



COLLABORATION AGREEMENT

BETWEEN

UNIVERSITI SAINS MALAYSIA

AND

**SEKOLAH TINGGI OLAHRAGA DAN KESEHATAN
(STOK) BINA GUNA**

COLLABORATION AGREEMENT

No.
No. 0029STOK-BG/A/MoA/2023

THIS COLLABORATION AGREEMENT is made this Friday day of 05/05, 2023 (hereinafter referred to as "Agreement");

BETWEEN

UNIVERSITI SAINS MALAYSIA, a public institution of higher learning established under the Universities and University Colleges Act 1971 and for the purpose of this Agreement is represented by its School of Health Sciences, with its main address at Level 6, Chancellery Building, 11800 USM, Penang, Malaysia (hereinafter referred to as "USM"), of the first part;

AND

SEKOLAH TINGGI OLAHRAGA DAN KESEHATAN (STOK) BINA GUNA, a private university in Indonesia which was established in 1976, located at Aluminium Raya Street No. 77, Tanjung Mulia, Medan City, Indonesia (hereinafter referred to as "STOK BINA GUNA"), of the second part.

(USM and STOK BINA GUNA shall hereinafter be referred to collectively as "Parties" and individually as "Party", where the context so requires)

WHEREAS:-

- A. USM is Malaysia's premier research university which strives to enhance and strengthen its educational programs and has taken various initiatives to complement its educational excellence. With its research and teaching facilities, experience, and a multi-disciplinary team of experts from among its staff members, USM has entered into various collaborative arrangements with other parties in its effort to enhance its research contents and strengthen its industrial networking.
- B. STOK BINA GUNA is a private university which was established by SK 2420DT2006, signed into law on 3rd of July 2006. In effort to make maximum contribution and become excellence in the fields of Physical Education, Sports, & Health, STOK Bina Guna consistent in making national & international collaborative arrangements to share new knowledge, ideas, and experiences. STOK Bina Guna carries out its activities based on the "Tri Dharma (Three Teachings) of Higher Education" which is education and teaching, research, and community services. STOK Bina Guna has two graduates' programs focusing on physical education & sport science.
- C. Following discussions between USM and STOK BINA GUNA, the Parties have agreed to establish collaboration and explore opportunities to develop, support and enrich the research activities, educational programs and training in their respective fields of expertise, thus creating synergistic benefits to both Parties.

- D. In achieving the abovementioned objectives, the Parties are formalizing this collaboration by entering into this Agreement subject to the terms and conditions as stipulated herein.

NOW IT IS HEREBY AGREED as follows:

1. Objectives of this Agreement

USM and STOK BINA GUNA shall endeavor to assist and support each other in the collaboration for the following projects:

- (i) collaborative research and grants application;
- (ii) publication;
- (iii) knowledge sharing through exchange of academic materials and information to support Global University Network;
- (iv) faculty and student exchange; and
- (v) any other projects that shall be mutually identified and agreed by both Parties at a later stage.

2. Roles and Responsibilities of the Parties

In consideration of the covenants herein, the Parties agree to their common obligations as follows:

- (i) To carry out collaborative research and grants application on issues related to physical activity in Malaysia and Indonesia;
- (ii) To jointly publish research publication related to the collaborative research conducted;
- (iii) To have joint participation sharing such as through relevant workshops, training programmes, seminars in general; and
- (iv) To facilitate student exchange between USM's and STOK BINA GUNA's undergraduate students.

3. Confidentiality

3.1 Neither Party shall at any time publish or, disclose to any third party, the contents of this Agreement or any Confidential Information of the other Party acquired pursuant to this Agreement without the written consent of the other Party. The obligations herein shall survive and remain binding on the Parties for a period of five (5) years from the expiry or the earlier termination of this Agreement (as the case may be) or, the expiry or the earlier termination of the renewed period (as the case may be) as provided in clause 4.3 herein.

3.2 For the purpose of this Agreement, "Confidential Information" –

- (a) means any and all technical and non-technical information including patent, copyright, trade secret, know-how and proprietary information, techniques, sketches, drawings, diagrams, methods, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulae related to a technology or invention, and includes, without limitation, its

respective information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing manufacturing, customer list, business forecasts, sales and merchandising and marketing plans and information designated in writing to be confidential or by its nature intended to be for the sole knowledge of the receiving party or if orally given in the circumstances of confidence or confirmed promptly in writing as having been disclosed as confidential or proprietary for the purpose of this Agreement; that is conveyed by the disclosing Party to the receiving Party, in written, oral, digital, magnetic, photographic and/or whatsoever forms; but

- (b) shall exclude such knowledge and information which:
- (i) at the time of disclosure, is part of the public knowledge or literature;
 - (ii) after disclosure, becomes generally available to the public by publication or otherwise, through no fault of the receiving Party;
 - (iii) can be shown to have already been in the receiving Party's possession and reduced to either drawing, writing or physical embodiment prior to disclosure hereunder and which was not acquired, directly or indirectly, from the disclosing Party; and
 - (iv) is received by the receiving Party after the time of disclosure hereunder from a third party, imposing no obligation of confidentiality and who did not acquire any such information, directly or indirectly, from the disclosing Party.

3.3 The Parties hereto acknowledge that in the event of any breach of this clause 3 by either Party, the disclosing Party may suffer substantial loss and damage which monetary damages cannot adequately remedy. The Parties acknowledge and agree that the disclosing Party shall be entitled to injunctive and other equitable relief in enforcing the obligations in this clause 3 in addition to all other remedies available to the disclosing Party in law.

4. **Validity, Termination and Renewal of the Agreement**

- 4.1 This Agreement is valid and shall remain in effect for two (2) years from the date of this Agreement regardless of the diverse dates the Parties may have signed this Agreement.
- 4.2 Either Party may terminate this Agreement by giving one (1) month's written notice to the other Party.
- 4.3 The evaluation will be conducted by USM and STOK BINA GUNA after one year implementation of this agreement.
- 4.4 This Agreement may be renewed upon the mutual agreement of both Parties.

5. Event of Default

5.1 If USM or STOK BINA GUNA (as the case may be) commits any of the conditions stated herein, then, the aggrieved Party shall be entitled to terminate this Agreement by serving a notice to that effect:

- (a) either Party becomes insolvent or is unable to pay its debts when due or admits in writing its inability to pay its debts; or
- (b) either Party enters any arrangement or composition with its creditors generally, or a receiver or manager is appointed; or
- (c) either Party goes into liquidation or passed a resolution to go into liquidation, otherwise than for the purpose of reconstruction; or
- (d) either Party fails to comply with any of the obligations under this Agreement.

5.2 The notice to terminate pursuant to clause 5.1 shall not be less than twenty-one (21) days' written notice (hereinafter referred to as "Termination Notice"), save for in the case of sub-clause 5.1(d), whereby the Termination Notice shall be applicable and take effect only after the non-defaulting Party has first served a twenty one (21) days' written notice to the defaulting Party to remedy the default. In the event the default is not remedied within the aforesaid period, the non-defaulting Party shall then serve on the defaulting Party the Termination Notice to terminate the Agreement.

5.3 Upon termination of this Agreement, both Parties shall have no obligation to each other except for any payment still outstanding and payable by either Party to the other, for activities already undertaken prior to the date of termination.

6. Right to Publish

The data and information accruing from this Agreement, which are of academic importance for the enrichment of knowledge, may be published by USM in accordance with USM's policy.

7. Public Statement

Both Parties agree that no public statement shall be made on this Agreement, or in relation to any products, processes or inventions developed as a result of this Agreement unless approved first by both Parties.

8. Name, Official Emblem and Logo

8.1 Neither Party shall use, nor permit any person or entity to use the name, acronym, official emblem, logo, trade mark (or any variation thereof) or other Intellectual Property (hereinafter referred to as "Brand Materials") that is/are identified or associated with or belongs to the other Party on any publication, document, paper, audio or visual presentation, or for publicity purposes.

8.2 Any use of the Brand Materials for the purposes stated in clause 8.1 above shall first obtain the written consent of the other Party and shall comply with all conditions set by the other Party on the use of its Brand Materials.

9. Relationship Of The Parties

Nothing in this Agreement shall be construed as establishing or creating a partnership or a relationship of master and servant between any of the Parties hereto or as constituting any party as an agent or representative of the other Party for any purpose or in any manner whatsoever.

10. Notices

Any notice or communication between the Parties shall be delivered to the addresses as hereinbefore appearing, or sent to the facsimile number or emailed to the Party concerned.

11. Governing law

This Agreement shall be construed and interpreted in accordance with the laws of Malaysia.

12. Force Majeure

Both Parties shall not be held liable for delays or failures to perform that result from events or circumstances beyond the reasonable control of either Party and in particular, any failure by either to carry out its obligations as set out in this Agreement.

13. Variation

The terms stipulated in this Agreement shall not be amended, altered, changed or otherwise modified without the mutual consent of the Parties and such amendments, alterations, changes and modifications shall be made in writing and signed by the Parties hereto.

14. Assignment

Unless otherwise agreed in writing, both Parties shall not transfer or assign all or any of their rights, obligations, interests or benefits hereunder to any third party.

15. Successors

This Agreement shall be binding on the successors in title and permitted assigns of the Parties.

16. Non-Discrimination

USM and STOK BINA GUNA agree not to discriminate against any person because of age, sex, national origin, race, ancestry, colour, religious creed disability or handicap, and sexual orientation. Neither institution shall impose criteria for the exchange of staff and students that would violate the principles of non-discrimination.

17. Language of Agreement

If this Agreement is translated into another language, both texts would be deemed to be authentic but the English text would prevail in the event of a dispute.

18. Counterparts

This Agreement may be executed in any number of counterparts and each such counterpart shall constitute an original of this Agreement. This Agreement shall not be effective until each Party has executed at least one counterpart.

19. E-Communication

The Parties acknowledge and agree that electronic communication is an acceptable method of communicating information between the Parties without having to communicate the same on paper. Any communication and subsequent electronic signature that has been sent or signed in the past, present, or future between the Parties will hold the same force and effect as a document signed and inked on paper.

20. Mutual Cooperation and Relationship

The Parties realize that it is not feasible to adequately foresee and address every issue involving the collaboration of the Parties herein. Hence the Parties shall use their best endeavours to realize their expertise in carrying out the steps and measures necessary for furthering their mutual interest under this Agreement in accordance with the spirit of close cooperation and mutual assistance.

IN WITNESS WHEREOF USM and STOK BINA GUNA have hereunto executed this Agreement on the date and year first above written.

In the presence of:



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PROFESSOR DR. WAN ROSLI WAN ISHAK
Dean
School of Health Sciences

In the presence of:



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MUHAMMAD SYALEH, S.PD, M.PD
HEAD
OF Physical Education, Health, and
Recreation Study Program