







## PARTIES AND SIGNING

Short name	School	External Provider
Full name	Melbourne Archdiocese Catholic Schools Ltd (ACN 643 442 371) owner and operator of [Insert name of School, ABN and ACN (if applicable)]	<p>[Option if External Provider is the RTO: insert full legal name, ABN and ACN (if applicable) and RTO code]</p> <p>[Option if External Provider is another school providing the Program under a Third Party (Auspicing) Agreement with an RTO: insert full legal name of the school, ABN and ACN (if applicable)]</p>
Contact details for notices	Attention: [##Insert name/position] Post: [##Insert postal address] Phone: [##Insert phone number] Email: [##Insert email address]	Attention: [##Insert name/position] Post: [##Insert postal address] Phone: [##Insert phone number] Email: [##Insert email address]
<b>Authorised Signatory</b> [Please ensure the authorised signatory has the relevant delegations to act as authorised signatory for the purposes of this Agreement and seek evidence if required]		
Signature		
Print Name		
Position		
Date		

## AGREEMENT DETAILS

It

This Agreement starts on ## [insert date] and ends on ## [insert date]

It

[Insert high level summary of Program(s) to be delivered], described in detail in Schedule 1

It

[where External Provider is another school providing the Program under a Third Party (Auspicing) Agreement with an RTO, insert full legal name of RTO and RTO code/otherwise insert "As set out in Parties"]

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It

[Insert, e.g. four weeks after the commencement of the Term or as agreed by the parties]

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It

[Example Only – parties to insert details. If the cost per Student is relevant to the calculation of the total fee, please include the cost per Student (i.e. tuition and cost of materials) as the basis of calculation for the Fee]

Total Fee \$ (including/excluding GST) for the Term payable as follows:

- [x]% of Fee payable [x] working days after start of school term 1
- [x]% of Fee payable [x] working days after start of school term 2
- [x]% of Fee payable [x] working days after start of school term 3
- [x]% of Fee payable [x] working days after start of school term 4
- [x]% of Fee payable [x] working days after receipt of final Student results

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It

The External Provider must deliver the invoice to the School at [insert address, email address etc.]. Subject to the External Provider's compliance with this Agreement and the requirements of clause 18, the School must pay the invoiced amount to the External Provider within [insert payment terms, e.g. 30 days] of receipt of an invoice.

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## AGREED TERMS

### 1 PROVISION OF THE PROGRAM

1.1 The External Provider must provide the Program to the School in accordance with this Agreement and must:

- 1.1.1 provide the Program in accordance with the RTO Standards or the AQTF Standards and the VRQA VET Guidelines (as applicable) and relevant School and MACS policies and procedures (as notified to the External Provider under this Agreement);

- 1.1.2 comply with current Training Package requirements and relevant VCAA requirements;
- 1.1.3 provide the Program in a proper, timely and efficient manner using that standard of care, skill, diligence, prudence and foresight that would reasonably be expected from a prudent, expert and experienced provider of services that are similar to the Program;
- 1.1.4 ensure the highest quality of work and the delivery of the Program with the utmost efficiency;
- 1.1.5 act in good faith and in the best interests of the School;
- 1.1.6 provide any and all equipment necessary for the performance of the Program, or as the parties may agree from time to time, except any equipment agreed to be provided by the School set out in Schedule 7; and
- 1.1.7 comply with the School's applicable standards and policies as notified to the External Provider from time to time, including standards and policies relating to:
  - (a) security of premises; and
  - (b) occupational health and safety.
- 1.2 If at any time during the Term the External Provider is unable or is likely to become unable to provide any or all of the Program, it must immediately notify the School.
- 1.3 The External Provider warrants that:
  - 1.3.1 it is accredited and approved to deliver the Program; and
  - 1.3.2 without limitation to clause 1.3.1 in the case where it is engaged in providing direct delivery of the Program to Students:
    - (a) it is registered with ASQA or the VRQA (as appropriate); and
    - (b) it has the qualifications and/or units of competency to provide the Program on its scope of registration; or
  - 1.3.3 in the case where it is engaged in providing the Program to the Students under a Third Party (Auspicing) Agreement, the External Provider has entered into a Third Party (Auspicing) Agreement with an RTO that is substantially on the same terms as this Agreement; and
  - 1.3.4 subject to clause 1.4, it will provide Student results and appropriate certification (as issued by the RTO) to the School.
- 1.4 The School will remain responsible for all and any advice provided to Students including but not limited to VCAA VCE VET program requirements, potential credit contribution of the Program including block credit recognition (where relevant), and VTAC policies on, and conditions applicable to, the calculation of the ATAR.
- 1.5 The parties agree that they have consulted with each other as to the suitability of the Program and the content of the training and assessment materials for the School's curriculum, and any matters agreed as part of that consultation that affect the Program are recorded in Schedule 1.

## **2 STUDENT WITHDRAWAL FROM PROGRAM**

- 2.1 The parties acknowledge that each Student may leave a Program at any time.
- 2.2 If a Student withdraws from a Program after the Census Date (or such other time as the parties may agree) from the Program's commencement date, the School will not be eligible for any refund. The refund process must be clearly defined in any information regarding the Program.
- 2.3 If a Program is no longer viable to be continued due to the number of Students leaving, the parties must meet to determine a new course of action, provided that any action must facilitate the Program's completion without any disadvantage to remaining Students.

## **3 ACCESS TO PREMISES**

- 3.1 The External Provider must permit the School, the School's Students, employees, agents or representatives access to any premises where the Program is being provided.
- 3.2 If the External Provider needs to access the School premises and/or use the School property (both requiring the School's consent) in order to carry out the Program, then, the External Provider is responsible for and must promptly repair any damage caused to those items to the extent caused or contributed to by the External Provider.

## **4 EXTERNAL PROVIDER PERSONNEL**

- 4.1 The External Provider must ensure that the External Provider Personnel and any other person responsible for or involved in the provision of the Program:
  - 4.1.1 are qualified and experienced in accordance with the RTO Standards or the AQTF Standards and the VRQA VET Guidelines (as applicable); and
  - 4.1.2 in the case of delivery on the grounds of a school (as defined in the ETR Act), are registered with the VIT (that is, the person is a registered teacher, which may include provisional registration, or has permission to teach); or
  - 4.1.3 in the case of delivery at a location that is not on the grounds of a school (as defined in the ETR Act), are either:
    - (a) registered with the VIT (that is, the person is a registered teacher, which may include provisional registration, or has permission to teach); or
    - (b) have undertaken a satisfactory National Police Check and have a satisfactory Working with Children Check under the *Worker Screening Act 2020* (Vic).

## **5 REPLACEMENT PERSONNEL**

- 5.1 If the External Provider Personnel or any other person responsible for delivering the Program to Students are unavailable to provide the Program for any reason, the External Provider must ensure that any replacement personnel satisfy the requirements of clause 4.1.1 and either clause 4.1.2 or 4.1.3 (as applicable depending on the location where the delivery of the Program occurs). The External Provider must promptly notify the School of any replacement personnel and obtain the School's approval to use the replacement personnel.
- 5.2 The External Provider bears all costs in connection with providing any and all replacement personnel.

## **6 SUPERVISION OF STUDENTS**

- 6.1 The External Provider must provide the Program consistent with the School's Supervision Policy and Procedures and the Department's [Collection of Students Policy](#).
- 6.2 The External Provider is responsible for the supervision of the Students enrolled in a Program during Program delivery, including but not limited to:
  - 6.2.1 while the Program is being provided at the School premises;
  - 6.2.2 while the Program is being provided at any premises external to the School; and
  - 6.2.3 travel by the Students from the External Provider's premises including but not limited to travel between campuses or excursions.
- 6.3 The External Provider must promptly notify the School of any non-attendance and/or repeated non-engagement in accordance with any reasonable directions given by the School to the External Provider.
- 6.4 The External Provider must immediately notify the School as soon as it becomes aware of any danger to any Student in connection with the Student's participation in a Program.
- 6.5 If a danger to any Student has been identified, the External Provider must implement or assist in implementing any arrangements considered reasonably necessary by the School to remove or alleviate that danger or remove a Student from that danger.
- 6.6 The External Provider must immediately notify the School if the Student appears to be unwell while attending the External Provider's premises or during the delivery of the Program.

## **7 DUTY OF CARE**

- 7.1 The parties acknowledge and agree that the School has a duty of care to the Students.
- 7.2 The External Provider must provide the Program consistent with:
  - 7.2.1 the School's Duty of Care Policy; and
  - 7.2.2 in circumstances where Students attend the External Provider, which is offsite School premises, or attend the delivery of the Program which is offsite School premises, with the Department's [Collection of Students Policy](#).

## **8 CHILD SAFE STANDARDS**

- 8.1 The parties acknowledge and agree that Victorian schools are committed to:
  - 8.1.1 creating child safe environments; and
  - 8.1.2 protecting students from abuse or harm in the school environment, managing the risk of child abuse, providing support to a child at risk of child abuse and responding to incidents or allegations of child abuse in accordance with their legal obligations, including child safety Laws.
- 8.2 This clause only applies to the extent that the External Provider is engaged in Child-connected work.
- 8.3 The External Provider acknowledges that the School and all School personnel are required to comply with child safety Laws, the Ministerial Order and School Child Safety Policies and Procedures.

- 8.4 If the External Provider is an Applicable Entity, it warrants to the School that it:
- 8.4.1 is compliant and will continue to comply with child safety Laws and Child Safe Standards; and
  - 8.4.2 will immediately provide the School with copies of any documents or information in respect to any compliance action taken by any regulatory authority in connection with child safety against the External Provider.
- 8.5 The External Provider must:
- 8.5.1 if applicable (whether or not the External Provider must itself comply with child safety Laws), comply with any relevant School Child Safety Policies and Procedures; and
  - 8.5.2 comply with any reasonable direction by the School in respect to compliance by the School, School Staff and/or the External Provider with any child safety Laws, Child Safe Standards, or any relevant School Child Safety Policies and Procedures.
- 8.6 The School may terminate this Agreement immediately if, in the School's reasonable opinion, the School determines at any time that:
- 8.6.1 there is a breach of any child safety Laws or Child Safe Standards caused by, or in any way connected with, the External Provider; or
  - 8.6.2 the External Provider is not suitable to engage in Child-connected work for the purposes of the School and School Staff's compliance with the child safety Laws, Child Safe Standards or relevant School Child Safety Policies and Procedures.

## **9 STUDENT COMPLAINTS AND APPEALS**

- 9.1 The parties agree that Students may make complaints and appeals through the External Provider, using processes which the External Provider is required to have in accordance with the ETR Act, the RTO Standards or the AQTF Standards and the VRQA VET Guidelines (as applicable).

## **10 INTERNATIONAL STUDENTS**

- 10.1 The parties agree that if the External Provider is delivering the Program to International Students (either exclusively or in addition to Students), the additional terms and conditions in Schedule 8 also apply to the delivery of the Program.

## **11 RECORDS AND PROVISION OF INFORMATION**

- 11.1 The External Provider must record and monitor the attendances and engagement of the Students, provide regular attendance reports reasonably required by the School and comply with all reporting obligations set out in Schedule 4.
- 11.2 The External Provider must notify the School as soon as practicable if it forms the view that the training in any way fails, or is likely to fail, to meet the relevant Training Package requirements and any relevant VCAA requirements or comply with the RTO Standards or the AQTF Standards and the VRQA VET Guidelines (as applicable).
- 11.3 Records should comply with the reporting requirements for the NCVET and as required by the VET Regulator.



- 11.4 The External Provider must provide the School with all reports, data or other information that the School may reasonably request to enable it to:
- 11.4.1 adequately assess the performance of the External Provider; and
  - 11.4.2 monitor Student attendance and engagement.
- 11.5 During the Term and for seven years after expiry or termination, the External Provider must keep accounts and records of:
- 11.5.1 the Program supplied under this Agreement; and
  - 11.5.2 all associated records including all supporting materials used to generate and substantiate invoices submitted in respect of the Program supplied under this Agreement.

## **12 NOTICE OF CHANGES**

- 12.1 If there is any change to the registration status of the External Provider, the External Provider must immediately notify the School of that change. If the Program is provided under a Third Party (Auspicing) Agreement with an RTO and there is any relevant change to the registration status of the RTO, the External Provider must immediately notify the School of that change.
- 12.2 If there is a change in any matter disclosed by the External Provider, the External Provider must immediately notify the School.
- 12.3 The External Provider must give the School reasonable notice if the External Provider proposes to change which elective units will be available for a Program.
- 12.4 The School must not amend, or allow to be amended, a Student's results for a Program without the agreement of the External Provider.
- 12.5 If the School becomes aware that a Student may seek late attainment of a competency, the School must notify the External Provider prior to the expiry of this Agreement.

## **13 NO STUDENT PAYMENTS**

- 13.1 The External Provider must not request any payments from Students or Students' parents for or in relation to the provision of a Program.
- 13.2 The School must ensure that all additional costs for materials associated with the VET Program such as clothing and equipment are clearly detailed in the marketing information, including and not limited to online publications and student handbooks (soft and hard copies).

## **14 PARTICULAR STUDENT NEEDS**

- 14.1 The parties agree that they have consulted with each other to establish the suitability of the Students for enrolment in the relevant Program(s), and that this consultation has included reference to any applicable policies of the External Provider.
- 14.2 The parties agree that, before entering into this Agreement, the School disclosed to the External Provider the details of any adjustments, measures or other requirements which the External Provider must comply with or accommodate (as relevant) in the delivery of the Program in respect of one or more Students for the purpose of compliance with the *Disability Standards for Education Act 2005* (Cth).

- 14.3 The External Provider must, in the delivery of the Program in respect of one or more Students, comply with:
- 14.3.1 the School's Medical Management Policy and Procedures;
  - 14.3.2 the School's Anaphylaxis Policy and Management Procedures; and
  - 14.3.3 such other School and MACS policies and procedures as reasonably notified to the External Provider in accordance with clause 15.
- 14.4 Without limitation to any other clause of this Agreement, the parties agree to comply with the School's First Aid Policy and Procedures.

## **15 COMPLIANCE WITH LAWS AND POLICIES**

- 15.1 The External Provider must, in the provision of the Program, comply with:
- 15.1.1 all School and MACS policies and procedures reasonably notified to the External Provider;
  - 15.1.2 all Laws applicable to the delivery of the Program; and
  - 15.1.3 the lawful requirements or policy of any governmental agency affecting or applicable to the provision of the Program, including but not limited to the RTO Standards or the AQTF Standards and the VRQA VET Guidelines (as applicable).
- 15.2 The School must:
- 15.2.1 ensure that to the extent required by Law, all materials produced/used by the School under this Agreement, which make reference to the Program, include the following:
    - (a) the RTO name and RTO code as set out in the RTO Details; and
    - (b) the RTO logo (optional); and
  - 15.2.2 agree to cooperate with the VET Regulator in relation to the delivery of the Program.

## **16 ANTI-SLAVERY AND CORRUPTION**

- 16.1 The External Provider must not knowingly engage in any corruption, modern slavery or human trafficking practices and must comply with MACS policies and procedures in relation to modern slavery and human trafficking prevention, and must promptly notify the School in writing of any suspected breach of this clause or investigation concerning the External Provider in relation to corruption, modern slavery or human trafficking.

## **17 FEES**

- 17.1 The Fees specified in Item 5 applicable to the Program are fixed for the period of this Agreement.
- 17.2 The External Provider acknowledges and agrees that:
- 17.2.1 all Students are subject to all eligibility criteria for the Victorian Training Guarantee, including that a Student enrolled at a school (except a school-based apprentice or trainee) is not eligible for the Victorian Training Guarantee; and

- 17.2.2 it will not make a claim under the Victorian Training Guarantee in relation to a Student who is ineligible for the Victorian Training Guarantee.

## **18 INVOICING AND PAYMENT**

- 18.1 The External Provider must submit to the School a Tax Invoice in respect of the Program as set out in Item 6 of the Agreement Details, or at such other time or times as agreed by the parties. A Tax Invoice submitted for payment must contain the information necessary to be a Tax Invoice for the purposes of the GST Act together with such other information as the School may reasonably require.
- 18.2 Unless otherwise specified in Item 6 of the Agreement Details, the School will pay the invoiced amount within 30 days of receipt of an invoice. However, if the School disputes the invoiced amount the School must pay the undisputed amount (if any) and notify the External Provider of the amount the School believes is due for payment. The parties will endeavour to resolve any such dispute, and the School may withhold payment of the disputed amount pending resolution of the dispute.
- 18.3 The School may withhold payment of an invoiced amount if the External Provider has not provided sufficient information in accordance with clause 11.4 to satisfy the School that the Program has been performed in accordance with this Agreement. For the avoidance of doubt, the invoiced amount withheld does not need to relate to the Program for which the External Provider has not provided sufficient information.
- 18.4 The School may set off against any sum owing to the External Provider under this Agreement any amount then owing by the External Provider to the School.
- 18.5 Payment of an invoice is not to be taken as evidence that the Program has been supplied in accordance with the Agreement but must be taken only as payment on account.

## **19 GST**

- 19.1 Terms used in this clause have the same meanings given to them in the GST Act.
- 19.2 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.
- 19.3 If GST is imposed on any supply made under or in accordance with these Conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply subject to the recipient receiving a valid Tax Invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made.

## **20 CONFIDENTIALITY AND PRIVACY**

### **20.1 Confidential Information**

- 20.1.1 Neither party may use any Confidential Information of the other party except as genuinely and necessarily required for the purpose of this Agreement and neither party may disclose any Confidential Information of the other party except:
- (a) to an employee or agent of that party, on a 'need to know' and confidential basis;
  - (b) as required by law or a court order; or
  - (c) with the other party's consent.

- 20.1.2 Each party will notify the other immediately on becoming aware of any actual or possible unauthorised disclosure of or access to Confidential Information, whether by that party or otherwise.
- 20.1.3 Upon termination or expiry of this Agreement, each party must return, or if directed, destroy the Confidential Information of the other party.

## **20.2 Privacy**

- 20.2.1 The External Provider acknowledges that it will:
- (a) be bound by the Privacy Laws (regardless of whether the External Provider is bound by the Privacy Laws), with respect to any act done or practice engaged in by the External Provider under or in connection with this Agreement; and
  - (b) ensure all personal information is securely stored so as to prevent misuse, unauthorised access, use or disclosure.
- 20.2.2 If the External Provider becomes aware of any actual or suspected data breach affecting personal information relevant to this Agreement, it agrees to:
- (a) immediately report the circumstances of the data breach to the School, take all necessary steps to prevent or contain the data breach and keep the School updated in relation to all remedial action taken in relation to the data breach; and
  - (b) subject always to the External Provider complying with its obligations at Law, comply with the reasonable directions of the School in relation to the actual or suspected data breach.

## **21 INTELLECTUAL PROPERTY RIGHTS**

- 21.1 The External Provider warrants that it is entitled to use any Intellectual Property Rights used by it in the provision of the Program and that in performing its obligations under this Agreement the School will not infringe the Intellectual Property Rights of any person. The External Provider will indemnify the School against all costs, expenses and liabilities arising out of a breach of this clause.
- 21.2 The School acknowledges that all External Provider policies, procedures, templates and other documentation produced by the External Provider shall remain copyright to, and the property of, the External Provider.
- 21.3 The External Provider grants the School a non-exclusive, irrevocable, perpetual licence to use and deal with all Intellectual Property Rights provided by the External Provider to the School solely for the purposes of the School receiving the benefit of the provision of the Program under this Agreement.
- 21.4 Where the School is also an RTO, then the School will agree that no use of, or reference to, may be made in respect of any materials produced by, and/or for, the External Provider in any future applications by the School for extension to its scope of registration.

## **22 DEFAULT AND TERMINATION**

- 22.1 The School may terminate this Agreement without cause by giving the External Provider 90 days' notice in writing.

- 22.2 The School may terminate this Agreement with immediate effect by giving written notice to the External Provider, if the External Provider:
- 22.2.1 breaches this Agreement and (where the breach is capable of rectification) has not rectified that breach within 14 days of the School giving written notice to the External Provider requiring rectification of that breach;
  - 22.2.2 breaches a provision of this Agreement that is incapable of remedy;
  - 22.2.3 is unable to deliver the Program; or
  - 22.2.4 is subject to an Insolvency Event.
- 22.3 If the External Provider fails to deliver the Program under clause 22.2.3, the School will be entitled to a refund of the fees on a pro-rata basis for the portion of the Program that was not delivered.
- 22.4 The External Provider may terminate this Agreement with immediate effect by giving written notice to the School if the School:
- 22.4.1 is in breach of this Agreement and (where the breach is capable of rectification) has not rectified that breach within 14 days of the External Provider giving written notice to the School requiring rectification of that breach, on condition that provision is made allowing all Students to complete the Program in which they are then enrolled or alternative VET Program(s) acceptable to the Students;
  - 22.4.2 breaches a provision of this Agreement that is incapable of remedy; or
  - 22.4.3 is subject to an Insolvency Event.
- 22.5 Any termination of this Agreement under clause 22.1 and 22.4 is without prejudice to any accrued rights, duties or obligations of the parties as at the date of termination.

## **23 CONFLICT OF INTEREST**

- 23.1 The External Provider Personnel warrants that:
- 23.1.1 to the best of its knowledge the External Provider or its employees do not have any duties or interests that will create, or may reasonably be expected to create, a conflict with the External Provider's obligations under this Agreement; and
  - 23.1.2 it will not do anything that will result in the External Provider or the External Provider Personnel having a duty or interest that will create, or may reasonably be expected to create, a conflict with the External Provider's obligations under this Agreement.

## **24 INSURANCE**

- 24.1 The External Provider must obtain and maintain insurance coverage at all relevant times sufficient to cover any loss or costs that may be incurred and for which the External Provider is liable in connection with the provision of the Program including:
- 24.1.1 professional indemnity of [\$10,000,000] per claim; and
  - 24.1.2 public liability insurance of [\$20,000,000] per claim.
- 24.2 The External Provider must obtain and maintain the insurances set out in clause 24.1:

- 24.2.1 for “occurrence” policies – during the term of this Agreement; and
- 24.2.2 for “claims made” policies – until 7 years after this Agreement terminates or expires.
- 24.3 On request, the External Provider must provide the School with evidence of the currency of any insurance it is required to obtain.
- 24.4 Without limiting clause 24.1, the External Provider must ensure that it, and where the External Provider engages an RTO through a Third Party (Auspicing) Arrangement, the RTO must, in respect of its employees and contractors and any other persons engaged by it to provide the Program, it:
  - 24.4.1 complies with the provisions of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic);
  - 24.4.2 insures against its liability to pay compensation whether under legislation or otherwise; and
  - 24.4.3 produces to the School on request any certificates or like documentation required by the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic).

## **25 INDEMNITY**

- 25.1 The External Provider must indemnify the School, keep the School indemnified and hold the School harmless, including its employees and agents, against all actions, liabilities, claims, losses, damages, penalties, demands, costs and expenses (including, without limitation, all legal costs on a full indemnity basis) in connection with:
  - 25.1.1 any injury or death of the External Provider Personnel or any injury or death of or to another person caused or contributed to either directly or indirectly by the External Provider or any person the External Provider is responsible for (including External Provider Personnel) in connection with the delivery of the Program;
  - 25.1.2 any negligent act or omission, breach of Law, breach of intellectual property rights or breach of this Agreement in the performance or purported performance of the External Provider’s obligations under this Agreement; and
  - 25.1.3 loss or damage to any premises in connection with the delivery of the Program.
  - 25.1.4 The External Provider’s obligation to indemnify the School under clauses 25.1.1 to 25.1.3 is reduced to the extent that any liability is caused by the negligent act or omission by the School.

## **26 NO SUB-CONTRACTING**

- 26.1 Except as expressly provided in this Agreement, the External Provider must not sub-contract to any third person any of its obligations under this Agreement without the prior written consent of the School, whose consent will not be unreasonably withheld.
- 26.2 The External Provider may seek the School’s consent to sub-contract by using the form in Schedule 5.
- 26.3 The External Provider will not, as a result of any sub-contracting arrangement, be relieved from the performance of any obligation under this Agreement and will be liable for all acts and omissions of a sub-contractor as though they were the actions of the External Provider itself.

## **27 VARIATIONS**

- 27.1 Any variation to this Agreement must be in writing and signed by the parties. This includes any variations to the Schedules.
- 27.2 The parties may use the form in Schedule 6 to vary this Agreement.

## **28 NOTICES**

- 28.1 Any notices to be issued under this Agreement must be in writing and be sent to the party's representative as set out in the Agreement Details.

## **29 DISPUTE RESOLUTION**

- 29.1 If any dispute arises under or in connection with this Agreement (**Dispute**) which is not able to be resolved by the School and the External Provider within 14 days, the School's nominated representative and the nominated senior executive officer (or equivalent) of the External Provider will promptly meet and discuss in good faith with a view to resolving such Dispute.
- 29.2 If any Dispute is unable to be resolved within 14 days of being referred to the School's nominated representative and the nominated senior executive officer (or equivalent) of the External Provider under clause 29.1, the parties agree to endeavour in good faith to settle the Dispute by mediation administered by the Australian Commercial Disputes Centre (**ACDC**) in accordance with ACDC's guidelines, before resorting to arbitration or litigation.
- 29.3 If the parties fail to settle any Dispute in accordance with clause 29.2, the parties may agree to submit the Dispute for resolution to final and binding arbitration under the Rules of Arbitration of the Institute of Arbitrators and Mediators Australia by one or more arbitrators appointed in accordance with those rules.
- 29.4 The parties to a Dispute will continue to perform their respective obligations under this Agreement, pending the resolution of a Dispute under clauses 29.1, 29.2 and 29.3.

## **30 REPRESENTATIVES**

- 30.1 Each party's representative as named in the Agreement Details may exercise all of the powers and functions of his or her party under this Agreement other than the power to amend this Agreement. Each party may amend their representative by written notice to the other party.

## **31 THIRD PARTY (AUSPICING) AGREEMENT**

- 31.1 Where the External Provider is another school that is providing the Program to the Students under a Third Party (Ausspicing) Agreement with an RTO, the External Provider must ensure that the RTO it has engaged under the Third Party (Ausspicing) Agreement complies with the terms of this Agreement applicable to the External Provider, as though the RTO were named as an External Provider under this Agreement.

## **32 GENERAL**

- 32.1 This Agreement will be governed by the Laws of Victoria.
- 32.2 The parties acknowledge and agree that nothing in this Agreement constitutes any relationship of employer and employee, principal and agent, partnership or joint venture between the parties.
- 32.3 Clauses 8, 9, 11, 20, 21, 22.5, 24, 25, 32, 33, 34 and 35 survive the termination or expiry of this Agreement.

### **33 ORDER OF PRECEDENCE**

33.1 This Agreement is comprised of the following items:

- 33.1.1 Agreed Terms.
- 33.1.2 Agreement Details.
- 33.1.3 Schedules 1 – 8 to this Agreement.

33.2 In the event and to the extent of any inconsistency between the items listed in clause 33.1, the provisions of the earlier mentioned item will prevail to the extent of the inconsistency. If the inconsistency remains incapable of resolution by reading down, the inconsistent provisions will be severed from the item lower in the order of precedence without otherwise diminishing the enforceability of the remaining provisions of that item.

### **34 INTERPRETATION**

34.1 In these Conditions, unless the context otherwise requires:

- 34.1.1 items defined in the Agreement Details have the meaning given to them in the Agreement Details;
- 34.1.2 headings are for ease of reference only and do not affect the meaning of this agreement;
- 34.1.3 the singular includes the plural and vice versa and words importing a gender include other genders;
- 34.1.4 other grammatical forms of defined words or expressions have corresponding meanings;
- 34.1.5 a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this agreement and a reference to this agreement includes any schedules and annexures;
- 34.1.6 a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- 34.1.7 a reference to A\$, \$A, dollar or \$ is a reference to Australian currency;
- 34.1.8 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 34.1.9 a reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed;
- 34.1.10 a reference to a party includes its executors, administrators, successors and permitted assigns; and
- 34.1.11 a reference to any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
- 34.1.12 a reference to any legislation or statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable; and



34.1.13 a reference to a policy of any governmental agency includes that policy as modified or replaced.

## 35 DEFINITIONS

In this Agreement:

**Agreement** means the agreement for the provision of the Program comprised of these Conditions, the Agreement Details and the Schedules.

**Agreement Details** means the part of this Agreement described as such, usually commencing on page 1 of the Agreement.

**AQTF Standards** means the Australian Quality Training Framework Essential Conditions and Standards for Continuing Registration, which are the standards set out by the National Skills Standards Council.

**ASQA** means the Australian Skills Quality Authority.

**ATAR** means the Australian Tertiary Admission Rank.

**Child Safe Standards** means the Child Safe Standards established under the *Child Safety Wellbeing and Safety Act 2005* (Vic), and includes Ministerial Order 1359 – Implementing the Child Safe Standards – Managing the risk of child abuse in Schools, as amended or updated from time to time.

**Conditions** means these conditions for the provision of the Program.

**Confidential Information** means any technical, scientific, commercial, financial or other information of, about or in any way related to, the School, including any information designated by the School as confidential, which is disclosed, made available, communicated or delivered to the External Provider, but excludes information:

- (a) which is in or which subsequently enters the public domain other than as a result of a breach of these Conditions;
- (b) which the External Provider can demonstrate was in its possession prior to the date of the Agreement;
- (c) which the External Provider can demonstrate was independently developed by the External Provider; or
- (d) which is lawfully obtained by the External Provider from another person entitled to disclose such information.

**Department** means the Victorian Department of Education.

**ETR Act** means the *Education and Training Reform Act 2006* (Vic).

**External Provider** means an RTO (or another body that is auspiced by an RTO under a Third Party (Auspicing) Agreement) supplying the Program under this Agreement.

**External Provider Personnel** has the meaning given in Schedule 2, and includes replacement personnel.

**Fees** means the fee payable to the External Provider for the provision of the Program as specified in the Agreement Details.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Insolvency Event** means an event in which a party:

- (a) enters into any form of insolvency or external administration or control or bankruptcy;
- (b) has a controller appointed to any of its assets or proposes a reorganisation, moratorium or deed of company arrangement;
- (c) is the subject of an order or application for winding-up, deregistration, dissolution, administration or liquidation;
- (d) is taken to have failed to comply with a statutory demand; or
- (e) stops or suspends or threatens to stop or suspend the payment of all, or a class of its debts or the conduct of all, or a substantial part, of its business.

**Intellectual Property Rights** includes all present and future copyright and neighbouring rights, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, Confidential Information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**International Student** means a Student enrolled in the course, who is also subject to the *Education Services for Overseas Students Act 2000* (Cth) and is specified in Schedule 3.

**Laws** means:

- (a) the law in force in the State of Victoria and the Commonwealth of Australia, including common law, legislation and subordinate legislation; and
- (b) ordinances, regulations, orders, standards, guidelines, by-laws and other similar documents of relevant government, semi-government or local authorities.

**MACS** means Melbourne Archdiocese Catholic Schools Ltd, as the governing authority of the School.

**NCVER** means the National Centre for Vocational Education Research.

**Privacy Laws** include the *Privacy Act 1988* (Cth), the *Health Records Act 2001* (Vic) and any other applicable codes, laws or legislation.

**Program** means a program delivered by the External Provider as set out in Item 2 of the Agreement Details, and is more accurately described in Schedule 1.

**RTO** means the registered training organisation that is responsible for providing any of the VET services specified in this Agreement and for delivering VET certification in respect of the Program, being either a party to this Agreement or where the External Provider has entered into a Third Party (Auspicing) Agreement, the RTO listed in the RTO Details in Item 3.

**RTO Standards** has the meaning given in the *National Vocational Education and Training Regulator Act 2011* (Cth), and refers to those standards as made, modified or replaced from time to time.

**Schedule** means a schedule to this Agreement.

**School** has the meaning given in the Agreement Details.

**Students** means the Students enrolled in the course (as specified at Schedule 3 to this Agreement) and includes an International Student.

**Tax Invoice** has the same meaning as in the GST Act.

**Term** means the term of this Agreement specified in Item 1 of the Agreement Details.

**Third Party (Auspicing) Agreement** means an auspicing agreement between an RTO and the External Provider (where it is a school), to deliver the Program on behalf of and under the direction of the RTO.

**Training Package** has the meaning given in the *Standards for VET Accredited Courses 2021* (Cth), which is a nationally endorsed, integrated set of competency standards, assessment requirements, Australian Qualification Framework qualifications, and credit arrangements for a specific industry, industry sector or enterprise.

**VASS** means the Victorian Assessment Software System.

**VCAA** means the Victorian Curriculum and Assessment Authority.

**VCE** means the Victorian Certificate of Education.

**VCE VET programs** means VET qualifications approved by the VCAA following consultation with schools, industry and training providers. They lead to nationally recognised qualifications and provide an opportunity for students to receive credit towards their VCE, their VCE Vocational Major or their Victorian Pathways Certificate. Some VCE VET programs offer scored assessment, and most provide structured workplace learning and recognition. This is clearly stated on each program [page](#).

**VET** means vocational education and training, as that term is defined in the *National Vocational Education and Training Regulator Act 2011* (Cth). VET courses are undertaken by secondary school students in Victoria as part of their school program.

**VET Qualification** has the meaning given in the *National Vocational Education and Training Regulator Act 2011* (Cth).

**VET Statement of Attainment** has the meaning given in the *National Vocational Education and Training Regulator Act 2011* (Cth).

**Victorian Training Guarantee** means the guarantee in section 1.2.2 of the *Education and Training Reform Act 2006* (Vic) to government subsidised training that can be accessed in accordance with that Act and a VET funding contract as defined in s 1.1.3 of that Act.

**VIT** means the Victorian Institute of Teaching.

**VRQA** means the Victorian Registration and Qualifications Authority.

**VRQA VET Guidelines** means the Victorian Registration and Qualifications Authority Guidelines for VET Providers as made, modified or replaced from time to time.

**VTAC** means the Victorian Tertiary Admissions Centre.

## Schedule 1 – PROGRAM DETAILS

### Qualification Code and Title:

NB: The Program Details provided should distinguish between first year Students and second year (continuing) Students.

Unit Code	Title of Unit of Competency (UoC) NB Give details of any matters agreed under clause 1.5 against relevant UoC	Nominal Hours	Delivery Site External Provider School	Delivery Arrangement NB Details about delivery day and time	Scored Assessment (Yes or No)	Number of Enrolments

### For Delivery Sites other than the School premises:

Unit Code	Delivery Site	Venue Address	Contact Person	Contact Number

## Schedule 2 – EXTERNAL PROVIDER PERSONNEL (TO BE COMPLETED BY THE EXTERNAL PROVIDER)

Only the personnel of the External Provider specified in the table below are to perform the education, training, assessment or other specified VET services with enrolled Students of the School. Where the personnel are engaged in providing the Program on a school site, they will require VIT registration.

Name of Trainer/Assessor	Role	Qualifications and Experience	Program or unit(s) of competency being delivered	National Police Check and Working with Children Check compliance or evidence of VIT Registration provided, as applicable (see Clauses 4.1.2 and 4.1.3)

### Schedule 3 – STUDENT DETAILS (SEE TABLE BELOW FOR INTERNATIONAL STUDENTS)

[illegible]**International Student Details (if applicable)**

This is to be completed by the School - guidance notes for schools only. International Students for the purposes of this Schedule is intended to only include Students that hold a student visa of a subclass 500 Schools Sector visa where the Student is the primary holder of the subclass visa and not dependent on their parent's student visa. If you require further assistance in determining whether the Student is an International Student subject to the ESOS Act, please contact Melbourne Archdiocese Catholic Schools.

[illegible]

## Schedule 4 – REPORTING DETAILS

Deliverable	Deadlines to align with VCAA and VASS requirements
Enrolment details (Student name, course code, UoCs) to be entered on VASS (Semester 1)	<<Two weeks before the deadline for VET Certificate Enrolments to be entered on the VASS database for targeted VET funding purposes>>
Term 1 Student Progress Report	<<School to negotiate with External Provider>>
Student Results Semester 1	<<School to negotiate with External Provider>>
Mid-Year Student Progress Report	<<School to negotiate with External Provider>>
Term 3 Student Progress Report	<<School to negotiate with External Provider>>
Students Results Semester 2	<<Two weeks before the final deadline for VCAA Results>>
End of Year Student Report	<<School to negotiate with External Provider>>
Issuing of Statements of Attainment/Certificates	<<School to negotiate with External Provider>>

### International Student Reporting Requirements (delete if not applicable)

In accordance with clause 6 of Schedule 8 of the Agreement, these are the additional reporting requirements for when there are International Students enrolled in the Program.

The International Student Coordinator's details are:

Name: [insert name]  
 Position: [insert position]  
 Phone: [insert phone number]  
 Email: [insert email address]

Deliverable	Reporting Schedule
Monitoring International Student attendance and engagement in the course. (Clause 6.2 of Schedule 8)	Fortnightly External Provider to provide fortnightly written reports to the School's International Student Coordinator by email.
Notification to School's International Student Coordinator when the External Provider has identified the International Student may be at risk of not meeting course requirements including attendance or engagement; and/or that further support for the International Student may be required to assist them to meet the course requirements. (further support may include student support or access to additional facilities, equipment, learning, library resources or premises) (Clause 5.2 of Schedule 8)	As needed External Provider to notify the School's International Student Coordinator by email or phone.
Notification to School's International Student Coordinator of International Student being unwell. (Clause 5.1 of Schedule 8)	Immediately External Provider to notify the School's International Student Coordinator by email or phone.

## Schedule 5 – REQUEST BY EXTERNAL PROVIDER TO SUB-CONTRACT VET PROGRAM

The External Provider must complete this section if it requires a sub-contractor to deliver any part of the Program.

The School must agree to the following provision prior to executing the sub-contract.

Only the specified qualifications and personnel of the External Provider specified in the table below are to perform the specified VET Program with enrolled Students of the School.

**Sub-contracted External Provider:** \_\_\_\_\_

**School Approval:**

**Where the External Provider is an RTO:**

**RTO Code:** \_\_\_\_\_

(See RTO registration on [training.gov.au](http://training.gov.au))

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

**Registering Body** (select one): ASQA/VRQA

Position: \_\_\_\_\_

Date: \_\_\_\_\_

### VET Program

Qualification code and title		Delivery Site	Trainer and Contact Number
Unit code	Unit title		

### Staff Details

Name of Trainer	Role	Qualifications and Experience	National Police Check and Working with Children Check compliance or evidence of VIT Registration provided, as applicable (see Clauses 4.1.2 and 4.1.3)



## Schedule 6 – AGREEMENT VARIATION NOTICE

Date:

To: [Insert Name of External Provider]  
[Insert Address of External Provider]

[Insert name of School] hereby confirms that pursuant to clause 27 of the VET Purchasing Agreement between [insert name of School] and [insert name of External Provider] dated [insert date of Agreement] the delivery of the Program is varied as follows:

Variation	Details	School Endorsement	External Provider Endorsement and RTO Endorsement (as applicable)
Student enrolments/withdrawals			
Program Content – Competencies			
Commencement and Completion Dates			
Delivery Arrangements			
Changes to Trainers/staff			

Actions required to address variation(s):

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Other Specifications:

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**School signature**

\_\_\_\_\_  
Print Name \_\_\_\_\_  
Position \_\_\_\_\_  
Date \_\_\_\_\_

**External Provider Authorised Signatory**

\_\_\_\_\_  
Print Name \_\_\_\_\_  
Position \_\_\_\_\_  
Date \_\_\_\_\_

**SCHEDULE 7     – EQUIPMENT PROVIDED BY SCHOOL**

[If the parties agree that the School will provide any equipment for the purpose of the Program, insert the relevant details below.]

## Schedule 8 – TERMS AND CONDITIONS FOR INTERNATIONAL STUDENTS

### 1 QUALIFICATIONS

- 1.1 The External Provider must not award a VET Qualification to an International Student but may issue to them a VET Statement of Attainment on successful completion of the course.

### 2 SCHOOL'S INTERNATIONAL STUDENT COORDINATOR

- 2.1 The External Provider is aware that each School that has International Students enrolled, has an International Student Coordinator.
- 2.2 The School's International Student Coordinator is specified in Schedule 4.

### 3 REGISTRATION WITH CRICOS

- 3.1 The External Provider must be CRICOS registered to deliver the Program to International Students.

### 4 INTERNATIONAL STUDENT REQUIREMENTS

- 4.1 The External Provider warrants that it has adequate staffing and education resources to deliver the Program to International Students in compliance with:
- 4.1.1 the ESOS Act; and
  - 4.1.2 the National Code; and
  - 4.1.3 VRQA Guidelines in relation to International Students; and
  - 4.1.4 relevant School policies or procedures.
- 4.2 The External Provider agrees to provide International Students with access to any reasonable support identified by the School, the School's International Coordinator or the External Provider to support International Students to achieve expected learning outcomes, at no additional cost to the School or the International Student.

### 5 SUPERVISION OF STUDENTS

- 5.1 The External Provider must immediately notify the School's International Student Coordinator if the External Provider has identified that an International Student is unwell in accordance with Clause 6.6 of the Agreed Terms.
- 5.2 The External Provider must notify the School's International Student Coordinator of matters involving International Students when:
- 5.2.1 an International Student is at risk of not meeting their course progress or attendance requirements; or
  - 5.2.2 whether further support may be required to assist the International Student to complete the course delivered by the External Provider.

### 6 NOTIFICATION AND REPORTING REQUIREMENTS

- 6.1 The External Provider must record International Student attendance and participation in class for the Program being delivered by the External Provider for which the Student is enrolled; and

- 6.2 Report on the attendance and participation records to the International Student Coordinator.
- 6.3 The External Provider must provide reports and notifications in accordance with Schedule 4 to this Agreement, to the School's International Student Coordinator.

## 7 **STUDENT COMPLAINTS AND APPEALS**

- 7.1 The External Provider agrees that any complaints and appeals in relation to International Students must be made in accordance with the School's International Student Complaints and Appeals Policy.

## 8 **INTERPRETATION**

- 8.1 These conditions apply in addition to the Agreed Terms in circumstances where the School has enrolled International Students in the Program.

## 9 **DEFINITIONS**

In this Schedule:

**CRICOS** means the Commonwealth Register of Institutions and Courses for Overseas Students established under ESOS.

**ESOS Act** means the *Education Services for Overseas Students Act 2000* (Cth).

**National Code** means Part D of the ESOS Act National Code, which specifies the set of national standards governing the delivery of courses and associated services to international students by Australian education providers registered on CRICOS.

**School International Student Coordinator** means the International Student Coordinator who is responsible for the International Students at the School and is specified in Schedule 4 of the Agreement Details.