

# THE SUB-SAHARA AFRICA HAEMATOLOGY PATIENT CARE CONSORTIUM AGREEMENT

**BETWEEN: BLOODSA Foundation NPC** (Reg. No. 2021/990954/08), whose registered office is at Room E4-58, E5 Haematology Clinic E-floor, New Main Building, Groote Schuur Hospital, Observatory, CAPE TOWN 7935

*(hereinafter referred to as the “Performing Organisation”)*

**AND** **[INSERT NAME OF PARTY B]**, whose registered office is at *[insert address]*

*(hereinafter referred to individually as a “Party” and collectively with other participating Party’s as “the Parties”)*

## PREAMBLE

**WHEREAS** the Parties, in collaboration with the Performing Organisation, wish to co-operate in terms of the implementation of related PROGRAMMES and PROJECTS to develop, maintain and promote best practices in Haematology patient care in Sub-Saharan Africa;

**AND WHEREAS** this Consortium Agreement serves as an overarching agreement to govern the relationship between the Performing Organisation and the Party and their respective rights and obligations;

**AND WHEREAS**, specific projects and related activities to be undertaken in furtherance of this Consortium Agreement will be dealt with on a case-by-case basis as and when necessary, in terms of a Project Specific Agreement between the Performing Organisation and the relevant Party / Parties.

## IT IS HEREBY AGREED AS FOLLOWS:

### 1. DEFINITIONS

1.1 In this Agreement, the following terms shall have the following meanings:

“Business Day” means any day other than a Saturday or Sunday or a public holiday in the Republic of South Africa.

“Confidential Information” means all information that is marked as Confidential and that is disclosed by one Party to the others or the Performing Organisation for the purpose of conducting the Programme, including, without prejudice to the generality of the foregoing, any ideas; finance; financial, marketing, development or manpower plans; computer systems and software; products or services, including but not limited to know-how and information concerning relationships with other parties and all records, reports, documents, papers and other materials whatsoever originated pursuant to this Agreement.

“Consortium” means the Performing Organisation and participating Parties.

"Effective Date"	means the date when the Agreement has been signed by both the Performing Organisation and any individual participating Party to this Consortium Agreement.
"Programme"	means the collaborative implementation of related programmes and projects to develop, maintain and promote best practices in Haematology patient care in Sub-Saharan Africa.
"Programme Manager"	means the person appointed by the Performing Organisation to oversee and run the day-to-day operation of the related Projects within the Programme and be responsible for Party liaison and engagement, including reporting. The Programme Manager will be an employee of the Performing Organisation.
"Project-Specific Agreement"	means an agreement between the Performing Organisation and a Party/ Parties to the Consortium Agreement in respect of a specific project and project-related activities.
"Personnel"	means any employee, director, agent, subcontractor or other person engaged by a Party,

- 1.2 Headings contained in this Consortium Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.
- 1.3 Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

## 2. PERFORMING ORGANISATION

The **BLOODSA** Foundation NPC (*hereinafter referred to as "the Performing Organisation"*) is a neutral and autonomous non-profit organisation, which develops, maintains and promotes best practices in Haematology patient care in Sub-Saharan Africa. Structured as a *shared services hub*, the Performing Organisation will service the Consortium Partners (*hereinafter referred to individually as a "Party" and collectively as "the Parties"*) in both public and private sectors.

As the Performing Organisation, **BLOODSA** may contract with external third parties, in its own name and on its own behalf, for the purposes of securing funding for projects that further the objectives of this Consortium. **BLOODSA** will be responsible for notifying external third parties and prospective funders that, although the contract and funds will be awarded to **BLOODSA**, the actual work itself will be done by one/ some/ all of the Parties to this Consortium Agreement. Prior to executing an agreement with an external third party or funder, **BLOODSA** must take all reasonable steps to obtain the prior written consent of each of the Parties to this Consortium Agreement who will be affected by such external third party/ funder agreement.

## 3. PURPOSE OF THE CONSORTIUM

The purpose of the Consortium is to specify the organisation of the work between the Parties and the Performing Organisation in carrying out the Programme and to set out the rights and obligations of each Party to carry out the Programme and to produce the Deliverables as

described in a Project Specific Agreement, to be entered into between the Performing Organisation and each of the consortium Parties, and which will be added to each participating Party's contract as a Schedule to this Agreement.

#### **4. COMMENCEMENT AND DURATION**

- 4.1 This Agreement shall commence on the Effective Date.
- 4.2 This Agreement shall continue for an initial period of 5 (five) years from the Effective Date with an option to extend for a further period of 5 (five) years.

#### **5. OVERRIDING CONDITIONS**

In the event of a conflict between the terms and conditions of this Consortium Agreement and those of a Project-Specific Agreement, the former will take precedence over the latter.

#### **6. ACCOUNTING AND PAYMENTS**

- 6.1 Any amount due to the Performing Organisation, as specified and agreed to in the Project Specific Agreement, shall be invoiced directly to the Party responsible in accordance with this Agreement.
- 6.2 All amounts due relating to the work performed by the Performing Organisation under this Agreement shall be paid into the designated **BLOODSA Foundation NPC** bank account.
- 6.3 The Performing Organisation will provide the Parties with a written invoices not later than the 15th (fifteenth) day of each month following the month in which the Deliverables were delivered to the Parties.
- 6.4 Claimable costs and expenses are to be agreed upon in each Project Specific Agreement. Where claimable costs and expenses are incurred by individual Parties, such individual Party shall submit a claim for payment / reimbursement to the **BLOODSA** Programme Manager as soon as possible with supporting evidence of the expenditure attached. The claim can only be rejected if it is not a claimable cost and expense as agreed in the project Specific Agreement and / or if the individual Party fails to provide supporting evidence of the claim.

#### **7. ROLES AND RESPONSIBILITIES**

##### **7.1 PERFORMING ORGANISATION**

###### **7.1.1 Scientific Steering Committee and its Projects**

**BLOODSA** in collaboration with the Scientific Steering Committee, representing the collective needs of the participating consortium partners, identify, establish, coordinate and facilitate cross functional Working Parties in Haematology to identify and support national project and programme initiatives (*i.e. Hereditary Bleeding Disorders Registry, Haematopoietic Stem Cell Transplantation, Multiple Myeloma, Lymphoma, etc.*). Refer to the **Scientific Steering Committee's Terms-of-Reference**.

###### **7.1.2 Grant Management and Administration**

**BLOODSA** implement Grant Management, Administration and Governance on the behalf of the consortium partners:

- ✓ Building relationships with funders
- ✓ Write Grant applications or assist Partners writing individual grant applications
- ✓ Ensuring compliance with the conditions of award

- ✓ Keeping funding institutions informed of the status of funding initiatives
- ✓ Ensuring increased ROI for both funders and Grant recipients

### 7.1.3 Programme Coordination

Through a collaborative approach **BLOODSA** will *turn intangible ideas into reality* by:

- ✓ Setting measurable objectives, identifying deliverables and planning tasks
- ✓ Facilitate communication and provide a central source of information for project personnel and stakeholders
- ✓ Help the project sponsor and other key stakeholders know what is required
- ✓ Identify who will perform certain tasks, and when and how those tasks will happen
- ✓ Facilitate project management and control as the project progresses
- ✓ Enable effective monitoring and control of a project
- ✓ Manage project risk
- ✓ Generate feedback useful for the next project planning phase

### 7.1.4 Implementation Support

To help ensuring the success of the overall business system, **BLOODSA** will assist Consortium Partners integrating new systems into their existing organisational workflow structures. The **BLOODSA** implementation support team work closely with participating consortium partners ensuring project outcomes meet the established success criteria, while maximising the investment, resources, and training.

### 7.1.5 Ongoing Business Support

**BLOODSA** provides ongoing business support, in person or over the phone, to participating consortium partners on related initiatives through:

- ✓ Direct Support (*i.e. registries and Quality Management*) – participating consortium partners can speak directly with a subject matter expert as soon as they call. Rather than dealing with a call centre, **BLOODSA** provides experts at your fingertips
- ✓ Regular Site Visits – during visits, **BLOODSA** subject matter experts can observe problems in person and make prompt recommendations on how to improve related processes and systems
- ✓ Quick Response – **BLOODSA** guarantees fast response time for problems

### 7.1.6 Application Support

**BLOODSA** will ensure that related operational processes (Quality Management System and disease registries) run smoothly and enables users to conduct their business. Application support offers technical support and human support:

- ✓ **Technical Support** relates to the maintenance of the business application, software and other related technological systems – these will be sourced from and coordinated with the preferred External Service Provider
- ✓ **Human Support** relates to helping the end-user understanding how to use the application or system and help solve any issues – this is provided by the **BLOODSA** team of subject matter experts

### 7.1.7 Vendor Management

Through the vendor management program, **BLOODSA**, in its capacity as the Performing Organisation, will facilitate and maintain relationships with strategic vendors, negotiate contracts, create standards for the vendors, and find the best available vendors that can contribute to the achievement of the consortium strategic goals and objectives.

- ✓ Optimized vendor performance and leverage
- ✓ Reduction of run-rate expenses and budgeted capital expenditures
- ✓ Improved quality (services, operations, product, supply chain, etc.)

- ✓ Measured risk reduction and compliance
- ✓ Improved process efficiency and cycle time
- ✓ Ensure vendor governance, compliance and alignment

#### **7.1.8 Procurement Services**

Procurement Management overseeing all the processes involved in acquiring the products, materials, goods and services needed for efficient business operations. **BLOODSA** will ensure that goods and services are procured in a manner that will realise best value for money, minimise risk and safeguard the consortium's interests. Through the centralized management of the supply of goods and services, **BLOODSA** and its consortium partners can cut excess costs and deliver products to the consortium faster.

#### **7.1.9 Continuing Professional Development**

**BLOODSA** offers *Haem Deep Dive* and certified courses (CPD) in related haematology illnesses online. Attendees earn continuous professional development (CPD) points for the continuation of their professional membership.

### **7.2 PARTIES**

- 7.2.1 Enter into a Consortium Agreement with the Performing Organisation.
- 7.2.2 Adhere to the Performing Organisation's (**BLOODSA**) Code of Conduct.
- 7.2.3 As agreed at the start of each individual project, certain costs may accrue for services and products rendered as related to the project. If applicable, pay amounts due to the Performing Organisation under clause 6 of this Agreement.
- 7.2.4 Make available and share, for the use in the Consortium, 'best practice pathways' and Standard Operating Procedures (SOPs).
- 7.2.5 Actively participating in the Scientific Steering Committee and cross functional Working Parties to identify, establish, coordinate and facilitate national projects and programmes in haematology.
- 7.2.6 Actively participate in joint workshops to develop new 'best practice pathways' and SOPs.
- 7.2.7 Actively host joint 'best practice pathway' and SOP workshops (development and implementation).
- 7.2.8 Make available, manage and maintain resources, infrastructure and facilities for related Haematology initiative.
- 7.2.9 Take ownership, improve, sustain and ensure continuation of related Haematology initiatives post implementation.

### **7.3 PERFORMANCE**

- 7.3.1 Each Party undertakes to each other Party and to the Performing Organisation to perform and fulfil on time the tasks assigned to it by the Programme Manager and all other of its obligations under this Agreement.
- 7.3.2 Each Party hereby undertakes to supply promptly to the Programme Manager all such information or documents, as the Programme Manager needs to fulfil obligations pursuant to this Agreement.

- 7.3.3 Towards each other, each Party undertakes to:
- 7.3.3.1 notify the Programme Manager and each of the other Parties as a Party becomes aware of any significant delay in performance;
  - 7.3.3.2 inform the Programme Manager and other Parties of relevant communications it receives from third parties in relation to the Project.
- 7.3.4 Each Party shall use all best efforts to ensure the accuracy of any information or materials it supplies hereunder and promptly to correct any error therein of which it is notified.
- 7.3.5 Each Party agrees not to issue any press releases or other such publicity materials relating to the work of the Consortium without obtaining prior approval from the Performing Organisation and the other Parties.

## **8. WARRANTIES AND UNDERTAKINGS**

- 8.1 Each Party warrants that under its contractual relationships with each of its Personnel, any intellectual property rights arising out of or relating to work done by the Personnel for the Party will vest in such Party and that the Personnel will have no right, title or interest, whether legal or beneficial, in any such intellectual property rights.
- 8.2 Each Party acknowledges that it is and shall remain liable for the consequences of any action on its part or on the part of its Personnel to fulfil the tasks and work packages assigned to it under this Agreement and shall accordingly:
- 8.2.1 procure and maintain its own insurance, with insurers of good repute, to cover its own liabilities and those on behalf of its Personnel;
  - 8.2.2 keep true and accurate records of all things done by its Personnel in relation to the tasks and work packages assigned to it under this Agreement;
  - 8.2.3 comply and assist the Consortium, the Performing Organisation and the Programme Manager in complying with all relevant statutes, laws, regulations and codes of practice relating to its tasks and work packages from time to time in force;
  - 8.2.4 comply with all recommendations and requirements of its insurers; and
  - 8.2.5 indemnify, keep indemnified and hold harmless the Performing Organisation, The Programme Manager and other Parties from and against all costs (including the costs of enforcement), expenses, liabilities, injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which they incur or suffer as a result of a breach of this Agreement or negligent acts or omissions or wilful misconduct of the Party and/or its Personnel including without limitation any resulting liability the Consortium has to the funder or to any third party.
- 8.3 Each Party shall be responsible for providing all appropriate facilities and services as shall be necessary in the proper performance of the tasks and work packages, which will be entirely at the Party's own expense.

- 8.4 Each Party agrees and undertakes, at its own expense, to make its Personnel available to attend the Scientific Steering Committee and subsequent Working Parties meetings, with participating consortium partners, to review progress of its projects at such times and locations as set by the Chairperson of the Scientific Steering Committee.

## **9. ADDITION OF PARTIES TO THE CONSORTIUM**

Haematology Institutions, in both the public and private sector, may join the Consortium on the condition that the new Institution becomes a party to this Agreement. In the event that one or more Parties are opposed to the addition of a new Party to this Agreement, the matter shall be referred to the **BLOODSA** Board of Directors for resolution.

## **10. REMOVAL OF PARTIES FROM THE CONSORTIUM**

### **10.1 REMOVAL OF PARTIES**

Without prejudice to any other rights or remedies open to the Consortium, the Performing Organisation may terminate a Party's Agreement with the Consortium, if the Party:

- 10.1.1 is in material breach of any of the terms of this Agreement and, where the breach is capable of remedy, the Party fails to remedy such breach within 30 days' service of a written notice specifying the breach and requiring it to be remedied; or
- 10.1.2 is incompetent, commits any act of gross or persistent misconduct and/or neglects or omits to perform any of its duties or obligations under this Agreement; or
- 10.1.3 fails or refuses after written warning from the Performing Organisation to carry out the duties or obligations reasonably and properly required of it under this Agreement; or
- 10.1.4 ceases to operate its business or undertaking;
- 10.1.5 provides the Performing Organisation or its Programme Manager with any false or misleading information with regard to its ability to perform its duties or obligations under this Agreement; or
- 10.1.6 has done anything which brings or might reasonably be expected to bring the Consortium, the Performing Organisation or the Funder into disrepute or otherwise damage other contractors, employees, agents, customers, other business associates or the general public including, but not limited to, committing an act of fraud or dishonesty, whether or not connected with the activities of the Consortium.
- 10.1.7 The Performing Organisation will make a decision in this regard, having due regard to all applicable information and its decision will be based on the best interests of the Consortium and the Programme.

### **10.2 WITHDRAWAL OF PARTIES**

A Party can withdraw from the Consortium subject to 3 months' written notice to the Performing Organisation provided that, when such withdrawal takes effect, the withdrawing Party is not actively involved in any current ongoing Project Specific Agreement/s. During the notice period, the withdrawing Party must cooperate with the Performing Organisation and any other relevant Party/ies, to ensure that, on expiration of the notice period, all matters whether related to any Project Specific Agreement/s or to this Consortium Agreement have been finalised and wound up such that the withdrawing Party's exit is smooth and does not hinder the Consortium or Programme in any manner. A Party cannot withdraw from the Consortium during the currency

of any Project Specific Agreement/s that it is involved in as this could potentially jeopardise the Performing Organisations relationship with any external third party or funder if such Project Specific Agreement/s involved them and it could also potentially jeopardise the success of the Consortium and the Programme. If there is a dispute in this regard, it shall be referred to the **BLOODSA** Board of Directors by the Performing Organisation or the Party seeking to withdraw or any other Party to this Agreement, for resolution.

### **10.3 CONDITIONS CONSEQUENT ON REMOVAL**

In the event of removal of a Party, especially if the removal takes place during the currency of any Project Specific Agreement/s that the Party is involved in, the Party being removed must cooperate with the Performing Organisation and any other relevant Party/ies, to ensure the efficient termination of the project or the proper handover of the project to another Party and the smooth transition of the project. The Party being removed must give the Performing Organisation the right of access to and use of any work produced in the course of the Party's work as part of the Consortium. The Performing Organisation will be liable to meet only the cost of any work undertaken up to the point at which the Party ceases to be a member of the Consortium. The balance of any payments made to the Party will be returned to the Performing Organisation within 30 days of expulsion.

## **11. DATA MANAGEMENT**

### **11.1 DATA COLLECTION**

In the course of the Consortium's activities, each Party is involved in the production and collection of data in the form of an electronic platform(s) and registries. Only authorised Personnel are to capture data on the electronic platform(s) and registries. Each Party agrees to ensure that only authorised Personnel will have access to data captured on the electronic platform(s) and registries and that all the necessary consents have been obtained. The Performing Organisation may in the execution of its responsibilities relocate the services to an alternative service provider with the aim to improve availability, reliability and accessibility.

### **11.2 DATA MAINTENANCE**

The Performing Organisation undertakes to maintain the electronic platform(s) and registries, Data and Archives, for the duration of the Programme and for a period of at least three (3) years after the end of the Programme or as required by law.

### **11.3 DATA PROTECTION**

As a member of the Consortium, each Party will be processing personal data for the purpose of their involvement with the Consortium. Each Party must be a signatory of the Performing Organisation's User Registration and Confidentiality Agreement. If data need to be transferred between parties, a Data Transfer Agreement (DTA) must be signed between the Parties, prior to data processing.

## **12. CONFIDENTIALITY**

12.1 The Performing Organisation and each Party hereby undertakes to the other Parties that it shall procure that its employees, agents and sub-contractors shall:

12.1.1 Keep confidential all information of a confidential nature (whether written or oral) concerning this Agreement and the business affairs of the Performing Organisation or another Party that it shall have obtained or received as a result of the discussions leading up to or entering into or performance of this agreement (the "Information");



- 12.1.2 Not without the prior written consent of the relevant other Party disclose the Information either in whole or in part to any other person save those of its employees, agents and sub-contractors involved in the implementation or evaluation of the Programme who have a need to know the same for the performance of their duties;
- 12.1.3 Use the Information solely in connection with the implementation of the Programme and not otherwise for its own benefit or the benefit of any third party.
- 12.1.4 These provisions above shall not apply to the whole or any part of the Information to the extent that it can be shown by the receiving Party to be:
  - 12.1.5 Known to the receiving Party prior to the date of this Agreement and not obtained directly or indirectly from any other party; or
  - 12.1.6 Obtained from a third party who lawfully possesses such Information which has not been obtained in breach of a duty of confidence owed to any party by any person; or
  - 12.1.7 In the public domain in the form in which it is possessed by any other party other than as a result of a breach of a duty of confidence owed to such other party by any person; or
  - 12.1.8 Required to be disclosed by legal process, law or regulatory authority.
- 12.2 Each Party hereby undertakes to the other Parties to make all relevant employees, agents and sub-contractors aware of the confidentiality of the Information and provisions of this clause and without prejudice to the generality of the foregoing to ensure compliance by such employees, agents and sub-contractors with the provisions of this clause.

### **13. INTELLECTUAL PROPERTY**

#### **13.1 IPR WARRANTIES**

Each Party shall obtain the necessary assignments of Intellectual Property Rights or licences from all staff, agents, or sub-contractors involved in the development and production of the Deliverables on its behalf. Each Party warrants to the other Parties that it is the owner of the Intellectual Property Rights in the Deliverables, or that it is duly licensed to use the Deliverables, and that the use of the content of the Deliverables as contemplated in this Agreement does not infringe any Intellectual Property Rights or other proprietary or rights of any natural or legal person.

#### **13.2 BACKGROUND IPR**

All Background IPR used in connection with this Agreement shall remain the property of the Party introducing the same or any other third parties. Each Party shall take responsibility for ensuring that all necessary permissions have been sought to use Background IPR.

#### **13.3 FOREGROUND RIGHTS**

All Foreground IPR arising from this Agreement shall belong to the Party generating the same.

#### **13.4 ACCURACY**

Each Party shall use reasonable endeavours to ensure the accuracy of any information or materials that it supplies to the other Parties under this clause and shall promptly correct any error therein of which it is notified. The Party will provide no warranties to recipient Parties in respect of the information and materials, and the recipient Parties shall be entirely responsible for the use to which they put such information and materials.

## **13.5 ACCESS RIGHTS**

- 13.5.1 Each Party hereby grants to the other a royalty-free, non-exclusive, worldwide, irrevocable, assignable, perpetual licence to use its (and third parties) Background IPR and Foreground IPR for the purpose of performing their part of the Consortium.
- 13.5.2 Each Party hereby indemnifies the other Parties against any liabilities, loss, claims or expenses brought against or incurred as a result of its use of and/or sale of products containing the other Parties' Background IPR and/or Foreground IPR provided such liability, loss, claim or expense is not as a result of any unauthorised use of such Background IPR and/ or Foreground IPR.
- 13.5.3 Should the Consortium Agreement come to an end, all Parties shall continue to have the right to use their own Foreground IPR as they see fit, subject to any applicable funder terms and conditions.
- 13.5.4 Use of Background IPR and/or Foreground IPR by third parties other than the Performing Organisation or the Parties hereto, and by educational institutions shall be at the discretion of the Parties owning such Background IPR and/or Foreground IPR.
- 13.5.5 Each Party hereby grants to the Performing Organisation a royalty-free, non-exclusive, worldwide, irrevocable, assignable, perpetual licence to use all Background IPR and Foreground IPR of the Parties for non-commercial purposes of performing its obligations under Clause 2.

## **14. FUNDING AGREEMENTS**

In the event that the Performing Organisation is awarded funding in furtherance of the aims and objectives of this Agreement, the Parties will be required, as far as is reasonably possible, to abide by the Funder's terms, in addition to the terms of this Agreement. It is the Performing Organisation's responsibility to check with the Parties whether they will be able to abide by the Funder's terms before accepting funding and where there is a problem, the Performing Organisation will be responsible for attempting to reach a compromise that satisfies the Funder and the Parties. Where this is not possible, the Parties may choose not to participate in the specific project for which the funding is offered and other Parties to this Agreement who can abide by the Funder's terms must then participate in the specific project for which the funding is offered. If there are no other suitable Parties to do so, the Performing Organisation will have to decline the offer of funding.

## **15. TERMINATION**

### **15.1 TERMINATION OF FUNDING**

This Agreement shall terminate immediately with no liability between the Performing Organisation and the Parties should the Funding Agreement terminate for any reason whatsoever, unless the Parties, by means of written agreement, decide to continue it.

### **15.2 TERMINATION BY MUTUAL AGREEMENT**

This Agreement may be terminated at any time by the unanimous written agreement of the Parties and the Performing Organisation.

### **15.3 RIGHTS OF PARTIES**

The termination of this Agreement, howsoever arising, is without prejudice to the rights, duties and liabilities of the Parties accrued due prior to termination. The provisions in this

Agreement, which expressly or impliedly have effect after termination, shall continue to be enforceable notwithstanding termination.

## **16. GOVERNING LAW AND DISPUTE RESOLUTION**

- 16.1 This Agreement shall be governed by and construed in accordance with South African law and the parties irrevocably agree that any dispute arising out of or in connection with this Agreement will be subject to and within the jurisdiction of the South African courts.
- 16.2 The Performing Organisation and Parties agree to use best efforts to resolve disputes in an informal manner. Where the Performing Organisation and Parties agree that a dispute arising out of or in connection with this Agreement would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.
- 16.3 Any person to whom a reference is made under Clause 16.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.
- 16.4 The Performing Organisation and each Party shall provide the expert with such information and documentation as he or she may reasonably require for the purposes of his or her decision.
- 16.5 The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the parties in equal proportions.

## **17. GENERAL PROVISIONS**

### **17.1 SOLE AGREEMENT**

- 17.1.1 This Agreement contains all the terms which the Performing Organisation and the Parties have agreed in relation to the subject matter of this Agreement and supersede any prior written or oral agreements, representations or understandings between the Performing Organisation and the Parties relating to such subject matters.
- 17.1.2 No Party to this Agreement has been induced to enter into this Agreement by a statement or promise which it does not contain save that this clause shall not exclude any liability which one party would otherwise have to the other in respect of any statements made fraudulently by that party.

### **17.2 SCHEDULES**

As stated in the Preamble and in clause 3 hereof, Project Specific Agreements will be concluded between the Performing Organisation and each participating Party and will be added as a schedule to this Agreement.

### **17.3 WAIVER**

No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

### **17.4 SEVERABILITY**

If any clause or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision

shall, to the extent required, be severed from this Agreement and shall be ineffective without, as far as is possible, modifying any other clause or part of this Agreement and this shall not affect any other provisions of this Agreement which shall remain in full force and effect.

#### **17.5 FORCE MAJEURE**

No Party will be deemed to be in breach of this Agreement, nor otherwise liable to the other for any failure or delay in performance of this Agreement if it is due to any event beyond its reasonable control other than strike, lock-out or industrial disputes but including, without limitation, acts of God, war, fire, flood, tempest and national emergencies and a Party so delayed shall be entitled to a reasonable extension of time for performing such obligations.

#### **17.6 ASSIGNMENT**

Save as permitted for under this Agreement, neither this Agreement nor any of the rights and obligations under it may be sub-contracted or assigned by any party without obtaining the prior written consent of the Performing Organisation. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Agreement and agrees to be bound to all the terms of this Agreement.

#### **17.7 VARIATION**

This Agreement may be amended at any time by written agreement between the Performing Organisation and the Parties. No variation to this Agreement shall be effective unless in writing signed by a duly authorised officer of each of the written Performing Organisation and Parties.

#### **17.8 NOTICE**

17.8.1 Any notice in connection with this Agreement shall be in writing and may be delivered by hand, or by e-mail, addressed to the recipient at its registered office or its address or facsimile number as the case may be (or such other address, or facsimile number as may be notified in writing from time to time).

17.8.2 The notice shall be deemed to have been duly served:

17.8.2.1 if delivered by hand, when left at the proper address for service;

17.8.2.2 if given or made by registered mail or courier, 48 hours after being posted or in the case of Airmail 14 days after being posted (excluding days other than Business Days), provided that, where in the case of delivery by hand, such delivery or transmission occurs either after 16:00 on a Business Day, or on a day other than a Business Day, service shall be deemed to occur at 09:00 on the next following Business Day (such times being local time at the address of the recipient).

THUS DONE AND SIGNED BY **BLOODSA FOUNDATION NPC**

\_\_\_\_\_ (Signature of Duly Authorised Representative)

**Estelle Ramona Verburgh**

**Director and CEO**

\_\_\_\_\_ (Place of Signature)

\_\_\_\_\_ (Date of Signature)

THUS DONE AND SIGNED BY \_\_\_\_\_

\_\_\_\_\_ (Signature of Duly Authorised Representative)

\_\_\_\_\_ (Name of Duly Authorised Representative)

\_\_\_\_\_ (Designation of Duly Authorised Representative)

\_\_\_\_\_ (Place of Signature)

\_\_\_\_\_ (Date of Signature)