



health

Department:
Health
PROVINCE OF KWAZULU-NATAL



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KWAZULU-NATAL[™]
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MEMORANDUM OF UNDERSTANDING

ENTERED INTO BY AND BETWEEN

KWAZULU-NATAL THE DEPARTMENT OF HEALTH

for and on behalf of the

**KWAZULU-NATAL PROVINCIAL ADMINISTRATION
(Hereinafter referred to as the "KZN DOH")**

Represented herein by the Head of Department

Dr S.M. Zungu

and

THE UNIVERSITY OF KWAZULU-NATAL

a public higher education institution and juristic person established in terms of the Higher Education Act, 1997 (Act No. 101 of 1997)
(Hereinafter referred to as the "UKZN")

Represented herein by the Registrar

Mr Convy Baloyi

Hereafter collectively referred to as "the Parties"

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Memorandum of Understanding: KZN DOH and UKZN

PREAMBLE

WHEREAS the KZN DOH has the mandate for service delivery in Health Care in the Province of KwaZulu-Natal.

AND WHEREAS the UKZN is a leading Research-led University, based in the Province, and offering Research and Education across the spectrum of Health Sciences.

AND WHEREAS the KZN DOH and UKZN share a common vision of ensuring "long and healthy lives" for the people of the Province and a mission to achieve excellence in evidence-based Health Service provision and developing the human capital required to implement quality service delivery in the public Health Care Sector.

AND WHEREAS the KZN DOH and UKZN have a long-lasting partnership in the area of Health Care service delivery and capacity building of Health Care practitioners; with a joint strategic planning process to inform the formal plans being developed by both Parties.

AND WHEREAS due to the burden of disease in the province, and the dearth of qualified staff within the scarce skills areas of Health Sciences, the KZN DOH faces many challenges in service delivery.

AND WHEREAS UKZN similarly faces challenges in recruiting clinical academic staff, and in obtaining funding, since the current funding stream from DHET to UKZN is insufficient to cover the remuneration of the necessary permanent establishment required for training all cadres of health professionals, especially in terms of the required critical mass of academic staffing on the clinical training platform.

AND WHEREAS there is a national imperative to grow the human capital in Health Sciences, but the current clinical training sites on the platform are inadequate both in quantity and quality.

AND WHEREAS the benefits of a strong service platform underpinned by academic excellence are recognised and desirable, and should be structured such that the benefits cascade throughout the delivery of Health Care across the province.

AND WHEREAS the Parties have identified the need for a formal partnership that will be built on transparency of process, understanding of mandates, clarity in role definition and allocation of responsibilities, systematic accountability, and an output-based approach that will focus on achieving shared outcomes.

AND WHEREAS the ongoing engagements between the Parties, especially through their Joint Strategic Committee, yielded demonstrated achievement towards the

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Memorandum of Understanding: KZN DOH and UKZN

transformation of the relationship between, and the activities of, the Parties, as encapsulated in the objectives of this MoU.

THEREFORE in this MoU, the Parties agree to invest in the shared mission, and operate in a collective and synergistic manner, commensurate with their competencies and resources, and within their individual mandates.

1. INTERPRETATION AND DEFINITIONS

In this Agreement, unless the context otherwise indicates:

- 1.1 All words and expressions to any one gender shall be capable of being construed as a reference to the other gender.
- 1.2 The words signifying the singular shall include the plural and vice versa.
- 1.3 A reference to a natural person shall be capable of being construed as a reference to a juristic person and vice versa.
- 1.4 Words and phrases defined in this Agreement shall bear the meaning assigned to them throughout this Agreement.
- 1.5 Words and phrases used in this Agreement which are defined or used in any statute which applies to the subject matter, professional person, goods or services provided for in this Agreement shall be construed in accordance with the applicable statute or regulations.
- 1.6 Prior drafts of this Agreement or oral agreements relating to the subject matter of this Agreement shall not be taken into account in the interpretation of the contents of this Agreement.

In this agreement:

For the purposes of this MoU, unless the context indicates otherwise, the following expressions bear the meanings assigned to them and are set out for the terms indicated.

“Agreement” means this MOU and includes all annexures hereto. The terms “Agreement” and “MOU” are used interchangeably in this document.

“Competencies” means the measurable and observable knowledge, skills, abilities, and behaviors, critical to successful implementation of this agreement;

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“Confidential Information” means information that (a) relates to the Disclosing Party's past, present or future education, research, and service development, business activities, products, services, technical knowledge relating to the field of Health Sciences and (b) either has been identified in writing as confidential or is of such a nature (or has been disclosed in such a way) that it should be obvious to the other Party that it is claimed as confidential. (As used herein, the party Disclosing Confidential Information is referred to as the “Disclosing Party” and the party receiving the Confidential Information is referred to as the “Recipient” or the “Receiving Party”);

“Intellectual Property” means intellectual capital in the form of processes, production methods, trade secrets, undisclosed inventions, as well as registered or unregistered intellectual property in the form of patents, trademarks, designs and rights (whether granted / registered or applied for), and copyright in any works including literary works or computer software programs, programme templates and materials and course modules relating to its academic programmes created, developed and/or used in the course of any academic activity or project;

“KZN DOH” means the KwaZulu-Natal Provincial Department of Health herein represented by Dr Sibongile Zungu in her capacity as the Head of Department or her nominee duly authorized hereto;

“KZN DOH vision for health care” means optimal health status for all persons in the Province;

“KZN DOH long-term strategy (2030 vision)” means ‘Health Care for All’ in which everyone has access to an equal standard of basic health care regardless of their income;

“KZN DOH HR staffing plan” means the HR plan to develop and sustain a staff establishment which efficiently supports the academic, clinical and service components of all staff functions;

“Mandates of the Parties” means an authorization to act given to either one of the Parties as representative of the accepted mandate of the people and or community;

“MoU” means this Memorandum of Understanding and all annexures attached hereto;

“Nelson Mandela-Fidel Castro Collaboration Programme” means the programme which is defined by an agreement between the Ministry of Public

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Health of the Republic of Cuba and the Ministry of Health of the Republic of South Africa;

“**Parties**” means the **KZN DOH and UKZN** and “**Party**” shall have the corresponding meaning;

“**Province**” means the Province of KwaZulu-Natal.

“**Resources for academic based service delivery and training**” means the human resources and physical facilities that will be needed for efficient service delivery and training;

“**Service delivery and training platform**” means the complete and inclusive decentralized service delivery and training sites which include Tertiary, Regional, and District Hospitals, Health Clinics and Community Health Centres;

“**Signature date**” means the date on which this Agreement is signed by the last Party signing;

“**Termination Date**” means the date on which this Agreement will be terminated after a five year period following the Signature date;

“**Training sites**” means the specific sites at which clinical training of students is taking place;

“**UKZN**” means University of KwaZulu-Natal, a public higher education institution and juristic person established in terms of the Higher Education Act 101 of 1997, as amended, herein represented by Mr Convy Baloyi, in his capacity as the Registrar, duly authorized hereto.

2. OBJECTIVES OF THE MoU

2.1 The object of the MoU is to enable the Parties to work efficiently and effectively in fulfilling their respective mandates of training and service delivery. As such, the Parties recognize that training should not adversely affect service delivery, and vice versa, and that there is strong potential for synergies of collective planning and implementation to achieve greater efficiencies and effectiveness in achieving the mandates of both Parties. As such:

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- 2.1.1** The Parties will ensure that the academic agenda is not promoted at the expense of the clinical service agenda, and the clinical service agenda is not, in turn, promoted at the expense of the academic agenda.
- 2.1.2** The Parties will jointly identify existing suitably configured Health Facilities to be designated as training sites within the platform:
- 2.1.2.1** The training sites will be decentralized across the clinical service platform, in line with the KZN DOH vision for health care.
- 2.1.2.2** The quality and excellence associated with academic credentials and capacity will be seen and experienced, and replicated throughout the province.
- 2.1.2.3** The platform will take into account the need to enable a community based, primary healthcare approach across the health care continuum from health promotion and disease prevention to therapeutic, rehabilitative and palliative care with an emphasis on preventative care.
- 2.1.2.4** The platform will be expanded to take advantage of all opportunities within the province in order to expand the capacity to train health professionals in line with the HR staffing plan of the KZN DOH.
- 2.1.2.4.1** In the short term, the platform will take into account the need to absorb an increased number of students from the "Nelson Mandela-Fidel Castro Collaboration programme", run by the National Department of Health, into clinical experiential training in the Province on their return from Cuba.
- 2.1.2.4.2** In the longer term, as envisaged by the KZN DOH long-term strategy (2030 vision), the platform will significantly expand the UKZN MBChB intake to provide additional capacity, and will shift the focus of training in the Province to incorporate the community and primary health care focus of the Cuban programme, such that the need to send students from KZN to the Cuban training facilities is no longer required.
- 2.1.2.4.3** Joint planning will explore need and potential for expansion of training across all Health Science disciplines, including Dentistry.
- 2.1.2.5** Specialist, and subspecialist where possible, training will be integrated into the decentralized service delivery platform, with the trainee profile being reshaped to align with the requirements of the KZN DOH HR staffing plan, while remain cognizant of national requirements.

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- 2.1.2.6** The platform will take into account the increased need for internship and community service opportunities based on expanding professional degree intakes.
- 2.1.2.7** Clinicians employed by either the KZN DOH or UKZN at the training sites will participate in training, including outreach at facilities other than training sites, under the leadership of the Heads of Departments and/or Academic Leaders. Training will be provided to undergraduate students, postgraduate students, interns, community service practitioners, registrars, junior medical officers and other categories of health care professionals that require such training.
- 2.1.2.8** The Parties identify the challenges inherent in operating a platform with dual mandates and responsibilities, and recognize the important role that the Heads of Departments appointed either by the KZN DOH or UKZN play in this regard. As such, each Head of Department employed by either Party will have a specific performance agreement that specifies their respective role and responsibilities in both training and service delivery, which will be approved and evaluated by the Steering Committee on an annual basis. The Steering Committee will ensure efficient integration of activities across the Heads, especially where an “academic” and “service” activity exist within the same discipline, and will develop a document that specifically outlines these operations, and who is responsible for these.
- 2.1.3** The parties will jointly define Graduate Competencies for all of the professional qualifications in Health Sciences for submission for approval by the relevant University structures, such that graduates can operate effectively in the Health Sector:
- 2.1.3.1** The Curriculum will be revised to align with the National Development Plan and the National Health Insurance as it is implemented, while still remaining compliant with statutory councils, including the Council for Higher Education, Health Professionals Council of South Africa, South African Nursing Council, and South African Pharmacy Council.
- 2.1.3.2** The Curriculum will emphasise a preventative approach to illness, in line with the Primary Health Care approach.
- 2.1.4** The Parties will jointly define the staffing complement of the training platform:
- 2.1.4.1** To enhance the attractiveness of scarce skills posts outside of the urban centres, especially through association with academic excellence and achievement of critical mass, thereby increasing service delivery in underserved areas.

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- 2.1.4.2** To ensure critical mass of academic clinicians, and academic leadership within the disciplines, required for the envisaged service and training platform, in both the main centres and the decentralized regions.
- 2.1.4.3** To ensure that clinicians appointed by DOH participate in the training component of the platform, which will provide the critical capacity to maintain and expand the platform; for all Health Science disciplines.
- 2.1.5** The Parties will develop mechanisms to inform performance management within each of the respective Human Resources performance management systems, which hold staff participating in the platform accountable to the needs of both Parties.
- 2.1.6** The Parties agree that transformation in Human Capital is critical to service delivery in line with the National Development Plan, including aligning the workforce being trained to more closely resemble the national demographic profile.
- 2.1.6.1** UKZN will increase the intake of students from disadvantaged backgrounds into all Health Science programmes subject to the availability of resources (financial, staffing and facilities).
- 2.1.6.2** Mechanisms will be put in place by both Parties to promote intake from students in underserved districts, through an integrated process of targeted recruitment and bursary support.
- 2.1.6.3** Mechanisms will be put in place to promote return of students to their communities post qualification through decentralized placements, strategic use of internships and community training.
- 2.1.6.4** The Parties will jointly develop strategies to improve the quality of exposure, experience and supervision of internships and community service placements within the KZN DOH, thereby increasing future capacity and retention into the service and training platform.
- 2.1.6.5** The Parties will jointly develop strategies to recruit academic clinicians from previously disadvantaged groups.
- 2.1.7** The Parties will jointly define the research agenda to ensure relevant work by UKZN academics and KZN DOH staff will improve Health outcomes of the province through research led teaching and evidence based best practice:
- 2.1.7.1** The Parties will jointly participate in research priority setting processes.

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- 2.1.7.2** The Parties will promote ongoing engagement between academics and practitioners to ensure that there is continuous feedback, including translation into improved practice.
- 2.1.7.3** The Parties will develop mechanisms to build capacity of KZN DOH staff in research, and to enable access to research infrastructure and systems.
- 2.1.8** The Parties will identify the resources required, and the responsibilities for the provision thereof, to achieve the objectives set herein.
- 2.2** The Parties agree that this MoU shall not be construed so as to create a legal relationship of exclusivity between them to the exclusion of all third parties, and the Parties hereby agree that they each shall be free to pursue projects with third parties, either independently or in collaboration with each other.
- 2.3** This MoU serves as an overarching agreement of understanding between the parties. The parties shall enter into separate written project specific agreements in respect of such joint activities and projects.
- 2.4** The Parties relationship shall in all respects remain that of independent contractors. Nothing in this MoU shall be taken to construe a partnership, or agency or any other legal relationship as existing between the Parties, and the Parties shall not be legally entitled to represent each other except as provided for in this agreement.
- 2.5** The Parties undertake to recognize and respect each other's Mission Statements, and any other codes of conduct or policy which the Parties may from time to time have in place, and each Party here undertakes to ensure that its staff members, and/or students, and/or associates, as the case may be, honour and respect the other Party's Mission Statement, codes of conduct or policies, particularly when staff employed by one Party, or the students or the associates of that Party, as the case may be, are hosted at the institution of the other Party.

3. FORMATION AND RESPONSIBILITIES OF JOINT STEERING COMMITTEE

- 3.1** The Parties shall execute their obligations, coordination and management of this MoU through a Steering Committee of equal numerical representation, which shall consist of:
- 3.1.1** UKZN: Represented by the Deputy Vice Chancellor and Head of College of Health Sciences, and the members of the College Management Committee (8 members); and

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- 3.1.2** KZN DOH: Represented by the Head of Department, and senior managers within the KZN DOH most appropriate to the partnership (8 members).
- 3.2** The Steering Committee shall meet at least six times per annum at any times and venues as may be agreed to by the Steering Committee. This minimum number of meetings per annum excludes special meetings which may be convened in instances of emergencies.
- 3.3** Each of the Parties will nominate two alternate members of the Steering Committee to attend meetings of the Steering Committee in the absence of appointed members. Such alternate shall have all the powers and responsibilities of the Party that he or she represents.
- 3.4** At its first meeting each year, the Steering Committee members shall elect a Chairperson, who will then take responsibility for provision of the secretariat.
- 3.5** The Steering Committee shall:
- 3.5.1** Investigate ways of developing/strengthening collaboration and consultation between the Parties;
- 3.5.2** Attempt to resolve any difficulties that may arise out of the collaboration of the Parties;
- 3.5.3** Consider any matter that is of interest to the Parties, as set out in this MoU. The Steering Committee shall only have the authority to make recommendations to the Parties, and the affected Parties must ratify any recommendation of the Steering Committee before it becomes operative and binding on the Parties.
- 3.6** The Steering Committee shall attempt to reach all decisions by consensus, but in the event of a disagreement, the matter shall be put to the vote with each Steering Committee member present being entitled to cast a single vote. In the event of equal votes, the matter shall be referred to the Executives of the Parties for decision. Should the Executives fail to resolve the matter within thirty (30) days of such referral, the matter may be referred to dispute resolution in terms of Clause 7 below.
- 3.7** The Steering Committee shall compile a written review of the Parties' joint activities annually, including the contribution of the joint activities to achieving Health outcomes.

4. DURATION AND TERMINATION

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- 4.1 This MoU will come into operation on the Commencement Date and will remain of force and effect for a period of 5 (five) years until the Termination Date, unless terminated earlier as provided for herein.
- 4.2 The Parties may elect to renew this MoU for such period of time and on such additional terms and conditions as may be negotiated between them.
- 4.3 Either Party may terminate this MoU for any reason whatsoever by giving 12 (twelve) months' prior written notice of termination of the MOU to the other Party.
- 4.4 This MoU may be terminated by mutual written agreement of the Parties with due regard to the contractual commitments in terms of specific contracts which may at the time of termination be applicable.
- 4.5 The Parties agree that the provisions of clause 5, 6 and 7 shall survive termination of this MoU.
- 4.6 The Parties may elect to renew this MoU for such period of time and on such additional terms and conditions as may be negotiated between them.

5 INTELLECTUAL PROPERTY

The ownership of any Intellectual Property created in the course of conducting work or activities as part of a project or area of co-operation with between the Parties (including intellectual property rights thereto), shall be specified in the specific project agreement to be concluded by the Parties for that project/activity.

6 CONFIDENTIALITY

- 6.1 Confidential Information may be transmitted between the Parties during the period that this MOU remains in force.
- 6.2 Each Party hereby undertakes that any Confidential Information will only be used for the purposes for which it is supplied under this MOU and, subject to the provisions hereof, shall not be otherwise used or further disclosed unless specifically so authorised in writing by the Disclosing Party.
- 6.3 Each Party shall designate one or more persons within its organisation as the person authorised to deliver and receive Confidential Information.

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Memorandum of Understanding: KZN DOH and UKZN

- 6.4** The Recipient may disclose Confidential Information received under this MOU only to those of its employees, agents and consultants who need to know the same for the purposes set out herein, and shall, prior to such disclosure, obtain their written agreement to comply with the restricted use and disclosure provisions of this MOU.
- 6.5** The Recipient shall not be liable to the Disclosing Party for disclosure of Confidential Information under this MOU where,
- (a)** the Confidential Information is or becomes part of the public domain through no breach of this MOU;
 - (b)** the Confidential Information is subsequently lawfully obtained by the Recipient from a third Party who is established as a lawful source of the information, without breach of this MOU by the Recipient;
 - (c)** the Confidential Information was known by the Recipient prior to its disclosure by the Disclosing Party and such prior knowledge can be established; or
 - (d)** the Disclosing Party has provided its prior written consent to such disclosure.
 - (e)** the Disclosing Party is obliged to be provided under order of a court or government agency of competent jurisdiction, subject to reasonable prior notice in writing to the Discloser.
- 6.6** Each Party, in its discretion, may request in writing that the other Party furnishes such Confidential Information as may be reasonably required by the other Party for the purposes above recited and such information shall not be unreasonably withheld.
- 6.7** Other than those rights and privileges expressly granted herein, neither the execution of this MOU nor the delivery of any Confidential Information hereunder shall be construed as granting either expressly, or by implication, estoppel or otherwise any right or license in relation to any present or future proprietary data, drawings, plans, ideas or methods disclosed under this MOU or under any invention, copyright or patent now or hereafter owned by or controlled by any of the Parties.
- 6.8** Each Party shall indemnify and hold harmless the others from and against any and all claims, demands, actions, suits or proceeding of whatever nature including all costs and expenses incurred in connection therewith, brought or instituted by third Parties and based on or arising out of that Party's disclosure or utilization of Confidential Information.

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7. SETTLEMENT OF DISPUTES: ARBITRATION

- 7.1** Any dispute arising out of or in connection with this agreement, its interpretation, application, termination or cancellation or the subject matter of this agreement, including claims in derelict or for rectification or performance of the agreement, which cannot be resolved as provided for in clause 3.6 above, shall be decided by arbitration in terms of this clause, notwithstanding that the rest of the agreement may have been terminated or been cancelled.
- 7.2** The Arbitrator shall be agreed between the Parties to the dispute but, failing agreement within 10 days after notice requiring the dispute to be referred to arbitration is given, the Arbitrator shall be a person nominated at the request of either Party by the Arbitration Foundation of South Africa.
- 7.3** The arbitration shall be held in Durban and the Parties shall endeavour to ensure that it is completed within 90 days after notice requiring the dispute to be referred to arbitration is given.
- 7.4** Save to the extent varied by this clause, the arbitration shall be governed by the Arbitration Act 1965 or any replacement Act.
- 7.5** The Arbitrator's terms of reference are to resolve the dispute as quickly, cheaply and as fairly as possible in the circumstances by making an appropriate determination including any award for costs.
- 7.6** The procedure (including the venue and times of hearing) relating to such arbitration shall be determined by the Arbitrator in his sole discretion.
- 7.7** The decision of the Arbitrator, including any costs award, shall be final and binding on the Parties.
- 7.8** If the Arbitrator's charges and any other costs have to be paid before the Arbitrator has made his award in respect of costs, the parties shall pay the costs in equal shares, and if a Party fails to pay that Party's share, the Arbitrator may make his award in respect of the claim and costs in the absence of that Party.
- 7.9** It is recorded that the Parties intend that the substantially successful party be awarded a full indemnity for all the costs reasonably incurred by that Party and not merely the costs on the High Court or any other scale.
- 7.10** The fact that there is a dispute, the proceedings in the arbitration and the Arbitrator's award shall as far as practicable, be kept confidential.

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8. AUTHORITY

The Parties hereby warrant and represent that they are authorized to negotiate, conclude and implement this MoU.

9. GOVERNING LAW

This MoU shall be governed by and construed in accordance with the laws of the Republic of South Africa.

10. ENTIRE AGREEMENT

This MoU constitutes the sole record of the agreement between the Parties relating to the subject matter hereof and supersedes any other agreement, whether written or oral which have been between the Parties.

11. NON-VARIATION

No addition to, variation or agreed cancellation of this MoU shall be of any force and effect unless in writing and signed by the Parties.

12. COSTS

Each Party shall bear and pay its legal cost of and incidental to the negotiation, preparation and execution of this MoU.

13. DOMICILIUM CITANDI ET EXECUTANDI

13.1 Each Party chooses as its *domicilium citandi et executandi* ("domicilium") for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses.

KZN DOH:

Physical Address: Natalia 330 Langalibalele (Longmarket) Street
Pietermaritzburg 3201

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Postal Address: P/Bag X9051
Pietermaritzburg 3200

Facsimile: +27 33 3450 792

UKZN:

Physical Address: Office of the Registrar
University Road
Westville, 3629
Durban
KwaZulu-Natal

Postal Address: Private Bag X54001
Durban
4001

Facsimile: +27 31 260 2384/ 2204

- 13.2** Any notice or communication required or permission to be given in terms of this Memorandum of Understanding shall be valid and effective only if in writing but it shall be competent to give by telefax.
- 13.3** Either Party may by notice to the other party change the physical address chosen as its *domicilium* another physical address where postal delivery occurs in the Republic of South Africa or its postal address or its telefax number, provided that the change shall become effective on the 10th (tenth) business day from deemed receipt of the notice by the Party.
- 13.4** Any notice sent by one Party to the other Party, shall if:-
- 13.4.1** sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium* to which post is delivered shall be deemed to have been received on the 10th (tenth) business day after posting (unless the contrary is proved);
- 13.4.2** sent by telefax to its chosen telefax number stipulated in clause 13.1, shall be deemed to have been received on the date of dispatch (unless the contrary is proved).

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Memorandum of Understanding: KZN DOH and UKZN


13.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium*


SIGNED AT Westville on the 10 day of December 2014.

AS WITNESS

THE UNIVERSITY OF KWAZULU-NATAL

1.  (Signature)
D. NIVEN (Print name)


By 
Mr Convy Baloyi: the Registrar,
duly authorized hereto.

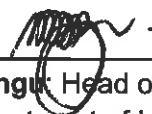
2.  (Signature)
R. PILLAY (Print name)


SIGNED AT PIETERMARITZBURG the 04th day of DECEMBER 2014.

AS WITNESS

KWAZULU-NATAL DEPARTMENT
OF HEALTH

1.  (Signature)
R. SEWSUNKER (Print name)

By 
Dr S M Zungu: Head of Department
for the Department of Health
KwaZulu-Natal

2.  (Signature)
B. KAYONGA (Print name)