|  |
| --- |
|  |
| REQUEST FOR TENDER PART B |
| DRAFT CONTRACT IN RELATION TO THE AUSTRALIAN CURRICULUM WEBSITE QUARTERLY RELEASES**RFT 1-25**  |
| Australian Curriculum, Assessment and Reporting Authority ABN 54 735 928 084 ^Party 2 Name^ ^Party 2 ABN^ ^Party 2 ACN^  |
| Tenderers should refer to PART A – REQUEST FOR TENDER (INCLUDING TENDER RESPONSE SCHEDULES) which sets out the conditions of tender, the tender response requirements and the specifications for the Services. |

**CONTRACTOR AGREEMENT**

THIS AGREEMENT is made on the day of 2025

**BETWEEN**

**AUSTRALIAN CURRICULUM, ASSESSMENT AND REPORTING AUTHORITY** (ACARA) (ABN 54 735 928 084) of Level 13, Centennial Plaza, 280 Elizabeth Street, Sydney, NSW 2010

**AND**

**Insert name of contractor** (ABN xxxxxxx)

 (“Contractor”)

BACKGROUND

1. The Australian Curriculum, Assessment and Reporting Authority (ACARA) was established under the Australian Curriculum, Assessment and Reporting Authority Act 2008 (ACARA Act) and is subject to the Commonwealth Authorities and Companies Act 1997 (CAC Act).
2. ACARA is an independent statutory authority, whose purpose is to be the authoritative source of advice on, and delivery of, national curriculum, assessment and reporting for all Australian education ministers, with international recognition of our work. Our work is set and agreed by all of Australia’s education ministers in the form of the Education Ministers Meeting.
3. ACARA is responsible for the development of a rigorous, world-class Australian Curriculum from Foundation to Year 12. ACARA developed the Australian Curriculum, which was introduced to improve the quality, equity and transparency of Australia’s education system.
4. To complement the development of an Australian Curriculum, ACARA is also responsible for developing and administering a national assessment program aligned to the national curriculum that measures students’ progress, and the provision of information, resources, support and guidance to the teaching profession.

ACARA reports to, and is directed by, the Education Ministers Meeting, comprising State and Territory government ministers responsible for education.

OPERATIVE PROVISIONS

# interpretation

## In this Agreement unless the context requires otherwise:

“**Agreement**” means this agreement, the Schedule, the attachments and any amendment to this agreement;

“**ACARA Material**” means any material:

1. provided by ACARA to the Contractor for the purposes of this Agreement; or
2. derived at any time from the material referred to in paragraph (a);

“**ACICA**” means the Australian Centre for International Commercial Arbitration;

“**Australian Privacy Principle**” has the same meaning as under the Privacy Act;

“**Commencement Date**” means the commencement date specified in the Schedule or any other date agreed by the parties;

“**Completion Date**” means the completion date specified in the Schedule or any other date agreed by the parties;

“**Confidential Information**” means all information and materials disclosed, provided or otherwise made available or becoming known to, or developed by, the Contractor in the course of performing the Project, whether before or after execution of this Agreement but excludes information that the Contractor can prove:

1. was in the public domain at the date of this Agreement;
2. subsequent to the date of this Agreement, became part of the public domain otherwise than as a result of disclosure by the Contractor directly or indirectly in breach of this Agreement; or
3. was in its possession at the time of disclosure by ACARA to the Contractor and was not otherwise acquired from ACARA directly or indirectly;

“**Contractor Intellectual Property**” means Intellectual Property created prior to, or otherwise than for the performance of, the Project, and specified in the Schedule;

“**Fee**” means the fee detailed in the Schedule;

“**GST**” means a tax on the supply of anything, a goods and services tax or a value added tax;

“**Insolvency Event**”in relation to the Contractor means that the Contractor:

1. commits an act of bankruptcy;
2. is the subject of an application for winding up;
3. calls a meeting of its creditors;
4. has a receiver appointed over all or a substantial part of its assets;
5. passes a resolution for its winding up;
6. has judgment entered against it for any cause; or
7. compromises with its creditors;

“**Intellectual Property**” means all industrial and intellectual property rights (including, without limitation, rights to patents, designs, copyright, trade marks, trade names and circuit layouts) conferred under statute or common law or equity in any country;

**“Local Laws”** means all statutory and regulatory requirements applying in the jurisdiction where the Services will be performed (and includes where applicable, all applicable Commonwealth legislative and regulatory requirements);

“**Moral Rights**” means the right of attribution, the right against false attribution and the right of integrity of authorship as defined in the *Copyright Act 1968* (Cth);

“**Payment Schedule**” means the payment section set out in the Schedule;

“**Privacy Act**” means the *Privacy Act 1988* (Cth);

“**Project**” means the project described in the Project Brief and any further work the Contractor agrees to perform for ACARA under this Agreement;

“**Project Brief**” means the project brief attached to this Agreement and includes all amendments made to the project brief by ACARA;

“**Project Manager**”means the project manager set out in the Schedule;

“**Project Results**” means all work, ideas, concepts and reports and Intellectual Property in such things developed or created by the Contractor, alone or with others, in the course of performing the Project or otherwise arising out of the use of any of ACARA’s time, materials, resources, or facilities;

“**Schedule**”means the schedule to this Agreement titled “Schedule”;

“**Services**” means the services described in the Project Brief;

“**Specified Acts**” means the specified acts referred to in the “Intellectual Property, Moral Rights and Project Results” clause of this Agreement;

“**Specified Personnel**” means the personnel specified in the Schedule as required to perform all or part of the work constituting the Services;

“**Special Conditions Schedule**” means the schedule to this Agreement titled “Special Conditions Schedule”; and

**“Third Party Intellectual Property”** means Intellectual Property created prior to and/or otherwise than for the performance of the Project and owned by a third party.

## **Interpretation**

## In this Agreement, unless the contrary intention appears:

1. words importing a gender include any other gender;
2. words in the singular include the plural and words in the plural include the singular;
3. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
4. words importing a person include a partnership and a body whether corporate or otherwise;
5. a reference to dollars is a reference to Australian dollars;
6. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
7. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
8. a reference to an Item is a reference to an Item in the Schedule;
9. the Schedule and any Attachments form part of this Agreement;
10. if any conflict arises between the terms and conditions contained in the clauses of this Agreement and any part of the Schedule (and Attachments if any), the terms and conditions of the clauses prevail;
11. if any conflict arises between any part of the Schedule and any part of an Attachment, the Schedule prevails; and
12. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

## **Guidance on construction**

## This Agreement records the entire agreement between the parties in relation to its subject matter.

## As far as possible all provisions of this Agreement will be construed so as not to be void or otherwise unenforceable.

## If anything in this Agreement is void or otherwise unenforceable then it will be severed, and the rest of the Agreement remains in force.

## A provision of this Agreement will not be construed to the disadvantage of a party solely on the basis that it proposed that provision.

## **Commencement**

## The terms of this Agreement apply on and from the Commencement Date.

# engagement

## The Contractor agrees to perform the Project for ACARA from the Commencement Date in accordance with the Project Brief, the terms of the Special Conditions Schedule (if any) and on the terms and conditions set out in this Agreement.

## The Contractor must ensure that:

## the Project is performed, and all materials and data requested by ACARA pursuant to this Agreement are prepared diligently, competently, with care and skill and in a proper and professional manner and in accordance with the terms of this Agreement;

## the Project is performed in accordance with relevant best practice;

## the Contractor performs the Project in compliance with all Local Laws;

## when using ACARA’s premises or facilities, the Contractor complies with all reasonable directions and ACARA’s procedures relating to occupational health and safety, equal opportunity and harassment, information technology and security in effect at those premises or in regard to those facilities, as notified by ACARA;

## the Contractor keeps adequate records of work performed under this Agreement and, if requested to do so, immediately provides ACARA with copies of those records and of all correspondence or other material arising from or relating to the performance of the Project; and

## the Project is completed by the Completion Date.

## The Contractor acknowledges that ACARA has entered into this Agreement relying on the skill, care, expertise, experience and ability of the Contractor to perform the Project.

# nature of relationship

## The Contractor is engaged as an independent contractor. Nothing in this Agreement constitutes the Contractor being an employee, agent, partner or joint-venturer of ACARA.

## The Contractor has no authority to incur, and must not incur, any obligation on behalf of ACARA except with the express written instruction of ACARA.

# non-solicitation

## The Contractor must not solicit or entice away (or attempt to do so) any employee of ACARA directly related to the Project with an offer of employment, or engage any such person as a contractor or in any other capacity within six (6) months of the Completion Date.

# RELATIONSHIP WITH PROJECT MANAGER

## The Contractor must perform the Project to the satisfaction of the Project Manager.

## During the performance of the Project, the Contractor agrees to regularly liaise with the Project Manager and comply with any reasonable request made by the Project Manager.

# COMMUNICATIONS

## The Contractor must address all correspondence and communications to the Project Manager.

# payment

## In consideration for the provision of the Services, ACARA will pay the Contractor the Fee in the instalments detailed in the Schedule. Subject to clause 7.5, the Fee is inclusive of all costs, taxes, levies and charges that will be incurred by the Contractor in the provision of the Services and is not subject to any adjustment for any reason (including currency fluctuations) unless expressly provided for in the Agreement or otherwise agreed by the parties.

## Subject to clause 7.3, ACARA will pay the Contractor within 14 days of the last day of the month in which it receives an invoice from the Contractor provided the timing and amount of such invoice is in accordance with the payment details described in the Schedule.

## ACARA will be entitled, without derogating from any other right it may have, to defer payment until the Contractor has completed the component of the Project relevant to the submitted invoice to the satisfaction of ACARA.

## The Contractor must pay all government-imposed taxes, charges, fees and other amounts due in respect of:

## this Agreement; or

## any payment to be made by ACARA to the Contractor under this Agreement.

## If this Agreement or any consideration given under it is subject to GST in relation to any supply made under this Agreement, the parties agree that the amount payable for such supply by any party will be adjusted by the amount of the GST. Each party agrees to do all things, including providing all invoices or other documentation in such form and detail that may be necessary to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in relation to any GST payable under this Agreement or in respect of any supply under this Agreement.

## The Contractor authorises ACARA to deduct from any payment made by ACARA to the Contractor any amount that ACARA is required or authorised by law to deduct (including without limitation, withholding any amount required by law from an amount claimed under an invoice that does not specify an Australian Business Number in respect of the Contractor). Any deduction made in accordance with this clause 7 will be deemed to be a payment to the Contractor for the purposes of calculating the discharge of ACARA’s obligations under this Agreement.

## This Agreement is entered into on the understanding that ACARA is not required to make any superannuation contributions in connection with this Agreement.

# property in materials and Contractor identifications

## All materials and information made available by ACARA to the Contractor remains the property of ACARA.

## The Contractor must not use ACARA’s trademarks or other identifications without ACARA’s prior written consent.

# confidential information

## The Contractor must not, unless ACARA has first agreed in writing:

## disclose to anyone else, or

## use for a purpose other than the performance of the Project,

## any of the Confidential Information.

## The Contractor may make copies of written or computer-stored materials incorporating Confidential Information only if those copies are necessary for the purpose of performing the Project and must:

1. return to ACARA all Confidential Information (including any copies made by it); and
2. permanently delete any Confidential Information stored by it in a computer or electronic retrieval system so that it is incapable of retrieval,

upon the expiration or earlier termination of this Agreement and provide written notification to ACARA that these obligations have been complied with.

## The Contractor must notify ACARA immediately if it becomes aware of, or suspects, any disclosure, use or copying of Confidential Information that is not authorised by this Agreement and must take all steps reasonably required by ACARA to stop that unauthorised disclosure, use or copying.

## Clause 9.1 does not affect:

1. disclosure of information, documents and material available publicly otherwise than because the persons disclosing them contravened this clause 9; or
2. disclosures required by law.

## The Contractor acknowledges and accepts that monetary damages would be an insufficient remedy for breach of this clause and that in addition to any other remedy available, ACARA is entitled to injunctive relief to prevent a breach of this clause and to compel specific performance of this clause.

## The obligations of the Contractor under this clause 9 are subject to any rights that the Contractor may have under the Public Interest Disclosure Act 2013.

# intellectual property, MORAL RIGHTS and Project Results

**Project Results**

## The Contractor must promptly disclose all Project Results to ACARA.

## The Contractor acknowledges and agrees that:

1. nothing in this Agreement grants the Contractor any Intellectual Property or other rights in the Project Results; and
2. Intellectual Property in all Project Results arising as a result of the performance of the Project or otherwise will vest exclusively in ACARA

and the Contractor will execute all documents that are necessary or desirable to ensure all Project Results and all Intellectual Property subsisting in the Project Results become and remain vested in ACARA.

## Clause 10.2 does not affect the ownership of Contractor Intellectual Property or Third Party Intellectual Property included in the Project Results.

10.3.1 In relation to Contractor Intellectual Property included in the Project Results, the Contractor grants ACARA a permanent, irrevocable, free, worldwide, non-exclusive licence (including a right to sub-license) to use, reproduce, adapt and exploit such Contractor Intellectual Property for any purpose.

10.3.2 In relation to Third Party Intellectual Property included in the Project Results, prior to including such Third Party Intellectual Property in the Project Results, the Contractor must seek written permission from ACARA to include the Third Party Intellectual Property in the Project Results and where that permission is granted, obtain from the owner of the Third Party Intellectual Property the right for ACARA to use such property in the same way that it can use Contractor Intellectual Property.

## The Contractor warrants that it is entitled, will be entitled or will procure that it is entitled at the relevant time, to deal with the Intellectual Property in the Project Results (including, without limitation, Contractor Intellectual Property and Third Party Intellectual Property) in the manner provided for in this clause 10.

**ACARA Material**

## ACARA agrees to ensure that the Contractor has access to the ACARA Material as specified in the Schedule.

## ACARA grants (or will procure) a royalty-free, non-exclusive licence for the Contractor to use, reproduce and adapt the ACARA Material solely for the purposes of this Agreement.

## The Contractor agrees to use the ACARA Material only for the purpose of providing Services under this Agreement.

**Moral rights**

## Where the Contractor is a natural person and the author of the Project Results, he or she consents to the performance of the Specified Acts by ACARA or any person claiming under or through ACARA (whether occurring before or after the consent is given).

## In clauses 10.8 and 10.10(b), the Specified Acts are:

 (a) failure to identify the authorship of any Project Results, or any content of the Project Results;

 (b) materially altering the content, format, colours, layout or style of the whole, or any part of, the Project Results;

 (c) reproducing, communicating, adapting, publishing or exhibiting the whole or any part of, the Project Results without attributing authorship; and

 (d) adding any additional content or information to the whole, or any part of, the Project Results.

## **Warranties** The Contractor warrants that:

1. it has all necessary right, title, permission or authority to grant the licence granted in clause 10.3.1 (including without limitation all necessary Intellectual Property Rights);

(b) it has obtained all valid consents from all creators of works or other material included in the Contractor Intellectual Property or Project Results so that the use of the Project Results by ACARA, or any party authorised by ACARA, for the Specified Acts will not infringe the creator’s Moral Rights under the *Copyright Act 1968*;

(c) the grant of any rights conferred on ACARA under this Agreement will not infringe the rights, including, without limitation, the Intellectual Property Rights of any person; and

(d) it has not entered into any agreement that conflicts with the rights granted to ACARA under this Agreement.

## On or before the Completion Date, the Contractor must deliver to ACARA all material which comprises the Project Results.

# insurance

## Before commencing the Project, the Contractor must take out professional indemnity insurance and ensure that such insurance is sufficient to cover any loss or damage, (including, without limitation, consequential loss) that ACARA may suffer as a result of act or omission of the Contractor in the provision of the Services.

## The policies must be for an amount sufficient to cover the Contractor’s obligations under this Agreement but not less than $5,000,000 for professional indemnity insurance and not less than $10,000,000 for public liability insurance.

## The policies must be maintained until completion of the Project and, in relation to the professional indemnity insurance policy, for a period of at least 6 years after the completion of the Project.

## If requested by ACARA, the Contractor must provide ACARA with a certificate of currency for the insurance policies taken out in accordance with this clause 11.

# subcontractors

## The Contractor must not subcontract the performance of any part of the Project or this Agreement without ACARA’s prior written approval, which:

1. may or may not be given by ACARA acting in its absolute discretion; and
2. may be subject to any conditions ACARA considers appropriate acting in its absolute discretion.

## The Contractor agrees to ensure that:

1. any subcontract entered into with a subcontractor imposes:

(i) any conditions prescribed by ACARA under clause 12.1(b); and

(ii) all relevant obligations, conditions, restrictions or prohibitions binding on the Contractor under this Agreement, including, without limitation, the terms of the Special Conditions Schedule (if any);

1. its subcontractors comply with that subcontract and, with respect to the terms and conditions referred to in clause 12.2(a), to exercise any rights or remedies it may have against its subcontractors in accordance with any direction by ACARA.

## The Contractor is responsible for the performance of the Project and this Agreement notwithstanding that the Contractor has subcontracted any part of the performance of the Project or this Agreement in accordance with this clause 12.

# indemnity

## The Contractor must indemnify ACARA and keep it indemnified against any losses (including liabilities of ACARA to third parties), costs and expenses (including reasonable costs and expenses on a solicitor and own client basis) arising out of:

1. any default, act or omission by the Contractor;
2. any breach of any term of this Agreement by the Contractor;

(c) the Project Results being in breach of any law, containing anything alleged or proven to be defamatory or statements purporting to be factual or true failing to be so;

(d) any misuse or disclosure of Confidential Information by the Contractor; and

(e) any claim by any third party that it has Intellectual Property or Moral Rights which will be infringed by ACARA, or any third party’s use or exploitation of the Project Results.

# EXPIRY, TERMINATION, BREACH

## If not terminated sooner, the engagement of the Contractor expires at the completion of the Project.

## ACARA may terminate the engagement of the Contractor by notice to the Contractor if:

1. the Contractor does not perform the Project by the Completion Date, or at the standard, required or acceptable to ACARA (as the case may be) or otherwise breaches a provision of this Agreement and that failure or breach:
2. is incapable of remedy; or
3. if capable of remedy, continues for 5 days after ACARA gives the Contractor a notice requiring the breach to be remedied; or
4. an Insolvency Event occurs in relation to the Contractor.

## Notwithstanding clauses 14.1 and 14.2 above, ACARA may terminate this Agreement in whole or in part immediately upon the provision of written notice at any time.

## On receipt of a notice under clause 14.3,the Contractor must:

 (a) stop work as specified in any notice;

(b) take all available steps to minimise loss resulting from that termination and to protect all Project Results; and

(c) continue work on any part of the Project not affected by the notice; and further

##  on termination or expiry of the Agreement, the Contractor must:

##  (d) deliver all ACARA Material and all Project Results to ACARA.

## In the event of partial termination, ACARA’s liability to make payment will, in the absence of agreement to the contrary, abate proportionally to the reduction in the Project.

## Where this Agreement is terminated other than for Contractor breach, ACARA will not be liable to pay any compensation to the Contractor, including, without limitation, compensation for loss of prospective profits, in relation to termination of this Agreement.

## ACARA’s rights under this clause 14 are without prejudice to any right of action or remedy which has accrued or may accrue in favour of ACARA.

## The rights and obligations contained in clauses 8 (Property in Materials and Company Identifications), 9 (Confidential Information), 10 (Intellectual Property, Moral Rights and Project Results), 11 (Insurance), 13 (Indemnity) and 14 (Expiry, Termination, Breach) bind the parties notwithstanding the termination or expiry of this Agreement.

# assignment

##  This Agreement is personal to the Contractor. The Contractor must not assign or novate the benefit of this Agreement or any part of it.

## ACARA may assign all or any part of its rights under this Agreement, or novate this Agreement in whole or in part, to a third party by giving the Contractor written notice of such assignment or novation.

## If the administrative arrangements regarding ACARA are altered such that the program the object of this Agreement is transferred to another government entity, ACARA may assign its rights under this Agreement to that entity subject to that entity assuming ACARA’s obligations under this Agreement. The Contractor shall have no objection to any such assignment or assumption.

# enforceability of agreement

## The invalidity or unenforceability of any part or provision of this Agreement does not affect the enforceability of any other part or provision of this Agreement and the invalid or unenforceable part is severable.

# CHANGES TO AGREEMENT

## Modifications and amendments to this Agreement must be in writing signed by each of the parties.

# notices

## A notice, consent, approval or other communication (each a Notice) under this Agreement must be in writing signed by or on behalf of the person giving it, addressed to the person to whom it is to be given.

## A Notice may be given by personal delivery, pre-paid mail or facsimile and is treated as having been given and received:

1. if delivered to a person’s address, on the day of delivery if a business day, otherwise on the next business day;
2. if sent by pre-paid mail, on the fifth business day after posting; or
3. if transmitted by email to a person’s address and a correct and complete transmission report is received, on the day of transmission if a business day, otherwise on the next business day.

## For the purpose of this clause the address of ACARA is:

Attention: [insert name and title of Executive], Australian Curriculum, Assessment and Reporting Authority

Address: Level 13, Tower B Centennial Plaza, 280 Elizabeth St, Sydney, New South Wales, 2000

Email: xxx

and the address of the Contractor is the address set out in the schedule or, in either case, another address of which a party has given Notice to the other party.

# governing law

## Any claims under this Agreement are governed by the law in force in New South Wales.

## The Contractor will comply with the Local Laws in the provision of the Services.

## The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts, which may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

# PARAMOUNTCY

## If any part of this Agreement conflicts with another part, or if any inconsistency arises between aspects of this Agreement, that part of the Agreement higher in the following list will take precedence:

1. the terms and conditions contained in the Special Conditions Schedule (if any);
2. the terms and conditions contained in the clauses of the Agreement;
3. the Schedules, except for the Special Conditions Schedule; and
4. the Attachment.

# DISPUTE RESOLUTION

## A party will not commence arbitration or court proceedings (except proceedings seeking interlocutory relief) about a dispute, difference, question or claim arising out of this Agreement (“Dispute”) unless it has complied with this clause.

## A party claiming a Dispute has arisen will notify the other party giving details of the Dispute (Notification).

## On receipt of a Notification each party will refer the Dispute for resolution by a person with authority to resolve such a dispute.

## If the Dispute is not resolved under clause 21.3 within thirty days (or longer period as agreed between the parties) of the Notification, the parties will refer the Dispute for mediation by the Australian Centre for International Commercial Arbitration Limited (**ACICA**) for resolution in accordance with the ACICA Mediation Rules, or such other mediation as is agreed by the parties. The costs of any mediation are to be borne equally between the parties. Each party will bear its own costs of complying with this clause 21.

## If the Dispute is not resolved under clause 21.4 within thirty days (or longer period agreed by the parties) of referral to ACICA, either party may initiate proceedings in a court.

## Despite the existence of a dispute, each party will (unless requested not to do so) continue to perform its obligations under this Agreement.

## Termination of the Agreement under clause 14 is not considered a dispute between the parties within this clause 21 and does not give rise to a right of a party to seek resolution of the matter under this clause 21.

##  If the Contractor is not an Australian resident and the Dispute is not resolved under clause 21.4, unless otherwise agreed by both Parties:

1. any dispute, controversy or claim arising out relating to, or in connection with this Agreement, including any question regarding its existence, validity or termination shall be resolved by arbitration in accordance with the ACICA Arbitration Rules;
2. the seat of arbitration shall be Sydney, Australia;
3. the number of Arbitrators shall be one;
4. the arbitration shall be conducted in English.

## The Parties acknowledge that any award rendered by an arbitrator pursuant to this Agreement shall be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

# COSTS

##  Each party must meet or pay its own legal costs and disbursements in respect of the preparation, negotiation and execution of this Agreement.

##  A party in default under this Agreement must pay the costs of the non-defaulting party in respect of the enforcement of its rights under this Agreement.

# CONFLICT OF INTEREST

## The Contractor warrants that it has no, and for the term of the Agreement, will not have any, duties or interests that create, or might reasonably be anticipated to create, a conflict with its duties and obligations under this Agreement.

## If a conflict of interest arises, or appears likely to arise during the term of this Agreement, the Contractor must

(a) notify ACARA immediately in writing;

(b) make full disclosure of all relevant information relating to the conflict of interest; and

(c) take such steps as ACARA may responsibly require to resolve or otherwise deal with the conflict.

# SPECIFIED PERSONNEL

## The Contractor agrees that the Specified Personnel will perform work in relation to the Services in accordance with this Agreement.

## If Specified Personnel are unable to perform the work as required under clause 24.1, the Contractor agrees to notify the ACARA immediately.

## The Contractor agrees, at the request of ACARA acting in its absolute discretion, to remove personnel (including Specified Personnel) from work in relation to the Services.

## If clause 24.2 or clause 24.3 applies, the Contractor will provide replacement personnel acceptable to ACARA at no additional cost and at the earliest opportunity.

# Access to documents

## In this clause, ‘document’ and ‘Commonwealth contract’ have the same meaning as in the Freedom of Information Act 1982 (Cth).

## The Contractor acknowledges that this Contract is a Commonwealth contract.

## Where ACARA has received a request for access to a document created by, or in the possession of, the Contractor or any subcontractor that relates to the performance of this Agreement (and not to the entry into the Agreement), ACARA may at any time by written notice require the Contractor to provide the document to ACARA and the Contractor must, at no additional cost to ACARA, promptly comply with the notice.

## The Contractor must include in any subcontract relating to the performance of this contract provisions that will enable the Contractor to comply with its obligations under this clause 25.

# Privacy

## The Contractor agrees, in providing the Services not to do any act or engage in any practice which, if done or engaged in by ACARA, would be a breach of the requirements of an Australian Privacy Principle.

## The Contractor agrees to notify ACARA immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 26.

# Working with Children

## If the provision of the Services requires the Contractor or its personnel to come into contact with children or vulnerable people, the Contractor must comply with all Local Laws related to working with children or vulnerable people, and must ensure that its personnel also comply.

## The Contractor must provide such evidence as ACARA reasonably requires confirming that it and its relevant personnel have the requisite approvals to work with children or vulnerable people.

# Work health and safety

## The Contractor agrees, in carrying out this Agreement, to comply with:

1. all relevant legislation, codes of practice and national standards relating to work health and safety, including in relation to consultation, representation and participation; and
2. all applicable policies and procedures relating to work health and safety,

including those that apply to ACARA’s premises when using those premises.

## In the event of any inconsistency between any of the policies and procedures referred to in clause 28.1, the Contractor will comply with those policies and procedures that produce the highest level of health and safety.

#

# Audit and access

## The Contractor agrees:

1. to give the Project Manager, or any persons authorised in writing by the Project Manager, access to premises where the Services are being performed or where relevant Material is located; and
2. to permit those persons to inspect and take copies of any Material relevant to the Services.

## The rights referred to in clause 29.1 are subject to:

1. ACARA providing reasonable prior notice;
2. the reasonable security procedures in place at the premises; and
3. if appropriate, execution of a deed of confidentiality by the persons to whom access is given.

## The Auditor-General and the Privacy Commissioner are persons authorised for the purposes of this clause.

## This clause 29 does not detract from the statutory powers of the Auditor-General or the Privacy Commissioner.

# Workplace Gender Equality

## The Contractor must comply with its obligations, if any, under the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**).

## If the Contractor becomes non-compliant with the WGE Act during the term of this Agreement, the Contractor must promptly notify ACARA.

## If the term of this Agreement exceeds 18 months, the Contractor must provide a current letter of compliance from the Workplace Gender Equality Agency within 18 months from the Commencement Date and, following this, annually to ACARA.

## Compliance with the WGE Act does not relieve the Contractor from its responsibility to comply with its other obligations under this Agreement.

# National Anti-Corruption Commission Requirements

## The Contractor acknowledges that in providing the Services to ACARA under this Agreement, it is a contracted service provider for the purposes of the *National Anti‑Corruption Commission Act 2022* (Cth) (**NACC Act**).

## The Contractor must comply with any reasonable request, policy or direction issued by ACARA and otherwise cooperate with ACARA in relation to any action taken by ACARA required or authorised by the NACC Act.

# Notification of Significant Events

## For the purposes of this clause, ‘Significant Event’ means:

1. any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Contractor or its officers, employees, agents or subcontractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation; or
2. any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Contractor or its officers, employees, agents or subcontractors, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth’s reputation.

## The Contractor must immediately issue ACARA a notice on becoming aware of a Significant Event.

## The notice issued under clause 32.2 must provide a summary of the Significant Event, including the date that it occurred and whether any Specified Personnel or other personnel engaged in connection with the Services were involved.

## ACARA may notify the Contractor in writing that an event is to be considered a Significant Event for the purposes of this clause, and where this occurs the Contractor must issue a notice under clause 32.2 in relation to the event within three (3) business days of being notified by ACARA.

## Where reasonably requested by ACARA, the Contractor must provide ACARA with any additional information regarding the Significant Event within three (3) business days of the request.

## If requested by ACARA, the Contractor must prepare a draft remediation plan and submit that draft plan to ACARA’s Project Manager for approval within ten (10) business days of the request.

## A draft remediation plan prepared by the Contractor under clause 32.6 must include the following information:

1. how the Contractor will address the Significant Event in the context of the Services, including confirmation that the implementation of the remediation plan will not in any way impact on the delivery of the Services or compliance by the Contractor with its other obligations under the Agreement; and
2. how the Contractor will ensure events similar to the Significant Event do not occur again; and
3. any other matter reasonably requested by ACARA.

## ACARA will review the draft remediation plan and either approve the draft remediation plan or provide the Contractor with the details of any changes that are required. The Contractor must make any changes to the draft remediation plan reasonably requested by ACARA and resubmit the draft remediation plan to ACARA for approval within three (3) business days of the request unless a different timeframe is agreed in writing by ACARA. This clause 32.8 will apply to any resubmitted draft remediation plan.

## Without limiting its other obligations under this Agreement, the Contractor must comply with the remediation plan as approved by ACARA. The Contractor agrees to provide reports and other information about the Contractor’s progress in implementing the remediation plan as reasonably requested by ACARA.

## A failure by the Contractor to comply with its obligations under this clause 32 will be a material breach of the Agreement. ACARA’s rights under this clause 32 are in addition to and do not otherwise limit any other rights ACARA may have under the Agreement. The performance by the Contractor of its obligations under this clause 32 will be at no additional cost to ACARA.

**EXECUTED AS AN AGREEMENT**

|  |  |
| --- | --- |
| **SIGNED** for and on behalf of the **AUSTRALIAN CURRICULUM, ASSESSMENT AND REPORTING AUTHORITY** by its duly authorised officer:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of authorised officer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Print name of authorised officer\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Print name of witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date | SIGNED for and on behalf of **xxxxxxxx** by its duly authorised officer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature Print name of authorised officer\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Print name of witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date |

schedule

**Commencement Date**

**Completion Date**

ACARA Material

[insert]

Contractor’s address for Notice

[Contractor name]

[Contractor Address]

**Email:**

**Project Manager:**

**xxx**

**Specified Personnel**

[Contractor name]

**Payment**

The total payment for the work described in this Agreement will not exceed $XXX (GST exclusive).

Payment will be made in instalments linked to the completion of deliverables to the satisfaction of the Australian Curriculum, Assessment and Reporting Authority and upon submission of a suitable tax invoice and associated progress report.

Tax invoices are to include: the Contractor’s name and ABN; ACARA’s name and address; the date of issue of the invoice; the title of the invoice/project and the associated contract number; details of fees including the items/deliverables/milestones to which they relate; the total amount payable including GST (where applicable); the GST amount shown separately (where applicable).

**Project Brief**

See Attachment.**ATTACHMENT. PROJECT BRIEF**