Partnership Schools/Kura Hourua

Key Agreement Terms and Principles

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<table>
<thead>
<tr>
<th>Minister of Education (Minister)</th>
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<tbody>
<tr>
<td>[insert name of sponsor] (Sponsor)</td>
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</tbody>
</table>

**Base Agreement**

**PART 1: Design of Agreement and Introductory Matters**

1. **Design of Agreement**

   This Agreement has been designed as a contract for outcomes (see further below) and is structured in the following way:

   **Part 1:** Part 1 describes the structure and nature of the Agreement and the relationship between the Agreement and the Act. Part 1 also appoints the Sponsor and sets the term of the Agreement.

   [Drafting Note: For the purpose of this Agreement outline, provisions in the Education Amendment Bill are assumed to form part of the Education Act 1989, however the inclusion of these provisions is still subject to the ordinary legislative process and therefore subject to change during the course of that process.]

   **Part 2:** Part 2 describes the key requirements of the Sponsor’s School. Although many of the requirements can be found in the Act, reference is made to the key topics which address how the School is expected to run, cross-referencing provisions in the Act and the Act generally where applicable and setting additional limitations and expectations through the contract where required. Specific details relating to Part 2 unique to the Sponsor’s School are set out in Schedules to the Agreement. This Agreement should therefore be read alongside and closely with the Act and should not be taken as overriding the Act in any way.

   **Part 3:** Part 3 sets out the performance regime that applies under this Agreement. Part 3 specifies:

   - the ‘minimum requirements’ that the Sponsor must meet, which will be measured solely on the basis of compliance or non-compliance with a certain requirement (i.e. a pass/fail approach);
   - the key areas or ‘key performance indicators’ that the Sponsor will be assessed against as a signal of how well the Sponsor is performing its obligations under the Agreement and the Act (indications or the benchmark that the Sponsor will be measured against in relation to each topic (tailored for the Sponsor’s School) will be set out in the applicable Schedule to the Agreement);
the Sponsor’s reporting requirements, which will enable the Sponsor’s performance against the minimum requirements and key performance indicators to be measured and assessed.

The minimum requirements and KPIs are largely drawn from the requirements described in Part 2 of the Agreement.

Part 4: Part 4 sets out the regime that will apply if the Sponsor is not meeting the objectives or minimum requirements set out in Part 3, or the expected standard in specific areas as assessed against the key performance indicators described in Part 3. In these circumstances the Minister will have a number of possible interventions available to use at his or her discretion, but Part 4 indicates the interventions that are available at applicable levels of performance displayed by the Sponsor. The Minister will be required to exercise judgement over which of the interventions is appropriate in the circumstances, taking into account the seriousness of the failure to meet the minimum requirement or level of non-performance against the KPI, the Sponsor’s record of previous failures (if any) and the Sponsor’s high performance in certain areas, as applicable.

Part 4 also sets out the termination regime that applies under this Agreement.

Part 5: Part 5 describes the process that will apply when the Agreement expires or terminates (or is about to expire or terminate) to ensure stability for the affected Students.

Part 6: Part 6 describes how payment will be made to the Sponsor under the Agreement. The specific details around the amounts to be paid will be set out in the relevant Schedule to the Agreement.

Part 7: Part 7 sets out the general ‘legal boiler plate’ provisions that apply to this Agreement.

Schedules: The Schedules set out the detailed information specific to the Sponsor’s School and operations referred to throughout Parts 1 to 7.

Contracting for outcomes

The outcomes to be achieved by the Sponsor (which are aligned with the outcomes that the Minister is seeking to achieve) are described and reflected in the Objectives and the Key Performance Indicators. The Objectives and Key Performance Indicators detail the specific level of performance expected of the Sponsor in order to achieve the desired outcomes. The reporting, audit, performance measurement and intervention mechanisms are all elements of the regime designed to ensure that the outcomes contracted for are achieved and, if they are not being achieved, that measures are being taken to address this.

This clause 1 is designed to assist the parties in understanding the design and content of the Agreement. In the event of a conflict with any other provision this clause 1 should be read consistently with that other provision, or where a consistent
2. **Scope and Construction of Agreement**

(a) This Agreement comprises the base agreement (being clauses 1 to 35) and the Schedules.

[Drafting Note: There may also be provision in the Agreement for 'Operative Documents'. This concept would provide that the Sponsor is required to submit certain plans (or other types of documents) to the Minister for approval by set dates after the Agreement is signed. The Minister would then review the documents and either approve the document or send it back to the Sponsor for revision and re-submission. Once approved, the Sponsor would be required to act in accordance with the Operative Document. Non-compliance would lead to certain interventions being available to the Minister. Examples of types of 'Operative Documents' would be a 'Target Group Plan' which specifies how the Sponsor will target (and encourage enrolment of) students in the groups whose education needs are not currently being met through the State school model. Another example could be an Annual Plan setting out how the curriculum will be delivered. It is also anticipated that Operative Documents could be used as the mechanism by which the Key Performance Indicators will be reviewed (and if necessary, revised) each year (if such revision is determined to be appropriate). The exact mechanism to enable the review and annual revision of KPIs is still being considered. However, it is considered that such a mechanism is likely to be required given that it may be difficult to set reliable targets 4 or 5 years in advance, as well as to avoid a situation where a Sponsor performs at a level that is only just meeting the required performance in order to maximise profit at the expense of reinvesting in the School to reach an optimal level of performance.]

(b) This Agreement is a ‘partnership school contract’ for the purpose of the Act.

3. **Appointment of Sponsor**

(a) The Sponsor is contracted by the Minister to provide educational services to students who enrol to attend the Sponsor’s School on the terms described in this Agreement and otherwise in accordance with the Act and all other applicable laws, regulations, the terms of the Gazette Notice, and any applicable guidelines.

(b) It is the Sponsor’s sole responsibility to ensure that it is aware of any laws, regulations, rules or guidelines that apply to the Sponsor’s operation of the School (including without limitation those relating to transport, building, health and safety, and employment) and otherwise the Sponsor’s performance of its obligations under this Agreement.

(c) Generally, and for the purpose of this Agreement, the
Sponsor is a “sponsor” as that term is defined in section 2 of the Act. The Sponsor has all of the rights, duties and responsibilities set out in the Act and otherwise as described in this Agreement.

<table>
<thead>
<tr>
<th>4.</th>
<th>Term of Agreement</th>
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<tbody>
<tr>
<td>The Agreement will commence when executed by both parties and will continue for a term of [five (5) years from 1 January 2014], unless earlier terminated in accordance with the terms of the Agreement.</td>
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[Drafting Note: A final decision still has to be made about the term of the Agreement.]
### PART 2: Key requirements of a Partnership School/Kura Hourua

#### 5. Special features of Sponsor’s Partnership School/Kura Hourua

- **(a)** The special features of the Sponsor’s Partnership School/Kura Hourua are as set out in the Gazette Notice attached as Annex A to Schedule 1. **[Drafting Note: The special features described in the Gazette Notice will depend upon what is put forward in the relevant proposal and approved by the Minister.]**

- **(b)** The Sponsor may only provide religious instruction in the School if the Gazette Notice describes the Sponsor as a Partnership School/Kura Hourua that is permitted to provide religious instruction to its students. The religious instruction that can be provided to students attending the School is only as specified in the Gazette Notice.

- **(c)** The Sponsor’s Target Groups are set out in Schedule 1. The Sponsor’s performance in attracting Students from the Target Groups is a Key Performance Indicator under this Agreement.

#### 6. Enrolment of Students at School and in Courses

##### 6.1 Maximum Roll

- **(a)** The Maximum Roll for 2014 is set out in Schedule 1.

- **(b)** The students who comprise the Maximum Roll can only be from the Class Levels specified in the Gazette Notice for the relevant Year. There is no minimum or maximum number of students per Class Level that the Sponsor must enrol.

- **(c)** The Maximum Roll for each subsequent Year will be agreed by the Minister and the Sponsor in writing by way of a variation to this Agreement, by no later than 1 September in each Year. If agreement cannot be reached the Maximum Roll shall remain at its then current set or agreed level.

##### 6.2 Acceptance of Students

- **(a)** Subject to (b) and (c) the Sponsor must accept any Domestic Student who wishes to enrol at the Sponsor’s School, provided that:

  - **(i)** the student is of an eligible age or otherwise meets any necessary eligibility criteria (as provided for in the Act) to receive education in relation to the Class Levels that the Sponsor is permitted to offer, as specified in the Gazette Notice; or

  - **(ii)** the Secretary has directed the Sponsor to enrol the student in accordance with the Act; and

  - **(iii)** accepting the student would not cause the Sponsor to exceed the Maximum Roll for the relevant Year.
(b) If the Sponsor receives multiple applications for enrolment at one time from students who are eligible to enrol with the Sponsor under (a)(i) such that accepting all students who are seeking to enrol at that time would cause the Sponsor’s Maximum Roll to be exceeded, the Sponsor must allocate places in accordance with sections 158M and 4(3) of the Act.

(c) If section 158R(1) or (2) of the Act gives the Sponsor grounds not to enrol a student seeking to enrol at the School, the Sponsor is not required to enrol that student in the School.

(d) Provided that the Sponsor complies with the requirements and restrictions set out in (a) and (b) above, the Sponsor is permitted to run its enrolment process and conduct ballots as it sees fit unless the Minister, at any time, in the Minister’s sole discretion and for any reason, requires that the Sponsor follow an enrolment process that is notified to the Sponsor by the Minister in writing.

[Drafting Note: The position on the Minister’s ability to be able to direct that a certain enrolment process is followed, as set out in (d) above, is still under consideration. Consideration is being given to how any ballot might be run given the imperative to focus on attracting students in the Target Groups.]

### 6.3 International Students

The provisions in the Act relating to enrolment and tuition of International Students, as applied by section 158T of the Act and the requirements under Part 18A of the Act, apply to the Sponsor.

[Drafting Note: Whether there will be an upper limit on the number of international student places that a Sponsor may set aside for enrolment purposes is still being considered. A placeholder is included in Schedule 1 in case this is included. The expectation is that Partnership Schools/Kura Hourua would be established to meet the needs of the Target Groups. As such, strict limits on the number of international students are likely to be imposed.]

### 6.4 Students with special education needs

Sections 158N and 158O of the Act apply in respect of persons seeking to enrol at the Sponsor’s School who have special education needs (as that term is defined in the Act).

### 6.5 Guidance and counselling

The Sponsor must take all reasonable steps to ensure that:

(a) in providing a safe physical and emotional environment for the Students, it ensures that its Students get good guidance and counselling; and

(b) every Student’s parents (as that term is defined in the Act) are told of matters that are barriers to the Student’s progress.

### 6.6 Tuition from other schools

Section 25B of the Act, as applied by section 158T of the Act, applies in respect of Students who are or who wish to receive
7. Student attendance and absences from School

### 7.1 School hours and terms

(a) The Sponsor is permitted to set and change the School hours and term dates when students are required to be in attendance at the school, provided that:

(i) the hours and term dates do not reduce below the minimum levels set out in Schedule 1; and

(ii) the Students and parents of the Students are notified in writing, and with reasonable advance notice, of the hours and term dates and any changes to those hours and dates.

Section 158P of the Act applies in relation to the setting of multiple timetables in the School.

### 7.2 Students’ attendance at school

The provisions in sections 25 to 25B and 27 of the Act that are stated in the Act (through section 158T of the Act or otherwise) as applying to a Partnership School/Kura Hourua apply in respect of Students’ attendance at the School.

### 7.3 Standing down, suspending and expelling

(a) The provisions in sections 13 to 15, 17 to 17C, 18 and 19 of the Act as applied by section 158T of the Act and the provisions in the Education (Stand-Down, Suspension, and Expulsion) Rules 1999, as applied by section 158U of the Act, and any rules or regulations made under either Act in relation to those provisions, apply in relation to the standing down, suspending and expelling of Students.

[Drafting Note: It is possible that, despite the position in the Act around duration of stand-downs and suspensions, the Agreement may set a cap on the number of days a Student may be suspended for in a given Year. This is still the subject of further consideration.]

(b) The Sponsor is required to comply with any requirements specified in Schedule 1 of the Agreement in relation to standing down, suspending or expelling Students.

[Drafting Note: It is possible that the Sponsor may be required to comply with the Ministry’s Guidelines relating to stand-downs, suspensions and expulsions, as published from time to time (the current publication is dated 2009). This is still being considered but would be incorporated though Schedule 1].

8. Curriculum and Qualifications

### 8.1 Curriculum

(a) The Sponsor will ensure that it teaches its Students in accordance with the Curriculum described in Schedule 2 and measures the performance of the students against that Curriculum in accordance with the Student Assessment Regime described in Schedule 2.

(b) Notwithstanding any description of the Curriculum in
Schedule 2, the Sponsor must ensure that the Curriculum is, at a minimum, in line with any Foundation Curriculum Policy Statement.

[Drafting Note: Schedule 2 will set out the curriculum offered to students enrolled with the Sponsor. This will be either:

- the ‘New Zealand Curriculum’;
- Te Marautanga o Aotearoa; or
- a Sponsor-developed curriculum approved by the Minister and described in this Agreement,

and will depend on the Sponsor’s proposal in response to the RFP. The Student Assessment Regime will also depend upon what is negotiated with each Sponsor.]

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<thead>
<tr>
<th>8.2</th>
<th>Qualifications offered</th>
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<tbody>
<tr>
<td>(a)</td>
<td>The Sponsor will offer the relevant Qualifications specified in Schedule 2 to any Student seeking to undertake the necessary assessments to achieve the relevant Qualification and who is in the normal Class Level or has the academic ability to undertake the necessary assessments to achieve the relevant Qualification.</td>
</tr>
<tr>
<td>(b)</td>
<td>Students in a lower Class Level than would ordinarily take such Qualification will be permitted to do so if they so wish provided that, in the Sponsor’s reasonable opinion, the Student is capable of achieving the relevant Qualification.</td>
</tr>
<tr>
<td>(c)</td>
<td>The Sponsor shall encourage all Students to achieve the relevant Qualification that corresponds to their Class Level and/or ability.</td>
</tr>
<tr>
<td>(d)</td>
<td>The Sponsor shall not actively discourage any Student from undertaking any assessment to achieve a Qualification that the Sponsor offers.</td>
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</tbody>
</table>

| 9. | School Rules, Off-site Activities, Student transportation and complaints by parents |
| 9.1 | Off-site visits and courses |
| (a) | Section 158S of the Act sets out the position around Students’ ability to attend courses of education, obtain work experience or make visits outside the school premises. |

<p>| 9.2 | Transport |
| (a) | The Sponsor will provide transport for Students as required by and described in Schedule 3. |
| (b) | If Schedule 3 states that the Sponsor is required to provide transport for Students, the Sponsor is responsible for ensuring that: |
| (i) | the Sponsor, its drivers or any person or organisation engaged by the Sponsor to provide the required transport services, hold all applicable licences required under land transport legislation, including but not limited to the Land Transport Act 1998 and any regulations and rules made pursuant to that |</p>
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|   | Act or any other relevant Act, regulation or rule applying at the time;  
(ii) the vehicle or vehicles used in the provision of the required transport services comply at all times with all relevant transport legislation, including any transport regulations and rules; and  
(iii) the transport services are otherwise provided in accordance with any applicable Act, regulation, rule or guidelines. |
| 9.3 | School rules | (a) Subject to [(b)] below, in accordance with section 158H of the Act, the Sponsor may make any rules that the sponsor thinks necessary or desirable for the control and management of the school.  
(b) The Minister may, at the Minister’s sole discretion, determine (acting reasonably) that a rule that has been made or is proposed to be made by the Sponsor is not necessary or desirable for the control and management of the school and the Minister may give the Sponsor notice in writing that a rule shall be suspended until the rule is revised to the satisfaction of the Minister. |
| 9.4 | Extra-curricular Activities | The Sponsor will offer the extra-curricular activities set out in Schedule 3 to its Students. |
| 9.5 | Engagement with a parent making a complaint | The Sponsor will ensure that if a parent or parents of a Student make a complaint to the Sponsor, a principal, teacher, or other employee of the School about a matter affecting their child, the Sponsor will handle the complaint promptly and if the Sponsor does not handle the complaint to the satisfaction of the parent(s) that the Sponsor will arrange for an independent party to be appointed as a mediator to assist in resolving the issue.  

[Drafting Note: The Sponsor will also be required to have a policy in place which details how the parent(s) can make a complaint to the Sponsor and how the parent(s) can access mediation/arbitration in resolving an issue that arises between the Sponsor and the parent(s) (including any issues relating to expulsions, exclusions and stand-downs). A copy of this policy shall be provided to the Minister.] |
| 10. | Fees and donations |   |
| 10.1 | Tuition fees | (a) The Sponsor acknowledges the right of every Domestic Student to free enrolment and free education as set out in section 3 of the Act. This principle shall be taken into account in relation to the application of clause 10 of this Agreement. The Sponsor must also apply any then current circular issued by the Ministry that relates to payments by parents, as if such circular applied to the Sponsor, unless otherwise notified by the Minister in writing.  
(b) The Sponsor must not charge a Domestic Student any fee for receiving tuition at the School. This includes |
any fee relating to teaching against the Curriculum unless otherwise expressly permitted under clause 10 of this Agreement.

(c) Section 7A of the Act applies in relation to charging Students’ fees for receiving tuition from a Correspondence School.

(d) Sections 4B and 4C of the Act apply in relation to fees that the Sponsor may charge International Students for receiving tuition at the School.

(e) The Sponsor acknowledges that it is responsible for the payment of any fee, charge or levy payable by the Sponsor under the Act, including any export education levy set under any regulations made pursuant to section 238H of the Act.

10.2 Fees for transport

The Sponsor may charge a Student’s parent a reasonable fee for any transport provided to that Student between the Student’s home and School before or after School hours, or to any Extra-curricular Activity, provided such fee is consistent with any then current circular issued by the Ministry that applies in accordance with clause 10.1.

10.3 Fees for uniform and stationery

[Drafting Note: The Ministry is likely to require through this Agreement that the cost of uniforms and any stationery supplied by the School or required to be obtained by a Student through inclusion on the Student’s stationery/equipment list is capped at a reasonable level. The position and any cap is still being finalised.]

10.4 Donations

The Sponsor may (as consistent with any then current circular issued by the Ministry that applies in accordance with clause 10.1) seek a donation from a Student’s parent but if a parent does not make a donation, this must not affect the tuition that the Student receives at the School and must not disadvantage that Student compared with any other Student whose parent(s) have made a donation to the School.

10.5 Hostel fees

If this Agreement permits a Sponsor to provide a Hostel for its Students, the Sponsor may charge a Student's parent(s) a reasonable fee for lodging in the Hostel, including any expenses associated with such lodging.

10.6 Assessment fees

The Sponsor is permitted to charge any assessment fee that is permitted under the Act or is otherwise set out in Schedule 2.

10.7 Extra-curricular Activities fees

[Drafting Note: The Ministry’s expectation is that any extra-curricular activities offered must be truly extra-curricular, and provided this is the case, the Sponsor may charge a fee for the Student’s involvement in that activity.]

11. Governance of the School

11.1 Chief executive

The Sponsor may appoint any person to the role of ‘Chief Executive’ of the School. The person appointed does not have to be a Registered Teacher, but can be responsible for the day-to-day running of the school. Notwithstanding the appointment of a chief executive, the Sponsor remains responsible for the performance of all obligations under this
## 11.2 Responsibility for teaching and learning

(a) The Sponsor will ensure that at all times, it has appointed a person employed or otherwise contracted by the Sponsor to be the person responsible for teaching and learning across the School.

(b) The Sponsor will ensure that at all times it has appointed a person employed or otherwise contracted by the Sponsor to be the Professional Leader, as that term is defined in the Act (which may be the same as the person appointed under (a)).

(c) The Sponsor will ensure that any person appointed under (a) has a proven background in educational leadership.

(d) The Sponsor must notify the Minister, in writing, of any appointment made under (a) and (b) within [x] days of an appointment being made.

(e) The Sponsor must notify the Minister, in writing when any person appointed under (a) and (b) ceases to hold the position of the person responsible for teaching and learning across the School or the role of Professional Leader, as applicable, within [x] days of the person ceasing to hold such position.

(f) The Minister may, by giving notice to the Sponsor in writing, require the Sponsor to seek the Minister’s consent, in writing, before appointing any person under (a) or (b).

## 11.3 Principal’s powers

(a) The person or persons named in Schedule 4 is or are the person(s) that the Sponsor has assigned to perform the role of principal, for the purpose of any provisions in the Act that requires the Sponsor to assign the role of principal.

(b) The Sponsor may change any person named as principal in Schedule 4 at any time by giving the Minister notice in writing of this change.

(c) If the Sponsor replaces any person named as principal, in accordance with (b), the person who is assigned the role of principal must be a person of good character and having the necessary experience and expertise to undertake the role to which that person is being appointed.

(d) The Minister may require the Sponsor, by giving the Sponsor a direction in writing, to replace any person named as principal in Schedule 4 if, in the Minister’s reasonable opinion, such a person is not or is no longer of good character or does not have the necessary experience and expertise to undertake the principal responsibilities assigned to them.

## 11.4 Ability for Minister to

(a) The Minister may at any time, if the Minister has concerns about the management of the School, for
appoint representative any reason, appoint a representative to sit in on and observe any or all management meetings relating to the School, for so long as the Minister chooses.

(b) If the Minister appoints a representative under (a), the Sponsor will ensure that the Minister’s representative is invited to all management meetings and is given sufficient notice of the time when and location where such meetings will be held and of the agenda for that meeting.

(c) If a Minister’s representative attends a management meeting under (b), the Minister’s representative will be entitled to listen, gather information, take notes and make comments and suggestions at that meeting but under no circumstances will the Minister’s representative, the Minister or any part of the Crown be responsible or liable for any decisions taken as a result of anything said or not said, done or not done by the Minister’s representative at any management meeting. The Minister’s representative will not be entitled to vote on any matter at a School’s management meeting.

12. Teachers and other Sponsor employees and contractors

12.1 Qualifications of teachers

The Sponsor will ensure that the teachers employed by the Sponsor to deliver the Curriculum to its Students (including unregistered teachers) are appropriately qualified in the subject matter being taught and have the necessary skills to be able to teach the Students who the teacher is tasked with teaching (even if that teacher does not have formal teaching training).

12.2 Number of teachers and other staff

(a) The Sponsor will ensure that the teacher to student ratio in respect of each class of Students being taught does not fall below the ratios described in Schedule 4.

[Drafting Note: There may be more than one ratio that will apply. For example Schedule 4 may specify ratios for no. of teachers per no. of students in a class generally and number of teachers per number of students with special education needs.]

(b) The Sponsor will ensure that it has teachers and staffing who are suitable for the age range, Class Level and abilities of its Students and the Curriculum taught at the School.

12.3 Percentage of registered teachers

(a) The Sponsor will during all term times, maintain the percentage of Registered Teachers and Holders of Limited Authority to Teach, compared with the total number of Teaching Positions at the School, at or above the percentage set out in Schedule 4.

(b) For the purpose of determining the percentage of Registered Teachers and Holders of Limited Authority to Teach at any time:

(i) the number of Registered Teachers or Holders of Limited Authority to teach at any
time will be assessed based on the amount of time that the relevant individual is engaged at the School and not simply based on the number of persons employed or contracted by the School;

(ii) the total number of Teaching Positions for 2014 is as set out in Schedule 4; and

(iii) the total number of Teaching Positions for each subsequent Year will be agreed by the Minister and the Sponsor in writing by way of a variation to this Agreement, by no later than 1 [September] in each Year. If agreement cannot be reached the total number of Teaching Positions shall remain at its then current set or agreed level.

<table>
<thead>
<tr>
<th>12.4</th>
<th>Police vetting</th>
</tr>
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<tbody>
<tr>
<td>(a)</td>
<td>Sections 78C to 78CD of the Act (as applied by section 158T of the Act) apply to the School and the Sponsor.</td>
</tr>
<tr>
<td>(b)</td>
<td>The Sponsor will not employ or continue to employ any person who will have unsupervised access to Students or allow a contractor to enter on to its premises or otherwise have unsupervised access to Students if a Police vet undertaken in accordance with sections 78C to 78CD of the Act suggests that the person who is the subject of the Police vet should not be on the School premises or otherwise have unsupervised access to the Students and where section 78CD(B)(i) or (ii) of the Act applies.</td>
</tr>
<tr>
<td>(c)</td>
<td>If the Sponsor employs or continues to employ a person in breach of clause 12.4(b) or if the Sponsor has employed a person or continues to employ a person without having undertaken a Police vet as required under the Act, the Minister may direct the Sponsor by notice in writing not to allow such person to have contact with any Student or to be present on the Premises.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>12.5</th>
<th>Teacher salaries and wages</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>The Sponsor is able to pay its employees and contractors any wage or salary agreed between the Sponsor and the Sponsor’s employee or contractor, provided this is in accordance with all applicable employment laws.</td>
</tr>
<tr>
<td>(b)</td>
<td>Neither the Minister nor the Ministry of Education will be responsible or liable in any way for the payment of the Sponsor's employees or contractors.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13</th>
<th>Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.1</td>
<td>Buildings</td>
</tr>
<tr>
<td>(a)</td>
<td>The Sponsor will operate the School in the location described in the Gazette Notice and from the premises described in Schedule 5.</td>
</tr>
<tr>
<td>(b)</td>
<td>The Sponsor will ensure that during all term times and school hours, the Premises are at all times suitable for a school of the description specified in the Gazette.</td>
</tr>
</tbody>
</table>
Notice and for the Maximum Roll and otherwise meet the minimum requirements specified in Schedule 5 (including any requirements as to the maintenance of the Premises).

(c) The Sponsor is responsible for all costs associated with ensuring that the premises are available to be used to operate the School, are appropriately maintained and continue to meet all necessary health and safety requirements, building law or building code requirements and are otherwise fit for purpose as an educational facility in the 21st century for the Class Levels offered by the Sponsor.

(d) The Sponsor is permitted to use of premises for any other purpose outside of school hours provided that doing so does not impact on the Sponsor’s other obligations under this Agreement.

| 13.2 Equipment | The Sponsor will ensure that it has, at all times, the equipment that is suitable for the curriculum being delivered or to be delivered at the School, the age range, Class Level and abilities of its current Students and meets the minimum requirements set out in Schedule 5. |
| 13.3 Hostel facilities | (a) If expressly permitted in Schedule 5 the Sponsor may operate a Hostel.  
(b) The provisions in section 144B to 144E of the Act (including any regulations made under those provisions) apply to any Hostel that the Sponsor is permitted to operate in accordance with (a). |

[Drafting Note: It is possible that some existing Ministry of Education Circulars (other than those specifically mentioned as potentially applying), may be deemed to apply to the Sponsor (particularly those relating to best practice in matters such as health and safety and protecting Students (e.g. the Education Outside the Classroom Guidelines). This is still under consideration.]
# PART 3: Performance Regime

## 14. Objectives

(a) The Objectives of the Sponsor in relation to the operation of the School are set out in Schedule 6.

(b) Achievement of the Objectives will be assessed using Objective measures in Schedule 6.

## 15. Minimum Requirements

(a) The following Minimum Requirements must be complied with by the Sponsor at all times during the term of this Agreement:

(i) no serious incident (other than a Force Majeure Event) occurs in relation to the School that compromises the health and safety of a student that the Minister reasonably considers could have been prevented by the Sponsor;

(ii) no serious criminal activity is discovered to have taken place on the Premises;

(iii) the Sponsor operates the School in accordance with the requirements set out in the Gazette Notice;

(iv) the Sponsor does not exceed the Maximum Roll;

(v) the Sponsor accepts students in accordance with clauses 6.2 to 6.4 of this Agreement;

(vi) the school hours and term dates never reduce below the minimum levels set out in Schedule 1;

(vii) the stand-down or suspension periods for Students do not exceed the maximum periods set out in the Act;

(viii) the Sponsor complies with the requirements in Schedule 1 in relation to standing down, suspending, excluding or expelling;

(ix) the Sponsor complies with every direction given under the Act or this Agreement;

(x) any transport required is provided as described in Schedule 3;

(xi) the Sponsor has a person appointed as the person responsible for teaching and learning and a person appointed as Professional
Leader at all times;

(xii) the Student to Teacher ratios are complied with;

(xiii) the percentage of Registered Teachers and Holders of Limited Authority to Teach compared with Teaching Positions does not fall below the percentage set out in Schedule 4;

(xiv) the Sponsor does not operate a Hostel unless this Agreement permits the Sponsor to do so;

(xv) the Sponsor has complied with all requirements in relation to police vetting under clauses 78C to 78CD of the Act (as applied by section 158T of the Act) and reporting on police vetting under this Agreement;

(xvi) the Sponsor reporting to the Ministry in accordance with clause 17.3 of this Agreement;

(xvii) the Sponsor reports to parents in accordance with clause 17.4 of this Agreement;

(xviii) the Sponsor reports to the public in accordance with clause 17.5 of this Agreement;

(xix) the Sponsor provides audited accounts as required by clause 17.6 of this Agreement; and

(xx) the Sponsor provides all of the required reports to the Minister by the dates or within the timeframes set out in Schedule 8.

[Drafting Note: It is possible that further requirements may be added to this list.]

(b) The Sponsor’s compliance with the Minimum Requirements and the frequency of any non-compliance with any of the Minimum Requirements, either individually or collectively, will be measured for the purpose of the intervention regime in Part 4 of the Agreement.

<table>
<thead>
<tr>
<th>16.</th>
<th>Key Performance Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>16.1</td>
<td><strong>Student engagement and Student progression</strong></td>
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<tr>
<td>16.2</td>
<td><strong>Student achievement</strong></td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
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</tr>
<tr>
<td>16.3</td>
<td>Teacher availability</td>
</tr>
<tr>
<td>16.4</td>
<td>Reporting</td>
</tr>
<tr>
<td>16.5</td>
<td>Property</td>
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<tr>
<td>16.6</td>
<td>Attracting Target Groups</td>
</tr>
</tbody>
</table>

## 17. Records and reporting

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.1</td>
<td>Records</td>
</tr>
<tr>
<td>(a)</td>
<td>Section 77A of the Act sets out the requirements for enrolment records that apply to the principal of the School, which must be complied with.</td>
</tr>
<tr>
<td>(b)</td>
<td>In addition to any enrolment records required to be maintained under the Act, for the purpose of this Agreement the Sponsor is required to ensure that a School record is kept and regularly updated which records the following information:</td>
</tr>
<tr>
<td>(i)</td>
<td>the enrolment details of any Student ever enrolled at the School, including the date on which each Student enrolled and left school;</td>
</tr>
<tr>
<td>(ii)</td>
<td>the days and hours on which the School was open for Students to attend to receive tuition or undertake assessments;</td>
</tr>
<tr>
<td>(iii)</td>
<td>the number of hours that each Student in (i) attended the Premises compared with the number of hours that each student was required to attend the Premises in accordance with their timetable and the reasons for any absences;</td>
</tr>
<tr>
<td>(iv)</td>
<td>the birth date of each student; and</td>
</tr>
<tr>
<td>(v)</td>
<td>the most current or recent name and address of each Student’s parent(s).</td>
</tr>
<tr>
<td>(c)</td>
<td>In addition to any records that the Sponsor is required to keep under (a) or (b) above, the Sponsor must maintain detailed records in accordance with prudent business practice and to enable the Sponsor to complete its reporting obligations under this Agreement, the Act or any other applicable laws.</td>
</tr>
</tbody>
</table>
### 17.2 Reporting to the Minister

The Sponsor is required to provide the Minister with:

(a) Quarterly Reports;
(b) Six-monthly Reports; and
(c) Annual Reports,
as set out in Schedule 8 of this Agreement.

### 17.3 Reporting to Ministry

(a) The Sponsor will report to the Ministry at intervals requested by the Ministry on the attendance of its Students by providing the information in clause 17.1(b)(ii) of this Agreement or any other information in relation to Student attendance as the Ministry may request.
(b) The Sponsor will also report to the Ministry at intervals requested by the Ministry on any other matter on which the Ministry gathers data from all State schools or a type of State school, in a form requested by the Ministry.

### 17.4 Reporting to parent(s)

The Sponsor is required to inform each Student’s parent of:

(a) the progress of the Student at the School;
(b) any barriers to the Student’s progress at the School;
(c) any significant administrative matters relating to the Student; and
(d) any significant matters relating to the operation of the School.

[Drafting Note: It is possible that the Agreement may require the Sponsor to complete certain templates or cover specific items with respect to progress and barriers to entry. This position is still to be confirmed but will be reflected in the final Agreement. If the School is a primary school it will also be expected to follow best practice with respect to National Standards. This will be included as a requirement for relevant Schools.]

### 17.5 Annual reporting to the public

By no later than 1 [February] in each Year the Sponsor must report publicly (at a minimum on its website and/or the main local or regional newspaper circulating in the location of the School’s Premises) on the progress of the School in respect of the full data for the previous Year against the Key Performance Indicators set out in Schedule 6.

### 17.6 Audited accounts

(a) By no later than each of the dates specified in Schedule 6 of this Agreement, the Sponsor must provide the Secretary with audited annual financial statements relating to the School for the relevant
(b) The audited annual financial statements must be prepared in accordance with \[\text{Drafting Note: The appropriate measure is still to be determined. This may be generally accepted accounting practice.}\].

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.7</td>
<td>Information required by the Secretary</td>
</tr>
<tr>
<td><strong>17.8</strong></td>
<td>Reporting generally</td>
</tr>
<tr>
<td><strong>18.</strong></td>
<td>Review and audit rights</td>
</tr>
<tr>
<td><strong>18.1</strong></td>
<td>Inspections</td>
</tr>
<tr>
<td><strong>18.2</strong></td>
<td>ERO review</td>
</tr>
</tbody>
</table>

**17.7 Information required by the Secretary**

Section 144A of the Act sets out the requirements around reporting to the Secretary, which much be complied with.

**17.8 Reporting generally**

Nothing in clause 17 of this Agreement alters or affects the Sponsor's other obligations under the Act or any other enactment to report on matters that it may be required to report on by law, including without limitation reporting to the Teacher's Council in accordance with any relevant provision in Part 10A of the Act.

**18. Review and audit rights**

**18.1 Inspections**

(a) Section 78A of the Act sets out the position regarding powers of entry and inspection of the School by any person holding an authorisation under that provision.

(b) The Sponsor agrees that for the purpose of applying section 78A, the reference to 'board of the school' shall be taken to mean the Sponsor.

(c) The Sponsor agrees to co-operate fully with any person holding an authorisation under section 78A of the Act who is carrying out any inspection under the Act.

**18.2 ERO review**

(a) The provisions in Part 28 of the Act apply in relation to the review of the Sponsor conducted by the Chief Review Officer (and review officers appointed by the Chief Review Officer) of the Education Review Office under that Part.

(b) Section 327 of the Act includes a power of entry and inspection of any place occupied by the Sponsor and section 328C of the Act includes additional powers of review officers.

(c) Section 328G of the Act includes powers of review that apply in respect of any Hostel that the Sponsor operates, if permitted by this Agreement.

(d) The Sponsor agrees to co-operate fully with any Chief Review Officer of the Education Review Office and any review officer appointed by the Chief Review Officer under Part 28 of the Act who is carrying out any inspection under the Act.

\[\text{Drafting Note: The Education Review Office will have a role in monitoring the Sponsor's School. The split between ERO's role and the Minister/Authorisation Board's ability to audit and review the Sponsor (to avoid unnecessary duplication) is still to be finalised. However, it is anticipated that the findings of ERO's review will feed into the Minister's assessment of the Sponsor's performance but will not be a substitute for the}\]
<table>
<thead>
<tr>
<th>18.3</th>
<th>Minister’s/ Authorisation Board’s audit rights</th>
<th>The Sponsor agrees that the Minister or the Authorisation Board may at any time, but not more frequently than once in any six (6) month period, and upon giving reasonable notice to the Sponsor, enter on to the Premises in order to conduct an inspection and to audit the Premises and/or the Sponsor’s operation of the School (including talking to any Student, Teacher or other contractor or employee at the Premises).</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.</td>
<td>Measuring performance and good faith obligations</td>
<td></td>
</tr>
</tbody>
</table>
| 19.1 | Good faith obligation | (a) The parties acknowledge that measurement of the Sponsor’s performance against the Objectives, Minimum Requirements and Key Performance Indicators is a substantially qualitative exercise where there is scope for differing views on the degree of performance or non-performance, but where ultimately the Minister must be satisfied that the relevant measures are being satisfactorily met and that the overall Objectives for which the School was established are being successfully achieved.  
(b) The parties further acknowledge that the qualitative and other elements of the Objectives, Minimum Requirements and Key Performance Indicators may be such that a School could appear to be achieving the requisite level of performance by manipulating factors within its control that are not readily evident to the Minister or Ministry of Education officials in order to give that appearance, when the reality is different.  
(c) Accordingly the parties acknowledge and agree that good faith is required both from the Sponsor in performing and reporting, and from the Minister in assessing performance, against the Objectives, Minimum Requirements and Key Performance Indicators. The Minister may take any action that he or she may consider reasonable in the circumstances if the Minister considers that the Sponsor:  
(i) is not acting in good faith in this regard; or  
(ii) may believe or maintain it is acting in good faith but, viewed objectively with regard to the Student educational and other outcomes sought under this Agreement, could reasonably be viewed by the Minister as not acting in the spirit of the Agreement. |
| 19.2 | Measuring performance against the Objectives, Minimum Requirements and Key Performance Indicators | (a) The Sponsor acknowledges that the Minister may assess the Sponsor’s performance against the Objectives, Minimum Requirements and Key Performance Indicators on a [quarterly] basis.  
[Drafting Note: The frequency at which performance is to be monitored is still to be confirmed. Quarterly has been inserted at this point until this is confirmed. How these audit rights are to relate to ERO reviews is still under consideration.] |
(b) For the purpose of assessing the Sponsor’s performance against the Objectives, Minimum Requirements and Key Performance Indicators the Minister may take into account:

(i) any information provided by the Sponsor in accordance with the Sponsor’s reporting requirements as set out in clause 17 above (including any failure to report);

(ii) any information received by the Minister as a result of an audit conducted by the Minister or the Authorisation Board;

(iii) any information that the Minister or Secretary receives as a result of a person holding an authorisation under section 78A of the Act undertaking an inspection of the School;

(iv) any information that the Minister receives directly or indirectly as a result of a review undertaken by the Chief Review Officer of the Education Review Office or any review officer appointed by the Chief Review Officer under Part 28 of the Act;

(v) any other information that the Minister, Secretary or Ministry of Education receives under the Act or from any government department, Crown or Crown-owned entity; and

(vi) any information that is publicly available, is supplied by the Sponsor to the Minister or Ministry other than as required under this Agreement or is provided to the Minister or Ministry by a parent of a Student or by a member of the community, that the Minister or Ministry has determined as being accurate.

(c) For the avoidance of doubt, the Minister has the right to carry out assessments of the Sponsor’s performance following the receipt of Quarterly Reports, Six-monthly Reports or Annual Reports or at any other time that the Minister decides. Further, the Minister is entitled to rely on his or her own assessment of the Sponsor’s performance taking into account the items in (b), including conducting a review of the reports provided by the Sponsor. The Minister’s assessment of the Sponsor’s performance will, as a consequence, be based on the Minister’s view, based on information taken from any of the sources in (b) of this clause.
### PART 4: Interventions for Poor Performance and Termination

#### 20. Consequences of failing to meet Objectives, Minimum Requirements or KPIs

| 20.1 | Interventions available | Clauses 21 to 26 set out the range of possible interventions available to the Minister in relation to the Sponsor’s performance against the Objectives, Minimum Requirements and Key Performance Indicators.  

*Drafting Note: There it be one further potential intervention that is still to be developed in detail and may be included in the Agreement. That additional intervention may provide that a small percentage of the payment made to the Sponsor will be at risk. The mechanism for determining how this would be applied and at what level of performance the intervention would be available is still to be finalised. While the percentage at risk would be small in the early years of the Agreement it may rise in the later years. It is possible that this intervention may only be applicable if the Sponsor is a for-profit organisation, although this is still under consideration. The option of providing a financial incentive for good performance is also currently being considered, and may be included in the final Agreement subject to the outcome of that further consideration.* |

| 20.2 | Consideration of Level 5 performance | In deciding whether to exercise any of the interventions that are available under this Part 4 (and which intervention to exercise), the Minister will take into account the extent of the Sponsor’s good performance in other areas, in terms of when it has achieved Level 5 ratings in respect of performance against any Objectives, Minimum Requirements and Key Performance Indicators. |

| 20.3 | General ability to intervene | In addition to assessing compliance with the Minimum Requirements and assessing whether the Sponsor’s performance is in line with or exceeds expectations set out in the Objectives or KPIs, if the Minister has any reason to believe that the Sponsor, a principal, a teacher or any other person employed by the Sponsor is failing to discharge their duties under the Act or is otherwise not acting in accordance with the Act or this Agreement or there is serious risk to the welfare or safety of a Student, the Minister may also take any actions described in Part 4 or exercise any other power described elsewhere under this Agreement that the Minister reasonably considers to be appropriate in the circumstances.  

*Drafting Note: Consideration is being given to how to deal with a sustained level of suboptimal performance and whether an appropriate mechanism should be available to escalate the level of intervention in that situation.* |
### 21. Warning Notice

(a) The Minister may issue the Sponsor a Warning Notice in writing if, with reference to Schedule 7 of this Agreement, a Warning Notice is indicated as warranted by the Sponsor’s level of performance against the Objectives, Minimum Requirements or KPIs, as assessed by the Minister.

(b) This notice may or may not (at the Minister’s discretion) include a direction given by the Minister to comply with the terms of the Agreement or Act.

### 22. Increased Reporting

The Minister may require the Sponsor to report more frequently than the timeframes set out in Schedule 8 of this Agreement, and at such frequency as the Minister determines is appropriate, by giving notice in writing to the Sponsor if, with reference to Schedule 7 of this Agreement, Increased Reporting by the Sponsor is indicated as warranted by the Sponsor’s level of performance against the Objectives, Minimum Requirements or KPIs, as assessed by the Minister.

### 23. Increased Auditing

The Minister or the Authorisation Board may exercise their right to audit under clause 18.3 of this Agreement, at such frequency as the Minister or the Authorisation Board determines is appropriate, by giving notice in writing to the Sponsor if, with reference to Schedule 7 of this Agreement, Increased Auditing of the Sponsor is indicated as warranted by the Sponsor’s level of performance against the Objectives, Minimum Requirements or KPIs, as assessed by the Minister.

### 24. Remedial Plans

(a) The Minister may, by giving notice in writing, require the Sponsor to prepare a Remedial Plan if, with reference to Schedule 7 of this Agreement, a Remedial Plan is indicated as warranted by the Sponsor’s level of performance against the Objectives, Minimum Requirements or KPIs, as assessed by the Minister.

(b) A Remedial Plan may be required in relation to any aspect of the Sponsor’s performance or in relation to the Sponsor’s performance generally. The Minister will set out in the notice described in (a) above what the Remedial Plan must contain and when a draft Remedial Plan must be prepared and submitted to the Minister for approval by the Minister.

(c) When the Minister receives a draft Remedial Plan, the Minister may either approve the Remedial Plan or require the Sponsor to make amendments to the draft Remedial Plan and resubmit the draft Remedial Plan to the Minister for approval.

(d) The Sponsor must comply with any Remedial Plan approved by the Minister until such time as the
Minister may determine in writing that the Remedial Plan is no longer required.

(e) Failure by the Sponsor to prepare a draft Remedial Plan by the due date or to make satisfactory amendments to a draft Remedial Plan, or to satisfactorily implement a Remedial Plan that the Minister has approved under this clause 24, shall entitle the Minister to invoke any other intervention that the Minister considers is appropriate.

## 25. Minister’s Step-in Rights

(a) The Minister may, where exercise its step-in rights under this clause 25 if, with reference to Schedule 7 of this Agreement, step-in is indicated as warranted by the Sponsor’s level of performance against the Objectives, Minimum Requirements or KPIs, as assessed by the Minister.

[Drafting Note: This clause 25 will include more detailed provisions about access to the Premises in order to step in to take over the management of the School and assume responsibility for the operation of the School for a temporary period upon giving a notice to the Sponsor to this effect (setting out when the step in will take effect). The step-in provisions will also enable the Minister to step in in relation to only one aspect of the Sponsor’s operations. The Sponsor will not get paid during the step-in period (or will received a reduced payment if the Minister has stepped in in respect of one part of the Sponsor’s operations) and the Sponsor’s rights and obligations under the Agreement (or those relevant to the reason for step-in) will be suspended, although the Sponsor will be required to co-operate with the Minister during the step-in period. Where the Minister’s step in right is exercised, the Sponsor will irrevocably appoint the Minister and the Minister’s nominees as the Sponsor’s attorney with full power and authority to exercise the Minister’s rights upon step-in.]

(b) The Minister may, at a time determined by the Minister as being appropriate, step out of operating the School and the rights of the Minister under (a) upon step-in shall cease to apply in relation to the particular step-in episode. At such time as the Minister may exercise the right to step out, the Sponsor will immediately re-assume all responsibilities and obligations under the Agreement and will re-commence receiving payment in accordance with this Agreement.

[Drafting Note: The step-in rights and obligations will be described in more detail in the final Agreement.]

(c) In accordance with clause 158L(4) of the Act, nothing else in this clause 25 limit’s the Secretary’s right to intervene as set out in section 158L of the Act.
### 26. Termination

#### 26.1 Minister’s right to terminate

[Drafting Note: The Minister will have the right to terminate this Agreement by giving written notice to the Sponsor upon the occurrence of certain events, including:

- in the event of a serious performance failure by the Sponsor;
- if the Sponsor has breached or is breaching its statutory duties in relation to the School under the Act or any other enactment;
- if the Sponsor becomes bankrupt or insolvent; or
- if the Sponsor ceases to continue in business or to operate the School.

The Agreement will also set out a process that the Minister will follow before terminating the Agreement under this clause.]

#### 26.2 Termination for convenience

(a) The Minister may otherwise terminate this Agreement at any time by giving [Drafting Note: Time period to be specified] notice in writing, for any reason and at the Minister’s convenience.

[Drafting Note: Amount of time is still to be determined but will be a sufficient period of time to allow for planning, unwinding and transitioning. This could, for instance, provide that no notice of termination for convenience may be given prior to 1 January 2016, and that any termination can only take effect following the end of a school Year and for that purpose must have been given no later than 1 June in that Year.]

(b) If the Minister terminates the Agreement under (a) no payment will be made to the Sponsor.

[Drafting Note: The position in (b) above is still under consideration. Discussions are ongoing about whether a payment must be made to the Sponsor by the Minister if the Minister terminates the Agreement for convenience under this clause.]

#### 26.3 Force majeure

Either party may immediately terminate this Agreement if that party is unable to fulfil its obligations under this Agreement for a period of [20] days or more due to the occurrence of a Force Majeure Event.

#### 26.4 Mutual agreement

The parties may, by mutual agreement signed by both parties in writing, terminate this Agreement upon such terms as the parties may agree in writing.
<table>
<thead>
<tr>
<th>PART 5: Disengagement</th>
</tr>
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<tbody>
<tr>
<td>27. Sponsor co-operation</td>
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## PART 6: Payment

<p>| | | |</p>
<table>
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<tbody>
<tr>
<td>28.</td>
<td>Payment</td>
<td>The Sponsor will be paid in accordance with the provisions in Schedule 9.</td>
</tr>
<tr>
<td>29.</td>
<td>Invoicing</td>
<td>The Sponsor will invoice the Minister in accordance with the provisions in Schedule 9.</td>
</tr>
</tbody>
</table>
[Drafting Note: The following provisions are legal ‘boilerplate’ clauses and have largely been described in a descriptive rather than contractual style for the purpose of this document. The full clauses will be inserted prior to negotiations with successful Sponsors.]

### PART 7: General

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>30.</td>
<td><strong>Warranties and Undertakings</strong>&lt;br&gt;The types of warranties and undertakings that the Sponsor will be required to give will include: &lt;br&gt;• ability to enter into this Agreement &lt;br&gt;• no conflicts of interest</td>
</tr>
<tr>
<td>31.</td>
<td><strong>Confidentiality and Intellectual Property</strong>&lt;br&gt;[Drafting Note: The position around intellectual property is still being considered but it is likely that the preferred position will be that IP will remain with the Sponsor but a full licence to use the Sponsor’s IP will be given to the Minister.]&lt;br&gt;Standard confidentiality provision will apply.&lt;br&gt;The Minister’s obligations under the Official Information Act and general Parliamentary procedure will be acknowledged by the Sponsor as a reason why the Minister may be required to disclose information pertaining to the Sponsor or this agreement.</td>
</tr>
<tr>
<td>32.</td>
<td><strong>Indemnities and Liability</strong>&lt;br&gt;The Sponsor will be required to indemnify the Minister in respect of any claims, proceedings, actions, liabilities, damages, costs (including legal costs), expenses or losses of any kind suffered or incurred by the Minister or any regulatory or review agency investigating or reviewing the Sponsor’s actions in respect of the School, as a result of the Sponsor’s breach of this Agreement, or of any law or as a result of the Sponsor’s bad faith, negligence, fraud or corruption.&lt;br&gt;The Minister will not indemnify the Sponsor under this Agreement.</td>
</tr>
<tr>
<td>33.</td>
<td><strong>Insurance</strong>&lt;br&gt;The Sponsor will be required to maintain all necessary insurances needed for the ongoing operation of the School in accordance with this Agreement and any applicable laws.&lt;br&gt;[Drafting Note: The Agreement will require that certain minimum levels of insurance are maintained.]</td>
</tr>
</tbody>
</table>
| 34.     | **Miscellaneous Terms**<br>34.1 **Minister’s right to appoint person to administer this Agreement on the Minister’s**<br>The Minister may appoint any person to undertake the administration of this Agreement on the Minister’s behalf and to do all things under this Agreement that are expressed or
behalf

implied as able to be done by the Minister.

Any change to the person holding office as the Minister will not affect any appointment previously made, unless such appointment is subsequently revoked.

34.2 Public statements

The Sponsor must not make any public statement about the School, the Ministry or this Agreement without the written consent of the Minister.

34.3 Sub-contracting

The Sponsor must not sub-contract any obligations under this Agreement without the written consent of the Minister.

34.4 Assignment

The Sponsor may not assign this Agreement without the written consent of the Minister.

34.5 Notices

This provision will set out details of where/how notices to each party may be given and when a notice will be taken to have been received.

34.6 Relationship between the parties

Standard provisions will apply regarding the legal relationship between the parties (no partnership, joint venture, agency, employment relationship) and the inability of one party to bind or represent the other party.

34.7 Dispute resolution

Standard provisions will apply (i.e. parties meet to discuss between themselves then escalation to mediation if agreement cannot be reached).

34.8 Counterparts

The Agreement will be able to be signed in counterparts.

34.9 Severability

A standard severability clause will be inserted.

34.10 Entire agreement

A standard entire agreement clause will be inserted.

34.11 Variations

Any variation to this Agreement is only effective if it is in writing and signed by both parties.

34.12 Survival

This clause will set out which provisions of the Agreement survive expiry or termination e.g. indemnity and confidentiality provisions).

34.13 Governing law and jurisdiction

New Zealand law will apply.

35. Definitions and Interpretation

35.1 Definitions

[Drafting Note: These will be reviewed before finalisation of this document.]

Act means the Education Act 1989 as amended from time to time. [Drafting Note: For the purpose of this Agreement outline, provisions in the Education Amendment Bill are assumed to form part of the Act, however the inclusion of these provisions is still subject to the ordinary legislative process and therefore subject to change during the course of that process.]
**Agreement** means this Agreement and includes all Schedules and Annexes to this Agreement.

**Annual Reports** means the reports to be provided by the Sponsor under clause 17.2(c) of the Agreement.

**Authorisation Board** means the advisory board appointed by the Minister under section 158C of the Act and includes a single member of the advisory board acting on behalf of the advisory board.

**Class Level** means a class level from year one (1) to year thirteen (13) (year 1 being the first year that a child may attend school), in which a Student is enrolled to take courses.

**Chief Review Officer** has the meaning given to that term in section 2(1) of the Act.

**Correspondence School** has the meaning given to that term in section 2(1) of the Act.

**Course** means a course being taught to Students under the Curriculum.

**Crown** has the meaning given to that term in section 2(1) of the Public Finance Act 1989.

**Curriculum** means the curriculum described in clause 1 of Schedule 2 of this Agreement that the Sponsor is required to teach to Students.

**Domestic Student** has the meaning given to that term in section 2(1) of the Act.

**Extra-curricular Activity** means an activity outside of the Curriculum, which is offered to Students outside of ordinary School hours and/or terms.

**Force Majeure Event** means an event that is beyond the reasonable control of the party immediately affected by the event but does not include any risk or event that the party claiming could have prevented or overcome by taking reasonable care. Examples include:

(i) acts of God, lightening strikes, earthquakes, tsunamis, volcanic eruptions, floods, storms, explosions, fires, pandemics and any natural disaster;

(ii) acts of war (whether declared or not), invasion, actions of foreign enemies, military mobilisation, requisition or embargo;

(iii) acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution or military usurped power or civil war; or

(iv) contamination by radioactivity from nuclear substances or germ warfare or any other such hazardous properties.
**Foundation Curriculum Policy Statement** means a foundation curriculum policy statement published under section 60A(1)(aa) of the Act.

**Gazette Notice** means the Gazette Notice attached as Annex 1 to Schedule 1 of this Agreement.

**Holders of Limited Authority to Teach** means a person who has been authorised under section 130B(2) of the Act as having a limited authority to teach, whose authorisation has not been suspended under section 139AU or 139AW(1)(d) of the Act.

**Hostel** has the meaning given to that term in section 2(1) of the Act.

**Increased Auditing** means auditing that is more frequent than the period described in clause 18.3 of this Agreement.

**Increased Reporting** means reporting on any or all matters more frequently than is otherwise required by the Quarterly Reports, Six-monthly Reports or Annual Reports.

**International Student** has the meaning given to that term in section 2(1) of the Act.

**Key Performance Indicators** or **KPIs** means the key indicators of performance labelled A to [Y] in clause 2 of Schedule 6.

**Maximum Roll** means the maximum roll specified in Schedule 1 for the relevant Year and, if the maximum roll specified in Schedule 1 for the relevant Year has been reached, can also include any additional Student whom the Secretary has directed the Sponsor to enrol in accordance with the Act.

**Minimum Requirements** means the minimum requirements described in clause 15 of the Agreement.

**Minister** means the person holding the office of Minister of Education from time to time.

**Ministry of Education** means the government department going by that name.

**Objectives** means the objectives described in clause 1.1 of Schedule 6.

**Partnership School/Kura Hourua** has the meaning given to that term in clause 2(1) of the Act.

**Premises** means the premises where the School is located from which the Students will be taught the Curriculum.

**Qualifications** means the qualifications described in clause 3 of Schedule 2 of this Agreement that the Sponsor is required to offer to Students.

**Quarterly Reports** means the reports to be provided by the Sponsor under clause 17.2(a) of the Agreement.
Registered Teacher means:

(a) a person listed on the register (kept by the Teacher’s Council pursuant to section 128 of the Act) whose registration has not been cancelled and who has not subsequently been re-registered;

(b) a person holding a practising certificate as defined in section 120 of the Act which has not been suspended under section 139AU or 139AW(1)(d) of the Act;

(c) any person who has an authorisation which has not been cancelled unless that person has been authorised again or has been registered as a teacher (register, registration, authorised and authorisation having the meanings set out in section 120 of the Act).

Remedial Plan means a plan describing actions that the Sponsor must take to improve the Sponsor’s performance under this Agreement that is required in accordance with clause 24(a) of the Agreement.

School means the School described in the Gazette Notice that is operated by the Sponsor in accordance with this Agreement.

School Rule means any rule made by the Sponsor pursuant to section 158H of the Act.

Secretary means the Secretary of Education.

Six-monthly Report means the reports to be provided by the Sponsor under clause 17.2(b) of the Agreement.

Student means any student who has been and continues to be enrolled to attend the School.

Student Assessment Regime means the assessment regime described in clause 2 of Schedule 2 of this Agreement that the Sponsor is required to assess its Students against.

Target Groups means the target groups described in clause 1 of Schedule 1 of this Agreement.

Teachers Council has the meaning given to that term in section 120 of the Act.

Teaching Position has the meaning given to that term in section 120 of the Act.

Unsuitable Person means any person:

(a) who is involved in any activity which, in the reasonable opinion of the Minister, is incompatible with the operation of the School under this Agreement or where the person’s involvement in such activity would otherwise bring the Minister or the Ministry into disrepute; and/or

(b) who the Minister reasonably considers is otherwise inappropriate to be involved in the education sector or
to be connected with the operation of the School under this Agreement by reason of the Police, Serious Fraud Office or other regulatory or law enforcement agency undertaking a review or investigation into the conduct of that person.

**Warning Notice** means a notice that warns the Sponsor that its performance against any or all of the Objectives, Minimum Requirements, or Key Performance Indicators is not completely meeting the performance expected of the Sponsor under this Agreement.

**Year** means a calendar year.

Terms not otherwise defined in this Agreement have the meanings specified in the Act.

<table>
<thead>
<tr>
<th>35.2 Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard interpretation provisions will apply. Any provision in this Agreement must also be read consistently with the Act.</td>
</tr>
</tbody>
</table>
Schedules

[Drafting Note: The majority of the information to be included in the Schedules below will come from the Sponsor’s proposal or will be determined through negotiations as a result of information provided by the Sponsor in its proposal.]

Schedule 1: Student Enrolment and Absences

1. Target Groups

The Sponsor’s Target Groups are:

[Drafting Note: To insert prior to negotiation (will be taken from the proposal).]

2. Maximum Roll

The Maximum Roll for each Year is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Maximum Roll</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[Drafting Note: to agree before Agreement executed.]</td>
</tr>
<tr>
<td>2015</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2016</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2017</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2018</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
</tbody>
</table>

3. International Student vacant place upper limit

[Drafting Note: Although the Act will enable international students to attend a Partnership School/Kura Hourua and will allow a Sponsor to set the upper limit of international students it can enrol, the expectation is that Partnership Schools/Kura Hourua would be established to meet the needs of the Target Groups. As such it is not expected that a Sponsor would be actively encouraging international students to enrol at their School. The limits below are therefore likely to be set at very low levels (possibly even at zero).]

The International Student vacant place upper limit for each Year is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>International Student Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[Drafting Note: to agree before Agreement executed.]</td>
</tr>
<tr>
<td>2015</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2016</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
</tbody>
</table>
4. School hours and terms

4.1 School hours

The minimum number of hours each day that the School must be open and teaching Students during the term times set out in this Agreement is as follows:

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday</td>
<td>[Drafting Note: To populate table during negotiations.]</td>
</tr>
<tr>
<td>Tuesday</td>
<td></td>
</tr>
<tr>
<td>Wednesday</td>
<td></td>
</tr>
<tr>
<td>Thursday</td>
<td></td>
</tr>
<tr>
<td>Friday</td>
<td></td>
</tr>
<tr>
<td>Saturday</td>
<td></td>
</tr>
<tr>
<td>Sunday</td>
<td></td>
</tr>
<tr>
<td>Public Holidays</td>
<td></td>
</tr>
</tbody>
</table>

4.2 School terms

The term dates for each Year when the School must be open for teaching Students are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Term Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[Drafting Note: The number of terms and length of each will depend upon what is negotiated between the Minister and the Sponsor (and what is put forward in the Sponsor’s proposal).]</td>
</tr>
<tr>
<td>2015</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
</tr>
<tr>
<td>2018</td>
<td></td>
</tr>
</tbody>
</table>

5. Stand-downs, suspensions and expulsions

The Sponsor must comply with the following in relation to stand-downs, suspensions and expulsions of any Student:
Annex A: Gazette Notice

[Drafting Note: To insert once published.]
Schedule 2: Curriculum, Student Assessment Regime & Qualifications

1. **Curriculum**

   [Drafting Note: To insert details depending on Sponsor’s proposal and the negotiated position.]

2. **Student Assessment Regime**

   2.1 [Drafting Note: To insert details depending on Sponsor’s proposal and the negotiated position.]

2.2 **Assessment Fees**

   The Sponsor may charge the following Assessment Fees:

   [Drafting Note: To be inserted depending on the curriculum and assessment regime being offered by the Sponsor. If the Act provides for fees in relation to assessments insert ‘None, other than as permitted under the Act.’]

3. **Qualifications**

   [Drafting Note: To insert details depending on Sponsor’s proposal and the negotiated position – insert ‘None’ if the School is a Primary Partnership School/Kura Hourua.]
1. **Student transport**

   The Sponsor is required to provide the following transport services for Students:

   [Drafting Note: Insert ‘None’ or describe the transport services to be provided. If transport services are to be provided, this clause will need to set out what services, who the services are to be provided to, and the dates and times when the services are to be provided. This could be regular transport every day and/or transport to specific school-related activities.]

2. **Extra-curricular activities**

   The Sponsor is required to offer the following extra-curricular activities to Students:

   [Drafting Note: Insert ‘None’ or describe the extra-curricular activities to be offered.]
1. **Principal(s)**

The person or persons set out in the table below are appointed by the Sponsor as the ‘principal’ and have the assigned ‘principal’ responsibility described in the column next to that person’s name, for the purpose of the Act:

<table>
<thead>
<tr>
<th>Name</th>
<th>Assigned ‘principal’ responsibility for the purpose of the Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Drafting Note: To insert details in table depending on Sponsor’s proposal and the negotiated position.]</td>
<td></td>
</tr>
</tbody>
</table>

2. **Teacher to Student ratios**

The following Teacher to Student ratios apply for the purpose of this Agreement:

[Drafting Note: To be inserted during negotiations]

3. **Teaching Positions**

The number of Teaching Positions for the School for each Year is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Teaching Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[Drafting Note: to agree before Agreement executed.]</td>
</tr>
<tr>
<td>2015</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2016</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2017</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2018</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
</tbody>
</table>
4. **Percentage of Registered Teachers and Holders of Limited Authority to Teach**

The percentage of Registered Teachers and Holders of Limited Authority to Teach (taken together as one total) for the School for each Year are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentages of Registered Teachers and Holders of Limited Authority to Teach</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[Drafting Note: to agree before Agreement executed.]</td>
</tr>
<tr>
<td>2015</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2016</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2017</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
<tr>
<td>2018</td>
<td>To be determined as a variation to this Agreement pursuant to clause [x].</td>
</tr>
</tbody>
</table>
Schedule 5: Property

1. Premises

1.1 The Premises from which the School must be operated are located at [insert address] and consist of [insert number of rooms, level on which the school is located, grounds available etc.]

1.2 The Premises must meet the following minimum requirements during all term times and school hours:

[Drafting Note: A list of minimum requirements (including minimum requirements around maintenance of the facility) will be included to ensure the safety and welfare of Students.]

2. Equipment

The following are the minimum requirements for the Equipment that must be provided at the School during all term times and school hours:

[Drafting Note: A list of minimum requirements will be included. This will in part draw from what the Sponsor offers in its proposal but will also include basic equipment requirements.]

3. Hostel

3.1 The Sponsor [is/is not] permitted to operate a Hostel.

[Drafting Note: If the Sponsor is permitted to operate a Hostel, further details will be provided - which must be consistent with the applicable legislation (including any regulations or rules).]
Drafting Note: This Schedule currently sets out the framework of the performance regime to give an indication of how the regime will work. The Ministry is still finalising the KPIs that will apply to all Sponsors and some additional KPIs will be included for a specific Sponsor depending on that Sponsor’s proposal. The text currently in the tables gives an indication of how it would work (Level 1 being poor performance and Level 5 being high performance – the actual numbers will depend upon the proposals as the size and make-up of each school will be different (although it is anticipated that the minimum levels will be set with reference to comparable State schools). If you are submitting a proposal you should not read anything in to the KPIs and numbers set out in this Schedule as they are purely illustrative of how the regime will work.]

1. Objectives

1.1 The following are the objectives for the School:

(i) [Drafting Note: to insert during negotiations.]

(ii)

(iii)

(iv)

(v)

[Drafting Note: The objectives will align with the outcomes that the Minister is looking to achieve through Partnership Schools/Kura Hourua and will therefore not be solely the Sponsor’s objectives. However, the objectives will include any value-added achievement measures for the particular Sponsor which go above and beyond the Minister’s desired outcomes.]

1.2 The following table sets out how performance against each objective will be measured:

[Drafting Note: The objectives will be proposed by the Sponsor and agreed during negotiations. A description will be inserted for each objective under the ‘measure’ criteria to demonstrate what meeting or not meeting the objective looks like.]

<table>
<thead>
<tr>
<th>Objective</th>
<th>Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1: Failing to meet objective and incapable of remedy</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td></td>
</tr>
</tbody>
</table>
2. **Key Performance Indicators**

[Drafting Note: The following Key Performance Indicators are examples of the types of KPIs that may be included in the final Agreement and are included here to give you a sense of how the KPI regime will work. Some of the KPIs below may be supplemented with or replaced by alternative KPIs and the actual measures under each topic will also be drawn from the Sponsor’s proposal. Examples of other KPIs that may be included are KPIs relating to parent/whanāu engagement, financial management of the School and organisational management.]

2.1 **Student engagement and Student progression**

(a) The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>A.</td>
<td>[e.g. Stand-downs per Year]</td>
<td>[15+]</td>
</tr>
<tr>
<td>B.</td>
<td>[e.g. Suspensions per Year]</td>
<td></td>
</tr>
<tr>
<td>C.</td>
<td>[e.g. Expulsions per Year]</td>
<td></td>
</tr>
<tr>
<td>D.</td>
<td>[e.g. Amount of time Students at School during required timetable hours (Class Level – year [x] (total for all Students in that Class Level))]</td>
<td>[less than 55%]</td>
</tr>
<tr>
<td>E.</td>
<td>[e.g. Percentage of Students enrolled at the School at the start of their Class Level 12 year who have completed their Class Level 12 Year]</td>
<td></td>
</tr>
<tr>
<td>F.</td>
<td>[e.g. Percentage of Students progressing from Class Level 12 to Class Level 13]</td>
<td></td>
</tr>
</tbody>
</table>
(b) For the purpose of the KPIs described in clause 2.1(a) of this Schedule 6, the following principles apply:

[Drafting Note: The following is an example of the type of considerations that will need to be listed here. What is listed below will depend upon what KPIs are to be measured (and therefore what needs to be clarified in terms of what will or will not be counted for the purpose of measuring the KPI – these should be considered when you are determining what the KPIs should be)]

(i) [If the Sponsor has authorised a Student to undertake courses of education, obtain work experience or make visits outside the School’s premises, as permitted under section 158S of the Act, the Student’s attendance at the course of education, work experience, or other location of an approved visit will be treated as attendance at the School’s premises for the purpose of the performance regime unless the Minister considers that such course, work experience or visit did not have any or a significant enough correlation with the Curriculum being taught to that Student.]

(ii) ...etc

2.2 Student achievement

The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[TBD by Ministry (e.g. measures around identity, culture, language)]</td>
<td>Level 1</td>
</tr>
</tbody>
</table>
2.3 Teacher Availability

The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>M.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>N.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>O.</td>
<td>[e.g. Measure around professional development for teachers]</td>
<td></td>
</tr>
</tbody>
</table>

2.4 Reporting

The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>P.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>Q.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>R.</td>
<td>[e.g. Number of instances Sponsor has misreported]</td>
<td></td>
</tr>
</tbody>
</table>
2.5 Property

The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>W.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>X.</td>
<td>[TBD by Ministry]</td>
<td></td>
</tr>
<tr>
<td>Y.</td>
<td>[e.g. Report made by anyone inspecting the Premises that the Premises are in breach of the Building Act 2004 (which is substantiated by the relevant authority) – see s139B of the Act re reporting obligations]</td>
<td></td>
</tr>
</tbody>
</table>

2.6 Attracting Target Groups

The Sponsor will be periodically assessed against the following KPIs:

<table>
<thead>
<tr>
<th>ID</th>
<th>Measure</th>
<th>Performance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[TBD by Ministry]</td>
<td>Level 1</td>
</tr>
</tbody>
</table>

3. Audited Financial Statements

The Sponsor must provide audited annual financial statements by the following dates:
<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>[TBD by Ministry]</td>
</tr>
<tr>
<td>2015</td>
<td>[TBD by Ministry]</td>
</tr>
<tr>
<td>2016</td>
<td>[TBD by Ministry]</td>
</tr>
<tr>
<td>2017</td>
<td>[TBD by Ministry]</td>
</tr>
<tr>
<td>2018</td>
<td>[TBD by Ministry]</td>
</tr>
</tbody>
</table>
1. Objectives

[Drafting Note: A Level 5 under Objectives means that the Sponsor is exceeding performance expectations in relation to the Objective.]

<table>
<thead>
<tr>
<th>Measure</th>
<th>Possible intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 5</td>
<td>● No intervention</td>
</tr>
<tr>
<td>Level 4</td>
<td>● No intervention</td>
</tr>
<tr>
<td>Level 3</td>
<td>● Warning Notice</td>
</tr>
<tr>
<td></td>
<td>● Increased Reporting</td>
</tr>
<tr>
<td></td>
<td>● Increased Auditing</td>
</tr>
<tr>
<td></td>
<td>● Remedial Plan</td>
</tr>
<tr>
<td>Level 2</td>
<td>● Remedial Plan</td>
</tr>
<tr>
<td></td>
<td>● Step-in</td>
</tr>
<tr>
<td>Level 1</td>
<td>● Step-in</td>
</tr>
<tr>
<td></td>
<td>● Termination</td>
</tr>
</tbody>
</table>

2. Minimum Requirements

[Drafting Note: Levels 1 to 5 are based on the frequency of non-compliance events. A Level 5 means that all Minimum Requirements have been complied with during the measurement period. Please consider whether the frequency should be measured over a certain period (e.g. each Year) or whether they should accumulate over the total term of the Agreement.]

<table>
<thead>
<tr>
<th>Frequency of non-compliance events</th>
<th>Possible intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td>O (Level 5)</td>
<td>● No intervention</td>
</tr>
<tr>
<td>[TBD by Ministry] (Level 4)</td>
<td>● Warning Notice</td>
</tr>
<tr>
<td></td>
<td>● Increased Reporting</td>
</tr>
<tr>
<td>[TBD by Ministry] (Level 3)</td>
<td>● Increased Auditing</td>
</tr>
<tr>
<td></td>
<td>● Remedial Plan</td>
</tr>
</tbody>
</table>
3. **Key Performance Indicators**

[Drafting Note: A Level 5 in the context of a KPI means that the Sponsor is meeting the expected level of performance.]

The intervention specified in the ‘possible intervention’ column may be taken by the Minister if the Sponsor is assessed as being within the corresponding performance level in respect of:

(a) any individual indicator for any KPI for the relevant reporting period;

(b) all indicators in a KPI category taken together and averaged as a group for the relevant reporting period (e.g. the ‘Student absences from School’ group in clause 2.1 of Schedule 6); or

(c) performance under all KPI measures taken together and averaged as a group for the relevant reporting period.

<table>
<thead>
<tr>
<th>Performance Level</th>
<th>Possible intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 5</td>
<td>• No intervention</td>
</tr>
<tr>
<td>Level 4</td>
<td>• Warning Notice</td>
</tr>
<tr>
<td>Level 3</td>
<td>• Increased Reporting</td>
</tr>
<tr>
<td></td>
<td>• Increased Auditing</td>
</tr>
<tr>
<td></td>
<td>• Remedial Plan</td>
</tr>
<tr>
<td>Level 2</td>
<td>• Remedial Plan</td>
</tr>
<tr>
<td></td>
<td>• Step-in</td>
</tr>
<tr>
<td>Level 1</td>
<td>• Step-in</td>
</tr>
<tr>
<td></td>
<td>• Termination</td>
</tr>
</tbody>
</table>
1. **[Quarterly] Reporting**

1.1 The following information must be provided by the Sponsor to the Minister on [Drafting Note: Dates to be confirmed – these will only be the quarters when a six-monthly or annual report are not being received]:

   (a) a copy of the records kept as required by clause 17.1(b) of this Agreement;

   (b) a description of the Sponsor’s performance against the Objectives for the Year to date;

   (c) a description of the Sponsor’s performance against each of the Minimum Requirements in clause 15(a) during the relevant reporting period, stating for each Minimum Requirement, either:

      (i) that the Minimum Requirement was fully complied with during the reporting period; or

      (ii) indicating:

         (A) the number of instances when there was less than full compliance;

         (B) a description of when such non-compliance occurred;

         (C) the reason(s) for such non-compliance; and

         (D) whether the non-compliance is still occurring or how the non-compliance was resolved and how quickly this occurred;

   (d) a table populating the following information relating to performance against KPIs:

   [Drafting Note: This would only list the KPIs that would be measured in the relevant reporting period (i.e. it might only be possible to measure some of the KPIs once a year).]

<table>
<thead>
<tr>
<th>KPI ID</th>
<th>Indicate the level that the Sponsor’s results are in for each KPI for the reporting period (i.e. the Year to date) and the specific percentage or number that applies within the relevant level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>A</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td></td>
</tr>
<tr>
<td>etc..</td>
<td></td>
</tr>
</tbody>
</table>
1.2 The information provided under clause 1.1 of this Schedule 8 must be presented in accordance with [Drafting Note: The form in which the Minister is to receive the information is still being considered. This will be written and may involve completion of a template.]

2. [Six-monthly] Reporting

2.1 The following information must be provided by the Sponsor to the Minister on [Drafting Note: To be confirmed]:

(a) a copy of the records kept as required by clause 17.1(b) of this Agreement;

(b) a description of the Sponsor’s performance against the Objectives for the Year to date;

(c) a description of the Sponsor’s performance against each of the Minimum Requirements in clause 15(a) during the relevant reporting period, stating for each Minimum Requirement, either:

(i) that the Minimum Requirement was fully complied with during the reporting period; or

(ii) indicating:

(A) the number of instances where then was less than full compliance;

(B) a description of when such non-compliance occurred;

(C) the reason(s) for such non-compliance; and

(D) whether the non-compliance is still occurring or how the non-compliance was resolved and how quickly this occurred;

(d) a table populating the following information relating to performance against KPIs:

[Drafting Note: This would only list the KPIs that would be measured in the relevant reporting period (i.e. it might only be possible to measure some of the KPIs once a year).]

<table>
<thead>
<tr>
<th>KPI ID</th>
<th>Indicate the level that the Sponsor’s results are in for each KPI for the reporting period (i.e. the Year to date) and the specific percentage or number that applies within the relevant level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>A</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td></td>
</tr>
</tbody>
</table>
2.2 The information provided under clause 2.1 of this Schedule 8 must be presented in accordance with [Drafting Note: To be confirmed].

3. **Annual Reporting**

3.1 The following information must be provided by the Sponsor to the Minister on [Drafting Note: Timeframe to be confirmed]:

- (a) a copy of the records kept as required by clause 17.1(b) of this Agreement;

- (b) a description of the Sponsor’s performance against the Objectives for the Year to date;

- (c) a description of the Sponsor’s performance against each of the Minimum Requirements in clause 15(a) during the relevant reporting period, stating for each Minimum Requirement, either:
  - (i) that the Minimum Requirement was fully complied with during the reporting period; or
  - (ii) indicating:
    - (A) the number of instances where then was less than full compliance;
    - (B) a description of when such non-compliance occurred;
    - (C) the reason(s) for such non-compliance; and
    - (D) whether the non-compliance is still occurring or how the non-compliance was resolved and how quickly this occurred;

- (d) a table populating the following information relating to performance against KPIs:

<table>
<thead>
<tr>
<th>KPI ID</th>
<th>Indicate the level that the Sponsor’s results are in for each KPI for the reporting period (i.e. the Year to date) and the specific percentage or number that applies within the relevant level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
</tr>
<tr>
<td>A</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td></td>
</tr>
<tr>
<td>etc..</td>
<td></td>
</tr>
</tbody>
</table>
3.2 The information provided under clause 3.1 of this Schedule 8 must be presented in accordance with [Drafting Note: To be confirmed].

[Drafting Note: For Years 1 to 8 the Sponsor will need to report on progress and achievement against the National Standards.]
Schedule 9: Payment

[Drafting Note: To be determined during negotiations]