



**MEMORANDUM OF UNDERSTANDING (MoU)**

**BETWEEN**

**THE LESOTHO DEFENCE FORCE**

**AND**

**THE LESOTHO MOUNTED POLICE SERVICE**



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## **PREAMBLE**

The Lesotho Defence Force (LDF) and the Lesotho Mounted Police Service (LMPS) shall hereinafter be referred to as “the Agencies” and, separately as “Agency”. The Agencies desire, on the basis of the governing laws, the principle of reciprocity, the spirit of cooperation and mutual interest, to work together and to exchange information in support of enforcement of civil law and any other matters related thereto.

### **LDF LEGAL FOUNDATION:**

**WHEREAS** LDF is a juristic person established under section 145 (1) of the Constitution of Lesotho (as amended) for the defence of Lesotho (the Kingdom);

**WHEREAS** in terms of section 5 of the Lesotho Defence Force Act No.4 of 1996, it shall be employed in the defence of Lesotho, in prevention or suppression of terrorism and internal disorder, and the maintenance of essential services including maintenance of law and order and prevention of crime and such other duties as may, from time to time, be determined by the Minister;

**WHEREAS** in terms of section 190 of Lesotho Defence Force Act above, it may support or assist LMPS where necessary.

### **LMPS LEGAL FOUNDATION:**

**WHEREAS** LMPS is also a juristic person established under section 147 (1) of the Constitution of Lesotho (as amended) for the maintenance of law and order in Lesotho;

**WHEREAS** section 24 of the Police Service Act No.7 of 1998 provides for the general duties of police officers which includes *inter alia* to serve the people of Lesotho with diligence, impartiality and due regard to the Constitution, to preserve peace and maintenance of law and order, to prevent all offences against persons

and property, to detect offences, apprehend offenders and bring them to justice, and to discharge his duties faithfully according to the law;

**WHEREAS** in terms of section 71 of the Police Service Act, LMPS may support or assist LDF where necessary; and

**WHEREAS** in terms of section 72 of the Police Service Act, LMPS may act jointly with LDF in discharging its functions where necessary;

**AND WHEREAS** the Commander of LDF and Commissioner of LMPS signed and made commitments under the framework of the Maseru Security Accord to actively promote and encourage harmonious relations between the leadership, officers and members of both the LDF and the LMPS and to discourage further confrontations or hostilities among them.

**NOW THEREFORE** the Agencies hereby agree as follows:

## **ARTICLE 1**

### **SCOPE OF APPLICATION**

The Agencies shall afford each other mutual assistance to:

1. gather information relating to the prevention and investigation of crime and any other matters related thereto.
2. provide intelligence for purposes of preventing and investigating crime and any other matters related thereto.
3. exchange any information which may be required by any of the Agencies in the exercise of functions entrusted on either Agency in pursuit of combating crime.
4. build capacity on crime prevention strategies.
5. provide relevant information pertaining to crime patterns in the Kingdom.

6. facilitate exchange of information between the two Agencies.
7. provide assistance and support to each other which include but not limited to arrests during joint operations, consultancy, training, sporting activities, cleaning, prayer sessions, fun walks, and exchange programmes.
8. gather, provide, and exchange information and intelligence in matters relating to the defence of the Kingdom, terrorism, internal disorder, and any other matters pertaining to the national security.
9. establish a Joint Operation Centre (JOC) and Sub-JOCs to enhance coordination between the Agencies.

## **ARTICLE 2**

### **OBLIGATIONS**

1. The Agencies are obliged by the laws, as indicated above, to ensure the protection of the Kingdom, Basotho and their property at all times.
2. The Agencies shall create a harmonious working environment for the purposes of upholding their mentioned correlated constitutional duties.
3. The Agencies are legally and necessarily bound to assist and support each other in the fulfilment of such duties for the maintenance of peace and stability in the Kingdom.
4. The Agencies shall work hand-in-hand in ensuring the fulfillment and actual realization of all relevant SADC Declarations signed by the relevant Authorities in the Kingdom.
5. In the present moment, the Agencies make an unconditional undertaking of working together through assistance and support of in guaranteeing the speedy but

smooth realization and implementation of such Declarations, in particular the **MASERU SECURITY ACCORD (MSA)**.

6. The Agencies shall always keep and maintain the letter and spirit of this MoU in *good faith* lest the sanctions would be invoked on the part of the breaching Agency by the relevant Organ of SADC.

### **ARTICLE 3 COMMAND AND CONTROL**

The command and control regarding the two Agencies shall remain intact in accordance with the governing service laws. Nonetheless, during the joint operations and other related activities, the command and control shall be undertaken in accordance with the governing documents such as Operational Orders, Administrative Orders, Instructions, etc.

### **ARTICLE 4 STATUS**

Notwithstanding any provisions of this MoU, members of the Agencies shall, for all intend and purposes remain members of their respective Agencies and subject to their respective service laws and regulations.

### **ARTICLE 5 SHARING OF INFORMATION**

1. The Agencies shall seek to develop strategies to share information and improve cooperation on all matters of mutual interest.
2. The Agencies shall not use any classified information obtained under this MoU to the detriment of each other.

3. The information obtained from the respective Agencies shall be used only for intelligence purposes connected to combating and investigating crime and any other matters related thereto.
4. The Agencies shall not permit the use or release of any information or document obtained for purposes other than those stated herein without the prior written consent of the Agency who provided the information.
5. Any exchange or disclosure of information to other law enforcement agencies shall be sanctioned by the Agencies provided such disclosure is in connection to fighting crime or any other matters related thereto.
6. If one of the Agencies is subject to legal process or proceedings that could require the disclosure of information it has received from the other Agency, the Agency subject to such process or proceedings shall immediately notify the other.
7. In the event that the other Agency objects to disclosure of information under circumstances outlined in this Article, the Agency subject to judicial process or proceedings shall take reasonable measures to ensure that the information is not disseminated to any third agency or that appropriate limitations are placed upon disclosure.
8. The Agencies shall share information and intelligence in matters relating to the defence of the Kingdom, terrorism, internal disorder, and any other matters pertaining to the national security.
9. All Necessary information to the general public shall be disseminated through JOC.
10. Notwithstanding the provisions of this Article herein, none of the Agencies will request for the disclosure of any information detrimental to the national security.



## **ARTICLE 6**

### **USE OF RESOURCES**

1. The Agencies undertake to provide operational and/or logistic support to each other's operations or activities on a case-by-case basis.
2. Members of both Agencies may, after obtaining the necessary authorization, interchange and share resources of the Agencies exclusive of arms and ammunition.
3. Members of both Agencies shall wear the uniform, display rank and insignia of their respective Agencies, more especially during the meetings and/or operations or any other related matters.
4. Notwithstanding the provisions of Article 6.3 above, the wearing of plain clothes by members of the Agencies is permissible upon authorization.

## **ARTICLE 7**

### **ENTRY, STAY AND DEPARTURE**

1. Members of the Agencies shall be informed and be subject to the Standard Operating Procedures (SOPs) regulating entry, stay, and departure from the Agencies' respective Barracks, Bases or Quarters.
2. Notwithstanding the provisions of Article 7.1, where imminent situation arises threatening the sovereignty, people, and property, the members from both Agencies may not adhere strictly to such SOPs for the purposes of pursuing and dislocating such threat. Nonetheless JOC and / or the Heads shall be informed immediately as and when the action is taking place.
3. The exception created under Article 7.2 shall not be *MISUSED* under any circumstances to the detriment of the other Agency.

4. Members of the Agencies shall, whenever so required and authorized, have the right to enter into, reside or stay in and depart from the Barracks or Bases or Quarters.

## **ARTICLE 8**

### **ARREST, DETENTION AND INVESTIGATIONS**

1. Without prejudice to the laws of the Kingdom regulating issues of arrest, detention and investigations, a member of the LDF suspected of having committed a criminal offence, may be arrested and detained by a member of the LMPS and such arrest shall, before the expiration of eight hours of such arrest, be reported to the LDF Military Police (MP) or JOC.

2. Notwithstanding the provisions of Article 8.1 above, in a case whereby the LMPS finds no reasonable prospects of prosecution in such arrest, the LMPS will hand over such member to the LDF for the latter to determine the matter and make further investigations in conjunction with the military law.

## **ARTICLE 9**

### **MEETINGS AND OTHER MECHANISM FOR ENHANCING COOPERATION**

The Agencies shall regularly consult each other, both at strategic, operational and tactical level on matters relating to the realization and implementation of the MSA, and even for any other matters related thereto for the sustainable peace and stability in the Kingdom.

**ARTICLE 10**  
**RELATIONS WITH CIVIL SOCIETY**

The Agencies commit themselves to harmonize and coordinate their efforts with respect to their interaction with civil society at large in furtherance of maintenance of peace and stability in the Kingdom.

**ARTICLE 11**  
**ACCIDENT, INJURIES AND DEATH**

In case of any accident or incident resulting in damage to or loss of property and injury or death to any member of either of the Agencies during the activities under this MoU, the investigations may be dealt with through the mechanism to be put in place by both Agencies on a case by case basis.

**ARTICLE 12**  
**LIAISON OFFICER**

1. The Agencies shall each appoint a liaison officer who shall be the central coordinating person responsible for:
  - a. receiving and, making all requests for assistance;
  - b. coordinating all requests for assistance;
  - c. sensitization of staff of respective Agency of the provisions hereof and the need for cooperation for purposes of information sharing and other important matters as illustrated above; or
  - d. developing and enforcing controls to safeguard the information.
2. The Agencies shall communicate to each other the particulars of their liaison officers with proof of their identity and official capacity.
3. Nothing provided herein shall, as soon as reasonably practicable, exclude, particularly in an emergency, direct contact or cooperation between operational

areas of the respective Agencies. For purposes of efficiency, consistency, and cordial relations, the central coordinating contact persons shall be informed of any such direct contact or cooperation.

### **ARTICLE 13**

#### **COSTS**

1. Each Agency shall bear its own cost for their implementation of this MoU unless the Agencies mutually determine otherwise.
2. Any agreed costs for the reimbursement between the Agencies shall be made within 90 calendar days.
3. In the event of willful or negligent acts or omissions by member of one Agency directly or indirectly causing loss or damage to equipment or facilities of the other Agency, the Agencies shall consult each other on the basis that the Agency which has suffered foreseeable loss or damage shall be put in the position it would have been had the willful or negligent acts or omissions not occurred.

### **ARTICLE 14**

#### **AMENDMENTS**

1. This MoU may be amended at any time through mutual consent in writing by the Agencies.
2. Any amendment shall be annexed hereunto and form part of the MoU and such an amendment shall come into operation on the date of signing by the Heads of the Agencies.

## **ARTICLE 15**

### **DISPUTE RESOLUTION**

1. Any differences arising out of interpretation, operation, or implementation of this MoU shall be settled amicably by the Agencies through consultation and/or negotiation.
2. Where the amicable resolution is not achieved by the Agencies, SADC Observer Mission in the Kingdom of Lesotho (SOMILES) may be consulted to mediate in accordance with the MSA, as long as it is still present in the Kingdom and/or its services are readily available.
3. In the absence of SOMILES and/or none availability of its services, any competent body duly nominated and agreed upon by the Heads of the two Agencies shall mediate the process in accordance with the laws of the Kingdom of Lesotho.
4. The signing of this MoU shall not be deemed to have resolved any pending disputes between the two Agencies but the Agencies shall endeavor to resolve them within the spirit of the MSA.
5. Notwithstanding the provisions of Article 15.4, all such pending issues must be handled with greatest precaution lest they may derail the Agencies from the mandate and objectives founded through the letter and the spirit of the MSA.

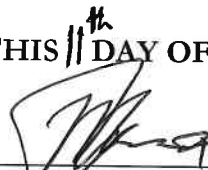
## **ARTICLE 16**

### **LEGAL EFFECT**

This MoU shall come into operation on the date of signing by the Heads of the Agencies and, shall remain in effect as long as the provisions of the MSA are still in force bearing in mind that the MSA is meant for the everlasting peace and stability in the Kingdom, and perpetual harmonious working relations between the two Agencies.

IN WITNESS WHEREOF, the undersigned **Heads** have signed this MoU in two (2) originals in English language, each Agency hereto retaining such an original.

THUS DONE AND SIGNED AT MASERU ON THIS 11<sup>th</sup> DAY OF DECEMBER 2014.



FOR AND ON BEHALF OF FOR AND ON BEHALF OF  
LDF LMPS

(Major General Khoantle Motšomotšo) (Acting Commissioner Masupha Masupha)

In my capacity as

Deputy Commander LDF



GUARANTOR

SADC HEAD OF MISSION

H.E. Fannie Mfana Phakola