

**The British Council:** **THE BRITISH COUNCIL**, incorporated by Royal Charter and registered as a charity (under number 209131 in England & Wales and number SC037733 in Scotland), with its principal office at 10 Spring Gardens, London, SW1A 2BN, **operating through its local office at 275 Jan Smuts Avenue, Dunkeld West, Johannesburg, 2196.**

**The Recipient:** **TBC**

**Application ID:** **TBC**

**SA Applicant:** **TBC**

**Partner Country:** **South Africa**

**Date:** **TBC**

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below which both the British Council and the Recipient undertake to observe in the performance of this Agreement.

The British Council shall award the Grant to the Recipient for the purposes of funding the Project described in Schedule 1 on the terms and conditions of this Agreement.

The Recipient acknowledges that, where it will carry out the Project in partnership and/or collaboration with, and will pass some or all of the Grant to, any other organisation(s) (such organisation(s) not being a party to this Agreement ("**Sub Grantee**")), it will ensure that it enters into formal, legally binding agreements with each Sub Grantee on terms which reflect and are no less onerous than the terms of this Agreement and that it shall remain wholly liable and responsible for all acts and omissions (howsoever arising) of each Sub Grantee.

## Schedules

<b>Schedule 1</b>	Special Terms
<b>Schedule 2</b>	Project Proposal
<b>Schedule 3</b>	Standard Terms
<b>Schedule 4</b>	Project Summary Budget
<b>Schedule 5</b>	Guidelines for Applicants
<b>Schedule 6</b>	Reporting Requirements
<b>Schedule 7</b>	Bank details form
<b>Schedule 8</b>	British Council Brand Identity Guidelines
<b>Schedule 9</b>	Data Processing Schedule

This Agreement shall only become binding on the British Council upon its signature by an authorised signatory of the British Council subsequent to signature by or on behalf of the Recipient.

**IN WITNESS** whereof the parties or their duly authorised representatives have entered into this Agreement on the date set out above.

### **Signed by the duly authorised representative of THE BRITISH COUNCIL**

Name:	.....	Signature:	.....
Position:	.....		

### **Signed by the duly authorised representative of TBC**

Name:	.....	Signature:	.....
Position:	.....		

## Special Terms

Terms defined in this Schedule 1 shall have the same meanings when used throughout this Agreement.

In the event of any conflict between the terms set out in the various Schedules, the Schedules shall prevail in the order in which they appear in the Agreement.

For the purposes of the Project and the Grant, the terms of this Agreement shall prevail over any other terms and conditions issued by the British Council (whether on a purchase order or otherwise).

### **1 The Project**

- 1.1 The British Council awards the Grant for the purposes of implementing activities under the **UK-SA USDP Partnerships** programme between the United Kingdom and South Africa as more fully described in the Project Proposal (Schedule 2) (the “**Project**”).
- 1.2 The Recipient will carry out the Project in collaboration with **TBC** and **TBC**, for the purpose of implementing the Project, as detailed in the Project Proposal (Schedule 2).
- 1.3 The Recipient will deliver the Project and manage the Grant, including where relevant, disbursing the Grant to Sub Grantees in accordance with the Project Proposal detailed in Schedule 2.

### **2 Commencement and Duration**

- 2.1 This Agreement shall come into force on the **1<sup>st</sup> of April 2019** and shall continue in full force (unless terminated in accordance with clause 2.2 below or clause 7 of Schedule 5) for such a period of time until the Project is completed in accordance with the requirements of Schedule 2 (the “**Term**”).
- 2.2 Notwithstanding anything to the contrary elsewhere in this Agreement, the British Council shall be entitled to terminate this Agreement by serving not less than 30 days’ written notice on the Recipient.

### **3 The Grant**

- 3.1 The amount of the grant awarded to the Recipient is **ZAR 180,000 (One hundred and eighty thousand rands)** (the “**Grant**”).
- 3.2 In consideration of the Recipient’s delivery of the Project, the Grant shall be paid by the British Council to the Recipient by EFT transfer in accordance with the payment schedule below, subject to the Recipient’s satisfactory compliance with the terms of this Agreement:

<b>Payment</b>	<b>Maximum payable</b>	<b>Requirements/Milestones/Key Dates etc</b>
<b>1</b>	<b>90% ZAR 162,000</b>	<b>Agreement Signed</b>
<b>2</b>	<b>10% ZAR 18,000</b>	<b>Approved Final Narrative and Financial Report</b>

3.3 The British Council shall not be obliged to pay the 2<sup>nd</sup> grant instalment to the extent that it has not received funding relating to that instalment from the Funder (as defined in clause 5.1 below).

#### **4 Eligibility Criteria**

4.1 The Recipient must comply with the eligibility criteria and requirements detailed in Schedule 5 Guidelines for Applicants (“**Eligibility Criteria**”) in order to qualify for the Grant:

4.2 The Recipient warrants that it will continue to comply with the Eligibility Criteria throughout the Term.

#### **5 Funder**

5.1 The body providing funding for the Grant is: the British Council (the “**Funder**”).

#### **6 Service of notices**

6.1 For the purposes of clause 22 of Schedule 3, notices are to be sent to the following addresses:

To the British Council	To the Recipient
<b>The British Council 275 Jan Smuts Avenue Dunkeld West Johannesburg 2196</b>  <b>[Attention: Meekness Lunga, Higher Education Project Manager]</b>	<b>[Insert address]</b>  <b>[Attention: insert name <u>and</u> job title]</b>

#### **7 Locations**

7.1 The Project will be carried out in South Africa and **the United Kingdom** (“**Location(s)**”) or such other locations as may be agreed between the parties in writing from time to time.

#### **8 Recipient Responsibilities**

8.1 The Recipient shall:

8.1.1 use the Grant only for eligible costs detailed in Project Summary Budget at Schedule 4 and Guidelines for Applicants Schedule 5 and disburse the Grant in accordance with the terms of this Agreement;

8.1.2 complete and submit interim and final reports to the British Council in accordance with the Reporting Requirements at Schedule 6. The final report must be submitted to the British Council within 30 days of completion of the Project and shall also

include a summary statement of expenses relating to the Grant, together with supporting documentation;

- 8.1.3 complete British Council monitoring and evaluation surveys, including impact surveys after the end of the Project as outlined in the Reporting Requirements at Schedule 6;
- 8.1.4 comply with the specific guidelines governing the Project provided by the British Council at Schedule 5 and **Error! Reference source not found.** of this Agreement and any other reasonable requirements notified to the Recipient from time to time by the British Council and;

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## Schedule 2

### Project Proposal

The project (collaboration grant) is to support scoping activities for the development of joint partnership programmes in support of doctoral training for academics at South African public higher education institutions. The project objective is to support preparation and planning for the USDP Phase 2 proposal submission deadline. The project listed hereunder should enable more focussed engagement and exploration of potential partnerships between UK and SA universities. HEI consortia that develop draft collaboration proposals in the scoping and development phase will be invited to apply for the USDP Phase 2 grants through a South African lead university who will submit the proposal to the Department of Higher Education and Training. The scoping visits and the development of draft partnership proposals from UK-SA universities must be completed by end of May 2019.

The Project being funded is between the University of xxxxxx and xxxxxx as part of a consortium of universities which also includes xxxxxx

[Please describe project activities here as per application document]

## Schedule 3

### Standard Terms

#### **1** Interpretation

##### 1.1 In this Agreement:

“**British Council Entities**” means the subsidiary companies and other organisations Controlled by the British Council from time to time, and any organisation which Controls the British Council (the “**Controlling Entity**”) as well as any other organisations Controlled by the Controlling Entity from time to time;

“**British Council Requirements**” means the instructions, requirements, policies, codes of conduct, guidelines, forms and other documents notified to the Recipient in writing or set out on the British Council’s website at [http://www.britishcouncil.org/new/about-us/jobs/folder\\_jobs/register-as-a-consultant/policies-for-consultants-and-associates/](http://www.britishcouncil.org/new/about-us/jobs/folder_jobs/register-as-a-consultant/policies-for-consultants-and-associates/) or such other web address as may be notified to the Recipient from time to time (as such documents may be amended, updated or supplemented from time to time during the Term);

“**Code**” means the Department of Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the Freedom of Information Act 2000 (issued under section 45 of that Act) (November 2004) as may be updated or re-issued from time to time and any other relevant codes of practice published by the Department of Constitutional Affairs or its successor bodies;

“**Confidential Information**” means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, developments, trade secrets, Intellectual Property Rights, know-how, personnel, and customers of the British Council or the Recipient (as the case may be) and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

“**Control**” means the ability to direct the affairs of another party whether by virtue of the ownership of shares, contract or otherwise (and “**Controlled**” shall be construed accordingly);

“**Environmental Information Regulations**” means the Environmental Information Regulations 2004;

“**Equality Legislation**” means any and all legislation, applicable guidance and statutory codes of practice relating to diversity, equality, non-discrimination and human rights as may be in force from time to time in England and Wales or in any other territory in which, or in respect of which, the Project relates;

“**FOIA**” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

“**Funder Agreement**” means the agreement (if any) between the Funder (if any) and the British Council relating to the provision of the funding out of which the Grant is made;

**“Funder Requirements”** means the specific requirements of the Funder (if any), including the terms of the Funder Agreement, as incorporated into this Grant Agreement or otherwise notified to the Recipient in writing (including, without limitation, by means of email or any website or extranet);

**“Information Disclosure Requirements”** means the requirements to disclose information under:

- (a) the Code;
- (b) the FOIA; and
- (c) the Environmental Information Regulations;

**“Intellectual Property Rights”** means any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trade marks, service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all applications (or rights to apply) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**“Newton Fund Brand Identity Guidelines”** means the visual identity and branding guidelines and instructions applicable to all Newton Fund activity detailed in 0;

**“Recipient’s Team”** means the Recipient and, where applicable, any Relevant Person, and all other employees, consultants, agents and sub-contractors which the Recipient engages in any way in relation to the Project;

**“Relevant Person”** means any individual employed or engaged by the Recipient and involved in the Project, or any agent or contractor or sub-contractor of the Recipient who is involved in the Project; and

**“Request for Information”** means a request for information (as defined in FOIA) relating to or connected with this Agreement or the British Council more generally or any apparent request for such information under the Information Disclosure Requirements.

1.2 In this Agreement:

- 1.2.1 any headings in this Agreement shall not affect the interpretation of this Agreement;
- 1.2.2 a reference to a statute or statutory provision is (unless otherwise stated) a reference to the applicable UK statute as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;
- 1.2.3 where the words “include(s)” or “including” are used in this Agreement, they are deemed to have the words “without limitation” following them, and are illustrative and shall not limit the sense of the words preceding them;



1.2.4 without prejudice to clause 1.2.5, except where the context requires otherwise, references to:

- (i) services being provided to, or other activities being provided for, the British Council;
- (ii) any benefits, warranties, indemnities, rights and/or licences granted or provided to the British Council; and
- (iii) the business, operations, customers, assets, Intellectual Property Rights, agreements or other property of the British Council,

shall be deemed to be references to such services, activities, benefits, warranties, indemnities, rights and/or licences being provided to, or property belonging to, each of the British Council and the British Council Entities and this Agreement is intended to be enforceable by each of the British Council Entities; and

1.2.5 obligations of the British Council shall not be interpreted as obligations of any of the British Council Entities.

## **2 Recipient's obligations**

2.1 The Recipient warrants that the information given to the British Council in connection with the Project Proposal is true and acknowledges that the British Council awards the Grant on this basis.

2.2 The Recipient shall:

2.2.1 apply the Grant solely and exclusively for the purposes of funding the Project and will not use the Grant to fund any activity that may be party-political in intention use or presentation or to propagate a particular religion. The Recipient agrees to reimburse the British Council in full if the Grant is not used for this purpose.

2.2.2 notify the British Council in writing of any amount of other funding including other public sector funding (if any) and/or guarantees secured by or offered to it for any purpose related to the Project as soon as it is approved;

2.2.3 deliver the Project with (i) reasonable skill and care and to the highest professional standards (ii) in compliance at all times with the terms of this Agreement (and, in particular, the Special Terms (Schedule 1) and the Project Proposal (Schedule 2)), the reasonable instructions of the British Council and all applicable regulations and legislation in force from time to time. The Recipient shall allocate sufficient resources to enable it to comply with its obligations under this Agreement;

2.2.4 comply with the Funder Requirements (if any) and do nothing to put the British Council in breach of the Funder Requirements (if any);

2.2.5 not at any time do or say anything which damages or which could reasonably be expected to damage the interests or reputation of the British Council or the Funder (if any) or their respective officers, employees, agents or contractors;

- 2.2.6 obtain the prior written consent of the British Council (and, where applicable, the Funder) before purchasing any Capital Asset and shall not dispose of any Capital Asset without the British Council's prior written consent;
- 2.2.7 shall ensure that where it is responsible for the preparation of Project materials or materials promoting the Project or the parties' involvement in the Project it shall acknowledge the funding role of the Funder and ensure the materials are prepared in accordance with the Newton Fund Brand Identity Guidelines.
- 2.2.8 treat the terms of this Agreement and any information of a confidential nature relating to the British Council as confidential;
- 2.2.9 comply in all material respects with the Data Protection Legislation. The British Council and the Recipient agrees to any reasonable amendment to this Agreement in accordance with variation clause 16 in order to comply with any statutory amendments, re-enactment or revocation and replacement of current Data Protection Legislation and agree to execute any further documents required for compliance under the Data Protection Legislation in force at that time;
- 2.2.10 maintain records relating to this Agreement for seven (7) years following the year in which the Project is complete and allow the British Council and/or the Funder access to those records on reasonable notice and at reasonable times for audit purposes;
- 2.2.11 obtain the British Council's prior written consent to all promotional activity or publicity relating to the Project and act at all times in accordance with the British Council's reasonable instructions and the Newton Brand Identity Guidelines relating to such activity or publicity;
- 2.2.12 comply with all applicable legislation and codes of practice relating to child protection and the promotion of the welfare of children in force in England and Wales and any other territory in which the Project takes place or to which the Project relates;
- 2.2.13 take out and maintain during the Term appropriate insurance cover in respect of its activities under this Agreement and, on request, provide the British Council with evidence that such insurance cover is in place;
- 2.2.14 not, without the British Council's consent, assign or otherwise transfer any of its rights or obligations under this Agreement;
- 2.2.15 comply with all applicable laws in any jurisdiction in which the Grant is made, received or used and in which the Project takes place or to which the Project relates;
- 2.2.16 comply with, and complete and return any forms or reports from time to time required by, the British Council Requirements; and
- 2.2.17 use its reasonable endeavours to ensure that it does not become involved in any conflict of interests between the interests of the British Council and/or the Funder

and the interests of the Recipient itself or any client of the Recipient, and shall notify the British Council in writing as soon as is practically possible of any potential conflict of interests and shall follow the British Council's reasonable instructions to avoid, or bring to an end, any conflict of interests. In the event that a conflict of interests does arise, the British Council shall be entitled to terminate this Agreement on immediate written notice.

### **3 Withholding, Reduction and Repayment of the Grant**

3.1 The British Council may (and may be obliged by the Funder to) reduce, withhold or claim a repayment (in full or in part) of the Grant if:

3.1.1 the Recipient fails to comply with the terms of this Agreement;

3.1.2 the Recipient fails to comply, or ceases to comply, with any stated eligibility criteria for the Grant;

3.1.3 there is any financial irregularity or fraud in the operation of the Project;

3.1.4 there has been any overpayment of the Grant; or

3.1.5 the Funder reduces the amount of funding available, withdraws funding or demands repayment of any part of the Grant.

3.2 If the British Council demands repayment of the Grant or any part of it, the Recipient shall make repayment within 30 days.

3.3 The Grant is fully inclusive of any and all taxes that may be payable in connection with the award, receipt or use of the Grant. The Recipient will deduct any such taxes out of the Grant and in no circumstances shall the British Council be required to pay any additional sums in respect of such taxes. In the event that the British Council is required by the laws or regulations of any applicable jurisdiction to deduct any withholding tax or similar taxes from the Grant, the British Council shall deduct and account for such taxes before paying the remainder of the Grant to the Recipient and shall notify the Recipient in writing of all such sums properly deducted.

### **4 Change Control**

4.1 If the Recipient wishes to change the scope of the Project, it shall submit details of the requested change to the British Council in writing and such change shall only be implemented if agreed in writing by both parties acting reasonably.

### **5 Intellectual Property Rights**

5.1 All Intellectual Property Rights shall remain the exclusive property of the party owning it. It is the responsibility of the Recipient, and all engaged in the research, between them to agree, in good faith negotiations on the ownership of jointly developed intellectual property (IP) rights and to make every reasonable effort to ensure that any new Intellectual Property Rights obtained in the course of the research are used to the benefit of society and to address poverty in the partner country.

- 5.2 Where any Intellectual Property Rights owned or licensed by the British Council are required to be used in connection with the delivery of the Project, the Recipient acknowledges that it shall have no right to use the same except to the extent necessary for the delivery of the Project and subject to such consents and restrictions as may be specified by the British Council.
- 5.3 The Recipient warrants to the best of its knowledge that the delivery of the Project does not and will not infringe any third party's Intellectual Property Rights.
- 5.4 The Recipient hereby grants to the British Council an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use any information, data, reports, documents, or other materials obtained, created or developed in the course of the Project for non-commercial purposes to publicise and report on the activities of the British Council in connection with the award of the Grant and the delivery of the Project. For the avoidance of doubt, such extracts would not include unpublished data where the British Council's using them could jeopardise either future publication or commercialisation by the Intellectual Property Right owner.

## **6 Liability and Indemnity**

- 6.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.
- 6.2 Subject to clause 6.1, the British Council's total liability to the Recipient in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort, breach of statutory duty, or otherwise, shall not exceed the amount of the Grant.
- 6.3 Subject to clauses 6.1, the Recipient's total liability to the British Council in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort, breach of statutory duty, or otherwise, shall not exceed the amount of £1,000,000.
- 6.4 Provided that the British Council has paid the Grant to the Recipient in accordance with this Agreement, the Recipient shall be responsible for all claims, costs, expenses, losses and liabilities howsoever arising in connection with the Project and the receipt and use of the Grant and the Recipient shall indemnify and hold the British Council harmless from and against all such claims, costs, expenses, losses and liabilities.
- 6.5 The provisions of this clause 6 shall survive termination of this Agreement, however arising.

## **7 Confidentiality**

- 7.1 For the purposes of this clause 7:
- 7.1.1 the "**Disclosing Party**" is the party which discloses Confidential Information to, or in respect of which Confidential Information comes to the knowledge of, the other party; and
- 7.1.2 the "**Receiving Party**" is the party which receives Confidential Information relating to the other party.

- 7.2 The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this Agreement:
- 7.2.1 is given only to such of its staff and professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and only to the extent necessary for the performance of this Agreement; and
  - 7.2.2 is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff or its professional advisors or consultants otherwise than for the purposes of this Agreement.
- 7.3 The provisions of clause 7.2 shall not apply to any Confidential Information which:
- 7.3.1 is or becomes public knowledge (otherwise than by breach of this clause 7);
  - 7.3.2 was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;
  - 7.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
  - 7.3.4 is independently developed without access to the Confidential Information; or
  - 7.3.5 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.
- 7.4 Nothing in this clause 7 shall prevent the Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.
- 7.5 In the event that the Recipient fails to comply with this clause 7, the British Council reserves the right to terminate this Agreement by notice in writing with immediate effect.
- 7.6 The provisions under this clause 7 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.
- 7.7 The Recipient acknowledges that the British Council is subject to the Information Disclosure Requirements and shall assist and cooperate with the British Council to enable the British Council to comply with those requirements. To the extent that the Recipient is also subject to the Information Disclosure Requirements, the British Council shall assist and cooperate with the Recipient to enable the Recipient to comply with those requirements, and clauses 7.8 and 7.9 should be read as mutual obligations.
- 7.8 Where the British Council receives a Request for Information in relation to information that the Recipient or any of its sub-contractors is holding on behalf of the British Council and which the British Council does not hold itself, the British Council shall, as soon as reasonably practicable after receipt, forward the Request for Information to the Recipient and the Recipient shall:

- 7.8.1 provide the British Council with a copy of all such information in the form that the British Council requires as soon as practicable and in any event within 10 calendar days (or such other period as the party acting reasonably may specify) of the British Council's request; and
  - 7.8.2 provide all necessary assistance as reasonably requested by the British Council to enable the British Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations, as applicable.
- 7.9 The Recipient acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the British Council may nevertheless be obliged to disclose the Recipient's Confidential Information in accordance with the Information Disclosure Requirements:
- 7.9.1 in certain circumstances without consulting the Recipient; or
  - 7.9.2 following consultation with the Recipient and having taken its views into account,
- provided always that where clause 8.9.1 above applies, the British Council shall, in accordance with the recommendations of the Code, take reasonable steps to draw this to the attention of the Recipient after any such disclosure.
- 7.10 The provisions of this clause 7 shall survive the termination of this Agreement, however arising.

## **8 Termination**

- 8.1 Without prejudice to any other rights or remedies which the British Council may have, the British Council may terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient if:
- 8.1.1 the Recipient uses the Grant or any part of it other than for the Project;
  - 8.1.2 the Funder Agreement is terminated for any reason; or
  - 8.1.3 there is a change of Control of the Recipient.
- 8.2 Either party may give notice in writing to the other terminating this Agreement with immediate effect if:
- 8.2.1 the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);
  - 8.2.2 an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other

party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/ or manage or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or

8.2.3 the other party ceases, or threatens to cease, to carry on business.

8.3 In any circumstances where the British Council has the right to terminate this Agreement it may instead, by serving written notice on the Recipient, suspend the Project for a reasonable period.

8.4 Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

## **9 Data Processing**

9.1 In this clause:

9.1.1 **"Agreed Purposes"** means the purposes for which the Personal Data is to be held and/or processed by each Controller under this Agreement as detailed in **Error! Reference source not found.**;

9.1.2 **"Controller"** means a "data controller" for the purposes of the DPA and a "controller" for the purposes of the GDPR (as such legislation is applicable);

9.1.3 **"Data Protection Legislation"** shall mean any applicable law relating to the processing, privacy and use of Personal Data, as applicable to either party or the Project under this Agreement, including the Directive 95/46/EC (Data Protection Directive) and/or Data Protection Act 2018 or the General Data Protection Regulation (EU) 2016/679 (GDPR), and /or any corresponding or equivalent national laws or regulations; and any laws which implement any such laws; and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; all guidance, guidelines, codes of practice and codes of conduct issued by any relevant regulator, authority or body responsible for administering Data Protection Legislation (in each case whether or not legally binding);

9.1.4 **"Data Subject"** has the same meaning as in the Data Protection Legislation;

9.1.5 **"DPA"** means the UK Data Protection Act 2018;

9.1.6 **"Personal Data"** means "personal data" (as defined in the Data Protection Legislation) that are Processed under this Agreement;

9.1.7 **"Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, corruption, loss, alteration, unauthorised disclosure of unauthorised access, attempted access (physical or otherwise) or access to, Personal Data transmitted, stored or otherwise processed;

- 9.1.8 “**Processing**” has the same meaning as in the Data Protection Legislation and “Process” and “Processed” shall be construed accordingly;
- 9.1.9 “**Processor**” means a “data processor” for the purposes of the DPA and a “processor” for the purposes of the GDPR (as such legislation is applicable).
- 9.1.10 “**Permitted Recipients**” shall mean the parties to this Agreement, the employees of each party and any third parties engaged to perform obligations in connection with this Agreement; and
- 9.1.11 “**Shared Personal Data**” means the type of personal data to be shared between the parties as detailed in **Error! Reference source not found.** of this Agreement.
- 9.2 For the purposes of the Data Protection Legislation, each party is the Controller.
- 9.3 Each party acknowledges that one party (**the “Data Discloser”**) will regularly disclose to the other party (**the “Data Recipient”**) Shared Personal Data collected by the Data Discloser for the Agreed Purpose(s).
- 9.4 Each party shall comply with all the obligations imposed on a Controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Agreement with immediate effect.
- 9.5 Each party shall:
- 9.5.1 ensure that it has all necessary notices and consents (or other legal basis for Processing) in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
- 9.5.2 give full information to any Data Subject whose Personal Data may be processed under this Agreement of the nature such Processing. This includes giving notice that, on the termination of this agreement, Personal Data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients;
- 9.5.3 process the Shared Personal Data only for the Agreed Purposes;
- 9.5.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- 9.5.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- 9.5.6 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
- 9.5.7 not transfer any Personal Data received from the Data Discloser outside the European Economic Area unless the Data Recipient:



- (i) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint Controller);
- (ii) provides appropriate safeguards in relation to the transfer;
- (iii) ensures the Data Subject has enforceable rights and effective legal remedies;
- (iv) complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (v) complies with reasonable instructions notified to it in advance by the other party with respect to the Processing of the Personal Data; and

9.5.8 only transfer Personal Data outside the European Union Economic Area provided that it meets the relevant requirements under Articles 44 to 50 of the GDPR.

9.6 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, in respect of Shared Personal Data, each party shall:

9.6.1 consult with the other party about any notices given to Data Subjects in relation to the Shared Personal Data;

9.6.2 promptly inform the other party about the receipt of any Data Subject access request (if relevant);

9.6.3 provide the other party with reasonable assistance in complying with any Data Subject access request (if required);

9.6.4 not disclose or release any Shared Personal Data in response to a Data Subject access request without first consulting the other party;

9.6.5 assist the other party, at the cost of the other party, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

9.6.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation involving Shared Personal Data;

9.6.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the Personal Data;

9.6.8 use compatible technology for the Processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from Personal Data transfers;

9.6.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 9 and allow for assurance activities by the other party or the other party's designated auditor; and

- 9.6.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

## **10 Anti-Corruption, Anti-Collusion and Tax Evasion**

- 10.1 The Recipient undertakes and warrants that it has not offered, given or agreed to give (and that it will not offer, give or agree to give) to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything in relation to the obtaining of this Agreement or the performance by the Recipient of its obligations under this Agreement.
- 10.2 The Recipient warrants that it, and any Relevant Person, has and will retain in place, and undertakes that it, and any Relevant Person, will at all times comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010), tax evasion (as set out in the Criminal Finances Act 2017) and fraud within its organisation and in connection with its dealings with other parties, whether in the UK or overseas.
- 10.3 The Recipient warrants that:
- 10.3.1 it, and any Relevant Person, has not colluded, and undertakes that it will not at any time collude, with any third party in any way in connection with this Agreement (including in respect of pricing under this Agreement); and
  - 10.3.2 it, and any Relevant Person, has not engaged, and will not at any time engage, in any activity, practice or conduct which would constitute either:
  - 10.3.3 a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
  - 10.3.4 a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.

Nothing under this clause 10.3 is intended to prevent the Recipient from discussing the terms of this Agreement with the Recipient's professional advisors.

- 10.4 The Recipient acknowledges and agrees that British Council may, at any point during the Term and on any number of occasions, carry out searches of relevant third party screening databases (each a "**Screening Database**") to ensure that neither the Recipient, the Recipient's Team nor any of the Recipient's Team's directors or shareholders (where applicable), is or have been listed:
- 10.4.1 as an individual or entity with whom national or supranational bodies have decreed organisations should not have financial dealings;
  - 10.4.2 as being wanted by Interpol or any national law enforcement body in connection with crime;
  - 10.4.3 as being subject to regulatory action by a national or international enforcement body;

- 10.4.4 as being subject to export, trade or procurement controls or (in the case of an individual) as being disqualified from being a company director; and/or
- 10.4.5 as being a heightened risk individual or organisation, or (in the case of an individual) a politically exposed person,

(together the “**Prohibited Entities**”).

10.5 The Recipient warrants that it will not make payment to, transfer property to, or otherwise have dealings with, any Prohibited Entity.

10.6 If any of the Recipient, the Recipient’s Team or the Recipient’s Team’s directors or shareholders (where applicable) is:

10.6.1 listed in a Screening Database for any of the reasons set out in clause 10.4, or

10.6.2 breaches any of its obligations set out in clauses 10.1, 10.2, 10.3 or 10.5;

then the Recipient shall promptly notify the British Council of any such breach(es) and the British Council shall be entitled to take the steps set out at clause 10.7 below.

10.7 In the circumstances described at clause 10.6.1 and/or 10.6.2, and without prejudice to any other rights or remedies which the British Council may have, the British Council may:

10.7.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or

10.7.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps and shall provide evidence of its compliance if required); and/or

10.7.3 reduce, withhold or claim a repayment (in full or in part) of the charges payable under this Agreement; and/or

10.7.4 share such information with third parties.

10.8 The Recipient shall provide the British Council with all information reasonably requested by the British Council to complete the screening searches described in clause 10.4.

10.9 Without limitation to clauses 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7 and 10.8 above, the Recipient shall:

10.9.1 ensure that all Relevant Persons involved in the Project or with this Agreement have been vetted and that due diligence is undertaken on a regular continuing basis to such standard or level of assurance as is reasonably necessary in relation to a person in that position in the relevant circumstances; and

10.9.2 maintain accurate and up to date records of:

- (i) any requests to facilitate any UK tax evasion offence or any foreign tax evasion offence made to the Recipient or any Relevant Person in

connection with the Project or with this Agreement either in the United Kingdom or elsewhere;

- (ii) any action taken by the Recipient or any Relevant Person to inform the relevant enforcement bodies or regulatory authorities that the Recipient or any Relevant Person has been requested to facilitate a UK tax evasion offence or a foreign tax evasion offence (except to the extent that the Recipient or any Relevant Person is prevented by law from doing so);
- (iii) its compliance with its obligations under this clause 10 and all training and guidance provided to Relevant Persons in respect of the obligations under this clause and applicable laws for the prevention of tax evasion;
- (iv) the Recipient's monitoring of compliance by Relevant Persons with applicable policies and procedures;
- (v) the measures that the Recipient has taken in response to any incidence of suspected or actual tax evasion or facilitation of tax evasion or breach of this clause 10; and

10.9.3 maintain and provide such access to the records or information referred to in clause 10.9.2; and

10.9.4 ensure that all Relevant Persons involved in performing services in connection with this Agreement are subject to and at all times comply with equivalent obligations to the Recipient under this clause 10.

10.10 For the purposes of this clause 10, the expression "**Relevant Person**" shall mean all or any of the following: (a) Relevant Persons; and (b) any Relevant Person employed or engaged by a Relevant Person.

## **11 Anti-slavery and human trafficking**

11.1 The Recipient shall:

11.1.1 ensure that slavery and human trafficking is not taking place in any part of its business or in any part of its supply chain;

11.1.2 implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains;

11.1.3 respond promptly to all slavery and human trafficking due diligence questionnaires issued to it by the British Council from time to time and ensure that its responses to all such questionnaires are complete and accurate; and

11.1.4 notify the British Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in any part of its business or in a supply chain which has a connection with this Agreement.

- 11.2 If the Recipient fails to comply with any of its obligations under clause 11.1, without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:
- 11.2.1 terminate this Agreement without liability to the Recipient immediately on giving notice to the Recipient; and/or
  - 11.2.2 require the Recipient to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Recipient (and the Recipient shall take all such steps); and/or
  - 11.2.3 reduce, withhold or claim a repayment (in full or in part) of the Grant; and/or
  - 11.2.4 share with third parties information about such non-compliance.

## **12 Equality, Diversity and Inclusion**

- 12.1 The Recipient shall ensure that it does not, whether as an employer or provider of services and/or goods, discriminate within the meaning of the Equality Legislation.
- 12.2 The Recipient shall comply with any equality or diversity policies or guidelines included in the British Council Requirements.

## **13 Assignment**

- 13.1 The Recipient shall not, without the prior written consent of the British Council, assign, transfer, charge, create a trust in, or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 13.2 The British Council may assign or novate this Agreement to: (i) any separate entity Controlled by the British Council; (ii) any body or department which succeeds to those functions of the British Council to which this Agreement relates; or (iii) any provider of outsourcing or third party services that is employed under a service contract to provide services to the British Council. The Recipient warrants and represents that it will (at the British Council's reasonable expense) execute all such documents and carry out all such acts, as reasonably required to give effect to this clause 13.2.

## **14 Waiver**

- 14.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

## **15 Entire agreement**

- 15.1 This Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersede, cancel and replace all prior agreements, licences, negotiations and discussions between the parties relating to it. Each party confirms and acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made)

not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.

## **16 Variation**

16.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

## **17 Severance**

17.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

## **18 Counterparts**

18.1 This Agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but all counterparts shall together constitute one agreement. Where this Agreement is executed in counterparts, following execution each party must promptly deliver the counterpart it has executed to the other party. Transmission of an executed counterpart of this Agreement by email in PDF, JPEG or other agreed format shall take effect as delivery of an executed counterpart of this Agreement.

## **19 Third party rights**

19.1 Subject to clause 1.2.4, this Agreement does not create any rights or benefits enforceable by any person not a party to it except that a person who under clause 13 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.

19.2 The parties agree that no consent from the British Council Entities or the persons referred to in this clause is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

## **20 No partnership or agency**

20.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

## **21 Force Majeure**

21.1 Subject to clauses 21.2 and 21.3, neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control (a "**Force Majeure Event**") including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act,

compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

21.2 A party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:

21.2.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;

21.2.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and

21.2.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

21.3 Nothing in this clause 21 shall excuse a party for non-performance (or other breach) of this Agreement if such non-performance (or other breach) results from the acts or omissions of any of that party's consultants and/or sub-contractors (except where such acts or omissions are caused by any of the circumstances specifically listed in clause 21.1).

## **22 Notice**

22.1 Notice given under this Agreement shall be in writing, sent for the attention of the person signing this Agreement on behalf of the recipient party and to the address given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party) and shall be delivered:

22.1.1 personally, in which case the notice will be deemed to have been received at the time of delivery;

22.1.2 by pre-paid, first-class post if the notice is being sent to an address within the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the second (2nd) normal working day in the country specified in the recipient's address for notices after the date of posting; or

22.1.3 by international standard post if being sent to an address outside the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the seventh (7th) normal working day in the country specified in the recipient's address for notices after the date of posting.

22.2 To prove service of notice, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

## **23 Governing Law and Dispute Resolution Procedure**

23.1 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of South Africa.

- 23.2 Subject to the remainder of this clause 23, the parties irrevocably agree that the courts of South Africa shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.
- 23.3 In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 calendar days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 23.3, either party may commence proceedings in accordance with clause 23.2.
- 23.4 Nothing in this clause 23 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.

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Project Summary Budget

<b>Local and International travel</b>	
<b>Visa costs</b>	
<b>Accommodation costs</b>	
<b>Subsistence Costs</b>	
<b>Event management/ workshop costs</b>	
<b>Consumables/ printing costs</b>	
<b>Special needs costs</b>	
<b>Other (please explain)</b>	
<b>Total Budget</b>	<b>ZAR 180,000.00</b>

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Guidelines for Applicants

**See Call Document and Application Guidelines**

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Reporting Requirements

**To be forwarded upon successful application**

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Bank Details Form

**To be forwarded upon successful application**

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## **Schedule 8**

### **British Council Logos and Marks**

As a grant recipient we would encourage you to use British Council branding across any related materials.



#### **Key requirements**

##### **1. Press releases**

Press releases in relation to your project must be checked and approved by the British Council Higher Education Project Manager. Please ensure that draft releases are shared with us at least five working days before issue, whenever possible. We would be grateful if you could make your University's communications and Press Team aware of these requirements.

##### **2. Logos**

Please note that you are required to incorporate the British Council logo in all marketing materials. Details of how to position them correctly can be found in the guidelines which can be provided upon request. As a general rule the preferred position for the British Council logo is in the top left hand corner of printed material and on web pages. Please note that this should not be distorted and should always be a high resolution version

##### **3. Acknowledgement of DHET and British Council**

Please ensure that you acknowledge the award of the grant by the British Council and DHET in any communication.

## Schedule 9

### Data Processing Schedule

Description	Details
<b>Agreed Purpose</b>	<p>Data will be held, processed and used for the following purposes:</p> <ol style="list-style-type: none"> <li>1. Allow the British Council to administer the project grant.</li> </ol> <p>Data will be collected through mechanisms described in schedule 6, reporting requirements, by the British Council. Data may be shared with programme funder/s outlined in clause 5.1. Project data provided will be stored securely. Data will be used to manage, track and distribute the agreed grant according to the planned delivery.</p> <ol style="list-style-type: none"> <li>2. To allow the British Council and programme funder/s to monitor and evaluate the project against agreed objectives.</li> </ol> <p>Data will be collected through mechanisms described in schedule 6, reporting requirements, by the British Council. Data may be shared with programme funder/s outlined in clause 5.1. Project data provided will be stored securely. Data may be used by the British Council and the project funder/s in monitoring reports that may include the project name, project purpose/title the lead institution names. Permission shall be sought from the grantee if the information and data provided is used for in-depth case studies and any other purpose than the two listed above.</p>
<b>Duration of Processing</b>	Data will be collected over the duration of the project contract. Data will be used for the purpose of monitoring and evaluation beyond the duration of this agreement. Personal data will be destroyed seven years after the end of the project contract.
<b>Categories of Data Subjects and types of Personal Data</b>	<p>Personal data will be collected from the grantees and will be confined to:</p> <ul style="list-style-type: none"> <li>• Name, work address, work contact details used to track and administer the programme</li> <li>• Limited biographical information, including gender, used in monitoring of the project and the overall grants programme.</li> </ul>
<b>Countries or International Organisations Personal Data will be transferred to</b>	Data will be shared with British Council office teams managing the project grant in the applicable partner country/countries, and with project funders including those based in the partner country. Please see 5.1 of schedule 1.
<b>Processors</b>	<p>British Council email address</p> <p>The British Council shall collect, manage, store, share data with agreed parties, use data for the purposes agreed and destroy personal data after the term communicated.</p> <p>Project funder/s</p> <p>Use data to monitor and evaluate the project and programme according to the purposes agreed.</p>