

Funding Agreement for In-Service Professional Development Services

The Ministry of Education

and

Teachers' Refresher Course Committee

Date

26 November 2013

PARTIES

The Sovereign In Right of the Government of New Zealand acting by and through the **Secretary for Education** at Wellington (the *Ministry*)

Teachers' Refresher Course Committee, at 113A Molesworth Street, Wellington, No. 448987 (the *Service Provider*)

BACKGROUND

The need for personal-professional development for teachers, alongside school improvement support, is strongly supported by international PLD literature. In the New Zealand literature, Timperley (2008) asserts that teacher learning needs are diverse and must be matched by appropriately diverse PLD provision. Some teachers can make changes to their teaching based on no more than the presentation of new knowledge and skills. Others need school-based support and challenge to be added to presentations about changes needed, before change in practice will occur. Effective PLD provides both as appropriate for individual teacher needs.

The Teachers' Refresher Course Committee (TRCC) is contracted to facilitate the delivery of a programme of teacher professional development – 'for teachers by teachers'. The programme will meet both national ministry priorities and teacher identified needs through courses and such other formats as it deems appropriate to the target group and the intended learning outcomes. TRCC has provided these professional development services to the Ministry for over 65 years.

THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Defined terms

In this agreement, unless the context requires otherwise:

Agreement means this funding agreement and its Schedules;

Grant means the sum of \$510,600.00 (including GST), paid in accordance with clause 4 of this Agreement;

Minister means the Minister of Education;

Term means the term of this Agreement specified in clause 2.

1.2 Interpretation

In this Agreement, unless the context requires otherwise:

- (a) headings are for convenience only and have no legal effect unless otherwise specified;

- (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 in this Agreement;
- (e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) references to a person include:
 - (i) an individual, firm, company, corporation or unincorporated body of persons;
 - (ii) any public, territorial or regional authority;
 - (iii) any government; and
 - (iv) any agency of any government or authority;
- (g) an obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (h) references to any statute include any amendment to, or replacement of, that statute and any subordinate legislation made under it;
- (i) wherever the words "includes" or "including" (or similar words) are used, they are deemed to be followed by the words "without limitation";
- (j) except as otherwise expressly stated, monetary references are references to New Zealand currency; and
- (k) if there is any conflict between the terms of this Agreement, the following order of precedence will apply:
 - (i) the terms of the body of this Agreement; and
 - (ii) the Schedule to this Agreement.

2 TERM

- 2.1 This Agreement starts on the 31 January 2015 and continues until the third anniversary of the 31 January 2016 unless terminated earlier in accordance with this Agreement or at law.

3 PURPOSE AND USE OF THE GRANT

- 3.1 TRCC courses share the following expected outcomes with all other Ministry funded PLD:
 - (a) Courses should have a strong focus on improving the effectiveness of teaching so that it accelerates student achievement, with a particular focus on the needs of Māori students, Pasifika students and those students with special educational needs.
 - (b) Courses should ensure participants' teaching has a strong focus on being flexible and responsive to identity, language and culture needs of all students.

- (c) Courses should address one or several aspects of the official curricula; Te Whāriki, the New Zealand Curriculum, Te Marautanga o Aotearoa.
- (d) Courses should promote leadership across the system so that it is clearly focused on supporting effective teaching, inquiry and self review, and effective curriculum leadership in schools and centres, emphasising the shifts in 21st century pedagogical approaches and delivery required.
- (e) Courses should promote strengthened engagement of schools and centres with students, parents, whanau, iwi and communities.

3.2 More specific outcomes expected from TRCC courses are:

- (a) Raised levels of subject knowledge and pedagogical content knowledge of participants.
- (b) Enhances decision-making by participants through raised expectations for student progress and better gathering, analysis and use of achievement data.
- (c) Improved teacher inquiry into past practice and better selection of new practices that accelerate student achievement, in particular for Māori students, Pasifika students and those students with special educational needs.

3.3 TRCC courses in any year should meet the following guidelines:

- (a) Courses should be targeted for classroom/ centre teaches and also for centre/ school leaders.
- (b) The face-to-face component of courses should usually run in school/ centre holidays and be for three to five days in one block. These should be intensive, full day and face-to-face for all participants, and residential for most participants.
- (c) At least 10 courses should be delivered during the term of this funding agreement. Within this total there should be a range of single sector and cross sector courses.
- (d) Course presenters should be selected to ensure courses are based on a blend of the latest 'theory/research evidence' and the best 'practitioner resources and strategies'.
- (e) Courses should offer challenging discourse and always ask participants to consider: What needs to change back in my centre or school/ classroom? How will I know I am successful in my shifts in practice?
- (f) Teachers, their unions, subject associations and a wide range of other educational organisations should be involved in suggesting course content and identifying suitable presenters.
- (g) The Ministry's designated officials shall approve the overall programme of courses proposed by TRCC for the variation period using the following criteria:
 - (i) The TRCC programme shall provide a balance between supporting educational organisation and teacher requests, and Ministry national priorities/ PLD outcomes.

- (ii) Generally the TRCC provision should aim to complement other current Ministry funded PLD, and share outcomes and evaluative processes with other PLD providers wherever possible.
- (iii) More specifically, TRCC will provide evidence that the course guidelines for the annual programme, set out above, have been taken into account.
- (iv) TRCC will balance requests from larger subject associations with the identified needs of small subject/ specialist content areas of identified specified teacher need and will give consideration to those that have had little support regionally and those that are not currently being supported by other PLD provision.
- (v) The Ministry's designated officials shall approve the proposed outcomes and evaluation processes for the course programme, and receive an analysis of each course evaluation using an agreed format.

4 PAYMENT OF THE GRANT

4.1 The Ministry will pay Grant in instalments on the dates set out below:

Payment No.	Due date	Amount (ex GST)
1	28 February 2015	\$37,000.00
2	30 March 2015	\$37,000.00
3	30 April 2015	\$37,000.00
4	30 May 2015	\$37,000.00
5	30 June 2015	\$37,000.00
6	30 July 2015	\$37,000.00
7	30 August 2015	\$37,000.00
8	30 September 2015	\$37,000.00
9	30 October 2015	\$37,000.00
10	30 November 2015	\$37,000.00
11	30 December 2015	\$37,000.00
12	30 January 2016	\$37,000.00
TOTAL		\$444,000.00

4.2 Subject to clause 5.1, the Ministry's will pay each such invoice on or before the 20th of the month following the month in which the valid invoice is received.

5 CONDITIONS

5.1 The Service Provider must:

- (a) Liaise with the Ministry personnel assigned to the project
- (b) Prepare a course programme based on the consultation and points outlined in Section 3.
- (c) Submit a progress report to the Ministry on each of the outlined Milestone dates in Section 4 on each of the tasks outlined and relevant performance measures as outlined in Section 3.

6 TERMINATION

- 6.1 The Ministry may terminate this Agreement at any time by giving at least 20 Business Days written notice to the Service Provider.
- 6.2 The Ministry may terminate this Agreement immediately, by giving notice, if the Service Provider:
- (a) has breached clause 3.1 of this Agreement; or
 - (b) has not complied with clause 5 of this Agreement; or
 - (c) ceases to continue in business, becomes bankrupt or insolvent, or is in receivership or liquidation; or
 - (d) is the subject of an investigation for fraud or financial mismanagement by a government agency; or
 - (e) is in debt to the Ministry and is unable or unwilling to repay that debt within the timeframes prescribed by the Ministry; or
 - (f) is in breach of this Agreement and the breach has not been remedied by the Service Provider within 10 working days of the Ministry notifying the Service Provider of the breach, or the breach is not capable of being remedied; or
 - (g) repeatedly fails to perform or comply with the terms of this Agreement.

Consequences of termination

- 6.3 If the Agreement is terminated under clause 6.1 and 6.2:
- a) the Ministry may require the Service Provider to repay all or part of the Grant to the Ministry. The amount of the Grant to be repaid will be determined by the Ministry calculated on a pro-rata basis over the remaining period of the Term;
 - b) the amount to be repaid shall include any interest earned by the Service Provider on the Grant;
 - c) if the Grant or part of the Grant, becomes payable to the Ministry, by the Service Provider pursuant to this clause 7.2, the Service Provider must repay the Grant (or the amount determined by the Ministry that is repayable) within 28 days of a demand made in writing by the Ministry to the Service Provider.

7 DISPUTES

- 7.1 If a dispute, disagreement, question, difference or claim arises between the parties in connection to this Agreement or its subject matter (*Dispute*), either party may give the other written notice (*Dispute Notice*) requiring that the Dispute be determined in accordance with the dispute resolution process set out in Appendix A.

8 **GENERAL**

8.1 The parties agree:

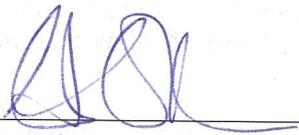
- (a) that they will perform their obligations under this Agreement as independent contractors to each other.
- (b) this Agreement will not create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, unless it expressly states otherwise. Neither party may make or allow anyone to represent that any such relationship exists between the parties.
- (c) Neither party will have the authority to act for, or incur any obligation on behalf of, the other party, except as expressly provided for in this Agreement.

8.2 The Service Provider shall not sell, transfer or assign any rights or obligations under this Agreement without the Ministry's prior written agreement.

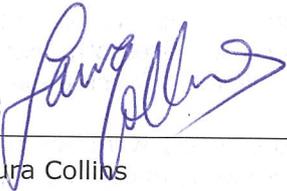
8.3 This Agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same Agreement. A party may enter into this Agreement by signing a counterpart copy and sending it to the other party, including by facsimile or e-mail.

SIGNATURES

For **The Sovereign in right of the Government of New Zealand** acting by and through the **Secretary for Education** or his delegate:

Signature: 
Name: Chris Collins
Position: Senior Manager, CTL
Date: 4/12/13

For : **The Teachers' Refresher Course Committee (Incorporated)**

Signature: 
Name: Laura Collins
Position: Executive Officer
Date: 5/12/13.

Witnessed by: 
Name: Megan Reid
Date: 4/12/12

Witnessed by: 
Name: Christine Mitchell
Date: 5/12/13

SCHEDULE A

DISPUTE RESOLUTION PROCESS

1 **Negotiation**

The parties will enter into negotiations to resolve the Dispute within 10 Business Days of the Dispute Notice being issued. Negotiations will be held between representatives of the parties (who must have authority to settle the Dispute). The Dispute will be escalated to senior management as necessary.

2 **Mediation**

If:

- (a) the parties agree; and
- (b) the Dispute is not resolved by negotiation within 10 Business Days of receipt of the Dispute Notice,

then the Dispute may be referred to mediation by one party giving written notice to the other (*Mediation Notice*). The mediation will be heard as soon as possible in Wellington, New Zealand and conducted in accordance with the provisions of the then-current LEADR New Zealand Incorporated Standard Mediation Agreement (*Mediation*). 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 Chair for the time being of LEADR New Zealand Incorporated will select the mediator and determine the mediator's fee. The parties will share equally the cost of the mediator's fee.

3 **Arbitration**

If the Dispute:

- (a) has not been resolved within a period of 10 Business Days (or such longer period as the parties may agree) in accordance with clause 1 of this Schedule; or
- (b) in accordance clause 2 of this Schedule,

then either party may issue a notice (*Arbitration Notice*) referring the Dispute to arbitration.

Each Arbitration Notice will be regarded as a reference of the Dispute to arbitration in accordance with the Arbitration Act 1996 (the *Act*). Each such arbitration will be conducted on the following terms:

- (c) the place of arbitration will be Wellington, New Zealand.
- (d) the tribunal will consist of a sole arbitrator, to be appointed by agreement of the parties, but if the parties fail to reach such agreement within 10 Business Days of the date of the Arbitration Notice, then the arbitrator will be appointed by the President for the time being, or his or her nominee, of the Arbitrators' and Mediators' Institute of New Zealand Inc.
- (e) the arbitration will be conducted as quickly as possible and, as far as is practicable, the arbitrator will issue his or her award within four months of his or her appointment. When determining the procedure and scheduling of the arbitration, the arbitrator will take this time period into consideration

(f) each party will pay its own costs in relation to the arbitration.

4 Interlocutory relief

Nothing in this Schedule 3 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.

5 Continuity

In the event of a dispute between the parties concerning this Agreement, the Supplier will continue to provide the Services and Deliverables unless the Ministry requires otherwise in writing.

6 Without prejudice

Unless and until a Dispute is resolved by an express written agreement of the parties, any and all statements and undertakings made by the parties in connection with the associated Dispute resolution process will be deemed to have been made on a "without prejudice" basis.