



**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**NELSON MANDELA METROPOLITAN UNIVERSITY**

**AND**

**O.R.TAMBO DISTRICT MUNICIPALITY**

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## 1. PREAMBLE

- 1.1 The ORTDM, as one of the six (6) district municipalities within the Eastern Cape, Made of Ingquza Hill LM, KSDLM, Mhlontlo, Nyandeni Lm, and Port St Johns LM is required to be a catalyst for development, an enabler of economic growth and an instrument for poverty alleviation. To this end, the ORTDM has identified capacity and policy research needs towards meeting its development objectives.
- 1.2 The Nelson Mandela Metropolitan University (NMMU) is a higher education institution offering teaching, training, capacity building, research and development support to both students and its immediate community in the Eastern Cape.
- 1.3 The NMMU and the ORTDM entered into a new era of support and co-operation after discussions were held between the NMMU's Professor, Geosciences, Vincent Kakembo and the ORTDM's Chief Policy Analyst, Research and Development, Dr Henry Jacob Festus Ssekibuule. The objective was to crystallise the adhoc partnership that has already exists between the two institutions.

## 2. PARTIES

- 2.1. The parties to this agreement are-
  - 2.1.1. O.R.Tambo District Municipality; and
  - 2.1.2. Nelson Mandela Metropolitan University.

## 3. DURATION OF AGREEMENT

- 2.1 The agreement will remain in effect for a period of three (3) years from the date of the last party signing hereto.

## 4. DEFINITIONS AND INTERPRETATIONS

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4.1 In this agreement, unless clearly inconsistent with or otherwise indicated by the context the following are definitions provided:

- 4.1.1 **“ORTDM”** Means O.R.Tambo District Municipality, a Category ‘C’ Municipality, established in terms of section 12 of the Municipal Structures Act 117 of 1998 and herein represented by Hon Councillor Meth Nomakhosazana authorised thereto;
- 4.1.2 **“MOA”** Means this memorandum of agreement set out in this document ;
- 4.1.3 **“Parties”** Means University of Nelson Mandela Metropolitan University and ORTDM and each individual shall be referred to as “the party”;
- 4.1.4 **“NMMU”** means Nelson Mandela Metropolitan University, a public higher education Institution duly established in terms of Section 20 of the Higher Education Act 101 of 1997 and herein represented by Professor Andrew Leitch in his capacity as Deputy Vice Chancellor: Research and Engagement and being duly authorised thereto;
- 4.1.5 **“Service Provider”**: NMMU as service provider in terms of advisory and technical support and capacity building.
- 4.1.6 Any reference in this agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of signature hereof and as amended and /or re-enacted from time to time.

#### Interpretation

- 4.1.7 Words importing singular shall include the plural ,and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.
- 4.1.8 The head notes to the clauses to this agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 4.1.9 If any provision in the definition clause is substantive provision conferring rights or imposing obligation on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the agreement.

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4.1.10 When any numbers of days are prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day.

## 5. PURPOSE OF AGREEMENT

This agreement is established for the following purposes:

- 5.1 To provide a framework for the mutual development of a developmental and policy support regime between ORTDM and NMMU.
- 5.2 To work together to grow and establish a cooperative relationship between the NMMU and ORTDM for the extension and maintenance of support in institutional development capacity building, policy research and monitoring and evaluation and other capacity and advisory support for ORTDM.
- 5.3 Agreeing on the joint strategy on the implementation of the agreed development and support programmes

## 6. DESCRIPTION OF ROLES AND RESPONSIBILITIES BETWEEN PARTIES

- 6.1 The co-operation between the NMMU and the ORTDM will entail the following roles and responsibilities of the parties.
- 6.2 Mrs P.A.X Dunywa the Acting Municipal Manager will be the Key contact for ORTDM.
- 6.3 Prof Vincent Kakembo will be the key contact for the NMMU
- 6.4 These individuals are responsible for ensuring the responsibilities of the parties as listed below are adhered to:
- 6.5 **Responsibilities of NMMU:** NMMU will in collaboration with ORTDM plan, co-ordinate, and implement this agreement through the following interventions:
  - 6.5.1 **Human resource capacity-building:**
    - i. Short courses for local government officers, local leaders, development practitioners, and community-based development workers as identified by ORTDM. These include environmental and general land management workshops and courses.

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- ii. Short courses and skills training focused on building certain capacity competencies of local government and community based practitioners deemed necessary by ORTDM.

**6.5.2 Research, Policy support and advocacy:** NMMU interventions at the request of and with the cooperation of the ORTDM will include the following:

- i. Provide critical briefings and advice to ORTDM and the development sector on key intervention programmes at the local level.
- ii. Provide a platform for critical dialoguing on local development interventions through a number of structured conversations such as seminars, colloquia and debates.

**6.5.3 Systems & Development support:** NMMU intervention will entail the following:

- i. Demand- driven interventions around organisational development, the development of tools and other support mechanisms towards enhancing the organisational effectiveness and efficiency of ORTDM in local governance and development efforts.
- ii. Addressing a set of specific systems improvement interventions that will be prioritised per understanding with the ORTDM.

**6.6 Responsibilities of ORTDM:** ORTDM will, cooperate and collaborate with NMMU in the above interventions through the following:

- 6.6.1 On request, to provide NMMU with comprehensive information (e.g. reports) on capacity and skills gaps and needs.
- 6.6.2 Identify priority needs of the district in terms of capacity building, research and policy, as well as systems and development support.
- 6.6.3 Identify and develop agreed sets of deliverables to this effect
- 6.6.4 Work with NMMU to develop needed Terms of Reference for projects and programmes associated with the different intervention areas
- 6.6.5 Provide logistical and institutional support to NMMU research and policy experts when and where needed

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6.6.6 Provide and administer financial compensation for services provided by NMMU to ORTDM as a service provider.

## 7 PROPOSED PLANNING AND IMPLEMENTATION FRAMEWORK:

- 7.1 The agreement will remain in effect for a period of three (3) years from the date of the last party signing hereto.
- 7.2 That the two institution set up a Technical Team comprising persons from both institutions that will work together and advice on the following:
- 7.2.1 Identification of research, training and development support areas
  - 7.2.2 Definition and delimitation of areas for duties, responsibilities and cooperation on individual projects and programmes where and when necessary.
  - 7.2.3 Identify programme areas based on agreement time-line that will be planned and budgeted for within a fiscal year.
  - 7.2.4 Act as project planning, implementation and monitoring co-ordination team.

## 8 GENERAL TERMS AND CONDITIONS

- 8.1 As far as possible programmes and projects between the two institutions will be based upon the principle of reciprocity, thus, the parties, hereby, agree to abide by the following principles
- i. To honour each other's mandate;
  - ii. This **MOA** is concluded between the **NMMU** and the **ORTDM**.
  - iii. Each party is accountable for the implementation of its own mandate; and
  - iv. This **MOA** contemplates a joint responsibility and commitment by the parties in regard to the matters covered by this memorandum.
  - v. Both parties undertake to regularly liaise and consult with one another in all the work involved in providing the development support activities

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- vi. Both parties commit themselves to implement and fulfil this **MOA** in a spirit of mutual co-operation, and respect the fulfilment of the partnership.

## **9 ENTIRE AGREEMENT AND VARIATION**

9.1 This document embodies the entire agreement between the parties hereto.

9.2 No amendment or variation of any of the provisions of this MOA shall be of any force or effect unless reduced to writing and signed by both parties.

## **10 DISPUTE RESOLUTION**

Any dispute arising out of or in connection with this agreement may be decided either by way of arbitration or litigation as set out below.

10.1 The party commencing legal action shall decide whether the dispute will be resolved by way of arbitration or litigation;

10.2 In the case of arbitration:

10.2.1 the arbitration shall be conducted in accordance with the rules of the Arbitration Foundation of South Africa (“AFSA”) from time to time;

10.2.2 AFSA shall be responsible for the appointment of an arbitrator and, where the parties agree, more than one arbitrator may be appointed;

10.2.3 the arbitration will include the right of appeal provided for by the rules of AFSA;

10.2.4 notwithstanding the institution and commencement of arbitration proceedings, either party may nonetheless approach a court of law for relief of an urgent nature in circumstances in which such relief cannot be given or cannot urgently be given by the arbitrator;

10.2.5 in making an award, the arbitrator appointed shall also in his discretion make a decision with regard to the costs of the arbitration, including any value added tax, charges and disbursements and fees of a like nature incurred by the successful party in successfully enforcing or defending any of the provisions of this agreement, or any claim hereunder, and shall be for the account of the unsuccessful party. In so

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doing, the arbitrator shall be entitled to appoint a taxing master to determine the amount of the fees.

10.3 In the case of litigation:

10.3.1 the parties consent to the jurisdiction of the appropriate of the High Court of South Africa in respect of all proceedings which may arise out of or in connection with this agreement;

10.3.2 a successful party shall be entitled to recover all costs of litigation incurred on an attorney-client scale from the other party, provided that a court of competent jurisdiction awards the costs of litigation in the party's favour.

## 11 LEGAL COMPLIANCE

11.1 Without derogation from the specific instance of compliance required elsewhere in this agreement, both the ORTDM and the NMMU undertake to execute their tasks and fulfil their obligations under this agreement in full compliance with all applicable legal and statutory regulations and requirements.

11.2 NMMU hereby indemnifies the ORTDM in respect of loss or damage that may occur as a result of its fulfilment or non-fulfilment to this agreement.

11.3 It is accepted and acknowledged by all parties to this agreement that this agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

## 12 DOMICILIUM

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12.1 The parties hereby select the addresses respectively set out opposite their names below as the addresses at which all notices, legal processes and other communications must be delivered to them for the purposes of this agreement.

12.1.1 (ORTDM, Municipality House, Nelson Mandela Drive, Umtata, 5100)

12.1.2 (NMMU, Room 1211, Main Building, Summerstrand South Campus, University Way, Summerstrand Port Elizabeth, 6001)

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THIS DONE AND SIGNED AT... Lesakaleji on this day of 2 JUNE 2016


In the presence of the undersigned witnesses:

AS WITNESS:

WITNESS

  
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WITNESS

  
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**MRS P.A.X DUNYWA**  
**ACTING MUNICIPAL MANAGER**  
**O.R .TAMBO DISTRICT MUNICIPALITY**

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WITNESS

THIS DONE AND SIGNED AT... PORT EUZABETH SI MAY .....2016

In the presence of the undersigned witnesses:

AS WITNESS

  
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**PROFESSOR ANDREW LEITCH**  
**DEPUTY VICE CHANCELLOR,**  
**RESEARCH AND ENGAGEMENT,**  
**NELSON MANDELA METROPOLITAN**  
**UNIVERSITY**

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WITNESS

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*P. J. M. & H. O. N.  
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