

DATED THE 17TH DAY OF SEPTEMBER 2010

MEMORANDUM OF UNDERSTANDING

BETWEEN

SOUTH EASTERN UNIVERSITY COLLEGE (SEUCO)

(A CONSTITUENT COLLEGE OF UNIVERSITY OF NAIROBI)

AND

ELECTORAL LEADERSHIP INSTITUTE (ELI)

(A COMPANY BY GURANTEE AND CONSULTANCY FIRM)

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as “MoU”) is made on the 17th day of September 2010.

BETWEEN:

- (1) **South Eastern University College** (a Constituent College of the University of Nairobi) of Post Office Box 170-90200 Kitui in the Republic of Kenya (hereinafter referred to as SEUCO which expression shall include its successors in title and assigns); and
- (2) **Electoral Leadership Institute** of Post Office Box 63291 00619 Nairobi in the Republic of Kenya (hereinafter referred to as “ELI” which expression shall include its successors in title and assigns).

WHEREAS

- A. **South Eastern University College (SEUCO)** is a public university and body corporate established as a Constituent College of the University of Nairobi through Legal Notice No. 102 of 18th July 2008 as successor of the Ukamba Agricultural Institute (UKAI).
- B. SEUCO’s main emphasis is on **Science, Technology and Innovation**. SEUCO offers an all round education including moral and professional education to all persons irrespective of religion, race, gender, political affiliation or social and cultural persuasions.
- C. SEUCO endeavours to **create and develop well-trained human resources (work force), equipped with technology, scientific knowledge and capacities** through courses leading the award of certificates and diplomas, and conferment of degrees.
- D. **Electoral Leadership Institute (ELI)** is a registered Company by Guarantee in Kenya managed partly as a non-profit making organisation and partly as a consulting firm. ELI has a national and international Board of Directors (operating under a

Board Charter) and an Executive Director who is also a Certified Public Secretary. ELI is a concept thought out by three colleagues of African origin to translate *ad hoc elections training* into **formal career training** for Elections managers and administrators and for all the key stakeholders in elections, governance and democracy.

- E. ELI aims to make the business of **elections management and administration a professional career** where people acquire professional qualifications from recognised institutions of higher learning and apply them to their chosen professional career path in elections administration and management. The Institute is focused to change and influence people who manage and run Electoral Management Bodies (EMBs) to make the institutions professionally managed and with the capacity to **produce and sustain democracy**.
- F. ELI also targets training of all stakeholders in elections, governance and democracy such as governments, Legislature, Judiciary and the Executive arms of national and regional governments, public institutions of governance and democracy, political parties, electoral contestants, civil society organisations (observers/monitors), financial institutions, the media, electoral assistance institutions, electoral auditors, Law Reform Institutions, relevant ministries and other key stakeholders.
- G. ELI, through its Directors (who are BRDIGE Facilitators), has full access to the “Building Resources in Democracy, Governance and Elections (BRIDGE)” curriculum and other electoral, democracy and governance materials and resources from such sources such as the ACE Project (www.aceproject.org) with the power to train and fully accredit trainees. ELI also has access to reference and supplementary materials produced by the partners of BRIDGE; and with relevant permissions and acknowledgements can utilise them.

Purpose of MOU

This MOU sets out a framework for enhanced collaboration between ELI and SEUCO towards promoting academic excellence in elections, democracy and governance.

The parties have agreed to collaborate variously subject to the terms and conditions as contained herein, including in teaching the BRIDGE curriculum and or making other uses of it based on agreements and permissions from the BRIDGE office in Australia and through it, the BRIDGE Partners.

IT IS AGREED AS FOLLOWS:

1. Objectives

- 1.1. The objective of this MoU is to provide a framework for the parties to undertake as appropriate:
 - 1.1.1. To facilitate the training of all key stakeholders in the business of elections, governance and democracy using the BRIDGE Curriculum and any other Curricula or training resources agreed upon by the parties.
 - 1.1.2. Collaboration on resource mobilisation and sharing, including joint resource mobilisation initiatives and collaboration at all stages of the project cycle.
 - 1.1.3. Joint bidding for consultancy projects.
 - 1.1.4. Coordinated dissemination of research and other outputs arising from this project.
 - 1.1.5. Collaboration in organising seminars, conferences and other events including agreed forums and other mediums for training and education.
 - 1.1.6. Sharing of experience and expertise and other benefits and responsibilities as the case may be or arise in the course of the collaboration.
 - 1.1.7. Collaboration on other work, activities and initiatives that are mutually beneficial to both organisations.
 - 1.1.8. Collaboration in the establishment of a research and documentation centre for the purposes of the collaborative initiative.
- 1.2. The areas of collaboration detailed in paragraph 1.1 above are hereinafter collectively referred to as ‘the collaborative initiative’, which may in the course of time or soon

thereafter be turned into a Department, Centre or Institute for Electoral Studies and Democracy or into any other description as the parties may determine.

- 1.3. Within thirty - (30) days of the execution of this MoU the parties shall jointly identify individuals from both institutions who will be trained as BRIDGE Facilitators to be able to act as a pool of BRIDGE Facilitators for the collaborative initiative. These Facilitators will in turn be required, with the parties to develop a detailed implementation plan for the collaborative initiative.
- 1.4. The areas of cooperation identified in 1.1 above are subject to further elaboration and specific agreements to be separately designed by both Parties. Such agreements would, among other things, provide clear identification of specific objectives; define how responsibilities will be shared; resource mobilisation, allocation or contributions; ownership rights in project outputs and products; the work programme; and procedures for monitoring, evaluation and reporting.
- 1.5. Within sixty - (60) days of the execution of this MoU the parties shall jointly develop and commission a detailed Implementation Plan. Among the key elements of this Strategic Plan shall be detailed provisions as regards modalities for implementation of the Collaborative Initiative, Public Relations and Communications Strategy, a Resource Mobilisation, Utilisation and Accounting Strategy as well as its Monitoring and Evaluation strategy.

2. Areas of Collaboration.

The Parties agree to strengthen their cooperation in the following areas:

- 2.1. Launching and running of the collaborative initiative at SEUCO and other locations that the parties may identify and use.
- 2.2. As much as is practical SEUCO and ELI shall diligently work towards ensuring maintenance, sustenance and continuity of this collaborative initiative through its integration into SEUCO or build it into a centre for electoral studies within SEUCO.

Contribution from ELI

- 2.3. ELI will bring to the collaborative initiative the BRIDGE Curriculum and methodology of teaching/facilitating. BRIDGE is the world's most comprehensive

curriculum on elections, governance and democracy. With BRIDGE come other benefits such as membership to the BRIDGE family (including opportunities for facilitation, curriculum development and consultancies all over the world), ACE Practitioners network and other expert networks in the areas of elections and democracy.

- 2.4. ELI shall facilitate the training and accreditation of those undertaking the Train the Facilitator Course, the Modular Training and any other such training at such times and sequences as are laid out by BRIDGE requirements with a view to their progressing to the next highest Level at the earliest.
- 2.5. ELI will also bring to the collaborative initiative other training and reference materials and resources to which it has access.
- 2.6. ELI will bring to the collaborative initiative a wealth of experience, expertise, recognition and profile.
- 2.7. ELI will bring to the collaborative initiative BRIDGE Facilitators, who will train and accredit identified SEUCO staff and other trainers who will be responsible for the training courses of the collaborative initiative.
- 2.8. ELI will also train SEUCO/ELI and their partners in strategic planning, project management and in communication and presentation skills and knowledge.
- 2.9. ELI will bring to the collaborative initiative, national and international networks and partners in the areas of elections, governance and democracy.

Contribution from SEUCO

- 2.10. SEUCO shall provide training space and facilities for the collaborative initiative within SEUCO and at any other locations that SEUCO will determine and agree with ELI.
- 2.11. SEUCO will mainstream Elections Training in the University teaching through:
 - 2.11.1. Overseeing SEUCO participation in BRIDGE curriculum implementation;
 - 2.11.2. Creating a website link between SEUCO and ELI (and their Partners);
 - 2.11.3. Facilitating joint meetings and consultations between the two parties in the course of the implementation of the collaborative initiative;

3. Funds and Resources

- 3.1. SEUCO and ELI shall jointly develop and produce a resource mobilisation, utilisation and accounting strategy for the collaborative initiative, which will determine how resources will be raised, utilised, accounted for and shared between the parties.

4. Other specific Obligations of the Parties

- 4.1. The Parties shall implement their obligations under this MoU in good faith and parties undertake not to impose unnecessary/unreasonable and/or frivolous obstacles that would hinder the successful implementation of the Project.

5. Accreditation and Certificates

- 5.1 It is hereby agreed that the collaborative initiative (through its Accrediting Facilitators) shall issue BRIDGE Certificates bearing the logos and names of the five BRIDGE partners to successful participants in the **pure BRIDGE courses**. The five BRIDGE partners are the Australian Electoral Commission (AEC), International IDEA, International Foundation for Electoral Systems (IFES), United Nations Development Programme (UNDP) and the United Nations Electoral Assistance Division (UNEAD).
- 5.2 The two parties will endeavour to collaborate in teaching/training in other academic levels.

6. Term

Unless terminated as provided herein, this MoU shall remain in force for a period of Five (5) years and may be renewed for such further period, and, on such terms and conditions, as shall be mutually agreed by the Parties.

7. Indemnity

A Party (hereinafter 'that Party') shall indemnify the other Party (hereinafter 'the Other Party') against any legal and other expenses that the Other Party may incur as a result of legal suits or any other actions that may arise as a result of default on the

part of that Party in the process of management and/or administration of the collaborative initiative irrespective of whether such suits or actions are against the Parties jointly or severally.

8. **Insurance**

The Project shall procure the necessary insurance policies in respect of insurable risks that may arise from the provisions herein.

9. **Confidentiality**

9.1. Each of the parties shall keep confidential this MoU and shall not disclose to any other person nor use for any purpose any information obtained from the other Party as a result of negotiating, entering into or implementing the MoU other than information which:

9.1.1. Is required to be disclosed by operation of law or any requirement of any governmental or regulatory authority; or

9.1.2. Is reasonably required to be disclosed in confidence to the Party's professional advisors for use in connection with this MoU; or

9.1.3. Is or becomes within the public domain (otherwise than through the default of the recipient party).

9.2. No public announcement or press release in connection with the subject matter of this MoU shall be made or issued by or on behalf of either party without the prior approval of the other, except as may be required by law or by any governmental authority.

9.3. Any breach of this Clause shall entitle the offended Party to terminate this MoU.

10. **Termination**

10.1. Either party can terminate this MoU by giving the other Six (6) months written notice.

10.2. In the event of such termination, any on-going activities under the Project shall be dealt with as shall be mutually agreed in writing by the Parties.

11. **Governing Law and Arbitration**

- 11.1. This MoU and its performance shall be governed by and construed in all respects in accordance with the laws of Kenya.
- 11.2. Should any dispute arise between the Parties hereto with regard to the interpretation, rights, obligations and/or implementation of any one or more of the provisions of this MoU, the Parties shall in the first instance attempt to resolve such dispute by amicable negotiation.
- 11.3. Should such negotiations fail to achieve a resolution within Fifteen (15) days, either Party may declare a dispute by written notification to the other, whereupon such dispute shall be referred to arbitration by a single arbitrator to be appointed by agreement between the Parties or in default of such agreement within 14 days of the notification of a dispute, upon the application of either party, by the Chairperson for the time being of the Kenya Branch of the Chartered Institute of Arbitrators of the United Kingdom.
- 11.4. Such arbitration shall be conducted in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995 or any modifications or replacements thereof.
- 11.5. To the extent permissible by law, the determination of the Arbitrator shall be final and binding upon the parties and any Party may apply to a court of competent jurisdiction for enforcement of such award.
- 11.6. Notwithstanding the above provisions of this Clause, a Party is entitled to seek preliminary injunctive relief or interim or conservatory measures from any court of competent jurisdiction pending the final decision or award of the arbitrator.

12. **Status**

This MoU is intended by the Parties to be legally binding and create legal obligations on either party.

13. **Enduring nature of this MoU**

This MoU shall continue to be in force and effect, notwithstanding the Contract Period having reached, for as long as may be necessary for the mutual reliance on the provisions of the MoU by the Parties to it.

14. **Miscellaneous**

14.1. In this MoU: -

14.1.1. Expressions in the singular shall include the plural and in the masculine shall include the feminine and vice versa and references to persons shall include corporations and vice versa;

14.1.2. References to recital, clauses and schedules are references to recitals and clauses of and schedules to this MoU;

14.1.3. The headings used in this MoU are inserted for convenience only and shall not affect its construction or interpretation;

14.2. Warranties:

14.2.1. Any individual signing on behalf of either Party represents and warrants that all steps and actions have been taken under the entity's governing instruments to authorize the entry into this MoU. Such individual shall attach authorising documentation at the time of execution hereof.

14.2.2. Breach of any representation contained in this paragraph shall entitle the aggrieved Party to terminate this MoU provided that such breach shall not enable the offending Party to escape its obligations undertaken in the course of implementing this MoU.

14.3. All prior agreements:

14.3.1. This MoU hereof, hereby supersedes representations and warranties, express or implied, oral or written, with respect to the subject matter.

15. **Severability**

In the event any provision of this MoU is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this MoU so as not to cause the invalidity or unenforceability of the remainder of this MoU. All

remaining provisions of this MoU shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.

16. Notices

16.1. Any notice or other communication to be given by any party to this MoU shall be in writing and shall be deemed duly served if delivered personally by hand delivery or sent by registered post to the addressee at the address of that party set opposite its name below or at such other address as the party to be served may have notified (in accordance with the provisions of this Clause) for the purposes of this agreement:

For SEUCO:

Prof. Geoffrey M. Muluvi,
SEUCO, Kwa Vonza
P.O. Box 170-90200,
Kitui, Kenya.

For ELI:

Koki Muli,
Ridgeways Brook,
P.O. Box 63291 - 00619
Nairobi, Kenya.

Any notice or other communication shall be deemed to be served if delivered by hand or by registered post, upon delivery at the relevant address.

17. Modification

Except as otherwise provided in this document, this MoU may be modified, superseded, or voided only upon the written and signed agreement of the Parties. Further, the physical destruction or loss of this document shall not be construed as a modification or termination of the MoU contained herein.

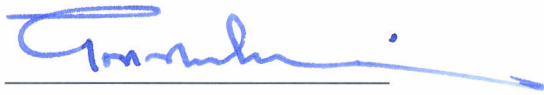
18. **Force Majeure**

Neither Party shall have any liability or be deemed to be in breach of this MoU for any delays, failures or impossibility resulting from circumstances beyond the reasonable control of that Party.

19. **Date of Commencement**

This MoU shall become effective from the date of execution by the Parties herein.

Signed for and on behalf of SEUCO:



PRINCIPAL

Name: Prof. Geoffrey M. Muluvi

Authorised Signatory

Date: 1. 11. 2010

Signed for and on behalf ELI:



EXECUTIVE DIRECTOR

Name: Koki Muli

Authorised Signatory

Date: 01. 11. 2010