Attachment A
PARTIES
1. UNIVERSITY OF WOLLONGONG of Northfields Avenue Wollongong NSW 2522 ("University")
and
2. ____________________________ of ____________________________ ("You")

BACKGROUND
A. The University maintains the Spatial Analysis Laboratories ("SAL") within the School of Earth and Environmental Sciences ("EESC").
B. The University is the licensed user of the SAL Data, which is held in the SAL.
C. You are either enrolled in a course at the University or employed by the University (or both).
D. You require access to the SAL Data for the Specified Purpose.
E. In using the SAL Data, You may develop Intellectual Property.
F. The Parties agree that the use of SAL Data will be governed by the terms and conditions of this agreement.

AGREEMENT
The parties agree as follows:
1. DEFINITIONS
In this Agreement, unless the contrary intention appears:

"Agreement" means this document, the Schedule and any annexures attached to this document;

"Business Day" means any day that is not a Saturday, Sunday or a public holiday in New South Wales;

"Commencement Date" means the date that You sign this Agreement;

"Confidential Information" means any information or data, whether or not in material form, which is by its nature confidential or which is designated as confidential, and which is disclosed by one party to the other during the operation of this Agreement, but does not include information:
(a) which is already in the public domain otherwise than as a result of a breach of this Agreement;
or
(b) which can be established by written records as at the date of this Agreement was already known to the receiving party; or
(c) which is required to be disclosed by law.

"Data Provider" is Southern Pathology Services Pty Limited trading as Southern IML Pathology (ACN 010 161 494) the entity that provided data to the University under a licence agreement, and remains the owner of that data.

"Developed IP" means any Intellectual Property developed by You arising from your use of the SAL Data including, without limitation, any modification, adaptation or redevelopment of the SAL Data, any work derived from the SAL Data, machine readable representations of any of the foregoing, and any associated material intended at the time of its creation to be used primarily in conjunction with the SAL Data. For the avoidance of doubt, Developed IP does not include copyright in Your thesis or publications;

"Intellectual Property" means any and all intellectual and industrial property rights throughout the world including rights in respect of or in connection with:
(a) any confidential information;
(b) copyright (including future copyright and rights in the nature of or analogous to copyright);
(c) inventions (including patents);
(d) trade marks, service marks; and
(e) designs, circuit layouts, whether or not now existing and whether or not registered or registrable and includes any right to apply for the registration of such rights and includes all renewals and extensions;

"Party" means You or the University and its officers, employees and permitted agents, and "Parties" means both You and the University.

"Privacy Policy" means the University’s policy regarding the collection, storage, use and disclosure of personal information as in force from time to time and available from the University’s website.

"SAL Data" means the custodial data licensed by a Data Provider to the University, or data owned by or able to be used by the University, as specified in Item 2 of the Schedule; and includes but is not limited to any metadata and any knowledge and expertise provided by SAL staff to assist You in using either SAL Data or data that you bring into the SAL.

"Schedule" means the schedule attached to this Agreement.

"Special Conditions" means the special conditions outlined in Item 3 the Schedule.
“Specified Purpose” means the purpose for which the SAL Data will be used, as specified in Item 1 of the Schedule;

“Statute” means any act of parliament or other legislative body or any regulations or other subordinate instruments made under or pursuant to such an act; and

“Term” means the term of this Agreement set out in clause 7.1.

2. ACCESS TO DATA
The University grants You with access to the SAL Data for the Term, conditional upon the terms and conditions of this Agreement, including any Special Conditions specified in Item 3 of the Schedule.

3. YOUR OBLIGATIONS

3.1 Use of SAL Data
(a) You may only use, reproduce and adapt the SAL Data for the Specified Purpose.
(b) You must not copy, or allow any other person to copy all or part of the SAL Data, other than as strictly necessary for the Specified Purpose.
(c) You must not disclose the SAL Data to a party external to the University. If a party external to the University wishes to have access to the SAL Data, the external party must contact the owner of the SAL Data.
(d) You must take reasonable measures to prevent the release of any SAL Data to a party external to the University.
(e) You must promptly notify the University if you become aware that any of the SAL Data has been copied, used, or disclosed without authority.

3.2 Notification
You are obliged to notify the University within 14 days of your creation of Developed IP arising from your use of the SAL Data. This notification must be in writing and made to the Spatial Information Officer, Spatial Analysis Labs, EESC.

3.3 Delivery
Upon written request from the University, You will make available to the University all Developed IP or other data arising from your use of the SAL Data.

3.4 Privacy
You are subject to the University’s Privacy Policy and agree that while accessing SAL Data, You will adhere to the Privacy Policy, and immediately notify the University’s Privacy Officer if you breach the Privacy Policy. You are subject to the obligations under the Privacy Act 1988 (NSW) and Health Records and Information Privacy Act 2002 (NSW) in regard to your use of the SAL Data.

4. INTELLECTUAL PROPERTY

4.1 SAL Data
You acknowledge that the SAL Data remains the property of the Data Provider, the University or other owner of the SAL Data at the date of this Agreement.

4.2 Developed IP
(a) You:
(i) assign to the University all rights, title and interest in the Developed IP.
(ii) agree to actively cooperate, if required, in the taking of any steps, including the signing of documentation, to give effect to the assignment of the Developed IP to the University.
(b) You may copy or publish the Developed IP for any thesis or internal University coursework requirements only, provided that you clearly acknowledge Southern Pathology Services Pty Limited trading as Southern IML Pathology (ACN 010 161 494) the owner of the SAL Data in accordance with the Acknowledgement listed in the Special Conditions.
(c) You may not use the SAL Data for any other purpose including publication without the prior written consent from the University.
(d) In the event that You wish to publish any of the SAL Data, You agree to submit the proposed publication to the University at least 60 days prior to Your intention to publish. Any refusal to grant consent to publish must be on reasonable grounds, such as the inclusion of Confidential Information in the material to be published, issues with scientific integrity, privacy issues or the potential to negatively affect the commercial interests of the University or the Data Provider.

4.3 Payment
You are granted access to the SAL Data in consideration for the assignment of the Developed IP to the University. For the avoidance of doubt, no fees or royalties are payable by the University to You under this Agreement.

5. WARRANTIES

5.1 General Warranties
Each Party warrants that:
(a) it has authority to enter and to perform its obligations under this Agreement; and
(b) it is authorised by all necessary government and other agencies and authorities to perform its obligations under this Agreement and will continue to be authorised to perform this Agreement.

5.2 SAL Data
The University cannot guarantee that the SAL Data, including any third party data, is free from errors, and does not warrant the quality, performance or suitability of the SAL Data for any purpose.
6. SCOPE OF LIABILITY
You indemnify and keep indemnified the University, its officers, employees and agents (in this clause referred to as the "Indemnified") from and against any loss, damage or liability (including reasonable legal costs and expenses) incurred by any of those Indemnified arising from any claim, demand, suit, action or proceeding by any person, where such loss or liability arose out of, in connection with or in respect of:
(a) any use by You of the SAL Data; and
(b) any breach of this Agreement by You.

7. TERM AND TERMINATION

7.1 Term
This Agreement will commence on the Commencement Date and will continue until 31 January the following year, unless terminated in accordance with this Agreement.

7.2 Termination
(a) If You are in breach of this Agreement, the University may give You a written notice:
(i) specifying the breach; and
(ii) requiring You to rectify the breach within 10 Business Days of the date You received the notice.
(b) the University may terminate the Agreement if, after the expiry of the notice, You have not rectified the breach specified in the notice.
(c) If the Data Provider terminates the agreement under which the SAL Data is licensed to the University, the University may terminate this Agreement by written notice to You.
(d) Notwithstanding clause 7.2(c) above, if you have commenced working on a project using the SAL Data you will be entitled to complete that project provided that Your breach or use of the Data is not the reason that the Data Provider terminates the agreement under which the SAL Data is licensed to the University.

7.3 Effect of Termination
Within 30 days of:
(a) completion of the term under clause 7.1; or
(b) termination of this Agreement under clause 7.2; You will return or destroy, as directed by the University, all forms of the SAL Data in your custody or control, including all materials containing SAL Data, whether in electronic or hard copy format.

7.4 Accrued Rights
The termination of this agreement is without prejudice to any rights which have accrued to a Party before the date of termination.

8. RELATIONSHIP OF THE PARTIES

8.1 No partnership
This Agreement does not create any partnership, joint venture or agency relationship between the Parties.

8.2 No representation
You may not enter into any agreements or incur any liabilities on behalf of the University or represent to any person that You have any authority to do so.

9. NOTICES

(a) For the purpose of a notice to be given under this clause, a Party's address is the address specified on the first page of this Agreement or as notified to the other Party.
(b) A notice may be served by giving it to the other Party personally, by posting it by security post or by faxing it.

10. GENERAL

10.1 Severance
If part or all of any clause of this Agreement is or becomes void, voidable or unenforceable, this Agreement is to be read and construed as if that clause had been severed from this Agreement so that all parts not void, voidable or unenforceable remain in full force and effect and unaffected by that severance.

10.2 Waiver
(a) No right under this Agreement is waived or deemed to be waived except by notice in writing signed by the Party waiving the right.
(b) A waiver by one Party under this clause does not prejudice its rights in respect of any subsequent breach of this Agreement by the other Party.
(c) A Party does not waive its rights under this Agreement because it grants an extension or forbearance to the other Party.

10.3 Variation
A variation of this agreement must be in writing and signed by the Parties.

10.4 Assignment
You may not assign your rights or obligations under this Agreement.

10.5 Any Further Steps
Each Party will do all things and execute all further documents necessary to give full effect to this Agreement.

10.6 Entire Agreement
This Agreement supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the Parties.

10.7 Survival
The rights and obligations under clauses 4 (Intellectual Property), 6 (Indemnities), 8 (Relationship of the Parties), 10.10 (Governing Law and Jurisdiction) and this clause 10.7 (Survival) survive termination of this Agreement.

10.8 Legal Advice
Each Party acknowledges that in relation to this Agreement it has received legal advice or has had the opportunity to obtain legal advice.
10.9 Costs and Expenses  
Each Party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery and completion of this Agreement and any other related documentation.

10.10 Governing Law and Jurisdiction  
This Agreement is governed by the laws of New South Wales, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of that State.

Executed as an Agreement by the Parties  
Signed for and on behalf of the University by:

Name:  
Title:  
Date:  
who warrants that he or she has authority to sign this Agreement.

In the presence of:

Witness  

signature  

please print name

Signed by You

Name:  
Title:  
Date:  

In the presence of:

Witness  

signature  

please print name
ITEM 1 SPECIFIED PURPOSE

Choose one or more of the following:

☐ For internal teaching and research purposes

☐ For the development of the following research project:

_________________________________________________________

☐ For the purposes of health service improvement

ITEM 2 SAL DATA Data provided by the Data Provider to the University under a licence agreement.

You have been granted:

☐ restricted-level access
☐ unrestricted-level access

And have access to the following data items:

☐ Unique person identifier
☐ Sex
☐ Age in years
☐ Height
☐ Weight
☐ Pathology specimen collection date
☐ Pathology test name (specify approved pathology tests)

☐ Pathology test result
☐ Postcode of residence at last pathology collection
☐ Statistical Local Area of residence at last pathology collection
☐ Local Government Area of residence at last pathology collection
☐ Suburb of residence at last pathology collection
☐ 1996–2006 Census Collection District of residence at last pathology collection
☐ 2011 Statistical Area 1 of residence at last pathology collection
☐ Gridded location of residence at last pathology collection (specify approved resolution)

☐ 250 metre grid cells
☐ 500 metre grid cells
☐ 1000 metre grid cells
☐ Other (specify): ____________________
ITEM 3  SPECIAL CONDITIONS

Governance

- A Southern IML Research Cohort Management Committee (SIMLR-CMC) will be established and will have oversight for project approval to access the SIMLR dataset.
- The SIMLR-CMC will be constituted from members of Illawarra Health and Medical Research Institute (IHMRI) with at least one from Southern IML Pathology. The Southern IML Pathology member carries the power of veto in the CMC.
- Southern IML Pathology and the SIMLR-CMC retain the right to review or audit any project that uses or accesses SIMLR data.
- Projects utilising SIMLR data must submit duplicate copies of HREC annual progress reports and correspondence to the SIMLR-CMC.

Access

- Approval will be sought by submitting a brief project proposal, with all investigators named, to the SIMLR-CMC. UOW researchers seeking access to the SIMLR dataset must convince the SIMLR-CMC that the proposed research has scientific and social merit and that the researchers have appropriate expertise to undertake the proposed research.
- Upon in-principle approval from the SIMLR-CMC, all research projects seeking to access the SIMLR dataset must be approved by an appropriately constituted Human Research Ethics Committee (HREC).
- Final approval to access the SIMLR dataset will only be granted after researchers have provided the SIMLR-CMC with a current Ethics Approval Certificate.
- Access to SIMLR data will only be for the period specified on the initial Ethics Approval; researchers will be required to submit an Ethics Renewal Approval Certificate for access beyond this period.
- Any amendments to the research protocol must be approved by the SIMLR-CMC prior to submission to the approving HREC; the SIMLR-CMC may request researchers to submit a new project proposal and HREC application if it is of the opinion the amendment substantially alters the project as originally approved.
- Data may not be copied or transferred outside of the SAL controlled environment.
- Researchers must be Illawarra Health and Medical Research Institute members, associates or collaborators.
- Student researchers must have a supervisor who is an active member of a current SIMLR research project.
- All projects must offer Southern IML Pathology first refusal of including a staff member on the research team.

Acknowledgement

- All publications using the Licensed Data must contain the following statement:
  - Southern IML Pathology are the owners of the data contained within this publication and the Illawarra Health and Medical Research Institute (IHMRI) is the custodian facilitating access to the data.