

DATED

DAY OF

2024

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## **BUSINESS PANEL AGREEMENT**

for “The Alternative” graduate placement program

**BETWEEN**

**THE MINISTER FOR WORKFORCE AND POPULATION STRATEGY**

**(“the Minister”)**

**-AND-**

**[INSERT BUSINESS NAME]**

**(“Business”)**

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### SCHEDULE

#### ANNEXURE - Benefits

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**IT IS AGREED****1. DEFINITIONS**

- 1.1 “**Agreement**” means this Agreement between the parties as described in clause 2.2;
- 1.2 “**Benefits**” means the benefits available to the Business as set out in the Annexure;
- 1.3 “**Business Day**” means any day that is not a Saturday or Sunday or a public holiday in South Australia;
- 1.4 “**Business Information**” means the information of the Business relevant to, and reasonably necessary for, the RPO to undertake its obligations as part of the Program including, but not limited to, the business name and structure, the ABN/ACN, contact details, the industry, employee count, role availability, Business policy and corporate governance information, annual turnover, or any other information as may reasonably be required by the RPO of the Minister from time to time;
- 1.5 “**Business Panel**” means the panel which is administered by the Department and consists of Participant Businesses to which the RPO may arrange Rotational Placements for Graduates as part of the Program;
- 1.6 “**Commencement Date**” means the date specified in Item 3 of the Schedule;
- 1.7 “**Confidential Information**” means information which is identified either as confidential information (if disclosed by the Minister) or proprietary information (if disclosed by the Business), but does not include this Agreement;
- 1.8 “**Crown**” means the Crown in right in the State of South Australia;
- 1.9 “**Expiry Date**” means the date specified in Item 4 of the Schedule;
- 1.10 “**Fee**” means the fee set out in Item 5 of the Schedule;
- 1.11 “**Graduate**” means a person who is part of the Graduate Pool;
- 1.12 “**Graduate Pool**” means the pool of Graduates administered by the Department from which the RPO may assess, select, employ and place on a Rotational Placement with a Participant Business;
- 1.13 “**GST Law**” has the meaning attributed in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- 1.14 “**GST Rate**” has the meaning attributed in the GST Law;
- 1.15 “**Intellectual Property Rights**” means all intellectual property rights, including:
- 1.15.1 patents, plant breeders’ rights, copyright, rights in circuit layouts, registered designs, trade marks, know-how and any right to have Confidential Information kept confidential; and
- 1.15.2 any application or right to apply for registration of any of the rights referred to in subclause 1.15.1,
- but for the avoidance of doubt excludes moral rights and performers’ rights;
- 1.16 “**Machinery of Government Change**” means a change to the structure, function or operations of the South Australian Government as a result of any
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- government reorganisation, restructuring or other organisational or functional change;
- 1.17 **“Personnel”** means any subcontractors, employees, agents and any other person employed or engaged by the Business to perform this Agreement, and includes the Business’s Representative;
- 1.18 **“Participant Business”** means a business which has been appointed to the Business Panel;
- 1.19 **“Program”** means the program known as ‘the Alternative’ administered by the Department;
- 1.20 **“Program Training”** means training relevant to the Rotational Placement of a Graduate with the Business to be undertaken by the Business where required in accordance with clause 9 as specified in the Annexure;
- 1.21 **“Reports”** means the reports specified at Item 7 of the Schedule;
- 1.22 **“Representative”** means in respect of each party, the person named in Item 2 of the Schedule;
- 1.23 **“Rotational Placement”** means a placement of a Graduate with a Participant Business, facilitated by the RPO as part of the Program;
- 1.24 **“RPO”** means the recruitment process outsourcing provider engaged by the Minister for the Program, which is responsible for the assessment, selection, employment and placement of Graduates with Participation Businesses;
- 1.25 **“Taxable Supply”** has the meaning attributed in the GST Law;
- 1.26 **“Term”** means the term set out at clause 3; and
- 1.27 **“Tax Invoice”** has the meaning attributed in the GST Law.

## 2. INTERPRETATION

- 2.1 In this Agreement (unless the context requires otherwise):
- 2.1.1 A reference to any legislation includes:
- (a) All legislation, regulations, proclamations, ordinances, by-laws and instruments issued under that legislation; and
  - (b) Any modification, consolidation, amendment, re-enactment or substitution of that legislation;
- 2.1.2 the clause headings are for convenient reference only and do not form part of this Agreement;
- 2.1.3 a reference to a clause number is a reference to all its subclauses;
- 2.1.4 a reference to a clause, subclause, schedule or attachment is a reference to a clause, subclause, schedule or attachment of this Agreement;
- 2.1.5 a word in the singular includes the plural and a word in the plural includes the singular;
- 2.1.6 a word importing a gender includes any other gender;
- 2.1.7 a reference to two or more persons means all of them together;
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- 2.1.8 a reference to persons includes corporations, unincorporated associations, partnerships, trusts and joint ventures;
- 2.1.9 a reference to legislation includes legislation repealing, replacing or amending that legislation;
- 2.1.10 a reference to dollars is a reference to Australian dollars;
- 2.1.11 where a word or phrase is given a particular meaning other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
- 2.1.12 a reference to the State includes the Crown in Right of the State of South Australia, including all of its instrumentalities or agencies, substitutes, successors and permitted assigns, including but not limited to any succession arising from a Machinery of Government change;
- 2.1.13 a reference to a party includes that party's administrators, successors and permitted assigns;
- 2.1.14 where the day on or by which something is to be done is not a Business Day, that thing may be done on or by the next Business Day;
- 2.2 This Agreement between the parties comprises these standard terms and conditions and all the documents comprised in, and incorporated by reference to, the Annexure. If any of the documents comprising this Agreement are inconsistent, they shall take priority in the following order:
  - 2.2.1 these terms and conditions;
  - 2.2.2 the Schedule;
  - 2.2.3 any annexures.

### 3. **TERM**

This Agreement commences on the Commencement Date and expires on the Expiry Date unless:

- 3.1 the parties agree to extend the Expiry Date; or
- 3.2 either party exercises its right to terminate this Agreement, however that right arises.

### 4. **EXPLANATION OF CONTRACTS**

- 4.1 This Agreement establishes the Business Panel, from which Participant Businesses may participate in the Program.
  - 4.2 This Agreement:
    - 4.2.1 governs the relationship between the Minister and the Business and its membership of the Business Panel;
    - 4.2.2 sets out pre-agreed terms and conditions critical to the involvement by the Business in the Program; and
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- 4.2.3 contemplates that the Business will enter into one or more separate agreements with the RPO to facilitate Rotational Placements of Graduates as part of the Program.

**5. APPOINTMENT TO THE BUSINESS PANEL**

- 5.1 The Business is appointed to the Business Panel as a Participant Business for the Term.
- 5.2 The Business will remain on the Business Panel until the expiry or the termination of this Agreement, which ever shall first occur.

**6. ACKNOWLEDGEMENTS**

- 6.1 The Business acknowledges and agrees that no representation, warranty, guarantee or other statement, express or implied, was made or given to the Business by the Minister as to:
  - 6.1.1 whether any Graduate will be placed with the Business;
  - 6.1.2 the suitability, qualification, fitness or propriety of any Graduate placed with the Business by the RPO; or
  - 6.1.3 any other benefits which the Business might enjoy as a result of entering into this Agreement.
- 6.2 Nothing in this Agreement shall prevent or prohibit or be construed as preventing or prohibiting the Minister from adding any other business or entity as a Participant Business to the Business Panel.
- 6.3 The Business acknowledges and agrees that it must comply with its obligations under this Agreement to remain a Participant Business as part of the Business Panel.

**7. CONTRACT ADMINISTRATION**

- 7.1 Each party nominates its Representative, and confirms that its Representative has authority to:
  - 7.1.1 exercise all of the powers and functions of his or her party under this Agreement other than the power to amend this Agreement; and
  - 7.1.2 bind his or her party in relation to any matter arising out of or in connection with this Agreement.
- 7.2 Either party may change its Representative, by giving written notice to the other party.

**8. MINISTER OBLIGATIONS**

The Minister agrees that that in consideration of the payment of the Fee, it will:

- 8.1 appoint the Business as a Participant Business as part of the Business Panel;
  - 8.2 administer the Business Panel;
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- 8.3 make the Business Information available to the RPO to facilitate the RPO's assessment and placement of Graduates to Participant Businesses part of the Business Panel; and
- 8.4 facilitate access to the Benefits.

**9. TRAINING**

- 9.1 The Business must, when requested by the Minister, undertake the Program Training.
- 9.2 Where the Minister requires the Business to undertake Program Training, the Business will ensure it complies with all reasonable requirements associated with the particular Program Training course.
- 9.3 The Minister must pay all costs of the Program Training, however shall not be liable to the Business for any loss of wages, loss of opportunities or other incidental costs incurred by Business in complying with its obligations to attend the Program Training.

**10. WORK HEALTH AND SAFETY**

- 10.1 At all times during the Term the Business must:
    - 10.1.1 comply with the obligations imposed under the *Work Health and Safety Act 2012 (SA)*;
    - 10.1.2 ensure the Participant complies with it's obligations under the *Work Health and Safety Act 2012 (SA)* including any relevant policies, procedures and instructions of the Business relating to work health, safety and welfare;
    - 10.1.3 comply with all reasonable directions and requirements of the Minister or the RPO in respect of the *Work Health and Safety Act 2012 (SA)*; and
    - 10.1.4 immediately advise the Department and the RPO if the Participant is involved in any incidents or exposed to any potentially hazardous situations.
  - 10.2 If requested by the Minister, the Business must:
    - 10.2.1 provide evidence satisfactory to the Minister of its capacity to comply with the *Work Health and Safety Act 2012 (SA)*; and
    - 10.2.2 provide evidence that its employees, agents and subcontractors have received appropriate training in and are aware of their legal obligations and responsibilities in relation to work health and safety.
  - 10.3 The Business must permit the Minister or the RPO to carry out any inspections the Minister or the RPO deems necessary to ensure that the Business is complying with the work health and safety practices referred to in this Agreement.
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**11. INTELLECTUAL PROPERTY RIGHTS**

- 11.1 Nothing in this Agreement affects the ownership of Intellectual Property Rights of either Party created before the Commencement Date.
- 11.2 Subject to clause 11.1, title and all Intellectual Property Rights in any Reports or other materials required to be provided to the Minister under this Agreement vest in the Minister on creation.
- 11.3 The Business must do anything necessary to vest all Intellectual Property Rights in the Reports and other materials in the Minister.

**12. BUSINESS OBLIGATIONS**

- 12.1 The Business must notify the Department as soon as reasonably practicable in the event that:
  - 12.1.1 the Graduate's Rotational Placement concludes prior to the expected completion date whether as a result of:
    - (a) the Graduate obtaining direct employment with the Participating Business;
    - (b) termination of the employment of the Graduate by the RPO;
    - (c) termination of the Rotational Placement by the Business;
    - (d) resignation of the Graduate from employment with the RPO; or
    - (e) withdrawal from the Rotational Placement by the Graduate.
  - 12.1.2 the Business and the RPO enter any form of dispute resolution regarding the Business Engagement Agreement or Placement Agreement;
  - 12.1.3 the Business Engagement Agreement between the Business and the RPO is terminated by either party; or
  - 12.1.4 the Business becomes aware of any issue in respect of the performance of the Participant.
- 12.2 The Business must provide the Reports to the Department.

**13. CONFIDENTIAL INFORMATION**

- 13.1 Subject to clause 13.2, neither party may disclose any Confidential Information of the other party except:
    - 13.1.1 to an employee, agent or adviser of that party, on a "need to know" and confidential basis;
    - 13.1.2 as required by law or a court order; or
    - 13.1.3 for the purposes of prosecuting or defending proceedings.
  - 13.2 The Business acknowledges and agrees that the Minister may disclose Confidential Information:
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- 13.2.1 to Parliament, the Governor, Cabinet, any Minister of the Crown or Parliamentary or Cabinet committee or sub-committee;
  - 13.2.2 to any agency, authority or instrumentality to whom it is customary for the Receiving Party to disclose the Confidential Information; or
  - 13.2.3 to the Government as a consequence of constitutional convention.

#### 14. **PRICE AND PAYMENT**

- 14.1 In consideration of the Minister's undertakings in this Agreement, the Business will pay the Fee in the manner set out at Item 5 of the Schedule.

#### 15. **GST**

- 15.1 The Minister and Business represent that:
  - 15.1.1 each is registered under the A New Tax System (Australian Business Number) Act 1999 (Cth), and that the ABN shown in Schedule INSERT are each Parties' ABN; and
  - 15.1.2 each is registered under the GST Law.
- 15.2 If the Fee is expressed as being GST exclusive and the supply for which payment is claimed is a Taxable Supply then, in addition to any amount payable by the Business by reference to the price (the "base consideration"), the Business must pay to the Minister, an additional amount of consideration ("GST consideration") for the Taxable Supply calculated by multiplying the GST Rate by the base consideration. The GST consideration is payable at the same time and subject to the same conditions as the base consideration. In this Agreement, "Taxable Supply", and "GST Rate" have the meaning attributed to it in the GST Law.

#### 16. **INSURANCE**

- 16.1 The Business must effect and maintain all insurance policies set out in Item 8 of the Schedule.
  - 16.2 The insurance policies set out in the Schedule must, if required as indicated in Item 8 of the Schedule, note the interest of the Minister.
  - 16.3 The insurance policies referred to in Item 8 of the Schedule must be in the name of the Business and must cover the Business and all subcontractors for their respective rights, interests and liabilities.
  - 16.4 The Minister, in specifying levels of insurance in this Agreement accepts no liability for the completeness of their listing, the adequacy of the sum insured, limit of liability, scope of coverage, conditions or exclusions of those insurances in respect of how they may or may not respond to any loss, damage or liability.
  - 16.5 The Business acknowledges and agrees that it is the Business' responsibility to assess and consider the risks and scope of insurances required under this Agreement.
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**17. INDEMNITY**

- 17.1 The Business indemnifies and must keep indemnified the Minister and its employees from and against all costs, losses, damages, expenses (including legal expenses) or other liabilities suffered or incurred by the Minister or its employees arising out of or in respect of this Agreement as a consequence of:
- 17.1.1 any negligence, wrongful act or omission or breach of duty of or by the Business;
  - 17.1.2 any breach by the Business of any of the provisions of this Agreement; or
  - 17.1.3 any breach of a warranty given by the Business under this Agreement.
- 17.2 The Business's liability to indemnify the Minister under clause 17.1 will be reduced proportionately to the extent that the loss or liability indemnified was contributed to by negligence or default by the Minister.
- 17.3 This clause will survive the termination of this Agreement.

**18. TERMINATION**

- 18.1 The Minister may terminate this Agreement immediately upon giving notice in writing to the Business if:
- 18.1.1 the Business is in breach of this Agreement and has not rectified such breach within 14 days of the Minister giving notice in writing to the Business requiring the rectification of such breach;
  - 18.1.2 the Minister becomes aware that the Business is in breach of its statutory obligations with respect to its employees; or
  - 18.1.3 the Business suffers or, in the reasonable opinion of the Minister, is in jeopardy of becoming subject to any form of insolvency administration or bankruptcy.
- 18.2 The Business acknowledges and agrees that if the Agreement is terminated the Minister shall not be liable to the Business for any loss however arising, including but not limited to direct or indirect loss, loss of opportunity, loss of bargain, loss of profit, expectation loss, loss of revenue or damage to reputation.

**19. EFFECT OF EXPIRY OR TERMINATION OF THIS AGREEMENT**

- 19.1 Any termination of this Agreement by the Minister does not affect any accrued right of either party.
- 19.2 The Business acknowledges and agrees that if the Minister terminates this Agreement or the Agreement expires, the Business will no longer be a part of the Business Panel, and will not be eligible to host any further Graduates on Rotational Placements as part of the Program.
- 19.3 Despite termination or completion of this Agreement, clauses 11, 13, 16, 17, 18, 19, 20, 21 and 23 survive.
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**20. REMEDIES**

20.1 Any claim the Minister may have against the Business may be set off against monies owed to the Business under this Agreement.

20.2 The rights and remedies provided under this Agreement are cumulative and not exclusive of any remedies provide by law or any other right or remedy.

**21. NO REPRESENTATIONS**

To the maximum extent permitted by law, the Business acknowledges and agrees that no representation, warranty, guarantee or other statement, express or implied, was made or given to the Business by the Minister prior to entering into his Agreement as to any benefits which the Business might enjoy as a result of entering into this Agreement.

**22. NOTICES**

Any notice relating to this Agreement must be:

22.1 in writing:

22.2 signed by the Representative of the sender or directly from their email address; and

22.3 given to the other party:

22.3.1 by email;

22.3.2 by hand delivery; or

22.3.3 by prepaid mail.

22.4 For the purposes of delivery of notice:

22.4.1 mail must be sent to the address of the recipient party set out in the Schedule; and

22.4.2 email must be marked for the attention of the person specified in the Schedule.

22.5 If a party changes its contact details, then it must provide written notice to the other party within 5 Business Days.

22.6 A notice sent for the purposes of this clause will be considered received:

22.6.1 if delivered before 5.00pm on a Business Day, otherwise on the next Business Day;

22.6.2 if sent by pre-paid mail, on the third Business Day after posting; or

22.6.3 if sent by email:

(a) when the relevant email appears in the sender's sent log with properties disclosing an appropriate routing; and

(b) the sender does not receive a message from the system operator to the effect that the relevant email was undeliverable.

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## 23. GENERAL

### 23.1 Compliance with Laws

The Business must comply with the laws in force in the State of South Australia in the performing its obligations under this Agreement. The Business undertakes to comply with all South Australian Government policies of which the Minister informs the Business which relate to the performance of the Business's obligations under this Agreement.

### 23.2 Governing Law

23.2.1 This Agreement is governed by the laws in the State of South Australia.

23.2.2 The courts of the State of South Australia have exclusive jurisdiction in connection with this Agreement.

### 23.3 Relationship Between the Parties

23.3.1 The parties acknowledge and agree that nothing in this Agreement:

- (a) constitutes a partnership or joint venture of any kind between the parties; or
- (b) constitutes any relationship of employer and employee or Minister and agent between the Minister and the Business or between the Minister and any employees, agents, sub-contractors, members or volunteers of the Business.

23.3.2 No party has any authority to bind the other Party in any manner whatever except with the express approval by notice in writing of the other party.

### 23.4 No Waivers by the Minister

23.4.1 The Minister waives a right under this Agreement only by written notice to that effect.

23.4.2 Nothing else done or omitted to be done by the Minister in relation to the Minister's rights under the Agreement will have the effect of a waiver.

### 23.5 Entire Agreement

This Agreement constitutes the entire agreement between the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings and negotiations in respect of the matters dealt with in this Agreement.

### 23.6 No assignment

The Business must not assign or encumber any of its rights under this Agreement.

### 23.7 Modification

No addition to or modification of any provision of this Agreement will be binding upon the parties unless made by written instrument signed by the parties.

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## 23.8 Severance

- 23.8.1 Each word, phrase, sentence, paragraph and clause of this Agreement is severable.
- 23.8.2 If a court determines that a part of this Agreement is unenforceable, invalid, illegal, void or voidable that court may sever that part.
- 23.8.3 Severance of a part of this Agreement will not affect any other part of this Agreement.

## 23.9 Reading Down

Where a word, phrase, sentence, paragraph, clause or other provision of this Agreement would otherwise be unenforceable, illegal, void or voidable the effect of that provision shall so far as possible, be limited and read down so that it is not unenforceable, illegal, void or voidable.

## 23.10 Auditor-General

Nothing in this Agreement derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (SA).

## 23.11 Disclosure of Government Contracts

The Business acknowledges that the Minister may disclose this Agreement either generally to the public, or to a particular person as a result of a specific request. Nothing in this clause derogates from the Business's obligations under any other provision of this Agreement or the provisions of the *Freedom of Information Act 1991* (SA).

## 23.12 Publicity

The Business must not make any public announcement or media release in respect of any aspect of this Agreement without the prior written approval by the Minister.

## 23.13 Acting Ethically

The Business will conduct itself in a manner that does not invite, directly or indirectly, the Minister's officers, employees or agents or any public sector employee (as defined in the *Public Sector Act 2009*) to behave unethically, to prefer private interests over the Minister's interests or to otherwise contravene the *Code of Ethics for the South Australian Public Sector*.

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**EXECUTED AS AN AGREEMENT**

**EXECUTED** for and on behalf of the )  
**MINISTER FOR WORKFORCE AND** )  
**POPULATION STRATEGY** by a duly )  
authorised officer in the presence of: )

.....  
Witness Signature

.....  
Authorised Officer Signature

.....  
Witness Name

.....  
Authorised Officer Name

**EXECUTED** by **INSERT BUSINESS NAME** )  
**(ACN: INSERT)** )  
in accordance with Section 127 of the )  
*Corporations Act 2001* and its Constitution )

.....  
Signature of Director

.....  
Signature of Director/Secretary\*

.....  
[Print Name of Director]

.....  
[Print Name of Director/Secretary\*]  
(\*delete the inapplicable)

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**SCHEDULE****ITEM 1 Business Name**

(Business's Name, ABN, ACN (if any) &amp; Business Address)

**[fill in]****ITEM 2 Representatives****[fill in]****ITEM 3 Commencement Date****[fill in]****ITEM 4 Expiry Date****[fill in]****ITEM 5 Fee and Payment**

Price: \$2,000.00

GST Inclusive or Exclusive: Exclusive

Address for invoices: Department of State Development  
The Alternative  
Level 4, 11 Waymouth Street  
ADELAIDE SA 5000

Other requirements:

The Business must pay the Fee to the Minister within 10 Business Days of receipt of an invoice provided to it by the Minister.

**ITEM 6 Insurances**Public Liability Insurance - **[fill in]**Professional Indemnity Insurance - **[fill in]**Required to note the interests of the Minister?: **Yes / No****ITEM 7 Reports****[fill in]**

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## **ANNEXURE**

### **BENEFITS AND TRAINING**

In administering the Alternative, the Department will at its discretion provide the Participating Business with benefits including programs and training in a form the same or similar to the below:

- Professional development support for the designated business contact, to facilitate the business gaining practical knowledge on engaging and managing early career talent;
  - Preparation workshops prior to each rotation to support graduate engagement and manager support;
  - Regular check-ins during each rotation to provide support, guidance and tools for managing graduates;
  - Specific training and resources for managing graduates from Gen Z;
  - Individual coaching and group workshops with participating businesses to develop emotional intelligence and building effective teams;
  - Networking with other participating businesses quarterly to connect, share learnings and milestones;
  - Access to online learning materials, courses and micro-credentials. Topics can be chosen from a variety of technical skills and soft skills.
-