



MEMORANDUM OF UNDERSTANDING

(Hereinafter referred to as "**MoU**")

Entered Into Between

THE KINGDOM OF BAPEDI

(Hereinafter referred to as "**THE KINGDOM OF BAPEDI**")

Herein represented by **Mrs Maria Manyaku Thulare** in her capacity as Queen-Mother and Acting-Queen Designate and her being duly authorised thereto

And

THSWANE UNIVERSITY OF TECHNOLOGY

(Hereinafter referred to as "**TUT**")

Herein represented by **Professor Murembiwa Stanley Mukhola** in his capacity as Deputy Vice-Chancellor: Teaching, Learning & Technology of **TUT** and him being duly authorised thereto

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PREAMBLE

WHEREAS the Kingdom of Bapedi Its mandate, amongst others, is to support and ensure stakeholder relations, and

WHEREAS

The Tshwane University of Technology (**TUT**): Teaching, Learning and Technology is a tertiary education institution established in terms of the Higher Education Act. No.101 of 1997. Its mandate, among other things, is to transform its policies and operations in order to provide an inclusive, accountable and sustainable provision in teaching and learning, research and innovation, and community engagement.

WHEREAS the Parties desire to cooperate and work together in areas of mutual interest with regards to teaching and learning, research, professional development and community engagement.

NOW the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. For the purpose of this Memorandum of Understanding ("the MoU"), unless the context indicates otherwise, the following definitions are set out for the terms indicated below:-

1.1.1. **"Area of Collaboration"** means areas of mutual interest as determined by both parties;

1.1.2. **"Collaboration"** means the joint work arising from this MoU;

1.1.3. **"KINGDOM OF BAPEDI "** means the **KINGDOM OF BAPEDI NATION**

1.1.4. **"TUT"** means the Tshwane University of Technology,;

1.1.5. **"Parties"** means **TUT** and **KINGDOM OF BAPEDI**, and "Party" means either of them as indicated by the context;

1.1.6. **"Signature Date"** means the date on which the last signing Party signs this Agreement;

1.1.7. **"SC"** means Steering Committee.

1.2. Expressions defined in this MoU shall bear the same meanings in the annexures and schedules to this MoU, unless expressly stated otherwise in this MoU.

1.3. In this MoU:

1.4.1 the singular shall include the plural and *vice versa*;

1.4.2 unless otherwise indicated, any meaning ascribed to a word, phrase or expression in this MoU, shall bear the same meaning wherever it appears thereafter; and

1.4.3 headings to the clauses are only for convenience of reference and shall not be utilised in the interpretation of this MoU.

1.4. This MoU shall bind the Parties and their respective successors-in-title.

1.5. In the event that any of the terms of this MoU are found to be invalid, unlawful or unenforceable, such term will be severable from the remaining terms, which will continue to be valid and enforceable.

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- 1.6. In the event of any conflict between the main body of this MoU and any annexures or schedules hereto, the provisions of the main body of this MoU will prevail between the Parties.

2 OBJECTIVES OF THIS MoU

The overall intent of this MoU is to provide a framework for collaboration and good working relations between **BAPEDI KINGDOM** and **TUT** relative to the envisaged areas of collaboration as outlined below:

- a) Building a knowledge sharing platform that will assist with information, research, education, sharing of ideas amongst the relevant stakeholders.
- b) Create forums to discuss research agenda and exchange research outputs.
- c) Co-facilitate stakeholder engagements in areas of common interest
- d) Strengthen the skills of the Parties' personnel.

3 ROLE OF THE PARTIES

3.1. The role of **BAPEDI KINGDOM** will include:

- a) Facilitate discussions and partnerships with key-stakeholders/role-players in the sector.
- b) Collaborate on research projects and other projects geared towards development and transformation within the Parties and community.
- c) Responsible for **BAPEDI NATION** commissioned research projects and any other research project deemed beneficial to **BAPEDI NATION**.

3.2. The role of **TUT** will include:

- (a) Participate and work with **BAPEDI NATION** representatives to conduct research commissioned by **TUT**.
- (b) Collaborate with **TUT** as and when necessary on other projects.
- (c) Provide its research capacity and its academic and institutional resources including services relevant to the success of the collaboration.

4. ESTABLISHMENT OF THE STEERING COMMITTEE

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- 4.1. The Parties undertake to establish a Steering Committee ("SC") which shall:-
- 4.1.1. Consider and recommend legal obligations and conditions that are binding on the Parties to the principals of the PARTIES ;
 - 4.1.2. Identify, develop and facilitate activities to fulfil the objectives of the MoU;
 - 4.1.3. Exercise technical and administrative oversight and direction over the implementation of identified activities;
 - 4.1.4. Prepare an implementation action plan to guide the implementation of this MoU; and
 - 4.1.5. Recommend to the Parties' principals any amendments to the business and implementation plans and/or budget, if necessary.
- 4.2. In exercising its oversight role, the SC may call for reports from the focal persons of various activities. The SC shall in this regard:-
- 4.2.1. Be constituted of not more than 6 (six) persons, each Party being represented by not more than 3 (three) representatives, or as may be determined by each Party. The Parties may consent in writing to include any stakeholder that may be deemed relevant.
 - 4.2.2. Arrange for the Parties to meet at least once every quarter, with each party hosting the meeting on a rotational basis, or when the need arises during the course of this Agreement, for the purpose of considering Progress Reports and monitoring and evaluating progress on the Deliverables as stipulated in the obligations of the Parties; and
 - 4.2.3. The Chairperson of the SC shall be from either party on a rotational basis of 1 (one) year.

4 PROPOSED FORMAL AGREEMENTS

- 4.1. It is the firm intention of both the Parties to enter into a formal written agreement, either on a project by project basis, or by means of another appropriate agreement, which agreements will incorporate the terms of this MoU as well as such other terms as the Parties may subsequently consider being desirable or necessary.
- 4.2. The Parties record by their signature hereto that this document is intended to promote a strategic relationship in good faith in the field, for the benefit of both the Parties in their efforts to address national priorities in the field.

- 4.3. At the effective date hereof, the possible areas of collaboration, in clause 8 below, have been identified to form the basis of future discussions and/or negotiations between the Parties.

5. AGENCY AND PARTNERSHIP

- 5.1. No Party shall present itself as the representative or agent of the other Party for any business, legal or any other reason, nor shall it have the power of authority to commit the other Party to any decision or action, unless it receives the other Party's prior written consent.
- 5.2. Nothing in this MoU shall be interpreted as establishing a partnership or joint venture between the Parties.

6. COMMENCEMENT AND DURATION

- 6.1. This MoU shall come into effect from the Signature Date hereof and shall remain binding for a period of 5 (five) years, unless terminated earlier by mutual written consent between the Parties or superseded by an overarching Memorandum of Agreement.
- 6.2. This MoU may by agreement be extended by the Parties under the same or any other terms.
- 6.3. The Parties shall continuously review the MoU and when the circumstances affecting the MoU change, provided that both Parties agree to amendments, shall allow each other reasonable time for the implementation of any changes.

7. FINANCIAL ARRANGEMENTS

Each Party shall be responsible for its own costs incurred in the execution of its duties in terms of this MoU, until such time as a written agreement has been reached on the contribution of each Party to a specific project/s to be executed in collaboration.

8. TERMINATION OF THIS MOU

This MoU may be terminated by the mutual consent of the Parties or by either Party with 6 (six) month's written notice. .

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9. DISPUTE RESOLUTION

- 9.1. In the event of any dispute arising from this Agreement, the Parties shall make every effort to settle such dispute amicably.
- 9.2. If the dispute is not capable of being settled between the Parties amicably, such dispute shall be elevated to the Senior Management of the Parties or their duly designated representatives for mediation purposes.

10. COMMUNICATIONS

- 10.1. The Parties agree that it is necessary to keep channels of communication open between them at all times on all aspects of this Memorandum.
- 10.2. The Parties recognise the importance of responsible and balanced reporting in the media, and agree that all statements relating to the projects undertaken in terms of or related to this MoU shall be dealt with carefully, and shall be agreed upon by both Parties prior to any release to the media.
- 10.3. Communication between the Parties and external stakeholders, including the press, shall be actively managed to ensure that the interest of both Parties are protected at all times.

11. AMENDMENTS

No amendments or consensual termination of this Agreement will be binding unless reduced to writing and signed by all Parties.

12. GOOD FAITH

The Parties undertake to act in good faith at all times in pursuance of their respective roles in terms of this Memorandum as well as to give effect to the spirit and intention of the Memorandum.

13. INTELLECTUAL PROPERTY

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- 13.1 In the event of any intellectual property being developed during the currency of the Memorandum, a separate agreement will be concluded between the parties to regulate the ownership and utilization of such intellectual property
- 13.2 Neither Party shall, without the prior written consent of the other party, make use of the other Party's Intellectual Property.
- 13.3 Neither Party shall acquire any rights, title or interest of any kind in any Intellectual Property of the other Party, unless agreed otherwise in writing by both Parties.
- 13.4 Any Intellectual Property, in any media or format, prepared, created or authored prior to the effective date of this Memorandum, by or specifically for either of the contracting Party in terms of this Memorandum shall belong exclusively to that contracting Party and, in this regard, the Parties may not cede, assign and make over all rights, title and interest in and to any such material or documentation to the other Party, unless agreed otherwise in writing by both Parties.
- 13.5 The Parties co-own intellectual property developed during the currency of this Memorandum and in the event that the Party utilises any intellectual property that is owned by the other Party for provision of services to a third party, the Party shall pay to the other Party a portion of the fee received from such third party, to be agreed to in writing by the Parties.
- 13.6 The parties hereby acknowledge each other's Intellectual Property rights and undertake to one another that they shall not challenge those rights and shall do all things necessary to ensure that the Intellectual Property of the other is not removed from the premises on which it is ordinarily and lawfully located, without the other's prior written consent.

14. CONFIDENTIALITY

The parties undertake towards each other:

- 14.1 Not to disclose or otherwise reveal directly or indirectly to any outside Party, any confidential information provided by one Party to the others, or otherwise acquired, particularly, contract terms, project information, trade secrets, fees, financing arrangements, annexure's, schedules, and information concerning the identity of each parties logos, clients, intellectual property, clients, dealers, borrowers, brokers, lenders, distributors, developers, technology owners, or their

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representatives, and specific individual names, addresses, principals, or telex/fax/telephone numbers, references, technology information, and/or all other information, advised by one party to the others as being confidential or privileged, without the prior specific written consent of the Party providing such information. The Party may be held liable if, through no action or fault of the latter, any of the above mentioned confidential information is released by the owner or outside Party.

14.2 To exercise reasonable care to prevent disclosure of confidential information to any outside Party, except as may be authorised in writing by the other Party, internal dissemination of the confidential information shall be limited to those employees whose duties justify their need to know such information and then only on the basis of a clear understanding by these employees of their obligations to maintain the trade secrets status of such confidential information and to restrict the use of such information solely to the use granted to the other Party under this Memorandum. The Parties shall each be liable for any improper disclosure of confidential information by their employees.

14.3 The above undertakings shall not apply to:

14.3.1 Information which at the time of disclosure is published or otherwise generally available to the public;

14.3.2. Information which after disclosure by the disclosing party is published or becomes generally available to the public; otherwise than through any act or omission on the part of the disclosing party;

14.3.3. Information which the parties can show was in their possession at the time of disclosure and which was not acquired directly or indirectly from each other;

14.3.4 Information rightfully acquired from others who did not obtain it under pledge of secrecy to either of the parties;

14.3.5 Information which the Recipient is obliged to disclose in terms of an Order of Court, subpoena or other legal process;

14.4 In the event that any party hereto is required by legal process to disclose any of the confidential information of the other party, covered by this clause 14, it shall:

14.4.1 Provide the other party with prompt notice of such requirement so as to

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enable such party to seek a protective order or waive compliance with the provisions of this clause;

14.4.2 In the event that a protective order or other remedy is obtained, the party concerned shall use all reasonable efforts to ensure that only the information covered by such order or other remedy is disclosed;

14.4.3 Whether or not a protective order or other remedy is obtained or a party has waived compliance with the provisions of this agreement, the other party shall take all reasonable steps to ensure that only that portion of the information that it is legally required to disclose is so disclosed.

14.5 The provisions of this clause 14 shall survive termination of this agreement, for whatever reason.

14.6 The limitations imposed in terms of this clause shall perpetuate for a full period of the contract between the Parties, shall furthermore extend from the effective date and shall survive the expiration or termination of the contract.

15. DOMICILIUM AND NOTICES

15.1 The following addresses are respectively chosen by the Parties as their *domicilium citandi et executandi* for all purposes arising out of this MoU and for the service of legal documents and delivery of notices:

THE KINGDOM OF BAPEDI

MAEBE TJATE 111

MOHLALETSE SEKHUKHUNE LAND

P O BOX 639

APEL

0739

And

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TUT

Tshwane University of Technology
Staatsartillerie Road
Pretoria West
Pretoria 0183
South Africa

- 15.2 Any hand-delivered notice shall be deemed validly delivered when that Party acknowledges receipt of the notice in writing.
- 15.3 Each Party shall have the right at any time to substitute its said *domicilium*/postal address with another address by giving written notice of the appointment of the new address to the other Party in accordance with the terms of this MoU, which change of its said *domicilium*/postal address shall only become applicable ten (10) calendar days after the date of notice.
- 15.4 Any notice given in terms of this MoU shall be in writing and shall:–
- (a) If delivered by hand be deemed to have been duly received by the addressee on date of delivery;
 - (b) If posted by prepaid registered post, be deemed to have been received by the addressee on the 8th day after such posting;
 - (c) If transmitted by facsimile and/or electronic mail, be deemed to have been received by the addressee on the day following the date of despatch, unless the contrary is proved; or
 - (d) Notwithstanding anything to the contrary contained or implied in this MoU, a written notice or communication actually received by one of the Parties from another, including by way of facsimile transmission, shall be adequate written notice or communication to such Party.

16 GENERAL

- 16.1 No agreed alteration, variation, addition, renewal or cancellation of this MoU shall be of any force or effect unless reduced to writing as an addendum to this MoU and signed by both Parties and/or their duly authorised signatories.

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- 16.2 No failure or delay on the part of either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and are not exclusive of any other rights or remedies which the Parties would otherwise have.
- 16.3 No indulgence, leniency or extension of time which either Party ("the Grantor") may grant or show to the other Party shall in any way prejudice the Grantor or preclude the Grantor from exercising any of its rights in the future.
- 16.4 Both Parties shall pay their own costs relating to the preparation and settlement of this MoU.
- 16.5 This MoU shall be for the exclusive benefit of each of the Parties and may not be assigned in whole or in part by either Party without the prior consent of the other Party, except that a Party's interest shall be assignable without the consent of the others in pursuance of any merger, consolidation or reorganisation or voluntary sale or transfer of all or substantially all the assigning Party's assets where the merged, consolidated or reorganised corporation or entity resulting there from or the transferee of such sale or transfer has the authority and power effectively to perform that Party's obligations to the other under this MoU.

Signed at SEKHUICHUNE on this 20th day of MAY 2021 in the presence of the undersigned witnesses.


FOR THE KINGDOM OF BAPEDI
Who by his signature hereto warrants that he is authorised to sign on behalf of the **KINGDOM OF BAPEDI**.

AS WITNESSES:

1. _____

2. _____

Signed at SETHUKHUNE on this 20th day of MAY 2021 in the presence of the undersigned witnesses.


TSHWANE UNIVERSITY OF TECHNOLOGY
Professor Murempiwa Stanley Mukhola
who by his signature hereto warrants that he is
authorised to sign on behalf of **TUT**

AS WITNESSES:

1.  _____

2. _____