



Australian Government
Department of Education

GRANT AGREEMENT

IN RELATION TO FLEXIBLE LITERACY FOR REMOTE PRIMARY SCHOOLS PROGRAMME

Commonwealth of Australia represented by the
Department of Education

ABN 12 862 898 150

And

Cape York Aboriginal Australian Academy Ltd

ABN: 93141269016, ACN: 141269016

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AGREEMENT

Parties

This agreement is made between and binds the following parties:

1. **Commonwealth of Australia ('Commonwealth', 'Us', 'We' or 'Our')** represented by and acting through the Department of Education, ABN 63 578 775 294 (**'Department'**)
2. **Cape York Aboriginal Australian Academy Ltd, ABN: 93141269016 and ACN: 141269016. Located at Level 3, 139 Grafton Street, Cairns, QUEENSLAND, 4870.** (**'You', or 'Your'**)

Context

- A. We operate the Programme.
- B. You are committed to helping achieve the Objectives of the Programme through Your conduct of the Project.
- C. As a result of this commitment, We agree to support the Project by providing the Funding to You, subject to the terms and conditions of this agreement.
- D. You agree to accept the Funding on the terms and conditions set out in this agreement.

OPERATIVE PROVISIONS

1. Interpretation

1.1. Definitions

- 1.1.1. In this agreement, unless the context indicates otherwise:

AFP	means the Australian Federal Police;
Asset	means any item or property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with the use of the Funding which has a value of over \$5,000 inclusive of GST but excludes any Intellectual Property rights;
Australian Accounting Standards	refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth);
Australian Auditing Standards	refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth);
Budget	means the budget, if any, set out in item C of Schedule 1;
Business Day	means in relation to the doing of any action in a place, any day other than a Saturday, Sunday or public holiday in that place;

CCBY Licence	means a Creative Commons Attribution 3.0 Australia (http://creativecommons.org/licenses/by/3.0/au/) licence;
Commonwealth Coat of Arms	means the Commonwealth Coat of Arms as set out at <i>It's an Honour – Commonwealth Coat of Arms</i> available at http://www.itsanhonour.gov.au/coat-arms/index.cfm ;
Commonwealth Material	means any Material: <ul style="list-style-type: none"> a. provided by Us to You for the purposes of this agreement; or b. derived at any time from the Material referred to in paragraph a; and does not include Project Material;
Completion Date	means the day after You have done all that You are required to do under this agreement to Our satisfaction;
Contact with Children	means substantial contact with an individual or substantial contact with a group, (whether that contact is supervised or not) where the individual, or at least one member of the group, is under the age of 18 years, and includes both physical and non-physical contact, including over the internet, via telephone, or any other form of communication;
Date of this Agreement	means the date written at the top of the signature page of this agreement, and if no date or more than one date is written there, then the date on which this agreement is signed by the last party to do so;
Department	means the Department of Education and includes any department, agency or authority of the Commonwealth which is from time to time responsible for administering this agreement;
Depreciated	means the amount representing the same reduced value of an Asset as calculated for income tax purposes under, and in accordance with, the <i>Income Tax Assessment Act 1936</i> and the <i>Income Tax Assessment Act 1997</i> ;
Direct Instruction	focuses on teaching core literacy skills through step by step lessons with clear scripts for teachers. Students are grouped according to ability rather than age and undertake continuous assessment to evaluate progress;
Existing Material	means any Material, except Commonwealth Material, which was in existence before the Date of this Agreement or which is developed independently of this agreement and which is incorporated in, supplied with or as part of, or required to be supplied with or as part of, the Project Material and includes, but is not limited to, Material specified in item K of Schedule 1;
Explicit Instruction	includes specific lessons by the teacher in decoding skills, interpretation of punctuation marks, vocabulary knowledge and comprehension strategies.

Students receive clearly articulated statements about the purpose for learning new skills. Lessons are structured in a systematic way with learners guided through the process with explanations, demonstrations, feedback and practice until the skill is mastered;

Funds or Funding	means the amounts (in cash or kind) payable by Us under this agreement as specified in item B of Schedule 1 and includes interest earned on the Funding;
Guidelines	refers to the guidelines for the Programme, if any, as described in item A of Schedule 1;
Intellectual Property	<p>includes:</p> <ul style="list-style-type: none">a. all copyright (including rights in relation to phonograms and broadcasts);b. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; andc. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; <p>but does not include:</p> <ul style="list-style-type: none">d. Moral Rights;e. the non-proprietary rights of performers; orf. rights in relation to confidential information.
Interest	means interest calculated at the general interest charge rate for a day determined under section 8AAD of the <i>Taxation Administration Act 1953</i> (Cth), on a daily compounding basis;
Material	means any thing in relation to which Intellectual Property rights arise;
Milestone	means a stage of completion of the Project as set out in item A of Schedule 1;
Moral Rights	<p>means the following non-proprietary rights of authors of copyright Material:</p> <ul style="list-style-type: none">a. the right of attribution of authorship;b. the right of integrity of authorship; andc. the right not to have authorship falsely attributed.
National Police Check for Working with Children	means a national criminal history check undertaken by the AFP or by a State police force where the check is undertaken specifically in relation to working with children;
Objectives	means the objectives of the Programme described in item A of Schedule 1;

Our Confidential Information	means Our information that: <ul style="list-style-type: none"> a. is described in item M of Schedule 1; b. We identify, by notice in writing to You after the Date of this Agreement as confidential information for the purposes of this agreement; or c. You know or ought to know by its nature is confidential;
Personal Information	has the same meaning as it has in section 6 of the Privacy Act;
Personnel	means: <ul style="list-style-type: none"> a. in relation to You - any natural person who is an officer, employee, agent or professional advisor of You or Your subcontractors; and b. in relation to Us - any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent or professional advisor of Us;
Privacy Act	means <i>Privacy Act 1988</i> (Cth);
Project Officer	means the person specified (by name or position) in item D of Schedule 1 or any substitute notified to You;
Programme	means the programme specified in item A of Schedule 1;
Project	means the project described in item A of Schedule 1 and includes the provision to Us of the Project Material specified in item A of Schedule 1;
Project Material	means any Material: <ul style="list-style-type: none"> a. created for the purposes of this agreement; b. provided or required to be provided to Us under the agreement; or c. derived at any time from the Material referred to in paragraphs a. or b.; and includes: <ul style="list-style-type: none"> d. any Existing Material incorporated in the Material referred to in paragraphs a. to c.; and e. any Reports.
Project Period	means the period specified in item A of Schedule 1 during which the Project must be completed;
Remote	refers to the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) remote and very remote geo-locations.
Term	refers to the period described in clause 1.4;

Qualified Accountant	means a person who is a member of the Institute of Chartered Accountants in Australia or of CPA Australia;
Records	includes documents, information and data stored by any means and all copies and extracts of the same;
Report	means Project Material that is provided for reporting purposes under clause 8 and as stipulated in item I of Schedule 1;
Specified Personnel	means the Personnel, or people with specific skills, specified in item F of Schedule 1 as required to undertake all or part of the Project;
Term	refers to the period described in clause 1.4;
Undepreciated	means the value of an Asset which has not been Depreciated;
Your Confidential Information	means Your information that: <ul style="list-style-type: none"> a. is described in item M of Schedule 1; or b. You identify, by notice in writing to Us after the Date of this Agreement as confidential information for the purposes of this agreement.

1.2. Interpretation

- 1.2.1. In this agreement, unless the contrary intention appears:
- a. words importing a gender include any other gender;
 - b. words in the singular include the plural and vice versa;
 - c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
 - d. a reference to a person includes a partnership and a body whether corporate or otherwise;
 - e. a reference to dollars is a reference to Australian dollars;
 - f. a reference to any legislation or legislative provision includes any statutory modification, substitution, re-enactment, or successor of that legislation or legislative provision;
 - g. 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;
 - h. a reference to an item is a reference to an item in a schedule; a reference to a schedule (or an attachment) is a reference to a schedule (or an attachment) to this agreement, including as amended or replaced from time to time by agreement in writing between the parties; and
 - i. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.
- 1.2.2. This agreement consists of:
- a. this document;

- b. any schedules;
- c. any annexure or other attachments; and
- d. any document incorporated by reference.

1.2.3. In the event of any conflict or inconsistency between any part of:

- a. the terms and conditions contained in the clauses of this agreement;
- b. the schedules;
- c. the annexure or other attachments, if any;
- d. documents incorporated by reference, if any;

then the material in any one of paragraphs a. to c. above has precedence over the material in a subsequent paragraph, to the extent of any conflict or inconsistency.

1.3. Construction of agreement

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

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

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

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

1.4. Term of Agreement

1.4.2. This agreement commences on the Date of this Agreement and, unless terminated earlier, it expires on the Completion Date.

2. Project

2.1. Your principal obligations

2.1.1. You must carry out the Project:

- a. as specified in item A of Schedule 1;
- b. to achieve the Objectives;
- c. within the Project Period;
- d. in accordance with this agreement and any Guidelines; and
- e. diligently, effectively and to a high standard.

2.1.2. You must not act in a way that may bring the Project into disrepute.

3. Funding

3.1. Payment

- 3.1.1. Subject to sufficient funds being available for the Programme, and compliance by You with this agreement (including the requirements specified in item B of Schedule 1) We will provide You with the Funding at the times and in the manner specified in item B of Schedule 1.
- 3.1.2. Without limiting Our rights, We may withhold or suspend any payment in whole or in part until You have performed Your obligations under this agreement.
- 3.1.3. We may reduce the amount of Funding payable under this agreement where You:
 - a. owe money to Us; or
 - b. have money that You should have, but have not yet, acquitted, under any arrangement with Us (whether contractual, statutory or otherwise).
- 3.1.4. If We exercise Our rights under clauses 3.1.2 or 3.1.3, You must continue to perform any obligations under this agreement, unless We agree otherwise in writing.

3.2. Use of Funding

- 3.2.1. The Funding must be expended by You only for the Project.
- 3.2.2. You must do all things necessary to ensure that all payments from the Funding that You make to third parties (including subcontractors) are correctly made and properly authorised and that You maintain proper and diligent control over the incurring of all liabilities.
- 3.2.3. You must not use the Funds, the agreement or any of Our obligations under the agreement, the Assets or Intellectual Property rights in Project Material:
 - a. as security to obtain, or comply with, any form of loan, credit, payment or other interest; or
 - b. for the preparation of, or in the course of, any litigation.

3.3. Keeping of Funding

- 3.3.1. You must:
 - a. ensure that the Funds are held in an account in Your name, and which You solely control, with a deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia; and
 - b. if specified in item B of Schedule 1, ensure the account is:
 - i. established solely to account for and administer, Funding provided by Us to You under this agreement; and
 - ii. separate from Your other operational accounts;and
 - c. on request from Us, provide Us and the authorised deposit-taking institution with an authority for Us to obtain all details relating to any use of the account.

3.4. Records

- 3.4.1. You must create and maintain full and accurate financial and other Records relating to the Project including:
- a. progress against Milestones;
 - b. the creation, acquisition and disposal of Assets;
 - c. the creation of Intellectual Property rights in Project Material;
 - d. to enable all income and expenditure related to the Project and all interest earned on the Funding to be identifiable and ascertainable in Your accounts;
 - e. to enable the preparation of financial statements in accordance with Australian Accounting Standards; and
 - f. to enable the audit of those Records in accordance with Australian Auditing Standards.
- 3.4.2. You agree to retain the accounts and Records created under clause 3.5 for a period of no less than 7 years after the end of the Project Period.

3.5. Repayments

- 3.5.1. If, at any time, We determine that:
- a. an overpayment has occurred for any reason, including where an invoice is found to have been incorrectly rendered after payment; or
 - b. there remains an amount of Funding that has not been spent or legally committed for expenditure in accordance with the agreement to Our satisfaction and the period in which that Funding was expected to be spent or legally committed has passed; or
 - c. Funding has not been spent in accordance with the agreement; or
 - d. Funding has not been acquitted to Our satisfaction,
- then at Our discretion You agree to repay this amount to Us. This amount must be repaid within 20 Business Days of a notice from Us, dealt with as notified by Us or We may offset that amount against any amount subsequently due to You under this agreement or any other arrangement between the parties.

3.6. Debt and Interest

- 3.6.1. You agree to pay any amount owed or payable to Us or which We are entitled to recover from You under this agreement, including any Interest, without prejudice to any other rights available to Us under the agreement, under statute, at law or in equity, at Our discretion, as a debt due to Us by You without further proof of the debt by Us being necessary.
- 3.6.2. If We notify You that an amount is to be refunded or repaid to Us and the amount is not refunded or repaid within 20 Business Days, or as otherwise notified by Us, You agree to pay Interest, unless We notify You otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- 3.6.3. In respect to any obligation You may have under this agreement to pay Us Interest, You agree that the Interest represents a reasonable pre-estimate of the loss incurred by Us.

4. Taxes, duties and government charges

- 4.1.1. You agree to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this agreement.

5. Subcontractors and Specified Personnel

5.1. Subcontractors

- 5.1.1. You must not subcontract the performance of any part of the Project without Our prior written approval.
- 5.1.2. We may impose any conditions We consider appropriate when giving Our approval under clause 5.1.
- 5.1.3. We have approved the subcontracting of the performance of the parts of the Project to the persons, and subject to the conditions (if any), specified in item E of Schedule 1.
- 5.1.4. You are fully responsible for the performance of Your obligations under this agreement, even if You subcontract some or all of Your obligations. Despite any approval given by Us, You are responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that the work meets the requirements of this agreement.
- 5.1.5. You must make available to Us (if requested), details of all subcontractors engaged in the performance of the Project.
- 5.1.6. You acknowledge, and must inform all subcontractors that, We may publicly disclose the names of any subcontractors engaged in the performance of the Project.
- 5.1.7. We may revoke Our approval of a subcontractor on any reasonable ground by giving written notice to You. On receipt of the notice You must, at Your own cost, promptly cease using that subcontractor and arrange their replacement with Personnel or another subcontractor acceptable to Us.
- 5.1.8. If we withdraw Our approval of a subcontractor, You remain liable under this agreement for past acts or omissions of Your subcontractors as if they were current subcontractors.
- 5.1.9. You agree, in any subcontract placed with a subcontractor, to reserve a right of termination to take account of Our rights of termination under clause 16 and You agree to make use of that right in the event of termination or revocation by Us.
- 5.1.10. You must not enter into a subcontract under this agreement with a subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).

5.2. Specified Personnel

- 5.2.1. You must ensure that the Specified Personnel will perform work in relation to the Project in accordance with this agreement.
- 5.2.2. If Specified Personnel are unable to perform the work as required under clause 5.2.1, You must notify Us immediately.
- 5.2.3. You must, at Our request acting in Our absolute discretion, remove Personnel (including Specified Personnel) from work in relation to the Project.
- 5.2.4. If clause 5.2.2 or clause 5.2.3 applies, You must provide replacement Personnel acceptable to Us at no additional cost and at the earliest opportunity.

- 5.2.5. If You are unable to provide acceptable replacement Personnel, We may terminate this agreement under clause 16.2.

5.3. Your responsibility

- 5.3.1. You are fully responsible for the performance of the Project and for ensuring compliance with the requirements of this agreement, and will not be relieved of that responsibility because of any:
- a. involvement by Us in the performance of the Project;
 - b. subcontracting of the Project;
 - c. acceptance by Us of Specified Personnel; or
 - d. payment of any amount of Funding to You.

6. Assets

6.1. Acquisition of Assets

- 6.1.1. You must not use the Funding to acquire or create any Asset, apart from those detailed in item G of Schedule 1, without obtaining Our prior written approval. Our approval may be subject to any conditions We may impose.
- 6.1.2. Unless it is specified in item G of Schedule 1 that We own the Asset then You must ensure that You own any Asset acquired with the Funding. If We own the Asset, clauses 6.3, 6.5.2 and 6.5.3 do not apply.

6.2. Your responsibilities for Assets

- 6.2.1. During the Project Period You must:
- a. Use any Asset in accordance with this agreement and for the purposes of the Project;
 - b. not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause 6 without Our prior written approval;
 - c. safeguard all Assets against theft, loss, damage, or unauthorised use;
 - d. maintain all Assets in good working order;
 - e. maintain all appropriate insurances for all Assets to their full replacement value, noting Our interest in the Asset under this agreement, and provide satisfactory evidence of this on request from Us;
 - f. if required by law, maintain registration and licensing of all Assets;
 - g. be fully responsible for, and bear all risks relating to, the use or disposal of all Assets;
 - h. if specified in item G of Schedule 1, maintain an Assets register in the form and containing the details as described in item G in Schedule 1; and
 - i. when requested by Us, provide copies of the Assets register to Us.

6.3. Sale or Disposal of Assets

- 6.3.1. If You sell or otherwise dispose of an Asset during the Project Period (which must be with Our prior written consent and subject to any conditions We may impose), the

greater of the following proportions forms part of the Funding and must be used for the Activity or is otherwise recoverable as Funding:

- a. the proportion of sale proceeds from the Asset; or
- b. the proportion of the Undepreciated value of the Asset,

that is equivalent to the proportion of the cost of the Asset that was funded from the Funding.

6.4. Loss, damage etc of Assets

- 6.4.1. If any of the Assets are lost, damaged or destroyed, You must reinstate the Assets including from the proceeds of the insurance and this clause 6 continues to apply to the reinstated Assets. Any surplus from the proceeds of the insurance must be notified to Us and used and accounted for as Funding under this agreement.

6.5. Dealing with Assets

- 6.5.1. On expiry of the Project Period or earlier termination of this agreement We may require You to deal with Assets as We may, at Our sole discretion, direct in writing.
- 6.5.2. Subject to clause 6.5.3, if on expiry of the Project Period or earlier termination of the agreement, an Asset has not been fully Depreciated, We may, by written notice, require You to:
 - a. pay to Us within 20 Business Days of the expiry of the Project Period or earlier termination of this agreement, an amount equal to the proportion of the Undepreciated value of the Asset that is equivalent to the proportion of the cost of the Asset that was funded from the Funding;
 - b. sell the Asset for the best price reasonably obtainable and pay to Us within 20 Business Days of the sale the proportion of the proceeds of the sale that is equivalent to the proportion of the cost of the Asset (less an amount equal to the reasonable disposal costs incurred by You) that was funded from the Funding; or
 - c. continue to use the Asset for the purposes, and in accordance with any conditions notified by the Agency.
- 6.5.3. We may in our sole discretion decide that amounts payable to Us under clause 6.5.2 form part of the Funding.

7. Liaison, monitoring and review

7.1. Liaise and comply

- 7.1.1. You must:
 - a. liaise with and provide information to Us as reasonably required and notified by Us; and
 - b. comply with all Our reasonable requests, directions or monitoring requirements.

7.2. Review

- 7.2.1. If specified in item H of Schedule 1 You must:
 - a. provide all reasonable assistance required by Us;
 - b. respond to all Our reasonable requests; and

- c. provide any information We reasonably require,
in relation to conducting a review and final evaluation of the Programme.

8. Reporting

8.1. Reporting

- 8.1.1. You must provide Us with Reports in relation to the Project at the times and in the manner specified in item I of Schedule 1.
- 8.1.2. Unless clause 8.1.4 applies, within 20 Business Days (or other period specified in item I of Schedule 1 or as otherwise notified) of the end of the Project Period You must provide Us with:
 - a. an audited detailed statement of income and expenditure in respect of the Funding which must include a definitive statement as to whether the financial accounts are true and fair and a statement of the balance of Your account referred to in clause 3.4.1.b.;
 - b. an audit statement that the Funding was expended for the Project and in accordance with this agreement.
- 8.1.3. The audits referred to in clause 8.1.2 must:
 - a. comply with the Australian Auditing Standards;
 - b. be carried out by a person who is:
 - i. registered as a company auditor under the *Corporations Act 2001* (Cth), or a member of the Institute of Chartered Accountants in Australia (who is entitled to use the letters CA or FCA), or of CPA Australia (who is entitled to use the letters CPA or FCPA) or the Institute of Public Accountants (IPA) (who is entitled to use the letters MIPA or FIPA); and
 - ii. not a principal, member, shareholder, officer, agent, subcontractor, employee or related entity of You or of a related body corporate (the terms 'related entity' of You and 'related body corporate' have the same meaning as in section 9 of the *Corporations Act 2001* (Cth)); and
 - iii. not Your Qualified Accountant.
- 8.1.4. If You are audited by the Auditor-General or a State or Territory Auditor-General:
 - a. for the Term; and
 - b. the Funding is included in the income and expenditure which is subject to the audit, then instead of the audits referred to in clause 8.1.2, You may provide Us with:
 - i. a detailed statement of income and expenditure for the Funding which must include a definitive statement as to whether the financial accounts are true and fair, and a statement of the balance of Your account referred to in clause 3.4.1; and
 - ii. a statement that the Funding was expended for the Project and in accordance with this agreement.
- 8.1.5. The statements referred to in clause 8.1.4(i) and (ii) must:

- a. contain the details, if any, described in item I of Schedule 1;
- b. be certified by Your chief executive officer and the senior executive officer employed by You who has primary responsibility for managing Your audit function; and
- c. be provided to Us within 20 Business Days (or other period specified in item I of Schedule 1 or as otherwise notified) of the end of the Project Period.

9. Intellectual Property

9.1. Use of Commonwealth Material

- 9.1.1. Subject to clause 9.1.4, We grant (or will procure) a royalty-free, non-exclusive licence for You to use, reproduce and adapt the Commonwealth Material for the purposes of this agreement.
- 9.1.2. You must use the Commonwealth Material strictly in accordance with any conditions or restrictions set out in item J of Schedule 1, and any direction from Us including under clause 13.2.
- 9.1.3. You must keep the Commonwealth Material safe.
- 9.1.4. You must not use the Commonwealth Coat of Arms for the purposes of this agreement.

9.2. Intellectual Property in Project Material

- 9.2.1. Subject to this clause 9.2, Intellectual Property in all Project Material vests or will immediately vest in You.
- 9.2.2. Clause 9.2.1 does not affect the ownership of Intellectual Property in:
 - a. any Commonwealth Material incorporated into Project Material; or
 - b. any Existing Material.
- 9.2.3. You grant (or will procure for) Us a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, communicate and exploit the Project Material for any Commonwealth purpose.
- 9.2.4. You grant to Us (or must arrange for the grant to Us of) a permanent, irrevocable, free, worldwide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, communicate and exploit the Intellectual Property rights in the Existing Material, with the exception of commercial off-the-shelf software, for any Commonwealth purpose.
- 9.2.5. If you become aware that We will require a licence for commercial off-the-shelf software in order to exercise our rights under the licences granted under this clause 9 You must notify Us immediately and provide Us with all the necessary details to obtain a licence over such software including the name, version and manufacturer of the software.
- 9.2.6. You agree that the licence granted in clause 9.2.3 and clause 9.2.4 includes a right for Us to licence the Project Material and Existing Material to the public under a CC BY Licence [see <http://creativecommons.org/licenses/by/3.0/au/deed.en>]. In accordance with the timeframe specified in item A of Schedule 1 for provision of the Project Material, You

must provide Us with all author or licensor attribution details in order for Us to comply with the CCBY Licence conditions.

9.2.7. You must, on Our request, create, sign, execute or otherwise deal with any document necessary or desirable to give effect to clause 9.2.

9.2.8. You warrant that:

- a. You are entitled; or
- b. You will be entitled at the relevant time,

to deal with the Intellectual Property in the Project Material in the manner provided for in this clause 9.2.

9.2.9. If requested by Us, You must provide to Us a copy of the Project Material in the form requested by Us.

9.3. Moral Rights

9.3.1. In this clause 9.3:

means any of the following classes or types of acts or omissions:

- a. using, reproducing, adapting or exploiting all or any part of the Project Material, with or without attribution or authorship;
 - b. supplementing the Project Material with any other Material;
 - c. using the Project Material in a different context to that originally envisaged;
 - d. releasing the Project Material to the public under a CCBY Licence; and
 - e. the acts or omissions, specifically set out in item L of Schedule 1;
- but does not include false attribution of authorship.

9.3.2. Where You are a natural person and the author of the Project Material, You consent to the performance of the Permitted Acts by Us or any person claiming under or through Us (whether occurring before or after the consent is given).

9.3.3. Where clause 9.3.2 does not apply, You must obtain from each author of any Project Material a written consent which extends directly or indirectly to the performance of the Permitted Acts by Us or any person claiming under or through Us (whether occurring before or after the consent is given) and, on request, to provide the executed original of any such consent to Us.

9.3.4. This clause 9.3 does not apply to any Commonwealth Material incorporated in the Project Material.

10. Disclosure of Information

10.1. Confidential Information not to be disclosed

10.1.1. Subject to clause 10.3:

- a. You must not, without Our prior written approval, disclose any of Our Confidential Information to a third party; and
- b. We must not, without Your prior written approval, disclose any of Your Confidential Information to a third party.

10.1.2. In giving written approval to disclosure, a party may impose such conditions as it thinks fit, and the other party agrees to comply with those conditions.

10.2. Written undertakings

10.2.1. We may at any time require You to arrange for any person engaged in, or in relation to, the performance or management of this agreement (including Personnel and subcontractors) to give a written undertaking in a form acceptable to Us relating to the use and non-disclosure of Our Confidential Information.

10.2.2. If You receive a request under clause 10.2 You must promptly arrange for all undertakings to be given.

10.3. Exceptions to obligations

10.3.1. The obligations on the parties under this clause 10 will not be breached if information:

- a. is disclosed by Us to the responsible Minister;
- b. is disclosed by Us, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
- c. is shared by Us within the Department, or with another Commonwealth agency, where this serves the Commonwealth's legitimate interests;
- d. is authorised or required by law to be disclosed; or
- e. is in the public domain otherwise than due to a breach of this clause 10.

10.4. Period of confidentiality

10.4.1. The obligations under this clause 10 continue:

- a. in relation to an item of information described in item M of Schedule 1 - for the period set out in that item;
- b. in relation to any information identified in writing after the Date of this Agreement as confidential information for the purposes of this agreement - for the period agreed by the parties in writing; and
- c. in relation to Our information that You know or ought to know by its nature is confidential - until the information is released into the public domain otherwise than by a breach of this agreement.

10.5. General

10.5.1. You agree to secure all Our Confidential Information against loss and unauthorised access, use, modification or disclosure.

10.5.2. Nothing in this clause 10 limits Your obligations under clause 11 [Privacy], clause 13.3 [Access to Documents] or clause 19.1 [Audit and Access].

11. Privacy

11.1. Interpretation

11.1.1. In this clause 11:

Australian Privacy Principles has the same meaning as it has in section 6 of the Privacy Act.

11.2. Your obligations in relation to privacy

11.2.1. You agree, in providing the Project:

- a. not to do any act or engage in any practice which, if done or engaged in by Us, would be a breach of an Australian Privacy Principle; and
- b. to comply with any conditions, restrictions or guidelines referred to in, or relating to the matters set out in item N of Schedule 1, to the extent that they are consistent with the Australian Privacy Principles.

11.2.2. You agree to notify Us immediately if You become aware of a breach or possible breach of any of Your obligations under this clause 11.

12. Acknowledgement and publicity

12.1. Acknowledgement of support

12.1.1. Unless or until notified by Us, You must, in all publications, promotional and advertising materials, public announcements and activities by You or on Your behalf in relation to the Project, or any products, processes or inventions developed as a result of the Project, acknowledge the financial and other support You have received from Us, in the manner set out in item O of Schedule 1 or as otherwise approved by Us prior to its use.

12.1.2. You must ensure that all advertisements, promotional activities and any other public relations matters in relation to this agreement are consistent with the requirements set out in item O of Schedule 1 (if any).

12.2. Right to publicise Funding

12.2.1. We reserve the right to publicise and report on the awarding of Funding to You, including the amount of the Funds given to You, Your name and the title and a description of the Project.

12.3. No restriction on advocacy

12.3.1. For the avoidance of doubt, except to the extent that You are restricted or prevented from disclosing Our Confidential Information or Personal Information, no right or obligation in this agreement is to be read or understood as restricting or preventing Your rights to:

- a. comment on;
- b. advocate support for; or
- c. oppose change to:

any matter established by law, policy or practice of the Commonwealth.

13. Dealing with Copies and Access to Documents

13.1. Interpretation

13.1.1. In clause 13.2:

Copy means any document, device, article or medium in which Commonwealth Material, Project Material, or Our Confidential Information is embodied.

13.2. Actions at end of agreement

13.2.1. You will, on expiration or termination of this agreement, deal with all Copies as directed by Us, subject to any requirement of law binding on You.

13.3. Access to documents

13.3.1. This clause 13.3 applies if this agreement is a 'Commonwealth contract' as defined in the *Freedom of Information Act 1982* (Cth) and 'document' has the meaning given by that Act.

13.3.2. You agree that:

- a. Where We have received a request for access to a document created by, or in the possession of, You or any of Your subcontractors that relates to the performance of this agreement (and not to the entry into the agreement), We may at any time by written notice require You to provide the document to Us and You must, at no additional cost to Us, promptly comply with the notice; and
- b. You must assist Us in respect of Our obligations under the *Freedom of Information Act 1982* (Cth); and
- c. You must include in any subcontract relating to the performance of this agreement provisions that will enable You to comply with Your obligations under this clause 13.3.

14. Liability

14.1. Proportionate liability regimes excluded

14.1.1. To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against You under or in connection with this agreement.

14.2. Indemnity

14.2.1. You indemnify Us from and against any:

- a. cost or liability incurred by Us;
- b. loss or damage to Our property; or
- c. loss or expense incurred by Us in dealing with any claim against Us including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by Us,

arising from either:

- d. a breach by You of this agreement; or
 - e. an act or omission involving fault on the part of You or Your Personnel in connection with this agreement;
 - f. use of the Assets; or
 - g. the use by Us of the Project Material or Existing Material, including any claims by third parties about the ownership or right to use the Intellectual Property rights or Moral Rights in the Project Material or Existing Material.
- 14.2.2. Your liability to indemnify Us under clause 14.2.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of Us or Our Personnel contributed to the relevant cost, liability, loss, damage or expense.
- 14.2.3. Our right to be indemnified under this clause 14.2 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but We are not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- 14.2.4. In this clause 14.2 "fault" means any negligent or unlawful act or omission or wilful misconduct.

15. Dispute resolution

15.1. Procedure for dispute resolution

- 15.1.1. A dispute arising under this agreement will be dealt with as follows, and subject to clause 15.4 neither party will commence legal proceedings in relation to that dispute until this procedure is completed:
- a. the party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
 - b. within 5 Business Days (or such other period as agreed by the parties in writing) each party will nominate a representative not having any prior involvement in the dispute;
 - c. the representatives will try to settle the dispute by direct negotiation between them;
 - d. failing settlement within a further 10 Business Days, or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a representative within the period set out in clause 15.1.1.b), the parties may agree to refer the dispute to an independent third person with power:
 - i. to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - ii. to mediate and recommend some form of non-binding resolution;
 - e. the parties will co-operate fully with any process instigated under clause 15.1.1.d in order to achieve a speedy resolution; and
 - f. if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further

20 Business Days (or such other period as the parties may agree in writing), either party may commence legal proceedings.

15.2. Costs

- 15.2.1. Each party must bear its own costs of complying with clause 15.1, and the parties must bear equally the cost of any third person engaged under clause 15.1.1.d.

15.3. Continued performance

- 15.3.1. Despite the existence of a dispute, You must (unless required in writing by Us not to do so) continue to perform Your obligations under this agreement.

15.4. Exemption

- 15.4.1. Clauses 15.1 and 15.2 do not apply:
- a. to action by Us under or purportedly under clauses 3, 16.1 or 19.1;
 - b. to action by either party under or purportedly under clause 16.2
 - c. where an agency or authority of the Commonwealth of Australia, a State or Territory is investigating a breach or suspected breach of the law by You; or
 - d. to legal proceedings by either party seeking urgent interlocutory relief.

16. Termination or reduction in scope of Project

16.1. Termination or reduction with costs

- 16.1.1. We may by notice, at any time and in Our absolute discretion, terminate this agreement or reduce the scope of the agreement immediately.
- 16.1.2. You must, on receipt of a notice of termination or reduction:
- a. stop or reduce the performance of Your obligations as specified in the notice;
 - b. take all available steps to minimise loss resulting from that termination or reduction;
 - c. continue performing any part of the Project not affected by the notice; and
 - d. immediately return to Us any Funding in accordance with clause 16.1.3.d or deal with any such Funding as directed by Us.
- 16.1.3. In the event of termination or reduction in scope under clause 16.1.1, We will:
- a. be liable only to pay Funding due and owing to You under the payment provisions of the agreement as at the date of the notice of termination; and
 - b. be liable to reimburse any reasonable costs You unavoidably incur relating directly and entirely to the Project and not covered under clause 16.1.3.a;
 - c. not be liable to pay amounts under clause 16.1.3.a and 16.1.3.b which would, added to any payments already paid to You under this agreement, together exceed the Funding set out in item B of Schedule 1; or
 - d. be entitled to recover from You any part of the Funding which:

- i. has not been legally committed for expenditure by You in accordance with the agreement and payable by You as a current liability by the date that the notice of termination is received; or
 - ii. has not, in Our opinion been spent by You in accordance with the agreement.
- 16.1.4. In the event of a reduction in the scope of the agreement under clause 16.1.1, Our liability to pay any part of the Funding will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Project.
- 16.1.5. You will not be entitled to compensation for loss of prospective profits for a termination or reduction in scope under this clause 16 or loss of any benefits that would have been conferred on You.
- 16.1.6. Our liability to pay compensation under or in relation to clause 16.1 is subject to Your compliance with clause 16.1 and Your substantiation of any amount claimed under clause 16.1.3.b.

16.2. Termination for breach

- 16.2.1. If a party is in breach of any of its obligations under this agreement, then the other party - if it considers that the breach is:
 - a. not capable of remedy – may, by notice, terminate this agreement immediately; or
 - b. capable of remedy – may, by notice require that the breach be remedied within 10 Business Days of receiving the notice and, if the breach is not remedied within that time, may terminate this agreement immediately by giving a second notice.
- 16.2.2. We may also by notice terminate this agreement immediately (but without prejudice to any prior right of action or remedy which either party has or may have) if:
 - a. You repeatedly fail to comply with any timeframe under this agreement;
 - b. We are satisfied that, prior to entering into this agreement, You engaged in misleading or deceptive conduct or omitted to provide information to Us in connection with the performance or awarding of this agreement;
 - c. You are unable to pay all Your debts when they become due, or are presumed to be insolvent, or if You are:
 - i. a corporation - come under any form of external administration, or receive a notice, or proceedings are commenced, to dissolve You or cancel Your incorporation or registration, or to place You under any form of external administration;
 - ii. an individual - become bankrupt or enter into an arrangement under Part IX or Part X of the *Bankruptcy Act 1966* (Cth);
 - d. in relation to the agreement, You breach any law of the Commonwealth, or of a State or Territory; or
 - e. You cease to carry on a business relevant to the performance of the Project.
- 16.2.3. Where We terminate this agreement under clauses 16.2.1 or 16.2.2 We:
 - a. will only be liable to pay Funding due and owing to You under the payment provisions of the agreement as at the date of notice of termination; and

- b. will be entitled to recover from You any part of the Funding which:
 - i. is not legally committed for expenditure by You in accordance with the agreement and payable by You by the date that the notice of termination is received; or
 - ii. has not, in Our opinion, been spent by You in accordance with the agreement.

16.3. Preservation of other rights

- 16.3.2. Clause 16.2 does not limit or exclude any of Our other rights under this agreement.

17. Notices

17.1. Format, addressing and delivery

- 17.1.1. A notice under this agreement is only effective if it is in writing, and dealt with as follows:
- a. *if given by You to Us*- addressed to the Project Officer at the address specified in item P of Schedule 1 or as otherwise notified by Us; or
 - b. *if given by Us to You* - given by the Project Officer (or any superior officer to the Project Officer) and addressed (and marked for attention) as specified in item Q of Schedule 1 or as otherwise notified by You.
- 17.1.2. A notice is to be:
- a. signed by the person giving the notice and delivered by hand; or
 - b. signed by the person giving the notice and sent by pre-paid post; or
 - c. transmitted electronically by the person giving the notice by electronic mail or facsimile transmission.

17.2. When received

- 17.2.1. A notice is taken to have been received:
- a. *if delivered by hand* - upon delivery to the relevant address;
 - b. *if sent by pre-paid post* - 5 Business Days after the date of posting to the relevant address; or
 - c. *if transmitted electronically* - at the time that would be the time of receipt under the *Electronic Transactions Act 1999* if a notice was being given under a law of the Commonwealth.
- 17.2.2. A notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be received on the next Business Day in that place.

18. Corporate Governance

18.1. Constitution

- 18.1.1. If You are a body corporate, You warrant that Your constitution is not inconsistent with this agreement.
- 18.1.2. You must notify Us if You intend to amend Your constitution in a way which affects Your ability to comply with this agreement.

18.1.3. If You amend Your constitution in a way which affects Your ability to comply with this agreement, We may terminate this agreement under clause 16.2.

18.2. Notification

18.2.1. You must notify Us within 5 Business Days of the occurrence of any of the events specified in clause 16.2.2.

18.3. Management

18.3.1. You must not employ, engage or elect any person who would have a role in Your management, financial administration or the performance of the Project if:

- a. the person is an undischarged bankrupt;
- b. there is in operation a composition, deed of arrangement or deed of assignment with the person's creditors under the law relating to bankruptcy;
- c. the person has suffered final judgment for a debt and the judgment has not been satisfied; or
- d. subject to Part VIIC of the *Crimes Act 1914* (Cth), the person has been convicted of any offence within the meaning of paragraph 85ZM(1) of that Act unless:
 - i. that conviction is regarded as spent under paragraph 85ZM(2) (taking into consideration the application of Division 4 of Part VIIC);
 - ii. the person was granted a free and absolute pardon because the person was wrongly convicted of the offence; or
 - iii. the person's conviction for the offence has been quashed.

19. General provisions

19.1. Audit and access

19.1.1. You must at all reasonable times give any employee of Us on production of photo identification, or any person authorised in writing by Us:

- a. reasonable access to:
 - i. Your employees and equipment;
 - ii. premises occupied by You;
 - iii. Material; and
- b. Reasonable assistance to:
 - i. inspect the performance of the Project;
 - ii. locate and inspect Material;
 - iii. make copies of Material and remove those copies, relevant to the Project.

19.1.2. The rights referred to in clause 19.1.1 are subject to:

- a. the provision of reasonable prior notice to You; and
- b. Your reasonable security procedures.

- 19.1.3. If a matter is being investigated which, in Our opinion or in the opinion of any person authorised in writing by Us, may involve an actual or apprehended breach of the law, clause 19.1.2.a will not apply.
- 19.1.4. The requirement for access specified in clause 19.1.19.1.21 does not in any way reduce Your responsibility to perform Your obligations under this agreement.
- 19.1.5. A breach of Your obligations under clause 19.1.1 is, for the purposes of clause 16.2 [Termination for breach], a breach which is not capable of remedy.

NOTE: There are additional rights of access under the Ombudsman Act 1976 (Cth), the Privacy Act, and the Auditor-General Act 1997 (Cth).

19.2. Insurance

- 19.2.1. You must:
 - a. effect and maintain the insurance specified in item R of Schedule 1; and
 - b. within 10 Business Days of a request by Us, provide proof of insurance acceptable to Us.
- 19.2.2. This clause 19.2 continues in operation for so long as any obligations remain in connection with this agreement.

19.3. Extension of provisions to subcontractors and Personnel

- 19.3.1. In this clause 19.3:

Requirement means an obligation, condition, restriction or prohibition binding on You under this agreement.
- 19.3.2. You must ensure that:
 - a. Your subcontractors and Personnel comply with all relevant Requirements; and
 - b. any contract entered into in connection with this agreement imposes all relevant Requirements on the other party.
- 19.3.3. You must exercise any rights You may have against any of Your subcontractors, Personnel or third parties in connection with a Requirement in accordance with any direction by Us.

19.4. Conflict of interest

- 19.4.1. In this clause 19.4:

Conflict means any matter, circumstance, interest, or activity affecting You, Your Personnel or subcontractors which may or may appear to impair Your ability to perform the Project diligently and independently.
- 19.4.2. You warrant that, to the best of Your knowledge after making diligent inquiry, at the Date of this Agreement no Conflict exists or is likely to arise in the performance of the Project.
- 19.4.3. If, during the period of this agreement a Conflict arises, or appears likely to arise, You must:

- a. notify Us immediately;
- b. make full disclosure of all relevant information relating to the Conflict; and
- c. take any steps We reasonably require to resolve or otherwise deal with the Conflict.

19.4.4. If You fail to notify Us under clause 19.4.3, or are unable or unwilling to resolve or deal with the Conflict as required, We may terminate this agreement under clause 16.2 [Termination for breach].

19.5. Relationship of parties

19.5.1. You are not by virtue of this agreement an officer, employee, partner or agent of Ours, nor do You have any power or authority to bind or represent Us.

19.5.2. You must not:

- a. misrepresent Your relationship with Us; or
- b. engage in any misleading or deceptive conduct in relation to the Project.

19.5.3. You must ensure that Your officers, employees, partners and agents do not represent themselves as being an officer, employee, partner or agent of Ours.

19.6. Waiver

19.6.1. A failure or delay by a party to exercise any right or remedy it holds under this agreement or at law does not operate as a waiver of that right.

19.6.2. A single or partial exercise by a party of any right or remedy it holds under this agreement or at law does not prevent the party from exercising the right again or to the extent it has not fully exercised the right.

19.7. Variation

19.7.1. A variation of this agreement is binding only if agreed in writing and signed by the parties.

19.8. Assignment and Novation

19.8.1. You cannot assign Your obligations, and must not assign Your rights, under this agreement without Our prior written approval.

19.8.2. You must not negotiate with any other person to enter into an arrangement that will require novation of Your rights or obligations under this agreement without first consulting Us.

19.9. Survival

19.9.1. Unless the contrary intention appears, the expiry or earlier termination of this agreement will not affect the continued operation of any provision relating to:

- a. repayments;
- b. reporting;
- c. licensing of Intellectual Property;
- d. confidentiality;
- e. security;

- f. privacy;
 - g. dealing with copies;
 - h. Records;
 - i. audit and access;
 - j. an indemnity;
 - k. acknowledgement and publicity;
 - l. rights or obligations following termination or expiry of the agreement;
- or any other provision which expressly or by implication from its nature is intended to continue.

19.10. Compliance with Laws and Our Policies

- 19.10.1. You must, in carrying out Your obligations under this agreement, comply with:
- a. any relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or local authority; and
 - b. any of Our policies notified by Us to You in writing, including those listed in item S of Schedule 1.

19.11. Applicable law

- 19.11.1. This agreement is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory.
- 19.11.2. The parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

A. Programme

A.1 Programme Background

The Programme is the Flexible Literacy for Remote Primary Schools Programme ('the Programme').

The Australian Government is committed to improving the literacy results of children in remote primary schools. In 2013, the proportion of Year 3 students in remote schools meeting the minimum standard as measured by the National Assessment Program – Literacy and Numeracy (NAPLAN) for reading was 80.7 per cent compared with 96.1 per cent for their metropolitan peers.

Research findings show students struggling to read need to master the alphabetic code via instruction in phonics, phonemic awareness, reading fluency, vocabulary and reading comprehension. The Programme will support two explicit methods of teaching. Participating schools will adopt one of these teaching methods to improve literacy outcomes.

The Explicit Instruction method includes specific instruction by the teacher in decoding skills, interpretation of punctuation marks, vocabulary knowledge and comprehension strategies. Students receive clearly articulated statements about the purpose for learning new skills. Lessons are structured in a systematic way with students guided through the process with explanations, demonstrations, feedback and practice until the skill is mastered.

The Direct Instruction method focuses on teaching core literacy skills through step by step lessons with clear scripts for teachers. Students are grouped according to ability rather than age and undertake continuous assessment to evaluate progress.

Across Australia, there are around 255 remote primary schools whose students have:

- NAPLAN results for Year 3 across 2012 and 2013 that show 30 per cent or more students below the National Minimum Standard in literacy and;
- Either or both:
 - high vulnerability in the first year of schooling (measured by the Australian Early Development Index collection);
 - high socio-educational disadvantage (measured by the Index of Community Socio-economic Advantage).

These schools will form the pool from which schools will be invited to participate in the Programme.

A.2 Programme Objectives

The objectives of the Programme are to:

- Increase teacher pedagogical skills in teaching literacy through the use of alphabetic teaching approaches, in particular, Direct Instruction or Explicit Instruction; and
- Improve literacy results for students in participating schools.

A.3 Programme Guidelines

The Programme Guidelines are the *Flexible Literacy for Remote Primary Schools Guidelines* (the Guidelines). The Guidelines are available from <https://education.gov.au/flexible-literacy-remote-primary-schools-programme>. The Guidelines may be updated by Us from time to time. We will notify You if We update the Guidelines.

A.4 Project

The Project comprises three elements, being:

- the Good to Great Schools Initiative (Element 1);
- the Advisory Committee (Element 2); and
- the independent evaluation (Element 3).

You must manage each element of the Project.

A.4.1 Element 1

The Good to Great Schools Initiative aims to improve student literacy in remote primary schools through introducing or embedding two pedagogical teaching approaches, Direct Instruction and Explicit Instruction, in classrooms. Element 1 of the Project must be developed and delivered according to Your implementation plan as approved by Us, as specified at A.4.5.1

A.4.2 Element 2

In consultation with Us, You must establish an Advisory Committee (Committee), which must consist of:

- a Chair appointed by Us; and
- six other members selected by the Minister of Education.

The Committee must provide advice on the effective implementation and governance of the Programme. The Committee must:

- provide oversight of the Programme and review Programme activity;
- provide a forum for discussing implementation issues and providing advice and support where possible on relevant matters;
- maintain a focus on the agreed scope, outcomes and benefits of the Programme;
- enable a coordinated approach to monitoring the achievement of milestones and associated payments;
- provide oversight of the independent evaluation process for the Programme and related activity;
- foster collaboration and facilitate stakeholder communication;
- report to the Deputy Secretary, Schools and Youth Cluster, Department of Education.

The procedures of the Committee are to be determined by the Committee.

Costs of the Committee will be borne by You including the provision of secretariat support.

You must use your best endeavours to comply with any decision of the Committee in connection with Your conduct of the Project. However, for the absence of doubt:

- the Committee has no power to vary this Agreement; and
- no decision of the Committee affects Our rights under this Agreement (including our rights under clause 7.1.1.b).

If You consider a decision of the Committee constitutes a variation to this Agreement or is otherwise inconsistent with Your obligations under this Agreement, you must refer that matter to Us for resolution.

A.4.3 Element 3

You must arrange for an independent evaluation of Element 1 of the Project to assess the extent to which the Good to Great Schools Initiative has been effective and efficient in meeting the Programme's stated objectives at A.2.

In arranging the evaluation of Element 1 of the Project, You must, in consultation with Us, contract a third party as appropriate and report on outcomes of the evaluation to the Committee.

A.4.4 School Selection

You must work with Us and relevant state and territory education authorities to identify proposed schools for participation in Element 1 of the Project. Once identified, You must invite schools to participate in Element 1 of the Project.

- a You must determine which teaching approach (Direct Instruction or Explicit Instruction) is to be adopted by each school in consultation with the relevant school and the relevant education authority.
- b You must ensure that schools participating in the Project demonstrate they have:
 - (i) a whole-of-school attendance strategy;
 - (ii) a whole-of-school literacy strategy; and
 - (iii) parental and community support for participation in the initiative.

A.4.5 Reports

A.4.5.1 Implementation Plan

A You must develop and submit to Us for Our approval a draft implementation plan covering the full period of the Project. It must detail the activities You will undertake in developing and delivering the Project. It must be received by Us no later than 29 August 2014 in accordance with the table at item I of this Schedule 1.

- B You must, at a minimum, include in your draft implementation plan:
- i. details of how You will meet the Programme objectives, listed in item A.2 of Schedule 1;
 - ii. details of how You will manage the three elements of the Project;
 - iii. how You will select an independent evaluator and work with Us, under the direction of an Advisory Committee, to determine the scope of the evaluation;

- iv. how you will provide secretariat support to the Committee;
- v. licencing provisions for Direct Instruction and Explicit Instruction programs;
- vi. proposed student assessment methodologies, including comparable instruments measuring growth during the Direct Instruction and Explicit Instruction period, analysis of the data and how this will inform the evaluation of the Programme;
- vii. the identification of stakeholders and the proposed role of stakeholders in the Project including education authorities, community clusters, schools, teachers, coaches, evaluators and any proposed sub-contractors;
- viii. an outline of Your proposed school selection process;
- ix. the scope of the Project, including the number of schools, clusters, states/territory, locations and year levels targeted and approach to operate in each school;
- x. the proposed rollout of Element 1 of the Project including activities to be undertaken in delivering Element 1 of the Project, indicative timeframes and milestones, coaching and teacher professional development days and locations and in-school consultancy days;
- xi. a detailed indicative budget for the Project, including details of all relevant costs including workbooks and other associated materials;
- xii. a list of Specified Personnel who will undertake the Project and their experience and qualifications;
- xiii. any Confidential Material; and
- xiv. the anticipated process for Your on-going liaison with state/territory education authorities (including school selection and baseline data) and the independent evaluator.

You must, if We require it, amend Your draft implementation plan in accordance with Our directions, and resubmit it to Us for Our approval within the timeframe specified by Us.

You must undertake the Project in accordance with the implementation plan as approved by Us. The implementation plan as approved by Us forms part of this Agreement.

A.4.5.2 Establishment Report

You must provide to Us an Establishment Report to Us by the due date specified in the Reporting table at item I of this Schedule 1.

A.4.5.3 Progress Reports

You must provide to Us a Progress Report for 2015 and a progress Report for 2016 by the due date specified in the reporting table at item I of this Schedule 1.

A.4.5.4 Final Report

You must provide to Us a Final Report in accordance with clause 8 of this agreement by the due date specified in the Reporting table at item I of this Schedule 1.

A.4.5.5 Structure of Reports

The structure of the reports will be determined in consultation with the Advisory Committee and Us.

A.5 Project Period

The Project Period commences on the Date of this Agreement and ends on 30 June 2017.

B. Funding and Payment

(see clause 3)

FUNDING

- B.1. The total Funding for the Project is \$22 million (GST exclusive). Subject to clause 3, this item, and any other provision of this Agreement that affects Our obligation to make payment of Funding to You. We will pay You the Funding according to the following payment schedule:

	2013/14	2014/15	2015/16	2016/17	
Payment Amount	\$4 million	\$6 million	\$6 million	\$3 million	\$3 million
Payment Date	30 June 2014	31 January 2015	31 January 2016	31 July 2016	31 January 2017

- B.2 Each payment of Funding is subject to:

- a. Our satisfaction, in Our absolute discretion, that You have completed the part of the Project (including any Milestones indicated in the approved implementation plan) related to that payment of the Funding;
- b. Whether We have exercised Our rights under clause 3.6.1 of the agreement;
- c. You having provided all Reports that were due on or prior to the payment date; and
- d. Where a taxable supply is made, You having provided a correct and complete tax invoice to Us as set out below, or where no taxable supply is made, You providing an invoice to Us.

INVOICES

- B.3 Invoices must include the following information:

- a. the words "tax invoice" stated prominently;
- b. Your name and ABN;
- c. Our name and address;
- d. the date of issue of the tax invoice;
- e. the title of this agreement/the Project and the agreement number (if any) or date of execution;
- f. details of the items (ie. deliverables or Milestones) to which they relate;
- g. the total amount payable (including GST);
- h. the GST amount shown separately; and
- i. bank account details for the payment of the invoice by electronic funds transfer.

An invoice is not correctly rendered where:

- a. it includes amounts that are not properly payable under this agreement or are incorrectly calculated; or
- b. it relates to a payment in relation to which We have exercised Our rights under clause 3.6.1 of the agreement .

All invoices must be addressed to the Project Officer.

PAYMENT

- B.4 Subject to the terms of this agreement, We will make a payment of Funds to You within 20 Business Days of the conditions in this item B being satisfied.

Payment will be effected by electronic funds transfer (EFT) to Your following bank account:

BANK ACCOUNT

- B.5 You are required to comply with clause 3.4.1 and establish a separate bank account for the Funds.

C. Budget

You must include a draft indicative Budget in Your draft implementation plan for Our approval in accordance with item A.4 of this Schedule 1.

BUDGET FLEXIBILITY

You may transfer Funding between categories of expenditure items within the Budget subject to the following limitations:

- a. You must seek Our prior written approval for any transfer that exceeds 10% of the total Budget for each Financial Year in which the transfer would occur; and
- b. the total amount of transfers in a Financial Year must not, except with Our written approval, exceed 20% of the total Budget for that year.

In this item C **Financial Year** means each period from 1 July to the following 30 June occurring during the Project Period, or any part of such a period occurring at the beginning or end of a Project Period.

D. Project Officer

Ms Marg Pethiyagoda
Project Manager
Good to Great Schools Australia Ltd (Cape York Aboriginal Australian Academy)
Level 3, 139 Grafton Street
CAIRNS, Queensland, 4870

E. Subcontractors

You must include all subcontractors and identify what part of the Project they will deliver in Your draft implementation plan for Our approval in accordance with item A.2 of this Schedule 1.

F. Specified Personnel

You must include details of Specified Personnel (either named Personnel or the specific skills that are required, or both) required to undertake the activities in Your draft implementation plan for Our approval in accordance with item A.4 of this Schedule 1.

G. Assets

You must include details of any Assets in Your draft implementation plan for Our approval in accordance with item A.2 of this Schedule 1.

H. Review

(see clause 7.2)

I. Reporting

You must provide the following Reports to Us by the due dates specified in the following table:

Report	Due Date
Draft implementation plan	29 August 2014
Establishment Report	30 January 2015
2015 Progress Report	29 January 2016
2016 Progress Report	30 January 2017
Final Report	25 May 2017

J. Commonwealth Material

Not applicable.

K. Existing Material

You must include details of any Existing Material in Your draft implementation plan for Our approval in accordance with item A.2 of this Schedule 1.

L. Moral Rights

(see clause 9.3)

In addition to those set out in clause 9.3.1, the following are 'Permitted Acts' for the purposes of clause 9.3.1.e:

- a. use of the Project Material for advertising, merchandising or promotional purposes of any kind;
- b. incorporating the Project Material into a website or as part of a multi-media training program;
- c. synchronising the proposed sound recording as part of the soundtrack of a film; or
- d. removal and/or relocation of the proposed sculpture to an alternative location, including disassembly as necessary for that purpose.

M. Confidential Information

You must include details of any Confidential Information in Your draft implementation plan for Our approval in accordance with item A.2 of this Schedule 1.

N. Privacy Conditions, Restrictions or Guidelines

In this item N:

Information Commissioner has the same meaning as it has in section 3A of the *Australian Information Commissioner Act 2010* (Cth).

Records has the same meaning as it has in section 6 of the Privacy Act.

In relation to Personal Information received, created or held by You for the purposes of this agreement, You agree:

- a. not to use or disclose Personal Information to or engage in any practice that would breach section 16F of the Privacy Act, unless the use or disclosure is necessary to meet (directly or indirectly) an obligation under this agreement;
- b. not to transfer Personal Information outside Australia, or to allow parties outside Australia to have access to it, without the prior written approval of the Project Officer;
- c. to co-operate with reasonable demands or inquiries made by the Information Commissioner or the Project Officer in relation to the management of Personal Information;
- d. to ensure that any person who You allow to access Personal Information is made aware of, and undertakes in writing, to observe the Australian Privacy Principles;
- e. to comply with policy guidelines laid down by the Us or issued by the Information Commissioner from time to time relating to the handling of Personal Information;
- f. if requested by Us, at the end of this agreement, to return all Records containing Personal Information to the Project Officer, or delete or destroy those Records in the presence of a person authorised by the Project Officer;
- g. to Your name being published in reports by the Information Commissioner; and

You must immediately notify the Project Officer if You become aware:

- a. of a breach of Your obligations under clause 11;
- b. that a disclosure of Personal Information may be required by law; or
- c. of an approach to You by the Information Commissioner or by a person claiming that their privacy has been interfered with.

Note: more information about the Privacy Act, the Information Privacy Principles and the Australian Privacy Principles is available at <http://www.oaic.gov.au/>

O. Acknowledgement and Publicity

You must include a communications strategy in Your draft implementation plan.

P. Our Address for Notices

(see clause 17.1.1.a)

Physical address	Level 9, 50 Marcus Clarke Street, CANBERRA, ACT 2601
Postal address	LOC: C50MA9, GPO Box 9880, CANBERRA, ACT, 2601
Email	flexibleliteracyprogramme@education.gov.au
Facsimile	(02) 6123 5416

Q. Your Address for Notices

(see clause 17.1.2.b)

Physical address	Level 3, 139 Grafton Street CAIRNS, Queensland, 4870
Postal address	PO Box 1581 CAIRNS, Queensland, 4870
Email	mpethiyagoda@goodtogreatschools.org.au
Facsimile	(07) 4042 7290

R. Insurance

(see clause 19.2)

Required insurance:

You must maintain:

- a. workers' compensation as required by law; and
- b. public liability insurance to a value of \$10 million (ten million dollars) or more per claim.

S. Compliance with Laws and Policies

(see clause 19.10.1)

S.1 Compliance with Laws

You acknowledge that:

- a. You may have obligations under the *Workplace Gender Equality Act 2012* and You must comply with those obligations;
- b. when dealing with Your employees, You must comply with the *Fair Work Act 2009* (Cth) and related legislation, and obligations under relevant work health and safety laws
- c. Chapter 7 of the *Criminal Code* provides for offences which attract substantial penalties, including theft of Commonwealth property and other property offences,

obtaining property or financial advantage by deception, offences involving fraudulent conduct, bribery, forgery and falsification of documents;

- d. giving false or misleading information is a serious offence under the *Criminal Code*;
- e. the publication or communication of any fact or document by a person which has come to their knowledge or into their possession or custody by virtue of the performance of this agreement (other than a person to whom You are authorised to publish or disclose that fact or document) may be an offence under section 70 of the *Crimes Act 1914*, punishment for which may be a maximum of two years imprisonment;
- f. in respect of data, including personal information, held in connection with this agreement, any unauthorised and intentional access, destruction, alteration, addition or impediment to access or usefulness of the data stored in any computer in the course of performing this agreement is an offence under Part 10.7 of the *Criminal Code* which may attract a substantial penalty, including imprisonment;
- g. You are aware of the provisions of section 79 of the *Crimes Act 1914* (Cth) relating to official secrets;
- h. You may be subject to the provisions of the *Competition and Consumer Act 2010* (Cth) and the *Archives Act 1983* (Cth).

S.2 Compliance with policies

You must:

- a. when using Our premises or facilities (including information systems), comply with Our directions and procedures relating to environmental management, work health, safety and security (which you acknowledge may change during the Term);
- b. ensure that any person who will have access to official secrets within the meaning of section 79 of the *Crimes Act 1914* (Cth) sign an acknowledgment that he or she is aware of the provisions of that section.

S.3 Work Health and Safety

Nil

S.4 Australian Industry Participation Policy

Not applicable

S.5 Cybersafety

- a. The Commonwealth's cybersafety policy is that where an organisation is funded by the Commonwealth to carry out a Project using computers and/or other digital technology, the safety of Clients when using those computers and/or other digital technology must be assured.
- b. You must take Reasonable Steps to protect Your Clients' cybersafety.
- c. If We give you notice, You must provide Us, within 10 Business Days of receiving the notice in accordance with 17.2.1, with evidence satisfactory to Us that You have complied with the requirements of this cybersafety policy.
- d. You agree to include your obligations in relation to this cybersafety policy in all subcontracts you enter into in relation to the Project or part of the Project.

e. For the purposes of this cybersafety policy:

‘Clients’ means persons who may use Your computers and/ or other digital technology that is supported through public funding provided pursuant to this agreement and includes but is not limited You, Your staff and the public, whether they be adult or children.

‘Reasonable Steps’ means having in place strategies to minimise and manage risks of exposure to inappropriate or harmful on-line content by users of computers, and particularly children, and may include but is not limited to having a policy in place regarding appropriate use and protection for Clients, installation of filters, audits and provision of information or training to Your staff regarding the risks of, and protection from, inappropriate or harmful on-line content.

S.6 Building Code 2013 and Occupational Health and Safety Accreditation Scheme

Not applicable

S.7 Working with Children Requirements

a. You must ensure that any individual (other than a Teacher) who is working on the Project for You or on Your behalf and who will have Contact with Children undergoes a National Police Check for Working with Children. In addition, You must comply with relevant State/Territory legislation requiring screening for persons who work with children.

b. Where a National Police Check for Working with Children has been obtained in relation to an individual prior to their being a requirement for that individual to undergo a National Police Check for Working with Children in accordance with this agreement, that previous National Police Check for Working with Children may be used for the purposes of this agreement provided that:

i. it is no more than 12 months old;

ii. it has been obtained for the purpose of establishing suitability for a position working with children (eg in relation to a State/Territory based check or as part of an employer’s requirements); and

iii. the individual in question consents to You disclosing to Us the information contained in the National Police Check for Working with Children.

c. National Police Checks for Working with Children must be completed prior to individuals coming into Contact with Children. The cost of obtaining relevant National Police Checks for Working with Children is to be borne by You.

d. You must provide to Us an original or, if provided by a State/Territory authority which holds the original a certified true copy of any National Police Check for Working with Children which shows a conviction registered or charge pending in relation to an individual. The suitability of such individuals to participate in the Project will be determined by Us. **You must not allow an individual whose National Police Check for Working with Children reveals a conviction or charge pending to have Contact with Children in relation to the Project without written authorisation from Us.**

e. Records of all National Police Checks for Working with Children must be maintained and all documentation must be made available and accessible for viewing by Us in accordance with clause 19.1 of this agreement.

- f. You must ensure that any person who undergoes a National Police Check for Working with Children in accordance with the requirements of this agreement is informed in writing that the results of that National Police Check for Working with Children may be passed on to Us for the purposes of assessing whether We will consent to the person having Contact with Children in connection with the Project.
- g. You are also required to comply with relevant State/Territory legislation requiring screening for persons who work with children. Note that the requirement for all individuals to undergo a National Police Check for Working with Children is **in addition** to any other checks undertaken in compliance with State/Territory working with children legislation.
- h. National Police Checks for Working with Children must be undertaken by each person who will be working with children every 2 years from the date of issue of the first National Police Check for Working with Children obtained in relation to that person.
- i. You must immediately notify Us if any individual who has had Contact with Children in the course of working on the Project is charged with or found guilty of an indictable offence.
- j. You must immediately notify Us if an individual who has had Contact with Children in the course of working on the Project is the subject of an allegation relating to:
 - i. violence against children;
 - ii. any sexual offence;
 - iii. any offence involving pornography; or
 - iv. any offence involving the trafficking or dealing of illegal drugs.
- k. We will make a decision as to whether an individual who is the subject of a notification in accordance with paragraph j. or k. of this item S.7 can continue to have Contact with Children. The individual in question must not have Contact with Children in connection with the Project while a decision from Us is pending.
- l. Prior to engaging or allowing individuals to have Contact with Children, You must obtain the consent of those individuals to the provision to Us of the information mentioned at paragraph j. or k. of this item S.7, should the situation arise.

S.8 Ecological Sustainability

Not applicable

S.9 Web Accessibility

To be advised

This agreement is made on

2014

Signatures

SIGNED for and on behalf of the)
Commonwealth of Australia as)
represented by the Department of)
Education by:)

Name of signatory *Signature*

In the presence of:

Name of witness *Signature of witness*



SIGNED for and on behalf of Cape York
Aboriginal Australian Academy Ltd
ABN: 93141269016 in accordance with
the requirements of section 127 of the
Corporations Act 2001 (Cth) by:

Name of Director *Signature*

In the presence of:

Name of witness *Signature of witness*

and by

Name of Director/Secretary *Signature*

In the presence of:

Name of witness

Signature of witness