COLLABORATION AGREEMENT

BETWEEN

THE NATIONAL DEPARTMENT OF ENVIRONMENTAL AFFAIRS
Hereinafter referred to as “the Department”
Represented by
Ms Nosipho Ngcaba
In her capacity as Director-General
Duly authorised thereto

AND

INSTITUTE OF WASTE MANAGEMENT OF SOUTHERN AFRICA (IWMSA)
Hereinafter referred to as “the Institute”
Represented by
Mrs Gail Smit
In her capacity as Executive Officer
Duly authorised thereto

FOR THE BILATERAL COOPERATION IN CHEMICALS AND WASTE MANAGEMENT
MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND THE INSTITUTE OF WASTE MANAGEMENT OF SOUTHERN AFRICA FOR THE BILATERAL COOPERATION IN CHEMICALS AND WASTE MANAGEMENT

1. PREAMBLE

RECOGNISING the importance of collaboration, local and international co-operation in the field of chemicals and waste management, circular economy, enterprise support and development for economic, environmental and social development;

ACKNOWLEDGING the positive experience gained through excellent bilateral relationships in the fields of Chemicals and Waste Management, Circular Economy and Sustainable Development Activities as well as the interest of both parties to improve these relationships for increased mutual benefit;

CONSIDERING that the Institute and the Department are currently pursuing chemicals and waste management activities in a number of areas of common interest, and that further participation in each other’s research, conferences, seminars, workshops, enterprise and SMME support and development activities on a basis of equality and reciprocity will provide mutual benefits;

CONSIDERING especially the common interest in making progress in chemicals and waste management and circular economy and opportunities in research areas of mutual strategic interest;

DESIRING to establish a framework agreement for co-operation in chemicals and waste management, training, research, technological innovation which will extend and strengthen the conduct of cooperative activities in areas of common interest;

NOW THEREFORE the Parties agree as follows:

2. INTERPRETATION AND DEFINITIONS

2.1 For the purposes of this Collaboration Agreement (hereinafter referred to as Agreement), unless the context indicates otherwise, the following definitions are set out for the terms indicated –

Department means the National Department of Environmental Affairs;

Effective Date means the date when the agreement starts to be used;
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Parties means the Department and the Institute and “Party” means either of them as indicated by the context;

Signature Date the date of signature of this Agreement by the last Party signing thereto;

Termination Date means a date on which this Agreement is terminated in accordance with the provisions of this Agreement;

The Institute means the Institute of Waste Management of Southern Africa (IWMSA); and

WasteCon means the Biennial conference and exhibition of IWMSA

Waste Khoro means an annual Waste Officers’ Conference

Year means twelve (12) consecutive months.

2.2 Expressions defined in this Agreement shall bear the same meanings in the Annexures to this Agreement, unless expressly stated otherwise in this Agreement.

2.3 In this Agreement:
2.3.1 the singular shall include the plural and vice versa; and
2.3.2 unless otherwise indicated, any meaning ascribed to a word, phrase or expression in this Agreement, shall bear the same meaning wherever it appears thereafter;
2.3.3 the head notes to the clauses of this Agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation hereof;
2.3.4 any reference to a particular gender includes the other genders;
2.3.5 any reference to a natural person includes an judicial person and vice versa;
2.3.6 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday,
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Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday; and

2.3.7 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

2.4 In the event that any of the terms of this Agreement are found to be invalid, unlawful or unenforceable, such term will be severable from the remaining terms, which will continue to be valid and enforceable.

3. OBJECTIVE OF THE AGREEMENT

3.1 This present Memorandum of Understanding (hereinafter referred to as “Agreement”) is a framework agreement.

3.2 The objective of this Agreement is to encourage and promote cooperative activities between the two Parties in the fields of Chemicals and Waste Management, Circular Economy, and Sustainable Development and integrated waste management activities on the basis of mutual benefit, equality and reciprocity and in accordance with the applicable domestic law and relevant international agreements of the respective Parties.

4. AREAS OF COOPERATION

4.1 Priority will be given to collaboration that can advance progress in Chemicals and Waste Management, Circular Economy and Sustainable Development Activities.

4.2 Subject to applicable national laws, regulations and procedures each Party will accord fair and equitable treatment for the representatives of the other Party engaged in the pursuit of activities under this Agreement.

4.3 Cooperative activities may include the following:

4.3.1 Collaboration on the running of the Annual Waste Management Khoro and the Biennial WasteCon;
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4.3.2 Running the Waste Khoro and WasteCon back to back with each other;
4.3.3 Participation of Waste Officers at WasteCon and other similar events at an agreed fee;
4.3.4 Participation of IWMSA members and attendance of the Khoro and other similar events at an agreed fee;
4.3.5 Partnerships and collaborations within the areas of chemicals and waste management, recycling of waste, chemicals management, with the aim to promote circular economy networks and cooperation across value chains;
4.3.6 Collaboration on international fora and institutions on chemicals and waste management;
4.3.7 Collaboration in regional seminars and workshops hosted by the Department or the Institute or both;
4.3.8 Partnership on South Africa’s participation at the International Solid Waste (ISWA) structures, congress and meetings;
4.3.9 Working on ISWA Africa Regional Chapter; and
4.3.10 Assist the IWMSA in hosting of an ISWA World Waste Congress when an opportunity for this arises.

5. COMPETENT AUTHORITIES

5.1 The Institute of Waste Management of Southern Africa and Department of Environment, Forestry and Fisheries are the competent authorities responsible for the implementation of this Agreement.

5.2 The Institute of Waste Management and DEA and the institute’s regional structures will be designated as the Cooperating Authorities for implementing this Agreement.

6. JOINT COMMITTEE ON TECHNOLOGICAL COOPERATION

6.1 The Cooperating Authorities for implementing this Agreement will set up a joint Coordinating Committee (hereinafter referred to as the "Joint Committee") consisting of representatives nominated by each Party.

6.2 The Joint Committee will meet alternately, unless otherwise agreed, at the Department or the Institute Offices on mutually convenient dates. The Chairing of the Committee is to rotate every year between
the Parties. Decisions of the Joint Committee shall be reached by consensus.

6.3 Within the framework set up in this Agreement, the responsibilities of the Joint Committee will be to:
   6.3.1 Promote, develop and review co-operative activities;
   6.3.2 Consider and consult the policy aspects relevant to the implementation of the Agreement;
   6.3.3 Identify and discuss areas of mutual interest and forms of cooperative activities;
   6.3.4 Monitor and evaluate the progress of collaboration under this Agreement and propose measures to enhance it; and
   6.3.5 Review progress regarding the implementation of the Agreement and guide future activities.

7. **FINANCIAL MATTERS**

7.1 Cooperation activities will be based on the availability of appropriate funds, resources and personnel and subject to the applicable national laws, regulations and procedures of the Parties.

7.2 Unless otherwise provided for, each Party will bear the costs of its participation and that of its personnel or representatives engaged in cooperation activities under this Agreement.

7.3 Parties may participate in joint activities that might offer mutual benefit and may require joint financial contribution.

8. **INTELLECTUAL PROPERTY**

8.1 The protection of intellectual property rights arising from cooperation activities under this Agreement will be in accordance with South African laws and regulations of the respective Parties as well as Polices, legislation, regulation, international agreements on intellectual property rights which are applicable to both Parties.

9. **ENTRY INTO FORCE**

9.1 This Agreement will become effective on the date of signature and will remain in effect until either Party terminates it based on merits.
9.2 This Agreement may be reviewed after a period of 5 (five) years.

9.3 This Agreement shall not apply to the clients of both Parties, not unless instructed by Parties themselves in line with the implementation of this Agreement.

9.4 This Agreement may be amended, in writing, at any time by mutual written consent of the Parties.

9.5 The amendment or termination of this Agreement will not affect the validity of joint arrangements and contracts already concluded under it.

9.6 This Agreement will not affect the present and future rights or obligations of the Parties arising from legislation, regulations, policies, other bilateral or international agreements and treaties.

10. GOOD FAITH AND REASONABLENESS

10.1 In their dealings with each other for purposes of this Agreement, the Parties:
   10.1.1 undertake to act in good faith and reasonably; and
   10.1.2 warrant that they shall not do anything or shall refrain from doing anything that might prejudice or detract from the rights or obligations of each other.

10.2 This Agreement does not in any way limit any statutory powers and functions of the Parties.

11. CANCELLATION / TERMINATION OF THE AGREEMENT

11.1 This Agreement may be terminated by the mutual written consent of both Parties.

11.2 Either Party may terminate this Agreement by written notification to the other Party.

11.3 This Agreement may be cancelled by either Party at any time by giving six months written notice in advance to the other Party.
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12. DISPUTE RESOLUTION

12.1 Any disagreement or dispute arising between the Parties with regard to implementation, application, interpretation or breach of this Agreement shall be settled as follows:

12.1.1 a disagreement or dispute must be initiated in writing;

12.1.2 the Parties must initially make all reasonable efforts to settle any such difference or dispute through consultation and negotiation;

12.1.3 should either Party allege that there has been any non-compliance by the other Party, in respect of any of the material terms and conditions of this Agreement, the duly appointed on-site representatives of the Parties must first attempt to resolve the matter amicably;

12.1.4 should settlement not be achieved in terms of clause 12.1.3 above, the Party alleging non-compliance with this Agreement shall, in writing, advise the other Party of its non-compliance;

12.1.5 the Party against whom material non-compliance is alleged must respond to the written allegation of the other Party within seven (7) days of receiving written notification of non-compliance from the other Party;

12.1.6 the Parties shall convene a meeting within ten (10) calendar days after the date of the correspondence referred to in clause 12.1.5 above has been received by the particular Party; and

12.1.7 at the aforesaid meeting, the Parties shall attempt to reach agreement in relation to whether or not any Party has failed to comply with any of the material terms and conditions of this Agreement.

13. CONFIDENTIALITY

13.1 The Parties shall treat information furnished by another Party or another person for purposes of the execution of this Agreement, as confidential.

13.2 Subject to this clause, the Party so furnished with information shall not disclose such information to another person without the prior written consent of the other Party and shall take reasonable steps to ensure that such information is not disclosed to another person.
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13.3 The Parties agree that this Agreement is not intended to restrict use or disclosure of any portion of such information which is:
13.3.1 made known to the public through no default by the receiving Party of its obligations under this Agreement;
13.3.2 rightfully received by the receiving Party from a third party having no obligation of confidentiality to the disclosing Party;
13.3.3 independently developed by the receiving Party by persons who did not have access to the confidential information of the disclosing Party; or
13.3.4 disclosed by the receiving Party after receipt of written permission from the disclosing Party.

14. INDEMNITY

14.1 The Institute indemnifies the Department and holds the Department harmless from and against any or all liabilities arising from any acts or omissions of its officials, employees and/or agents and/or appointed agents arising out of this Agreement.

14.2 The Department is indemnified against any claims or court action, including legal costs as well as attorney and client costs, which any person may institute resulting from a failure to comply with clause 14.1 above.

14.3 The Institute undertakes to obtain the necessary consent in the event of it making use of the works and rights or any other intellectual property of third parties. The Institute hereby indemnifies the Department against any action or application, including all costs, which might arise out of such breach.

14.4 The Institute indemnifies the Department against all claims for costs and liabilities arising from the presence of the Institute and/or its representatives on the Department's property. This indemnity shall apply to any claims by the Institute and/or its employees, agents and representatives for their injury or death while carrying out their duties in terms of this Agreement and shall include loss or damage to the Institute property and the personal effects of the Institute's employees, representatives and/or agents.
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15. DOMICILIAM

15.1 The Parties choose the addresses set out hereunder as their domicilia citandi et executandi for all purposes under this Agreement:

15.1.1 Department of Environment, Forestry and Fisheries

Physical Address:
Environment House,
473 Steve Biko Road
Arcadia
Pretoria
0083

Postal address:
Private Bag X 447
Pretoria
0001
Tel: 012 399 9825
Email: kmokoena@environment.gov.za

15.1.2 The Institute

Physical Address:
72 Rinyani Ave
Allen's Nek
Roodepoort
1709

Postal address:
PO Box 79
Allen's Nek
1737
Tel: 011 675 3462
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Email: gail@iwmsa.co.za

15.2 Notice of change of address must be given in writing, by the Party concerned and delivered by email or telefax to the other Party.

16. SIGNATURES OF THE PARTIES

16.1 We, the undersigned, declare that we have read and accepted the terms and conditions of this Agreement as described here before.
MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS
AND THE INSTITUTE OF WASTE MANAGEMENT OF SOUTHERN AFRICA FOR THE BILATERAL
COOPERATION IN CHEMICALS AND WASTE MANAGEMENT

Thus done and signed by the Department at Pretoria on this 10th day of July 2019
in the presence of the undersigned witnesses.

FOR THE DEPARTMENT
MS NOSIPHO NGCABA
WHO BY HER SIGNATURE HERETO WARRANTS
THAT SHE IS AUTHORISED TO SIGN ON BEHALF
OF THE DEPARTMENT

AS WITNESSES:

1. 

2. 

Thus done and signed by the Institute at _______________ on this ______ day of _______________ 2019
in the presence of the undersigned witnesses.

FOR THE INSTITUTE
MRS GAIL SMIT
WHO BY HER SIGNATURE HERETO WARRANTS THAT SHE IS AUTHORISED TO
SIGN ON BEHALF OF THE INSTITUTE

AS WITNESSES:

1. 

2. 