



THE UNIVERSITY  
of ADELAIDE

## LIMITED CONTRACT RESEARCH AGREEMENT

This Agreement is made between the Client and the University in accordance with the following Schedule and the attached Terms and Conditions.

| SCHEDULE                  |   |  |
|---------------------------|---|--|
| <b>University Details</b> | <b>THE UNIVERSITY OF ADELAIDE</b> (ABN 61 249 878 937) a body corporate established pursuant to the <i>University of Adelaide Act 1971</i> and having its principal offices at North Terrace, Adelaide, South Australia 5005 ( <b>University</b> )  |  |
|                           | <b>Contact Person</b>   |  |
|                           | Name  | Michelle Whittle   |
|                           | Title   | Contract Manager   |
|                           | Telephone   | (08) 8313 3323   |
|                           | Email   | <a href="mailto:michelle.whittle@adelaide.edu.au">michelle.whittle@adelaide.edu.au</a> |
| <b>Client Details</b>     | Name  | Catholic Education Office also known as Catholic Church Endowment Society Inc. (CESA)  |
|                           | ABN   | 29 608 297 012   |
|                           | Address   | 116 George St, Thebarton SA 5031   |
|                           | <b>Contact Person</b>   |  |
|                           | Name  | Pam Ronan  |
|                           | Title   | Manager: Learning and Wellbeing  |
|                           | Telephone   | (08) 8301 6135   |
|                           | Email   | <a href="mailto:Pam.Ronan@cesa.catholic.edu.au">Pam.Ronan@cesa.catholic.edu.au</a>     |
| <b>Research Project</b>   | <p>CESA Aboriginal and Torres Strait Islander Education Strategy.</p> <p>The project includes development of a detailed literature review, covering best practice in teaching Aboriginal and Torres Strait Islander children and young people, racial awareness of education staff, creation of cultures of belonging through education, and community-connected education.</p> <p>The review will be used to inform the development of a suite of resources and guiding document, and a draft Aboriginal and Torres Strait Islander Education Strategy (prepared in collaboration with Flinders University). A key stakeholder workshop and roundtables (to be carried out over two days at a venue supplied by CESA) will be utilised to gain feedback on the draft strategy and guiding document, and to generate qualitative research data.</p> <p>Following the mid-year workshop, the Stakeholder Report and Aboriginal and Torres Strait Islander Education Strategy will be finalised, as will the suite of resources and guiding document.</p> |  |

## SCHEDULE

| Deliverables   | Deliverable(s):   | Delivery date(s)   |
|--|---|--|
|  | a) Ethics Application   | 31 March 2022  |
|  | b) Literature Review  | 30 April 2022  |
|  | c) Key Stakeholder Workshop and Roundtables                       | 31 July 2022   |
|  | d) Co-branded Stakeholder Report (informed by analysis)           | 30 September 2022  |
|  | e) Aboriginal and Torres Strait Islander Education Draft Strategy | 31 December 2022   |
| <b>Term</b>  | Start Date  | Upon signing of Agreement.   |
|  | End Date  | 31 December 2022.  |
| <b>Fees and Payment</b>  | Fee (ex GST)  | \$45,000.00  |
|  | Payment method  | \$20,000 payable upon signing of agreement.<br>\$25,000 payable upon completion of project.<br>The University will issue tax invoices to the Client for payment.   |
| <b>Lead Researcher</b><br><i>Relevant researcher or person within the University</i> | Name  | Dr Samantha Schulz   |
|  | Title   | Senior Lecturer, Sociology of Education  |
|  | Address   | School of Education, Faculty of Arts, The University of Adelaide<br>Nexus Building, Rm 823   |
|  | Telephone   | (08) 8313 9309   |
|  | Email   | <a href="mailto:samantha.schulz@adelaide.edu.au">samantha.schulz@adelaide.edu.au</a>   |
| <b>Specified Personnel</b><br><i>In addition to Lead Researcher, if any</i>          | Dr Stephen Kelly, Lecturer in Education.                          |  |
| <b>Background IP</b>   | University  | Dr Samantha Schulz and Dr Stephen Kelly bring expertise in the following areas, which will be used to generate research data and analysis, and develop project deliverables and publications: <ul style="list-style-type: none"> <li>- Culturally Responsive Schooling</li> <li>- Qualitative research methods</li> <li>- Foucauldian research methodologies, including governmentality studies and discourse analysis</li> <li>- Affective-Discursive Analysis</li> <li>- Studies of decoloniality and settler colonialism</li> <li>- Race critical theorising, including studies of whiteness and racism</li> <li>- Post-structural and post-humanist lenses</li> <li>- Literacy education, including racial literacy</li> </ul> |
|  | Client  | N/A  |

The Parties agree to the Schedule, Terms and Conditions (overleaf) and any Annexures.

**EXECUTED** as an Agreement:

**Signed** for and on behalf of the **Client** by its authorised representative:

.....  
Signature

.....  
Name

.....  
Title

**Date:**

**Signed** for and on behalf of the **University** by its authorised representative:

  
.....  
Signature

.....  
Michelle Whittle  
Name

.....  
Contract Manager  
Title

**Date:** 8/12/2021

## TERMS AND CONDITIONS

### 1. DEFINITIONS

1.1 In this Limited Contract Research Agreement, including the Schedule and Annexures if any (**this Agreement**):

1.1.1 **Background IP** means any Intellectual Property that exists prior to or is created independently of this Agreement that a Party has agreed to contribute to the Research Project.

1.1.2 **Commercialisation** means to develop, manufacture, use, hire, sell, license or otherwise dispose of a product or service utilising the Project IP (or licence any other person to do any of these things) for commercial gain.

1.1.3 **Confidential Information** means any information designated as confidential or which by its nature is confidential or which is disclosed in circumstances importing an obligation of confidence, which is disclosed or made available directly or indirectly by or on behalf of one Party to the other. It does not include information:

- (a) any information designated as confidential or which by its nature is confidential or which is disclosed in circumstances importing an obligation of confidence, which is disclosed or made available directly or indirectly by or on behalf of one Party to the other. It does not include information:
- (b) that is already in the public domain or which becomes part of the public domain other than through unauthorised disclosure by the receiving Party;
- (c) that the receiving Party can prove was in its lawful possession prior to disclosure to it under this Agreement and which was not acquired directly or indirectly from the disclosing Party under an obligation of confidentiality;
- (d) lawfully and bona fide obtained by the receiving Party from a third party who did not receive the information directly or indirectly from the disclosing Party under an obligation of confidentiality; or
- (e) was independently developed by the receiving Party without having accessed the information of the disclosing Party.

1.1.4 **Intellectual Property** means all rights in inventions, patents, plant breeders' rights, registered or unregistered trademarks and service marks, registered designs, copyrights, database rights, design rights, confidential information, know-how, trade secrets, applications for any of the above, and any similar right recognised in any jurisdiction, together with all rights of action in relation to the infringement of any of the above.

1.1.5 **Moral Rights** has the meaning given to that term in Part IX of the *Copyright Act 1968* (Cth) and includes:

- (a) a right of attribution of authorship;

- (b) a right not to have authorship falsely attributed; and

- (c) a right of integrity of authorship.

1.1.6 **Party** means each of the Client and the University and their respective successors and permitted assignees.

1.1.7 **Project IP** means all Intellectual Property developed, created, identified or first reduced to practice or writing in the course of the Research Project.

1.1.8 **Publication** means any manuscript, abstract, article, paper or other work intended for publication; any oral presentation; or any poster, electronic or web presentation, excluding publication or presentation by a student of their Thesis, and **Publish** will have the corresponding meaning.

1.1.9 **Research Results** includes but is not limited to all information, results, data, methodology, processes, ideas, inventions, software developed, created, identified or first reduced to practice or writing in the course of the Research Project.

1.1.10 **Term** means the period from the Start Date to the End Date.

1.1.11 **Thesis** means any work, or subject matter other than a work, prepared by any student enrolled by the University and submitted as part of the requirements for the award of a postgraduate degree at the University.

1.1.12 **Unavoidable Delay** occurs when a Party is unable, wholly or in part, for any cause beyond its reasonable control to perform any obligation under this Agreement. For the avoidance of doubt, impacts of the COVID-19 pandemic can give rise to Unavoidable Delays.

1.2 Other capitalised terms have the meaning given to them in the Schedule.

### 2. RESEARCH PROJECT

2.1 The University will carry out the Research Project during the Term. The Client acknowledges that by its nature research is uncertain. Although the University will use reasonable endeavours to carry out the Research Project in accordance with this Agreement, the University does not undertake that any research will lead to any particular result or technology nor does it guarantee a successful outcome to the Research Project.

2.2 The Client agrees to make available to the University any information or materials necessary to carry out the Research Project.

2.3 Ownership of the Deliverables, including copyright in any reports, passes to the Client upon full payment of the Fee. In the case of non-payment or partial payment, the Deliverables must be returned to the University without delay upon receipt of formal notice to return. In the case of requested return, all expenses incurred for shipping the Deliverables will be paid by the Client.

- 2.4 Until full payment of the Fee has been made the Client will not, except as expressly provided in this Agreement, sell, licence or otherwise dispose of the Deliverables, grant any further security interest in or part with possession of the Deliverables or any interest in the Deliverables (nor purport or attempt to do that) nor permit any non-consensual lien over the Deliverables.
- 2.5 The University will own all equipment purchased or constructed by or for it in connection with the Research Project or which is paid for (in whole or part) from the Fee.

### **3. INTELLECTUAL PROPERTY**

- 3.1 Each Party retains all rights to Background IP provided by it which is used in performance of the Research Project. Each Party agrees to contribute the Background IP identified in the Schedule to the Research Project.
- 3.2 Each Party grants the other Party a royalty-free, non-exclusive licence to use its Background IP for the purpose of carrying out the Research Project, but for no other purpose. Neither Party may grant any sub-licence to use the other Party's Background IP.
- 3.3 The Client will respect the Moral Rights of the authors in the Deliverables. The Client grants the University a royalty-free non-exclusive licence to use, reproduce, copy, modify or adapt any report which forms part of the Deliverables for any purpose.
- 3.4 The University will own the Project IP (other than copyright in Deliverables) and Research Results and may take such steps as it may decide from time to time, and at its own expense, to register and maintain any protection for that Intellectual Property, including filing and prosecuting patent applications for any of the Project IP.
- 3.5 The University grants to the Client a perpetual, non-exclusive, irrevocable, royalty-free right to use the Project IP, Research Results and the University's Background IP to the extent required to use the Deliverables for the Client's own internal purposes but not for Commercialisation.
- 3.6 The Parties will negotiate in good faith but with no obligation to reach agreement for rights to the future use of the Background IP, the Project IP or Research Results owned by the University for Commercialisation.
- 3.7 Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge that any student retains all copyright in their Thesis.

### **4. CONFIDENTIALITY**

- 4.1 Each Party will:
- 4.1.1 keep confidential and will not disclose to any third party either during the Term or for five years after the end of the Term; and
- 4.1.2 will only use for the purposes of the Services, the other Party's Confidential Information unless written approval is obtained from the disclosing Party.
- 4.2 Neither Party will be in breach of any obligation to keep any Confidential Information confidential or not to disclose it to any other Party to the extent that it:
- 4.2.1 is disclosed to the receiving Party's employees or agents as necessary for the performance of this Agreement provided that such employees or agents

are instructed as to the confidential nature of the information;

- 4.2.2 is disclosed to the receiving Party's solicitors, auditors, insurers or accountants; and
- 4.2.3 is disclosed pursuant to the requirement of any law or regulation or the order of any court of competent jurisdiction, and the receiving Party has informed the disclosing Party, within a reasonable time after being required to make the disclosure, of the requirement to make the disclosure and the information required to be disclosed.

#### **4.3 The receiving Party must:**

- 4.3.1 take all reasonable steps, and do anything reasonably required by the disclosing Party, to keep the Confidential Information under the receiving Party's control;
- 4.3.2 immediately notify the disclosing Party if the receiving Party becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information;
- 4.3.3 not use, copy or reproduce, nor cause or allow any other person to use, copy or reproduce, any Confidential Information other than in accordance with this Agreement; and
- 4.3.4 immediately upon expiry or earlier termination of this Agreement deliver to the disclosing Party, or if directed by disclosing Party destroy, every copy of Confidential Information in the receiving Party's possession, except that the University is entitled to retain one copy of the Confidential Information to the extent necessary to satisfy its record retention obligations.

### **5. PUBLICATIONS**

- 5.1 Subject to clause 4, the University will be entitled to Publish the results of the Research Project subject to obtaining the prior written consent of the Client, which consent must not be unreasonably withheld. A copy of any proposed Publication will be forwarded to the Client for its review thirty (30) days prior to submitting the Publication to a publisher. The Client may request the University delay the Publication if necessary to seek patent or similar protection for Client IP, or request removal of Client Confidential Information from the Publication. If the University does not receive any response from the Client within that period of time then the Client is deemed to consent and the University is entitled to publish the proposed Publication.
- 5.2 Nothing in this Agreement shall prevent a student of the University from providing their Thesis to the University for examination. In recognition of the confidentiality of the Client's Confidential Information, the University will provide a copy of the Thesis to the Client prior to presentation to examiners for assessment. At the request of the Client the Thesis will be submitted to examiners in confidence with the examiner asked to sign a Deed of Confidentiality.
- 5.3 The Client may require the University to keep confidential, and the University shall then require that the student keeps confidential, such parts of the Thesis that contain the Client's Confidential Information by delaying publication of the Thesis for a period not exceeding 12 months from the date of approval of the Thesis by the University.

5.4 The Parties must not use the name or logo of the other Party as a consequence of or in connection with this Agreement without the prior written permission of the other Party.

## **6. FEE AND PAYMENT**

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6.1 The Client agrees to pay the University the Fee and any incidental costs (including GST) in the time and manner set out in the Schedule or as agreed in writing between the Parties.

## **7. RISK MANAGEMENT**

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7.1 To the full extent permitted by law, and except as set out in clause 7.3, neither Party accepts any responsibility for any use which may be made by the other Party of, reliance placed by that other Party on, or advice or information given in connection with, any Project IP, Research Results, Background IP, Confidential Information or the Deliverables.

7.2 Neither Party makes any representation or gives any warranty to the other that:

7.2.1 any advice or information given by it or in the case of the University any of the Specified Personnel, the University's employees or students and in the case of the Client its employees who work on the Research Project; or

7.2.2 the content or use of any Project IP, Research Results Background IP or Confidential Information provided in connection with the Research Project, will not constitute or result in any infringement of third-party rights.

7.3 Each Party (**indemnifying Party**) will indemnify the other Party (**indemnified Party**) from and against any loss (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by an indemnified Party arising from any claims, demands, actions or proceedings by a third party against an indemnified Party arising out of a breach of the terms of this Agreement or the negligent act or omission of the indemnifying Party provided that such indemnity will be reduced proportionately to the extent that any negligent act or omission or breach of the terms of this Agreement by the indemnified Party or its officers, employees and agents contributed to the relevant loss or liability.

7.4 Each Party will maintain appropriate and enforceable insurance policies to cover liability that arises out of, under or pursuant to this Agreement.

7.5 Neither Party will be liable to the other Party for any lost profits, revenue, anticipated savings, expenditure or business opportunities, loss of or damage to data or goodwill or any other indirect or consequential loss.

## **8. TERMINATION**

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8.1 Unless terminated earlier, this Agreement continues for the Term.

8.2 If either Party commits a breach of this Agreement, the other Party may request in writing that the breach be remedied, and if this is not done within 30 days of the request then the other Party may terminate this Agreement immediately.

8.3 The University will notify the Client promptly if at any time any Specified Personnel will cease to be involved in the Research Project. Within 30 days after the date of that notice, the University will nominate a successor. If the University fails to nominate a successor or the successor is not acceptable to the Client on reasonable grounds, either Party may terminate this Agreement by giving the other Party not less than 90 days written notice.

8.4 Where this Agreement has been terminated other than for the University's breach, the University will be entitled to:

8.4.1 pro rata payment for work undertaken on the Research Project and Deliverables (or part thereof) provided up until the date of termination; and

8.4.2 the reasonable costs associated with termination of this Agreement.

8.5 Where the Client has paid any of the Fee in advance and this Agreement is terminated under clause 8.2 by the Client for the University's breach, the University will refund to the Client any money that has not been used or committed by the University.

## **9. UNAVOIDABLE DELAY**

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9.1 Where a Party is unable, wholly or in part, to perform an obligation under this Agreement for more than 7 days because of an Unavoidable Delay, that Party must promptly:

9.1.1 give the other Party reasonable details of the Unavoidable Delay and the probable extent to which it will be unable to perform or be delayed in performing that obligation;

9.1.2 use reasonable endeavours to remove the Unavoidable Delay as quickly as possible; and

9.1.3 if that Party complies with this clause, that obligation will be suspended for up to 2 months while the Unavoidable Delay continues.

9.2 If after 2 months the Unavoidable Delay has not ceased, the Parties must meet in good faith to discuss the situation and endeavour to achieve a mutually satisfactory resolution.

9.3 Where no mutually satisfactory resolution has been reached under this clause within 3 months of the date of the notice of an Unavoidable Delay provided under this clause either party may terminate this Agreement immediately in writing.

9.4 A payment obligation is not suspended by Unavoidable Delay.

## **10. FOREIGN RELATIONS ACT**

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10.1 If this Agreement, or any arrangement contemplated by this Agreement, is a "foreign arrangement" or "subsidiary arrangement" under *Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (Cth) (Foreign Relations Act)*, then notwithstanding any other provision of this Agreement:

10.1.1 the University is entitled, acting in good faith, to take all actions reasonably necessary to ensure its compliance with the Foreign Relations Act and any declarations made under it (including any requirement that the University discloses, terminates or ceases to perform all or part of this Agreement);

- 10.1.2 the University will not be in breach of this Agreement, and will not incur any liability to the Client, or any third party claiming through it, in relation to any such actions or otherwise arising from the operation of the Foreign Relations Act; and
- 10.1.3 the Client agrees to cooperate in good faith with the University to do all things reasonably necessary to give effect to any declarations made under the Foreign Relations Act and any such actions taken by the University.

## 11. DISPUTE RESOLUTION

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- 11.1 The parties will endeavour to settle any dispute or claim relating to this Agreement (**Dispute**) in good faith.
- 11.2 If the parties are unable to resolve a Dispute within 14 days after one party has notified the other of the Dispute, they must refer the Dispute to the UoA's Deputy Vice-Chancellor and Vice-President (Research) or nominee and to the Client's Managing Director or equivalent or delegate (**Dispute Representatives**).
- 11.3 The Dispute Representatives must attempt to resolve the Dispute within the next 14 days or longer as agreed between them.
- 11.4 If a Dispute is not resolved within 30 days from referral to the Dispute Representatives (or longer as agreed in writing), either party may take further action.
- 11.5 A party may seek urgent interlocutory relief without following the process in this clause.

## 12. PRIVACY

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- 12.1 Each Party must, in respect of any Personal Information which it receives or has access to in the course of performing, or otherwise in connection with, this Agreement:
- 12.1.1 comply with the *Privacy Act 1988* (Cth) and any other privacy legislation or regulation, and any relevant policies and procedures applicable to it;
- 12.1.2 only use and disclose the Personal Information as required to perform this Agreement;
- 12.1.3 take reasonable steps to protect the Personal Information from loss, unauthorised access, use, modification, interference and disclosure;
- 12.1.4 immediately notify the other Party of any actual or suspected loss, unauthorised access, use, modification, interference and disclosure of Personal Information;
- 12.1.5 notify the other Party of, and cooperate with the other Party, in the handling of any complaint or request for access to or correction of Personal Information.

## 13. NOTICES

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- 13.1 A notice, request or other communication to a Party (**Notice**) under this Agreement, must be in writing and be delivered by hand or sent by prepaid post or by email to the notice address or email address of that Party as specified in the Schedule.

- 13.2 A Notice is given or served if delivered:
- 13.2.1 by hand, at the time of delivery;
- 13.2.2 by prepaid post, seven Business Days (15 Business Days if sent from one country to another country) after the date on which it was sent; and
- 13.2.3 by email, at the time shown in a delivery confirmation report generated by the sender's email system.
- 13.3 A Notice that would be given or served on a day which is not a business day in the place to which the Notice is sent, or is received later than 5:00 p.m. (local time) will be taken to have been given or served at the commencement of the next business day in that place.
- 13.4 A Party may change its notice address or email address by notice in writing to the other Party.

## 14. GENERAL

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- 14.1 South Australian law applies to this Agreement and proceedings must be commenced in the courts of South Australia or the Adelaide Registry of the Federal Court of Australia.
- 14.2 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.3 If any provision of this Agreement is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of enforcement without regard to the invalid provisions shall be and continue to be valid and enforceable in accordance with their terms.
- 14.4 A waiver by a Party in respect of a breach of a provision of this Agreement must not be taken to be a waiver unless given in writing and will not constitute a waiver of any other breach. The failure by a Party at any time to enforce a provision of this Agreement must not be construed as a waiver by that Party of that provision or in any way affect the validity of this Agreement or any part of it.
- 14.5 This Agreement may only be varied by the Parties in writing.
- 14.6 Neither Party may assign, charge, offer for security or otherwise deal with any of its rights or obligations under, or interest in, this Agreement, or purport to do any of those things, without the other Party's prior written consent.
- 14.7 This Agreement does not create a relationship of employment, agency, or trust, or partnership. Neither Party has authority or power to bind the other Party.
- 14.8 If GST is payable on any supply by one Party to the other Party under this Agreement, the amount payable will be increased by an additional amount equivalent to the GST rate applicable at the relevant time.
- 14.9 The provisions of clauses 3, 4, 5, 7, 8.4, 8.5, **Error! Reference source not found.**, 14.1 and 14.5 will survive and be of full effect after expiration or termination of this Agreement.
- 14.10 This Agreement may be signed electronically and in counterparts.