

**Attachment I.**

**MEMORANDUM OF UNDERSTANDING**

**DATE:**

**BETWEEN** Country UC Ltd ABN 17 617 676 347 trading as Country Universities Centre of 38 Bombala St, Cooma NSW 2630 ('CUC')

**AND** Bass Coast Shire Council ('BCSC')

**RECITALS**

- A. BCSC and CUC agree that opportunities may exist for the Business Purpose.
- B. The Parties commit to work together for the Approved Purpose to determine the feasibility of the Business Purpose on the terms of this Agreement.

**OPERATIVE PROVISIONS**

- I. In this Agreement:

**Approved Purpose** means the sharing, consideration and potential exploitation of Confidential Information, and discussion and development and consideration of the business paper in clause 2.2(b) solely for determining the feasibility of the Business Purpose.

**Business Purpose** means the establishment and sustainable operation in Bass Coast of a staffed, community owned and governed Regional Study Centre with high connectivity and technology to facilitate and support delivery of at least Australian Qualifications Framework level 7 to 10 courses as well as short course professional development opportunities to the Bass Coast community. The Centre will be affiliated with the wider Country Universities Centre network and be subject to the usual associated benefits and terms.

**Confidential Information** means all confidential, non-public or proprietary information including without limitation any proposal, information memorandum, reports, plans, models, forecasts, trade secrets, all financial, marketing and technical information, ideas, concepts and knowledge relating to the Business Purpose but does not include information that:

- (a) is in the possession of the recipient prior to the recipient's receipt of such information under this agreement;

- (b) is or becomes publicly available other than as a result of a breach of this agreement by the recipient;
- (c) is independently acquired or developed by the recipient without breaching any provision of this agreement; or
- (d) is required to be disclosed by law.

**Confidential Information** also includes all contact lists of the CUC and BCSC.

A reference to a Party in this agreement includes a reference to that Party's associated entities, subsidiaries and assigns.

### **Commitment to Business Purpose and Roles**

- 2.1 CUC and BCSC acknowledge their equal commitment to the Approved Purpose and agree to use their best efforts to work, collaborate and share Confidential Information and intellectual property for the benefit of the Approved Purpose and in accordance with the roles in clause 2.2.
- 2.2 The roles of the parties are as follows:
  - (a) Each Party to collaborate and share Confidential and other Information with the other Party for the Approved Purpose, to assist the other Party in their roles and contribute to the ongoing success of the Approved Purpose.
  - (b) The CUC agrees to develop and share with BCSC a written business paper for the Business Purpose by 31 January 2019 for consideration by BCSC.
  - (c) BCSC agrees to form a local project steering committee to share information and assist the CUC in developing the business paper, and to receive and consider the business paper. CUC acknowledges that while the Committee will operate as part of BCSC, membership of that committee may extend beyond staff and officers of BCSC .

### **Fees and Expenses**

- 3.1 The Parties will bear their own costs with respect to their roles, except that BCSC agrees to cover any outgoing expenses of the CUC agreed by BCSC in advance of being incurred, which are expected to be only travel and accommodation costs in respect of visitations to Bass Coast to present and discuss the business paper developed under clause 2.2(b).

## **Progression of the Business Purpose**

- 4.1 If the Parties agree to progress the Business Purpose beyond the Approved Purpose, then this Agreement will no longer apply and the Parties may in their discretion form a subsequent agreement determining the terms and conditions of their future roles in executing the Business Purpose.
- 4.2 No Party has any commitment to progress the Business Purpose beyond the Approved Purpose, and any decisions by the Parties in respect of progressing the Business Purpose beyond the Approved Purpose is in each Party's absolute discretion.

## **Intellectual Property**

- 5.1 The Parties agree that any intellectual property developed or owned by a Party independently of the other Party will remain the sole property of the developing or owning Party, and may only be used by the other Party for progressing the Approved Purpose. In the event this Agreement is terminated then the other Party agrees not to use the intellectual property of the developing Party for any purpose whatsoever.
- 5.2 The Parties agree that any intellectual property developed by the Parties jointly:
  - (a) will remain the joint property of the Parties;
  - (b) will be used strictly only for progressing the Approved Purpose during the term of this Agreement; and
  - (c) in the event this Agreement is terminated, may be used by either Party independently of the other Party.

## **Confidential Information**

- 6.1 Each Party acknowledges that the Confidential Information of the other Party has commercial value and is the property of the other Party.
- 6.2 All Confidential Information disclosed by one Party to the other Party is disclosed on terms of strict confidence and for the Approved Purpose only, prohibiting any further disclosure or use by the recipient of that Confidential Information ('**the Recipient**') unless specifically authorised in writing by the owner of the Confidential Information ('**the Owner**') other than disclosure to the Committee in clause 2.2(3), the Recipient's directors, officers or employees who have a need to know such Confidential Information in connection with the discussions, or to the Recipient's legal representatives or other agents strictly for the purposes of seeking advice.

- 6.3 The Recipient will not use the Confidential Information for profit, except in respect of the Approved Purpose.
- 6.4 To protect and preserve the confidential nature and continued secrecy of all Confidential Information, the Recipient must use the same degree of care (being at least a reasonable degree of care) that it would use with respect to its own information of a similarly confidential nature.
- 6.5 The Recipient must not at any time assist any other person to make any unauthorised disclosure or use of any Confidential Information.
- 6.6 All records, notes, documents, electronic data and other tangible information supplied by the Owner to the Recipient in connection with the Confidential Information and all copies, reprints, reproductions or translations thereof made and retained by the Recipient will, upon request, be returned by the Recipient to the Owner or be deleted or destroyed unless required to be retained for reasons of corporate regulation or governance standards, in which case the retention is strictly only for the purposes of compliance with those regulations and standards.
- 6.7 The rights and obligations of the Recipient with respect to confidentiality survive termination of this agreement.
- 6.8 The Owner does not make any representation or warranty as to the accuracy or completeness of the Confidential Information. In addition, the Recipient confirms that it is solely responsible for making its own judgements and decisions regarding all Confidential Information.

**Non-Legally Binding Nature of Agreement**

- 7. The Parties agree this Agreement is an expression of mutual intent and is not intended to be legally binding except for clauses 5, 6, 8.2, and this clause 7.

**Termination**

- 8.1 Either Party may terminate this Agreement at any time by written notice to the other Party.
- 8.2 Within 7 days of termination or expiration of this Agreement, each Party will deliver to the other Party all Intellectual Property and Confidential Information of the other Party.

**Governing Law**

- 9. This Agreement will be governed by the laws of Victoria.

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Name: Paul Buckley PSM  
Position: Chief Executive Officer  
Bass Coast Shire Council

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Name: Duncan Taylor  
Position: Chief Executive Officer  
Country Universities Centre