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GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. 1340

10 December 2008

THE HIGHER EDUCATION ACT, 1997

(Act No. 101 of 1997)

REPORT OF THE INDEPENDENT ASSESSOR,

DR. VINCENT MAPHAI

TO THE HONOURABLE MINISTER OF EDUCATION

G N M PANDOR, M.P.

INVESTIGATION INTO THE MANGOSUTHU UNIVERSITY OF TECHNOLOGY

OCTOBER 2008

1. CONTEXT

The Independent Assessor was appointed by the Minister in terms of Chapter 6 of the Higher Education Act, 1997 (Act no. 101 of 1997) as amended and was mandated in a letter of 15 September 2008 to conduct an investigation into the affairs of the Mangosuthu University of Technology. The Terms of Reference supporting this mandate are detailed in Annexure I.

The Minister's intervention was initiated at the request of the Chair of Council on 3 September 2008 who stated that a special meeting of Council had resolved that 'a thorough and independent assessment of the affairs of the University be conducted with respect to governance, management and employment relations'. The Minister responded on 8 September 2008 announcing her intention to appoint an independent assessor in terms of the Higher Education Act 1997 as set out in section 45(a). In terms of Section 48 of the Act, provision is also made for the Independent Assessor to with the concurrence of the Minister appoint any other person with suitable knowledge and experience to assist him or her in the performance of his or her functions. A team of specialists in the areas of Governance and Management Structures and Efficiencies, Human Resources and Financial Management Systems were appointed. Details of the team and the finalised Terms of Reference were provided to the institution by the Minister on 15 September 2008.

The broader context for the investigation is as follows. On 18 June 2008 a document outlining concerns regarding matters of governance was tabled at a Council Meeting. It was resolved that Council would request EXCO to set up terms of reference for an investigation to help 'review policies and procedures related to the matters raised and to establish those policies and procedures as well'. At a subsequent meeting on 13 August 2008, EXCO resolved that the Vice-Chancellor and Principal should take leave with immediate effect while the investigation took its course. At a reconvened meeting of EXCO on 22 August 2008, a resolution was tabled and accepted that the Vice-Chancellor and Principal be placed on compulsory leave while the investigation was in progress. It was further resolved that Professor E C Zingu be asked to act as Vice-Chancellor and Principal with effect from 25 August 2008. A Special Meeting of EXCO on 27 August 2008 identified in detail the key issues that an investigation should address and confirmed that the Minister had been apprised of the circumstances and had delegated Dr Qhobela the Deputy Director-General: Higher Education to attend a special meeting of Council on 3 September 2008. This meeting resolved that Council together with the Department of Education would draft the terms of reference and that a letter would be sent to the Minister requesting the appointment of an Independent Assessor as provided for in the Higher Education Act.

The Vice-Chancellor, Professor Ndlovu was appointed in 1997 as Vice-Chancellor of the then Mangosuthu Technikon. In September 1999, an Independent Assessor was appointed by the then Minister of Education, Professor Kader Asmal to investigate affairs at the technikon brought about by a dispute between NUTESA and the institution and steps required to 'restore effective academic and administrative functioning'. The report recommended the termination of the services of the Vice-Chancellor. A Council resolution on 13 September 2000 considered the Independent Assessor's report and decided, however, to lift his suspension.

2. THE INVESTIGATION

The Independent Assessor and team were tasked with the responsibility of making recommendations to the Minister of Education on:

- Restoring of effective and proper governance, management, administration and employment relations at the University; and
- Recommending actions, if any, that ought to be taken.

In preparation for the assessment, a briefing was arranged by the Minister and senior officials in the Department of Education. This was critical in that it highlighted the urgency for a resolution to the current crisis of management at the institution. Officials from the Higher Education Branch of the Department of Education would provide Secretariat support and any other assistance required. The specialist team was appointed based on specific skills and this report constitutes a shared responsibility for the task. The other members of the team were:

Mr C Lyall-Watson: Human Resource Management

Dr D Swemmer: Governance, Management and Administration

Mr P Slack: Finance

Duly noting the task, all avenues were pursued to fulfil this mandate within the set time frames. This report is submitted against the tight time constraints imposed by legislation. Detailed individual reports on the areas covered by the specialists have been submitted to the Department of Education. At the outset, an open invitation was extended to the university community and other stakeholders to either contact the team for interviews or send in written submissions. Numerous submissions were received. A list of all persons interviewed is available should it be required. Prior to commencing our work on site, the Independent Assessor requested the Chair of Council to make available certain documentation for the team. This enabled the team to work through the preliminary body of evidence prior to arriving at the institution. Key documentation perused included minutes of all Council and EXCO meetings as well as sub-committee minutes and agendas. Financial statements, accounts, reports and HR files were also examined.

On 26 September 2008, the team met the Chair of Council and several members of the EXCO of MUT. This information-sharing session provided valuable input on the critical issues that have led to this investigation. It also provided the participants with an opportunity to advise the team on the approach to be adopted and areas of special focus. The Acting-Vice Chancellor, Professor E Zingu, who facilitated other meetings and interviews for the panel was also interviewed. On 29 September 2008 a meeting was scheduled with the Senior Management of MUT which enabled discussion on their perspectives on matters as set out in the Terms of Reference. The Assessor had meetings lasting 90 minutes with each of the following constituencies: Academic Board, Deans, Student Representative Council, Student Parliament and the Institutional Forum. A number of former employees also provided both oral and written evidence. Throughout the meetings it was made clear what the role of the independent assessor and team was and the limited time period.

Numerous attempts were made to establish an interview with the Vice-Chancellor, Prof Ndlovu. A letter was written to him requesting an interview as it was deemed necessary for the purposes of the assessment. A response was received from Professor Ndlovu's lawyer setting conditions to the terms of engagement. It was decided that these conditions could not

be fulfilled. After five telephone calls and two letters sent by the Independent Assessor, Professor Ndlovu did not avail himself of the opportunity to meet. It is appropriate for Council to explore whether any action ought to be taken against Prof Ndlovu for failure to cooperate with a statutory assessment vehicle initiated by the Minister.

It follows then that where specific allegations against the Vice-chancellor are reported; there has been no opportunity to test them against his claims. Unless specifically stated otherwise, such views would not reflect those of the Independent Assessor or the team. They are, nevertheless, sufficiently serious to be mentioned with the hope that a formal hearing will be conducted.

This report is constructed around the specific areas identified in the Terms of Reference and contains both the findings and recommendations pertinent to each section.

3. FINDINGS THROUGH THE ASSESSMENT OF FORMAL RECORDS AND INTERVIEWS

3.1 Financial management systems of the university

This section of the report provides an overview of the financial management systems of the university. A detailed report has been submitted to the Department of Education along with the list of people interviewed.

There are areas of commonality in the reports of various sections of Governance, HR and Finance. This is evident in relation to governance aspects and there is likely to be some repetition between this financial report and the governance report.

Council

As a general observation based on detailed perusal of EXCO and Council Minutes as well as sub-committees of Council and corroborated by other components of the investigation, it appears that Council has abdicated responsibility for a sustained period of time. They have not exercised sufficient fiduciary responsibility over the affairs of the institution and have not fully distilled what the role of a Council should be at a university. It is clear that they have taken direction from the Vice-Chancellor and Principal (VC) and have deferred to his interpretation of the governance role of Council. Recently the Vice-Chair of Council pursued a line of inquiry and began probing the issues of governance. The Council Minutes of 18 June 2008 reflects that a report on the governance of the institution was tabled which highlighted several problems. A decision was taken at this meeting that an external expert should be brought in to investigate and make specific recommendations. The Chair of Council recommended that *'the investigation must be done by an outsider, and whoever carries out the task, should be independent and objective and Council must be prepared to support his/her report, if it is within the terms of reference'* (Council Minutes, 18 June 2008). This prompted members of Council to begin to interrogate their role and offer support to the Vice-Chair when he requested further information on a number of important financial and other governance related issues. It must be stated that this interrogation and self-reflection was not shared by all council members.

A brief summary of the issues raised in detail in the report are:

- a) There is no Audit Committee and no internal audit function. It is a fundamental tenet of corporate governance that these two functions be present in any organisation irrespective of its legal form. Council appeared to be unaware of this basic requirement and deferred to the VC's opinion that these were unnecessary in Higher Education. This last opinion was reflected in Council minutes. The internal audit function has been vacant since 2003.
- b) Council had not had sight of a set of financial statements. This is not specific to the new members of Council (those appointed in 2006) but also those appointed as early as 2001 admitted that they had never been allowed to see the financial statements. As it is a requirement of the Higher Education Act that Council approves the annual financial statements, it is not clear why Council did not discharge its duties appropriately in this regard. It was explained in interviews that the Chair of Council and the Chair of the Finance Committee were provided with the relevant front pages of the annual financial statements requiring their signature. These were signed without due oversight of the actual financial statements.
- c) The auditors were of the view that the Vice-Chancellor and not Council was their client. Council had never engaged with the auditors (refer to notes under "Auditors" further on) and had not requested an audience with the auditors. This may be partially explained by the absence of an Audit Committee as a structure. In the absence of an Audit Committee, however, the overriding authority on matters involving audits must therefore be the full Council. The Finance Committee did not focus on matters of audit and it is not conceivable that it could be a proxy for an audit committee.
- d) At the outset of every external audit, the client usually signs an external audit engagement letter, which sets out the terms of the engagement, from the auditor's perspective, and includes a general overview of how the audit engagement will be undertaken and, pertinently, what is specifically excluded from such an engagement. The authority for signing this letter is usually delegated to the Chair of the Audit Committee who signs on behalf of Council. In some cases the authority may be delegated to the CEO, but only if the engagement letter has served before Council and he/she has been delegated to do so. The Vice-Chancellor signed the external audit letter without proper authorisation from Council thus giving rise to the misguided opinion that he was, in fact, the client and not Council.
- e) After every audit, the external auditors produced a letter of their findings to the client (usually the Audit Committee, but in this case deemed to be the full Council). This letter is known as "The Management Letter". The usual process is to forward a draft of this management letter to the management to enable them to include explanations and comments on the points raised by the auditors. At this stage, it may be shown that the auditors were incorrect and an item may be removed from the management letter. The final version of this letter is then tabled at the relevant forum of the client. Good governance indicates that this letter first serves at an Audit Committee and then also at a full meeting of Council. Council members who have served since 2001 indicated that they had not been provided with such a letter. The 2007 management letter served at the Council of MUT at the behest of the Vice-Chair. The 2006 management letter is incomplete as no management comments have been included. Management has not regarded this as an important process.
- f) There is no evidence of any delegation of authority by Council to management. Good governance dictates that Council would delegate to management the financial

delegations setting the limits at different levels of the institution and finally to Council.

- g) In terms of the Higher Education Act, Council is the policy making body of the institution. There is no evidence that any new policies or amendments to existing policies have ever served before Council or one of its sub-committees. The Financial Policy Manual provided is dated 1996. Interviews pointed to the fact that the policies are no longer applied and that all decisions are referred to the VC.
- h) Council and sub-committee minutes are brief and not indicative of discussion and deliberation on the agenda items. Councillors indicate that they have no input in the setting of the agenda items as these are set and approved by the VC (includes the agendas of the sub-committees). Minutes are not signed and thus their approval status at Council is unknown. An analysis of the minutes indicates that it is difficult to trace continuity, as the sections on matters arising do not reflect actions taken or resolutions adopted at previous meetings.

Council Committees' Terms of Reference

The assessment team requested the terms of reference of Council's sub-committees. Initially, no Terms of Reference could be accessed for the Finance Committee from the documents supplied prior to the first visit to MUT. After detailed probing, a complete 67 page document entitled "Committees: Information and Terms of Reference" was provided.

The document begins with a section called Council and includes certain extracts of the Higher Education Act:

- Paragraph 01/1/5 on page 4 states: "The Council may appoint one or more committees, which may, subject to the directions of the Council, perform those functions of council as the council may determine. The same paragraph goes further to state: "The council shall not be divested of responsibility for the performance of a function assigned to a committee in terms of this section." And then further in this MUT document: "Any decision taken by any such committee in the performance of any function so assigned shall be presented for ratification to the council at its first meeting after the decision was taken." Investigations into the governance at MUT indicate that this was not how the institution was governed.
- Paragraph 01/1/7 on page 4 states: ".....after negotiation with the employee organisations – the salaries, salary scales and allowances of academic staff and other employees employed at a technikon shall be determined by the council". This would seem to imply two things: (1) that, in the Act, there was an expectation that there would be employee organisations and (2) that only the council can approve salaries. This renders the 'omnibus resolution'¹ ultra vires.
- Paragraph 01/1/15 on page 6 states: " The council shall – (i) Cause to be kept correct records of all its proceedings and true and correct accounts of all money received and paid by or on behalf of the technikon and (ii) Once in every year and at the time and in the manner prescribed by regulation, submit to the Minister, in respect of the

¹ The "omnibus resolution" passed on 2 June 1998 gives the Vice-Chancellor powers to act in respect of "functions of a management and administration nature which are ascribed to the Council [by the MUT Statute]"

preceding year, a report of its proceedings and of the management of the technikon, together with a statement of income and expenditure and a balance sheet audited by a person registered as an accountant and auditor in terms of the Public Accountants and Auditors Act....”

- Paragraph 01/1/16 on page 7 states: “A council may, subject to such conditions as it may determine, delegate any of its powers under this Act, or delegated to it in terms of subsection (1), except the power to draft statutes and rules, or assign any of its duties in terms of this Act or assigned to it in terms of subsection (1)....”. The reason for highlighting these areas is twofold: (a) It is not clear whether Council had access to this document as it clearly sets out the responsibilities of Council. (b) These sections of the document were omitted in the original set of documents provided to the assessment team.

The document has a section for the Finance Committee on page 1 and their responsibilities are identified as follows:

- Paragraph 012/1/1: “To advise Council on all matters within the jurisdiction of the council which have important financial implications”.
- Paragraph 012/2/2: “To advise Council on the recurrent and capital budgets and to monitor expenditure in accordance with those budgets”.
- Paragraph 012/2/3: “To establish operational policies, standing orders and procedures in connection with the Technikon’s financial administration”.

It is evident from reading the minutes and discussions with key members of council, including the Chair of the Finance Committee, that none of these terms of reference were adhered to over the years.

External Auditors

The present external auditors have been delivering a service for the institution for several years and, it is the opinion of this assessment team that they have become complacent. There is doubt as to whether the auditors acted in terms of what is logically and legally required of them. On two separate occasions the auditors were asked as to who their client was. The first response was that it was the Audit Committee. On being informed that there was no Audit Committee, the response was that it was the CEO. It was pointed out to the auditors that the client is the Council of the university as stated in the Higher Education Act. The view adopted by the auditors was that the CEO had signed the audit engagement letter and that implied that the CEO was the client. The CEO may be delegated by Council to sign the audit engagement letter but Council remains responsible. A review of the Council minutes confirms that there was no such delegation.

The 2007 audit management letter without any management comments was initially provided to the team. The auditors subsequently provided the audit management letter with management comments. The 2006 and 2005 management letters were requested from the auditors, the 2005 letter was provided though the auditors were unable to provide a copy of the 2006 letter. The audit partner’s written response was that “... 2006 was never finalised, it was presented to management and responses were requested, but none were received”. The

lack of finalisation of the 2006 management letter is a serious oversight especially since similar issues surface in subsequent audits.

In the 2007 financial statements, the assessment team identified a R12 million error. The error was a disclosure issue and thus did not impact on the basic financials. The auditors did not identify in their audits that at least one of the councillors had day-to-day dealings with the institution and was therefore, by definition, a related party. They claim that they were not informed and that the Council minutes did not indicate any declaration of interest in contracts. Their view is based on the fact that the representation letter, in their opinion, clearly asks whether there are related parties and that management signed this letter without any indication of such, therefore they were justified in concluding that there were no related parties. The auditors reviewed the Council minutes and major contracts, of which the Executive Hotel was one. The same name appears in both the contract and Council list of members. Furthermore, the Executive Hotel is regularly referred to in their management letter and mention is made of the Council member concerned by name in this letter. It is a requirement in terms of General Auditing Standards that all related party transactions must be disclosed.

The auditors have signed off a set of financial statements for 2007 which includes a revaluation reserve. These assets had been written off in their entirety, which implies that there can no longer be a reserve in relation to an asset that no longer exists. In attempting to justify how this might be possible, the audit partner provided an extract of International Accounting Standard 16 (IAS 16) which did not justify the treatment at all and merely served to support the contention that the reserve should no longer have been in the balance sheet.

The above matters are raised, as there are concerns with the quality and thoroughness of the audit.

Finance Committee

The Terms of Reference of the Finance Committee are to:

- Advise council on matters which have important financial implications;
- Advise council on recurrent and capital budgets and monitor progress against those;
- Establish policies, standing orders and procedures regarding financial administration;
- Perform functions referred by Council.

It was evident through discussion with important role players and a detailed review of Council and sub-committee minutes that these functions were not undertaken. The Finance Committee had not seen the Annual Financial Statements. The Chair of the Finance Committee, who signs one of the accompanying reports, is generally placed under pressure as the financials need to be submitted to the DoE at the same time. The practice has been to sign the financials without reading or observing the content. This is a serious breach of fiduciary duty and general governance principles.

The Vice-Chancellor and Principal is a full member of the Finance Committee and not just "ex officio". This is evidenced by the fact that he regularly has acted as Chair of the Finance Committee in the Chair of the Finance Committee's absence. This would raise serious governance concerns. From a perusal of the 14 sets of Finance Committee minutes made available spanning the period October 2005 to August 2008, it is evident that the CEO chaired on 5 occasions – more than one third, even though, on one of those occasions, the Chair of Council was present. On one occasion the Vice Chair of Council chaired. That means that the Chair of the Finance Committee, in fact, only chaired 8 of the 14 meetings and the Vice-Chancellor chaired the remainder of the meetings. It is a further indictment that between 8/6/06 and 28/2/07, a period of eight and half months, the Finance Committee did not meet. This observation is based on the Minutes supplied.

Emoluments Committee

The Emoluments Committee's key function is to approve increases and bonuses for the CEO. We were advised that the Chair of the Emoluments Committee (Mr Redhi) did not attend any of the meetings and that no minutes of this committee had ever been seen by any external member of Council and that minutes were "not allowed" to leave the meeting room. In addition, a perusal of these minutes indicated that the minutes were never approved at a subsequent meeting of this Committee. The Council minutes of 1982 established this committee but no terms of reference were available.

Tender Committee

There is no evidence that this was in any way a functional committee even though this is ostensibly an official sub-committee of Council. Upon enquiry, no minutes of this committee could be traced. One file labelled "Tender Committee" which was traced to the CEO's office had as its last document date February 2006. No documents relating to this Committee could be traced after this date, even though numerous significant contracts have been awarded or renewed since that date. There is in excess of half a million rand worth of equipment paid for by the University for the Vice-Chancellor's farm. Requests for the tender documents for these

purchases were unfruitful with only invoices made available. It is therefore doubtful whether there were actually any tenders conducted.

Contracts

There are many instances of contracts on file where the signatures are incomplete. This could render the contracts unenforceable in a court of law. In the event of an unsigned contract being in place, a question can be raised around the validity of payments being made to a contractor without a valid contract being in place. Payments based on an invalid (unsigned) contract, where payments are also significant, are a serious breach of governance. A review of the audit management letters, which are available, will confirm that the matter of unsigned contracts was raised by the auditors on a number of occasions.

Finance Department

The duties within the Finance Department must be expedited with sensible and reasonable internal control procedures. Due to the downscaling of the skills in the HR department (see HR report) the Finance Department became the custodians of all data capturing relating to HR, for example, capturing new appointments, terminations, salary adjustments etc. Payroll resides within the Finance Department thus increasing the functions to be undertaken by this department. The external auditors finalised a report regarding a staff member who had fraudulently adjusted payroll information.

Concerns raised through the interview process include: the filling of vacancies is a lengthy process (see HR report) and that the process for filling vacancies was on several occasions bypassed by the VC.

The institution runs separate systems for the general ledger, payroll and student related issues. As a result, there are significant interface problems for which the finance department specifically and the institution in general do not have the skills to resolve. The absence of an integrated ERP system creates problems in data production. Furthermore, the institution upgraded to one of these systems in 2008 and information was severely corrupted and compromised. This calls into question the planning and change management skills in-house, which are obviously lacking. As a result, the institution made extensive use of external consultants whom the Vice-Chancellor refused to pay. The consultants ceased offering their services but after a lengthy hiatus the consultants were eventually paid and resumed their activities. This was one of the primary reasons for the delay in the finalisation of the 2007 audit. In addition to the lack of skills in-house to manage this process, it is imperative that the auditors sign off that the information which existed as closing balances on the old system was exactly the same as the information reflected as opening balances on the new system. From the audit management letter, it is obvious that the auditors were not involved in this process at all. As a consequence of the above, no payroll reconciliation was performed at all in 2007. It is not clear as to the basis on which the auditors were satisfied with regard to the validity of payroll information. However, this is a fundamental control measure and the fact that these were not done must call into question the integrity of the data. In addition all creditors' accounts are not reconciled monthly, which is another basic internal control requirement.

Specific Transactions

There are several transactions that are deemed worthy of further investigation. Details are provided a separate report on Finance.

3.2 Governance and Management Structures and Efficiencies

This section of the report provides an overview of the governance and management structures and efficiencies of the university. A detailed account is available along with the list of people interviewed.

Good corporate governance practices are not followed. Over a sustained period since the previous Independent Assessor's report in 1999, the Council has largely failed to exercise its responsibilities and obligations. Admittedly in the recent months there were emerging signs of alertness on the part of The Council. Council has permitted the Vice-Chancellor and those that execute his requirements to create a culture on campus that is pervaded by:

- Well-articulated fear of injustice, acts of retribution and victimisation;
- The significant transgression of individual rights;
- Selective favouritism and non-procedural promotions and appointments;
- Intimidation of dissenting staff and curtailment of academic freedom;
- Financial deprivation for the core business and the granting of largesse to allegedly complicit personnel and their cost centres;
- Nepotism;
- Inappropriate budgeting and expenditure procedures;
- Inconsistency in implementing procedures and in decision-making;
- The allegedly paranoid pursuit of critics and uneven use of powers of suspension and disciplinary procedures, including the use of illegal practices to entrap particular members of staff and students.

Until recently the Council has for several years permitted the Executive Committee of the Council to exercise all of its powers and functions without apposite limitations, oversight or ratification. The Finance Committee has exercised some of Council's reserved powers without ratification with insufficient attention given to budget versus actual reports. Details have been outlined in the section on Finance. Budgets are only announced in the middle of the current financial year or even later and appear not to have been approved by Council. Annual budgeting for all approved posts provides a misleading perception of the financial strength of the institution while a disproportionate number of posts are simply not advertised. This practice also creates space for exceeding budgets in particular cost centres with impunity. Council only receives and notes the minutes of most of its committees but, with the exception of recommendations or proposals from the Staffing Committee regarding the creation of new posts or the re-grading of existing posts, almost without exception gives little attention to the work of its standing committees.

The "omnibus resolution" passed on 2 June 1998 gives the Vice-Chancellor powers to act in respect of "functions of a management and administration nature which are ascribed to the Council [by the MUT Statute]"; this decision has been implemented without the normal

reporting requirements that would provide Council members with assurance on the appropriate exercise of the powers. Council has never reviewed this resolution. The preamble of the minute regarding the “omnibus resolution” uses the phrase “confirming a conventional practice”: variations on this phrase are incorporated in many of the minutes of Council and its committees whenever assurances are sought (mostly by external members of the committees) regarding matters of governance or management as an explanation for such matters not serving before one of the governance structures. Until recent months such a query by a committee member was thus quashed.

Were Council reviewing committee membership annually and, every three to five years, assessing the validity of each committee’s remit, Council would avoid ignoring the Institution’s statute, which requires the appointment of a Vice-Principal (Administration) by provision in terms of the definition of the term “Senior management”, or alternatively determine that such a position is redundant and seek the amendment of the Statute; instead the post has been vacant for some four years and has created administrative blocks and disproportionate control over day-to-day operational matters by the Chief Executive Officer.

The fact that the committees of the Institution are listed in the Statute dictates that those named must operate with the laid down membership: the Vice-Principal (Administration) is required to serve as the Secretary to the Executive Committee of Council (Section 20.1(b) onwards of the Statute), the Finance Committee, the Building Committee, and the Staffing Committee. The Terms of Reference of the statutory Committees were approved in the 1990s but not updated since despite the need for this. The need to create new structures (eg Audit Committee) has also simply not been addressed. The Emoluments Committee has its origins early in the history of the institution, circa 1982; for years its minutes were properly kept, being approved at the next meeting of the Committee; the Committee, unlike all the other Council committees, has no defined remit; the practice that has developed in the last decade is to approve salary adjustments that are neither limited by the cost centre budget/s nor comparable with the overall University approach for the staff not in Grades 1-4; there is also the practice of granting so-called performance bonuses as a percentage of the annual package for the Vice-Chancellor without pre-agreed and recorded performance targets, and in turn the Vice-Chancellor independently determines the performance bonuses of the other executive and senior managers, also without agreed performance requirements. The members of this Committee have for several years accepted the practice of minutes literally being circulated at the start of the next meeting and acquiesced to these copies being collected by that Committee’s minute secretary; members of the Committee therefore have no means of preparing themselves prior to a meeting, nor of having their own documents to refer to thereafter. The chairman of the committee does not sign approved minutes.

The Building Committee has in the last decade approved significant capital expenditure despite statutory limitations on what a Council is empowered to do. The question of refurbishments carried out by the University at the Section 21 Company owned Executive Hotel is a further example of peculiar practice. The Tender Committee acts on an ad hoc basis and good practice does not appear to be followed in that some procurement occurs without tenders and there are not laid down procedures about limitations on what may be procured without tender. Frequently, appointed companies do not enter into written agreements as there is reluctance by the Vice-Chancellor to sign such documents. The Common Law of Meetings dictates that any member of Council who has an interest of any kind in regard to a matter that serves before Council or any of its Committees should declare

that interest before the matter is discussed. In the absence of a specific code of conduct for meetings the common law applies. Such practice is legitimately both a moral and ethical expectation. Furthermore, even when one is the Vice-Chancellor, recusing oneself from the chair, when an individual with whom one has an intimate relationship is being considered for appointment or promotion, is an imperative. Equally recusing oneself, when assessing or reviewing a disciplinary allegation against an immediate family member, is also apposite. However, perspicacity is not evident from the facts.

The dismantling of the Foundation has not resulted in the amendment of the set of Terms of Reference. The disappearance of one of the Foundation's committees, the Investment and Finance Committee, raises the question about the management of the financial assets of the Institution.

The Statute of the MUT (published in Gazette No 20272 of 2 July 1998) is out of date and contains provisions that are consequently redundant, invalid, contradictory and ambiguous. Section 42 of the Statute reveals that the previous Statute which was published by Government Gazette No 17106 on 19 April 1996 (as amended) was repealed. It is out of date inter alia as a result of the official change of name of the Institution in Gazette No. 1089 of 16 November 2007 to the Mangosuthu University of Technology. It is invalid in that, for example, it provides for the election of a Council secretary whereas the Higher Education Act of 1997 was amended by Act No. 55 of 1999 to require the Council to appoint a Registrar as the Secretary to the Council (Section 26(4) (b)). It is contradictory in that the definition of the "Foundation" in Section 1(1) has the right of membership on the Council in Section 10(3) (b) and an electoral procedure is promulgated in Section 15, yet the "Foundation has been dismantled. This reality also means that on paper Council is potentially short of its 60% external membership balance. It is ambiguous, for example, when "executive management" is defined (Section 1(1)) and Section 21, but in Section 31(1) (a) a constituency of the Institutional Forum is termed "management", a noun that is not defined.

There are also weaknesses of drafting such as in Section 10(3) (a) which precludes the election of an employee who is a member of Convocation, but does not preclude a current student who is already a member of Convocation from being elected, whereas the intension of this provision is to ensure that the Convocation member is an outsider. The Statute is also unusual in that it contains several elements that one would not normally expect to have included: in particular it is inappropriately restrictive to gazette so many standing committees of the Academic Board and the Council, and their joint committees. A broader provision stating that the bodies may appoint such other standing committees as required may be appropriate, provided there is regular review of committee membership and of the terms of reference of standing committees.

The selective inclusion of some conditions of service is odd as are the matters of staff misconduct, procedures, disciplinary steps, appeal and matters of inefficiency or incompetence. Within these provisions the power accorded the Vice-Chancellor to have the right to alter the sanction recommended by the presiding officer of a hearing is unusual, as the entire hearing has been conducted by the presiding officer, who is better placed to impose an appropriate corrective intervention. The allegation that the Vice-Chancellor attempts retrospectively to cajole a presiding officer to alter a finding or alter the proposed sanction is grossly inappropriate if true, and indicative of prejudicial intervention. In the instances reported, the Vice-Chancellor is alleged to have adopted the principle of retribution rather than a commitment to the use of disciplinary procedures for corrective purposes.

The management style adopted by the Vice-Chancellor is consistently described as one that compels acquiescence with his views. External Council members reported that the Vice-Chancellor is accustomed to making scathing attacks on individuals who, in Council, raise matters that question any action or failure by him to report as required. Almost without exception the many people who made verbal or written submissions indicated that absolute compliance with the Vice-Chancellor's wishes is a prerequisite for continued employment. Many staff believed firmly that our interviews would be subject to visual and or audio surveillance. Nowhere on campus did we see notices advising that the campus and buildings were under camera or recording surveillance. The Vice-Chancellor has installed a system that enables him personally to watch access and egress to the building housing his office. It is prominently on his desk, but few people enter his office and know of the extent of the surveillance. Most interactions with staff and visitors occur in rooms adjacent to his electronically secured inner sanctum. One of the three security firms employed on campus also conducts camera surveillance of other areas. Allegedly, under direct instruction from the Vice-Chancellor, special software was illegally installed on the PABX secretly to record the telephone conversations of some 20 staff members, many of whom had reportedly been cooperative with the previous Assessor or prominent in the disruptions that had occurred at that time. A significant number of these individuals were dismissed or have since left the employment of MUT under duress.

Management practices are directive and centralized under the authority of the office of the Vice-Chancellor. The Executive Management triad has been reduced to two members for some 4 years. Bottle necks result, especially regarding advertising positions, short-listing, selecting and appointing staff. The good practice of binding sets of meeting papers for statutory committees has lapsed during the tenure of Professor Ndlovu. Many of the sets of minutes that can be accessed are unsigned by the Chairman. Even standard procedures have consequently stopped being implemented. Outsiders, and staff members responsible for recording and reporting on meetings, confirm that the Vice-Chancellor adapts and approves agendas and minutes, even for committees that he does not chair, before they are distributed. Members of committees confirm that their impression is that minutes are not accurate. When this occurs, despite sophisticated recording devices, clarity is seldom rapidly available and incorrect hard copy transcripts have been provided in the past. Minutes are amended and those who propose amendments feel that they are under attack from the Vice-Chancellor as a consequence. The late distribution of minutes or the fact that in some instances, notably the Emoluments Committee, they are not circulated but tabled at meetings often means that members of committees are unable to do justice to their contents at meetings.

There are many examples of points of agreement regarding the need for the Vice-Chancellor to ensure that appropriate copies of policies, procedures, reports and information serve at the subsequent meeting of a committee, particularly of the Council. There are almost as many examples where the matter is not on the agenda of the next meeting, nor does anyone challenge this failure to carry out a Council resolution. Initial investigation reveals that these items are usually deleted from the draft agendas by the Vice-Chancellor before their distribution. An example of this is the requirement that the Executive Committee of Council should prepare an implementation plan for the 2007 Council workshop objectives. This document appears not yet to have served before Council almost a year later and with no interim reports.

Several senior managers, who have become complicit accomplices in bad managerial practice, tried to justify their actions/practices/mismanagement as tyrannically imposed demands. The many staff who have been subjected to disproportionately long suspensions (with or without pay) before a hearing – often with spurious allegations or constructed evidence brought against them – alleged that their only crime had been to dissent with the Vice-Chancellor, either publicly or privately, or to have been reported to have done so by one of those in his inner circle. These reports were initially not shared with the Independent Assessor out of fear of retribution, but were made only upon assurances of anonymity. These fears were based on what had occurred to staff that had been interviewed or purportedly interviewed by the previous Assessor.

Despite the many appointments held and submissions received, the least information supplied by those interviewed pertained to the core academic project. What was reported in this regard was that:

- Budgets were usually extremely restricted and limiting;
- The academics felt that generally their needs were ignored and that funding seemed to be directed more to the acquisition of the vehicle fleet;
- There was gross understaffing in many departments and funding for the filling of vacant posts was generally not granted;
- There were disproportionate teaching loads;
- Staff were sometimes appointed without following standard interview procedures;
- Some staff were not competent in the disciplines to which they had been appointed;
- The exponential growth in student numbers had been based on the admission of students many of whom did not have the prerequisite entry requirements;
- Many of these students were not committed to their programmes of study;
- Attendance by many of the weakest students was generally very poor and their academic performance was appalling;
- When students were refused admission to the examinations because they had failed to achieve the Due Performance expectations or had failed their examinations, academic staff were required to explain why they had failed the student;
- Some academics simply passed students who ought to have failed because of the pressure applied by the Vice-Chancellor;
- There was a compromising of standards and poor quality graduates;
- Some of the weakest students were given “internships” in the administration.

For academic appointments:

- The advertising of vacant positions, the short-listing of candidates, interviewing, and appointing personnel, all bottle-neck on the Vice-Chancellor’s desk
- On the eve of his leave commencing, the Vice-Chancellor approved the advertising of some 72 posts, many of which were academic, in the media

- The human resources department were at risk of collapse because of the removal or resignation of senior staff and were unlikely to handle the resulting expected flood of applications;
- The finance department had also been compromised by its having been populated by some students while the senior staff had mostly left the institution – payroll errors were increasingly experienced.

3.3 HUMAN RESOURCES

This section of the report provides an overview of the human resources of the university. A detailed account is available along with the list of people interviewed.

With the exception of a disciplinary code and a statement on probation contained in the Statute, no evidence was submitted of any Council approved Human Resources policies. Processes do exist but are based solely on past practice. These processes, while they do achieve a goal, are not based on best practice, and are cumbersome in terms of timeous delivery mainly as a result of being controlled from the Vice Chancellor's office and do not enhance organisational efficiencies. Time delays in appointments and dealing with disciplinary matters range from 2 weeks to 22 months. While several attempts have been made to draft policies for the institution, even to the extent that some of these drafts have been posted on the university intranet, none have gone beyond the status of a draft.

The dangers of this oversight, particularly in higher education with its high public profile and in the light of the focus placed on the King reports on Good Governance, are obvious and suggest severe non-governance by the council and an apparent total lack of urgency from the vice-chancellor to ensure that, over the period of the 10 years he has been at the institution, to ensure that appropriate policies covering all eventualities, are placed before council for approval and are then implemented.

Employment Relations within the university appear to be discipline based rather than enhancement based. As a result, no evidence was seen that suggested a focus on employee development and encouragement towards collective recognition or commitment to institutional vision, mission and goals. However, more than significant verbal and written comment was made to suggest that it is a Vice-Chancellor driven environment of fear, subjugation and acquiescence. There are no active, organized or recognized trade unions on the MUT campus – strange for an institution of higher education.

The Human Resources Department, on the evidence submitted, appears to have been reduced to four staff (as opposed to 11 a few years ago) and their functions reduced to filing and appointments. Even then, when specific files were requested from them, to do with some doubt existing as to how some members of staff were being dealt with, these files could not be found. IR and Employment Equity have been moved to the senior director legal services as has all matters to do with IR, Benefits Administration has been moved to Finance. All inputs to the payroll are done by Finance as is leave administration. This department is, as normal HR departments are concerned, dysfunctional.

Two HR related committees exist: a Staffing Committee established in terms of the Institutional Statute and an Emoluments Committee. The Staffing Committee deals largely with new posts, changes to post titles and changes to departmental structures. It is a

Committee of Council but is chaired permanently by the Vice Chancellor. Two external members of Council are members of this committee however, perusal of the minutes of this committee since February 2005, reflected that only one member of Council had attended 6 of the 15 meetings held over this period. Seven members of staff make up the remainder of this committee. Approval of new posts by this committee is referred to Council for final approval.

The Emoluments Committee meets on average twice each year - during the first quarter to approve the annual increase for staff as well as for the Executive Management and towards the end of the third quarter to approve the performance bonus for the Vice Chancellor. Performance bonuses for the rest of the Executive Management are approved and awarded by the Vice Chancellor. No evidence was obtained of the methodology used to evaluate these awards. No other member of staff receives a performance bonus. No evidence was found that this committee had been formally established through an act of Council and there is no provision for this committee in the Institutional Statute. It is further apparent from the records received that the Vice Chancellor gave instructions that the Executive salaries should be increased by 12% for 2008 prior to any approval from the Emoluments Committee. As a result of this Committee only approving an increase of 7.5%, deductions of the overpayments began only after the Council ratified the 7.5% increase.

There are no performance contracts and no evidence of criteria or objective related evaluations – or any evaluations at all. In spite of this, the Executive receives an annual “Performance Bonus”. The limit for these performance bonuses is 30% of basic salary plus bonus – this was 50% in 2003 and 2004. It is apparent from the data presented that the Vice Chancellor and the Registrar have received maximum bonuses since 2003 with the rest of the Executive receiving between 0% and the maximum. The personal files for these employees were scrutinised but contained no information post 2006. Of further concern was that, while the Executive received bonuses for 2006 and 2007, and that the unsigned minutes of the meetings in 2006 and 2007 contain approvals for these bonuses, two external members of Council who are members of this Emoluments Committee are adamant that no approvals were given for these payments. Information was also given that the Vice-Chancellor drew advances against his bonus prior to any bonus being approved or paid. The timing of these performance bonuses is peculiar in that they are awarded during the year, for that year, long before any finalisation, let alone an audit, of that year’s financial performance.

A key aspect of the Terms of Reference focuses on the need to investigate and to determine the circumstances and reasons for the significant number of staff suspensions, disciplinary cases, labour disputes, staff demotions and dismissals at the University. As a result of the tight timelines for this assessment, it was not possible to conduct detailed assessments of the detail of each case. 29 disciplinary cases were reviewed occurring between 2005 and 2008. Of these only 5 were not put on immediate suspension. The suspension of staff for alleged offences appears to be inconsistent and in 8 cases assessed to be unwarranted. Information was given that all suspended employees had been recalled to work. However, unsubstantiated information suggests that this might not be the case.

The process of dealing with disciplinary cases is extremely cumbersome and ranges from 5 months to 32 months. Of these, 2 were withdrawn, 3 resigned before the hearings, 4 were found guilty and given a sanction other than dismissal and 11 were dismissed. 9 cases are still pending, some since 18 months ago. It appeared in some instances from this assessment that charges could have been built around a suspicion of an offence rather than leading directly from admissible evidence at the time the alleged offence occurred. These require further

investigation. Given the above it appears that, again through the lack of clear and approved policies, there could be no understanding or assurance amongst the staff of MUT as to what would constitute an offence, how this would be dealt with and whether suspension could be an expected outcome or not.

In terms of the remuneration policies and practices of the university there are several areas that are relevant. The total annual package for the Vice Chancellor is 107% higher than the midpoint of the higher education sector and 158% higher than the midpoint for similar size and shape institutions. Annual packages for the rest of the Executive range from 47% to 63% higher than the midpoints for the equivalent grades in higher education. On analysis of the documentation presented, it appears that the Vice Chancellor's annual package increased by 179% over the period 2002 to 2003. In addition to the above annual packages, the Executive are permitted to encash their leave accumulated from the previous year. On the documentation given, it appears that the Vice Chancellor has encashed his full annual leave entitlement since 2004. The encashment for 2007 leave, paid in 2008, amounted to R251 000.00.

Despite the high levels of remuneration for the executive, other administration and academic grades and ranks are reasonably close to sectoral midpoints for HE. Annual packages range from 19% below to 22% above the midpoint for the sector. Ranges for each administrative grade and academic rank are from 6% below the midpoint to 140% above the midpoint against a best practice of 20% for each. These differentials between grades and ranks appear to be haphazard and require urgent attention.

The document submitted on the Executive Car Scheme (Grades 1 to 4) was unsigned by an approving authority. This document did refer to the Emolument Committee as having authority to approve or amend this document but this committee itself (see further comment on HR related committees) does not seem to have the authority of council to exist. Car values – in terms of the document – are set at 50% of the annual gross salary. This effectively means that the vice chancellor could purchase a car for R1.6 million. I was informed that a cap has been set on this value to the tune of some R700 000 but do not know whether this applies to the vice chancellor as well. Apart from being a badly drafted document, the benefits specified appear to be generous and outdated. The user can purchase the vehicle for 25% of its depreciated value (25% per annum) at the completion of his or her 3 or 4-year cycle. E.g. For a car costing R800 000 new, Grades P1 (Peromnes System) and P2 could purchase their car for R80 000 and P3 and P4 for R40 000 at the end of their respective cycles. Although no hard evidence was presented during the course of this assessment, several uncorroborated comments were made that the vice chancellor receives vehicle benefits in excess of those contained in the policy. This will require further investigation.

No performance management system is in operation for any level of staff.

With regard to the staff establishment and statistics, four different approaches were tried to establish figures with four very separate answers. The fact that HR work off a different IT system to that of Finance and that these systems are unlinked, proves cross-referencing difficult. The previous month's payroll data was downloaded on the basis that if anyone was not paid this would have resulted in some protest being lodged reasonably quickly. Only data for permanent and fixed term contract employees was extracted. From these figures, it appears that MUT has a permanent and fixed-term contract staff of 487 of which 112 are contract, and 171 are academic with 92 vacancies. Given that a recent advert appeared in the

newspapers advertising 72 vacant posts (mostly academic), the figure of 92 vacancies seems believable. At an average annual total cost to company of R183 334, if all these advertised posts were to be filled (on the assumption that they are necessary otherwise they would not have been advertised) an additional R13 million would be added to the staff costs per annum and R17 million if all 92 assumed vacant posts were filled. This would add an additional 11% and 14% respectively to the current staff costs. If these posts were to be filled then the total establishment would be 559 or 579 respectively.

The current staff ratios are 1 academic to 1.85 administrative staff against normal university of technology ratios which are closer to 1:1. However, if the majority of required but unfilled posts are indeed academic, than this ratio would improve to 1 academic to 1.36 administrative staff. Even at this level, it would seem that the MUT is overstaffed on the administration side. The real current percentage of staff costs to council controlled income for 2007 is 68% against a maximum guideline of 63% from the DoE. If the additional staff were to be engaged this would increase to between 75% and 78% respectively.

It was difficult to calculate the turnover amongst academic and administrative contract staff due to the very nature of their employment on contract other than for contract appointments and terminations during 2008. In addition, it was almost impossible to determine genuine contract administration appointments due to the high number of student assistants, Lab assistants, Tutorial assistants, Tutors, Moderators and other part timers. Using the data given, figures were calculated to establish turnover rates with results that strongly suggested the figures were nonsense. For the purpose of this report this has been ignored.

It is apparent that the vice-chancellor plays a dominant role in the whole process of Recruitments and Appointments. When it is desired to fill a vacant post, the applicant requests an advert to be drafted. This is sent to the vice-chancellor for approval no matter what the position. The advert is placed, applications scrutinized and a short list created. This is sent to the vice-chancellor for approval. The short listed applicants are interviewed. Invariable the vice-chancellor this panel interview for all of the senior and middle manager positions and for many others below this level as well. A candidate is recommended by the panel for appointment. This is sent to the vice-chancellor for approval irrespective of the level of the post. 13 files of incomplete appointments were drawn at random from the offices of HR, the oldest from 12 December 2006.

All the above, with the exception of the two advertisements turned down, were approved as per current practices from advert to interview by the vice-chancellor.

Specific comments pertaining to the MUT Statute in respect of HR are made here. These must be read in relation to the sections on Finance and Governance. Before proceeding with the assessment of the above areas, it is necessary to comment on some aspects of the MUT Institutional Statute (Gazette on 2 July 1999) when compared with the basic requirements of the Higher Education Act (HEA) and the Standard Institutional Statute (SIT) as amended up to 2003 as it affects Human Resource practices. These are but a few of the anomalies contained in the current statute which stands as an antiquated, inefficient and at times, dangerous instrument in so far as institutional governance is concerned.

- Section 8 (4) of the SIT – in that the council may not delegate any of its powers referred to in subparagraph (3) of the same section. Subparagraph (3) contains reference to the suspension and/or dismissal of any employee.

- Section 14 (1) of the SIT – in that the secretary of council must be the registrar of the institution. The current secretary to council at MUT is elected from members of Council.
- Section 17 (1) of the SIT – in that “A member of council may not have a conflict of interest with the institution”. This is not the case currently with members of the MUT council.
- Section 18 (1) of the SIT – in that an Audit Committee is a required committee of council and
- Section 18 (4) of the SIT – in that “The chairperson of a committee may not be an employee or a student of the institution.” Refer to the section below dealing with HR related committees.
- Sections 34 to 39 of the MU Institutional Statute deals with “Conditions of Service” for MUT of which Sections 35 to 39 (some 7 pages – the same number of pages that deal with the council and committees of council) deal with the disciplinary code. Not only are elements of this code illegal in terms of the current labour legislation (such as suspension without pay) but appear in this statutory instrument whereas in the majority of other institutions are merely referred to in the statute as contained in the institutional rules.

Further, after cursory examination, current practices would appear to be contrary to this statute, in particular section 38 where “... any employee who is charged (my insertion in bold) with (an) offence may at the discretion of the principal and vice-chancellor be suspended “.

Of interest is that, in the 17 cases scrutinized which involved suspension between 2005 and 2008, the average time delay between actual suspension and the formal bringing of charges against an employee was 4.5 months.

3.4 Management oversight by the Vice-Chancellor

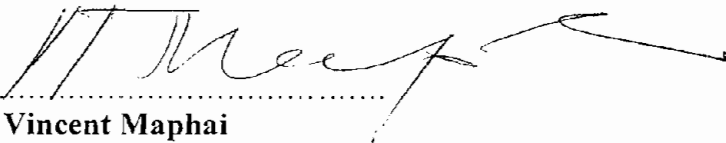
This report has addressed this specific aspect of the Terms of Reference in detail throughout the report. It is clear from the various sections of this report that either explicitly or implicitly reference has been made to the oversight of the Vice-Chancellor. It is recommended that the sections on Governance, Finance and Human Resources are read for detailed analysis.

4. CONCLUSION AND KEY RECOMMENDATIONS

The team has had extensive co-operation from all current and former members of the MUT community despite fears of reprisal and fear based on previous experiences. The report constitutes a record of the evidence collated during the term of appointment of the Independent Assessor. Please note that each section has a detailed report with several annexures and specific recommendations. There are areas which require further exploration and investigation which could not be concluded given the time constraints as well as the specialised knowledge required. In conclusion, the following priority actions need to be taken:

- a) Council to formally suspend the Vice-Chancellor pending further investigation and the formulation of charges where the investigation suggests this.

- b) Council to request the Minister to repeal the MUT Statute in recognition that it is not aligned with the requirements of the Higher Education Act. The Institution should, pending the approval of a new Statute, operate in terms of the Standard Institutional Statute provided for in the Higher Education Act.
- c) Minister to appoint an Administrator in terms of Section 41A of the Higher Education Act 101 of 1997 as amended with Terms of Reference developed from this report and the detailed section reports.
- d) Minister should request Council to consider its continued work as a Council given the contents of this report.



.....
Dr Vincent Maphai
Independent Assessor

ACKNOWLEDGEMENTS

First a sincere word of appreciation addressed to the Minister of Education, the Honourable Naledi Pandor, MP for the confidence she demonstrated in assigning this task to me. The Acting Vice-Chancellor of the Mangosuthu University of Technology provided ample hospitality and practical assistance in the arrangements for meetings in at the University. The Chairperson, all the members of Council and the University community who sacrificed their time to participate in the investigation need to be thanked. Thank you to the three specialists, Dr Swemmer, Mr Slack and Mr Lyall-Watson, who assisted the Independent Assessor. Members of the Department of Education and in particular Ms Kirti Menon, Ms Brenda Swart and her team need to be thanked for the logistical support provided to the Independent Assessor and his team.

TERMS OF REFERENCE
of the
MINISTER OF EDUCATION
to the

**INDEPENDENT ASSESSOR TO CONDUCT AN INVESTIGATION INTO THE AFFAIRS OF
THE MANGOSUTHU UNIVERSITY OF TECHNOLOGY**

1. PREAMBLE

The Council and its Executive Committee of the Mangosuthu University of Technology have deliberated on matters of governance and management at the Institution over a period of time and became concerned that serious problems in the governance and management of the University may be impacting on the effective functioning of the University. Council and its Executive Committee resolved that a thorough and independent assessment of the affairs of the University be conducted with respect to governance, management and employment relations.

2. TERMS OF REFERENCE: GENERAL

In terms of section 45 (a) of the the Higher Education Act, the Council of the Mangosuthu University has requested the Minister of Education to appoint an Independent Assessor to conduct an investigation into the affairs of the Mangosuthu University of Technology. The general purpose of the investigation is to advise the Minister and the Council on:

- the source and nature of the governance, management and administrative problems at the Mangosuthu University of Technology; and
- steps required to restore good governance, management and administration at the Mangosuthu University of Technology.

3. TERMS OF REFERENCE: SPECIFIC

- a) Assess the financial management systems of the University.
- Conduct a detailed analysis and report on the financial management systems and practices of the institution with particular emphasis on whether the University has appropriate and adequate procurement policies and whether the policies are adequately applied, including the functioning of the appropriate committees.
 - Establish whether an adequate system of control is in place to ensure that risks are mitigated with specific reference to procurement risk and procurement process risk and whether Council is regularly apprised of potential risks.
 - Conduct a detailed analysis and report on the remuneration policies and practices of the University, and the functioning of the appropriate committees of the University and specifically conduct an analysis and report on the establishment and performance of the procurement committee of the University.
 - Review the terms of reference of the Finance Committee and the functioning of the committee to assess whether areas of internal control and risk management are covered;
 - Identify any regulations, policies or practices that must be reviewed or created to improve the governance, management and administration of the financial affairs of the University.

b) Governance and Management Structures and Efficiencies

- Conduct a detailed analysis of, and report on the current situation in terms of organisation, management and governance structures, processes, systems, policies and competencies including issues of accountability and responsibility.
- Identify any authorities that have been delegated to the Vice Chancellor and management in contravention of the statutes or good corporate governance, indicating the circumstances and authority for such delegation.

c) Human Resources

- Conduct a detailed analysis and report on the human resource policies and practices of the University, particularly in relation to enhancing organisational efficiency and employment relations at the University.
- Review the functioning and role of committees established in terms of HRM policies with identification of policy-practice gaps and specifically conduct an analysis and report on the establishment and performance of the emoluments committee of the University;
- Conduct an investigation to determine the circumstances and reasons for the significant number of staff suspensions, disciplinary cases, labour disputes, staff demotions and dismissals at the University.
- Identify any regulation, policy or practices that must be reviewed or created to improve employment relations within the University.

d) Management oversight by the Vice Chancellor

- Conduct a detailed analysis and report on the reporting and accountability and reporting requirements by the Vice Chancellor to the Council and its relevant committees.
- In addition to the analysis and report on the establishment and performance of the emoluments and procurement committees as required in a) and c) conduct an analysis and report on the relationship of these committees to the Council and Vice Chancellor.
- Conduct a detailed analysis and report on whether the Vice Chancellor has deviated from Council approved policies and procedures, particularly with respect to emoluments and procurement and whether he has benefited financially from such decisions.
- Conduct a detailed analysis and report on whether the Vice Chancellor has performed any action that requires the approval of Council or its committees without such approval.

4. **TO MAKE RECOMMENDATIONS ON**

- Restoring of effective and proper governance, management, administration and employment relations at the University; and
- What action, if any, ought to be taken.

5. **COMPLETION AND REPORT**

The Independent Assessor must complete their work and submit a report to the Minister within 30 working days of his appointment.


G N M Pandor, MP

Minister of Education

Date: 15-09-2008