1. This Agreement
1.1 This Agreement is a contract between us. It sets out the terms and conditions on which we will facilitate the granting to you and/or an Authorised User the right to access the IFRS Programme. This Agreement will become binding on the parties upon the payment by you of the Fees.

1.2 You acknowledge that we are only a distributor of access rights to the IFRS Programme. The IFRS Programme was developed and is maintained by the ICAEW and is supported and hosted by BPP on behalf of the ICAEW. When you or any Authorised User accesses the Website you or any Authorised User will be required to agree to and accept the terms and conditions of BPP in order to proceed with your use of the Materials. A copy of such terms and conditions can be found here: BPP Terms and Conditions. You should not enter into this Agreement with us if you or any Authorised User is not prepared to also agree to these additional terms of access.

2. Term
Unless this Agreement is terminated earlier, this Agreement is for the Term.

3. Right to use the Website
3.1 Upon the full payment by you of the Fees:
(a) We will facilitate the granting to you, or any other Authorised User notified by you, the non-exclusive, non-transferable right to access the IFRS Programme on the terms of this Agreement;
(b) we will procure that BPP provide to you the Passwords; and
(c) we will supply you with a hard-copy of the Materials (a Manual) if you indicate on the Order Form that you wish to receive a hard-copy of the Materials.

3.2 You may not transfer the access rights granted to you or any other Authorised User to anyone else without our prior written consent. We will not be required to reimburse you any Fees paid to us if we do not consent to the access rights granted to you or any other Authorised User being transferred to another user.

3.3 You must not copy, reproduce or print out the Materials.

3.4 You acknowledge and agree that the IFRS Programme:
(a) is designed to be used only by Authorised Users and strictly in accordance with this Agreement;
(b) is not, and is not represented as, a substitute for professional or legal advice regarding any training obligations you may have;
(c) may be modified or enhanced as advised by us or ICAEW from time to time;
(d) may be suspended, modified or amended from time to time so any routine or emergency maintenance can be carried out.

4. Personal Information and privacy
4.1 We may collect Personal Information about you and any Authorised Users. Some of this Personal Information will also be supplied to BPP and ICAEW. If we do, you agree to work with us to ensure that we both meet any obligations we may each have under the Privacy Act. Where you provide us with any Personal Information, you confirm that you have collected this Personal Information in accordance with the Privacy Act, that you are entitled to provide this Personal Information to us and that we may use and disclose this Personal Information for the Purpose. We will handle Personal Information in accordance with the Privacy Act.

1.1 You acknowledge that ICAEW and BPP will have access to all information on and concerning the Website, and your use of the Website, for the purposes of managing and maintaining the Website.

2. Intellectual Property
2.1 ICAEW and/or BPP own and retain all title, copyright and other proprietary rights in the Website and the Materials.

2.2 Except as expressly described in this Agreement, you do not acquire any Intellectual Property rights or any other rights in respect of the Website, the Materials or any part of either.

2.3 You acknowledge that the trade marks which appear on the Website are owned by us and/or other third parties and use of these trade marks by you will infringe our and/or a third party’s Intellectual Property rights.

2.4 You acknowledge that the information contained on the Website contains Confidential Information which is confidential and secret and that we and others may suffer commercial or other loss and damage by its unauthorised disclosure. You agree to keep the Confidential Information and any part of it, as well as the Passwords, confidential and will not disclose or provide it or in any other way communicate it or make it available to any person. You will take or cause to be taken all such precautions as may be necessary to maintain the confidentiality of the Confidential Information and to prevent its disclosure.

3. Our Fees
3.1 You agree to pay us the Fees, and upon full payment of the Fees we will facilitate/procure the granting to you of access to the Website, and provide you with a hard-copy of the Materials, in accordance with this Agreement.

3.2 Unless we state otherwise, our Fees include GST.

4. Our responsibility to you
4.1 We are not responsible to provide technical and content support for the Website. BPP will provide technical and content support for the Website in accordance with the BPP terms and conditions referred to in 1.2 above.

4.2 We are not responsible:
(a) if you fail to operate or use the Website correctly or in accordance with any training material, user guidance or other user documentation provided in relation to the Website, whether on the Website or otherwise, which is made available to you;
(b) if any equipment or software including any browser or server software operated by a third party fails;
(c) if a computer virus enters your system as a result of the Website;
(d) for the telecommunications systems or internet service provider which you will use to access the Website or any failure of the telecommunications system; or
(e) for any errors in the Website or in any of its Content.

4.3 To the fullest extent permitted by law, we are not responsible to you for and will not be liable for:
(a) any Loss, damage or injury (including without limitation any loss of profit, occurrence of any liability, indirect or consequential loss, damage or injury or loss of opportunity) arising from the non-supply, supply or use of the Website or in relation to any person’s use of or reliance on the Website or any of the Materials;
(b) any damage to equipment, hardware, programs or data, whether stored or used with the Website or otherwise, including the costs of repairing such equipment or hardware and the costs of recovering such programs or data; or
(c) any defect, failure or other deficiency in the Website or the operation of the Website caused by or contributed to by use of the Website in conjunction with any equipment, configuration or network or in any environment exceeding or otherwise inconsistent with the Website; or
(d) any Loss, or failure to provide access to the Website as a result of any delay,

whether arising out of any breach of this Agreement and whether arising under contract, tort or statute.

4.4 To the maximum extent permitted by law, we make no guarantees, representations or warranties either express or implied.
(a) in relation to the performance of the Website;
(b) that the Website will meet your requirements;
(c) that your operation of the Website will be uninterrupted or error-free or that any errors or defects in the Website will be corrected; or
(d) regarding the interoperability, compatibility or coexistence of the Website with your operating system or particular network environment or hardware.

4.5 To the maximum extent permitted by law:
(a) any guarantees, conditions or warranties imposed by or implied under any law on us are excluded; and
(b) our total liability for any breach of a term, condition or warranty implied by law and which cannot be excluded is limited, at our election to either providing the goods (or equivalent goods) and/or services again or paying the cost of acquiring equivalent goods or services.

4.6 Where the law requires it, our liability to you will not be limited. In all other cases, our liability to you for any Loss or causes of action arising in relation to this Agreement, including for negligence is limited to the Fees.

4.7 We do not attempt to, and this Agreement does not purport to, limit any statutory rights and remedies you may have under the Australian Consumer Law.

5. Your feedback
We value your feedback. We aim to obtain, either formally or informally, a regular assessment of our performance and will always be pleased to hear any suggestions as to how our service can be improved. If you wish to provide feedback, please contact the National Customer Service Centre at service@charteredaccountants.com.au.

6. Termination
6.1 We may facilitate the termination of your access to the Website immediately if you breach any of the terms of this Agreement.

6.2 We may terminate this Agreement immediately and without notice if:
(a) you breach any term of this Agreement; or
(b) there is a change of circumstances beyond our reasonable control (such as regulatory related developments) that prevents us from providing the Website to you.

6.3 If this Agreement is terminated:
(a) your right to use the Website is revoked from the time of termination of the Agreement and we will immediately arrange for your access to the Website to be suspended;
(b) you agree to pay to us any outstanding Fees; and
(c) where relevant, each of us will return to the other any documents or property of the other that it has, except that we may retain one copy of all Information to allow us to satisfy our professional obligations and record keeping requirements.

6.4 The expiration or termination of this Agreement does not affect any accrued rights of either of us or any provision of this Agreement that continues to apply.

6.5 The provisions of this Agreement that survive its termination include those relating to clause 5, Intellectual Property; clause 8, Our responsibility to you; clause 11, Dispute resolution.

7. Dispute resolution
7.1 Each of us agrees to:
(a) use reasonable endeavours to resolve any dispute that arises in connection with this Agreement by mediation before bringing a legal claim or starting legal proceedings against the other; and
(b) comply with the Australian Commercial Disputes Centre Guidelines in relation to any mediation that may occur.

7.2 Nothing in this clause 11, Dispute resolution, prevents either of us from seeking any equitable relief in relation to our rights under this Agreement.

8. Relationship between the parties
We are engaged as an independent contractor. Neither of us is an agent or representative of or has the authority to bind the other. Neither of us will act or represent ourselves, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other. This Agreement is not intended and will not be taken to constitute a partnership, agency, employment, joint venture or fiduciary relationship between us.

9. Entire agreement
9.1 This Agreement, together with the terms and conditions on the Order Form, is the entire agreement between us. It supersedes all prior communications, negotiations, arrangements and agreements, either oral or written between us in relation to its subject matter.

9.2 Any changes to this Agreement or the terms and conditions on the Order Form must be agreed to in writing by both of us.

10. Assignment
You may not transfer, assign or novate this Agreement without our prior written consent. We may transfer or assign this Agreement without restriction.

11. Electronic communication
Each of us agrees that we may communicate with each other electronically. You acknowledge that electronic transmissions are inherently insecure, can be corrupted or intercepted, may not be delivered and may contain viruses. Neither of us is responsible to the other for any Loss suffered in connection with the use of e-mail as a form of communication between us.

12. Severability
If any of the terms of this Agreement are not legally enforceable then that term or the relevant part of it will be ignored, but in all other respects this Agreement will have full effect.

13. Governing law
This Agreement is governed by the laws of New South Wales and each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in that State.

14. General
14.1 A waiver by one of us of a breach by the other party of any term of this Agreement does not operate as a waiver of another term or a continuing breach by the other of the same or any other term of this Agreement.

14.2 The rights and remedies in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

15. Reading this Agreement
In this Agreement:
(a) headings are for convenience only and do not affect how this Agreement is interpreted;
(b) the singular includes the plural and conversely;
(c) if a word is defined its other grammatical forms have a corresponding meaning;
(d) the use of words such as includes or including to introduce a list does not limit what may be included in that list;
(e) the word person includes an entity, a firm, a body corporate, an unincorporated association or an authority;
(f) a reference to this Agreement or an act or instrument is to this Agreement, or that act or instrument as amended, varied, novated or replaced from time to time; and
(g) a reference to dollars or $ means Australian dollars.

16. Definitions
In this Agreement the following words have the meanings set out below:
Authorised User means a person who is authorised to have access to the Website as the Fees for that person to have access to the Website have been paid to us.
BPP means BPP Professional Education Limited.
Confidential Information means and includes:
(a) the terms of this Agreement;
(b) any information or material which is proprietary to or deemed to be proprietary to a party;
(c) any Intellectual Property and methodologies and technologies that:
   (i) you use in your business, and to which we are exposed in the course of providing you with the right to use the Website; or
   (ii) we use to provide you with the right to use the Website;
(d) trade secrets;
(e) any information designated as confidential by either of us; and
(f) any information acquired by either of us solely as a result of this Agreement,
but excludes any information that:
(g) is or becomes publicly available, except by a breach of this Agreement;
(h) is disclosed to either of us by a third party provided that the recipient reasonably believes the third party is legally entitled to disclose such information;
(i) was known to either of us before we received it from the other;
(j) is developed by either of us independently of any disclosures previously made by the other; or
(k) is disclosed with the other’s prior written consent.

Content means the content and materials loaded on the Website from time to time.

Fees means the fees for access to the Website as stated in, or calculated in accordance with, the Order Form.

GST has the meaning given to it under A New Tax System (Goods and Services Tax) Act 1999 (Cth).

ICAEW means the Institute of Chartered Accountants of England and Wales.

IFRS Programme means the IFRS Learning and Assessment Programme developed, maintained and presented by the ICAEW.

Information means any information, documents, materials, facts, instructions or Confidential Information provided to us by you or your Representatives or anyone else at your request whether via the Website or otherwise.

Intellectual Property means all industrial and intellectual property rights throughout the world and includes rights in respect of copyright, patents, trade marks, designs, trade secrets and know-how.

Loss means any direct, indirect or consequential losses, any liabilities, claims, damages, costs or expenses (including interest where applicable), judgment or order however caused or arising as a result of this Agreement or access to the Website.

Materials means the documentation relating to the IFRS Programme.

Order Form means the form completed by you as part of your application to access and use the Website.

Passwords means the unique user IDs, passwords, access numbers account numbers and other access details that allow you to access the Materials on the Website.

Personal Information has the meaning given to it in the Privacy Act.

Privacy Act means the Privacy Act 1998 (Cth).

Representative means any officer, employee, consultant, agent, contractor or subcontractor of a party, who is involved in the activities to which this Agreement relates.

Term means the period commencing on the date that BPP first provides you with access to the Website and ending on a date that is 12 months after this date.

Website means the online learning site for the IFRS Programme offered by BPP on behalf of ICAEW via an internet portal, which allows users to access and undertake the IFRS Programme.

We, us and our means The Institute of Chartered Accountants Australia and any of its Representatives.

you and your means you and your Representatives or advisers.