

MINISTRY OF EDUCATION

AND

«provider_legal_name»

SERVICES AGREEMENT

Attendance Services

«Catchment_» catchment

Contract ID: «Contract_ID»

SERVICES AGREEMENT

AGREEMENT dated September 2025

Parties

The Sovereign in Right of the Government of New Zealand acting by and through the **Secretary for Education** or his or her duly authorised delegate, at Wellington (the *Ministry*)

«**provider_legal_name**» at «Address_2», NZBN number «NZBN__Registration_number» (the *Supplier or Provider*)

Overview

The Ministry appoints the Provider, and the Provider accepts the Ministry's appointment, to provide the Services and Deliverables on the terms and conditions set out in Schedule 1 - Agreement Details, Schedule 2 – Service Description, Schedule 3 – Catchment Details and Schedule 4 – Terms and Conditions.

SIGNATURES

For Ministry of Education :	For « provider_legal_name »
Signature:	Signature:
Name: «MOE_First» «MOE_Last»	Name: «first_name_» «Last_name»
Position: «MOE_position» «MOE_position2»	Position: «supplier_position»
Date:	Date:

SCHEDULE 1 - AGREEMENT DETAILS

The headings in this Schedule have legal effect.

Provider Details (Clause 16.7 Schedule 4 – Terms and Conditions)	Full legal name:	«provider_legal_name»
	Address for Notices:	«Address_1» «Address_2» «Address_3» «Address_4»
	Email:	«supplier_email»
	Attention:	«first_name_» «Last_name»
Ministry Details (Clause 16.7 Schedule 4 – Terms and Conditions)	Full legal name:	Ministry of Education
	Address for Notices:	Te Pae Aronui Wellington 6011 PO Box 1666
	Email:	Attendance.service@education.govt.nz
	Attention:	General Manager System Delivery Te Pae Aronui
1. Background	A. Each year, around 200,000 students miss 15 days or more of school during a term for at least one term during that year. In Budget 2025, government invested around \$123m of additional funding to support implementation of a reformed attendance service delivery model which includes: (a) the provision of attendance services by providers that deliver support to chronically absent students referred by schools and kura from within a defined catchment area, and to all non-enrolled students living within that catchment area (Attendance Services), and (b) funding certain schools to enable them to provide additional support to students considered chronically absent (In-School Provision (Attendance)). B. On 23 May 2025 the Ministry issued a Request for Proposals (RFP) for Attendance Services, seeking providers with appropriate experience, capability and capacity to provide Attendance Services. C. Based on the Supplier’s response to the RFP and other supporting documentation, the Ministry has selected the Supplier to provide the Services and Deliverables to the Ministry, which the Supplier has agreed to supply, on the terms and conditions set out in this Agreement.	
2. Outcomes and Relationship Principles	A. Outcomes The Parties shared outcomes in entering into this Agreement (Outcomes) are to: (a) achieve a measurable and sustainable improvement in the attendance rates of chronically absent students referred to them (b) achieve a measurable and sustainable reduction in the number and percentage of non-enrolled students within	

	their catchment (due to effective intervention prior to non-enrolment). B. Relationship principles The Parties will operate and work together, in relation to the shared Outcomes, in a manner that is consistent with the following relationship principles: (a) <i>The referred student at the centre:</i> the focus is on improving attendance of referred chronically absent students and the timely enrolment and attendance of referred non-enrolled students (b) <i>Mutual trust and transparency:</i> Open sharing of information, goals, and challenges, honesty in communication to build long-term confidence. (c) <i>Shared goals and vision:</i> alignment on outcomes, objectives, joint planning and strategic alignment. (d) <i>Collaboration focussed on outcomes:</i> commitment to innovation, joint learning and doing what works to achieve the agreed outcomes (e) <i>Performance management and continuous improvement:</i> clear outcomes, defined service levels; regular performance monitoring and reviews; and continuous improvement. (f) <i>Executive management and communication:</i> structured executive management with regular meetings and escalation paths. This includes operational and strategic channels, clear roles, responsibilities, and decision-making processes. Purpose of outcomes and relationship principles Clauses 2A and 2B are intended to reflect outcomes and relationship principles that will underpin the way in which the parties will work together. To the extent the Agreement does not address a particular circumstance, or is otherwise unclear or ambiguous, it is to be interpreted so as to give full effect to the outcomes and relationship principles.
3. Purpose	The purpose of the Agreement is to enable the Provider to deliver a comprehensive range of Attendance Services to all schools, kura and referred students within the Catchment, including: (a) case management services for referred students. (b) identification of barriers to attendance and the putting in place of enduring solutions. (c) address unmet basic needs that are impacting on a student's attendance. (d) establish and maintain strong local relationships including with schools, students and their whānau, other social agencies, and iwi. (e) work closely with local interagency forums and roundtables to ensure that students get the appropriate support they need. This includes providing support to roundtables where required.

	(f) provide targeted attendance advice and support to all schools and kura within the catchment. Schedule 2 – Service Description provides further detail of the services to be delivered.
4. Objectives	The Ministry’s objectives in funding the attendance service delivery model are: (a) To see significant improvements in the national school attendance levels that are sustained over time. (b) To monitor and assess the impact of the Attendance Delivery Model on school attendance, including the effectiveness of different activities and strategies used by schools and other attendance service providers. (c) That Attendance Service provision will achieve the following national outcomes targets for chronically absent students referred to a Service: ○ 60% of referred students have improved their attendance level to over 80% in the term following the term after the one in which they were referred (so a student referred in Term 1, will have their outcome measured in Term 3) ○ 80% of referred students have improved their attendance level to over 70% or, if their attendance level remains below 70% it has improved by at least 50% from their previous level, in the term following the term after the one in which they were referred ○ 80% of referred students have maintained or exceeded their attendance level in the term of case closure, in the following term (d) That Attendance Service provision will achieve the following national outcomes targets for non-enrolled students referred to a Service: ○ 80% of referred students with up-to-date contact details have enrolled in a school, or an alternative education pathway, within 50 Business Days (10 weeks) of allocation to provider ○ 60% of referred students who have re-enrolled in a school, have an attendance level of over 80% in the term following the term after the one in which they were referred ○ 80% of referred students who have re-enrolled in a school, have an attendance level of over 70% in the term following the one in which they were re-enrolled ○ 80% of referred students who have re-enrolled in a school, have maintained or exceeded their attendance level in the term of case closure, in the following the term

5. Services	The Services include: a) The Services described in Schedule 2 – Service Description. b) Provision of services up to a maximum capacity of «Maximum_capacity_funded_» cases per annum. c) At the end of the Term: • Ensure all case notes are completed and recorded in the Ministry CMS. • Complete all final reporting • Support and facilitate the transfer of any open cases to a new provider (if applicable) • Participate in any service transition meetings reasonably requested by the Ministry to facilitate the transfer of knowledge and learnings to a new provider (if applicable)
6. Deliverables	The Deliverables include: (a) Provide an implementation plan to the Ministry, by Monday 27 October 2025 and using the template to be provided, that describes how the Provider will establish and implement the services described in Schedule 2 – Service Description. (b) Provide an annual service delivery plan to the Ministry, by 15 November each year and using the template to be provided, that describes how the Provider will deliver services over the next calendar year, including quarterly or termly milestones.
7. Service Levels (Clause 3.1(b), Schedule 4)	The Supplier must: (a) Achieve the following outcome measures: • At least 70% of referred chronically absent students will demonstrate improved attendance in the term following the term after referral (so a student referred in Term 1, will have their outcome measured in Term 3), measured as either: ○ Achieving an attendance level of over 70%, or ○ If attendance remains below 70%, showing an improvement of at least 25% from their baseline attendance level. • At least 60% of referred non-enrolled students with up-to-date contact details will have enrolled in a school, or an appropriate alternative education pathway, within 50 Business Days (10 weeks) of referral. (b) Achieve the case management service levels detailed in Schedule 2 – Service Description, 2.2.
8. Reports	The Ministry will provide a reporting template populated with key performance data, within the Ministry CMS, which will be available shortly after the end of each school term. The Provider will add qualitative commentary and insights such as reasons why expected results or actions have not been achieved, identification of emerging trends and patterns, evaluation of the impact of any innovative

	interventions used, and learnings about what is (and isn't) working, and any adjustments to service delivery as a result. A schedule of all reports and meetings is included in clause 9. All reports will be used to support the relevant meetings. From 1 July 2025 the Ministry has required all contracts to include regular reporting on the areas listed below. The first four of these will be collated from your regular recording in the Ministry CMS, with the remainder to be gathered at your periodic meetings. The areas are: - Activities, Experiences, and Services Provided - Referral Mode - Outcomes Achieved - Participant Demographics - Cost Breakdown - Service Delivery Features - Factors Contributing to Positive Outcomes for Students - Barriers to Students Achieving Positive Outcomes
9. Meetings	The Provider will attend periodic review meetings with the Ministry's Contract and Relationship Manager, to review performance in the previous period, and outcomes reported in the previous period. The meetings will be held as follows:

Period to be reviewed	Report to be provided by the Ministry by...	Insights etc to be added to Report by the Provider by...	Review meeting to be held by...
1 Jan – 2 April 2026	9 April 2026	23 April 2026	8 May 2026
3 April – 3 July 2026	10 July 2026	24 July 2026	7 August 2026
4 July – 25 Sept 2026	2 Oct 2026	16 Oct 2026	30 Oct 2026
26 Sept – 18 Dec 2026	15 Jan 2027	22 Jan 2027	5 Feb 2027
19 Dec – 9 April 2027	16 April 2027	30 April 2027	14 May 2027
10 April – 2 July 2027	9 July 2027	23 July 2027	6 August 2027
3 July – 24 Sept 2027	1 Oct 2027	15 Oct 2027	29 Oct 2027
25 Sept – 17 Dec 2027	14 Jan 2028	28 Jan 2028	11 Feb 2028

10. Payments	The Ministry will pay in fixed instalments, as detailed in the following table. Payment No.2 is subject to: i. an implementation plan being completed to the Ministry's satisfaction, as described in clause 6 ii. a service delivery plan being completed to the Ministry's satisfaction, as outlined in clause 6. All withholding payments (Payments No. 4,6,8,10,12,14,16 and 18) are subject to the Ministry being satisfied the Provider has met the following conditions, or that any failure to meet the following conditions in the relevant quarter is supported by a satisfactory explanation and an appropriate remediation plan: i. Implemented all relevant milestones in the agreed service delivery plan as described in clause 6. ii. Achieved the outcome measures described in clause 7 iii. Achieved the case management service levels detailed in Schedule 2 – Service Description, 2.2.
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	iv. Complied with all meeting and reporting requirements as described in clauses 8 and 9.
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No.	Invoice received by	Payment by	Payment Detail	Amount (GST excl)
1	17-Oct-25	30-Oct-25	Implementation Support payment	«payment_1»
2	5-Dec-25	18-Dec-25	Continuity payment [90%] for period 1 Jan - 2 April 2026 subject to milestones in clause 8 (b)	«payment_2»
3	20-Mar-26	2-Apr-26	Continuity payment [90%] for period 3 Apr-3 July 2026	«payment_4»
4	15-May-26	28-May-26	Withholding payment [10%] for period 1 Jan-2 April 2026	«payment_3»
5	19-Jun-26	2-Jul-26	Continuity payment [90%] for period 4 Jul-25 Sep 2026	«payment_6»
6	14-Aug-26	27-Aug-26	Withholding payment [10%] for period 3 Apr-3 July 2026	«payment_5»
7	18-Sept-26	1-Oct-26	Continuity payment for period 26 Sept – 18 Dec 2026	«payment_8»
8	6-Nov-26	19-Nov-26	Withholding payment [10%] for period 4 Jul-25 Sep 2026	«payment_7»
9	4-Dec-26	17-Dec-26	Continuity payment [90%] for period 19 Dec 2026 -9 April 2027	«payment_10»
10	12-Feb-27	25-Feb-27	Withholding payment [10%] for period 26 Sept - 18 Dec 2026	«payment_9»
11	19-Mar-27	1-Apr-27	Continuity payment [90%] for period 10 Apr-2 July 2027	«payment_12»
12	21-May-27	3-Jun-27	Withholding payment [10%] for period 19 Dec 2026 - 9 April 2027	«payment_11»
13	18-Jun-27	1-Jul-27	Continuity payment [90%] for period 3 July – 24 Sept 2027	«payment_14»
14	12-Aug-27	25-Aug-27	Withholding payment [10%] for period 10 April – 2 July	«payment_13»
15	17-Sept-27	30-Sept-27	Continuity payment for period 25 Sept – 31 Dec 2027	«payment_16»
16	5-Nov-27	18-Nov-27	Withholding payment [10%] for period 3 July – 24 Sept 2027	«payment_15»
17	17-Feb-28	2-Mar-28	Withholding payment [10%] for period 25 Sept – 31 Dec	«payment_17»
			Total payments	«Funding_to_31_Dec_2027»

11. Commencement Date (Clause 9.1, Schedule 4 – Terms and Conditions)	15 October 2025
12. Expiry Date (Clause 9.1, Schedule 4 – Terms and Conditions)	31 December 2027
13. Further Term (Clause 9.1, Schedule 4 – Terms and Conditions)	The Ministry may extend the term of this Agreement, for one further term of two years on the same terms and conditions,

Terms and Conditions)	by giving the Supplier notice in writing at least two months before the Expiry Date.
14. Termination for Convenience (Clause 9.2, Schedule 4 – Terms and Conditions)	60 Business Days
15. Supplier's Liability Amount (Clause 10.2, Schedule 4 – Terms and Conditions)	Three times the total payments specified in clause 10 Payments.
16. Insurance (Clause 11.1, Schedule 4 – Terms and Conditions)	Supplier has the following insurances in place for the Term of this Agreement: Public liability: «Public_liability_insurance» Professional indemnity: \$1,000,000
17. Additional obligations	The Supplier must: (a) Comply with relevant legal and regulatory requirements, and direction on acceptable means for achieving compliance with these legal and regulatory requirements as issued from time to time by the Ministry, including the Children's Act 2014, Privacy Act 2020, and the New Zealand Government Supplier Code of Conduct (b) Maintain during the Term of this Agreement a child protection policy that accords with the requirements of section 19 of the Children's Act 2014. (c) Assign a relationship manager to act as the overall relationship manager with the Ministry in relation to this Agreement during its term. (d) Use the Case Management System provided by the Ministry (the Ministry CMS) to record all key information and activities related to this Agreement, within the required timeframes. (e) Record in the Ministry CMS all case management information, and key information about all other activities, including administration of the Unmet Basic Needs Fund, as described in Schedule 2 – Service Description. (f) Establish and maintain appropriate policies and procedures to support the administration of the Unmet Basic Needs Fund; maintain detailed records and evidence of all such expenditure, including receipts; and make these available to the Ministry upon request. (g) Ensure that any personal information about students and/or their whanau is held securely, in accordance with all legal and regulatory requirements, and only for the purposes of enhancing the wellbeing of the student. This includes: (i) Have appropriate information security controls in place on the Provider's devices accessing the Ministry CMS or otherwise

	accessing personal information, including anti-virus software, maintaining operating system or application patch levels. (ii) Comply with Ministry information security protocols when accessing the Ministry CMS or the data it contains, including: using multi-factor authentication; protecting passwords; applying appropriate controls when assigning roles to CMS users; completing Ministry-provided training modules; and providing assurance reporting or declarations on an annual basis. (iii) Should the provider use systems in addition to the Ministry CMS, to store personal information, ensure that such systems are designed and maintained in a secure manner, including but not limited to: using multi-factor authentication; using strong passwords, protecting passwords; ensuring that personnel with access have a valid purpose; and conducting information security and privacy training. (iv) Use information about students and their whanau collected for the purposes of this Agreement only for that purpose or a directly related purpose and only share personal information about students and their whanau with third parties in accordance with relevant legislation and Ministry guidance and protocols made available to the Provider. (v) Revoke access to the Ministry CMS any other personal information source promptly if personnel no longer have a valid business purpose. (h) Advise the Ministry in periodic reports and meetings (see conditions e) and f) if service levels are not able to be met for any reason so that plans to address this can be agreed. (i) Establish and maintain all necessary policies, procedures, record keeping etc to comply with all relevant legal and regulatory requirements and all requirements in this agreement. Develop and maintain appropriate complaints management processes. (j) Alert the Ministry immediately if they experience any significant or reportable event, including but not limited to: serious injury or death at work; inability to provide the agreed services, significant privacy breach; or significant complaint or allegation about the conduct of the Provider's personnel. (k) Forward any Official Information and Privacy Act requests the provider receives that relate to this Agreement and the Ministry is responsible for, to the Ministry within two Business Days of receipt. (l) Work cooperatively with the Ministry, or with third parties acting on its behalf, in relation to any significant reportable event, Official Information Act request, or privacy event, or security incident, including: promptly making available any relevant
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	information available, so that the Ministry can respond within the necessary timeframes, investigating and resolving the issue, and notifying required authorities and impacted individuals. (m) Engage with the Ministry, or with third parties acting on its behalf, in any evaluation, review, and any community or stakeholder consultation and engagement initiatives, as required. (n) Establish and maintain a Business Continuity Plan, detailing key potential service interruption events and the plans to mitigate or manage these potential disruptions.
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SCHEDULE 2 – SERVICE DESCRIPTION

1. Service Coverage

1.1. Schools and Kura

The Provider will provide services to all referred students, schools and kura included within the Catchment, and to the Ministry, in accordance with the services described in this Schedule.

Services are to be available for all schools and kura, including those in isolated geographical locations. Flexible and innovative ways of delivering these services are encouraged, subject to them meeting the needs of those schools and students and having a positive impact on improving attendance.

The Provider will build relationships with all schools and kura within the Catchment to ensure they refer chronically absent students appropriately, and that they work collaboratively with the Provider to ensure students receive a seamless experience of support as they increase their attendance.

1.2. Implementation timeframes

All cases that are open at the end of 2025 will be transitioned to the Provider, and the Provider will provide case management support from the start of 2026. The Provider will accept all new referrals (chronic absence and non-enrolment) from the start of February 2026.

The service is to be fully operational by the start of Term 1 2026 and at the latest by the start of Term 2 2026. The implementation plan and service delivery plan will provide details of how and when full operational service delivery will be achieved.

1.3. Students who will be referred to the Service

The Provider will deliver appropriate case management services to all chronically absent students referred by schools and kura within the catchment, and all non-enrolled students referred by the Ministry. Chronically absent students are those who have attended school 70% or less of a term (equivalent to missing 15 days during a standard term). Non-enrolled students are those who were and should still be enrolled in a school, but who are not currently enrolled in any school.

All students will be referred in accordance with the referral criteria to be published by the Ministry. The target for the service is primarily students aged 5-16, or in Years 1 – 11. There will be some exceptions (for example 15-year-old students in Year 12, or students at risk of leaving school with no qualifications).

The Provider will deliver services to, and engage with, all referred students and their families and caregivers from all backgrounds and communities. This includes, but is not limited to, being aware of and able to appropriately and meaningfully engage with, ethnic, religious, socio-economic and other communities within the Catchment

The Provider will engage with students and their families and caregivers in ways that meet the cultural needs of Māori and Pacific students and their whānau, including:

- communicating in te reo Māori where that is the preferred medium for the student or their whānau
- delivering services that are based on principles of te ao Māori, and working collaboratively with whānau, hapu and iwi, where appropriate

Services will be provided for referred students who are or have been learning in and through te reo Māori in English medium schools (e.g. bilingual units, immersion classes and rumaki reo rua), Māori Medium kura, and Kaupapa Māori kura. When working with students who are or have been learning

in Kaupapa Māori and Māori Medium kura, the Provider will deliver services in a manner that is consistent with the underpinning philosophy of those kura.

When working with Māori and Pacific students the Provider will:

- Understand and use key frameworks and strategies such as Ka Hikitia, Ka Hāpaitia and Tau Mai te Reo.
- Engage with local iwi and Māori organisations to fully support these students.
- Understand and use Pacific frameworks and strategies such as the Action Plan for Pacific Education
- Engage with local Pacific organisations and networks to fully support Pacific students and their families.

Services will be provided for referred students enrolled in a school but learning in a different environment (e.g. Alternative Education). They will be provided to students who had been learning through Te Kura (Correspondence School) but are now non-enrolled, and they may also be provided to chronically absent students who are learning through Te Kura (to be confirmed by the Ministry once policy work has been completed).

1.4. Managing variations in referral volumes

The capacity of the new Attendance Services model has been increased so that services can be delivered to up to double the current number of cases referred nationally (around 41,000 in 2024). This capacity has been distributed throughout the country based on the forecast volume of chronically absent and non-enrolled students in each catchment.

However, the impact of current / historical referral rates, and the impact of STAR, are both likely to vary between catchments. For example, catchments with historically low levels of referral from schools are likely to start with lower volumes. Full implementation of STAR during 2026 could reduce the total number of chronically absent students in at least some schools and catchments. However, we do not yet know the extent to which this might impact on the number of referrals to the Attendance Service. We also expect that, over time, increased success working with chronically absent students will reduce the number of students who become non-enrolled.

Providers are expected to adjust their service delivery to accommodate variations in volumes and to work with the Ministry as appropriate. If referral volumes are significantly higher than forecast, innovative approaches to managing such increases will be supported subject to meeting needs and demonstrating impact on attendance. Waiting lists, or other mechanisms to defer engagement with the student, are not considered an acceptable way of managing increasing volumes, except for very short-term peaks in referrals. In this situation, any delays in engaging with the student must be held to the shortest possible time.

If volumes are higher than anticipated and cannot be managed, the Provider must discuss the issue with the Ministry to develop and implement an agreed approach. If chronic absence volumes are significantly lower than expected the Provider will be expected to work with the Ministry and schools in the Catchment to ensure that chronic absence is being appropriately referred to the attendance service, and that there are no gaps in service provision or identifying students who would benefit from referral.

Other adjustments to service delivery, to maximize the impact of the available payments, will be supported subject to demonstrating a positive impact on attendance. Examples could include more intensive casework with those students who have been referred or liaising with schools to deliver initiatives to reduce chronic absence in identified cohorts.

1.5. Other local providers, community groups etc

The Provider will establish strong, local, culturally responsive, and trusted relationships with all stakeholders within the Catchment. This includes schools, Ministry of Education regional staff, other education providers, other government agencies, iwi organisations, and community groups with an interest in attendance.

The Provider will establish and maintain awareness of the roles and capacity of other providers (education providers, other government agencies, NGOs and iwi providers etc), and build relationships with those providers to ensure that referred students gain access to the services and supports they need.

The Provider will engage with local iwi and community organisations, particularly those representing or working with specific communities (such as Pacific, migrant and refugee, or LGBTQIA+ communities) to ensure that appropriate support is achieved.

The Provider will also participate in multi-agency forums, including attendance focused forums / roundtables. For more details see section 4 – Other Service Elements

2. Case Management

The Provider will provide appropriate support to each referred student, and record all action taken in the Ministry CMS. Providing this support is a key priority for the service and should take precedence if resources are constrained.

2.1. Key case management features

Key features of the case management services to be delivered by the Provider include:

- Accepting referrals from schools (chronic absence - CA) and the Ministry (non-enrolment - NEN).
- Collaborating with schools to understand what they already know, and have done, to address the low attendance levels of chronically absent students referred from their school, and of students who were previously enrolled in their school and have been referred as non-enrolled.
- Engaging directly with referred students and their family / caregivers to understand why the student is not attending school (barriers) and to identify what changes or supports are needed to increase school attendance or active engagement in an alternative education or training pathway. Home visits will be a key part of this for many students.
- Developing a plan for each student, which is agreed by the student and their caregiver(s). This plan will build on any plan already put in place by the school and will be made available to the school throughout and at the end of the case management period. The plan may include broader objectives for the student, for example to address their wellbeing or aspirations, that are related to their attendance and engagement in education. The plan may include a gradual return to school / increase in attendance.
- Supporting implementation of the plan, including referrals to other services and government agencies where appropriate, and collaborating with the school to make changes as required.
- Monitoring progress against the plan by all parties, taking timely and proactive steps when outcomes are not being achieved, and identifying any additional support that may be required.
- Closing the case in accordance with the case closure criteria (to be published by the Ministry) and ensuring completion of records in the Ministry CMS.

2.2. Case Management Service Levels

Following receipt of a referral, the provider will:

- Meet, either in person or virtually, with the referring school (CA) or the most recently attended school (NEN) to gather all relevant information about the student within:
 - 5 Business Days for 80% of referrals
 - 10 Business Days for 90% of referrals
- Engage directly with the student and their caregiver(s), where current contact details are held, to establish contact and to begin to understand their needs within:
 - 10 Business Days for 80% of referrals
 - 15 Business Days for 90% of referrals

2.3. Accepting referrals

The Provider will deliver services to all students referred in accordance with the referral criteria. Students who are not chronically absent may be accepted under some circumstances, for example, to enable the provider to work with all school-aged siblings in a single whānau and to enable schools to refer students with an ongoing pattern of absence who don't meet the chronic absence definition within one term.

Providers will only be able to reject a chronic absence referral in exceptional circumstances, and with the agreement of the Ministry's Contract and Relationship Manager.

The Ministry will refer all eligible non-enrolled students to the provider serving the catchment in which the student lives. If contact details are found not to be up to date, the Provider will work with the Ministry and other agencies to try to establish contact with the student and their caregiver(s).

All referrals will be managed through the Ministry CMS.

2.4. Identifying the needs of referred students (key barriers to attendance)

The Provider will engage as quickly as possible with the referring school (chronic absence) or the most recently attended school (non-enrolment) to understand the work the school has already done with the student to address their absence, and to gain the school's understanding of the student and caregiver circumstances.

The Provider will work with each student and their caregiver(s) to understand why they are not attending school (what are the key barriers to attendance). Identified barriers will be recorded in the Ministry CMS.

The nature and complexity of barriers to attendance will vary significantly between students, and some may be of a personal or sensitive nature. The Provider will seek to gain the trust of the students and their caregiver(s) and will respond appropriately to any information that is disclosed.

2.5. Meeting the needs of referred students

The Provider will work with the student, caregiver and school to develop an agreed plan for how to address the identified barriers. The plan may include actions to be taken by any or all parties or by the Provider. When a student or their caregiver is already engaged with other agencies, this involvement is to be considered in the planning of additional support.

The plan, and all actions taken to implement it, is to be recorded in the Ministry CMS. This will include information about referrals to other services and agencies, and the outcome of each referral (such as, was the referral accepted, did the student receive support).

Implementation of the plan will be monitored by the Provider. For chronic absence referrals the plan will also be visible to the referring school, and for non-enrolled students the plan will be visible to the new school when the student re-enrols.

2.6. Transferring students to another provider

When a student is known to have moved to a new catchment the Provider will coordinate directly with the new provider to ensure a smooth transfer of the student's case. This allows the new provider to build on existing knowledge. The Ministry CMS will facilitate this process as much as possible, with any additional support being provided by the Ministry.

2.7. Tracing students with no current contact details

The Provider is to make all reasonable efforts to locate and engage with students thought to be in the Catchment, but with no current contact details. This will include using local networks and relationships with community organisations and government agencies.

The Ministry will support the tracing of these students through the establishment and operation of information sharing / data matching agreements, and other activities. This will include escalation pathways when a student cannot be traced despite all reasonable endeavours by the Provider. Further information about the support the Ministry can provide will be published as it becomes available.

The Ministry CMS will support the identification of these students, so that volumes and what works to find them can be monitored and analysed, and necessary changes (e.g. to Ministry practice) can be identified and implemented.

2.8. Escalation when a student or caregiver refuses to engage

In situations where a student or their caregiver refuses to engage in solutions, escalation or enforcement action may be required. In these situations, the Provider will liaise with the school and the Ministry to determine next steps.

This may include engaging multi-agency forums (Roundtables) to establish a cross-agency approach, or provision of information that will be used in evidence to support enforcement action, including prosecutions. The Ministry CMS will support the preparation of this information.

2.9. Recording case management information

The Provider will record all relevant information about referred students, and the support provided, in the Ministry CMS.

The Ministry wishes to work with providers to develop a detailed and shared understanding of the needs of students receiving support, the nature and complexity of services provided, and the strategies that effectively improve attendance. To this end, the Provider is required to record detailed information about their activities. This includes the time spent on case management for each referred student, as well as the actions taken and why. The data collected will inform future service design and funding decisions.

3. Unmet Basic Needs Fund

3.1. Key Features

The Provider will establish and administer a fund to address unmet basic needs of referred students where these unmet needs are immediate, impacting on attendance, and cannot be met from any other source. It may also be used to meet needs temporarily, while a longer-term solution from a more appropriate fund, agency or organisation is sourced.

Unmet basic needs may include, but are not limited to, things such as uniforms or other clothing items, stationery and transport.

This fund is expected to be up to 3% of the Provider's total budget. If this level is likely to be exceeded, the Provider will discuss and agree next steps with the Ministry.

3.2. Eligibility

The Unmet Basic Needs Fund will be available to support all referred students (chronic absence and non-enrolled) considered eligible by the Provider in accordance with their policies and procedures. The Provider is responsible for establishing and maintaining appropriate policies and procedures to support fund administration, including expenditure management, reconciliation, and reporting.

The Ministry will publish guidance to support decisions about what can be funded through this mechanism. This will include some flexibility to enable local and unusual circumstances to be accounted for.

3.3. Recording Basic Needs Fund Information

The Provider will record all key information about allocation of the fund (such as expenditure purpose and recipient) in the Ministry CMS, enabling visibility of spending at both the student and provider level.

The Provider must also maintain detailed records of all expenditure, including receipts, and make these available to the Ministry upon request.

4. Other Service Elements

4.1. Transition support

The Provider will support schools seeking advice or assistance for cohorts of chronically absent students during key transitions – such as from intermediate to secondary school - to help reduce the risk of these students becoming non-enrolled during the transition period.

The Provider will work with requesting schools to agree the appropriate level of support. Support may be limited by available capacity and capability.

4.2. Other support to schools

The Provider will provide advice and periodic support to schools in relation to chronic absence of individual students, or among specific cohorts, with the aim of reducing the need for direct referrals to the Attendance Service. This support may include, for example, assistance for communities within the school (such as a refugee or migrant community), or in response to specific incidents that have impacted the school.

The Provider will work with requesting schools to agree the appropriate level of support. Support may be limited by available capacity and capability.

4.3. Multi-Agency Forums / Attendance Roundtables

In many areas, multi-agency forums (roundtables) exist to provide coordinated service delivery. The Ministry is working with MSD and the Regional Public Service Commissioners to strengthen and expand these forums, with an increased focus on improving attendance. These forums are expected to act as an escalation pathway for some cases where standard actions have not met the required improvement in attendance.

The Provider will actively participate in and support multi-agency forums (roundtables) where they exist and will work with the Ministry to develop new ones as directed. The Provider will engage in other multi-agency forums at which students on their caseloads are being discussed. The nature

and extent of this involvement may vary across the country, and over time, as multi-agency collaboration matures. The Ministry will advise the Provider as local and national arrangements and required actions develop.

The Provider will maintain detailed records of all cases referred to a multi-agency forum or roundtable, including the reasons for referral and the outcomes of the roundtable discussions. This will be supported by the Ministry CMS.

4.4. Consultation and engagement

The Provider will engage in consultation and service satisfaction processes run by the Ministry, as required. This is expected to include the establishment of regular consultation and feedback mechanisms. The Ministry will share and discuss the outcomes of any such processes with the Provider.

To ensure alignment on the timing and content of any customer surveys and reviews the Provider will advise the Ministry before they propose to carry out any customer or stakeholder satisfaction surveys or reviews themselves. The Provider will report and discuss the results of any such customer or stakeholder satisfaction survey or review activity with the Ministry.

4.5. Recording Information about Other Service Elements

The Provider will record all activities undertaken to deliver the other service elements as described in this section. This includes documenting the resources used for each activity and noting any limitations in support due to capacity or capability constraints. Where appropriate, issues, challenges or barriers to high quality service delivery should also be brought to the attention of the Ministry.

All information relating to individual students receiving Other Services will be recorded in the Ministry CMS. All other activities will be recorded in the Ministry CMS, to the extent that the functionality to support this has been implemented. Where the Ministry CMS cannot support this recording, and if the Provider wishes to record additional information, this may be recorded as the provider deems appropriate and made available to the Ministry on request.

5. Service Delivery Support to be provided by the Ministry

The Ministry will provide a range of services and functions designed to support the delivery of attendance services. A summary of these services is provided below. More details of the services and supports provided by the Ministry will be available on the Ministry's attendance services webpage from late 2025.

5.1. Case Management System

The Ministry CMS will support service delivery by the Provider, and key monitoring and reporting requirements. This will replace the Attendance Service Application used by current providers. All core functionalities will be fully operational from the start of 2026, and further development is anticipated during 2026.

5.2. Regular Reports (performance monitoring)

The Ministry will provide templates to support regular reporting. As far as possible, these will be available within the Ministry CMS and will be pre-populated with data available in the Ministry CMS. The Ministry CMS will also support additional reporting and analysis by the provider.

5.3. Supporting schools to make appropriate chronic absence referrals

The Ministry will provide advice and information to support schools to make appropriate chronic absence referrals. This includes, but is not limited to, the publication of guidance including referral criteria.

5.4. Supporting timely and appropriate non-enrolment referrals

The Ministry will identify and refer NEN students to the provider as quickly as is reasonably practicable.

The Ministry will make every effort to quickly identify and close NEN cases that were raised in error, to ensure that students referred to the provider have genuinely met the criteria for a NEN referral.

5.5. Contract tracing support

The Ministry will maintain and, where appropriate establish, processes to seek information from other agencies to obtain up-to-date contact information. The Ministry will also provide advice and support for providers where all contact tracing options have been exhausted and contact details have still not been obtained.

5.6. Supporting Information Sharing

The Ministry will ensure that Information Sharing agreements and protocols are in place with other government agencies, to support Provider activities. This will include agreements to support multi-agency discussions (e.g. at roundtables) as well as agreements between individual agencies and the Ministry / providers.

5.7. Attendance Roundtables

The Ministry is currently (2025) developing an approach to strengthen and expand multi-agency forums (roundtables). These are expected to provide some contact tracing support, and to act as an escalation pathway for students whose attendance is not improving despite Attendance Service support. Further information about this approach, and the role Providers are expected to play, will be provided as it becomes available.

SCHEDULE 3 – CATCHMENT DETAILS

Schools in the «**Catchment_**» catchment that you are contracted to deliver services to:

- Xx
- Xx
- xx

Note:

The schools within a catchment may change from time to time for reasons including new schools opening, schools closing and reclassification of a school type.

SCHEDULE 4 – TERMS AND CONDITIONS

1 Definitions

- 1.1 In this Agreement, terms defined in the Schedules have the meanings given to them, and the following terms have the following meanings unless the context requires otherwise:

Agreement means this agreement, including the Schedules and any appendices to this agreement;

Business Day means any day other than a Saturday or Sunday or a public holiday (as defined in the Holidays Act 2003) in Wellington, New Zealand;

Charges means the fees set out in Schedule 1;

Commencement Date has the meaning given to that term in Schedule 1;

Confidential Information means, in relation to a party, all information of any kind, whether in tangible or documentary form, and whether marked or identified as being confidential, relating to that party or its business operations, customers or technologies and, in relation to the Ministry, includes the Ministry's Data;

Deliverables means all documentation, software and other materials provided, or to be provided, by the Supplier under or in connection with this Agreement, including all deliverables set out in Schedule 1;

Expiry Date means the expiry date set out in Schedule 1;

Force Majeure Event means, in relation to either party (Affected Party), an event or circumstance beyond the reasonable control of the Affected Party including:

- (a) an act of God;
- (b) sabotage, riot, civil disturbance, insurrection, epidemic, national emergency (whether in fact or law) or act of war (whether declared or not);

- (c) a terrorist act, blockade, revolution, riot, insurrection, civil commotion or public demonstration (other than one caused by the Affected Party),

but not including any event or circumstance, or any failure to comply with any term of this Agreement arising from such event or circumstance, that could have been avoided by the exercise, by the Affected Party, of business continuity or other practices in accordance with commercially reasonable practice;

GST means goods and services tax within the meaning of the Goods and Services Tax Act 1985;

Ministry Data means all information relating to the Ministry, its business, operations, business strategies, marketing plans, facilities, technologies, stakeholders, customers, and suppliers;

Intellectual Property Rights means all industrial and intellectual property rights whether conferred by statute, at common law or in equity, including all copyright, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs, rights in relation to trade marks, business names and domain names;

Key Personnel means the Personnel specified, if any, in Schedule 1 and any of their replacements made in accordance with this Agreement;

Personnel means any employee, agent or representative of the Supplier, or any subcontractor of the Supplier, who provides any Service or Deliverable;

Records means information, whether in its original form or otherwise, including a document, a signature, a seal, text, images, sound, speech, or data compiled, recorded, or stored, as the case may be:

- (a) in written form on any material;
- (b) on film, negative, tape, or other medium so as to be capable of being reproduced; or

- (c) by means of any recording device or process, computer, or other electronic device or process;

Services means the services described in Schedule 1, all services reasonably incidental to those services and all other services provided by the Supplier under this Agreement;

Service Levels means the standards of service specified in this Agreement, including the service levels specified in Schedule 1; and

Term means the term of this Agreement described in clause 9.1.

1.2 In this Agreement:

- (a) except as otherwise expressly stated, headings are for convenience only and have no legal effect;
- (b) references to the singular include the plural and vice versa;
- (c) references to a party include that party's successors, executors, administrators and permitted assignees (as the case may be);
- (d) references to clauses and Schedules are to the clauses and Schedules to this Agreement;
- (e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) references to any statute include any amendment to, or replacement of, that statute and any subordinate legislation made under it;
- (g) references to a person include an individual, firm, company, corporation or unincorporated body of persons, any public, territorial or regional authority, any government, and any agency of any government or of any such authority;

- (h) wherever the words "includes" or "including" (or similar words) are used, they are deemed to be followed by the words "without limitation";
- (i) except as otherwise expressly stated, monetary references are references to New Zealand currency; and
- (j) if there is any conflict between the terms of this Agreement, the following order of precedence will apply:
 - (i) the terms of Schedule 4;
 - (ii) the terms of Schedule 1; and
 - (iii) any other terms of this Agreement.

2 Services and Deliverables

- 2.1 The Supplier agrees to provide the Services and **Deliverables** to the Ministry on the terms and conditions of this Agreement.
- 2.2 The parties agree that the Supplier's appointment under this Agreement is non-exclusive and the Ministry does not guarantee any minimum level of business or services by entering into this Agreement. For the avoidance of doubt, this does not effect any volume commitment made in Schedule 1.
- 2.3 The Supplier acknowledges that the Ministry is relying on the Supplier's expertise in entering into this Agreement, including all statements made by the Supplier regarding the Supplier's or the Personnel's skills, experience and expertise and the quality and performance of the Services and Deliverables.

3 Supplier's obligations

- 3.1 In providing the Services and Deliverables and complying with its other obligations under this Agreement, the Supplier must:
 - (a) provide the Services and the Deliverables promptly, efficiently and to a to a standard

- of skill, care and diligence which would reasonably and ordinarily be expected from a skilled, reasonable and experienced operator in the same or similar circumstances;
- (b) provide the Services and Deliverables so as to meet or exceed the Service Levels;
 - (c) provide the Services and Deliverables without disrupting or adversely affecting any part of the Ministry's operations or its information technology or telecommunications systems;
 - (d) ensure the Services and Deliverables meet the requirements set out in this Agreement and as reasonably specified by the Ministry in writing from time to time;
 - (e) assign to the Ministry, or if it is unable to do so, hold for the sole benefit of the Ministry, all warranties and guarantees provided by third parties to the Supplier in respect of the provision of any Services and Deliverables under this Agreement;
 - (f) comply with all of its legal obligations (including under statute, regulation, and contract);
 - (g) co-operate with the Ministry and all other contractors and service providers to the Ministry, to ensure the Services, Deliverables and all products and services related to them are delivered efficiently and seamlessly to the Ministry;
 - (h) comply with all the Ministry's policies and procedures notified to the Supplier from time to time;
 - (i) comply with all reasonable directions given by the Ministry from time to time; and
 - (j) promptly notify the Ministry in writing of:
 - (i) any breach of the Supplier's obligations under this Agreement; and
 - (ii) any matter that may impact on the Supplier's ability to perform its obligations in accordance with this Agreement.
- 3.2 The Supplier must provide the Deliverables in such format, and on such medium, as is reasonably required by the Ministry.
- 3.3 If the Services or Deliverables are not, in the Ministry's reasonable opinion, provided in accordance with this Agreement, or do not otherwise meet the Ministry's requirements as specified to the Supplier in writing, the Ministry may, without limiting its other rights and remedies, do either or both of the following:
- (a) require the Supplier to remedy the deficiency immediately in which case the Supplier will do so at its cost; and
 - (b) withhold any payment due to the Supplier until the deficiency is remedied to the Ministry's reasonable satisfaction.
- 3.4 The Supplier must not engage in any activity or conduct that might, in the Ministry's reasonable opinion, damage the reputation or image of the Ministry or the Crown.
- 3.5 The Supplier agrees not to enter into any agreement or arrangement that will, or is likely to:
- (a) prejudice the Supplier's ability to meet its obligations under this Agreement; or
 - (b) create a conflict of interest for the Supplier,
- without obtaining the Ministry's prior written consent.
- 3.6 The Supplier will:
- (a) permit the Ministry at any time and at its expense, to audit any records in connection with this

Agreement, and the Ministry will comply with the Supplier's reasonable security and confidentiality requirements in conducting any audit under this clause;

- (b) assist the Ministry with any audit conducted under clause 3.6(a) and will ensure its personnel and subcontractors also assist the Ministry, including by making their premises, systems and records available to the Ministry or its nominee if requested

4 **Personnel**

4.1 The Supplier:

- (a) must ensure the Services and Deliverables are provided by appropriately experienced, skilled and qualified Personnel;
- (b) is responsible for all acts and omissions of the Personnel as if they were acts or omissions of the Supplier; and
- (c) must ensure that all Personnel comply with this Agreement including the obligations in clause 3.1.

4.2 The Supplier must ensure the Key Personnel (if any) provide the Services and Deliverables they are required to provide under this Agreement. The Supplier may only replace any Key Personnel if:

- (a) that person is unavailable due to resignation, illness or death;
- (b) the replacement person is, in the reasonable opinion of the Ministry, appropriately experienced, skilled and qualified to perform the applicable role; and
- (c) the Supplier bears all costs relating to replacing the Key Personnel and up-skilling each replacement.

4.3 If the Ministry considers (acting reasonably) that any of the Personnel

are unsatisfactory or unsuitable then, without limiting any of its other rights or remedies:

- (a) the Ministry may, by written notice, require the Supplier to replace the relevant Personnel or subcontractor; and
- (b) the Supplier will do so as soon as possible at its own cost, but in any event no later than five Business Days after receipt by the Supplier of the notice.

4.4 The Ministry may conduct criminal checks in relation to the Supplier and any of its Personnel and subcontractors at any time during the Term and the Supplier must obtain all necessary consents for such purpose. Where the Ministry is not satisfied with the result of any criminal check for any Personnel or subcontractor, the Ministry may:

- (a) without limiting any of its other rights or remedies, immediately terminate this Agreement by giving notice in writing to the Supplier; or
- (b) without limiting any of its other rights or remedies, require the removal of the Personnel or subcontractor from providing any Services or Deliverables by giving notice in writing to the Supplier and the Supplier must comply with that notice within five Business Days.

5 **Health and safety**

The Supplier shall:

- (a) consult, cooperate and coordinate with the Ministry, to the extent required by the Ministry, and to ensure that the Ministry and the Supplier will each comply with their respective obligations under the Health and Safety at Work Act 2015 as they relate to this Agreement;
- (b) perform its, and ensure that its Personnel perform their, obligations under this Agreement in compliance with

- its and their obligations under the Health and Safety at Work Act 2015;
- (c) comply with all reasonable directions of the Ministry relating to health, safety, and security;
 - (d) report any health and safety incident, injury or near miss, or any notice issued under the Health and Safety at Work Act 2015, to the Ministry to the extent that it relates to, or affects, this Agreement;
 - (e) comply with any additional health and safety requirements described in the Appendix to Schedule 1.
- 6 Charges and invoicing**
- 6.1 Subject to clauses 3.3 and 6.5, the Ministry must pay the Charges and GST (if any) to the Supplier in accordance with Schedule 1.
- 6.2 The Supplier:
- (a) acknowledges that, except as expressly specified in this Agreement, no other payments or benefits will be payable or provided by the Ministry to the Supplier, including in relation to any of the Personnel; and
 - (b) indemnifies the Ministry from and against any and all liability, losses, damages, costs and expenses suffered or incurred by the Ministry arising out of any failure to pay compensation, taxes, duties, levies or benefits in respect of any Personnel.
- 6.3 The Ministry is not obliged to pay any Charges until the Supplier provides a valid tax invoice to the Ministry in accordance with the invoicing and payment terms in Schedule 1. The invoice must include:
- (a) details of the Services and Deliverables to which the invoice relates;
 - (b) enough information to enable the Ministry to validate the claim for payment including any Agreement reference number assigned by the Ministry; and
 - (c) any other information that the Ministry may reasonably request.
- 6.4 Subject to clauses 6.3 and 6.5, and unless otherwise expressly stated in Schedule 1, the Ministry must pay each invoice by the 20th of the month following the month in which the invoice is received.
- 6.5 Without limiting the Ministry's rights under clause 3.3, if the Ministry disputes in good faith any amount invoiced, it may withhold the disputed amount until the dispute is resolved. If the disputed amount forms part of an invoice, the Ministry will either pay the undisputed portion of the invoice by the due date for payment or will pay the entire amount by that date in which case the Supplier must promptly credit the disputed portion pending resolution of the dispute.
- 6.6 The Ministry will reimburse the Supplier for expenses incurred by the Supplier in providing the Services and Deliverables only if, and to the extent, specified in Schedule 1 and only following receipt of a valid tax invoice.
- 7 Meetings and reporting**
- 7.1 The parties will meet at intervals reasonably determined by the Ministry to monitor and discuss the Supplier's progress in providing the Services and Deliverables as well as health and safety matters.
- 7.2 The Supplier will report on the progress of the Services and Deliverables to the Ministry as and when reasonably required by the Ministry.
- 8 Records**
- 8.1 Without limiting its other obligations under this Agreement or at law, the Supplier must, and must ensure that its subcontractors, create and maintain full, accurate and accessible Records relating to the provision of the Services

and Deliverables (including health and safety matters) and the Charges charged under this Agreement, to the standards required under the Public Records Act 2005 as notified by the Ministry from time to time.

8.2 Without limiting clause 8.1:

- (a) the Records created and maintained under clause 8.1 must, at a minimum, describe or specify:
 - (i) the nature and scope of the Services and Deliverables provided under this Agreement;
 - (ii) the transactions that took place in the provision of all Services and Deliverables;
 - (iii) the basis on which each invoice has been prepared and submitted to the Ministry under this Agreement;
 - (iv) all health and safety matters in connection with this Agreement; and
 - (v) the contract reference number for the Agreement; and
 - (vi) any other information reasonably required by the Ministry from time to time; and
- (b) the Supplier must ensure the Records created and maintained under clause 8.1 are:
 - (i) maintained in an accessible form;
 - (ii) retained for the Term; and
 - (iii) if requested by the Ministry, provide to the Ministry in an accessible form on termination or expiry of this Agreement and at any other time on the Ministry's request.

8.3 The Ministry may at any time notify the Supplier that the Ministry wishes to audit the Supplier's compliance with the terms of this Agreement. The Supplier will allow the Ministry or its nominee to inspect the Supplier's premises, systems and records on and from the date notified by the Ministry during the Supplier's normal business hours for the purpose of conducting the audit. The Ministry will comply with the Supplier's reasonable security and confidentiality requirements in conducting any audit.

8.4 The Supplier will assist the Ministry with any audit conducted under clause 8.3 and will ensure its Personnel also assist the Ministry, including by making their premises, systems and records available to the Ministry or its nominee if requested.

9 Term and termination

9.1 This Agreement commences on the Commencement Date and, unless terminated earlier in accordance with its terms or extended in accordance with Schedule 1, continues until the Expiry Date.

9.2 Unless otherwise expressly stated in Schedule 1, the Ministry may terminate this Agreement for any reason by giving the Supplier at least 10 Business Days' notice in writing.

9.3 The Ministry may terminate this Agreement immediately by giving notice in writing to the Supplier if the Supplier:

- (a) dies, commits an act of bankruptcy, becomes insolvent or enters into any arrangement with its creditors;
- (b) enters into liquidation or becomes subject to the appointment of a receiver; or
- (c) commits any act or omission that damages, or is likely to damage, the Ministry's business, reputation or systems.

9.4 Without limiting clause 9.3, either party may terminate this Agreement immediately by giving notice in writing

to the other party (Defaulting Party) if the Defaulting Party commits any material breach of its obligations under this Agreement and fails to remedy the material breach within 20 Business Days of receiving notice requiring it to do so.

9.5 On termination or expiry of this Agreement for any reason whatsoever:

- (a) the Ministry may recover any Charges or expenses paid in advance to the Supplier under this Agreement;
- (b) the Supplier will return or, if requested by the Ministry, destroy or erase, all:
 - (i) Confidential Information belonging the Ministry;
 - (ii) materials containing Confidential Information or the subject of Intellectual Property Rights belonging to the Ministry; and
 - (iii) other property belonging to the Ministry,

in the Supplier's possession or control or the possession or control of its Personnel or subcontractors;

- (c) the Supplier will provide such information and assistance required by the Ministry to allow the Ministry to make an orderly transition of all or any of the Services and Deliverables to the Ministry or any nominated alternative service provider or both of them;
- (d) clauses 6.2(a), 8.1, 9.5, 10, 11, 12, 13, 14 and 16 any other clauses intended to survive termination or expiration, will remain in full force and effect; and
- (e) the rights and remedies of the parties accrued before termination or expiry, including for any prior breach of this Agreement, will remain unaffected.

10 Liability

10.1 Subject to clause 10.2 and 10.3, the Supplier indemnifies and holds the Ministry and its officers, employees and agents harmless from and against any and all liability, losses, damages, costs and expenses of any nature whatsoever awarded against, incurred or suffered by them, arising out of or resulting from:

- (a) the non-performance or breach by the Supplier of any of its obligations under this Agreement; or
- (b) the negligence of the Supplier or its Personnel or subcontractors.

10.2 Subject to clause 10.3, each party's liability to the other party for damages (under the law of contract, tort including negligence, equity or otherwise) arising out of or in connection with this Agreement will be limited in aggregate to:

- (a) in the case of the Supplier, the amount specified in Schedule 1;
- (b) in the case of the Ministry, an amount equal to the Charges paid and the Charges payable under this Agreement in the month period preceding the month in which the relevant cause of action arose,

provided that liability is not limited:

- (c) in the case of wilful default, property damage or fraud;
- (d) in relation to any unauthorised use of the other party's Intellectual Property or Confidential Information; or
- (e) in the case of the Supplier, liability under clause 12.5 (Intellectual Property indemnity).

10.3 Despite any other provision of this Agreement, neither party will be liable to the other (under the law of contract, tort, equity or otherwise) for any damages of any kind arising out of or in

connection with this Agreement that are indirect or consequential (meaning not arising in the ordinary course as a direct, natural or probable consequence of the act or omission complained of), regardless of the cause of such damages or whether the other party had been advised of the possibility of such damage.

11 Insurance

- 11.1 During the Term and for three years after termination or expiry of this Agreement, the Supplier will maintain insurance coverage in amounts and against risks that are normal for businesses similar to that of the Supplier, and in particular will maintain coverage in respect of public liability and professional indemnity for the amounts specified in Schedule 1. The Supplier will, upon request at any time, provide the Ministry with a certificate from the insurer or insurers confirming the terms of such insurance.

12 Intellectual property

- 12.1 All Intellectual Property Rights:
- (a) existing before the Commencement Date that are owned by, or licensed to, either party or its licensors; or
 - (b) developed by, licensed to or in the possession of that party after the Commencement Date, but not in relation to the Agreement,
- remain the property of that party or its licensors.
- 12.2 Subject to clause 12.1, all Intellectual Property Rights in Services or Deliverables provided, created or developed by the Supplier, its Personnel or subcontractors under or in connection with this Agreement, will be owned by the Ministry upon creation. To the extent that any Intellectual Property Rights described in this clause 12.2 are not owned by the Ministry on their creation, the Supplier will hold such Intellectual Property Rights on trust for the Ministry and will, if called upon to do so by the Ministry, assign

such Intellectual Property Rights to the Ministry.

- 12.3 Subject to clause 12.2, if any Service or Deliverable incorporates or relies on Intellectual Property Rights that are owned by the Supplier or any third party, the Supplier grants the Ministry a perpetual, royalty-free, irrevocable, transferable, sub-licensable licence under those Intellectual Property Rights to use, copy, modify and sublicense the Services and Deliverables to the extent necessary to receive the full benefit of the Services and Deliverables.
- 12.4 The Supplier warrants that the Services and Deliverables, and the Ministry's use and possession of them, do not infringe the Intellectual Property Rights of any person.
- 12.5 The Supplier indemnifies the Ministry against all liability, losses, damages, costs and expenses suffered or incurred by the Ministry as a result of any claim that the Services or Deliverables, or the Ministry's use or possession of them, infringes the Intellectual Property Rights of any person.
- 12.6 If the Services or Deliverables, or the Ministry's use or possession of them, infringes the Intellectual Property Rights of any person, the Supplier will, at its expense and without limiting the Ministry's other rights and remedies:
- (a) modify the Services or Deliverables so they no longer infringe but still comply with this Agreement; or
 - (b) obtain a licence to enable the Ministry to use the relevant Services or Deliverables on terms acceptable to the Ministry, and pay all fees for that licence.

13 Confidentiality

- 13.1 Each party (Receiving Party) who receives Confidential Information of the other party (Disclosing Party) must:
- (a) use the Disclosing Party's Confidential Information solely for the purpose of performing its obligations under this

Agreement or, in the case of the Ministry, for its business and operational purposes and to obtain the full intended benefit of the Services and Deliverables;

- (b) only disclose the Disclosing Party's Confidential Information to its employees, agents or contractors who have a need-to-know for the purposes of fulfilling the Receiving Party's obligations under this Agreement or, in the case of the Ministry, for its business and operational purposes and to obtain the full intended benefit of the Services and Deliverables; and
- (c) effect and maintain adequate security measures to safeguard the Disclosing Party's Confidential Information from access or use by unauthorised persons.

13.2 The Receiving Party's obligations under clause 13.1 do not apply to Confidential Information to the extent that such Confidential Information:

- (a) is in, or becomes part of, the public domain through no fault of the Receiving Party's;
- (b) was, before the Receiving Party received such Confidential Information, in the Receiving Party's possession without any obligations of confidence;
- (c) is subsequently disclosed to the Receiving Party, without any obligations of confidence, by a third party who has not derived it from the Disclosing Party; or
- (d) is required to be disclosed by law.

13.3 The Supplier acknowledges that the Ministry's compliance with clause 13 is subject to its obligations under the Official Information Act 1982 and the Privacy Act 2020.

13.4 The Supplier will advise the Ministry in writing if it is legally required to

disclose any of the Ministry's Confidential Information and will follow the Ministry's reasonable directions in order to limit the disclosure to the extent possible.

13.5 The Supplier must not make any announcement regarding this Agreement to any person, without the Ministry's prior written consent.

13.6 The Supplier must not:

- (a) transfer any of the Ministry Data outside of New Zealand;
- (b) make any of the Ministry Data available to any person outside of New Zealand; or
- (c) permit or authorise any of the things described in (a) and (b) to occur,

without first obtaining the Ministry's written consent.

14 **Dispute resolution**

14.1 Subject to clause 14.2, if a dispute arises in relation to this Agreement, the parties will attempt to resolve the dispute using the dispute resolution process set out below before pursuing any other remedies available at law or otherwise.

- (a) If either party receives notice of a dispute, the parties will work together in good faith to resolve the dispute via negotiation and will escalate the dispute to appropriate levels within their respective organisations.
- (b) If the dispute is not resolved within a reasonable time under clause 14.1(a), and if both parties agree, then either party may, by written notice to the other party (Mediation Notice), require the dispute to be submitted to mediation (Mediation) in New Zealand in accordance with the protocols of the Arbitrators' and Mediators' Institute of New Zealand Inc (AMINZ).

- (c) The Mediation will be conducted by a mediator, and at a fee, agreed by the parties. If the parties fail to agree such matters within 10 Business Days following the date of the delivery of the Mediation Notice, the President for the time being of AMINZ will select the mediator and determine the mediator's fee. The parties will share equally the cost of the mediator's fee. The parties will share equally the cost of the mediator's fee.
- 14.2 Nothing in this clause 14 will prevent either party, at any time, from seeking any urgent interlocutory relief from a court of competent jurisdiction in relation to any matter that arises under this Agreement.
- 14.3 Subject to clause 14.2, a party to the dispute will only be entitled to pursue other remedies available to it at law or otherwise, if the parties have failed to resolve the dispute within 20 Business Days after commencement of the Mediation.
- 14.4 Each party will continue to perform its obligations under this Agreement to the extent it is able to do so pending the final settlement of any dispute under this clause 14.

15 Force majeure

- 15.1 Neither party will be liable to the other for any failure to perform its obligations under this Agreement to the extent the failure is caused by a Force Majeure Event, provided that the party seeking to rely on this clause 15.1 has:
- (a) notified the other party in writing as soon as practicable after the Force Majeure Event occurs and provided full information concerning the Force Majeure Event, including an estimate of the time likely to be required to overcome it;
 - (b) used its best endeavours to overcome the Force Majeure Event and minimise the loss to the other party; and

- (c) continued to perform its obligations under this Agreement as far as practicable.

- 15.2 If a Force Majeure Event prevents, or is likely to prevent, either party from complying with its obligations under this Agreement to a material extent for a continuous period of 20 Business Days or more, the other party may terminate this Agreement by giving the non-complying party at least 10 Business Days' notice in writing.

16 General

- 16.1 Each party warrants that it has full power and authority to enter into, and perform its obligations under, this Agreement.
- 16.2 No amendment to this Agreement will be effective unless it is in writing and signed by the parties.
- 16.3 Assignment:
- (a) The Supplier may not assign, transfer or subcontract any of its rights or obligations under this Agreement without the prior written consent of the Ministry which will not be unreasonably withheld or delayed.
 - (b) If the Supplier is a company, any transfer of shares, or any other arrangement, that changes the effective control of the Supplier is deemed to be an assignment for the purposes of clause 16.3(a).
 - (c) the Ministry may assign, novate or otherwise transfer any or all of its rights and obligations under this Agreement to any person, agency or regulatory body tasked by the Crown with fulfilling any of the functions of the Ministry by giving notice in writing to the Supplier.
- 16.4 No failure or delay by a party to exercise any right or remedy under this Agreement will be construed or operate as a waiver of such right or remedy, nor will any single or partial exercise of any right or remedy preclude the further exercise of such right or

remedy. No waiver will be effective unless in writing and signed by the relevant party.

16.5 If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement will remain otherwise in full force apart from such provisions, which will be deemed deleted.

16.6 This Agreement contains the whole of the contract and understanding between the parties in respect of the matters covered by it and supersedes all prior representations, agreements, statements and understandings between the parties in respect of those matters, whether verbal or in writing.

16.7 Any notice, consent, approval, agreement, undertaking, report or other communication given by a party for the purposes this Agreement will be of no effect unless given in writing and addressed to the recipient at the address last notified by the recipient to the other party, and marked for the attention of the person or office holder (if any), set out in Schedule 1. Delivery may be effected by hand, by post with postage prepaid, or by email and will be deemed to have been received:

- (a) in the case of hand delivery or pre-paid post sent from outside New Zealand, at the time of actual delivery to the recipient's address;
- (b) in the case of delivery by pre-paid post sent from within New Zealand, no later than the 2nd Business Day after posting; or
- (c) in the case of delivery by email, no later than when the recipient's email server acknowledges receipt,

However, if a notice or other communication is received or deemed to have been received after 5 pm on a Business Day, or on a day which is not a Business Day in that place, it will be deemed not to have been received until the next Business Day in that place.

16.8 This Agreement is governed by New Zealand law. Subject to clause 15, the parties submit to the non-exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

16.9 This Agreement may be signed in any number of counterparts all of which, when taken together, will constitute one and the same Agreement. A party may enter into this Agreement by signing any counterpart.

16.10 Each party will do all things and execute all documents reasonably necessary to give effect to the terms of this Agreement.



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equitable and **excellent outcomes**

He mea **tārai** e mātou te **mātauranga**
kia **rangatira** ai, kia **mana taurite** ai ōna **huanga**

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