INFORMED CONSENT SOP, OCTOBER 2023, V1

Research Ethics Committee

Final Version	Reason for Amendment	Effective Date
1	Developed and published for implementation	October 2023
	Administrative changes	March 2024

1. DEFINITIONS

I. **Doctor** refers to a medical practitioner (or dentist, when appropriate), as defined in terms of the Health Professions Act, no. 56 of 1974 (as amended),

II. **Study doctor** refers to a doctor (or dentist, when appropriate), participating in the clinical trial / study. The words **study investigator, investigator, sub-investigator, co-investigator, trialist or researcher** may be used interchangeably, as long as the person is a clinician, where applicable. Whichever term is used, it must be used consistently throughout the documents.

III. **Principal Investigator** is a person responsible for the conduct of the clinical trial at a trial site.

IV. **Co-Principal Investigator** A qualified non-clinician scientist or equivalent qualified and experienced person who can provide trial oversight management, and who is jointly and severally liable for the clinical trial.

V. **Associate Investigator** refers to a member of the health care team involved for specific investigations which are required for the conduct of the clinical trial / study. This will be in accordance with their relevant field(s) of expertise and training e.g., ophthalmologist or psychologist responsible for specific aspects but not taking clinical responsibility as sub investigators for trial participants.

VI. **Sub-Investigator** – any individual member of the clinical trial team designated and supervised by the investigator at a trial site to perform critical trial-related procedures and/or to make important trial- related decisions.

VII. A **Clinical Trial** is a prospective biomedical or behavioral research study of human participants that is designed to answer specific questions about biomedical or behavioural interventions (vaccines, drugs, treatments, devices, or new ways of using known drugs, treatments, or devices).

VIII. **Study Staff** collectively refers to the investigators, study coordinators, study nurses, pharmacists, raters, and any other people rendering support to the investigator.

IX. **Study site** is the location(s) where trial-related activities are actually conducted.

X. **Participant** means the person participating in the clinical trial / study and/or receiving treatment, including receiving blood or blood products, or using a health facility or establishment, as a result of participation in the clinical trial / study. The words **research participant or participant** may be used interchangeably, where applicable.

XI. **Patient** is defined as a participant with a clinical condition.

XII. **Research** means the creation, preservation, accumulation, and improvement of knowledge by means of scientific investigations and methods in the field of the medical and related sciences as well as those sciences the application of which is important for the promotion of health or the combating of disease, and includes the acquisition, development and transfer of expertise and technology. The word **researcher** shall have a corresponding meaning and the term experiment or, clinical trial may be used interchangeably with the word **research**, when applicable.

XIII. **Clinical Research** is usually conducted with patients in a medical setting (e.g., hospital, clinical or private consulting rooms) to obtain information on the natural history or pathogenesis of a condition that could assist with improving strategies for diagnosis, treatment, or prevention of disease.

- Any reference to the singular includes the plural and vice versa;
- Any reference to natural persons includes legal persons and vice versa;

- Any reference to a gender includes the other gender;
- The clause headings in the Standard Operating Procedures have been inserted for convenience only and shall not be taken into account in interpreting this SOP.

XIV. '**Physician**' means – a medical practitioner registered as a specialist in internal medicine, and this should not be used as an alternative term when referring to a family doctor/ general practitioner.

XV. **Amendments –** changes *in the PID to be forwarded to SAMAREC in the most recently approved PID of SAMAREC. All changes must be indicated with track changes.*

XVI. **'Witness'** is someone who witnesses the signing by the participant and not the consent procedure. However, when the participant is illiterate the meaning of *'witness'* changes and it means a person who witnesses the consent procedure.

2. PURPOSE

The main responsibility of SAMAREC is to ensure the protection and respect of the rights, safety and well-being of participants involved in clinical trials and to provide assurance to the public of that protection, inter alia, by reviewing, approving, and providing comment on clinical trial protocols, the suitability of investigator(s), facilities, methods, and procedures used to obtain informed consent. The

Bill of Rights which is entrenched in the Constitution of South Africa provides that everyone has the right not to be subjected to medical or scientific experiments/research without their informed consent.

3. DECISIONAL ANALYSIS, PROTOCOL, AND INFORMED CONSENT REVIEW PROCESS

a. A written response regarding decisions is usually forwarded to applicants within 10 working days after the meeting.

b. 60% of the Committee constitutes a quorum.

c. Confidentiality of the content of applications, the protocols, and the procedures of SAMAREC, is maintained as far as is reasonably possible.

d. SAMAREC Officer will prepare the meeting packs as per the submission dates and submit them to the Committee at least 10 days prior to meeting dates.

e. Final Decisions are discussed during the SAMAREC Meetings via voting, discussion and noted accordingly in the meeting minutes.

f. SAMAREC will always ensure the privacy and confidentiality of patients and participants is the priority of the study.

g. Decisions will be finalized by with the approval of the entire Committee and feedback will be provided to applicants within 10 working days of the SAMAREC Meeting.

4. REVIEW OF THE PATIENT/PARTICPANT INFORMATION AND INFORMED CONSENT DOCUMENT (PID) PROCESS INCLUDING MINORS AND VULNERABLE PATIENTS

The Bill of Rights states that –
"Everyone has the right to bodily and psychological integrity, which includes their right - (c) not to be subjected to medical or scientific experiments without their informed consent."

Therefore, no research may be conducted on a person without his/her consent or the consent of the person's legally authorised representative prior to the person's participation in the experiment. The principal reason for informing participants about the experiment is that they have a right to know what would be done to them and what risk this entails, before they give their consent. Persons are regarded as autonomous, and the requirement of informed consent is designed to uphold the ethical principle of "respect for persons." The use of humans as research participants is a privilege and a favour granted to the researcher. The researcher has no right to conduct health research without informed consent. An experiment differs from the usual medical practice where interventions are done solely for the benefit of the patient.

SAMAREC takes the view that clinical trials compare to medical procedures and therefore, accepts that patients/participants older than 18 years may independently consent to participate in clinical trials. Patients/participants younger than 18 years may NOT consent independently to participate in clinical trials. Persons younger than 18 years are regarded as a vulnerable group and applications for clinical trials involving them will be carefully considered by SAMAREC to safeguard their interests. Such persons need to be assisted by their parents or their legal guardians. Where the research does not involve greater than minimal risk to the child and direct benefit is foreseen, SAMAREC may consider the consent of one parent sufficient. Exceptions to this rule would be where one parent is deceased, unknown, incompetent, and not available or only one parent has legal care and custody of the child. No other person, such as a caregiver or grandparent may give consent on behalf of parents or legal guardian. In addition to the PID to be signed by the parents or legal guardian, appropriately worded Patient Information and Assent Document is needed to be read and signed by those minors who can observe and understand the circumstances relating to the clinical trial.

In order for consent to be ethically and legally valid it must meet the requirements stated in the Principle (I) of the Nuremberg Code, which states, "The voluntary consent of the human patient is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the patient matter involved as to enable him to make an understanding and enlightened decision."

The PID and informed consent document is a legal document proving that informed consent was obtained. By signing the document, the participant declares that he/she gives consent to participate in the clinical trial. The study doctor signs the document to declare that he/she has guided the participant through the PID and explained the content to the satisfaction of the participant. The witness signs the document to testify that the participant and study doctor concerned have signed the PID. (The requirement for a witness for a literate patient will be determined by the Committee on a case-to-case basis) Where a participant is illiterate, verbal consent must be obtained and such verbal

consent must be properly recorded. A witness must also confirm by signing the verbal consent document, that the participant understands the contents of the PID and has given free consent to participate in the trial. (See Annexure). The ethical and, indeed, legal validity of consent is, however, dependent upon the process of informed consent which requires the study doctor to engage in dialogue or negotiation with the prospective participant. The study doctor as an instrument to guide the negotiations with the prospective patient, therefore, should use the PID for this purpose. The SAMAREC will review both the PID and the process of informed consent in accordance with the provisions of the Guidelines for Good Practice in the Conduct of Clinical Trials published by the Department of Health in order to ensure acceptability.
The signatory section of the PID must be continuous with the rest of the PID to ensure that it is one document.
Note that tick boxes are not suitable for participants' acceptance of various clauses in the PID. The clauses should rather be initialed by the participant.

5. PRIVACY AND CONFIDENTIALITY REGARDING PARTIPANTS AND THEIR HEALTH CARE INFORMATION FOR APPLICANTS

Privacy and confidentiality regarding participants and their healthcare information are of utmost importance in healthcare settings and research. Protecting the privacy and confidentiality of individuals and their health information is not only a legal and ethical requirement but also essential for maintaining trust and ensuring the success of healthcare services and research studies.

Legal Framework: Healthcare providers and researchers must adhere to relevant laws and regulations.

Informed Consent: Participants in healthcare research must provide informed consent, understanding how their information will be used and its potential risks and benefits.

Data Security: Implement robust data security measures to protect electronic health records, research data, and other sensitive information. This includes encryption, access controls, and secure storage.

De-identification: When sharing or using data for research, remove or encrypt personally identifiable information (PII) to protect the privacy of participants.

Data Minimization: Only collect and store data that is necessary for the intended purpose. Minimizing data reduces the risk of breaches and potential misuse.

Access Control: Limit access to healthcare information to authorized personnel only and establish protocols for granting and revoking access.

Audit Trails: Maintain records of who accesses healthcare information and when, which can be helpful in identifying unauthorized access.

Secure Communication: Use secure channels for communicating healthcare information, whether it is in electronic form or in conversations.

Training and Awareness: Ensure that all staff and researchers are trained in privacy and confidentiality policies and procedures. This includes regular updates to account for changing regulations and best practices.

Data Retention and Disposal: Establish guidelines for retaining healthcare data, and securely dispose of it when it is no longer needed.

Breach Response Plan: Develop a plan for responding to data breaches, including notification of affected individuals and appropriate authorities as required by law.

Third-Party Vendors: If using third-party vendors for data processing, ensure they also meet the necessary privacy and security standards.

Ethical Considerations: Beyond legal requirements, consider the ethical implications of using healthcare data. Ensure that research is conducted with respect for participants and their rights.

Patient Portals: Encourage the use of secure patient portals for accessing health information, allowing individuals to have control over their own data.

Regular Audits and Assessments: Periodically assess the privacy and security measures in place to identify potential vulnerabilities and areas for improvement.

Maintaining privacy and confidentiality in healthcare is an ongoing commitment, and it requires a multi-faceted approach involving technology, policies, training, and ethical considerations. The goal is to ensure that individuals can trust that their personal health information is being managed with the utmost care and respect for their privacy.

6. E-CONSENT

SAMAREC accepts Advanced Electronic Signatures (AES), in the place of wet signatures. Section 1 of the Electronic Communications and Transactions Act No. 25 of 2002 defines AESs as “an electronic signature which results from a process which has been accredited by the Authority as provided for in section 37”. This form of E Consent is also permitted through clause 10.9 of the South African Good Clinical Practice: Clinical Trial Guidelines (2020), which states that “An electronic signature is a computer data compilation of any symbol or series of symbols executed, adopted, or authorized by an individual to be the legally binding equivalent of the individual’s handwritten signature. In general, a signature may not be denied legal effect or validity solely because it is in electronic format, and a contract or other record relating to a transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. To be considered equivalent to full handwritten signatures, electronic signatures must comply with all applicable requirements under 21 CFR part 117.
Electronic records that are electronically signed must contain information associated with the signing that clearly indicates the printed name of the signer, the date and time when the signature was executed, and the meaning associated with the signature. In addition, electronic signatures and handwritten signatures executed to electronic records must be linked to the respective electronic records to ensure that the signatures cannot be excised, copied or otherwise transferred to falsify an electronic record by ordinary means."

7. GUIDELINES PERTAINING TO SAMAREC PATIENT INFORMATION AND INFORMED CONSENT DOCUMENT (PID)

(Including various consent annexures to be used as relevant to a particular clinical trial)

I. It must be clearly indicated in the PID that the principles contained in the Declaration of Helsinki(last updated October 2024) and the South African Department of Health Clinical Trial and Ethics in Health Research Guidelines are complied with, and that the study has been approved by the SAMAREC. The latest approved version of the Declaration of Helsinki is always applicable.

II. The PID must be written in layperson's language appropriate to the target population (with attention to grammar and South African English spelling).

III. Wherever patients are expected to consider or sign documents, and the age group involves minors, parents/legal guardian involvement, this must be clearly mentioned in the PID.

IV. Where patients are *non-compos mentis*, the involvement and capacity of the person who may legally consent on behalf of the patient must be clearly mentioned in the PID.

V. The PID is ONE continuous document, and may not be presented separately – i.e., INFORMED CONSENT is merely another sub-heading in the document, in the same format as all other sub-headings, and does not start on a new page.

VI. Kindly ensure that the approved SAMAREC PID version and date details are included in the footer of the PID together with page numbering ideally in the format "page 1 of 2".

VII. In the Informed Consent section of the PID, names of patients, study doctor, parents/legal guardians and witnesses must be printed as well as signed. If someone other than the study doctor explains the informed consent, i.e., an interpreter, he/she must also sign a Declaration to this effect at the same time.

VIII. Based on the risk/benefit ratio of each study, SAMAREC may require a witness in the Informed Consent Process. This will be assessed on a case-to-case basis – therefore the requirement for a witness for a literate patient may be waived for all studies unless specifically requested by SAMAREC.

IX. Whenever generics are mentioned, please insert examples of South African trade names as wellin brackets. This is useful information for patients reading the PID.

X. Reference to "clinic" or "hospital" is unacceptable and should read "study doctors' rooms" or "-facilities", in accordance with Health Professions Council of SA (HPCSA) rules.

XI. All trial related injuries must be covered, and a copy of the insurance certificate must be furnished. Arrangements for compensation and insurance must be included in the PID, and it must be statedclearly that compensation to patients will be in accordance with the ABPI guidelines. A copy of the guidelines must be available.

XII. All tests done on blood, urine and other samples taken from patients must be specified, and the nature and purpose of such tests explained in layperson's terminology in the PID e.g. urine sample for pregnancy test or for kidney functions.

XIII. It should be stated that there will be no trial-related costs to the patient or his/her medical scheme. Any costs to be borne by the patient must be clearly stated in the PID.

XIV. *Once the full term "The Patient /Participant Information and Informed Consent Document" (PID)has been used, it can thereafter be referred to as "this document.*

XV. Tick boxes– the use of tick boxes is not encouraged, and participants should sign their initials when they have to reflect a choice.

XVI. Please ensure the following statement is included in your informed consent document:

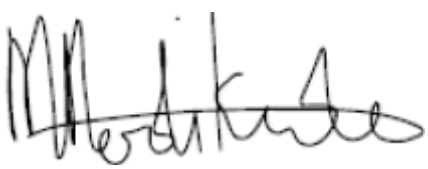
"If you wish to ask questions about your participation in the study to someone other than the researchers or if you wish to voice any problems or concerns you may have about the study, you may contact the Research Ethics Committee (REC) for this study, the South African Medical Association Research Ethics Committee (SAMAREC).

SAMAREC is a Research Ethics Committee whose committee members provide REC services for participants involved in research studies in the Private Sector in South Africa.
The South African Medical Association Research Ethics Committee (SAMAREC)
PO Box 74789
Lynnwood Ridge
0040
Tel: 012 481 2082
samarec@samedical.org"

XVII. Please ensure that no product logos appear on any patient facing material as this is considered advertising.

Please refer to the most recent Pro Forma Templates, SAMAREC Annexures SOP.

Approved by:



Prof J Snyman
SAMAREC Chairperson
Signed: 25 October 2023

Dr M Nodikida
SAMA CEO
Signed: 10 Oct 2024