**MEMORANDUM OF UNDERSTANDING
(Non-Binding)**

 *Local Jobs Program Activity - Your Empowered Pathway Starts Here Program*

 **This Memorandum of Understanding (hereinafter "Memorandum" or "MOU") is dated this \_\_\_\_\_\_\_\_.**

 **BETWEEN:**

YEP CAREERS PTY LTD (ACN 627 267 681)

of the following address:

10 Jabiru Way
CORINDI BEACH NSW 2456

**AND**

*(INDIVIDUAL/ORGANISATION NAME)*  (ABN/CAN if applicable..................)

of the following address:

\_\_\_\_\_\_\_\_

*(referred to herein as "Parties" or individually as "Party")*

 **BACKGROUND**

*The Parties are interested in working together in connection with the Purpose which is described in this Memorandum.

This Memorandum sets out the initial relationship between the Parties as well as the respective rights and responsibilities of each Party.*

 *This Memorandum is not intended to be legally binding but is intended to document the expectations of each Party.

Each Party respectively is expected to act in good faith in accordance with this Memorandum.*

 **(1) PROJECT AND PURPOSE**

(a) The Parties intend to investigate the prospect of working together and/or to actually work together, on a project which will be referred to as Local Jobs Program Activity - Your Empowered Pathway Starts Here Program ("the Project").

(b) The Project has the following purpose ("the Purpose"):

YEP Careers Pty Ltd has entered into a Contract with the Department of Education, Skills and Employment (DESE) to co-ordinate and deliver Your Empowered Pathway Starts Here Program, as part of the Mid North Coast Local Jobs Program. Your Empowered Pathway Starts Here is a 5 day program that connects youth and indigenous job seekers to industry while developing an entrepreneurial mindset, and employability skills for job readiness. YEP Careers Pty Ltd will partner with key stakeholders within the Hospitality/Tourism and Agriculture Industries on the Mid North Coast, as well as Chambers of Commerce, Tursa and other Employment Service Providers, to ensure the project objectives are met including achieving employment outcomes for 128 job seekers.

 **(2) NON BINDING MEMORANDUM**

(a) The Parties hereby acknowledge and agree that:

(I) The terms of this Memorandum are not intended to be legally binding; and

(II) The terms of this Memorandum are not exhaustive; and

(III) The terms of this Memorandum are expressly "subject to contract" until a final written contract in relation to the Project is entered by the Parties.

(IV) Nothing in this Memorandum will be construed as creating any legal relationship between the Parties.

(V) This Memorandum does not create any rights, obligations or duties for any Party.

(VI) This Memorandum is a statement of intent by the Parties and is intended to encourage mutual cooperation.

(VII) Nothing in this Memorandum affects any other agreement(s) which may exist between the Parties as at the date of this Memorandum or at any subsequent date.

(VIII) Notwithstanding the preceding subclauses hereof, this Memorandum provides an accurate representation of the Parties' respective intentions as at the date of this Memorandum.

 **(3) CHANGES TO MEMORANDUM**

(a) This Memorandum may be amended at any time by agreement between the Parties.

(b) Any changes to this Memorandum must be made in writing and signed by the Parties.

 **(4) GENERAL OBLIGATIONS**

(a) Notwithstanding the non-binding nature of this Memorandum, the Parties will act in good faith and will use their best endeavours to achieve the Purpose and to give effect to the terms of this Memorandum.

(b) The Parties hereby acknowledge and agree that they will each respectively perform all acts and execute all documents as reasonably required in order to give effect to the terms of this Memorandum.

(c) Each Party agrees to cooperate in the spirit of mutual understanding and goodwill in order to develop the Parties' relationships with one another and in order to pursue the Purpose.

 **(5) CONFIDENTIALITY**

*(a) For the sake of clarity, this "Confidentiality" clause, like the rest of this Memorandum, is not intended to be legally binding. The Parties acknowledge and agree that if they need to be protected by a binding Confidentiality Agreement, they will prepare such a binding Confidentiality Agreement separately.*

(b) The Parties each hereby acknowledge and agree that in connection with this Memorandum, they may have access to information that is confidential and/or commercially valuable to one or more of the other Parties ("Confidential Information").

(c) The Parties each hereby acknowledge and agree that they may be both the receiving party in relation to some Confidential Information ("Receiving Party"), and the disclosing party in relation to some other Confidential Information ("Disclosing Party"), and that the terms of this Memorandum may apply to a Party as both a Receiving Party and as a Disclosing Party, as the context so provides.

(d) For the purpose of this Memorandum, Confidential Information may include but is not limited to:

(I) information of whatever nature relating to the Project or to another Party (whether relating to the Project or otherwise);

(II) any information derived from any other information which falls within this definition of Confidential Information; and

(III) any copy of any Confidential Information.

but does not include information which:

(I) was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Disclosing Party, provided that it was known or in the possession of the Receiving Party through legal means, and not as a result of any breach of this Memorandum or any other agreement or obligation relating to confidentiality (whether or not the Receiving Party was a party to such other agreement or obligation);

(II) is, or becomes, publicly available, through no fault of the Receiving Party;

(III) is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;

(IV) is provided to the Receiving Party by the Disclosing Party and is marked "Non Confidential"; or

(V) is required by law or regulation to be disclosed, but in the event that this exception applies, it applies only to the absolute minimum necessary and provided that the Disclosing Party is first consulted to establish whether and if so how far it is possible to prevent or restrict such enforced disclosure.

(e) In relation to any Confidential Information:

(I) the Receiving Party shall keep the Confidential Information confidential and secret.

(II) the Receiving Party shall only use the Confidential Information for the purpose of working in good faith on the Project in accordance with this Memorandum.

(III) the Receiving Party shall not release the Confidential Information to any other party, unless that other party is an advisor who is under a duty of confidentiality, is assisting with the Project, and needs to have the Confidential Information in order to assist with the Project.

(f) If there is any doubt as to whether any particular information constitutes Confidential Information, the Receiving Party should presume it is Confidential Information, until the Receiving Party obtains explicit confirmation from the Disclosing Party that it is not Confidential Information.

(g) Each Party's respective obligations of confidentiality under this clause will survive the termination or expiration of this Memorandum and will continue after that Party ceases to participate in the Project.

 **(6) INTELLECTUAL PROPERTY**

(a) In connection with each Party's participation in the Project, each Party respectively may generate, create, contribute to, write or produce intellectual property ("Project Intellectual Property").

(b) For the purposes of this Memorandum, "Project Intellectual Property" includes but is not limited to:

(I) information, ideas, innovations, developments, improvements, inventions, discoveries, plans, reports, drawings, specifications, advice, analyses, designs, methodologies, code, artwork, or any other intellectual property; and

(II) intellectual property that results in any way from work performed for or on behalf of the Project (whether performed by the Party or by somebody else); and

(III) intellectual property, whether the Party generates, creates, contributes to, writes or produces that intellectual property:

(A) directly, indirectly, independently or in cooperation or conjunction with another person or persons; and

(B) during the Party's ordinary working hours, or outside of the Party's ordinary working hours; and

(C) at the location where the Party ordinarily participates in the Project, or at some other location.

(IV) intellectual property that results in any way from the use of resources or assets in connection with the Project, including reference or other materials, personnel, facilities, or other resources; and

(V) intellectual property that relates in any other way to the Project or any business which is developed in connection with the Project.

(c) Unless otherwise expressly agreed between the Parties, nothing in this Memorandum is intended to create any transfer or assignment of any intellectual property rights in relation to any Project Intellectual Property.

(d) Unless otherwise expressly agreed between the Parties, in the event that a particular Party generates, creates, contributes to, writes or produces an item of Project Intellectual Property, that Party shall retain any and all intellectual property rights in relation to that item of Project Intellectual Property.

(e) Each Party's respective obligations under this clause will survive the termination or expiration of this Memorandum and will continue after that Party ceases to participate in the Project.

 **(7) TIMING AND DURATION OF PROJECT**

(a) This Memorandum will commence on \_\_\_\_\_\_\_\_.

(b) This Memorandum will remain in effect unless and until terminated by the Parties.

(c) Either Party may terminate this Memorandum by providing one month's written notice to the other Party.

 **(8) CONSEQUENCES OF TERMINATION**

(a) In the event that this Memorandum is terminated:

(I) Neither Party will, under this Memorandum, incur any financial liability to the other Party; and

(II) Notwithstanding the preceding sub-clause hereof, either Party may incur liability towards the other Party in connection with matters outside of this Memorandum, which may include but are not limited to liability in relation to breach of contract, tort, or equity.

(III) In the event that a Party ("First Party") is in possession of any equipment, materials, documents, intellectual property, data or other information ("Items") that are the property of the other Party ("Second Party"), then the First Party must promptly return all Items to the Second Party, or destroy any Items if directed to do so by the Second Party; and

(IV) The non-binding obligations provided in the "Confidentiality" clause of this Memorandum will continue for the time period as provided in that clause.

 **(9) COSTS**

Unless otherwise expressly provided in writing, each Party is responsible for its own costs of complying with this Memorandum and in connection with the performance of its obligations under this Memorandum.

 **(10) APPLICABLE LAW**

Notwithstanding that this Memorandum is not legally binding, the Parties agree that in the event that laws need to be applied to it, the laws of New South Wales will apply.

 **SIGNED BY THE PARTIES THIS \_\_\_\_\_\_\_\_**

 *Signed for and on behalf of YEP CAREERS PTY LTD (ACN 627 267 681) in accordance with section 127(1) of the Corporations Act 2001 (Commonwealth) by being signed by Cherie Topfer the sole director and sole company secretary:*

 *..................................................
Cherie Topfer, Sole Director and Sole Secretary*

 *Signed for and on behalf of TURSA EMPLOYMENT & TRAINING (ACN...........................) in accordance with section 127(1) of the Corporations Act 2001 (Commonwealth) by being signed by \_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_, two of its directors:*

 *..................................................
\_\_\_\_\_\_\_\_, Director*

 *..................................................
\_\_\_\_\_\_\_\_, Director*