



Australian Government

Department of the Prime Minister and Cabinet

FUNDING AGREEMENT

Under the *Indigenous Education (Targeted Assistance) Act 2000*

between the

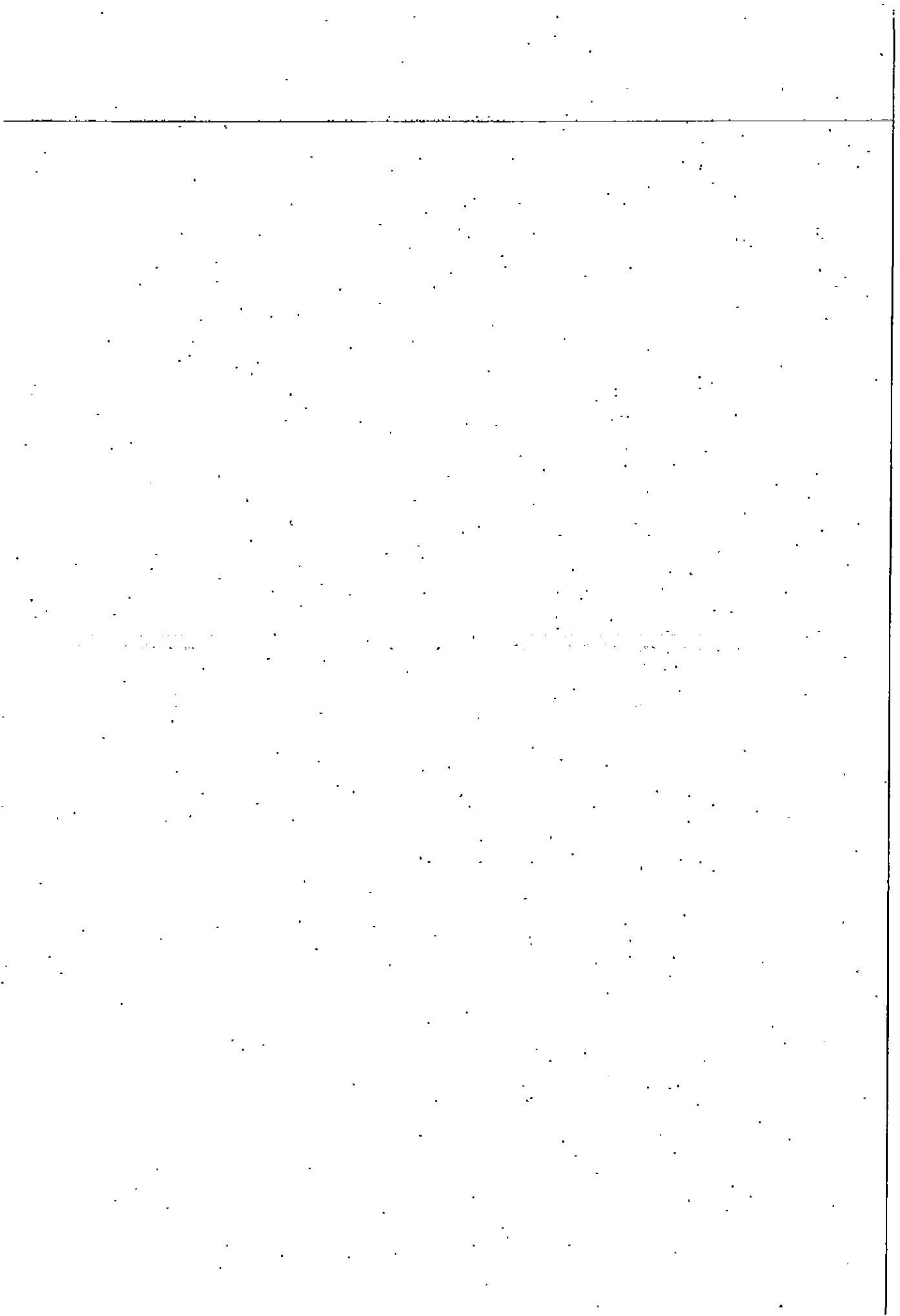
Commonwealth of Australia as represented by the
Department of the Prime Minister and Cabinet

ABN 18 108 001 191

and

Cape York Institute for Policy and Leadership

ABN 39 153 770 346

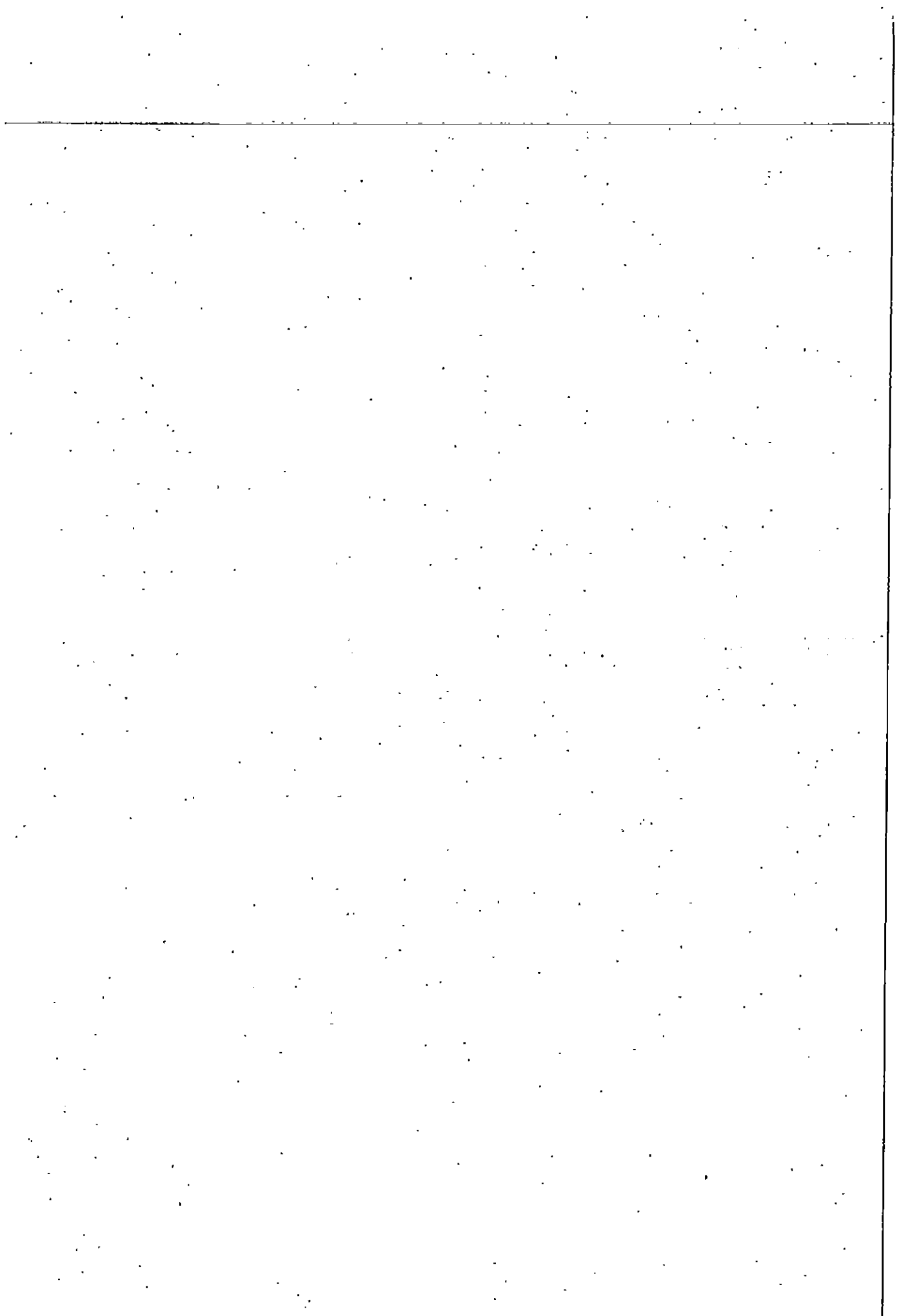


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AGREEMENT

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 the Prime Minister and Cabinet ABN 18 108 001 191 (PM&C)
2. Cape York Institute for Policy and Leadership ('You', or 'Your') ABN 39 153 770 346
3/139 Grafton Street
Cairns QLD 4870

Context

- A. We operate the Programmes in accordance with the *Indigenous Education (Targeted Assistance) Act 2000* (the Act).
- B. The Objects of the Act embody the goals of the National Aboriginal and Torres Strait Islander Education Policy (the AEP), which is a policy agreed between the Commonwealth and the State and Territory Governments to improve educational opportunities and outcomes for Indigenous people.
- C. The Act provides legislative authority to enter into funding agreements for a range of targeted Programmes and Projects to support improvements in Indigenous education outcomes.
- D. Funding provided through Indigenous Education Targeted Assistance (IETA) Programmes provides targeted assistance to improve educational outcomes for Aboriginal and Torres Strait Islander children and young people.
- E. You are committed to helping achieve the Objects of the Act through Your conduct of any Project under this agreement.
- F. 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.
- G. You agree to accept the Funding on the terms and conditions set out in this agreement.

How this Agreement Works

- H. We and You enter into this agreement which will govern the terms and conditions on which You undertake one or more Projects. Each Project has its own Project Schedule set out at the back of this agreement. Details of, and provisions relating to each Project are included in the Project Schedule.

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OPERATIVE PROVISIONS

1. Interpretation

1.1. Definitions

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

Act	means the <i>Indigenous Education (Targeted Assistance) Act 2000</i> and includes any Regulations;
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 at the date of purchase but excludes any Intellectual Property rights;
Administrative Expenditure	has the same meaning as it does in the Guidelines;
AEP	means the National Aboriginal and Torres Strait Islander Education Policy, which is referred to in paragraph B under the heading 'Context' in this agreement and which is more fully described in the Guidelines;
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 each Project Schedule;
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: a. provided by Us to You for the purposes of this agreement;

	<p>or</p> <p>b. derived at any time from the Material referred to in paragraph a;</p> <p>and does not include Project Material;</p>
Completion Date	means 31 December 2014;
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;
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> ;
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 each Project Schedule;
Funds or Funding	means the amounts (in cash or kind) payable by Us under this agreement as specified in Item D of each Project Schedule and includes interest earned on the Funding;
Funding Year	means a financial or calendar year for which You are provided Funding under this agreement;
Geographic Location Classification	means a geographic location described as metropolitan, provincial, remote or very remote, as specified from time to time by the relevant Ministerial Council relating to Indigenous Education;
GST	has the same meaning as it does in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> ;
Guidelines	refers to the guidelines for the Programme, if any, as described in Item A of each Project Schedule and amended by Us from time to time;
Indigenous	has the same meaning as in the <i>Indigenous Education (Targeted Assistance) Act 2000</i> ;

Indigenous Education Programme	has the same meaning as it does in the Guidelines;
Intellectual Property	Includes: <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; and c. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include: <ul style="list-style-type: none"> d. Moral Rights; e. the non-proprietary rights of performers; or f. 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 anything in relation to which intellectual property rights arise;
Minister	means the Commonwealth Minister responsible for administering the provisions of the Act or a person to whom the powers of the Minister under the Act have been delegated;
Moral Rights	means the following non-proprietary rights of authors of copyright Material: <ul style="list-style-type: none"> g. the right of attribution of authorship; h. the right of integrity of authorship; and i. the right not to have authorship falsely attributed;
National Report to Parliament	means the annual report that the Minister is required to table in Parliament in accordance with section 17A of the Act;
Objectives	means the objectives of the Programme described in Item A of each Project Schedule;

Objects of the Act

means the following objects:

- j. to achieve equitable and appropriate educational outcomes for Indigenous people;
 - k. to ensure that Indigenous people enjoy equality with other Australians in their access to education;
 - l. to ensure equity of participation by Indigenous people in education;
 - m. to increase the involvement of Indigenous people in the making of decisions concerning education; and
 - n. to encourage the development of education services that are culturally appropriate for Indigenous people;
- as more fully described in Part 2 of the Act;

Our Confidential Information

means Our Information that:

- o. is described in Item M of each Project Schedule;
- p. We identify, by notice in writing to You after the Date of this Agreement as confidential information for the purposes of this agreement; or
- q. 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:

- r. in relation to You - any natural person who is an officer, employee, agent or professional advisor of You or Your subcontractors; and
- s. in relation to Us - any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent or professional adviser of Us;

Performance Data

means any data or information provided in any Report submitted in accordance with clause 8 or Item I of each Project Schedule;

Performance Indicators

means the indicators specified under the heading 'Performance Indicators and Performance Targets' in Annexure 2 of the relevant Project Schedule/s;

Performance Indicator Handbook

means a document that is produced by Us contains an explanation of performance indicators listed in the relevant Project Schedule/s;

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Performance Report	means any Report required under clause 8.3;
Performance Targets	means the targets specified under the heading 'Performance Indicators and Performance Targets' in Annexure 2 of the relevant Project Schedule/s;
PM&C	means the Department of the Prime Minister and Cabinet and includes any department, agency or authority of the Commonwealth which is from time to time responsible for administering this agreement;
Project Milestone	means a stage of completion of the Project as set out in Item A of the relevant Project Schedule
Privacy Act	means the <i>Privacy Act 1988</i> (Cth);
Project Officer	means the person specified (by name or position) in Item D of each Project Schedule or any substitute notified to You;
Project Schedule	means a project schedule to this agreement;
Programme	means the programme specified in Item A of each Project Schedule;
Project	means the project described in Item A of each Project Schedule and includes the provision to Us of the Project Material specified in Item A of each Project Schedule;
Project Material	means any Material: <ul style="list-style-type: none"> t. created for the purposes of this agreement; u. provided or required to be provided to Us under the agreement; or v. derived at any time from the Material referred to in paragraphs a or b; and includes <ul style="list-style-type: none"> w. any Existing Material incorporated in the Material referred to in paragraphs a to c; and x. any Reports;
Project Period	In respect of a Project means the period specified in Item A of the relevant Project Schedule for that Project during which the Project must be completed;

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;
Regulations	means the regulations made under section 18 of the Act as in force from time to time;
Report	means Project Material that is provided for reporting purposes under clause 8 and as stipulated in Item I of each Project Schedule;
Specified Personnel	means the personnel specified in Item F of each Project Schedule for a Project (or Projects) as having the skills and required expertise to undertake all or part of the Project;
Secretary	means a person for the time being performing the duties of the office of Secretary to the Department of the Prime Minister and Cabinet and includes a person designated in writing by the Secretary to exercise any of the Secretary's powers under this agreement;
State	means any Australian State, the Australian Capital Territory or the Northern Territory;
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"> y. Is described in Item M of any Project Schedule; or z. 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;

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- 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 Project 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 Project 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 (d) above has precedence over the material in a subsequent paragraph, to the extent of any conflict or inconsistency.

1.3. Construction of agreement

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

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

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

1.3.4. 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

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

1.4.2. Each Project starts and ends on the dates specified in Item A of the relevant Project Schedule unless terminated earlier.

2. Project

2.1. Your principal obligations

2.1.1. You must carry out each Project:

- a. as specified in Item A of the relevant Project Schedule to this agreement;
- b. to achieve the Programmes Objectives;
- c. within the Project Period for that Project;
- 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 any Project into disrepute.

3. Funding

3.1. Payment

3.1.1. Subject to sufficient funds being available for each Programme, and compliance by You with the Act, the Regulations, the Guidelines and this agreement (including the requirements specified in Item B of each Project Schedule) We will provide You with the Funding at the times and in the manner specified in Item B of each Project Schedule.

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.

3.1.5. The total Funding paid to You under this agreement will be comprised of the total of all of the amounts of Funding specified in Item B of each Project Schedule to this agreement.

3.1.6. Any Interest earned by You on the Funding for each Project must be applied as if the Interest were part of the Funding for that Project.

3.2. Use of Funding

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- 3.2.1. The Funding for each Project as set out in Item B of the relevant Project Schedule, must be expended by You only for that Project and in accordance with this agreement.
- 3.2.2. You must spend or commit to spend the Funding in the Funding Years for which the funds are allocated, as specified in the Project Schedules.
- 3.2.3. 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.
- 3.2.4. 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.
- 3.2.5. If an amount for Administrative Expenditure is specified in Item B of a Project Schedule, You must not spend more than this amount on Administrative Expenditure for that Project.

Note: Refer section 11B(1)(a) of the Act.

3.3. Budget

- 3.3.1. Where specified in Item C of a Project Schedule You must only spend the Funding in accordance with the Budget for that Project and the conditions specified in Item C of the relevant Project Schedule for that Project.
- 3.3.2. You must obtain prior written approval from Us for any changes to the Budget.

3.4. Keeping of Funding

- 3.4.1. You must:
- a. ensure that the Funds for each Project 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 the Project Schedule for a Project, ensure the account is:
 - i. established solely to account for and administer Funding provided by Us to You under this agreement for the Project, Programme or all Projects and Programmes 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.

3.5. Records

- 3.5.1. You must create and maintain full and accurate financial and other Records relating to each Project including financial and/or other Records:

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- a. that document progress against Performance Indicators, Performance Targets or Milestones;
- b. that document the creation, acquisition and disposal of Assets;
- c. that document the creation of Intellectual Property rights in Project Material;
- d. that will enable all income and expenditure related to each Project and all interest earned on the Funding to be identifiable and ascertainable in Your accounts;
- e. that will enable the preparation of financial statements in accordance with Australian Accounting Standards;
- f. that will enable the audit of those Records in accordance with Australian Auditing Standards; and
- g. that relate to all Performance Data so as to enable Your participation in the exercises referred to in clause 7.5.1.

3.5.2. You agree to retain the financial and other Records created under clause 3.5 for a Project for a period of no less than 7 years after the end of the relevant Project Period.

3.5.3. The financial and other records relating to each Project must be aggregated so that where requested by Us, information can be provided to Us at an Institution level.

3.6. Repayments

3.6.1. 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 this 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.

3.7. Debt and Interest

3.7.1. 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.

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3.7.2. 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.

3.7.3. 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.

3.8. **Maintenance of Effort**

3.8.1. In this clause 3.8, 'Other Funds' means funds that come from sources other than:

- a. the Act;
- b. the Schools Assistance Act 2008 and the Australian Education Act 2013; and
- c. any other Commonwealth legislation providing Commonwealth funding for education, training and related purposes.

3.8.2. You acknowledge that the Funding is supplementary to the Other Funds.

3.8.3. You agree that:

- a. You will not use the Funding on activities related to the education of Indigenous students that would normally be funded from the Other Funds or from the sources referred to in clauses 3.8.1.b or 3.8.1.c;
- b. You will not reduce Your commitment of Your own and other financial resources to Indigenous education as a result of receiving Funding under this agreement; and
- c. where reasonable, You will commit and spend Other Funds for the purposes of advancing the Objects of the Act.

3.9. **Non-fulfilment of Conditions**

3.9.1. If you breach any term or condition of this agreement then, without limiting any other right that We may have under this agreement:

- a. the Minister may issue You with a notice requiring You to repay Us an amount specified in the notice by a date specified in the notice; and
- b. the Minister may, by determination in writing, reduce any Funds payable to You under this agreement, or under any other agreement between You and Us made under the Act, by an amount specified in the determination.

3.9.2. If the Minister exercises any of the rights under this clause 3.9, You must continue to perform Your obligations under this agreement, unless We agree otherwise in writing.

Note: Refer section 12 of the Act.

3.10. **Unspent Funds**

3.10.1. If not all the Funding has been spent, or committed to be spent, by You in the relevant Funding Year as specified in the Project Schedule for the purpose for which the Funding was provided ('the unspent amount'), then We may:

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- a. reduce any other Funding payable to You under this agreement by an amount up to the unspent amount; or
- b. direct You to expend the unspent amount for a purpose specified by Us; or
- c. Issue You a notice requiring You to pay to Us an amount specified in the notice (up to the unspent amount) by the date specified in the notice.

4. Taxes (including GST), duties and government charges

4.1. Recipient created tax invoice

- 4.1.1. Where specified in Item B of the Project Schedule for a Project, You agree to allow Us, if in Our sole discretion We choose to do so, to issue You with a recipient created tax invoice for any taxable supply made for the relevant Project within 20 Business Days of determining the value of the taxable supply to which the recipient created tax invoice relates.
- 4.1.2. If We do not issue You with a recipient created tax invoice within the time period specified in clause 4.1.1, You must as soon as practicable provide us with a tax invoice in relation to that taxable supply.
- 4.1.3. Subject to clause 4.1.2, You must not use a tax invoice in relation to a taxable supply to which a recipient created tax invoice applies.

5. Subcontractors and Specified Personnel

5.1. Subcontractors

- 5.1.1. You must not subcontract the performance of any part of a 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 a Project to the persons, and subject to the conditions (if any), specified in Item E of the relevant Project Schedule.
- 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 a 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 a 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

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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 a 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 each 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 a Project Schedule, without getting 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 a Project Schedule 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 and any additional clauses in Item G of the Project Schedule 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 relevant 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 a Project Schedule, maintain an Assets register in the form and containing the details as described in Item G of the relevant Project Schedule; 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 Project 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

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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 6.5.1, 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 Us.

6.5.3. Amounts payable to Us under clause 6.5.2 form part of the Funding and are recoverable as such.

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, including by participating in any general research, monitoring or evaluation of the Programmes.

7.2. Review

7.2.1. Without limiting the generality of the requirements in clause 7.1, if specified in Item H of any Project Schedule 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 Project and the Programme to which it relates.

7.3. Performance monitoring committee

7.3.1. Where specified in Item H of a Project Schedule, You must establish a performance monitoring committee to monitor the performance of the relevant Project.

7.3.2. The performance monitoring committee must contain:

- a. at least one representative from Your organisation;
 - b. at least one representative from PM&C; and
 - c. an Independent Indigenous member who is:
 - I a member of the relevant State Indigenous Education Consultative Body; or
 - II a representative of the local Indigenous community or of any other Indigenous body;
- as agreed between You and Us.

7.3.3. The performance monitoring committee must:

- a. monitor Your progress towards achieving the Performance Targets of the Project;
- b. assess the effectiveness or otherwise of Your delivery of the Project;
- c. meet by dates specified in the Project Schedule to review Your performance and progress and to consider any requests from You for the Commonwealth to vary this agreement;
- d. meet to endorse each Performance Report before submission to Us; and
- e. participate in any other activities specified in Item I of the relevant Project Schedule.

7.4. Auditor

7.4.1. We may, at any time, commission an auditor to conduct an audit of You, and You must provide the auditor appointed by Us with all reasonable assistance required to conduct the audit, including assistance and access as described in clause 20.

7.4.2. If Your accounts are audited, whether in the form of a regular annual audit or otherwise, You must provide a copy of the audit findings to Us insofar as those findings relate to the Funding paid under this agreement.

7.5. Evaluation and data validation exercises

7.5.1. You must, at the times and in the manner as notified by Us from time to time:

- a. participate in exercises (including audits of the performance records referred to in clause 3.5.1(g)) to confirm:
 - I the validity and accuracy of Performance Data provided in any Report submitted in accordance with clause 8 or Item I of the relevant Project Schedule; and
 - II that You have primary source documentary evidence relating to that Performance Data; and
- b. participate in evaluating how effectively the Projects covered by this agreement advance the Objects of the Act.

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Note: Refer sections 11B(1)(b), (c) and 11G of the Act.

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 this clause 8 and Item I of the relevant Project Schedule for that Project.

8.2. Financial Reports

8.2.1. Where specified in Item I of a Project Schedule, at the end of each Funding Year, You must give Us a certificate stating whether the Funds paid to You under this agreement for a Funding Year have been spent (or committed to be spent) in that year for the purposes specified in the relevant Project Schedule.

8.2.2. You must provide the certificate referred to in clause 8.2.1 to Us by the date specified in Item I of the Project Schedule.

Note: Refer to section 11C of the Act

8.2.3. Unless clause 8.2.5 applies or unless otherwise specified in Item I of a Project Schedule, within 20 Business Days (or other period specified in Item I of the relevant Project Schedule 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 for the Project which must include a definitive statement as to whether the financial accounts are true and fair and if relevant a statement of the balance of Your account referred to in clause 3.4.1.b; and
- b. an audit statement that the Funding was expended for the Project and in accordance with this agreement.

8.2.4. The audits referred to in clause 8.2.3 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)).
 - iii. not Your Qualified Accountant.

8.2.5. If You are audited by the Auditor-General or a State or Territory Auditor-General:

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- a. for the Term; and
- b. the Funding is included in the income and expenditure which is subject to the audit;
- c. then instead of the audits referred to in clause 8.2.3, You may provide Us with:
 - i a detailed statement of income and expenditure for the Funding for the Project which must include a definitive statement as to whether the financial accounts are true and fair, and if relevant a statement of the balance of Your account referred to in clause 3.4.1.b; and
 - ii a statement that the Funding was expended for the Project and in accordance with this agreement.

8.2.6. The statements referred to in clause 8.2.5.c.i and c.ii must:

- a. contain the details, if any, described in Item I of each Project Schedule;
- 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 each Project Schedule or as otherwise notified) of the end of the Project Period;

8.3. Performance Reports

8.3.1. You must provide us with Performance Reports for Projects at the times and in the manner specified in clause 8.3.2 and Item I of the Project Schedules to this agreement.

8.3.2. Each Performance Report required under clause 8.3.1 must, for each Project in the reporting period to which the report relates:

- a. be in the form notified by Us from time to time;
- b. state the actual outcomes for the Performance Indicators;
- c. where specified in Item I of each Project Schedule, describe Your progress towards achieving the Performance Targets;
- d. include any other information required for the Performance Reports specified in Item I of each Project Schedule, such as Your qualitative assessment of the degree to which You have met Your obligations under this agreement;
- e. where required in Item I of the Project Schedule, describe Your successful strategies and initiatives;
- f. provide information by Geographic Location Classification, where specified in Item I of each Project Schedule;
- g. contain any other information specified in Item I of each Project Schedule.

Note: Refer sections 118(1)(b), (c) and 11E of the Act.

8.4. National Report to Parliament

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8.4.1. You:

- a. recognise the importance of the National Report to Parliament in improving Indigenous education outcomes and advancing the Objects of the Act;
- b. If You are a State, agree to ensure all of Your government agencies involved in the collection or processing of performance information and statistics relating to Indigenous education in Your State, including boards of studies and training authorities, are aware of, and will cooperate with You to achieve, Your obligations to provide timely and complete Performance Reports and to facilitate the publication of the National Report to Parliament; and
- c. If You are not a State and you rely on third parties for the supply of data, agree to ensure all third parties upon which you rely and which are involved in the collection or processing of Your performance information and statistics relating to Indigenous education, are aware of, and will cooperate with You to achieve, Your obligations to provide timely and complete Performance Reports and to facilitate the publication of the National Report to Parliament.

Note: Refer to section 17A of the Act

8.5. Reports to the Secretary or Minister

8.5.1. If a Project Schedule under this agreement is entered into pursuant to section 10 of the Act and at any time the Minister thinks that You are not achieving one or more Performance Targets for the Project:

- a. the Minister may give You a direction to take action specified in the direction; and
- b. You must, if requested, give the Secretary a report on the action taken in response to any such direction, in the form and at the time required by the Minister.

Note: Refer section 11B(1)(b), (c) and 11F of the Act.

8.5.2. If the Project Schedule under this agreement is made pursuant to section 10 of the Act, in addition to any other report required under this agreement, You must provide to the Minister any report of a kind or kinds required by the Minister at the times, and in the manner, required by the Minister.

Note: Refer section 11B(1)(d) of the Act.

8.6. Administrative Expenditure

8.6.1. Where there is a limit on the amount of Administrative Expenditure that You are permitted to spend on Project is specified in Item B of the relevant Project Schedule, You must identify the Administrative Expenditure separately for that Project in the financial reports provided to Us under clause 8 and item I of the Project Schedule.

9. Intellectual Property

9.1. Use of Commonwealth Material

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- 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 each Project Schedule, 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 the agreement or a Project unless specified in item J of a Project Schedule.
- 9.1.5. If You are permitted to use the Commonwealth Coat of Arms for a Project, You must use it in accordance with the requirements in item J of the relevant Project Schedule.
- 9.2. Intellectual Property rights 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 includes a right for Us to licence the Project Material and Existing Material to the public under a CCBY Licence [see <http://creativecommons.org/licenses/by/3.0/au/deed.en>]. In accordance with the timeframe specified in Item A of each Project Schedule 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 this clause 9.2.2.
- 9.2.8. You warrant that:

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- 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:

Permitted Acts 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 CC BY Licence; and
- e. the acts or omissions, specifically set out in Item 1 of each Project Schedule;

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.

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- 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 10.2.1 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 PM&C, 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.
- 10.3.2. Unless otherwise agreed in writing by the parties, We may publish information that We have about You, including financial and performance information, information required for the National Report to Parliament, and information in the Performance Reports.
- 10.3.3. Notwithstanding clause 10.1 We may publish information in Your Performance Reports combined with information from other providers, to provide aggregated data:
- a. on a state or national level;
 - b. by Geographic Location Classification (as specified in the Project Schedules);
 - c. by government and non-government sectors;
 - d. by government sector, catholic sector and other providers;
 - e. by education sector (pre-school, school, vocational education and training, and higher education); or
 - f. at any other level of detail specified in Item M of each Project Schedule.
- 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 each Project Schedule - 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, clause 13.3 or clause 20.1.
- 10.6. Your other security obligations
- 10.6.1. You must comply with any additional obligations relating to security for a Project specified in Item M of the relevant Project Schedule.

11. Privacy

11.1. Interpretation

11.1.1. In this clause 11:

Australian Privacy Principle has the same meaning as it has in section 6 of the Privacy Act from 12 March 2014.

Information Privacy Principle has the same meaning as it has in section 6 of the Privacy Act until midnight on 11 March 2014

11.2. Your obligations in relation to privacy

11.2.1. You agree, in providing the Project:

- a. until midnight on 11 March 2014 not to do any act or engage in any practice which, if done or engaged in by Us, would be a breach of an Information Privacy Principle;
- b. from 12 March 2014, 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
- c. to comply with any conditions, restrictions or guidelines referred to in, or relating to the matters set out in Item N of each Project Schedule, to the extent that they are consistent with:
 - i the Information Privacy Principles until midnight on 11 March 2014; and
 - ii the Australian Privacy Principles from 12 March 2014.

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.

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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 each Project, or any products, processes or inventions developed as a result of each Project, acknowledge the financial and other support You have received from Us, in the manner set out in Item O of the Project Schedule for that Project 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 each Project are consistent with the requirements set out in Item O of the Project Schedule for that Project (if any).

12.2. Right to promote and 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 each Project.

12.2.2. You must cooperate with Us to promote Your successful outcomes, strategies and Initiatives referred to in clauses 8.3.2.b and e for the benefit of Indigenous people.

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 must, 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

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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;
- 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,
- d. arising from either:
 - e. a breach by You of this agreement; or
 - f. an act or omission involving fault on the part of You or Your Personnel in connection with this agreement;
- g. use of the Assets; or
- h. 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 this 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.

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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 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 this clause 15, 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.

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15.4.1. This clause 15 does not apply:

- a. to action by Us under or purportedly under clauses 3, 16.1 or 20.1;
- 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 one or more Projects or reduce the scope of this agreement or one or more Projects 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 agreement or 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 agreement or to the Project as the case may be and not covered under clause 16.1.3.a;
- c. not be liable to pay amounts under clause a and b which would, added to any payments already paid to You under this agreement, together exceed:
 - I In the case of termination or reduction of scope of this agreement, the total Funding payable under this agreement, or
 - II In the case of termination or reduction of the scope of one or more Projects, the amount of Funding payable for the Project or Projects.
- 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

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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/s.
- 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 either this agreement or the Project/s to which the breach relates (Relevant Project/s) 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 or the Relevant Project/s 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 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);

Note: For the avoidance of doubt, this clause 16.2.2.a.I does not apply where a corporation has transferred from being an incorporated association.

- 16.2.3. We may also by notice terminate this agreement or one or more Projects 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. In relation to the agreement, You breach any law of the Commonwealth, or of a State or Territory; or
- d. You cease to carry on a business relevant to the performance of a Project.

16.2.4. Where We terminate this agreement or one or more Projects 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

16.3.1. 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 the relevant Project Schedule 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) listed in Item D of the relevant Project Schedule and addressed (and marked for attention) as specified in Item Q of the relevant Project Schedule or as otherwise notified by You.

17.1.2. A notice must 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. signed and 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

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- c. If transmitted electronically – at the time that would be the time of receipt under the Electronic Transactions Act 1999 (Cth) 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. Employment of staff and opportunities for Indigenous people

18.1. Selection criteria

18.1.1. Where Funding is used for or results in the employment of staff, You must ensure that the selection criteria for those positions include, as the first two criteria:

- a. a demonstrated understanding of the contemporary issues facing Indigenous Australians and the impacts these issues have on Indigenous Australian societies and cultures, and
- b. a demonstrated ability to communicate sensitively and effectively with Indigenous Australians, including the requirement for proper negotiation and consultation on matters relevant to the delivery of education services to Indigenous people.

18.2. Tenders

18.2.1. You agree to use Your best endeavours to ensure tenders for work funded under this agreement provide employment and/or training opportunities to Indigenous people. You must require tenderers to demonstrate how they will provide such opportunities for Indigenous people.

19. Corporate Governance

19.1. Constitution

19.1.1. If You are a body corporate, You warrant that Your constitution is not inconsistent with this agreement.

19.1.2. You must notify Us if You intend to amend Your constitution in a way which affects Your ability to comply with this agreement.

19.1.3. If You amend Your constitution in a way which affects Your ability to comply with this agreement, We may terminate this agreement under clause 16.2.1.

19.2. Notification

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

19.3. Management

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

- a. the person is an undischarged bankrupt;

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- 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 VIIIC 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 VIIIC;
 - 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.

20. General provisions

20.1. Audit and access

20.1.1. 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 relevant Project;
 - ii locate and inspect Material; and
 - iii make copies of Material and remove those copies, relevant to the Project.

20.1.2. The rights referred to in clause 20.1.1 are subject to:

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

20.1.3. 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 20.1.2 will not apply.

20.1.4. The requirement for access specified in clause 20.1.1, does not in any way reduce Your responsibility to perform Your obligations under this agreement.

20.1.5. A breach of Your obligations under clause 20.1.1, is, for the purposes of clause 16.2, 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).

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20.2. Insurance

20.2.1. Subject to clause 20.2.2 You must:

- a. effect and maintain the following insurances:
 - i workers' compensation as required by law;
 - ii public liability insurance to a value of \$10 million (ten million dollars) or more per claim; and
 - iii any insurances specified in Item R of each Project Schedule.
- b. within 10 Business Days of a request by Us, provide proof of insurance acceptable to Us.

20.2.2. If You are a State then You are responsible for maintaining insurances (including where appropriate, by self-insuring) appropriate to the activities that You undertake using the Funding and You are not required to comply with clause 20.2.1.

20.2.3. This clause 20.2 continues in operation for so long as any obligations remain in connection with this agreement.

20.3. Extension of provisions to subcontractors and personnel

20.3.1. In this clause 20.3:

Requirement means an obligation, condition, restriction or prohibition binding on You under this agreement.

20.3.2. 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.

20.3.3. 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.

20.4. Conflict of Interest

20.4.1. In this clause 20.4:

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.

20.4.2. 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 a Project.

- 20.4.3. 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.
- 20.4.4. If You fail to notify Us under clause 20.4.3.a, or are unable or unwilling to resolve or deal with the Conflict as required, We may terminate this agreement under clause 16.2.1.
- 20.5. Relationship of parties
- 20.5.1. 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.
- 20.5.2. You must not:
- a. misrepresent Your relationship with Us; or
 - b. engage in any misleading or deceptive conduct in relation to the Project.
- 20.5.3. You must ensure that Your officers, employees, partners and agents do not represent themselves as being an officer, employee, partner or agent of Ours.
- 20.6. Waiver
- 20.6.1. 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.
- 20.6.2. 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.
- 20.7. Variation
- 20.7.1. A variation of this agreement is binding only if agreed in writing and signed by the parties.
- 20.8. Assignment and Novation
- 20.8.1. You cannot assign Your obligations, and must not assign Your rights, under this agreement without Our prior written approval.
- 20.8.2. 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.
- 20.9. Survival
- 20.9.1. 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.

20.10. Compliance with Laws and Our Policies

20.10.1. You must, in carrying out Your obligations under this agreement, comply with:

- a. any relevant statutes, regulations, by-laws and requirements of any Commonwealth or State or local authority; and
- b. any of Our policies notified by Us to You in writing,

Including those listed at clause 20.10.2 and 20.10.3 of this agreement and in Item 5 of each Project Schedule.

20.10.2. 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

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authorised to publish or disclose that fact or document) may be an offence under section 70 of the Crimes Act 1914 (Cth) 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); and
- i. You must comply with any other laws listed in Item S of the relevant Project Schedules.

20.10.3. 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); and
- 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.

20.11. Applicable law

- 20.11.1. 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.
- 20.11.2. The parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

21. Working with children

21.1. Interpretation

- 21.1.1. In this clause, unless the contrary intention appears

AFP means the Australian Federal Police;

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;

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;

Teacher means a person who is a teacher in a school and who is involved in working on the Project because they are a teacher teaching in a school.

21.2. National Police Check

21.2.1. Unless specified at Item 5 of the relevant Project Schedule, 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.

21.2.2. Where a National Police Check for Working with Children has been obtained in relation to an individual prior to there 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:

- a. It is no more than 12 months old;
- b. 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
- c. the individual in question consents to You disclosing to Us the information contained in the National Police Check for Working with Children.

21.2.3. 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.

21.2.4. You must provide to Us an original or, if provided by a State 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.

21.2.5. 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 20.1 of this agreement.

21.2.6. 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

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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.

21.2.7. 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.

21.2.8. 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.

21.3. Notification

21.3.1. 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.

21.3.2. 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:

- a. violence against children;
- b. any sexual offence;
- c. any offence involving pornography; or
- d. any offence involving the trafficking or dealing of illegal drugs.

21.3.3. We will make a decision as to whether an individual who is the subject of a notification in accordance with clause 21.3.1 and 21.3.4 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.

21.3.4. 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 clause 21.3.1 and 21.3.2 should the situation arise.

Further Information regarding Working with Children

Note: This information is included here to assist You and does not form part of this agreement

Obtaining a National Police Check for Working with Children

The cost of obtaining a National Police Check for Working with Children through the AFP is currently \$42.00 and the current processing time for routine criminal record checks is approximately 15 working days.

You must establish an account with the AFP prior to submitting a request for a National Police Check for Working with Children. An account can currently be established by contacting the AFP Criminal Records on telephone (02) 6140 6502. The preferred contact is via e-mail at

AFP-NationalPoliceChecks@converga.com.au. The e-mail should specify that the check is being undertaken for the purpose of complying with the requirements of the Department of the Prime Minister and Cabinet in relation to working with children. The website is currently <http://www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx>.

Note: You will need to check with the AFP as to whether the application form available via the AFP website is the current application form.

Current State/Territory legislation:

NSW legislation	Prior to Contact with Children, individuals will usually be required to be screened in accordance with the NSW Government's Child Protection (Working with Children) Act 2012 (NSW). Information regarding Your obligations under this Act may be obtained from http://www.kids.nsw.gov.au/Working-with-children or phone (02) 9286 7276.
Queensland legislation	Prior to Contact with Children, individuals will usually be required to obtain a Suitability Card or 'blue card' in accordance with the Queensland Government's Commission for Children and Young People and Child Guardian Act 2000 (Qld). Information regarding Your obligations under the Act may be obtained from http://www.ccywpcg.qld.gov.au/bluecard/applications/applications.html or phone 1800 113 611
Western Australia legislation	Prior to Contact with Children, individuals will usually be required to pass a Working with Children Check in accordance with the Working with Children (Criminal Record Checking) Act 2004 (WA). Information regarding Your obligations under the Act may be obtained from www.checkwwc.wa.gov.au or phone (08) 6217 8100 or toll free 1800 883 979.
Victoria legislation	Prior to Contact with Children, individuals will usually be required to pass a Working with Children Check in accordance with the Working with Children Act 2005 (Vic). Information regarding Your obligations under the Act may be obtained from www.justice.vic.gov.au/workingwithchildren or phone 1300 652 879.

South
Australia
legislation

Prior to Contact with Children, Individuals will usually be required to pass a Working with Children Check in accordance with the Children's Protection Act 1993 (SA). Information regarding Your obligations under the Act may be obtained from <http://www.dcs.sa.gov.au/services/screening> or phone 1300 321 592.

ACT
legislation

Prior to Contact with Children, Individuals must register with a Statutory Screening Unit. Under the Working with Vulnerable People (Background Checking) Act 2011 (ACT). Information regarding Your obligations under the Act may be obtained from http://www.ors.act.gov.au/community/working_with_vulnerable_people or phone (02) 6207 3000.

NT
legislation

Prior to Contact with Children, Individuals hold a Working with Children Clearance Notice and an Ochre Card under the Care and Protection of Children Act 2007 (NT). Information regarding Your obligations under the Act may be obtained from <http://www.workingwithchildren.nt.gov.au/legislation.html> or contact SAFE NT on 1 800 SAFENT (1800 723 368).

PROJECT SCHEDULE

A. A. Programme and Project

(see clause 2)

Programme, Objectives and Guidelines

A.1 Programme name:

Indigenous Youth Leadership Programme

Objectives of Programme:

The Indigenous Youth Leadership Programme (IYLP) contributes towards supporting young Aboriginal and Torres Strait Islander people to achieve Year 12 attainment and transition to a tertiary or vocational education pathway.

The IYLP aspires to address Aboriginal and Torres Strait Islander educational disadvantage through its support for student-focussed choice and mobility; opportunities for inter-generational learning; role modelling; partnerships with schools and communities; and leadership opportunities.

The IYLP Objectives, National Aims and Target Group are detailed in the Guidelines. In 2014, IYLP scholarships are intended to provide [REDACTED] one year secondary scholarships to students not supported by the IYLP in 2013, and to sustain eligible students who were supported by the IYLP in 2013 to attend high performing schools and universities;

Guidelines:

NETA IYLP Guidelines 2014

Your commitments

A.2 You make a commitment to:

- a. Advance the Objects of the Act; and
- b. Achieve the Performance Targets.

Note: Refer section 11A of the Act and the Guidelines.

Project

A.3 The project consists of project milestones that are outlined in Annexure 1 of this schedule.

Project Description

1. Additional definitions specific to this schedule:

ABSTUDY means the Aboriginal and Torres Strait Islander Study Grants Scheme. This scheme, administered by Centrelink, provides a means-tested living allowance and other supplementary benefits to eligible Indigenous secondary and tertiary students.

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Administration Costs has the meaning given to it by Item B of this Schedule.

Administration Funding has the meaning given to it by Item B of this Schedule.

Application and Selection Guidelines means the guidelines developed by You under A.6 of this Schedule.

ARIA means the Accessibility/Remoteness Index of Australia published by the Australian Bureau of Statistics from time to time.

Asset means any item of tangible property purchased or created in whole or in part with the IYLP Funding which has a value of over \$1,000 inclusive of GST.

CENTRELINK means The Australian Government agency CENTRELINK, which delivers the ABSTUDY Programme (among other Programmes).

Education Provider – means an IYLP School, or university at which an IYLP Student is studying.

Event Diary means the diary Annexure 1.

First Year of Secondary School means Year 7 in Tasmania, Victoria, New South Wales, the Australian Capital Territory and the Northern Territory and; and Year 8 in Queensland, South Australia and Western Australia.

Geographic Focus Area means North Queensland (Cape York; Yarrabah and Palm Island)

GST has the same meaning as it has in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Home community for a dependent young person, means:

- (a) the permanent home where the dependant young person's parent/s or guardian/s normally reside; or
- (b) if the dependent young person does not normally live with their parent/ or guardian/s, then the place where the dependent young person lived immediately prior to being awarded a scholarship under the IYLP;
- (c) if the dependent young person has moved to attend an IYLP School, and their parent/s or guardian/s have moved to the same place primarily to support the student, the place from which the family moved; or
- (d) if the dependent young person is in state care, the permanent home where the dependant young person resides.

INDIGO means Our contract and financial management system for Indigenous Education Programmes.

IYLP means the Indigenous Youth Leadership Programme.

IYLP Education Provider means an IYLP School, or university that has been endorsed by the Commonwealth to participate in the IYLP and with whom you have entered into an IYLP Education Provider Funding Agreement.

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IYLP Education Provider Funding Agreement means the formal agreement between You and Your IYLP Education Providers, as set out in Item A.8 of this Schedule.

IYLP Funding means the Funding payable to You in accordance with this Schedule.

IYLP Metropolitan Region means an area classified by the ARIA as a Major City of Australia, which is having an Accessibility/Remoteness Index of Australia (ARIA) Index value of 0 or a value less than or equal to 0.2.

IYLP Provincial Region means an area classified by the ARIA as Inner Regional Australia or Outer Regional Australia, which is having an Accessibility/Remoteness Index of Australia (ARIA) Index value of greater than 0.2 to less than or equal to 5.92.

IYLP Remote Region means an area classified by the ARIA as Very Remote Australia or Remote Australia, which is having an Accessibility/Remoteness Index of Australia (ARIA) Index value of greater than 5.92.

IYLP Scholarship Funding has the meaning given to it by Item B.

IYLP Scholarship means either an IYLP Secondary Scholarship or an IYLP Tertiary Scholarship.

IYLP School means a secondary school that has entered into an IYLP Education Provider Funding Agreement with You to become an IYLP Education Provider.

IYLP Secondary Scholarship means IYLP Scholarship Funding used to contribute to the educational costs incurred by an IYLP Student attending an IYLP School.

IYLP Student means a student selected by You in accordance with this Schedule to receive an IYLP Scholarship under the Programme, and who has accepted an IYLP scholarship.

IYLP Student Agreement the formal agreement between You and an IYLP Student, as set out in Item A.7 of this schedule.

IYLP Tertiary Scholarship means IYLP Scholarship Funding used to contribute to the educational costs incurred by an IYLP Student attending a tertiary Education Provider.

IYLP Tertiary Scholarships may be used to contribute to the following costs:

- (a) enrolment and tuition costs;
- (b) other essential educational costs including text books; and
- (c) leadership development.

NAPLAN means the National Assessment Programme – Literacy and Numeracy.

National Student Gatherings National Student Gatherings are events organised by DEEWR, and identified as such in correspondence, to provide leadership and development opportunities for students and support the outcomes of the IYLP.

Negotiated Scholarship Amount means the amount negotiated by You and an IYLP School in accordance with Item A.8 of this Schedule as the *maximum* amount of funds

~~that You will provide to the school to support a particular IYLP Student or class of IYLP Students each semester.~~

Partnership Broker means an entity other than You with whom We have contracted to award and administer scholarships under the IYLP. Within the Guidelines, a reference to a Partnership Broker includes a reference to You.

Remoteness means the classification of a region as IYLP Metropolitan, IYLP Provincial or IYLP Remote.

Scholarship Year Place the unit of measurement for scholarship placements. One Scholarship Year Place equals one student placed on a scholarship in a given year, i.e. If John Smith is given a scholarship for 2013, that is one Scholarship Year Place. If John Smith and Jane Jones are given scholarships in 2013 that is two Scholarship Year Places. If John Smith is given a scholarship for 2013 and 2014, that is two Scholarship Year Places.

Semester 1 Active Student Confirmation means confirmation of the number of IYLP Students who were active in Semester 1.

Student Outcomes Support Funding has the meaning given to it by Item B.5.

Target Group has the meaning given to it by the Guidelines.

Your Forecast Annual Scholarship Entitlement has the meaning set out in Item B.2 of this Schedule.

Your Contracted Number of IYLP Students is the minimum number of scholars you are required to place in scholarships, as per A.6 of this schedule.

Your Actual Scholarship Funding Entitlement has the meaning given to it by clause B.2 in this schedule.

Your Actual Semester 1 Scholarship Funding Entitlement has the meaning given to it by clause B.2

2. Your obligations in delivering the Programme.

(a) You must meet Performance Targets where specified in Annexure 2 to this Project Schedule.

Note: Your and Our obligations under this agreement in relation to the delivery of the Project and relevant dates related to those obligations are summarised in the Event Diary at Annexure 1 to this agreement.

Project Period

A.4 The Project Period commences on the 1 January 2014 and ends on 1 April 2015.

A.5. GENERAL

1. General Obligations

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- a. Your delivery of the IYLP must work towards the achievement of the IYLP Objectives and IYLP National Aims set out in the Guidelines.
- b. You must inform Us of IYLP management issues as they arise and liaise with Us in respect of such issues as We require.
- c. You must ensure that any person that You engage to work with IYLP Students meets the requirements specified in the Guidelines with respect to working with children.

2. Operation of the terms and conditions in relation to this Schedule

Agreement Period

- a. The operation of this Agreement in relation to this Schedule begins on 1 January 2014 and ends on 1 April 2015.

Funding Year(s)

- b. 2014

Amount of Administrative Expenditure

- c. You may expend the Funds identified within Item B of this Schedule as "Administrative Funding" for Administrative Expenditure.

Performance Monitoring Committee

- d. Not applicable.

Other matters to be reported about Other Funds etc.

- e. Funds derived from other sources in support of IYLP Scholarship holders including the source of funds and the amount of funding sourced aggregated over each reporting period.

Any other report(s)

- f. As set out under "Final Report" below.

Any other Performance Report Information

- g. As set out under "Performance Report" below.

Geographic Location Classification

- h. Not applicable.

Ownership of Intellectual Property in Funded Material (which includes reports (including Performance Reports))

- i. No contrary stipulation.

Requirements for acknowledgements

- j. You must comply with the requirements for acknowledgement and publicity specified in the Guidelines in any promotional material and promotional activities undertaken for the IYLP.

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k. Not used.

A.6 Award Of Scholarships

1. You must award and administer a minimum of ^{Section 47G(1)} IYLP Scholarship Year Places (being a minimum of ^{Section 47G(1)} one year IYLP Secondary Scholarships and up to up to ^{Section 47G(1)} one year IYLP Tertiary Scholarships) for the 2014 Funding Year. Tertiary Scholarships must only be awarded to students who are eligible and were in receipt of a scholarship under the IYLP in 2013 in accordance with Item A.6.2.f. Secondary Scholarships must be awarded to eligible students in accordance with Item A.6.2.f.
2. You must award and administer IYLP Scholarships:
 - a. In accordance with the Negotiated Scholarship Amount;
 - b. to a maximum value of ^{Exempt under Section 47G(1)} per IYLP Student for the 2014 Scholarship Year for IYLP Tertiary Scholarships, of which up to ^{Exempt under Section 47G(1)} may be used for leadership development activities; and
 - c. to a maximum value of ^{Exempt under Section 47G(1)} per IYLP Student for the 2014 Scholarship Year for IYLP Secondary Scholarships.
 - d. You must only award IYLP Scholarships for the 2014 Funding Year to students:
 - i. who were in receipt of a scholarship under the IYLP in 2013; or who:
 - ii. are from a Home Community located within Your IYLP Community Geographic Focus Area; and
 - iii. meet the eligibility criteria specified in the IYLP Guidelines.
 - e. In awarding and administering Scholarships for the 2014 Funding Year, to students who were not in receipt of a scholarship under the IYLP in 2013, You must:
 - i. award a minimum of 90 per cent of IYLP Scholarships to students whose Home Community is located within an IYLP Remote Region;
 - ii. award a maximum of 15 per cent of IYLP Scholarships to students whose Home Community is located within an IYLP Provincial Region;
 - iii. award a maximum of 5 per cent of IYLP Scholarships to students whose Home Community is located within an IYLP Metropolitan Region;
 - iv. award ^{Section 47G} IYLP Secondary Scholarships to students in the First Year of Secondary School; and
 - v. award ^{Section 47G} of IYLP Secondary Scholarships to students in Year 11.
 - f. You must:

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- I. develop Application and Selection Guidelines in accordance with the Indigenous Youth Leadership Programme Guide For Partnership Brokers – Selecting Students;
- II. conduct application and selection processes in accordance with Your Application and Selection Guidelines; and
- III. ensure that Your application selection processes for awarding Scholarships are fair, satisfy a high standard of probity and comply with the requirements specified in the Guidelines.

A.7 Obligations To Students, Families And Communities

1. General Obligations

- a. You must promote the IYLP to the Target Group and in accordance with the requirements specified within the Guidelines.
- b. You must comply with clause 12 in respect of acknowledgement and publicity.
- c. In delivering the IYLP You are expected to work with a number of communities in Your Geographic Focus Area to arrange Participant Placements with Education Providers.
- d. You must negotiate the placement and enrolment of IYLP Students with IYLP Education Providers in consultation with the IYLP Education Provider and with due recognition of the IYLP Student's family or significant others' wishes.
- e. You must work constructively with Us and other Partnership Brokers to form a national network to ensure the exchange of students in the IYLP between Partnership Brokers and Education Providers where appropriate.
- f. If a potential or existing IYLP Student chooses to attend or transfer to an education institution that participates in the IYLP but is not one of your IYLP Education Providers, You must refer that student to the Partnership Broker who partners with that education institution.
- g. We may approve a variation to Partnership Brokers' Funding Agreements to enable the transfer of a student if it is agreed by both Partnership Brokers. Any such variation would effectively transfer a scholarship place, and the scholarship funds associated with it, from one Partnership Broker to the other. However, if the Partnership Broker to which the student is being referred is able to place the student without the transfer of a scholarship place, they should do so.
- h. If a Partnership Broker refers a potential IYLP Student to You because that student wishes to attend one of Your Education providers, You must assess that student's eligibility for an IYLP Scholarship in the same way and on the same terms as a potential IYLP Student from Your own Geographic Focus Area.
- i. If a Partnership Broker refers a student to You who is in receipt of a scholarship from that Partnership Broker under the IYLP but wishes to transfer to one of Your Education Providers, You must award an IYLP Scholarship to that student unless you:

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i. are unable to negotiate a place with the Education Provider of the student's choice;

ii. have already awarded the minimum number of IYLP Scholarships required under Item A.6., do not have sufficient IYLP Funding to be able to support the student, and You are unable to negotiate a variation to this Agreement (in consultation with Us) for the transfer of a scholarship place and associated funding from the referring Partnership Broker; or

iii. believe, on reasonable grounds, that the referral is not appropriate and We have provided Our agreement to that assessment.

J. You must notify Us of any proposed transfer of Your IYLP Students to another Partnership Broker.

2. Management of IYLP Students

a. You must manage and administer the placement and enrolment of IYLP Students with IYLP Education Providers in accordance with the requirements specified in the Guidelines.

b. You must ensure that IYLP Students apply for ABSTUDY or other Centrelink entitlements to determine their eligibility for these entitlements, and provide support as required to IYLP Students, their parents/s or significant others, and/or IYLP Education Providers on these matters.

c. You must develop and administer an IYLP Student Agreement that clearly communicates the respective responsibilities of the IYLP Student and You. The IYLP Student Agreement must include:

i. a requirement for each IYLP Student to attend IYLP National Student Gatherings;

ii. You annually reviewing the IYLP Student's eligibility to continue to receive a Scholarship in the IYLP; and

iii. consent from the IYLP Student for their IYLP Education Provider to pass on their academic results including NAPLAN to You and Us.

d. You must identify, negotiate and secure appropriate accommodation for IYLP Students where an IYLP Education Provider does not have on campus or access to boarding facilities to accommodate the IYLP Student attending their school or university.

3. Support IYLP Student Outcomes

a. You must manage orientation and study tours for IYLP Students by developing, facilitating and administering these activities or agreeing to support and/or provide funding for IYLP Education Providers to develop, facilitate and administer these activities.

b. You must initiate an ongoing discussion with IYLP Education Providers regarding IYLP Students' education needs, appropriate Programmes and courses to meet

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~~their learning goals; career pathways; the need to undertake learning assessments and/or academic courses.~~

- c. You must manage social and leadership development for IYLP Students including by:
 - i. developing an individual leadership plan for each IYLP Student that includes personal, academic and career aspirations;
 - ii. reviewing each IYLP Student's individual leadership plan annually, and updating it as appropriate;
 - iii. arranging for practical leadership experience placements which must be formal but may be at the organisational, educational and/or community level; and
 - iv. arranging for an IYLP Student's attendance at the IYLP National Student Gatherings when eligible.
- d. You must manage and arrange quality mentoring activities in accordance with the requirements specified in the Guidelines to support IYLP Students to achieve the career and/or academic goals specified in their Leadership Development Plan including Year 12 attainment or completion of a university degree. You may facilitate and administer mentoring arrangements on behalf of IYLP Students or provide support and/or funding for IYLP Education Providers to administer these activities.
- e. You must provide career planning and information and pathways management to IYLP Students:
 - i. in accordance with the requirements specified in the Guidelines; and
 - ii. that raise awareness among secondary IYLP Students of the application and selection processes relevant to IYLP Tertiary Scholarships when appropriate.
4. **Withdrawal of IYLP Students from the Programme**
 - a. You must manage the withdrawal of any IYLP Student from the IYLP by:
 - i. conducting interviews with: IYLP Students; their IYLP Education Provider; and, where possible, the IYLP Student's family or significant other/s; and any mentor or significant persons involved in the delivery of support services to the student;
 - ii. arranging the return to You of any unspent scholarship, orientation, study tours, practical leadership experiences and family support funds paid to IYLP Education Providers where an IYLP Student withdraws from the course of study and/or school;
 - iii. taking all reasonable measures to ensure the safe return of the withdrawing Student to family or an otherwise agreed location; and
 - iv. reporting the above instances and any other instances where a participant was deemed by You to be in breach of the conditions set out in their IYLP Student Agreement or the Guidelines, to Us through INDIGO.
5. **National Group of IYLP Students**

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- a. You must work with other Partnership Brokers and Us to assist IYLP Students to form a national group of well-educated young Indigenous Australians with effective leadership skills.

6. National Student Gatherings

- a. You must co-operate with Us to facilitate the attendance of any eligible IYLP Student to attend any IYLP National Student Gatherings.
- b. We will provide details of any upcoming IYLP National Student Gatherings and the role of Partnership Brokers and Education Providers at the events to You.
- c. You must ensure IYLP Schools are aware that attendance at IYLP National Student Gatherings is mandatory for eligible IYLP Students under the IYLP Student Agreement.
- d. You may give a written exemption to an eligible IYLP Student waiving the requirement for attendance at a IYLP National Student Gathering following consultation with Us.

7. Families and Communities

- a. You must manage ongoing relationships with IYLP Students' families/significant others and communities by undertaking activities such as:
- I. arranging travel and accommodation for an IYLP Student's parent or significant other to accompany the student when participating on Orientation tours with You or other Education Providers; and
 - II. facilitating an IYLP Student's parent or significant other to attend the:
 - the student's school's Year 12 or university graduation; and
 - the Year 12 National Student Gathering organised by Us.

8. Complaints Handling

- a. You must develop, communicate and implement a complaints handling mechanism for IYLP Students and their families in accordance with the requirements specified within the Guidelines. The complaints handling mechanism may include engaging a third party mediator to resolve conflicts where the complaint is in regards to Your performance as a Partnership Broker and/or Education Provider, provided that We are reserved the right to approve of any third-party who will be engaged before the conflict resolution process is undertaken. Our Youth Leadership and Mobility Team is able to act as a third-party mediator in some cases.
- b. In accordance with the requirements specified within the Guidelines, You must:
- c. communicate details of Our own complaints handling process to all Education Providers, IYLP applicants, IYLP Students and IYLP Students' families; and
- d. follow any reasonable direction that We give to You in accordance with Our own complaints handling process.

A.8. Obligations To Education Providers

1. General Obligations

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- a. In administering the IYLP, You must use Your best endeavours to maintain partnerships with IYLP Education Providers in your Geographic Focus Area.
 - b. You must support Your IYLP Education Providers in accordance with the requirements specified in the Guidelines.
 - c. You must not cease to partner with an IYLP Education Provider or transfer Your partnership with an IYLP Education Provider to another Partnership Broker without Our approval.
2. **Negotiating Scholarship Amounts**
- a. You must negotiate with Your IYLP Schools to agree upon the maximum amount of funding that You will disburse for each secondary IYLP Student or class of secondary IYLP Students attending that IYLP School (the 'Negotiated Scholarship Amount'). Negotiated Scholarship Amounts should be determined by semester. Negotiated Scholarship Amounts for one semester must not exceed 50 per cent of the amount of Scholarships Funding specified under the table in Item B.1. for the 2014 Scholarship Year.
 - b. If You are also the Education Provider for an IYLP School the 'Negotiated Scholarship Amount' is the amount estimated by You as the maximum amount of funds needed to support each IYLP Student at that IYLP School per semester.
 - c. The Negotiated Scholarship Amount must be commensurate with the costs of attending the chosen IYLP School and must not exceed the maximum value for an IYLP Secondary Scholarship specified under the table in Item B.1. Students commencing their scholarship in Semester 2 may not receive support in excess of the Negotiated Scholarship Amount for one Semester in that year. Students completing their scholarship in Semester 1 may not receive support in excess of the Negotiated Scholarship Amount for one Semester in that year.
 - d. When negotiating a Negotiated Scholarship Amount, You must have regard to:
 - i. the additional support that will be provided to the IYLP Student using Student Outcomes Support Funding and Administration Funding;
 - ii. the proportion of a student's boarding fees and tuition costs that their ABSTUDY will cover and Your obligations with respect to the disbursement of IYLP Scholarship Funds specified within Item A.8.5.b;
 - iii. whether education costs are core education costs or optional education costs, as specified in Item B.5;
 - iv. whether the IYLP Student is a boarding or a day student, whether the IYLP School is a fee or non-fee paying school and the extent which the Education Provider, IYLP School or other persons or organisations can provide support to the IYLP Student in the form of additional funding or services; and
 - v. You must notify Us of the Negotiated Scholarship Amount for each IYLP Student by 1 April 2014 and 1 October 2014 and provide reasons as to how the Negotiated Scholarship Amounts have been determined.

3. **Cultural Integrity Principles**

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- a. You must support and encourage IYLP Education Providers to adopt cultural integrity principles within their institutions as a matter of best practice, with the aim of ensuring that all services are provided in a culturally inclusive manner, which respects the cultural integrity of the IYLP and IYLP Students.
 - b. You must support IYLP Education Providers, to achieve or enhance:
 - i. success in supplementing high academic achievement in Indigenous students;
 - ii. a continuing expectation of high academic achievement for Indigenous students;
 - iii. a comprehensive and culturally appropriate teaching and pastoral care Programme for Indigenous students;
 - iv. an appropriate Programme of support for academic achievement (numeracy, literacy and study) for Indigenous students;
 - v. existing school-based Programmes to meet the needs of Indigenous students; and
 - vi. provision of opportunities to enhance student leadership skills.
 - c. If You are also an Education Provider, You must undertake to adopt cultural integrity principles within Your institution, as a matter of best practice.
4. IYLP Education Provider Funding Agreement
- a. You must complete and execute an IYLP Education Provider Funding Agreement with each of Your partner education providers by 1 April 2014.
 - b. Each IYLP Education Provider Funding Agreement must:
 - i. specify the Negotiated Scholarship Amount that You will provide to students at that education institution, as negotiated with the IYLP Education Provider, in conjunction with ABSTUDY and other payments;
 - ii. acknowledge that attendance at IYLP National Student Gatherings by IYLP Students is mandatory, and require the IYLP Education Provider to facilitate IYLP Students' attendance;
 - iii. require IYLP Education Providers to seek additional funding for IYLP Students;
 - iv. ensure that if an IYLP Education Provider wishes to arrange for additional non-government funding to top up IYLP Scholarships, they must inform You to enable You to report the details to Us; and
 - v. establish feedback and reporting processes with the Education Provider in order for You to report to Us on the progress of each IYLP student.
 - vi. require the Education Provider to ensure IYLP students give authority to the Education Provider to pass their results including NAPLAN to You for inclusion in INDIGO.

vii. Include provision for:

- the Education Provider to acquit and return any unspent funds to You by 31 December 2014; and
- the termination of the agreement with the Education Provider where You deem the school no longer meets the high performing school criteria, or no longer adequately supports Aboriginal and Torres Strait Islander students in their study and leadership aspiration, or does not meet the conditions outline in the Agreement with You.

viii. set out the roles and responsibilities of You and the Education Provider in working together to provide educational and leadership opportunities to Indigenous students through the IYLP;

- b. You must, upon Our request, provide Us with a copy of any agreement executed.

5. Dispersal and Acquittal of Scholarship Funds

- a. You must make arrangements, as part of the IYLP Scholarship Funding Agreement with IYLP Education Providers, for:

- i. IYLP Secondary Scholarship payments to be disbursed to each IYLP Schools on an annual or semester basis;
- ii. IYLP Tertiary Scholarship payments to be disbursed to each tertiary IYLP Education Provider on a semester basis; and
- iii. each IYLP Education Provider to acquit and return any unspent funds to You by 31 December 2014.

- b. You must manage the dispersal of scholarship payments for all IYLP Students in accordance with the requirements specified in the Guidelines, and the following requirements:

- i. In the first instance You must use, or facilitate Education Providers to use, ABSTUDY, Youth Allowance or Assistance for Isolated Children to meet education costs associated with the IYLP Student's placement at an Education Provider;
- ii. where ABSTUDY, Youth Allowance or Assistance for Isolated Children allowance do not meet the education costs associated with the IYLP Student's placement at the Education Provider, You must use, or facilitate Education Providers to use, IYLP Scholarship Funding to meet education costs; and
- iii. where ABSTUDY, Youth Allowance or Assistance for Isolated Children allowance together with IYLP Scholarship Funding is not sufficient to cover the education costs associated with the IYLP Student's placement at the Education Provider, You must negotiate additional support from any industry partners, philanthropic organisations, individual, schools and the student's family to meet these costs.

- c. You must seek a parental contribution to an IYLP Student's education costs when the IYLP Student meets the eligibility criteria definition of disadvantage

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within the Guidelines through a means other than low socioeconomic status. This contribution should be a minimum of 10 per cent of the Negotiated Scholarship Amount.

- d. You may seek a parental contribution of an amount You think appropriate in other situations.
- e. You must provide Us with Information on the nature, scope and type of funds secured to top up individual IYLP Student's scholarship as part of performance reports described at Item 1 within this Schedule.

6. Schools and other funding sources

- a. IYLP Education Providers may seek funding from a variety of sources to assist students with educational costs such as fees, additional tuition and boarding costs. An IYLP Education Provider is not required to choose between IYLP and any other private, State or Commonwealth funded scholarship Programme and may participate in several scholarship Programmes at the same time.
- b. You must not directly or indirectly require or infer that:
 - i. an IYLP Education Provider may not participate in both IYLP and another funding Programme at the same time;
 - ii. an IYLP Education Provider is required to seek consent or approval from You to receive funding from other government or non-government sources for students not on IYLP scholarships; or
 - iii. an IYLP Education Provider cannot seek additional funding for IYLP Students for example as a "top-up" to help meet fees, tuition, boarding and other educational costs that ABSTUDY and the IYLP scholarship funding cannot cover.

7. Scholarships where the Partnership Broker is also the Education Provider

- a. If You are an Education Provider, You must:
 - i. complete an IYLP Education Provider Funding Agreement by 1 April 2014 using the template provided to You by Us; and
 - ii. comply with the obligations imposed on each of a Partnership Broker and an Education Provider within the IYLP Education Provider Funding Agreement.

A.9

Obligations To Partner Support

- a. You must promote the IYLP within Indigenous communities in Your IYLP Geographic Focus Area. This may include visits to communities.
- b. You must encourage families of IYLP Students to support the IYLP Student, both financially and emotionally, to the greatest extent possible.
- c. You must encourage philanthropic, corporate and private entities to provide financial and/or other support for the IYLP.
- d. You must provide Us with Information on the nature, scope and type of philanthropic, corporate and private support that is secured as part of performance reports described at item 1 within this Schedule.

B. Funding and Payment

(see clause 3)

B.1. Funding Under This Schedule

- a. The IYLP Funding payable by Us under this Schedule is up to \$1,917,006.22 inclusive of GST. The IYLP Funding comprises of the Scholarships Funding, Student Outcome Supports Funding and Administration Funding specified in the table in Item B.1.g.
- b. The IYLP Funding includes GST of \$174,273.29.
- c. We will pay the IYLP Funding to You at the times and in the manner set out in the Event Diary.
- d. Under the IYLP, We will make IYLP Scholarship payments to You to make arrangements:
 - i. with your partner IYLP Schools for Secondary Scholarship payments to be disbursed to them on behalf of IYLP Students on an annual or semester basis;
 - ii. with IYLP Students and families to manage other scholarship funds not provided to IYLP schools for fees or annual/semester education costs;
 - iii. with IYLP Students and/or universities for Tertiary Scholarship payments to be disbursed on a semester basis to IYLP Students; and
 - iv. with IYLP Students in receipt of an IYLP Tertiary Scholarship to manage the leadership development element of the their scholarship funds.
- e. Under the IYLP, We will make Student Outcomes Support payments to You to support positive outcomes for IYLP Students.
- f. Under the IYLP, We will make Administrative Funding payments to You to assist You with the Administrative Costs Incurred in administering IYLP Scholarships and Student Outcomes Support Funding.
- g. You must expend the IYLP Funds in column 2 only for the purposes specified in column 1 of the table below, in accordance with this Schedule and the Guidelines.

IYLP Funding Items	Total Allocation in 2014 (Inc GST)
a) Scholarships Funding Purpose: may be used to contribute to the educational costs specified at Item B.5. of this Schedule or as otherwise specified in the Guidelines.	Up to \$1,597,505.18
b) Student Outcomes Support Funding	Up to \$159,750.52

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Purpose: may be used to contribute towards costs associated with supporting student outcomes as specified in Items B.5 of this Schedule or as otherwise specified the Guidelines.	
c) Administration Funding Purpose: must only be used to contribute towards Administration Costs as specified in Item B.5. of this Schedule.	Up to \$159,750.52
Total (GST Inclusive)	Up to \$1,917,006.22

B.2

Funding Calculations

- a. Your Forecast Annual Scholarship Funding Entitlement that is calculated as follows:

Number of IYLP Students (secondary and tertiary) that You agree to place in IYLP Scholarships per semester as set out in [Item A.6 of this schedule] ('Your Contracted Number of IYLP Students')

multiplied by

The per-Scholarship amount for the relevant type of student, as set out in Item A.6. of this Schedule, currently:

- Exempt under Section 47G(1) for secondary students; and
- Exempt under Section 47G(1) for tertiary students.

- b. We will pay this amount to You in the instalments set out in the Event Diary at Annexure 1.

- c. Your Actual Scholarship Funding Entitlement for a year is calculated as follows:

Actual number of IYLP Students (secondary and tertiary) that were active participants in the programme in between January 1 2014 and 30 May 2014, as indicated by your records in INDIGO

multiplied by

The per-scholarship amount for the relevant type of student per semester, currently:

- Exempt under Section 47G(1) for secondary students; and
- Exempt under Section 47G(1) for tertiary students.

('Your Actual Semester 1 Funding Entitlement')

plus

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Actual number of IYLP Students (secondary and tertiary) that were active participants in the programme in between 1 July 2014 and 30 November 2014, as indicated by your records in INDIGO

multiplied by

The per-scholarship amount for the relevant type of student per semester, currently:

- Exempt under Section 47G(1) for secondary students; and
- Exempt under Section 47G(1) for tertiary students.

B.3. Recovery of Scholarship Funding paid in excess of Your Actual Scholarship Funding Entitlement

- a. Where Your Actual Scholarship Funding Entitlement for a year is less than the total Scholarship Funds We have paid to You for that year, We may recover the difference from You as a debt due to Us, including by:
- I. requiring You to repay to Us the difference; or
 - II. reducing other instalments of Funding under this Agreement.

B.4. Unexpended Funds

- a. If You do not fully expend the IYLP Funds then, at Our sole discretion, We may do one or more of the following:
- I. authorise You to award more scholarships to eligible students; or
 - II. reduce any Funding payable to You under this Agreement by an amount equal to or less than the unexpended amount; or
 - III. require You to repay the unexpended amount to Us.
- b. We will issue a Recipient Created Tax Invoice in respect of the Taxable Supplies made to Us under this Agreement or where no taxable supply is made We will issue an Invoice to You.

B.5. Conditions relating to IYLP Funds

- a. Secondary Scholarship payments may only be used to cover expenditure on:
- I. core items:
 - School fees and tuition;
 - Boarding and accommodation costs; and
 - Practical leadership experiences (can also be covered from Student Outcome Support funds).
 - II. optional items:
 - Uniforms, textbooks, computer and internet costs, stationary;
 - Orientation, study tours, sporting and cultural participation and school excursions;
 - Tutors, mentors counsellor; and

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- Allowance for personal expenses (e.g. health and hygiene).

b. Tertiary Scholarship payments may be used to cover expenditure on enrolment and tuition costs, text books, other essential educational costs and leadership development.

c. Student Outcomes Support Funding may be used to cover, but is not limited to:

- orientation, study tours, excursions;
- textbooks, IT requirements;
- practical leadership experiences;
- tutors, mentors, counsellors;
- family and community support;
- student personal items (health and hygiene);
- Programme staff costs (e.g. salaries & on-costs, travel); and
- IYLP promotional and communication costs (e.g. printing, multimedia items such as DVDs, Skype)

d. These Administration Funds may only be used to meet administration costs. Administration costs may include:

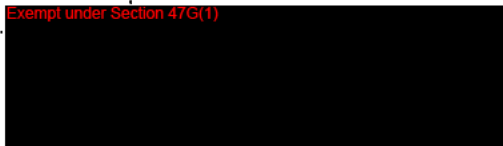
- administration staff costs (salaries & on-costs);
- recruitment and training;
- IT requirement (financial and performance reporting and acquittals)
- property and utility expenses office communication, stationery, printing;
- accounting and auditing; and
- Fees to partners schools to assist with acquittal and reporting processes.

B.6

Payment

- 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:

Exempt under Section 47G(1)



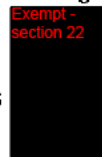
B.7

Handling Funds

- You must ensure that each Funding Element is:
 - held and identified in a separate account in Your name, and which You solely control, with a bank or credit union carrying on banking business in Australia;
 or

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ii. managed through an accounting system that is recognised by Your auditor (being the person specified in clause 8.2.4 or, where you are audited by any Auditor-General, that Auditor-General) as suitable for readily identifying the receipt and expenditure of the Funds; and

iii. on request from Us, provide Us and any bank or credit union where Funds are held in an account with an authority for Us to obtain all details relating to any use of the account.

B.8 Administrative Expenditure

Not applicable.

C. Budget

(see clause 3.3)

Not applicable

D. Project Officer

(see clause 1.1.1)

D.1 The Project Officer is the person for the time-being holding, occupying or performing the duties of Director, currently ^{Section 22} available on telephone number ^{Section 22} or via the address and facsimile number set out in Item P of this Project Schedule.

E. Subcontractors

(see clause 5.1.3)

Not applicable.

F. Specified Personnel

(see clause 5.2)

Not applicable

G. Assets

(see clause 6)

G.1 You must not use the IYLP Funding to purchase or create any Asset without Our prior written approval. Our approval may be subject to conditions.

G.2 Unless otherwise stated in the approval, any approval given by Us in accordance with Item Clause 6 is subject to a condition that You must deal with the Asset in accordance with any written direction that We give to You. The written direction:

a. must be given by Us:

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- I. during the period commencing three months prior to the end of the Agreement Period and ending three months post the end of the Agreement Period; or
- II. within six months of earlier expiry or termination of the Agreement or this Schedule; and
- b. may, at Our sole discretion, include a direction to transfer ownership of the Asset to Us or a third party, or to sell the Asset and apply to proceeds of sale in accordance with the direction.
- G.3.** During the Agreement Period, You must maintain an Asset Register for all Items approved by Us and purchased for the purpose of the IYLP.
- G.4.** During the Agreement Period You must:
- a. only use Assets in accordance with this Agreement and for the purposes of the IYLP;
 - b. not encumber or dispose of any Asset 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; and
 - g. be fully responsible for, and bear all risks relating to, the use or disposal of all Assets.
- G.5. Ownership of Assets by the Commonwealth**
- a. Assets are owned by Us.
- G.6. Assets Register**
- a. You must maintain an Asset register in accordance with the Assets register set out in the Asset register template that We will provide to You.

H. Liaison, Monitoring and Review

(see clause 7.2 and 7.3)

H.1. Review and final evaluation of the Project and the Programme

- a. You must take part in a review and final evaluation of the Project and the Programme to which it relates.

H.2. Performance monitoring committee

- a. Not applicable.

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I. Reporting

(see clause 8)

Performance reports

- 1.1** You must record Information relating to IYLP Students and Your performance under this Agreement in INDIGO, as specified within INDIGO.
- 1.2** You must ensure that all Information contained in INDIGO in respect of Your IYLP Students and performance under this Agreement is up-to-date and accurate.
- 1.3** You acknowledge that Your obligations under Clause 8 forms essential terms of this Agreement and any non-compliance with these terms and that We may immediately terminate this Agreement by giving notice to You in writing if You fail to comply with these items.
- 1.4** Using the Information that You have input in INDIGO, You must generate and submit a 2014 Performance Report using INDIGO. INDIGO will generate a Performance Report which provides analysis of Your performance in relation to active participation and achievement of Performance Targets (on the dates specified in the Event Diary).
- 1.5** The information that You are required to provide under Clause 8 and the Performance Report will include Your evaluation of the implementation of the Project in 2014 that describes:
 - a. the extent to which Your delivery of the IYLP met the IYLP Objectives;
 - b. what activities You implemented that resulted in increased IYLP Scholarship applications;
 - c. what activities You implemented that resulted in increased participation by the families of IYLP Students in the IYLP including financial contributions for their children;
 - d. what activities You implemented that resulted in Indigenous community participation in education decision making processes;
 - e. what activities You implemented that resulted in greater effectiveness of Yourself or partner Education Providers in delivering quality outcomes for Indigenous students; and
 - f. Your implementation of the IYLP and reasons why Your delivery of the IYLP was successful (or not) and what You would recommend be done differently in future.
- 1.6** You must provide any evidence that We reasonably require to confirm the accuracy of the quantitative data contained within INDIGO in respect of Your IYLP Students and Your performance under this Agreement.
- 1.7** Performance Outcomes and Ongoing Funding Agreements
- 1.8** We may consider Your contribution to the IYLP national targets and performance under this agreement in the allocation of future IYLP business. If You are consistently meeting the performance targets, and if ongoing appropriation is made for the IYLP, and if you

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have been deemed to be compliant with the requirements in this Funding Agreement, You may be offered a Funding Agreement at the end of 2014 for the following funding period.

- I.9 If You do not meet the performance targets for the majority of the Performance Indicators, or perform poorly against one or more of the Performance Indicators, You may be required to compete for ongoing funding through a future business allocation process. We will provide You with further details of the process for the allocation of ongoing business as it is developed.

Final Report

- I.10 You must provide a final report on the date specified within the Event Diary which includes a summary of the key outcomes for IYLP Students, community, an assessment of the overall benefit of the project and any other information reasonably required by Us and notified to You no later than one month prior to the due date for the final report specified within the Event Diary.
- I.11 You must provide Us with a Performance Report as stipulated in Annexure 1.

Financial Reports

- I.12 You must provide Us with the financial reports referred to at clause 8 and it must include all payments that you have received for the specified period.

Certificate

- I.13 You must provide Us with certificates in accordance with clause 8.2.1 of the agreement.

J. Commonwealth Material

(see clause 9.1)

- J.1 Not applicable

K. Existing Material

(see 1.1.1 and 9.2.2)

- K.1 Not applicable

L. Moral Rights

(see clause 9.3)

- L.1 Not applicable

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M. Confidential Information

(see clause 10.1.1)

N. Privacy Conditions, Restrictions or Guidelines

(see clause 11.2.1c)

N.1 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.

N.2 If the Project involves the collection, use or disclosure of personal information, then 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 36F 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:
 - i. the Information Privacy Principles until midnight on 11 March 2014; and
 - ii. the Australian Privacy Principles from 12 March 2014;
- e. to comply with policy guidelines laid down by 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
- h. You must immediately notify the Project Officer if You become aware:
 - i. of a breach of Your obligations under clause 11;
 - ii. that a disclosure of Personal Information may be required by law; or

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III. 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 that will apply from 12 March 2014 is available at <http://www.oaic.gov.au/>

O. Acknowledgement and Publicity

(see clause 12)

Manner of acknowledgement

- O.1** 'This initiative was funded by the Commonwealth Department of the Prime Minister and Cabinet'

Requirements for advertisements and other public relations matters

Text acknowledgement

- O.2** IYLP providers must use the Australian Government Branding and text to acknowledge Government support where possible.

- O.3** Where there is limited space or at the foot of a media release or radio announcement IYLP providers may use only text acknowledgement:

'The (insert name of organisation) is funded by the Commonwealth Department of the Prime Minister and Cabinet to deliver the Indigenous Youth Leadership Programme'.

Australian Government Branding

- O.4** Where possible the IYLP provider should use the Australian Government Branding and text to acknowledge the Government support.

- O.5** When there is insufficient space and/or there is a need to quickly or visually acknowledge the Australian Government, the 'Australian Government' brand can be used to acknowledge Commonwealth support without accompanying text.

Reproduction Rules

- O.6** In applying the Australian Government brand providers must follow these general principles:

- the placement of the coat of arms must not misrepresent a provider's organisation or its staff as part of the Commonwealth.
- the branding must be used as supplied: not skewed, rotated, changed, rearranged, redrawn, or separated into components.
- the coat of arms and Government or Department branding must be reproduced in one colour or reversed to white with good background/foreground contrast.
- it is preferred that the coat of arms appear at a minimum size of 20 mm from the flick under the emu to the end of the kangaroo's tail.

- O.7** IYLP providers may wish to hold a project launch to inform the host community about the IYLP. IYLP providers determine the format and style appropriate for their location.

- O.8** If there is a launch, due recognition that IYLP is "an Australian Government Aboriginal and Torres Strait Islander Partnerships Initiative, funded through the Department of the Prime Minister and Cabinet", must be provided.

- O.9** IYLP providers may arrange media coverage for the event.

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- O.10 IYLP providers may seek representation by the Minister for project launches. Timely written invitations to the Minister must be provided prior to the launch.

P. **Our Address for Notices**

(see clause 17.1.1a)

Name	Irrelevant material - section 22
Position	Director, Indigenous Youth Leadership and Mobility
Physical address	50 Marcus Clarke St Canberra, ACT 2601
Postal address	GPO Box 9880 Canberra ACT 2601
Email	Irrelevant material - section 22
Facsimile	(02) 6123 6087

Q. **Your Address for Notices**

(see clause 17.1.1)

Name	Ms Fiona Jose
Position	Chief Executive Officer
Physical address	3/139 Grafton Street Calms QLD 4870
Postal address	PO Box 3099 Calms QLD 4870
Email	Exempt - section 47F
Facsimile	07 4046-0601

R. **Insurance**

(see clause 20.2.1a)

- R.1 Not applicable

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section 22

S. Compliance with Laws and Policies

(See clause 20.10.1)

Compliance with Laws

S.1 (See clause 20.10.1)

Compliance with policies

S.2 (See clause 20.10.1)

Working with Children

S.3 (See clause 20.10.1)

Cybersafety

S.4 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.5 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.

S.6 You must take Reasonable Steps to protect Your Clients' cybersafety.

S.7 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.

S.8 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.

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ANNEXURE 1 – EVENT DIARY

- A.1** The list below sets out the IYLP Funding which You will receive and the reporting and other requirements with which You must comply under this Agreement Schedule.
- A.2** Payments will be made within 28 days of due date listed if You have completed to Our satisfaction all required reports and actions which are listed as falling due prior to that payment. The first payment under this Agreement Schedule will be made within 28 days of executing this Funding Agreement, or on the scheduled date, whichever occurs last.

EVENT DIARY

Due Date	Description	Payment Value / Reporting Period (Inc GST)
10 January 2014	Payment 1 of Your Forecast Annual Scholarship Funding Entitlement at \$1,597,505.18(Inc GST) <i>multiplied by</i> 56.1%	\$896,200.41
10 January 2014	Payment 2 is comprised of 50% of entitlements for 2014 Student Outcomes Support funds at \$159,750.52(Inc GST)	\$79,875.26
10 January 2014	Payment 3 is 100% of entitlements for 2014 Administration funding at \$159,750.52 (Inc GST)	\$159,750.52
1 April 2014	Negotiated Scholarship Amount, and associated document, for 2014 to be provided to Us.	
15 June 2014	Semester 1 Active Student Confirmation to be provided to Us.	
10 July 2014	Payment 4 Is Your Forecast Annual Scholarship Funding Entitlement <i>minus</i> Payment 1 <i>minus</i>	Up to \$701,304.78

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	The difference between 50% of your Your Forecast Annual Scholarship Funding Entitlement and Your Actual Semester 1 Scholarship Funding Entitlement.	
10 July 2014	Payment 5 is comprised of 50% of entitlements for 2014 Student Outcomes Support funds at \$159,750.52 (Inc GST)	\$79,875.26
1 October 2014	Negotiated Scholarship Amounts, and associated document, for 2014 to be provided to Us.	
30 Jan 2015	2014 Performance Report No. 1 for the period 1 January to 31 December 2014	1 January to 31 December 2014
31 Mar 2015	Audited Financial Acquitall Report for the period 1 January to 31 December 2014	1 January to 31 December 2014

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ANNEXURE 2 – PERFORMANCE INDICATORS AND PERFORMANCE TARGETS

Performance Indicators and Targets

Performance Indicators and Targets will be calculated based on the information You input in INDIGO which is why You must ensure that all information contained in INDIGO is up to date and accurate at all times. The data entered into INDIGO will inform Your contribution to the IYLP national targets of:

- a. $\geq 60\%$ of number of Indigenous Youth who are from remote and very remote zones (ARIA Geographic Locations) in IYLP;
- b. $> 30\%$ of number of Indigenous Youth who are from provincial zones (ARIA Geographic Locations) in IYLP;
- c. $> 10\%$ of number of Indigenous Youth who are from metropolitan zones (ARIA Geographic Locations) in IYLP;
- d. $< 10\%$ of number of Indigenous Youth from remote (remote, very remote); provincial; and/or metropolitan zones (ARIA Geographic Locations), in IYLP since 2009 and who have left the Programme before attaining Year 12 and/or university degree;
- e. $\geq 90\%$ of number of Indigenous Youth from remote (remote, very remote); provincial; and/or metropolitan zones (ARIA Geographic Locations), who have attained Year 12 and/or a university degree.

This agreement is made on

23 of December 2013

Signatures

SIGNED for and on behalf of the
Commonwealth of Australia as
represented by the Department of the
Prime Minister and Cabinet by:

Ngairne Hosking

Exempt - section 22

Signature

In the presence of:

Irrelevant material - section 22

Exempt - section 22

Signature of witness

SIGNED for and on behalf of

Cape York Institute for Policy and
Leadership (ABN 39 153 770 346)

In accordance with the requirements
of section 127 of the Corporations Act
2001 (Cth) by:

FIONA JOSE, CEO

Name and Position

Exempt - section 22

In the presence of:

TRACEY BURRILL

Name of witness

Exempt - section 22

Signature of witness

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section 22

Section 22

Assistant
Advisor
Youth
Leadership &
Mobility
Team

To: **Section 22** Senior Advisor, Youth Leadership and Mobility Team, Department of the Prime Minister and Cabinet.

Recommendation(s) - that you:

1. Agree to the data amendment in INDIGO Production

Section 22

 Agreed/Not Agreed

Date: 21/02/2014

Comments:

Key Points:

1. This minute is to seek your approval to amend the INDIGO production acquittal for Cape York Institute (CYI) in 2011 and 2012.
2. On 20 January the INDIGO help desk provided a list of outstanding recovery events which needed to be finalised.
3. The list identified that CYI owed the Department \$19,957.69 in 2012. Upon further investigation by the team there was a data error found in the 2011 IYLP Acquittal for the Institute and that no funds were owed to the Department.
4. An amount of funds was entered into the wrong data field, creating an error in the 2012 acquittal which then resulted in a Requested Recovery of \$19,957.69 from the Institute.
5. The data error was fixed in INDIGO training to ensure the acquittal was accurate before following up all funds which needed to be recovered.
6. Amending this error in INDIGO training showed no funds are owed to the Department.
7. The data error will need to be adjusted in the INDIGO production environment by the IYLP team.

Section 22

Assistant Advisor
Youth Leadership and Mobility
21 February 2014

Policy Officer: **Section 22**
Phone no:
Consultation: N/A

UNCLASSIFIED