

**MEMORANDUM OF  
UNDERSTANDING**

**BETWEEN**



**SOUTH EASTERN KENYA  
UNIVERSITY  
(SEKU)**

**AND**

**MAKUENI BOYS' HIGH SCHOOL**

## **PREAMBLE**

This MEMORANDUM of UNDERSTANDING is between **South Eastern Kenya University (SEKU)** P.O. Box 170-90200, Kitui (hereinafter referred to as SEKU Wote Town Campus which expression shall, where the context so admit, include its successors and assigns) of the first part and Makueni Boys High School of P.O Box 20 CODE 90300 Makueni, having its sporting facilities located in the school compound, (hereinafter referred to as **Makueni Boys' High School** which expression shall, where the context so admit, its include successors and assigns).

Hereinafter **SEKU** and **Makueni Boys' High School** will be referred to as the "Parties."

RECOGNIZING the important role that both Parties play in providing Education to learners in the country and CONSCIOUS of the various needs, constraints and changes taking place in the in Education sector and the need to keep a collaborative approach and keep abreast these challenges.

The Parties enter into this MoU.

## **ARTICLE 1: GENERAL PROVISIONS**

### **a) Relationship between the Parties.**

Each Party shall have full control of its operations and undertakings and shall have full responsibility for activities and duties carried by itself and on its behalf as long as it does not infringe on the right of the other.

### **b) Good faith and fairness.**

- i) The Parties undertake to act in good faith with respect to each other's rights and obligations based on the objectives and goals of this MoU.

ii) The Parties recognize the impracticability of providing for every contingency which may arise during or after the life of this MoU and, hereby, pledge to operate fairly and without detriment to the interests of either of them.

**c) Notices**

Any notice, request, consent/permission required shall be in writing and shall either be delivered in person to the authorized representative at the Head office of the Party or sent by mail or fax to such Party using the following address:

**The Vice Chancellor**

**South Eastern Kenya University**

P. O. Box 170-90200.

Kitui, Kenya

Tel. +254 716 962771, 020241 3859

Website: [www.seku.ac.ke](http://www.seku.ac.ke)

Emails: [vc@seku.ac.ke](mailto:vc@seku.ac.ke)

**The Principal**

Makueni Boys' High School

P.O. Box 20 Code 90300 Makueni, Kenya

Email: [makueniboys@gmail.com](mailto:makueniboys@gmail.com)

A Party may change its physical address, postal address, e-mail or fax provided that it give the other Party notice of such change in writing pursuant to this clause.

**d) Authorized Representatives**

Any action required or permitted to be taken and any document required or permitted to be executed under this MoU may be undertaken or executed.

- i) On behalf of SEKU by the Vice Chancellor of SEKU/ Director Wote Town Campus or his/her appointee/ assigns/ representatives/ agents.
- ii) On behalf of Makueni Boys' High School by the Principal of Makueni Boys' High School or his appointee/ assigns/ representatives/ agents.

e) **Institutional Liability**

No partnership or joint venture is created by this MoU, and neither Party can commit the other financially or otherwise to third Parties.

f) **Derivative Agreements and Detailed Work-Plans**

Detailed Program Specific Agreement and work-plans may be designed and prepared to facilitate the implementation of specific activities and events within specified timeframes deriving from the main MoU.

**ARTICLE 2: AREAS OF COLLABORATION**

a) Use of Makueni Boys' High School sports field and other sporting facilities.

b) Jointly, organize for tournaments between the two parties or other institutions as mutually shall be agreed upon.

c) Undertake any other collaborative or mutually beneficial initiative/project/activity complimentary, related to or incidental to the foregoing and which can be undertaken in accordance with the MoU or any other derivative agreements and work-plans.

### **ARTICLE 3: DURATION OF MoU**

- a) The MoU will remain in force for five (5) years at the end of which both Parties will review the collaboration with the aim of continuing the collaboration or terminating.
- b) The detailed Agreements, which may from time to time become annexure to the main MoU, may be reviewed more frequently and regularly as specified in such Agreements and work-plans.

### **ARTICLE 4: DAMAGE, TEAR AND WEAR COMPENSATION**

- a) Any damage arising from usage of the facilities shall be paid for by the user or if is as a result tear and wear the percentage contribution shall shall be agreed upon by both parties.

### **b) ARTICLE 5: MODIFICATION/AMENDMENTS.**

Modification of the terms and conditions of this agreement including modification of the scope of responsibilities of the Parties, may only be made by written agreement between the Parties and the same will be incorporated as either an ADDEDUM to the main MoU or as Annexure if it is a detailed MoU or work-plan and may be reviewed more frequently/regularly as specified in such Agreements.

### **ARTICLE 6: USE OF NAME AND LOGO**

Neither Party shall use the name or logo, or any variation thereof, of the other Party without first obtaining its written consent.



## **ARTICLE 7: STANDARDS OF PERFORMANCE**

The Parties agree that all obligations under this MoU and any agreement resulting from this MoU shall be performed on a manner protective of and consistent with both Parties' reputation for excellence and integrity in education.

## **ARTICLE 8: 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.

## **ARTICLE 9: 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.

## **ARTICLE 10: TERMINATION**

- a) Either Party may terminate this MoU by giving six months written notice to the other Party.
- b) In the event of such termination of the MoU, any on-going activity under the collaboration shall be dealt with as shall be mutually agreed by the Parties.
- c) Any or losses in the pursuance of the objectives of this MoU that shall have been incurred at the time of termination shall be shared in mutually agreed ratios between the Parties.

## **ARTICLE 11: SETTLEMENT OF DISPUTES**

**Amicable settlement:** The Parties shall make efforts and take all the necessary measures to settle conflicts or disputes arising out of or in connection with this MoU or its interpretation thereof.

**Arbitration:** Any dispute, conflict, difference or question, which may arise at any time, between the Parties, which cannot be settled amicably within ninety (90) days, shall be referred to an arbitrator to be agreed upon between the Parties; provided that, if the Parties fail to agree on an Arbitrator, then within 21 days of such failure to agree, the Chairman of the Chartered Institute of Arbitration, Kenya Branch in accordance with and subject to the provisions of Arbitration Act Cap 49 Laws of Kenya or any other written law.

## **ARTICLE 12: PERFORMANCE**

This agreement shall be read and construed in accordance with the Laws of Kenya and the courts/tribunals in Kenya shall have jurisdiction with regard to the interpretation, performance, validity, status and resolution of disputes/conflicts arising from the MoU.

## **ARTICLE 13: MISCELLANEOUS**

**In this MoU:** 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/ Institutions and vice versa.

or Regulation for the time being in force, shall appoint an Arbitrator for the purposes of this MoU.



- b) References to recital, clauses and schedules/annexure are references to recitals and clauses of and schedules/ annexure to this MoU.
- c) The headings used in this MoU are inserted for convenience only and shall not affect its construction or interpretation;
- d) **Warranties:** 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 authorizing documentation at the time of execution hereof.
- e) 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.
- f) **All prior agreements:** Representations and warranties, express or implied, oral or written, with respect to the subject matter hereof, are hereby superseded by this MoU.

**ARTICLE 14: EXECUTION AND SIGNING**

In witness whereof the Parties have affixed their common seals this \_\_\_\_\_ day of \_\_\_\_\_ 2016

**SEALED WITH THE COMON SEAL OF:**

**SOUTH EASTERN KENYA UNIVERSITY (SEKU) &**

**MAKUENI BOYS' HIGH SCHOOL**

In the Presence of:



*[Handwritten signature]*

Prof. Geoffrey M. Muluvi, Vice Chancellor, SEKU

Witnessed by:

*[Handwritten signature]*

Prof. Zipporah Ng'ang'a Deputy Vice-Chancellor (Academic, Research and Student Affair)

Date ..... *11<sup>th</sup> March 2016* .....

*[Handwritten signature]*

**PRINCIPAL  
MAKUENI BOYS' HIGH SCHOOL  
P. O. Box 20-90300 MAKUENI  
TEL: 020-2623820**

Mr. Benson Manoo, Principal, Makueni Boys' School

Witnesses by:

*[Handwritten signature]*

Chairman, Board of Management Makueni Boys' High School.

Date: ..... *14/3/2016* .....