



CATHOLIC EDUCATION WESTERN AUSTRALIA

Insert Date

Insert Address

LETTER OF ENGAGEMENT

We are pleased to confirm the offer by Catholic Education Western Australia Limited ABN 47 634 504 135 ('**CEWA**') trading as **Insert School Name** ABN **Insert ABN** to engage **Insert Contractor Name** ABN **Insert ABN** ('**the Contractor**') to provide services on the terms and conditions set out in this Letter of Engagement.

This letter is intended to create a legally binding Contract for services between the Contractor and CEWA. By signing this letter, you agree to be bound by the General Terms and Conditions as set out herein. It is recommended that you seek legal or professional advice prior to signing.

1 SERVICES AND DELIVERABLES

- 1.1 The Contractor will provide the services to CEWA as described in Schedule 1.
- 1.2 Unless mutually agreed otherwise, all Services will be provided at the **nominated CEWA Sites during the hours of 9am to 3pm on weekdays during the school term in Western Australia.**
- 1.3 The Contractor will provide the Deliverables to CEWA as described in Schedule 1.
- 1.4 Unless mutually agreed otherwise, all Deliverables will be delivered to the **nominated CEWA Sites during the hours of 9am to 3 pm on weekdays during the school term in Western Australia.**
- 1.5 The ownership of Deliverables that are provided by the Contractor as part of the Services passes to CEWA upon payment by CEWA for the Deliverable.

2 ENGAGEMENT

- 2.1 The Contractor will liaise with and report to the CEWA Representative as reasonably required during the Term.
- 2.2 In performing its obligations under this Contract, the Contractor must:
 - (a) make sure that the Services provided by it and its personnel are done so:
 - (i) properly and carefully;
 - (ii) in a reasonable and business-like manner;
 - (iii) promptly and to industry standards; and

- (iv) in compliance with any applicable directions by CEWA.
- (b) comply with, and ensure that all of its Personnel engaged to provide the Services comply with, all relevant Laws, Legislative Requirements, Codes of Practices and Australian Standards, including those dealing with occupational health and safety, equal opportunity and privacy;
- (c) take out, keep current and produce to CEWA on request evidence of any relevant authorisation, permit or licence, including permission to use software, required by Law to provide the Services;
- (d) not act in a way that is prejudicial to CEWA's goodwill, commercial reputation or overall public image;
- (e) comply with, and ensure that all of its personnel engaged to provide the Services comply with, CEWA's Policies and Procedures relevant to the engagement;
- (f) where required, provide, or use equipment which is suitable for the work undertaken and ensure it is maintained by the Contractor in good and proper working condition; and
- (g) ensure any Deliverables are of merchantable quality and fit for any specific purposes outlined in this Contract.

3 PERSONNEL

- 3.1 The Contractor must use only suitably qualified personnel with the necessary skills and training to provide the Services.
- 3.2 CEWA and the Contractor may agree on the names and roles of the personnel ('**Key Personnel**') who will perform all or some of the Services under the Contract and the Contractor shall not replace any such Key Personnel without the prior written Contract of CEWA.
- 3.3 CEWA may give notice requiring the Contractor to remove specified personnel from performing all or some of the Services under the Contract. The Contractor shall promptly arrange for the removal and replacement of such personnel with a person acceptable to CEWA at the sole cost of the Contractor.

4 CRIMINAL HISTORY CHECK

- 4.1 Where the Contractor or its Personnel require access to CEWA's Site, the Contractor shall obtain and provide a Nationally Coordinated Criminal History Check (NCCHC) through the Department of Education, within 30 days of the request, for any Personnel engaged in the provision of the Services. If the provided NCCHC details that any Personnel has committed a criminal offence, then CEWA may, without prejudice to its other rights under these General Terms and Conditions, request the Contractor to promptly remove that Personnel from involvement in the provision of the Services at the cost of the Contractor. On removal of Supplier Personnel under this clause 3.1, the Supplier shall arrange for the replacement of that Supplier Personnel subject to the approval of CEWA.

5 WORKING WITH CHILDREN

- 5.1 If the Services involve "child related work" (as defined in section 6 of the *Working with Children (Criminal Record Checking) Act 2004* hereby referred to as the Act) then:

- (a) The Contractor shall ensure:
 - (i) all Personnel who will undertake child related work shall provide to CEWA an assessment notice under section 12 of the Act before they commence the provision of the Services;
 - (ii) the Contractor shall otherwise always comply, and ensure that all Personnel comply with the Act; and
- (b) A breach of this clause 4.1 shall be deemed a material breach of the Contract which cannot be remedied.

6 CEWA COVENANTS

- 6.1 CEWA will make available to the Contractor adequate information, facilities, and other services, as agreed, that are necessary for the Contractor to be able to perform the Services in a proper and expeditious manner.

7 TERM

- 7.1 This Contract will commence on the Commencement Date and continue until the Expiry Date, subject to extension or early termination in accordance with this Contract.
- 7.2 CEWA may extend the Contract for the extended term of terms specified in Schedule 1 by giving notice to the Contractor at any time during the Term, or any extension of the Term.
- 7.3 The provisions of this Contract will apply during any extension of the Term.

8 SERVICE FEE

- 8.1 In return for providing the Services in accordance with the terms and conditions of this Contract, CEWA will pay the Contractor the Service Fee as detailed in Schedule 1.
- 8.2 Receipt and payment of invoices and any financial transactions shall be undertaken in accordance with A New Tax System (Goods and Services Tax) Act 1999 and (where the context permits) includes the Regulations and Commissioner of Taxation's Goods and Services Tax Rulings and Determinations made there under, and any other written law dealing with GST applying for the first time being in the State of Western Australia.
- 8.3 The Service Fee shall be inclusive of all applicable GST at the rate in force for the time being.
- 8.4 Unless otherwise stated in the Contract Details, the Service Fee is fixed and are not subject to adjustment for rise and fall for any reason, including but not limited to changes in the cost of labour, materials, or any other items or for fluctuations in currency exchange rates.
- 8.5 If a rate review is specified Schedule 2, the rates payable for the Services as specified in the Service Fee will be subject to adjustment using the formula, and at the times specified in Schedule 2.

9 PAYMENT

- 9.1 Unless otherwise agreed with CEWA, at the end of every calendar month during the Term, the Contractor will be entitled to submit a tax invoice for those Services provided to CEWA during that calendar month accompanied by all necessary supporting documents. Where relevant for the purposes of SOP Legislation, the Contractor agrees with CEWA that the times or stages for payment claims stated in this clause 9.1 and the Contract Details are for the purposes of the SOP Legislation the times or stages for making a 'payment claim for a progress payment'.
- 9.2 Invoices must be submitted to the CEWA Representative detailed in Schedule 1 by e-mail and copied to payables@cewa.edu.au (or such other e-mail address as notified by CEWA to the Contractor).
- 9.3 Each tax invoice must be in a form acceptable to CEWA and shall contain the following information:
- (a) in respect of the Services:
 - (i) the Purchase Order number;
 - (ii) the Contract number;
 - (iii) the Variation number (if any);
 - (iv) the identity and ABN of the Contractor;
 - (v) a description of the Services that were provided;
 - (vi) the quantity of the Services provided;
 - (vii) the amount of the Service Fee claimed, and how that amount was determined;
 - (viii) any further information as required by Law; and
 - (ix) any such other information as reasonably requested by CEWA from time to time;
 - (b) in respect of any reimbursable expense or disbursement:
 - (i) a description of the expense or disbursement being claimed;
 - (ii) the amount of the expense or disbursement being claimed; and
 - (iii) accompanied by relevant invoices and receipts for payment to substantiate the reimbursable expense or disbursement.
- 9.4 Subject to clause 10, CEWA will within 30 days of receipt by the CEWA Representative of a claim for payment under clause 5.1, make payment to the Contractor equal to the value of the Services as determined by the CEWA Representative in accordance with the Service Fee.
- 9.5 Payment will be deemed to have been made on the date that CEWA makes payment to the Contractor by electronic funds transfer (EFT) to the Contractor's nominated bank account in Australia. CEWA will not split invoice payments across multiple bank accounts.
- 9.6 The Contractor shall provide at least 45 days' notice to CEWA of any changes to its nominated bank account, setting out the details of the new account on the Contractor's official company letterhead and signed by the Contractor's Representative.

9.7 Payment will be deemed to have been made on the date the EFT is made by CEWA.

10 DISPUTED INVOICES

10.1 Where CEWA disputes the accuracy of an invoice, it must, subject to clause 10.2, pay the Contractor the undisputed amount of that invoice (if any) not in dispute in accordance with clause 9.4 and may withhold payment of the amount in dispute until such time as the dispute is resolved.

10.2 Where CEWA withholds the payment of an invoice in accordance with this clause 10, then the Contractor shall issue a new invoice to CEWA for the undisputed amount as soon as reasonably practicable, and in any event within no more than 7 days after CEWA provides notice to the Contractor in accordance with this clause 10.

10.3 Where CEWA withholds payment (in whole or part) of an invoice in accordance with this clause 10, then within 14 days of receipt by the CEWA Representative of a claim for payment under clause 9.1 it must notify the Contractor via a written schedule (**Payment Schedule**) of:

- (a) the amount that is undisputed;
- (b) the amount it has withheld; and
- (c) why payment of that amount is disputed.

10.4 Insofar as is necessary to ensure compliance with the SOP Legislation, each such Payment Schedule shall constitute a payment schedule for the purposes of the SOP Legislation.

10.5 The Contractor agrees that the undisputed amount referred to in the Payment Schedule is, for the purposes of the SOP Legislation, the amount of the 'progress payment' (as defined in the SOP Legislation) calculated in accordance with the terms of the Contract which the Contractor is entitled to in respect of the Contract.

10.6 Without limiting CEWA's rights under any provision in the Contract, CEWA may set off as against any monies due to the Contractor any debt or claim (contingent or otherwise) due by the Contractor to CEWA under the Contract.

11 VARIATIONS

11.1 The CEWA Representative may direct any variation to the scope, timing, form, quality, or quantity of the provision of Services which, in the CEWA Representative's opinion, is necessary and the value of the variation will be considered in determining the final Service Fee.

11.2 Variations to which clause 11.1 apply must be valued at the applicable rates or prices referred to in Schedule 2. If Schedule 2 does not contain any applicable rates or prices or the rates are not applicable to the Variation requested, reasonable rates or prices must be agreed between the CEWA Representative and the Contractor, failing which the rates or prices will be determined solely by the CEWA Representative.

11.3 A variation of the Contract must be in writing and signed by the Parties.

12 INDEMNITIES

12.1 The Contractor indemnifies CEWA and its Personnel from and against any Claim arising out of or in connection with the performance or non-performance of the Contractor's obligations under this Contract, including:

- (a) any breach of this Contract by the Contractor;
- (b) the death or personal injury of any person arising out of the Contractor's performance of the Contract;
- (c) loss of, or damage to, any property arising out of the Contractor's performance of the Contract;
- (d) any breach of Law by the Contractor;
- (e) any infringement, or alleged infringement; of a third party's rights (including Intellectual Property Rights and Moral Rights); and
- (f) any negligent or wrongful act or omission of the Contractor or its Personnel.

12.2 If either party becomes aware of any claim that the provision of the Services under the Contract infringes the Intellectual Property Rights or Moral Rights of another person, the Contractor at its cost and following consultation with CEWA must:

- (a) modify, replace, or re-perform any part of the Services under the Contract to avoid any continuing infringement in a manner acceptable to CEWA and ensuring that the modified or replaced Services complies with the requirements of this Contract; or
- (b) procure for CEWA the right to continue to use or possess the part of the infringing Services under the Contract.

13 LIABILITY

13.1 Neither Party will be liable to the other Party for any Consequential Loss suffered or incurred by the other Party arising out of or in connection with this Contract, whether arising under contract, in tort (including negligence) or otherwise.

13.2 Clause 11.1 does not apply to the Contractor's liability under the indemnities in clauses 10.1(a) to (f).

13.3 To the maximum extent permissible by Law, CEWA's maximum aggregate liability to the Contractor (whether under contract, tort, statute or in equity) arising out of or in connection with this Contract is limited to the total amount payable under the Contract.

14 INSURANCE

14.1 The Contractor shall take out and maintain, with a Reputable Insurance Company:

- (a) all insurance required by Law;
- (b) such insurance as is consistent with good industry practice and that a prudent Contractor would hold in connection with the Services to be delivered under the Contract, including:
 - (i) Public and Products Liability insurance to a value of \$20,000,000 in respect of any one occurrence and unlimited as to the number of occurrences;

- (ii) Workers Compensation insurance as required by Law, including cover for common law liability for an amount not less than \$50,000,000 for any one event and an extension to indemnify CEWA as principal for claims and liability under section 175(2) of the Workers Compensation and Injury Management Act 1981 (WA); and
 - (iii) any other insurance specified in Schedule 1.
- 14.2 The Contractor may be required to provide copies of the certificate of currency for each insurance policy under the Contract within 14 days of signing this Contract.

15 TAXATION AND SUPERANNUATION

- 15.1 The Contractor acknowledges that it will be solely responsible for paying income tax in respect of fees payable under this Contract.
- 15.2 The Contractor acknowledges that:
 - (a) it is responsible for payment of superannuation for any person it employs; and
 - (b) neither the Contractor nor any of its Personnel are entitled to any superannuation contributions from CEWA.

16 MINIMUM WAGE

- 16.1 The Contractor shall ensure that the remuneration and terms of employment of all Contractor Personnel shall be consistent with the remuneration and terms of employment that reflect the industry standard as expressed in awards and agreements and any code of practice that may apply to a particular industry.

17 CONFIDENTIAL INFORMATION

- 17.1 Each Party must keep confidential any Confidential Information of the other Party and only use the Confidential Information to the extent necessary to provide the Services under the Contract, except:
 - (a) where the Confidential Information is in the public domain;
 - (b) with the prior written consent of the other Party;
 - (c) on a need-to-know basis to the other parties officers, agents, professional advisors, auditors, employees, contractors, subcontractors and insurers; or
 - (d) Where a Party is compelled to disclose the Confidential Information by Law, provided that a written notice of the Confidential Information to be disclosed is provided to the other Party.
- 17.2 Each party may only use the Confidential Information of the other Party for the purpose for which it was disclosed and in connection with the provision of the Services under the Contract.
- 17.3 If requested by CEWA, the Contractor shall arrange for the Personnel involved in the provision of the Services under the Contract to execute a confidentiality undertaking in a form acceptable to CEWA.

18 INTELLECTUAL PROPERTY

- 18.1 The Contractor grants (and must ensure that any other owner of any Intellectual Property Rights grants) to CEWA an irrevocable, unconditional, perpetual, royalty free, non-exclusive, worldwide, and transferrable (including sub-licensable) licence to exercise all the Intellectual Property Rights in the Services to ensure CEWA receives the full benefit of the Services. The Contractor warrants that it is entitled to grant this licence and indemnifies CEWA from any loss resulting from any non-compliance or breach of Intellectual Property Rights in connection with the provision of the Services under the Contract.
- 18.2 Nothing in this Contract shall change the ownership of any pre-existing Intellectual Property Rights.
- 18.3 CEWA grants to the Contractor a non-exclusive, non-transferrable royalty free license to use any CEWA pre-existing Intellectual Property Rights only to the extent required to provide the Services under the Contract.
- 18.4 The ownership of any Intellectual Property Rights created in the provision of the Services under the Contract and any associated Deliverables shall vest with CEWA free of all encumbrances and third-party rights.
- 18.5 The Contractor shall, at its own cost, do all things necessary to grant the assignment under clause 16.1, including executing any required documents or effecting any required registrations.

19 MORAL RIGHTS

- 19.1 The Contractor shall procure for CEWA's benefit any Moral Rights Consent to enable CEWA to make full use of the Services and any associated Deliverables under the Contract.

20 OCCUPATIONAL HEALTH AND SAFETY

- 20.1 For the purposes of this clause, a worker includes an employee or independent contractor.
- 20.2 The Contractor acknowledges that it has control of the way the work is performed under this Contract.
- 20.3 The Contractor acknowledges and agrees that it is aware of, and will comply with, its obligations under CEWA's Policies and Procedures and relevant Legislative Requirements relating to safety. The Contractor has and will continue to take all reasonably practicable measures to ensure that it complies with these obligations.
- 20.4 The Contractor will provide a safe working environment such that the Contractor and its Personnel are able to safely undertake tasks related to this Contract.
- 20.5 The Contractor will do all things reasonably practicable to ensure the safety of CEWA's Personnel and members of the public who may be exposed to the Services performed by the Contractor under this Contract.
- 20.6 The Contractor must notify CEWA immediately, or as soon as reasonably practicable, of any potential risk or hazard at the workplace that it identifies during the Term.

20.7 The Contractor must notify CEWA of any safety incidents that occur during the Term as soon as practicable after the incident occurs.

21 RELATIONSHIP OF PARTIES

21.1 CEWA and the Contractor acknowledge that the relationship between them is that of principal and independent contractor. Neither the Contractor nor any of its employees or agents may be regarded as an employee, agent, or partner of CEWA.

21.2 Subject always to its obligations under this Contract, the Contractor may perform services for any other person or entity during the Term provided the performance of those services does not unduly affect the ability of the Contractor to perform the Services under this Contract.

21.3 The Contractor warrants that, at the date of this Contract, no conflict of interest exists or is likely to arise in performing its obligations under this Contract. If, during the Term, a conflict or risk of conflict of interest arises, the Contractor must immediately give CEWA written notice of that conflict or risk.

22 TERMINATION

22.1 A Party may, by providing two (2) weeks written notice to the other Party, terminate this Contract if the other Party breaches a material term of the Contract and the breach is not capable of remedy or the breach is capable of remedy and is not remedied within the reasonable period specified in a notice of breach issued by the non-defaulting Party.

22.2 CEWA may by written notice immediately terminate this Contract if the Contractor suffers or, in the reasonable opinion of CEWA, is at risk of becoming subject to any form of insolvency administration or bankruptcy (except to the extent that the right is stayed under applicable Law).

22.3 CEWA may at any time with at least 30 days' written notice to the Contractor terminate this Contract without cause at its absolute discretion.

22.4 Subject to receipt of a valid Tax Invoice, CEWA's sole liability under this clause 19 shall be to pay the Contractor for the Services delivered up to the effective date of termination.

23 MODERN SLAVERY

23.1 In performing the provision of the Services under the Contract, the Contractor, all its agents, contractors and subcontractors shall comply with the requirements of the Modern Slavery Act and take reasonable steps to ensure that there is no Modern Slavery in its supply chains.

23.2 The Contractor represents and warrants that:

- (a) it conducts business in a manner that is consistent with the principles of the Modern Slavery Act and investigates the risk of Modern Slavery within its business operations and its supply chains;
- (b) it assesses and addresses risks regarding Modern Slavery including implementing appropriate due diligence and remediation programs and will notify CEWA as soon as possible of any actual or suspected Modern

Slavery in its business operations or supply chains and the actions undertaken by the Contractor to remedy such instances; and

- (c) It has all the necessary processes, procedures, investigations, and compliance systems in place to undertake the actions in clauses 22.1 and 22.2.
- 23.3 The Contractor authorises and will support CEWA (or its agent) to conduct its own due diligence of the Contractor's operations or supply chains for the purpose of ensuring any risks or occurrences of Modern Slavery are identified, assessed, and addressed.
- 23.4 The Contractor shall:
- (a) provide CEWA (or its agent) access to all relevant documents required to complete its due diligence and authorises CEWA (or its agent) without giving any notice to access, enter and inspect any of the Contractor's operations, premises, or sites in relation to the provision of the Services under this Contract, including for the purposes of interviewing Personnel; and
 - (b) take all reasonable steps to arrange for CEWA (or its agent carrying out such due diligence) to access the records, operations, premises, and sites, and to interview workers, of suppliers within the Suppliers supply chains.
- 23.5 If the Contractor:
- (a) is a reporting entity as defined in the Modern Slavery Act, it shall provide CEWA a copy of its published annual statement prepared in accordance with section 16(1) of the Modern Slavery Act; or
 - (b) is not a reporting entity under the Modern Slavery Act, it shall provide CEWA a statement outlining all necessary and reasonable steps it has taken to reduce the risk of Modern Slavery within its operations or supply chains.
- 23.6 The Contractor shall on request provide evidence to the satisfaction of CEWA of its compliance with this clause 22 and shall ensure that it includes a clause similar to this clause 22 in all contracts it enters into with its suppliers.
- 23.7 The Contractor shall notify CEWA as soon as it becomes aware of any actual or suspected Modern Slavery in its operations or supply chains which has a connection to the provision of the Services under the Contract.
- 23.8 Despite any other provision of this Contract if the Contractor refuses or fails to:
- (a) meet any of its obligations under this clause 22; and/or
 - (b) immediately, once notified of such instances, cease and within a reasonable time remediate instances of Modern Slavery in its operations or supply chains to the satisfaction of CEWA,
- CEWA may immediately terminate this Contract in accordance with clause 21.

24 CONFLICT OF INTEREST

- 24.1 If a conflict of interest arises in respect of the Contractor, the Contractor shall:
- (a) Promptly notify the CEWA Representative that the conflict has arisen and provide full details; and

- (b) Take all reasonable steps in consultation with the CEWA Representative to remove the conflict.

25 PRIVACY

25.1 The Contractor:

- (a) shall comply with the Australian Privacy Principles and all other Privacy Laws with respect to the supply of the Goods and Services under this Contract to the same extent as CEWA would have been bound had the supply of the Services had been completed by CEWA;
- (b) without limiting clause 25.1(a), shall, and ensure the Contractor Personnel, comply with:
 - (iv) the Australian Privacy Principles and all other applicable Privacy Laws; and
 - (v) CEWA's privacy or related Executive Directives, procedures or policies, as advised by CEWA from time to time.

25.2 Without limiting its obligations under this clause 25, if the Contractor collects or has access to Personnel Information in connection with the provision of the Services under this Contract, the Contractor:

- (a) shall take all reasonable steps to ensure that the Personal Information is protected against misuse and loss, and from unauthorised access, modification or disclosure;
- (b) may only disclose the Personal Information to the Contractor Personnel who need to know that information for the purposes of providing the Services (and only to that extent) and who have undertaken in writing to comply with the obligations set out in this clause 25; and
- (c) shall not otherwise disclose (directly or indirectly) the Personal Information to any person without CEWA's prior written consent.

25.3 If the Contractor becomes aware that the Contractor or the Contractor's subcontractor (or any of their respective personnel) is using or disclosing, or has used or disclosed, Personal Information in breach of this clause 25, the Contractor shall promptly notify CEWA of the full details of the breach. CEWA's knowledge of, or response to any notice of the breach, shall not affect any other rights of CEWA under this Contract.

26 DATA PROTECTION

26.1 The Contractor shall not (and shall ensure that the Contractor Personnel do not):

- (a) use Data held by the Contractor, or to which the Contractor has access in connection with the provision of the Services under the Contract, other than for the purposes of fulfilling its obligations under this Contract;
- (b) intend to commercially exploit the Data; or
- (c) alter Data in any way, other than in performing the Services under the Contract.

26.2 The Contractor shall not cause or have caused any pledge, lien, charge, mortgage, encumbrance of a third party or any other Security Interest to be placed on the Data or any database (whether electronic or otherwise) on which such Data is stored.

- 26.3 The Contractor shall maintain appropriate operational and technological processes and procedures to prevent:
- (a) Any misuse, destruction, loss, or theft of;
 - (b) Any unauthorised or unlawful access to, or use, modification, disclosure, or other handling of; and
 - (c) Any damage to, any Data in the possession, custody, or control of the Contractor.
- 26.4 Without limiting the generality of clause 26.3, the Contractor shall ensure that the operational and technological processes and procedures referred to in that clause:
- (a) are no less rigorous than those safeguards that meet generally accepted industry standards; and
 - (b) comply with all applicable Laws regarding privacy and data protection.
- 26.5 The Contractor shall ensure that the Data is stored in a consistent format (and in a manner) from which specific information can be:
- (a) located quickly and accurately;
 - (b) erased and able to have data portability for that Data; and
 - (c) provided to CEWA in a form reasonably required by CEWA that is compatible with CEWA's system requirements and permits the records to be ordered for reports and analysed and stored.
- 26.6 Where requested by CEWA, the Contractor shall promptly provide CEWA with:
- (a) access to the Data in the possession or control of the Contractor or its related bodies corporate or their respective personnel; or
 - (b) An electronic copy of part or all of the Data, in the file format(s) and using the data structures required by CEWA.
- 26.7 In providing the Services under the Contract, the Contractor shall not store or process any Data or other Personal Information collected by the Contractor in connection with the provision of the Services in any country outside of Australia without CEWA's prior written consent.

27 DATA INCIDENTS

- 27.1 In the event of any loss or corruption of, or damage to, any Data, the Contractor shall (without prejudice to any other remedies that may be available to CEWA under this Contract or otherwise) promptly:
- (a) notify CEWA;
 - (b) after the incident causing the loss, corruption, or other damage (Data Incident), restore or procure the restoration of that Data to the last available backup (or other copy) of that Data; and
 - (c) take all further available steps to restore or procure the restoration of the Data to its former state immediately prior to the Data incident (or, if requested by CEWA, have a third party nominated by CEWA do so at the cost of the Contractor).
- 27.2 The Contractor must take such steps as are necessary to ensure that it can comply with clause 27.1 in the event of a Data Incident.

27.3 To the extent that the Contractor is unable to restore any lost, corrupt, or damaged Data in accordance with clause 27.1, CEWA may recover from the Contractor any costs and expenses that CEWA reasonably incurs in taking its own action (including engaging third parties) to restore that Data.

28 FORCE MAJEURE

28.1 Delay or failure to perform the Service under the Contract does not constitute a breach of this Contract by that Party if and to the extent the delay or failure is caused by an event of Force Majeure, provided the Party claiming Force Majeure:

- (a) gives notice to the other Party within seven (7) days of the Force Majeure event occurring providing details of the event and the anticipated likely duration and effect; and
- (b) uses its best endeavours to overcome or limit the effects of the Force Majeure event as promptly as possible and provides written notice to the other Party within seven (7) days of the end of the Force Majeure event.

28.2 If a delay or failure to perform the Service under the Contract continues for more than thirty (30) days, either Party may terminate this Contract by giving fourteen (14) days written notice to the Contractor.

29 MISCELLANEOUS PROVISIONS

29.1 The Contractor must provide the Services in a timely manner.

29.2 This Contract constitutes the entire Contract between the parties.

29.3 The Contractor will not transfer, assign or sub-contract the Services without the prior written consent of CEWA. Any approval to engage a sub-contractor will not relieve the Contractor from any of the liabilities or obligations under this Contract. The Contractor will be responsible for the work of the sub-contractor or any employee or agent of the sub-contractor and guarantees that all goods or services provided by the sub-contractor shall be free from deficiencies.

29.4 Any notice, demand or other communication under this Contract must be in writing and may be delivered personally or sent by electronic mail, prepaid registered mail or facsimile to the person to whom it is addressed.

29.5 No waiver of any provision of this Contract will be effective unless it is in writing and will be effective only in the specific instance and for the purpose for which it was given. No default or delay on the part of any of the parties in exercising any rights, powers or privileges under this Contract will operate as a waiver.

29.6 The Contractor may be required to provide a police clearance within 14 days of a request in writing from CEWA, for all personnel providing Services under this Contract.

29.7 If a provision of this Contract is invalid, illegal, or unenforceable it must, to the extent that it is invalid, illegal or unenforceable, be treated as severed from this Contract, without affecting the validity, legality or enforceability of the remaining provisions.

29.8 For all purposes this Contract will be governed by and construed in accordance with the laws of the State of Western Australia and, where applicable, the laws of the Commonwealth of Australia. The parties to this Contract irrevocably submit to the non-exclusive jurisdiction of the courts of Western Australia.

30 DEFINITIONS

30.1 In this Contract, the terms set out below have the following meaning:

CEWA means Catholic Education Western Australia Limited

CEWA's Representative means the representative of CEWA specified in Schedule 1, as may be replaced from time to time by notice to the Contractor.

Claim means a claim, action, demand, damage, loss, liability, cost, charge, expense (including legal costs on a full indemnity basis), outgoing, fine or payment.

Commencement Date means the commencement date of the Contract as specified in Schedule 1.

Confidential Information in relation to a party means information of a confidential nature including information about its business, operations, strategy, administration, technology, affairs, clients, customers, employees, contractors, or suppliers, but does not include any information which is in the public domain other than through a breach of confidence.

Consequential Loss means any loss of profits, loss of revenue, loss of any contract value, loss of anticipated profit or damages for lost opportunity.

Contract means these General Terms and Conditions and any other annexures, schedules, addendum, or other documents attached thereto or provided by CEWA to the Contractor in relation to the Contract.

Contractor means the party so described in this Contract and, where and to the extent the context permits, includes the Contractor's personnel, representatives, successors and permitted assigns, employees and permitted specialist sub-contractors, and agents responsible for the provision of the Services under this Contract.

Contractor's Representative means the representative of the Contractor specified in Schedule 1.

Contractor's Representative means the representative of the Contractor specified in Schedule 1.

Data means:

- (a) all content, data, information, and other materials provided to, or generated by or on behalf of, the Contractor relating to CEWA for the purposes of providing the Services under the Contract (including Personal Information) (**Raw Data**); and
- (b) all content, data, information, and other materials in any format whatever generated, stored, processed, retrieved, printed, or produced by or on behalf of the Contractor utilising the Raw Data,

and includes:

- (c) data created by the operation of any computer language or software, regardless of where such software is operated, executed or resident; and
- (d) information (including reports) produced by, or outputs from, Contractor systems or tools

Expiry Date means the expiry date of the Contract specified in Schedule 1.

General Terms and Conditions means the terms and conditions incorporated in this Letter of Engagement.

GST means the goods or services tax levied or imposed in Australia pursuant to the *New Tax System (Services and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means patents, copyright, rights to circuit layouts, registered designs, trademarks, plant breeder's rights, database rights and the right to have confidential information (being information which is capable of being protected by way of an action for breach of confidence) kept confidential and any application or right to apply for registration of any of those rights.

Law means the law applicable in the State of Western Australia.

Legislative Requirements means any relevant legislation and Government policy, including but not limited to:

- (e) *School Education Act 1999* (WA);
- (f) *Australian Education Act 2013*;
- (g) *Copyright Act 1968* (Cth);
- (h) *Privacy Act 1988* (Cth);
- (i) *Work Health and Safety Act 2020* (WA).

Modern Slavery has the meaning given in the *Modern Slavery Act 2018* (Cth).

Modern Slavery Act means the *Modern Slavery Act 2018* (Cth).

Moral Rights means the moral rights granted under the *Copyright Act 1968* (Cth), including the right of attribution of authorship, and any similar rights existing under foreign laws.

Moral Rights Consent means a waiver of Moral Rights to the extent permitted by Law and an unconditional consent to any act or omission in relation to the provision of the Services by or on behalf of the Contractor, or any licensee or subsequent owner of copyright in the provision of the Services.

Party means a party to this Contract.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Personnel means the directors, officers, employees, consultants, specialist sub-consultants, sub-contractors, suppliers, and agent of the Contractor or CEWA or their respective Related Bodies Corporate, as the context requires.

Policies and Procedures means all rules, regulations, standard procedures, directives, and policies of CEWA as specified in Schedule 1 or otherwise notified by CEWA to the Contractor from time to time.

Privacy Laws means all Laws relating to data security and the protection of Personal Information in force from time to time, including the *Privacy Act 1988* (Cth).

Related Bodies Corporate has the meaning given in the *Corporations Act 2001* (Cth).

Reputable Insurance Company means a duly registered insurance company, domiciled and carrying on business in Australia, with an “Insurer Financial Strength Rating” of “A” or better, as rated and determined by Standard & Poor’s rating agency from time to time with reference to the *Insurance Contracts Act 1984* (Cth) or such other rating agency as determined by CEWA.

Scope of Service means Schedule 3 to the Contract.

Service Fee means the amount payable by CEWA to the Contractor for provision of the Services under this Contract as calculated pursuant to the rate or rates set out in Schedule 2 in accordance with clause 5.

Services means the Services described in Schedule 3 including the supply of any Deliverables to be provided by the Contractor in accordance with the terms of this Contract, or where the context permits, as described in any Purchase Order pursuant to the Contract.

Site means the site specified in Schedule 1.

SOP Legislation means to the extent applicable to the Contract:

- (a) *the Construction Contracts Act 2004 (WA)*; and/or
- (b) *the Building and Construction Industry (Security of Payment) Act 2021 (WA)*.

Term means the duration of the Contract in accordance with clause 3.

Working with Children Act means the *Working with Children (Criminal Record Checking) Act 2004*.

SIGNED for and on behalf of
**CATHOLIC EDUCATION WESTERN
AUSTRALIA LIMITED**, ABN 47 634
504 trading as **INSERT SCHOOL
NAME**, ABN **Insert ABN** by its duly
authorised representative:

Authorised Representative

Date

Name of Authorised
Representative

Position (please print)

SIGNED for and on behalf of **INSERT
CONTRACTOR NAME**, ABN **Insert
ABN** by its duly authorised
representative:

Authorised Representative

Date

Name of Authorised
Representative

Position (please print)

SCHEDULE 1 CONTRACT DETAILS

Contract Number	Insert Contract Number
------------------------	-------------------------------

Contractor	Name	Insert Contractor Name
	ABN/ACN	Insert ABN/ACN number
	Address	Insert address

Contractor's Representative	Name	Insert Contractor's Representative name
	Address	Insert address
	E-mail	Insert e-mail address

CEWA Representative	Name	Insert CEWA Rep name and title
	Address	Insert address
	E-mail	Insert e-mail address

Commencement Date	Insert commencement date
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Expiry Date	Insert expiry date
--------------------	---------------------------

Option to Extend	CEWA may extend this Contract for a further one (1) period of twelve (12) months each
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Services	Insert description of the services to be provided in accordance with Schedule 3 Scope of Service
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Site	Insert the site or sites where the Services will be completed
-------------	--

Additional Insurances	Insert any additional insurances required or mark as not applicable
------------------------------	--

Policies and Procedures	List the policies, procedures, and rules that the Contractor is required to follow or reference the relevant schedule of the Contract
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SCHEDULE 2 SERVICE FEE

1 SERVICE FEE

Examples of options for a Service contract are:

The basis of payment of the Service Fee for the Services is a fixed lump sum in accordance with the following table:

ITEM	DESCRIPTION	CONTRACT PRICE EXCLUDING GST	GST	CONTRACT PRICE INCLUDING GST
1		\$	\$	\$

OR

The basis of payment of the Service Fee for the Services is in accordance with the following table:

ITEM	DESCRIPTION	CONTRACT PRICE EXCLUDING GST	GST	CONTRACT PRICE INCLUDING GST
1		\$	\$	\$
2		\$	\$	\$
3		\$	\$	\$
TOTAL		\$	\$	\$

OR

The basis of payment of the Service Fee for the Services is a schedule of rates in accordance with the following table:

ITEM	DESCRIPTION	UNIT	UNIT PRICE EX GST	GST	UNIT PRICE INC GST
1			\$	\$	\$
2			\$	\$	\$
3			\$	\$	\$

The Service Fee must be inclusive of freight, administration, overheads, profits, inspection, supervision, and all other items required to carry out the Services in accordance with the Contract.

2 LABOUR RATES

The following rates will be used to cost any additional requirements outside the Brief under this RFP that may be requested from the preferred Respondent during the Term of the Contract. Note: Respondent to complete.

ITEM	DESCRIPTION	UNIT	UNIT PRICE EX GST	GST	UNIT PRICE INC GST
1		HR	\$	\$	\$
2		HR	\$	\$	\$
3		HR	\$	\$	\$

3 SERVICE FEE BASIS

The Contract Price is firm and unalterable for the first twelve months of the Contract.

3.1 Rate Review

The rates contained in this Schedule 2 shall be reviewed annually on the anniversary of the Commencement Date (**Review Date**) in accordance with the rise and fall mechanism (**Rise and Fall**) set out in clause 3.2 below.

The Contractor shall compile and forward the request to CEWA, and any changes agreed to by CEWA will be applicable from the Review Date, or from the date the Rise and Fall is agreed to in writing by both parties to the Contract, whichever comes last. Any variation to the rates in this Schedule 2 must be in writing and executed by both parties.

3.2 Rise and Fall

The rates outlined in this Schedule 2 will be reviewed annually in accordance with this clause 3.2, subject to a formal request from the Contractor (or CEWA).

For the avoidance of doubt, Item 1 of clause 1 are not subject to Rise and Fall.

The Contractor shall compile and forward the request in accordance with the following Rise and Fall calculation:

$$NR = CR \times \left(\frac{CPI_2}{CPI_1} \right)$$

Where:

“NR” means the revised rate for the Services performed applicable from the Review Date, or from the date the Rise and Fall is agreed to in writing by both parties, whichever comes last.

“CR” means the rate applicable from the Commencement Date or the last Review Date, whichever occurred last.

“CPI₁” means the index number for “6401.0 Tables 1 and 2 – CPI; All Groups; Index Numbers and Percentage Changes; Perth” (series ID # A2325826V) as published by the Australian Bureau of Statistics for the quarter ending **December** of the year preceding the current year.

“CPI₂” means the index number for “6401.0 Tables 1 and 2 – CPI; All Groups; Index Numbers and Percentage Changes; Perth” (series ID # A2325826V) as published by the Australian Bureau of Statistics for the quarter ending **December** for the current year.

1 SERVICE FEE

Examples of options for a Consultancy contract are:

The basis of payment of the Service Fee for the Services is a fixed lump sum in accordance with the following table:

ITEM	DESCRIPTION	FIXED PRICE EXCLUDING GST	GST	FIXED PRICE INCLUDING GST
1		\$	\$	\$

OR

The basis of payment of the Service Fee for the Services is in accordance with the following table:

ITEM	DESCRIPTION	FIXED PRICE EXCLUDING GST	GST	FIXED PRICE INCLUDING GST
1		\$	\$	\$
2		\$	\$	\$
3		\$	\$	\$
TOTAL		\$	\$	\$

OR

The basis of payment of the Service Fee for the Service is a schedule of rates in accordance with the following table:

ITEM	DESCRIPTION	UNIT	UNIT PRICE EX GST	GST	UNIT PRICE INC GST
1			\$	\$	\$
2			\$	\$	\$
3			\$	\$	\$

The Service Fee must be inclusive of freight, administration, overheads, profits, inspection, supervision, and all other items required to carry out the Services in accordance with the Contract.

1.1 Service Fee Breakdown

The Contractor shall provide a breakdown of the Service Fee at item 1 by the Key Personnel to deliver the Services as follows:

ITEM	LABOUR CLASSIFICATION	HRS	UNIT PRICE EX GST	TOTAL PRICE EX GST	GST	TOTAL PRICE INC GST
1			\$	\$	\$	\$
2			\$	\$	\$	\$
3			\$	\$	\$	\$
4			\$	\$	\$	\$

ITEM	LABOUR CLASSIFICATION	HRS	UNIT PRICE EX GST	TOTAL PRICE EX GST	GST	TOTAL PRICE INC GST
5			\$	\$	\$	\$
TOTAL				\$	\$	\$

1.2 Specialist Subcontractor Breakdown

The Contractor shall provide a breakdown of the Specialist Subcontractor's to be engaged by the Contractor to deliver the Services as follows:

Amend as required for the Services being contracted. If the Contractor is not responsible for the provision of Specialist Contractor's, this clause may be deleted.

ITEM	SPECIALIST CONSULTANT	HRS	UNIT PRICE EX GST	TOTAL PRICE EX GST	GST	TOTAL PRICE INC GST
1	Cost Consultant		\$	\$	\$	\$
2	Land Surveyor		\$	\$	\$	\$
3	Structural Engineer		\$	\$	\$	\$
4	Mechanical Engineer		\$	\$	\$	\$
5	Electrical Engineer		\$	\$	\$	\$
6	Hydraulic Engineer		\$	\$	\$	\$
7	Fire Services Engineer		\$	\$	\$	\$
8	Vertical Transport Engineer		\$	\$	\$	\$
9	Building Surveyor		\$	\$	\$	\$
10	Planning Consultant		\$	\$	\$	\$
11	Geotechnical Engineer		\$	\$	\$	\$
12	Landscape Architect		\$	\$	\$	\$
13	Interior Design Consultant		\$	\$	\$	\$
14	ESD Consultant		\$	\$	\$	\$
15	Heritage Consultant		\$	\$	\$	\$
16	Façade Consultant		\$	\$	\$	\$
17	Other (Tenderer to nominate)					

ITEM	SPECIALIST CONSULTANT	HRS	UNIT PRICE EX GST	TOTAL PRICE EX GST	GST	TOTAL PRICE INC GST
			\$	\$	\$	\$
			\$	\$	\$	\$
			\$	\$	\$	\$
			\$	\$	\$	\$
			\$	\$	\$	\$
TOTAL				\$	\$	\$

2 SCHEDULE OF RATES

2.1 Labour Rates

The key personnel rates included in this Section of the Schedule may be used as a basis for valuation of additional work as directed by CEWA which is outside the requirements to be carried out under the Contract on an hourly basis.

Amend as required for the services being tendered.

ITEM	LABOUR CLASSIFICATION	HOURLY RATE EX GST	GST	HOURLY RATE INC GST
1	Principal / Partner	\$	\$	\$
2	Director	\$	\$	\$
3	Senior Manager	\$	\$	\$
4	Team Leader	\$	\$	\$
5	Senior Architect	\$	\$	\$
6	Architect	\$	\$	\$
7	Supervisor	\$	\$	\$
8	Senior	\$	\$	\$
9	Intermediate	\$	\$	\$
10	Graduate	\$	\$	\$
11	Technician	\$	\$	\$
12	Other (Tenderer to nominate):			
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

2.2 Disbursement Costs

CEWA will reimburse the Contractor for reasonable expenses incurred by the Contractor in connection with providing the Services. All expenses over \$100 must be approved by CEWA in advance. The Contractor must produce receipts or other supporting documentation required by CEWA to support any expenses.

The rates included in this Section of the Schedule will be used for the costing and verification of disbursements under the Contract:

Amend to suit the Services being Contracted. Careful consideration should be given to the items included in this schedule that sit outside the Fixed Lump Sum Service Fee.

ITEM	DISBURSEMENT	UNIT	RATE EX GST	GST	RATE INC GST
1	Fees, taxes, levies, or charges		\$	\$	\$
2	Advertisements and notices		\$	\$	\$
3	Special presentation material and models		\$	\$	\$
4	Rental of special equipment		\$	\$	\$
5	Digital data file transfers and conversion		\$	\$	\$
6	Photographic records		\$	\$	\$
7	Courier and postage services		\$	\$	\$
8	Copies of documents (other than to CEWA)		\$	\$	\$
9	Colour reproduction of documents		\$	\$	\$
10	Building contracts		\$	\$	\$
11	Travel time		\$	\$	\$
12	Vehicle use beyond 30km from office		\$	\$	\$
13	Interstate, intrastate, or overseas travel		\$	\$	\$
12	Other (Tenderer to nominate):				
			\$	\$	\$
			\$	\$	\$
			\$	\$	\$

3 SERVICE FEE BASIS

The Service Fee is firm and unalterable for the first twelve (12) months of the Contract.

3.1 Rate Review

The rates contained in this Schedule 2 shall be reviewed annually on the anniversary of the Commencement Date (**Review Date**) in accordance with the rise and fall mechanism (**Rise and Fall**) set out in clause 3.2 below.

The Contractor shall compile and forward the request to CEWA, and any changes agreed to by CEWA will be applicable from the Review Date, or from the date the Rise and Fall is agreed to in writing by both parties to the Contract, whichever comes last. Any variation to the rates in this Schedule 2 must be in writing and executed by both parties.

3.2 Rise and Fall

The rates outlined in this Schedule 2 will be reviewed annually in accordance with this clause 3.2, subject to a formal request from the Contractor (or CEWA).

For the avoidance of doubt, Item 1 of clause 1 are not subject to Rise and Fall.

The Contractor shall compile and forward the request in accordance with the following Rise and Fall calculation:

$$NR = CR \times \left(\frac{CPI_2}{CPI_1} \right)$$

Where:

“NR” means the revised rate for the Services performed applicable from the Review Date, or from the date the Rise and Fall is agreed to in writing by both parties, whichever comes last.

“CR” means the rate applicable from the Commencement Date or the last Review Date, whichever occurred last.

“CPI₁” means the index number for “6401.0 Tables 1 and 2 – CPI; All Groups; Index Numbers and Percentage Changes; Perth” (series ID # A2325826V) as published by the Australian Bureau of Statistics for the quarter ending December of the year preceding the current year.

“CPI₂” means the index number for “6401.0 Tables 1 and 2 – CPI; All Groups; Index Numbers and Percentage Changes; Perth” (series ID # A2325826V) as published by the Australian Bureau of Statistics for the quarter ending December for the current year.

SCHEDULE 3 SCOPE OF SERVICE

1 BACKGROUND

- 1.1 From its beginnings in 1843, when the first Catholic school opened in Perth, Catholic education in Western Australia has been responding to the needs of communities, providing a Catholic education for all families who seek it.
- 1.2 Today, Catholic Education Western Australia Ltd (CEWA) is a state-wide system of 163 schools and early years learning and care facilities, with schools and offices located across the Dioceses of Broome, Bunbury and Geraldton and the Archdiocese of Perth, supporting over 78,000 students.
- 1.3 CEWA is a Christ-centred and child-focused community of engaged learning environments, inspiring all to actively live the Gospel.
- 1.4 CEWA is governed by the Catholic Education Commission of Western Australia and its committees, whose strategic directions are based on the guiding principles of:
 - (a) Our school communities are central to the Church's mission of bringing the Good News of Jesus Christ to all;
 - (b) At the heart of all our decisions and actions is the dignity of each child;
 - (c) Central to our identity as a Christ-Centred community are our partnerships with families, parishes and schools;
 - (d) We respect the uniqueness of each person and community ensuring that quality Catholic education is focused on engaged learning;
 - (e) We commit to the principles of subsidiarity, co-responsibility and participation in enhancing Catholic Education across Western Australia and
- 1.5 CEWA seeks to provide access to Catholic Education, especially for the marginalised and disadvantaged.

2 SCOPE OF SERVICE

- 2.1 The Scope of Service under the Contract includes the following:
 - (a) Insert key objective;
 - (b) Insert key objective;
 - (c) Insert key objective; and
 - (d) Insert key objective.

Consideration may need to be given on the level of detail required to detail the scope and may include splitting the requirements or using a table format.

3 DELIVERABLES

Clearly detail the deliverables, format, and due date of the outcomes to be delivered by the Contractor.

- 3.1 The Contractor shall provide the following Deliverables under the Contract:

Deliverable	Format	Due Date
Deliverable 1	Detail Format	DD/MMM/YYYY
Deliverable 2	Detail Format	DD/MMM/YYYY
Deliverable 3	Detail Format	DD/MMM/YYYY
Deliverable 4	Detail Format	DD/MMM/YYYY

4 TIMELINE

Detail the proposed timeline applicable to the provision of the Deliverables to CEWA by the Contractor.

4.1 The key dates under the Contract are:

Description	Due Date
Contract Execution	DD/MMM/YYYY
Contract Commencement (Indicative)	DD/MMM/YYYY
Contract Completion (Indicative)	DD/MMM/YYYY