

9/8/16-340

Check List to be completed before grants/contracts/MOUs/MOAs are forwarded for signature on behalf of the University of the Western Cape.


**CONTRACT(S)/AGREEMENT(S):**

UWC - CUT : REBATE AGREEMENT

1. Is the relevant Head of Department/Division aware of the grant/contract/MOU/MOA?

YES

NO

Signature of HOD: 

Date: 1/12/17

LIONEL DANIELS

PRINT NAME & POSITION

2. Has the relevant Executive Manager endorsed the grant/contract/MOU/MOA? (e.g the Deputy Vice Chancellor (Academic) for the Faculties; the Director: International Office for MOUs with other Universities)

YES

NO

Signature of Executive Manager: 

Date: 30 Nov 2017


ABDURAGHMAN REGAL : EDF ES

PRINT NAME & POSITION

Has the Director: Legal Services assessed all risks and approved the grant/contract/MOU/MOA for signature?

YES

NO

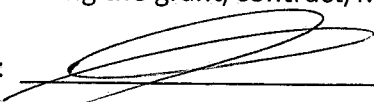
Signature of Director: Legal Services: 

Date: 1/12/17

Mr S Rajie

Director: Legal Services

Name of Member submitting the grant/contract/MOU/MOA for signature:

Signature of Member: 

Date: 28/11/17

Print name and surname:

TAMIMA TALIP

Extension/Telephone #: 3685


Email address: ttalip@uwc.ac.za



**REBATE AGREEMENT**

between

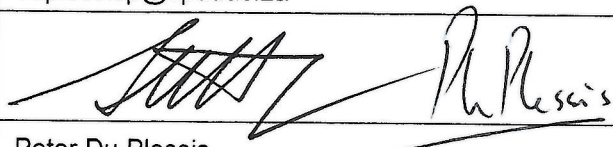
**UNIVERSITY OF THE WESTERN CAPE**

<b>Physical Address</b>	4 <sup>th</sup> Floor, West Wing, Administration Building, Robert Sobukwe Road, Bellville, 7535, South Africa
<b>Postal Address</b>	Private Bag X17, Bellville, 7535
<b>Telephone Number</b>	+27 (0)21 959 3527
<b>Contact Person</b>	Abduraghman Regal (contractual matters) Shervaan Rajie (legal matters)
<b>Email Address</b>	<a href="mailto:mregal@uwc.ac.za">mregal@uwc.ac.za</a> <a href="mailto:srajie@uwc.ac.za">srajie@uwc.ac.za</a>
<b>Signature(s)</b> <i>(For the University who warrants that s/he is duly authorised to sign)</i>	
<b>Name</b>	Abduraghman Regal
<b>Position</b>	Executive Director: Finance and Services
<b>Date</b>	30 November 2017

(hereinafter "UWC")

and

**CAPE PENINSULA UNIVERSITY OF TECHNOLOGY**

<b>Physical Address</b>	Symphony Way, Bellville, 7535
<b>Postal Address</b>	P O Box 1906, Bellville, 7535
<b>Telephone Number</b>	+27(0)21 959 6204
<b>Contact Person</b>	Peter Du Plessis (contractual matters) Rosa Scalabrino (legal matters) Mandy Delport ( student credit matters)
<b>Email Address</b>	duplessisp@cput.ac.za
<b>Signature(s)</b> <i>(For X who warrants that s/he is duly authorised to sign)</i>	
<b>Name</b>	Peter Du Plessis
<b>Position</b>	Executive Director: Finance
<b>Date</b>	12 December 2017

(hereinafter "CPUT")

The Parties agree to be bound by this cover sheet and by the attached terms and conditions which are incorporated in this cover sheet by this reference.

*R.P*  
*NSV*

Both parties acknowledges that it has read and understands the attached terms and conditions.

EFFECTIVE DATE	1 JANUARY 2018
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## PREAMBLE

UWC and CPUT have enjoyed a longstanding relationship and share a rich history based on the institutions' similar historical background and camaraderie in the struggle to provide access to quality tertiary education for all.

The two institutions continue to reflect similar values, missions and goals and have over the years established and maintained successful collaborations in various academic fields.

It is against this backdrop that the institutions wish to further cement their commitment to maintaining a cordial relationship and promote reasonable access to tertiary education for all. In a quest to achieve the latter, the institutions have agreed to put in place this Agreement which sets out a reciprocal rebate/subsidy arrangement for the benefit of certain categories of staff members and/or his/her spouse and dependent child(ren) at the other institution.

## 2. DEFINITIONS AND INTERPRETATION

2.1 In this agreement, unless the contrary appears from the context, the following terms/expressions shall bear the meanings assigned to them below:

- 2.1.1 **"Agreement"** shall mean this Agreement together with its Annexures.
- 2.1.2 **"Academic staff"** means those persons employed by an Institution primarily to teach or do research and may include executive members (as per their employment contract) and Deans of faculties.

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2.1.3 **“Administrative and Support staff”** means persons employed by an institution in a professional and/or support capacity.

For purposes of this agreement, administrative and support staff may include general and other workers who are eligible for a rebate at the sending institution.

2.1.4 **“Benefits”** means the rebate granted to an employee of either institution as set out in clause 4 of this Agreement.

2.1.5 **“CPUT”** means The Cape Peninsula University of Technology, a University established in terms of the Higher Education Act, 101 of 1997, as amended, with its main place of business situated at Symphony Way, Bellville, 7535, represented by Peter Du Plessis, in his capacity as Executive Director: Finance.

2.1.6 **“Dependent child”** means an unmarried and unemployed child of an employee of either institution who is reliant on such employee for financial support and care. A child may include an employee’s biological child; a legally adopted child; a child placed in the care of the employee by way of a foster care court order; or such other care order granted by a court which would render the employee that child’s primary carer or guardian in terms of the Children’s Act 38 of 2005, notwithstanding that such child has reached the age of majority

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- 2.1.7 **“Full-time Contract staff”** means an employee of an institution employed on a full time basis in terms of a fixed term contract of 24 or more months
- 2.1.8 **“Party/-ies”/ “institution/s”** mean UWC and CPUT jointly or either one of the two.
- 2.1.9 **“Permanent staff”** means an employee of an institution employed on a permanent basis.
- 2.1.10 **“Rebate”** means such discount on fees as may be granted by a Party to its own staff, their dependents and/or spouse or to the staff or child(ren) of the other party.
- 2.1.11 **“Receiving institution”** means the institution who will grant the rebate on fees to the employees of the other institution, as set out in this Agreement.
- 2.1.12 **“Sending institution”** means the institution whose staff members will enjoy the rebate on fees offered by the other institution as set out in this Agreement.
- 2.1.13 **“Spouse”** means a person who is the partner of an employee:
- (a) In a marriage or union concluded in accordance with:
- (i) the Marriage Act 25 of 1961;
- (ii) the Civil Unions Act 17 of 2006;
- alternatively*

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- (b) a customary marriage recognized under the Recognition of Customary Marriages Act 120 of 1988;  
*or*
- (c) a marriage concluded in accordance with the tenets of any religion (including but not limited to marriages concluded in terms of Hindu and Muslim Rites).

2.1.14 “**Staff**”

shall mean the permanent or Academic or Administrative and Support Staff of the Parties employed by either institution on a contract basis for a period of 24 or more months.

2.1.15 “**UWC**”

shall mean the **University of Western Cape**, established in terms of the Higher Education Act of 1997 and the University of Western Cape Statute, situate at **Robert Sobukwe Road, Bellville**, represented by Abduraghman Regal, in his capacity as Executive Director: Finance, duly authorised.

2.2 Clause and paragraph headings are for purposes of reference only and shall not be used in interpretation.

2.3 Unless the context clearly indicates a contrary intention, any word connoting:

2.3.1 any gender includes the other genders;

2.3.2 the singular includes the plural and vice versa;

2.3.3 natural persons include artificial persons and vice versa;

2.3.4 insolvency includes provisional or final sequestration, liquidation or judicial management.

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- 2.4 When any number of days is prescribed such number shall exclude the first and include the last day unless the last day falls on a Saturday, Sunday, official University holiday(s) or a public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding Business Day.
- 2.5 A reference to an enactment is a reference to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 2.6 The rule of interpretation that a written agreement shall be interpreted against the Party responsible for the drafting or preparation of that agreement shall not apply.
- 2.7 The *eiusdem generis* rule ("of the same kind") shall not apply and accordingly, whenever a provision is followed by the word "including" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.
- 2.9 Where any term is defined within the context of any particular clause in this Agreement or any of its annexures or schedules, then, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, the term so defined shall bear the meaning ascribed to it for all purposes in terms of this Agreement or any of its annexures or schedules, notwithstanding that that term has not been defined in the definition clause.
- 2.10 All annexures and schedules to this agreement are incorporated herein and form an integral component of this agreement.
- 2.11 In the event of a conflict between the provisions of this agreement and the any schedule or annexure hereto, the terms of this agreement shall prevail.

### **3. SCOPE OF AGREEMENT**

- 3.1 Subject to clause 3.3 below, the benefits as set out in this Agreement will be applicable to the staff of either institution employed as:
- (i) Permanent academic staff
  - (ii) Permanent administrative and support staff;
  - (iii) Full time contract academic staff employed on a contract basis for 24 or more months;

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- (iv) Full time contract administrative and support staff employed on a contract basis for 24 or more months;
- (v) Such other staff member as may be endorsed by the sending institution.

3.2 The benefits shall be limited as set out in this clause 3 and clause 4 below.

3.3 Staff members of either institution shall only be entitled to the benefits as set out herein, if the following conditions are met:

3.3.1 The course, degree or programme must be accredited by the Council of Higher Education (CHE) and registered on the National Qualification Framework (NQF);

AND

3.3.2

(i) The course is offered at the sending institution but the applicant does not qualify to register with the institution or his or her application was unsuccessful or the sending institution has reached its capacity in terms of student numbers for a programme/course that the applicant applied for;

OR

(ii) For staff of either institution, the course is available on a part-time basis at the receiving institution.

OR

(iii) The course is not offered by the sending institution.

3.4 The subsidy shall apply strictly to tuition fees only. Any registration fees, accommodation costs, membership fees, subscriptions, food, travel, books and equipment or any other costs shall be excluded.

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*[Handwritten initials/signature]*

#### **4. BENEFITS**

- 4.1 Subject to the terms of this Agreement, staff of the sending institution may be entitled to a 95 % subsidy on tuition fees for the eligible staff member, a dependent child and/or his or her spouse at the receiving institution.
- 4.2 The application for a Rebate in accordance with this Agreement must be considered by the HR representative of the Sending Institution who shall on approval, issue a letter to confirm that the applicant qualifies for the Rebate. The Receiving Institution shall as far as may be reasonable and practical, honour the endorsement of eligibility for the Rebate received by it from the sending institution. The Sending Institution may, in considering approval, take into account any limitations, including limits relating to length of studies, as may be set out in such sending institution's applicable policies.

#### **5. NOTICE OF TERMINATION OF EMPLOYMENT**

- 5.1 Both institutions agree to inform the other if the employment contract of a staff member who has been granted the benefit as set out in this Agreement has been terminated, other than through death or if the staff member has resigned;
- 5.2 The benefits as set out in this Agreement shall terminate with effect from the first day of the month following the date of termination of employment.
- 5.3 The receiving institution shall be entitled to recalculate the outstanding fees by applying the benefit up to date of termination of employment only.
- 5.4 The benefit shall remain in place for the dependent children or spouse of employees whose employment contracts are terminated due to death, for the remainder of the applicable academic year, unless the receiving institution elects to extend the benefit as it deems fit.

#### **6. DURATION**

This Agreement and the rights and obligations of the Parties under this Agreement shall take effect on the Effective Date, as set out on the cover-page and shall continue until terminated by either party on 6 months' notice, provided that such notice shall be received at least 6 months prior to the end of the academic year during which the notice

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*[Handwritten signatures]*

is served. Should short notice be received, the Agreement will continue until the end of the following academic year, unless the parties agree differently.

Any person in the system at the time of cancellation or termination may be entitled to receive the benefits set out herein for the course he or she is enrolled for at the time of cancellation or termination of this Agreement and provided he or she makes sufficient academic progress.

## **7. ENTIRE AGREEMENT**

This Agreement constitutes the sole record of the agreement between the parties in regard to the subject matter thereof. The parties shall not be bound by any representations, express or implied term, warranty, undertaking or other obligation, unless recorded herein.

## **8. AMENDMENTS**

No consensual cancellation or amendment of this Agreement (or this clause) shall be valid, unless in writing and signed by the parties.

## **9. WAIVER**

No indulgence which any party may grant to the other shall constitute a waiver of or prejudice the rights of the party granting the indulgence.

## **10. SEVERABILITY**

If any provision of this Agreement is found to be invalid or unenforceable for any reason, it will not invalidate the entire Agreement, but it shall be severed from the remainder of the Agreement. The remainder of the Agreement shall remain valid and enforceable, unless the invalid or unenforceable provision goes to the heart of the Agreement. In the event of the latter, the party who is adversely affected by the invalid or unenforceable provision may elect to cancel the Agreement; or to continue with it;

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or continue with it subject to an appropriate amendment or provision to replace the invalid or unenforceable one.

## 11. CESSION AND DELEGATION

Neither party may cede its rights or delegate its obligations in terms of this Agreement, without the prior written consent of the other party.

## 12. NOTICES

12.1 Any notices or communications by the parties in terms of this Agreement shall be in writing and shall either be hand delivered, sent by registered post or sent by email and addressed to the applicable contact persons and at the contact addresses as set out on the cover page.

12.2 Notices or communications sent by electronic mail or facsimile shall be deemed to have been received on the date reflected on the electronic mail properties schedule or the facsimile transmission slip. Notices or communications delivered by hand shall be deemed to have been received on the date of delivery. Notices or communication sent by post, shall be deemed to have been received by the addressee 7 (seven) business days after being posted.

12.3 The physical addresses specified on the cover sheet for each party shall be regarded as the *domicilium citandi et executandi* of the respective parties.

12.4 Any one of the parties may change its contact particulars by giving seven (7) days written notice thereof to the other party, provided that the *domicilium citandi et executandi* must be a physical place of business or residence.

## 13. Relationship

Nothing in the Agreement shall constitute, or be deemed to constitute the formation of a registered or unregistered legal entity between the Parties hereto or constitute, or be deemed to constitute the one Party as agent of the other Party for any purpose whatsoever,

*[Handwritten signatures]*

and the Parties will have no authority to bind each other or to contract in each other's name or to create a liability against one another in any way or for any purpose.

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PLP  
D. MOW