

ARTICLES OF AGREEMENT BETWEEN THE GOVERNOR OF NEW ZEALAND AND MESSRS. BROGDEN

RELATIVE TO THE PURCHASE OF RAILWAY MATERIAL.

ARTICLES OF AGREEMENT made and entered into this tenth day of August, one thousand eight hundred and seventy-two, between the Governor of New Zealand, in the name and on behalf of Her Majesty the Queen, of the one part, and Alexander Brogden, Henry Brogden, and James Brogden, all of Queen Square, in the City of Westminster, in England, Railway Contractors (hereinafter referred to as "the Contractors"), of the other part.

WHEREAS by Articles of Agreement made and entered into on the eighteenth day of December last between the parties hereto, it was stipulated and agreed that, in the event of the Contractors entering into contracts as therein provided for the construction by them of lines of railway to be specified by the said Governor as therein mentioned, at prices agreed upon between the Governor and the Contractors, amounting in the aggregate to a sum not less than seven hundred thousand pounds (£700,000), the several contracts for which railways were in the Articles of Agreement now in recital, and are in these presents, referred to as Contract No. 3 (three), that a certain other contract previously made and entered into between the said Governor and the Contractors for the construction of railways (which said other contract was in the Articles of Agreement now in recital, and is in these presents, referred to as Contract No. 2), should be annulled, cancelled, and of no effect: And whereas the Governor has, on behalf of the Queen, specified to the Contractors certain railways which, subject to the provisions of the said agreement of the eighteenth day of December, one thousand eight hundred and seventy-one, are to be constructed under Contract No. 3: And whereas the price of iron rails and other materials for the permanent way of such railways, and of rolling stock for the same, which would be procured for the same by the Contractors from England for the purposes of such railways, is subject to such fluctuations, and is so uncertain, that it is expedient that the supply thereof should not be included in the contracts for such railways, but that, in lieu thereof, the same should be provided by the Governor on behalf of the Queen: And whereas it is expedient that the Contractors should advise and assist the Governor in purchasing the same, to the extent and subject to the conditions hereinafter set forth: Now these presents witness that the Governor, on behalf of Her Majesty the Queen, her heirs and successors (all of whom are hereinafter included in the term "the Queen"), and so far as the covenants hereinafter contained are to be performed or observed on her or their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them for themselves and himself, and their respective heirs, executors, administrators, and assigns (so far as such covenants hereafter contained are to be performed or observed on their parts), do and doth hereby covenant with the Governor on behalf of the Queen, her heirs and successors, in manner hereinafter appearing (that is to say)—

1. The Contractors agree that if and whenever the Agent-General in England for the time being of New Zealand shall deliver to them in England the particulars, plans, or specifications of any rails or other materials for permanent way, or of any rolling stock which the Governor, on behalf of the Queen, shall have agreed to supply to the Contractors for the purposes of any of the said specified railways in respect of which a contract for construction shall have been entered into as aforesaid, and require them to call for tenders for the supply of the same, the Contractors will, within such time as shall from time to time be fixed by such Agent-General, at the expense of such Agent-General, and subject to terms and conditions approved of by him, but in their own names, call upon such person or companies as shall for the purpose be previously approved of by such Agent-General and the Contractors to tender for the supply of such materials and rolling stock as aforesaid: Provided, however, that the total amount which the Contractors may require to be expended under the present agreement in the purchase of such materials and rolling stock as aforesaid shall not exceed in the aggregate the sum of two hundred and fifty thousand pounds (£250,000).

2. That the Contractors will, at such time and place as such Agent-General shall from time to time fix and determine, and in the presence of such Agent-General, open such tenders, and deliver the same to such Agent-General; and thereupon will give to such Agent-General their advice in the selection and determination of which (if any) of such tenders it shall appear expedient to accept.

3. Only such of the said tenders as shall be approved of by such Agent-General shall be accepted by the Contractors.

4. The Governor, for and on behalf of the Queen, her heirs and successors, agrees with the Contractors that the Agent-General will, within the longest period fixed in such contracts as may be entered into by the Contractors for the construction of the specified railways or any of them as aforesaid, take the necessary steps under this present agreement for enabling the Contractors to call for tenders for such materials and rolling stock as aforesaid, to the full extent of two hundred and fifty thousand pounds (£250,000) at the least.

5. The Governor may, as he thinks fit, cause any materials or rolling stock for which any such tenders may be accepted to be appropriated to or used in the construction of or in connection with any railway or railways constructed for the Queen by the Contractors, either under the said Contract