispute Resolution

If any dispute arises between the parties in connection with this Hire Agreement, either party may by written notice to the other party require that an attempt be made to resolve the dispute by agreement between the parties using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other such alternative dispute resolution technique. If the parties do not resolve the dispute by agreement within 14 days of the written notice (or any further period as the parties may agree in writing) then either party may by written notice to the other party require that the dispute be referred to arbitration under the Arbitration Act 1996.

21 Force Majeure

21.1 Non-performance by either of the parties of any of its obligations (other than to pay money) under this Hire Agreement is excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or substantially, by Force Majeure.

21.2 The party claiming the benefit of this clause must promptly give written notice to the other party specifying the cause and extent of its inability to perform any of its obligations under this Hire Agreement and the likely duration of such non-performance. In the meantime such party must take all reasonable steps to remedy or abate the Force Majeure.

21.3 No party is by virtue of this clause, required against its will to settle any strike, lockout or other industrial disturbances.

21.4 Performance of any obligation affected by Force Majeure must be resumed as soon as reasonably possible after the termination or abatement of the Force Majeure.

21.5 An obligation arising during any period of suspension of rights and obligations under this clause must be performed as soon as practicable after the suspension ends.

21.6 "Force Majeure" means any:

21.6.1 act of God, fire, earthquake, volcanic eruption, storm, flood, or landslide;

21.6.2 strike, lockout, work stoppage or other labour hindrance;

21.6.3 explosion, spillage or public mains electrical supply failure;

21.6.4 sabotage, riot, civil disturbance, insurrection, national emergency (whether in fact or law) or act of war (whether declared or not);

21.6.5 other similar cause beyond the reasonable control of the party claiming the benefit of the Force Majeure clause in this Agreement and which that party is unable to overcome by the exercise of reasonable diligence and at a reasonable cost;

but does not include:

- 21.6.6 any event which the party affected could have prevented or overcome by exercising a standard of reasonable care; or
- 21.6.7 a lack of funds for any reason.

22 Hirer Acknowledgements

The Hirer acknowledges that:

- 22.1 it has entered into this Hire Agreement on the basis of its own judgment and evaluation and not on the basis of any representation or warranty by or on behalf of the NZTA unless that representation or warranty is stated in this Hire Agreement;
- 22.2 it may not bring any claim or action alleging misrepresentation or breach of warranty unless the representation or warranty on which the claim or action is based is stated in this Hire Agreement;
- 22.3 it has taken such advice as it considers relevant from advisors independent of the NZTA and is not relying on any statement outside this Agreement from or on behalf of the NZTA (whether written or otherwise) in entering into this Hire Agreement.

23 Performance by the NZTA

The NZTA is to perform its obligations and exercise its rights under this Agreement either personally or through the service contractor named in Background 2 or any other contractor or agent, but without affecting the liability of the NZTA to the Hirer under this Hire Agreement.

24 Miscellaneous

24.1 Survival

The obligations and liabilities of the Hirer under this Hire Agreement in respect of any matter arising during the term of this Hire Agreement, (and the dismantling and removal of the Bridge on the termination or expiry of this Hire Agreement) survive the termination or expiry of this Hire Agreement

24.2 Notices

Any notice required pursuant to this Hire Agreement must be in writing and is regarded as having been given and received if:

- 24.2.1 personally delivered to the party for whom it is intended or to that party's address described in item 4 of the Schedule or otherwise notified to the other party for the purpose of notices under this Hire Agreement;
- 24.2.2 mailed by prepaid registered mail, to the last known business address in New Zealand of the party for whom it is intended. In this case receipt is to be regarded as occurring on the second business day after the day of posting; or
- 24.2.3 sent by facsimile, to the facsimile number of the party for whom it is intended, and a confirmation of proper receipt is held by the sending party. In this case receipt is to be regarded as occurring at the date and time of receipt, or if that is

after 4.30pm or on a day other than a Business day, then receipt is to be regarded as occurring on the next Business day.

24.3 Amendments

No amendment to this Hire Agreement will be effective unless it is in writing signed by all the parties.

24.4 Counterparts

This Hire Agreement may be executed by the parties in separate counterparts, including by way of facsimile. Each counterpart when so executed and delivered will be an original for all purposes. All such counterparts will together constitute one and the same instrument.

24.5 Severability

Where:

- 24.5.1 any provision of this Hire Agreement is held to be invalid; or
- 24.5.2 either party is unable to perform any of its obligations by reason of a change in the law;
- 24.5.3 the parties will negotiate in good faith to achieve a similar economic and practical effect for both parties;
- 24.5.4 any provision of this Hire Agreement is held to be invalid the other provisions are not affected but may be subject to negotiation under *clause 24.5.2*.

24.6 Waivers

A waiver by either party of any of its rights or any obligation of the other party is effective only if in writing and expressly stated to be a waiver for the purposes of this Hire Agreement.

24.7 Complete Agreement

This Hire Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Hire Agreement. This Hire Agreement supersedes any prior agreements with respect to its subject matter.

24.8 Further Assurances

Each party agrees that, from time to time, it will do and perform in a timely manner any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the other party for the purpose of carrying out the intention of this Hire Agreement.

24.9 Toll Roads

This agreement does not apply where the hirer is a Toll Operator, which is not the NZ Transport Agency. In this case an alternative agreement is required.

Agreement

SIGNED for and on behalf of the Hirer

Signature: _____

Name: _____

Occupation: _____

Address: _____

WITNESS to signature of the Hirer

Signature: _____

Name: _____

Occupation: _____

Address: _____

SIGNED for and on behalf of

The NZ Transport Agency by

Signature: _____

Name: _____

acting pursuant to delegated authority

WITNESS to signature of the Client

Signature: _____

Name: _____

Occupation: _____

Address: _____

Schedule

- 1 **Specifications of Bailey Bridge superstructure and bearings:**
[* insert specifications required by Hirer]
- 2 **Monthly Hire Fee:** \$[insert agreed monthly hire fee]
- 3 **Early Termination Hire Fee (*clause 11.1*):** [state either “elected to apply” or “not applicable”]
- 4 **Initial addresses of the parties:**

The NZ Transport Agency

Structures Manager

Victoria Arcade

44 Victoria Street

Private Bag 6995

WELLINGTON 6141

Contract Number: [NZTA Contract No.]

Contact Name: Ewan Smith

Email: ewan.smith@nzta.govt.nz

Tel: 04 894 6498

Fax: 04 894 6100

The Hirer

Company: [insert]

Name: [insert]

Title: [insert]

[Street Address]

[PO Box Number]

[CITY]

Email: [Email address]

Tel: [Tel number]

Fax: [Fax number]