

## **PART A**

# **DRAFT CONTRACT IN RELATION TO THE PROVISION OF SERVICES FOR NAPLAN NATIONAL REPORT 2021**

**RFT 21-05**

Australian Curriculum, Assessment and Reporting Authority  
ABN 54 735 928 084

**^Party 2 Name^**

**^Party 2 ABN^ ^Party 2 ACN^**

## CONTRACTOR AGREEMENT

**THIS AGREEMENT** is made on the \_\_\_\_\_ day of \_\_\_\_\_ 2021

### BETWEEN

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

### AND

**INSERT NAME OF CONTRACTOR (ABN xxxxxxxx)**  
("Contractor")

### BACKGROUND

A The Australian Curriculum, Assessment and Reporting Authority (ACARA) is responsible for the development of a rigorous, world class national curriculum from Foundation to Year 12 in the learning areas of English, Mathematics, Science, History, Geography, Languages and the Arts. Information for the Foundation to Year 10 Australian Curriculum is available online at: [www.australiancurriculum.edu.au](http://www.australiancurriculum.edu.au). ACARA is committed to promoting excellence and equity to enable all young Australians to become confident and creative individuals, successful lifelong learners and active and informed members of the community, as defined in the [Alice Springs \(Mparntwe\) Education Declaration](#).

To complement the development of a national curriculum, ACARA is also responsible for developing and administering a national assessment program aligned to the national curriculum that measures students' progress, and the provision of information, resources, support and guidance to the teaching profession.

ACARA is also charged with the collection, management, and analysis of data on a national scale that relates to broader achievements in student assessment, resource allocation, and accountability and reporting on school performance.

ACARA requires a suitably qualified and experienced Contractor to provide NAPLAN 2023 item development services (Reading, Numeracy, Conventions of Language), detailed in the Project Brief (Project).

B ACARA wishes to engage the Contractor to perform the Project and the Contractor has agreed to perform the Project in accordance with the terms and conditions of this Agreement.

## **OPERATIVE PROVISIONS**

### **1. INTERPRETATION**

In this Agreement unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

- (a) commits an act of bankruptcy;
- (b) is the subject of an application for winding up;
- (c) calls a meeting of its creditors;
- (d) has a receiver appointed over all or a substantial part of its assets;
- (e) passes a resolution for its winding up;
- (f) has judgment entered against it for any cause; or

(g) compromises with its creditors;

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

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

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

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

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

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

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

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

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

**“Services”** means the services described in the Schedule;

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

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

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

**“ACARA”** has the meaning given to it in paragraph A of the Background; and

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

## 2. ENGAGEMENT

- 2.1 The Contractor agrees to perform the Project for ACARA from the Commencement Date in accordance with the Project Brief, the terms of the Special Conditions Schedule (if any) and on the terms and conditions set out in this Agreement.
- 2.2 The Contractor must ensure that:
- (a) the Project is performed, and all materials and data requested by ACARA pursuant to this Agreement are prepared diligently, competently, with care and skill and in a proper and professional manner and in accordance with the terms of this Agreement;
  - (b) the Project is performed in accordance with relevant best practice;
  - (c) the Contractor performs the Project in compliance with all Local Laws;
  - (d) when using ACARA's premises or facilities, the Contractor complies with all reasonable directions and ACARA's procedures relating to occupational health and safety, equal opportunity and harassment, information technology and security in effect at those premises or in regard to those facilities, as notified by ACARA;
  - (e) the Contractor keeps adequate records of work performed under this Agreement and, if requested to do so, immediately provides ACARA with copies of those records and of all correspondence or other material arising from or relating to the performance of the Project; and
  - (f) the Project is completed by the Completion Date.
- 2.3 The Contractor acknowledges that ACARA has entered into this Agreement relying on the skill, care, expertise, experience and ability of the Contractor to perform the Project.
- 2.4 To the extent that the Project has commenced or been completed prior to the date of execution of this Agreement, the Project will be deemed to have been performed subject to the terms of this Agreement.

### **3. NATURE OF RELATIONSHIP**

- 3.1 The Contractor is engaged as an independent Contractor. Nothing in this Agreement constitutes the Contractor, an employee, agent, partner or joint-venturer of ACARA.
- 3.2 The Contractor has no authority to incur, and must not incur, any obligation on behalf of ACARA except with the express written instruction of ACARA.

### **4. NON-SOLICITATION**

- 4.1 The Contractor must not solicit or entice away (or attempt to do so) any employee of ACARA, or engage any such person as a Contractor, employee or in any other capacity.

## **5. RELATIONSHIP WITH PROJECT MANAGER**

- 5.1 The Contractor must perform the Project to the satisfaction of the Project Manager.
- 5.2 During the performance of the Project, the Contractor agrees to regularly liaise with the Project Manager and comply with any reasonable request made by the Project Manager.

## **6. COMMUNICATIONS**

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

## **7. PAYMENT**

- 7.1 In consideration for the provision of the Services, ACARA will pay the Contractor the Fee in the instalments detailed in the Schedule. Subject to clause 7.5, the Fee is inclusive of all costs, taxes, levies and charges that will be incurred by the Contractor in the provision of the Services and is not subject to any adjustment for any reason (including currency fluctuations) unless expressly provided for in the Agreement or otherwise agreed by the parties.
- 7.2 Subject to clause 7.3, ACARA will pay the Contractor within 14 days of the end of the month it receives from the Contractor an invoice for payment provided the timing and amount of such invoice is in accordance with the payment details described in the Schedule.
- 7.3 ACARA will be entitled, without derogating from any other right it may have, to defer payment until the Contractor has completed the component of the Project relevant to the submitted invoice to the satisfaction of ACARA.
- 7.4 The Contractor must pay all government-imposed taxes, charges, fees and other amounts due in respect of:
  - (a) this Agreement; or
  - (b) any payment to be made by ACARA to the Contractor under this Agreement.
- 7.5 If this Agreement or any consideration given under it is subject to GST in relation to any supply made under this Agreement, the parties agree that the amount payable for such supply by any party will be adjusted by the amount of the GST. Each party agrees to do all things, including providing all invoices or other documentation in such form and detail that may be necessary to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in relation to any GST payable under this Agreement or in respect of any supply under this Agreement.
- 7.6 The Contractor authorises ACARA to deduct from any payment made by ACARA to the Contractor any amount that ACARA is required or authorised by law to deduct (including without limitation, withholding 46.5% of the amount claimed under an invoice that does not specify an Australian Business Number in respect of the

Contractor). Any deduction made in accordance with this clause 7 will be deemed to be a payment to the Contractor for the purposes of calculating the discharge of ACARA's obligations under this Agreement.

## **8. PROPERTY IN MATERIALS AND CONTRACTOR IDENTIFICATIONS**

- 8.1 All materials and information made available by ACARA to the Contractor remains the property of ACARA.
- 8.2 The Contractor must not use ACARA's trademarks or other identifications without ACARA's prior written consent.

## **9. CONFIDENTIAL INFORMATION**

- 9.1 The Contractor must not, unless ACARA has first agreed in writing:
- (a) disclose to anyone else, or
  - (b) use for a purpose other than the performance of the Project,
- any of the Confidential Information.
- 9.2 The Contractor may make copies of written or computer-stored materials incorporating Confidential Information only if those copies are necessary for the purpose of performing the Project and must:
- (a) return to ACARA all Confidential Information (including any copies made by it); and
  - (b) permanently delete any Confidential Information stored by it in a computer or electronic retrieval system so that it is incapable of retrieval,
- upon the expiration or earlier termination of this Agreement and provide written notification to ACARA that these obligations have been complied with.
- 9.3 The Contractor must notify ACARA immediately if it becomes aware of, or suspects, any disclosure, use or copying of Confidential Information that is not authorised by this Agreement and must take all steps reasonably required by ACARA to stop that unauthorised disclosure, use or copying.
- 9.4 Clause 9.1 does not affect:
- (a) disclosure of information, documents and material available publicly otherwise than because the persons disclosing them contravened this clause 9; or
  - (b) disclosures required by law.
- 9.5 The Contractor acknowledges and accepts that monetary damages would be an insufficient remedy for breach of this clause and that in addition to any other remedy

available, ACARA is entitled to injunctive relief to prevent a breach of this clause and to compel specific performance of this clause.

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

## **10. INTELLECTUAL PROPERTY, MORAL RIGHTS AND PROJECT RESULTS**

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

10.2 The Contractor acknowledges and agrees that:

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

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

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

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

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

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

10.5 To the extent permitted by applicable laws and for the benefit of ACARA, the Contractor consents to the use by ACARA and any other party authorised by ACARA of the Project Results for the Specified Acts even if the use would be an infringement of the Contractor's Moral Rights.

10.6 In clause 10.5, the Specified Acts are:



- (a) failure to identify the authorship of any Project Results, or any content of the Project Results;
- (b) materially altering the content, format, colours, layout or style of the whole, or any part of, the Project Results;
- (c) reproducing, communicating, adapting, publishing or exhibiting the whole or any part of, the Project Results without attributing authorship; and
- (d) adding any additional content or information to the whole, or any part of, the Project Results.

10.7 The Contractor agrees that it will not require any person or organisation under clause 10.3.1 of this Agreement to make any payment to any copyright collecting society or other similar organisation for any copying or any other uses of the Contractor Intellectual Property that are permitted under clause 10.3.1.

10.8 The Contractor warrants that:

- (a) it has all necessary right, title, permission or authority to grant the licence granted in clause 10.3.1 (including without limitation all necessary Intellectual Property Rights);
- (b) it has obtained all valid consents from all creators of works or other material included in the Contractor Intellectual Property so that the use of the Contractor Intellectual Property by ACARA, or any party authorised by ACARA, for the Specified Acts will not infringe the creator's Moral Rights under the *Copyright Act 1968*;
- (c) the grant of any rights conferred on ACARA under this Agreement will not infringe the rights, including, without limitation, the Intellectual Property Rights of any person; and
- (d) it has not entered into any agreement that conflicts with the rights granted to ACARA under this Agreement.

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

## **11. INSURANCE**

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

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

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

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

## **12. SUBCONTRACTORS**

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

- (a) may or may not be given by ACARA acting in its absolute discretion; and
- (b) may be subject to any conditions ACARA considers appropriate acting in its absolute discretion.

12.2 The Contractor agrees to ensure that:

- (a) any subcontract entered into with a subcontractor imposes:
  - (i) any conditions prescribed by ACARA under clause 12.1(b); and
  - (ii) all relevant obligations, conditions, restrictions or prohibitions binding on the Contractor under this Agreement, including, without limitation, the terms of the Special Conditions Schedule (if any);
- (b) its subcontractors comply with that subcontract and, with respect to the terms and conditions referred to in clause 12.2(a), to exercise any rights or remedies it may have against its subcontractors in accordance with any direction by ACARA.

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

## **13. INDEMNITY**

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

- (a) any default, act or omission by the Contractor;
- (b) any breach of any term of this Agreement by the Contractor;
- (c) the Project Results being in breach of any law, containing anything alleged or proven to be defamatory or statements purporting to be factual or true failing to be so;
- (d) any misuse or disclosure of Confidential Information by the Contractor; and

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

#### **14. EXPIRY, TERMINATION, BREACH**

If not terminated sooner, the engagement of the Contractor expires at the earlier of:

14.1 the completion of the Project;

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

- (a) the Contractor does not perform the Project by the Completion Date, or at the standard, required or acceptable to ACARA (as the case may be) or otherwise breaches a provision of this Agreement and that failure or breach:

- (i) is incapable of remedy; or
- (ii) if capable of remedy, continues for 5 days after ACARA gives the Contractor a notice requiring the breach to be remedied; or

- (b) an Insolvency Event occurs in relation to the Contractor.

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

14.4 On termination of the Agreement the Contractor must:

- (a) stop work as specified in any notice;
- (b) take all available steps to minimise loss resulting from that termination and to protect all Project Results; and
- (c) continue work on any part of the Project not affected by the notice; and

further

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

- (d) deliver to ACARA all material and information made available by ACARA to the Contractor and all Project Results.

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

14.6 Where this Agreement is terminated other than for Contractor breach, ACARA will not be liable to pay any compensation to the Contractor, including, without limitation,

compensation for loss of prospective profits, in relation to termination of this Agreement.

- 14.7 ACARA's rights under this clause 14 are without prejudice to any right of action or remedy which has accrued or may accrue in favour of ACARA.
- 14.8 The rights and obligations contained in clauses 8 (Property in Materials and Company Identifications), 9 (Confidential Information), 10 (Intellectual Property and Project Results), 13 (Indemnity) and 14 (Expiry, Termination, Breach) bind the parties notwithstanding the termination or expiry of this Agreement.

## **15. ASSIGNMENT**

- 15.1 This Agreement is personal to the Contractor. The Contractor must not assign or novate the benefit of this Agreement or any part of it.
- 15.2 ACARA may assign all or any part of its rights under this Agreement, or novate this Agreement in whole or in part, to a third party by giving the Contractor written notice of such assignment or novation.
- 15.3 If the administrative arrangements regarding ACARA are altered such that the program, the object of this Agreement, is transferred to another government entity, ACARA may assign its rights under this Agreement to that entity subject to that entity assuming ACARA's obligations under this Agreement. The Contractor shall have no objection to any such assignment or assumption.

## **16. ENFORCEABILITY OF AGREEMENT**

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

## **17. CHANGES TO AGREEMENT**

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

## **18. NOTICES**

- 18.1 A notice, consent, approval or other communication (each a Notice) under this Agreement must be in writing signed by or on behalf of the person giving it, addressed to the person to whom it is to be given.
- 18.2 A Notice may be given by personal delivery, pre-paid mail or facsimile and is treated as having been given and received:
- (a) if delivered to a person's address, on the day of delivery if a business day, otherwise on the next business day;

- (b) if sent by pre-paid mail, on the fifth business day after posting; or
- (c) if transmitted by facsimile to a person's address and a correct and complete transmission report is received, on the day of transmission if a business day, otherwise on the next business day.

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

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

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

Facsimile: 1300 995 468

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

## **19. GOVERNING LAW**

- 19.1 Any claims under this Agreement are governed by the law in force in New South Wales.
- 19.2 The Contractor will comply with the Local Laws in the provision of the Services.
- 19.3 The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts, which may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

## **20. PARAMOUNTCY**

- 20.1 If any part of this Agreement conflicts with another part, or if any inconsistency arises between aspects of this Agreement, that part of the Agreement higher in the following list will take precedence:
  - (a) the terms and conditions contained in the Special Conditions Schedule (if any);
  - (b) the terms and conditions contained in the clauses of the Agreement;
  - (c) the Schedule; and
  - (d) the Attachment.

## **21. DISPUTE RESOLUTION**

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

- 21.2 A party claiming a Dispute has arisen will notify the other party giving details of the Dispute (Notification).
- 21.3 On receipt of a Notification each party will refer the Dispute for resolution by a person with authority to resolve such a dispute.
- 21.4 If the Dispute is not resolved under clause 21.3 within thirty days (or longer period as agreed between the parties) of the Notification, the parties will refer the Dispute for mediation by the Australian Commercial Dispute Centre Limited (ACDC) for resolution in accordance with the Mediation Guidelines of the ACDC and will enter into ACDC's standard mediation agreement in force at the time this Agreement is executed by the parties, or such other mediation as is agreed by the parties.
- 21.5 Subject to clause 21.8, if the Dispute is not resolved under clause 21.4 within thirty days (or longer period agreed by the parties) of referral to ACDC, either party may initiate proceedings in a court.
- 21.6 Despite the existence of a dispute, each party will (unless requested not to do so) continue to perform its obligations under this Agreement.
- 21.7 Termination of the Agreement under Clause 14 is not considered a dispute between the parties within this clause 21 and does not give rise to a right of a party to seek resolution of the matter under this clause 21.
- 21.8 If the Contractor is not an Australian resident and the Dispute is not resolved under clause 21.4, unless otherwise agreed by both Parties:
- (a) any dispute, controversy or claim arising out relating to, or in connection with this Agreement, including any question regarding its existence, validity or termination shall be resolved by arbitration in accordance with the ACICA Arbitration Rules;
  - (b) the seat of arbitration shall be Sydney, Australia;
  - (c) the number of Arbitrators shall be one;
  - (d) the arbitration shall be conducted in English.
- 21.9 The Parties acknowledge that any award rendered by an arbitrator pursuant to this Agreement shall be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

## **22. COSTS**

- 22.1 Each party must meet or pay its own legal costs and disbursements in respect of the preparation, negotiation and execution of this Agreement.
- 22.2 A party in default under this Agreement must pay the costs of the non-defaulting party in respect of the enforcement of its rights under this Agreement.

## **23. CONFLICT OF INTEREST**

- 23.1 The Contractor warrants that it has no, and for the term of the Agreement, will not have any, duties or interests that create, or might reasonably be anticipated to create, a conflict with its duties and obligations under this Agreement.
- 23.2 If a conflict of interest arises, or appears likely to arise during the term of this Agreement, the Contractor must
- (a) notify ACARA immediately in writing;
  - (b) make full disclosure of all relevant information relating to the conflict of interest; and
  - (c) take such steps as ACARA may responsibly require to resolve or otherwise deal with the conflict.

## **24. SPECIFIED PERSONNEL**

- 24.1 The Contractor agrees that the Specified Personnel will perform work in relation to the Services in accordance with this Agreement.
- 24.2 If Specified Personnel are unable to perform the work as required under clause 24.1, the Contractor agrees to notify the ACARA immediately.
- 24.3 The Contractor agrees, at the request of ACARA acting in its absolute discretion, to remove personnel (including Specified Personnel) from work in relation to the Services.
- 24.4 If clause 24.2 or clause 24.3 applies, the Contractor will provide replacement personnel acceptable to ACARA at no additional cost and at the earliest opportunity.

## **25. ACCESS TO DOCUMENTS**

- 25.1 In this clause, 'document' and 'Commonwealth contract' have the same meaning as in the *Freedom of Information Act 1982* (Cth).
- 25.2 The Contractor acknowledges that this Contract is a Commonwealth contract.
- 25.3 Where ACARA has received a request for access to a document created by, or in the possession of, the Contractor or any subcontractor that relates to the performance of this Agreement (and not to the entry into the Agreement), ACARA may at any time by written notice require the Contractor to provide the document to ACARA and the Contractor must, at no additional cost to ACARA, promptly comply with the notice.
- 25.4 The Contractor must include in any subcontract relating to the performance of this contract provisions that will enable the Contractor to comply with its obligations under this clause 25.

## **26. PRIVACY**

- 26.1 The Contractor agrees, in providing the Services not to do any act or engage in any practice which, if done or engaged in by ACARA, would be a breach of the requirements of Division 2 of Part III of the Privacy Act
- 26.2 The Contractor agrees to notify ACARA immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 26.

## **27. WORKING WITH CHILDREN**

- 27.1 If the provision of the Services requires the Contractor or its personnel to come into contact with children or vulnerable people, the Contractor must comply with all Local Laws related to working with children or vulnerable people, and must ensure that its personnel also comply.
- 27.2 The Contractor must provide such evidence as ACARA reasonably requires confirming that it and its relevant personnel have the requisite approvals to work with children or vulnerable people.

## **28. OPTION**

- 28.1 If ACARA elects to repeat the Project for a further year, the Contractor agrees to continue to provide the Services for the repeat of the Project.
- 28.2 The terms and conditions of the contract for the repeat of the Project will be on the same terms and conditions as this Agreement with the following amendments:-
- (a) this option clause shall be deleted;
  - (b) the schedule to this Agreement will be agreed for the repeat Project;
  - (c) such other amendments to these terms and conditions as agreed by the parties for the purposes of the repeat Project.
- 28.3 If the parties are unable to agree a new schedule or necessary amendments to these terms and conditions for the repeat Project, those matters shall be determined by ACARA, ACARA to act reasonably.
- 28.4 In determining a new contract price, ACARA must take into account any change in cost advised and verified by the Contractor.



**EXECUTED AS AN AGREEMENT**

**SIGNED** for and on behalf of the  
**AUSTRALIAN CURRICULUM,  
ASSESSMENT AND REPORTING  
AUTHORITY** by its duly authorised officer:

**SIGNED** for and on behalf of **XXXXXXXXX**  
by its duly authorised officer:

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name of authorised officer

\_\_\_\_\_  
Print name of authorised officer

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print name of witness

\_\_\_\_\_  
Print name of witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## SCHEDULE

**Commencement Date** xx September 2021

**Completion Date** 31 January 2022

**Contractor Intellectual Property**

Nil

**Contractor's address for Notice**

[Contractor name]

[Contractor Address]

**Email:**

**Project Manager**

Rassoul Sadeghi

Lead Psychometrician

Australian Curriculum, Assessment and Reporting Authority

Phone: 02 8098 3109

Mobile: 0498 009 735

Email: [rassoul.sadeghi@acara.edu.au](mailto:rassoul.sadeghi@acara.edu.au)

**Specified Personnel**

**Payment**

The total payment for the work set out in this contract will not exceed **xxxxx** (GST exclusive).

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

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

**Project Brief**

See Attachment.

## ATTACHMENT

### PROJECT BRIEF

#### Overview

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The Australian Curriculum, Assessment and Reporting Authority (ACARA) is responsible for the development of rigorous, world-class Australian curriculum from Foundation to Year 12.

To complement the development of an Australian curriculum, ACARA is also responsible for developing and administering a national assessment program aligned to the national curriculum that measures students' progress, and the provision of information, resources, support and guidance to the teaching profession.

#### 2.1. Introduction

The National Assessment Program – Literacy and Numeracy (NAPLAN) commenced in 2008. Every year from 2008, all students in Years 3, 5, 7 and 9 have been assessed on the same days using national tests in Reading, Writing, Language Conventions (Spelling, and Grammar and Punctuation) and Numeracy. Test Administration Authorities (TAAs) in each state and territory are responsible for the implementation, administration and marking of the NAPLAN tests in their jurisdictions.

ACARA publishes annually the My School website, [www.myschool.edu.au](http://www.myschool.edu.au), which provides a profile page for almost 10,000 Australian schools and is populated from a data repository created by ACARA. ACARA holds national schools' data, including NAPLAN data, aimed at supporting school level performance reporting.

ACARA reports to and is directed by the Education Council.

#### 2.2. Background

The performance of students in NAPLAN is reported on a set of NAPLAN scales that enable comparison of results across Years 3, 5, 7 and 9 in the same domain (e.g. Reading). NAPLAN scales are also designed to allow for the longitudinal tracking of performance by students, schools and systems and to that end an equating study is conducted each year.

Since 2018, NAPLAN is transitioning from paper-based assessments to online assessments. It is expected that all schools administer the NAPLAN tests online from 2022.

The calibration, scaling and equating of NAPLAN 2021 paper and online tests will be completed as part of the separate NAPLAN 2021 Central Analysis of Data project

The transition from paper to online will be reflected in the 2021 National Report by the following changes:

- Approximately 70% of schools have taken the test online.
- The online tests will be equated to the existing NAPLAN scale.
- The NAPLAN online tests are multistage adaptive "tailored" tests.

Further information on NAPLAN online test design is available on the website:

<http://www.nap.edu.au/online-assessment/research-and-development/tailored-tests>.

- NAPLAN online tests include parallel versions of each testlet included in the test. The parallel testlets will be randomly assigned to each individual student as he/she progresses through the tests.
- Writing tests is completed online by students in Year 5, 7 and 9. All Year 3 students, including those from schools who will be completing online tests do the paper version of the writing test. The paper version of the writing test consists of a pair of age-appropriate tasks, one for Years 3 and 5 and another for Years 7 and 9. The online writing test uses two such pairs of tasks with one pair being the same as that used in the paper test, one pair is used on the first day of testing, the second on the second day.
- There will be a significant overlap between paper and online NAPLAN tests, almost all items in the paper-based tests appears in the online tests.

### **2.3 Purpose**

This project is separate but related to work undertaken on the Central Analysis of Data (National Assessment Program – Literacy and Numeracy 2021). The contractor for this project will receive, from ACARA, results from the psychometric analysis (item and equating parameter estimates) performed in the previous stage, needed to draw final plausible values, equate them to the historical scale and perform secondary analysis for national reporting.

ACARA requires the Contractor to conduct the necessary analysis and develop and provide the NAPLAN National Report for 2021 as well as additional analysis.

The National Report is produced in the second stage of NAPLAN analysis from the cohort data provided to ACARA by TAAs as well as the online data extracted from the platform. The National Report will be released in early December 2021. The National Report contains detailed results for 2021 by student gender, indigenous status, language background other than English status, parental education, parental occupation, and school geographic location using the Australian Bureau of Statistics (ABS) ABS Australian Statistical Geography Standard (ASGS) Remoteness Structure (Major cities, Inner regional, Outer Regional, Remote and Very Remote) at each year level and for each domain. The National Report also contains results for student gain, that is, the difference in achievement for the same cohorts of students in 2015, 2017, 2019 and 2021.

Note: Previous NAPLAN reports can be accessed on the NAP web site [www.nap.edu.au](http://www.nap.edu.au)

The National Report is a desktop-published report which is provided as a PDF. Prior to the delivery of the draft report, the Contractor provides Microsoft Excel tables generated by the second-stage analysis of full-cohort data.

In addition to the tables and figures required for the National Report, this contract specifies additional and separate analyses in order for ACARA to meet its national reporting obligations,

A further important requirement is that the Contractor must conduct the reporting of national results in a transparent manner. The analyses must be conducted using readily available software so that ACARA and TAAs, researchers and other interested parties can replicate and critique the analyses. Finally, all elements of work are required to be completed and delivered on time according to the agreed timeline.

## Scope of project

### 2.4. Scope

#### **Analysis of student performance – Stage 2 Student Master Files (SMF) and Item Response Files (online NAE and paper IRF)**

The Contractor is required to:

- a. collect full-cohort NAPLAN data from ACARA, including all background data, for the analysis of data to generate the National Report:
  - o NAPLAN 2021 Student Master File (SMF) and paper Item Response File (IRF) which includes mixed mode students' data will be submitted to ACARA by the Test Administration Authorities (TAAs).
  - o NAPLAN 2021 online tests results (the National Assessment Extract – NAE) will be extracted from the national assessment platform.
- b. perform sanity checks before commencing the analysis
- c. outline the quality assurance processes for conducting the required psychometric and statistical analyses
- d. draw plausible values using Stage 2 data, implementing the conditioning model as outlined in the NAPLAN Technical Reports and the 2021 analysis plan, and equate plausible values to the historical NAPLAN reporting scale
- e. calculate all statistics necessary to report on the achievements of students in 2021 across the agreed demographic variables using plausible values
- f. calculate trends at the jurisdictional level – this requires comparative analysis of achievement for each year level across different NAPLAN cycles (for example, performance of Year 3 in 2008 to Year 3 in 2021)
- g. calculate gain – this requires comparative analysis of achievement of the same cohort (by jurisdiction, not matched at student level) across different NAPLAN cycles (Year 3 2015, Year 5 2017, Year 7 2019, and Year 9 2021)
- h. provide Microsoft Excel tables in two forms (unformatted and formatted) generated by the second-stage analysis of full-cohort data to ACARA and to TAAs – tables from previous years will be made available to interested parties on request
- i. provide de-identified, student-level achievement scores in flat files -- these have been specified in data structures / a data dictionary, and will be supplied
- j. be able to provide ongoing analysis and advice not specified in the tender that will be remunerated according to an agreed payment structure.

#### **Development and provision of the NAPLAN National Report**

The Contractor is required to:

- a. develop the NAPLAN 2021 National Report using the NAPLAN 2019 National Report as a guide
- b. contract and manage expert writers to provide commentary on results in the same format as the NAPLAN 2019 National Report

- c. provide a draft report to ACARA for review by TAAs, senior education officials and Ministers
- d. revise the draft report as required by ACARA
- e. provide a final report to ACARA for endorsement by Education Council, within the timeline listed in section 5 below.

### **Analysis for national reporting**

The Contractor is required to:

- a. provide the results of the analysis for the National Report and the Excel files in flat files – these have been specified in data structures / a data dictionary, and will be supplied
- b. provide the results of additional analysis required for national reporting in flat files - - these have been specified in data structures/a data dictionary, and will be supplied.

### **Additional Delivery**

- a. The Contractor provides Microsoft SQL 2021 tables in bacpac format generated from the second-stage analysis of full-cohort data to ACARA and to TAAs.
- b. The contractor is also required to include a file with results of significance testing to check with the commentary in the report

Any work beyond the scope of work outlined above will be negotiated separately and proposed on a per-project basis. No work will begin without ACARA's prior agreement.

A further important requirement is that the Contractor must conduct the analysis of data in a transparent manner and that all work will be completed and delivered on time according to the agreed timeline.

#### **2.4.1 Project management**

ACARA has primary responsibility for the management of the project including all aspects of financial and contract management and policy-related decisions.

#### **Role of the Project Manager**

ACARA's Project Manager will monitor the implementation of the project on a day-to-day basis. The Contractor will liaise with the Project Manager and other officers of ACARA, as necessary to facilitate the successful implementation and completion of the project.

On behalf of ACARA, the Project Manager will:

- provide the communication link between State and Territory Liaison Officers, and the Contractor on operational aspects of the assessment;
- work to resolve any contractual, financial or project management issues that may arise throughout the life cycle of the project;
- negotiate and approve any additional work or variation to the agreed schedule; and
- resolve policy-related issues that arise through the course of the project.

**The following list of Materials is to be developed by the Contractor under the Contract in which ACARA would retain intellectual property**

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- All data analyses conducted post main study including fully documented database and user manual
- All reports submitted by the Contractor to ACARA at the end of each critical phase
- All reports (public and technical) published on ACARA's website
- All material relating to school summary reporting
- All material relating to the school release modules.

**Secure deletion of data**

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The Contractor is required to delete data on completion of the project as specified by ACARA. ACARA will require confirmation that data has been deleted as specified.

**Policies, Standards and Guidelines**

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All Deliverables and work completed by the Contractor must meet the following standards:

- ACARA's Language Style Guide
- ACARA's Brandmark and Style Guidelines
- Web Content Accessibility Guidelines (WCAG) 2.0
- ACARA Accessibility Guidelines
- Macquarie Dictionary
- Peters, P. (2007). Cambridge guide to English usage. Macquarie University.
- The Commonwealth Style Manual, AGPS, Canberra (latest edition)
- Data Standards Manual Student Background Characteristics (ACARA, 2017)
- Australian Standards for Document Management (AS ISO 15489)
- Commonwealth Fraud Control Guidelines – 2011

## Time frame

2021 NAPLAN NATIONAL REPORT TIMELINE				
Start Date 2021	End Date 2021	Activity	From	To
	Friday, 17 September 2021	Provision of Stage 2 SMF/IRF, including all background data required for analysis to generate National Report	TAAs	ACARA
Monday, 20 September 2021	Friday, 24 September 2021	ACARA audits data and TAAs finalise rectification	ACARA	TAAs
	Monday, 27 September 2021	Provision of final Stage 2 SMF/IRF required for analysis to generate National Report	ACARA	CONTRACTOR
Monday, 27 September 2021	Friday, 29 October 2021	Data analysis	CONTRACTOR	
	Friday, 29 October 2021	Provision of results generated by Stage 2 analysis of full cohort NAPLAN data, including sub-group results in Excel files	CONTRACTOR	ACARA / TAAs
	Friday, 29 October 2021	Provision of results generated by Stage 2 analysis of full cohort NAPLAN data, including sub-group results and confidence intervals in Excel flat files	CONTRACTOR	ACARA / TAAs
	Friday, 29 October 2021	Contractor provides de-identified, student-level results of the analysis in flat files	CONTRACTOR	ACARA / TAAs
	Friday, 29 October 2021	Provision of SQL tables for navigating National Report website	CONTRACTOR	ACARA
	Friday, 5 November 2021	Provision of Draft 2021 NAPLAN National Report	CONTRACTOR	ACARA



## Performance

The Services will be evaluated by the Project Manager using the following table.

As the client who paid for this service, how well did the Vendor meet your expectations?	N/A	Unsatisfactory	Marginal	Acceptable	Good	Excellent
<b>1 . Time Management</b> e.g. meeting milestones, resourcing, planning, reporting						
<b>2 . Management &amp; suitability of personnel</b> e.g. skills, experience, sufficient number, appropriate seniority used						
<b>3 . Standard of Service</b> e.g. meeting brief, budget, no rework, supervision, no over servicing or under servicing						
<b>4 . Quality Outcomes</b> e.g. accuracy, usability and effectiveness of results						
<b>5 . Cost</b> . actual cost did not exceed cost estimate without prior agreement						
<b>6 . Communications</b> . appropriate level of reporting						
<b>7 . Information Technology</b> . IT used where appropriate to increase efficiency and reduce costs						
<b>8 . Cooperative Relationships</b> e.g. Cooperative approach, commitment, resolving issues						
<b>9 . Value for Money</b> . Upfront and after-purchase costs and benefits, as well as considering fitness for purpose						
<b>10 . Recommendation for Future Work</b> . <b>Would you recommend the Vendor for similar type of work?</b>	Yes ▶			No ▶		

## SPECIAL CONDITIONS SCHEDULE

The terms of the Special Conditions Schedule are:

### 2. Definitions

2.1. In this Special Conditions Schedule, unless the contrary intention appears, a term in bold type has the meaning shown opposite it:

<b>ACARA Act</b>	means the <i>Australian Curriculum, Assessment and Reporting Authority Act 2008</i> (Cth);
<b>ACARA DATA Set</b>	means the following data in relation to students participating in the National Assessment Program – Literacy and Numeracy testing cycle for the 2020 academic calendar year: <ul style="list-style-type: none"> <li>(a) Test Administration Authority;</li> <li>(b) a student’s year of schooling;</li> <li>(c) the name of the school that a student attends and the ACARA school identified;</li> <li>(d) Platform Student Identifier;</li> <li>(e) geographical remoteness area, as per the Australian Standard Geographic Classification for the school that a student attends;</li> <li>(f) State/Territory government school sector or non-government school sector;</li> <li>(g) a student’s date of birth;</li> <li>(h) the school education for each parent / guardian of a student;</li> <li>(i) the non-school education for each parent / guardian of a student;</li> <li>(j) the occupation for each parent / guardian of a student;</li> <li>(k) participation flag at student and school levels in equating study;</li> <li>(l) participation flag at student and school levels in calibration study;</li> <li>(m) a student’s participation code for each test;</li> <li>(n) a student’s technical disruption code for each test;</li> <li>(o) a student’s sex;</li> <li>(p) a student’s indigenous status;</li> <li>(q) a student’s language background other than English;</li> <li>(r) a student’s testlet scores for each test;</li> <li>(s) a student’s responses, including a score for each item (correct/incorrect) when data extract includes students with personal needs and preferences codes, response for multiple-choice items and scores for all other item types when data</li> </ul>

	<p>extract does not include students with personal needs and preference codes, and criteria marks for each writing task;</p> <p>(t) the time a student took to answer each item of a test; and</p> <p>(u) the device and device operating system used by a student for each test.</p>
<b>Data Breach</b>	<p>means any actual or suspected unauthorised dealing with, leak, spill or loss of any Sensitive NAPLAN Information, including (without limitation):</p> <p>(a) unauthorised access to, or unauthorised disclosure or unauthorised modification of, Sensitive NAPLAN InformationJurisdiction;</p> <p>(b) loss of information in circumstances where there is a risk of unauthorised access to, or unauthorised disclosure of, Sensitive NAPLAN InformationJurisdiction; and</p> <p>(c) an Eligible Data Breach in relation to Sensitive NAPLAN InformationJurisdiction;</p>
<b>Eligible Data Breach</b>	has the same meaning as it has in the Privacy Act;
<b>NAPLAN</b>	means the national assessment program – literacy and numeracy developed and administered by ACARA under the ACARA Act;
<b>NAPLAN Privacy and Data Management Policies</b>	means the privacy and data management policy and procedure framework documents that are applicable to ACARA and ACARA’s management of NAPLAN for the 2020 academic calendar year as provided to the Contractor by ACARA from time to time;
<b>Personal Information</b>	has the same meaning as it has in the Privacy Act;
<b>Platform Student Identifiers</b>	means the unique identifier assigned to a student in a school that enables that student to participate in NAPLAN for the 2020 academic calendar year;
<b>Privacy Act</b>	means the <i>Privacy Act 1988</i> (Cth);
<b>Security Incident</b>	means any actual or suspected breach of security (whether relating to information, logical, physical or system security or otherwise), or circumstances that highlights any actual or potential security vulnerability or which identifies a potential threat to security, including for example (without limitation): an attack, penetration, denial of service, disclosure of proprietary information, misuse of system access, unauthorised access or intrusion (hacking), virus intrusion, scan of the systems, networks, technology, content, applications or websites of the Contractor or any other activity that could adversely affect Sensitive NAPLAN Information; and

<b>Sensitive NAPLAN information</b>	means the ACARA Data Set, any information derived or extracted from the ACARA Data Set, or any other Personal Information held by, or in the care, custody or control of, the Contractor as a result of this Agreement or its provision of the Services
<b>Test Administration Authority</b>	means: <ul style="list-style-type: none"> <li>(a) the Australian Capital Territory as represented by the Education Directorate ABN 71 506 957 312;</li> <li>(b) the Crown in right of the State of New South Wales as represented by the NSW Education Standards Authority ABN 94 279 170 975;</li> <li>(c) Queensland Curriculum and Assessment Authority ABN 27 109 986 719;</li> <li>(d) the State of South Australia as represented by the Department for Education ABN 60 168 401 578;</li> <li>(e) Victorian Curriculum and Assessment Authority ABN 82 628 957 617;</li> <li>(f) the Crown in the Right of Tasmania as represented by the Department of Education ABN 26 237 631 294; and</li> <li>(g) State of Western Australia as represented by the School Curriculum and Standards Authority ABN 51 367 968 690,</li> </ul> and includes any other such body or entity performing similar functions or powers from time to time (whether or not such bodies or entities are notified to the Contractor by ACARA).
<b>Student-Level Data</b>	means any information relating to a student’s identity, demographic characteristics, assessment participation or assessment results that is organised on an individual student basis and not aggregated.

### **3. Acknowledgement and undertaking**

- 3.1. The Contractor acknowledges that the Sensitive NAPLAN Information that it may receive from ACARA under this Agreement includes Sensitive Personal Information.
- 3.2. The Contractor undertakes to comply fully with the terms of this Special Conditions Schedule.

### **4. Use and storage of Sensitive NAPLAN Information**

- 4.1. The Contractor must ensure that Sensitive NAPLAN Information:
  - a. is not disclosed to any other party without ACARA’s prior written approval, which:
    - i. may or may not be given by ACARA acting in its absolute discretion; and
    - ii. may be subject to any conditions ACARA considers appropriate acting in its absolute discretion;
  - b. is treated as and remains Confidential Information under this Agreement;

- c. is securely stored to prevent unauthorised physical or electronic access;
- d. is not transferred, or accessed from, outside of Australia without the prior written consent of ACARA;
- e. is only used in a manner permitted by section 40 of the ACARA Act, the Privacy Act and this Agreement; and
- f. is held in compliance with the Privacy Act.

4.2. The Contractor must:

- a. ensure that any other party to whom Sensitive NAPLAN Information is disclosed in accordance with clause 4.1.a:
  - i. is bound by any conditions prescribed by ACARA under clause 4.1.a.ii and by obligations substantially similar to the obligations set out in this Special Conditions Schedule; and
  - ii. complies with any conditions and obligations referred to in clause 3.2 a.i.; and
- b. exercise any rights it may have against any other party to whom Sensitive NAPLAN Information is disclosed in accordance with clause 4.1.a in connection with that Sensitive NAPLAN Information in accordance with any direction by ACARA.

4.3. If requested by ACARA, the Contractor must immediately deliver up to ACARA or destroy all copies (electronic and hard copy) of the Sensitive NAPLAN Information that has not been effectively de-identified.

4.4. For the avoidance of doubt, the requirements of this clause 3 apply to any non-identifying data that is derived from the Sensitive NAPLAN Information. Without limiting any other obligation in this Special Conditions Schedule, if ACARA gives approval to disclose non-identifying data to any other party, the Contractor must ensure that any non-identifying data that is derived from the Sensitive NAPLAN Information is not used or disclosed (including by any publication of such data in an open data set) by the Contractor, or any entity gaining access to that data through the Contractor, in a manner that may allow that data to be combined with other data in a way that could lead to an individual to whom the data relates becoming apparent or reasonably ascertainable.

## **5. Data Breach notification**

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5.1. The Contractor must ensure that the ACARA Project Manager is as soon as reasonably practicable notified of any Security Incident or Data Breach in relation to any Sensitive NAPLAN Information held by the Contractor as a result of this Agreement or its provision of the Services in writing as soon as possible of becoming aware of the Security Incident or Data Breach.

5.2. In the circumstances outlined in clause 5.1, or where ACARA notifies the Contractor that there has been a Security Incident or Data Breach in relation to any Sensitive NAPLAN Information held by the Contractor as a result of this Agreement or its provision of the Services, the Contractor must:

- a. take all reasonable action to mitigate the risk of the Security Incident or Data Breach causing harm to any of the individuals to whom the Personal Information relates;
- b. take all other action necessary (in consultation with ACARA) to comply with the requirements of the Privacy Act; and
- c. take any other action as reasonably directed by ACARA.

5.3. The Contractor agrees to notify ACARA immediately if it becomes aware of a breach or possible breach of its obligations under this clause 5.

## **6. Use of Platform Student Identifiers**

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- 6.1. The Contractor:
- a. must not adopt the Platform Student Identifiers as their own identifiers; and
  - b. must not use or disclose the Platform Student Identifiers unless authorised by ACARA in writing.

## **7. Assistance**

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7.1. The Contractor agrees that in performing its obligations under this Agreement, the Contractor will act in a manner that allows ACARA to comply with its obligations under the Privacy Act, the *Freedom of Information Act 1982* (Cth) and the *Archives Act 1983* (Cth).

- 7.2. The Contractor must provide all reasonable and timely assistance and information to ACARA in respect of addressing:
- a. any Data Breach;
  - b. any Security Incident, including a Security Incident,;
  - c. any application made under the access and amendment provisions of the Privacy Act, or any privacy complaint made to the Contractor, ACARA, or to the Office of the Australian Information Commissioner;
  - d. any application made to ACARA under the *Freedom of Information Act 1982* (Cth) for access to information, including any Sensitive NAPLAN Information; and
  - e. any compliance audit of systems or facilities holding the Sensitive NAPLAN Information Data required to be conducted under the Privacy Act, the *Freedom of Information Act 1982* (Cth), the *Archives Act 1983* (Cth) or other related legislation or policy.

## **8. Policies**

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The Contractor must comply with the NAPLAN Privacy and Data Management Policies as amended from time to time by ACARA.