MEMORANDUM OF UNDERSTANDING

BETWEEN

National Commission on Research, Science and Technology (NCRST)

And

International University of Management

NOVEMBER 2016
MEMORANDUM OF UNDERSTANDING between the National Commission on Research, Science and Technology (NCRST) and the International University of Management (IUM)

1. PREAMBLE

WHEREAS NCRST is a Public Enterprise established in terms of section 4 of the Research, Science and Technology Act, Act No. 23 of 2004, and is mandated to promote, co-ordinate and develop research, science and technology in Namibia;

AND WHEREAS THE NCRST is mandated to manage the Research, Science and Technology Fund established in terms of section 23 of the Research, Science and Technology Act, Act No. 23 of 2004;

AND WHEREAS THE NCRST has developed the National Programme on Research, Science and Technology (NPRST) in terms of section 18 of the Research, Science and Technology Act, Act No. 23 of 2004, which aims to address challenges and opportunities in the National Innovation System (NIS) by devising appropriate interventions to improve the Research, Science, Technology and Innovation (RSTI) enabling framework for Namibia;

AND WHEREAS NCRST wishes to contribute and support the aims of IUM by targeting mutually beneficial areas in Research, Development and Innovation (RD&I) which place a special emphasis on Human Capacity Development;

AND WHEREAS IUM was established as a private, not-for-gain section 21 institution of tertiary education under the Republic of Namibia Companies Act 1973, under Registration of No. of Companies 21/2005/595;

AND WHEREAS IUM as a tertiary institution in Namibia with the mission to train innovative specialists for the nation and the global community, is intent on strengthening Research, Development and Innovation Programmes;

AND WHEREAS IUM wishes to contribute and encourage the growth of a research culture and strengthening of the development of research capacity in Namibia;

AND WHEREAS the PARTIES recognise the benefits and the need to engage, collaborate and support the benefits that can be derived from the engagement, collaboration and support herein.

NOW THEREFORE THE PARTIES RECORD THEIR AGREEMENT AS FOLLOWS:

2. INTERPRETATION

2.1. In this MOU:
   2.1.1. unless the context indicates otherwise, any expression which denotes:
      2.1.1.1. any gender includes other genders;
      2.1.1.2. a natural person, includes a juristic person and vice versa;
      2.1.1.3. the singular includes the plural and vice versa;
      2.1.1.4. words and phrases defined in any clause will for the purpose of that clause, bear the meaning therein assigned thereto
2.1.1.5. natural persons include created entities (corporate or unincorporated) and vice versa.

2.1.1.6. “MOU” means this document, that sets out the terms and conditions governing the collaboration between the Parties; and

2.1.1.7. “Joint Technical Committee” of “JTC” means the steering committee established in terms of clause 5, which committee shall be responsible for inter alia overseeing the co-operation between the Parties.

2.2. Words and expressions defined in any clause shall, for the purpose of that clause bear the meaning assigned to such words and expressions in such clause.

2.3. The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

2.4 “Agreement”, “this Agreement”, “herein”, “hereto” and “hereof” and similar expressions may be used interchangeably and refer to this MOU set out in this document and includes any annexes thereto.

2.5 “Business Day” means any day, other than a Saturday, Sunday and officially recognised public holiday in Namibia, in terms of the Public Holidays Act No 26 of 1990;

2.6 “Effective Date” means the Signature Date;

2.7 “Fund” means the Research, Science and Technology Fund established in terms of section 23 of the Research, Science and Technology Act, Act No. 23 of 2004;

2.8 “Institution” or “IUM” means the International University of Management;

2.9 “Law” means any law (including common or customary law) or statutory, constitutional, decree, judgment, treaty, regulation, directive, by-law, order or any other legislation proclaimed by any government, local government, statutory or regulatory body or court;

2.10 “Months” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

2.10.1 if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

2.10.2 if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month;

2.11 “Namibia” means the Republic of Namibia;

2.12 “NCRST” means the National Commission on Research, Science and Technology;

2.13 “Parties” means collectively IUM and the NCRST, and “Party” means any one of them, as the context may require;
2.14 "Year" means a period of 12 (twelve) consecutive Months;

2.15 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning;

3. PURPOSE & SCOPE

The purpose of this MOU is to clearly identify the roles and responsibilities of each party as they relate to the planning of collaborative enterprise research, development and innovation and training activities of mutual interests and where appropriate, the joint funding of these planned collaborative efforts.

In particular, this MOU is intended to:

3.1 Strengthen Research, Development and Innovation at IUM, in line with the priority areas as outlined in the National Programme on Research, Science and Technology (NPRST);
3.2 Develop Human Capacity towards improved research and innovation;
3.3 Build capacity for postgraduate students to improve their research and innovation capacity;
3.4 Jointly promote the acquisition, accumulation, application and utilization of technical and technological knowledge and capabilities in line with NDP IV, V and Vision 2030(specifically in the areas of managerial sciences and ICT);
3.5 Identify and research on appropriate tools for nurturing creativity and innovative thinking;
3.6 Hold joint Science, Technology and Innovation awareness activities and establish platforms and communities of practice for knowledge sharing between productive and research communities on issues of science, technology and innovation;
3.7 Exchange of experience and expertise in areas of the NPRST through staff exchange, student attachments, joint chairs and other modalities of knowledge sharing;
3.8 Jointly publish research results and issue science, technology and innovation briefs and media releases on joint and other agreed activities;
3.9 Jointly contribute towards the commercialisations of research findings and innovations.

4. RESPONSIBILITIES OF NCRST UNDER THIS MOU

The NCRST shall undertake the following activities in respect hereof:

4.1 Provide resources through the Research, Science and Technology Fund for joint funding of agreed, planned collaborative activities that are in line with the purpose and scope of this MOU;
4.2 Implement joint agreed activities which will be developed under the 5 year action plan;
4.3 Support and facilitate linkages between IUM and centres of production and services for purposes of joint research and technical cooperation by way of contract research and consultancies;
4.4 Support the membership of IUM to regional and sub-regional networks of actors on research and technical assistance in the areas of science, technology and innovation;
4.5 Provide any other support as may be mutually agreed upon.

5. RESPONSIBILITIES OF IUM UNDER THIS MOU

IUM shall undertake the following activities in respect hereof:

5.1 Provide resources to the Research, Science and Technology Fund for the promotion of agreed upon and planned collaborative activities.
5.2 Develop a Research and Innovation Programmes that reflect the national short terms and long term development plans, Harambee Prosperity Plan 2017-2020 and Vision 2030.
5.3 Establish facilities to be used for research on science, technology and innovation such as laboratories and libraries.
5.4 Establish databases of researchers and potential researchers and research results users in the areas of science, technology and innovation.
5.5 Establish links with the industry and other stakeholders to enhance Public Private Partnerships (PPPs) in research, research results sharing and policy dialogues on science, technology and innovation.
5.6 Develop a Human Capacity Development Programme to further Research and Development in line with the National Human Resources Development Programme of Namibia, the National Education and Training Improvement Programme, the SADC Higher Education Protocol and Agenda 2063 of the African Union.
5.7 Utilize the available synergies with a view to establish a model centre of excellence in Research and Innovation.

6. ESTABLISHMENT OF A JOINT TECHNICAL COMMITTEE (JTC) AND ITS MEETINGS

6.1 The Parties shall form a Joint Technical Committee, within thirty (30) days from the Effective Date to conduct meetings quarterly.
6.2 Each Party shall be entitled to nominate three (3) representatives for each meeting, in terms of which either Party shall resume chairmanship on a rotational basis.
6.3 Notwithstanding 4.1, either of the Parties may request for a meeting on an urgent basis and such meeting shall be constituted within seven (7) days of it being called and shall be conducted in a formal manner, at a venue mutually agreed upon between the Parties hereto.
6.4 Should the Joint Technical Committee be unable to resolve challenges and to reach agreement on areas of improvement, falling within the scope of this Agreement, the Heads of the two institutions shall be vested with the final authority to consult and/or negotiate any difference or dispute between the Parties concerning the interpretation and/or implementation and/or application of any of the provisions of this Agreement with a view to reach an amicable settlement.
6.5 No remuneration shall be paid to the representatives of the Parties who form part of this operating committee in their capacities as such and the costs incurred by such representatives to attend the scheduled meetings will be borne by the Party whom they are appointed to represent.
6.6 The Terms of Reference (TORs) for the Joint Technical Committee shall include:
6.6.1 Formulate the joint collaboration programmes for the co-funded research and
development grants in areas as identified in the National Programme on
Research, Science, Technology and Innovation (NPRSTI).
6.6.2 Provide funding requirements, not inconsistent with either of the parties’
institutional policies for effective implementation of the agreement.
6.6.3 Evaluate all applications submitted in terms of this agreement and evaluation
of which should be in terms of the set agreed criteria;
6.6.4 Promote the exchange of information in order to further the development of
cooperation herein envisaged.
6.6.5 Review progress regarding the implementation of this Agreement with the
purpose of guiding the future cooperative activities/engagements.
6.6.6 Address challenges and optimize on the opportunities for improvement
encountered in terms of this Agreement; and
6.6.7 Establish a three 5 Year Action Plan with detailed activities to be undertaken
through this MOU
6.6.8 To provide a biannual progress report by the last date of June and December.

7. INTELLECTUAL PROPERTY

7.1 Each party to this MOU shall own the intellectual property (IP) conceived or first
reduced to practice solely by its employees or agents in furtherance of projects or
activities contemplated by this MOU.
7.2 IP conceived or first reduced to practice through the jointly funded activities
shall be jointly owned or governed by the provisions of the definitive agreements
to be entered into for the pursuance of specific projects.
7.3 Notwithstanding the items outlined in this MOU, the parties may in addition,
sign a Non-disclosure Agreement (NDA) for specific activities.

8. EFFECTIVE DATE AND SIGNATURE

This MOU will take effect from the date it is signed by both parties and will remain in
force for a period of five (5) years after which it shall be extended for further periods
of five (5) years on mutual written agreement.

9. CONFIDENTIALITY

9.1 A Party will not, except as expressly authorised thereto by the other Party or
required by law, disclose to any third party any Confidential Information
provided by the other Party during the course of this MOU or at any time
thereafter.

9.2 Provided that this provision shall not apply to the disclosure or publication for the
purpose of any legal proceedings or arbitration to which the signatories hereto
may be a Party, or where such confidential information has already been disclosed
or published to the general public (other than as a result of a previous
unauthorised disclosure, publication or use for its own purpose by either of the
Parties) thereafter.
10. **INDEMNITY**

10.1 **NCRST** indemnifies **IUM**, its officers and employees against all liability, loss, damage, expense or cost which they suffer, sustain or incur as a result of any negligent act or omission by **NCRST**, its officers or employees in relation to this MOU.

10.2 **IUM** indemnifies **NCRST**, its officers and employees against all liability, loss, damage, expense or cost, which they suffer, sustain or incur as a result of any negligent act or omission by **IUM**, its officers or employees in relation to this MOU.

10.3 A Party’s liability to indemnify will be reduced to the extent to which any loss arises out of any negligent act or omission of the other party, its officers or employees.

10.4 Save as either party may be able to prove the contrary, under no circumstances will either Party be liable to the other Party for any damages if and to the extent caused by the other Party’s failure to perform its responsibilities or for any of the following, even if informed of their possibility:

10.4.1 loss of, or damage to data;
10.4.2 loss of profits, business revenue, goodwill or anticipated savings;
10.4.3 loss or liability incurred by *either Party* as a result of a third party claim.

11. **FORCE MAJEURE**

Neither of the **Parties** shall be liable for the failure to perform any of either Party’s obligations under this MOU insofar as it proves that:

11.1 The failure was due to an impediment beyond its control and which could not reasonably have been foreseen and avoided at the effective date and includes *inter alia* the following:

11.1.1 war, whether declared or not, civil war, civil violence, riots and revolutions, acts of sabotage, etc.

11.1.2 natural disasters, e.g. violent storms, cyclones, earth quakes, tidal waves, floods, lightning;

11.1.3 explosions, fires, destruction of machines, factories and any kind of installation;

11.1.4 boycotts, strikes and lock outs, go slows, picketing and work stoppages rendering performance impossible;

11.1.5 acts of authority, whether lawful or unlawful, apart from acts from which the Party seeking relief has assumed the risk by virtue of any other provision of this MOU.
11.1.6. For the purposes of this clause, “impediment” does not include lack of authorisation of licenses, permits or approvals necessary and to be issued by the appropriate public authority.

12. BREACH AND CANCELLATION

12.1 Should either Party commit a breach of any of the terms and conditions of this MOU and fail to remedy the breach within 14 (fourteen) days after receiving written notice calling upon them to do so, then the other Party will be entitled, without prejudice to any other remedy it may have at common law, to cancel the MOU by written notice to that effect, to the other Party.

12.2 Either Party may cancel this MOU by giving three (3) months’ notice of its intention in writing to the other Party.

13. DISPUTE RESOLUTION

Should any dispute or differences whatsoever arise at any time between the Parties concerning this MOU or its construction or effect as to the rights, duties and/or liabilities of the Parties or any of them under or by virtue of this MOU or otherwise or as to any other matter in any way arising out of the subject matter of this MOU, then: The Parties, through their respective Heads, shall endeavour to settle the dispute between them amicably. If, within seven (7) days after the date of the delivery of the declaration of a dispute, the Parties have not settled the dispute between themselves, then in that event, either Party shall within fourteen (14) days written notice to the other Party, be entitled to cancel this MOU.

14. JURISDICTION

This MOU is governed by the laws of the Republic of Namibia only and is subject only to the jurisdiction of the Courts of the Republic of Namibia.

15. DOMICILIUM AND NOTICES

15.1 The Parties hereby choose as their domicilium citandi et executandi for all purposes in terms hereof at the addresses set out below:

15.1.1 IUM
21-31 Hercules Street
Dorado Park, Windhoek
Namibia
Telephone: 264 61 433 6000
Fax: +264 61 248112
E-mail: vicechancellor@ium.edu.na
Web Address: http://www.ium.edu.na/
And

15.1.2 NCRST  
ERF 490, Platinum Street  
Prosperita, Windhoek  
NAMIBIA  
Tel: +264 61 431 7000  
Fax: +264 61 229928  
E-mail: emvula@ncrst.na  
Web Address: www.ncrst.na

15.2 The Parties may change their domicilium citandi et executandi with 14 (fourteen) days’ written notice to the other Party to any other address in the Republic of Namibia which is neither a Post Box nor poste restante.

15.2.1 All notices given in terms hereof shall be in writing and shall either be sent by pre-paid registered post, in which event it shall be deemed to have been received on the 5th day after posting, or delivered by hand, in which event it shall be deemed to have been received when so delivered.

15.2.2 All notices given in terms of this MOU shall be given to the Parties at their chosen domicilium.

16. AMENDMENT AND VARIATION

16.1 This MOU may be amended by mutual consent, in writing, as appropriate from time to time provided such amended shall not adversely affect any on-going project.

16.2 This MOU constitutes the whole understanding between the parties herein and no warranties or representations, whether express or implied, other than those contained in this MOU, have been made.

16.3 No variation or addition to this MOU shall be of any force and effect unless reduced to writing and signed by or on behalf of the Parties.

17. TERMINATION

This MOU may be terminated by either party by giving a three (3) month notice provided such a termination shall not adversely affect any on-going project which must be sustained to completion despite the termination.
18. SIGNATURES

The Parties hereto have executed this MOU by their duly authorised representatives on the day and at the place referred herein, each Party receiving one (1) copy hereof.

SIGNED at Windhoek on this 2nd day of February 2017.

As Witnesses:

1. [Signature]
2. [Signature]

Dr David Namwandi
Chancellor
IUM

SIGNED at Windhoek, on this 2nd day of February 2017.

As Witnesses:

1. [Signature]
2. [Signature]

Dr Eino Mvula
Chief Executive Officer
NCRST