



Central University of
Technology, Free State



MEMORANDUM OF UNDERSTANDING

entered into and between

**FACULTY OF HUMANITIES
THE CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE
SOUTH AFRICA**

and

**FACULTY OF EDUCATION
KHON KAEN UNIVERSITY, THAILAND**

MEMORANDUM OF UNDERSTANDING

between

FACULTY OF HUMANITIES

THE CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE, SOUTH AFRICA

a university duly established under the Higher Education Act No 101 of 1997 herein represented by the Vice-Chancellor and Principal (Prof TZ Mthembu), duly authorized thereto and acting by virtue of delegated authority

(hereinafter referred to as “the CUT”)

and

FACULTY OF EDUCATION, KHON KAEN UNIVERSITY, THAILAND

A public research University based in the Muang District, Khon Kaen, Thailand.

(hereinafter referred to as “KKU”)

(the “Partner Institutions”)

PREAMBLE

Recognising the mutual benefits to be gained through a cooperative programme promoting scholarly activities and international understanding, the Parties enter into this Memorandum of Understanding (“Agreement”) and agree to the following:

1. Objectives

This Agreement establishes a framework for the negotiation of the proposed cooperation between the Partner Institutions (the details of each activity of cooperation which is to be contained in separate implementation agreements (“Implementation Agreements”) as set out hereunder), which shall include, but not be limited to:

- i) the development of collaborative research projects;
- ii) the exchange of research materials, publications and information;

- iii) the organisation of joint academic and scientific activities, such as courses, conferences, seminars, symposia or lectures;
- iv) the development and operation of joint academic programs;
- v) the exchange of research and teaching personnel;
- vi) the exchange of students;
- vii) the exchange of publications and other materials of common interest; and
- viii) co-operation in the recruitment of students to the two institutions.

The cooperation between the Parties may occur in any of the fields offered at the Partner Institutions.

2. Implementation

In order to carry out and fulfil the aims of this Agreement, the Partner Institutions shall each appoint a coordinator ('the **Coordinator**') who shall manage the development and conduct of joint activities.

Either Party may initiate proposals for activities under this Agreement and such proposals shall be communicated to the Coordinator of the other Partner Institution.

Specific details of any activity of cooperation between the Partner Institutions shall be set forth in an Implementation Agreement(s), which shall become an integral part of this Agreement upon signing by the authorized signatories at each Partner Institution and shall be attached to this Agreement as an annexure. The Implementation Agreements shall regulate matters, including, but not limited to, the number and period of student and staff exchange, budgets and sources of financing, the responsibilities of each Party for the agreed upon activity and other items necessary for the efficient achievement of the activity of cooperation.

Nothing shall diminish the full autonomy of either institution, nor will any constraints or financial obligations be imposed by either party upon the other in carrying out the Agreement.

3. Duration and termination of the Agreement

This Agreement shall become effective on the date that it is signed by all Parties and shall be valid for a period of 5 (FIVE) years, but may be renewed or extended by mutual consent of the Parties.

This Agreement may be terminated by either Party at any time provided that the terminating Party gives written notice of its intention at least 3 (THREE) months prior to termination. The termination of this Agreement will however not affect the validity of the Implementation Agreements concluded between the

Partner Institutions in terms of this Agreement, and the Implementation Agreements shall remain to be in force for the duration stipulated in such Implementation Agreements.

4. Status of Agreement

It is specifically recorded that this Agreement does not constitute a binding agreement between the Parties with the exception of this clause 4 and clauses 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 which shall be binding on the Parties.

5. Breach

Should any Party (the "guilty party") commit a breach of this Agreement and fail or refuse to rectify that breach within 14 (FOURTEEN) days after receipt of a written notice from the other Party (the "innocent party"), calling upon the guilty party to rectify that breach, the innocent party shall be entitled, without prejudice to any other of his rights, to forthwith cancel this Agreement by written notice to the guilty party.

Notwithstanding any provision to the contrary in this Agreement, no Party shall be entitled to institute any delictual, contractual or other claim against any of the other Parties for any indirect or consequential losses or damages (including without limitation, loss of profit, loss of use, loss of production, loss of business, or loss of business opportunity) due to any cause whatsoever.

6. Status of Partner Institutions

It is recorded that, notwithstanding any provision to the contrary or any provision which could be construed to the contrary, the status of the Parties in relation to each other shall be that of independent parties, and none of them shall under any circumstances and for any purposes whatsoever be deemed to be associates or partners of each other. The Parties hereby specifically record that they are contracting on an independent basis, and that neither of them has the authority to bind or act on behalf of the other, and that this Agreement shall not constitute a partnership.

7. Confidential Information

The Parties acknowledge that they may, in the course of this Agreement and during the negotiation of the Implementation Agreements, gain access to and become acquainted with the techniques, methods and processes, trade secrets, data, information technology, software, business associates, clients, and other private, sensitive and confidential information ("Confidential Information") of the other Parties.

The Parties accordingly undertake, for the duration of this Agreement as well as after the termination thereof, not to directly or indirectly, utilize, disclose or make public to any third party any Confidential Information of the other Parties and to keep any Confidential Information secret and confidential at all

times, unless such disclosure takes place in the ordinary course of the carrying out by a Party of its obligations in terms of this Agreement.

The Confidential Information shall not include-

- i) information which was known to a Party prior to its receipt from another Party;
- ii) information which is or lawfully becomes generally available to the public;
- iii) information which is lawfully acquired from third parties who have a right to disclose such information;
- iv) information which by mutual agreement is released from confidential status; and
- v) information which is required to be disclosed in response to a valid order of court or other governmental agency or if disclosure is otherwise required by law, and a Party will provide the other Party with prompt written notice if such disclosure is required, and shall limit the disclosure to the minimum necessary to comply with the law.

8. Marketing and Publicity

None of the Parties to this Agreement shall use the name, symbols, branding or marks of another Party in any publicity, advertising or announcement, without the other Parties' prior written approval.

9. Entire Agreement

This Agreement contains all the terms and conditions of the agreement between the Parties concerning the subject matter thereof and no terms, conditions, warranties or representations whatever apart from those contained in this Agreement have been made or agreed to by the Parties.

10. Non-Variation

No variation or consensual termination of this Agreement or any part thereof shall be of any force or effect unless in writing and signed by or on behalf of the Parties.

11. Indulgence

No relaxation or indulgence which a Party may grant to the another Party in regard to that Party's obligations in terms hereof shall constitute a waiver of or prejudice any of the first Party's rights in terms hereof.

12. Dispute Resolution

Any dispute arising from or in connection with this Agreement or its termination, shall in the first instance be referred to the respective chief executive officers of the Parties to the dispute, failing whom, their respective equivalents or nominees ("the representatives"). Should the representatives be unable to resolve the dispute within 20 (TWENTY) days after the referral of the dispute to them, the dispute shall, at the request of any party to the dispute, be dealt with as provided as set out below.

Any dispute arising from or in connection with this Agreement or its termination, which has not been resolved pursuant to the above clause shall, if so requested by any Party to the dispute, be finally resolved in accordance with the (United Nations Commission on International Trade Law ('UNCITRAL') Arbitration Rules and the award of the Arbitrator shall be binding on both parties.

In accordance with the UNCITRAL Arbitration Rules the Parties agree as follows:

The appointing officer shall be a practicing counsel or attorney of not less than 10 (TEN) years standing.

The number of arbitrators shall be: 1 (one)

The place of arbitration shall be: Bloemfontein, South Africa

The language shall be: English

13. Notices

All notices given by a Party to the other in terms of this Agreement shall be given in writing by pre-paid registered post or telefax, or delivered by hand –

if to CUT, at:

Address: 20 President Brand Street, Westdene, Bloemfontein, 9300

Postal address: PO Box X20539, Bloemfontein, 9300

Facsimile number: 086 246 9767

Electronic mail address: lmasiba@cut.ac.za

Marked for the attention of: Refilwe Moleyane (Academic Exchange/Study Abroad Coordinator, Strategic Executive Unit, International Office)

if to KKU, at:

Address: Faculty of Education, Khon Kaen University,
123 Mitraparb Road, Muang, Khon Kaen 40002, Thailand

Postal address: as above

Facsimile number: +66-4334-3454

Electronic mail address: jakkth@kku.ac.th

Marked for the attention of: Mr.Jakkrapong Thongpai (International Relations Officer)

or such other address as a Party may inform the other Parties in writing, which address will not be a *post restante*, and shall be deemed to have taken effect 14 (FOURTEEN) days after posting of the required written notice.

A notice -

- i) given by registered post, will be deemed to have been received 5 (FIVE) days after the date of posting thereof;
- ii) sent by telefax, shall be deemed to have been received on the first working day following the date of transmission of such notice;
- iii) delivered by hand shall be deemed to have been received on the date of delivery thereof.

Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by a Party from another, including by way of facsimile transmission, shall be adequate written notice or communication to such Party.

The Parties choose as their *domicilium citandi et executandi* for all purposes under this Agreement at the addresses referred to in this clause 13.

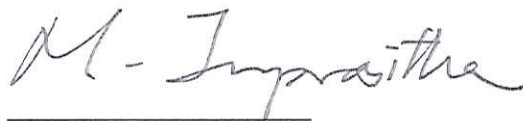
14. Applicable Law

The interpretation of this Agreement and the adjudication of any claim or dispute arising therefrom, shall be in accordance with related international laws.

In the spirit of international friendship and cooperation, we hereby set our signatures.

Signed on behalf of
Faculty of Education, Khon Kaen University

(Maitree Inprasitha)
Dean



Signature

Date: 21/10/2015

Signed on behalf of
Faculty of Humanities, Central University
of Technology, Free State

(David Ngidi)
Dean



Signature

Date: 21/10/2015