

DATED

DAY OF

2009

**CONSOLIDATION OF AMENDMENTS TO 01/01/2016,
PER DEED OF VARIATION NO (3)**

SA NT DATA LINKAGE CONSORTIUM AGREEMENT

BETWEEN

MINISTER FOR HEALTH

AND

MINISTER FOR MENTAL HEALTH AND SUBSTANCE ABUSE

AND

UNIVERSITY OF SOUTH AUSTRALIA

AND

THE UNIVERSITY OF ADELAIDE

AND

THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA

AND

MINISTER FOR EDUCATION AND CHILD DEVELOPMENT

AND

MINISTER FOR COMMUNITIES AND SOCIAL INCLUSION

AND

MINISTER FOR SOCIAL HOUSING

AND

NORTHERN TERRITORY OF AUSTRALIA

AND

SOUTH AUSTRALIAN HEALTH AND MEDICAL RESEARCH INSTITUTE LIMITED

AND

ANTI-CANCER FOUNDATION OF SOUTH AUSTRALIA

AND

HEALTH CONSUMER ALLIANCE OF SOUTH AUSTRALIA INCORPORATED



**Government
of South Australia**

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THIS AGREEMENT dated _____ day of _____ 2009

PARTIES:

THE PARTIES NAMED IN THIS AGREEMENT AND DESCRIBED IN ITEM 1 OF SCHEDULE 1

BACKGROUND:

- A. The Parties require the development of the SA NT DataLink and its associated systems.

- B. The purposes of this Agreement are to:
 - B.1 set out the objectives of the Parties in establishing SA NT DataLink;
 - B.2 set out the respective rights, duties and obligations of the Parties; and
 - B.3 cover certain operational and governance issues.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

- 1.1.1 “**Administered Fund**” means the account administered by the Administering Organisation;
 - 1.1.2 “**Administering Organisation**” means the organisation specified in Item 3 of Schedule 1;
 - 1.1.3 “**Agreement**” means this Agreement and the attached Schedules and Annexures (if any);
 - 1.1.4 “**Associates**” means those organisations or individuals who become associate members of the SA NT Data Link pursuant to clause 9;
 - 1.1.5 “**Asset and Intellectual Property registers**” means the registers established pursuant to Item 3 (3.3) of Schedule 3;
 - 1.1.6 “**Assets**” means real or personal property, but does not include Intellectual Property;
 - 1.1.7 “**Budget**” means the budget for developing and maintaining SA NT DataLink and its associated systems prepared by the Director, SA NT DataLink and approved by the Steering Committee;
 - 1.1.8 “**Business Day**” means any day that is not a Saturday, Sunday or a public holiday in Adelaide, South Australia;
 - 1.1.9 “**Chairperson**” means in respect of the Steering Committee a person appointed in accordance with clause 8.1.2 and in respect of the Executive Committee a person appointed in accordance with clause 8.2.3;
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- 1.1.10 “**Commencement Date**” means the date the last Party executes this Agreement, or the date specified in Item 2 of Schedule 1, whichever is the later;
- 1.1.11 “**Commercialisation**” means the sale, marketing, distribution, production, licensing or other commercial application of Consortium Intellectual Property including the provision or exploitation of a product, process, or service reliant on that Intellectual Property or to licence a third party to do any of these things;
- 1.1.12 “**Committee**” means a committee formed in accordance with clause 7;
- 1.1.13 “**Confidential Information**” means all trade secrets and know how, including expertise, skills, knowledge and ideas, financial information, commercially valuable information and all other information given to a Party by another Party in the course of this Agreement, including access to data and datasets held by SA NT DataLink, but not general information in the public domain;
- 1.1.14 “**Consortium**” is the Parties to this Agreement;
- 1.1.15 “**Consortium Intellectual Property**” means Intellectual Property arising out of or created as a result of a Consortium Project;
- 1.1.16 “**Consortium Project**” means any project approved by the Steering Committee to be performed and administered through SA NT DataLink that is aimed at enhancing, maintaining or managing SA NT DataLink;
- 1.1.17 “**Contribution**” means all of the monies, Personnel, data sets, facilities and services to be contributed by a Party, as set out in Schedule 2, or as otherwise determined in accordance with this Agreement;
- 1.1.18 “**Data**” or “**Dataset**” means a collection of data items or records held by an organisation, Government agency or clinician, researcher or SA NT DataLink which relate to the programs or services administered by an organisation, Government agency or clinician, or collected as part of the research interests of the researcher or generated by SA NT DataLink;
- 1.1.19 “**Data Custodian**” means a party that provides data to SA NT DataLink;
- 1.1.20 “**De-identified Data**” means those data or records from which information that may directly or indirectly identify a person has been removed;
- 1.1.21 “**Delegate**” means a person appointed by each Party to the Steering Committee in accordance with clause 8.1.1;
- 1.1.22 “**Demographic Data**” are those data necessary for and used in the data linkage process undertaken by the SA NT DataLink;
- 1.1.23 “**Deputy Chairperson**” means in respect of the Steering Committee a Delegate elected in accordance with clause 8.1.5 and in respect of the Executive Committee a Member elected in accordance with clause 8.2.3;
- 1.1.24 “**Director, SA NT DataLink**” means a person holding the position for the time being of Director, SA NT DataLink and appointed in accordance with clause 14;
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- 1.1.25 **“Due Cause”** means:
- (a) failing to make a Contribution on time;
 - (b) failing to remedy a conflict of interest;
 - (c) unauthorised disclosure or use of Pre-existing Intellectual Property;
 - (d) breach of any material condition of this Agreement; or
 - (e) becoming insolvent, bankrupt or being subject to the appointment of a receiver or entering into a composition with any creditors;
- 1.1.26 **“Executive Committee”** means the committee specified in clause 7.1.2;
- 1.1.27 **“Expiry Date”** means 31 December 2020;
- 1.1.28 **“Government Agency”** means an agency of either the Northern Territory or the State;
- 1.1.29 **“GST”** means the tax imposed by the GST law;
- 1.1.30 **“GST law”** has the meaning attributed in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- 1.1.31 **“GST Rate”** means, at any particular time, the rate (expressed as a percentage of the Value of a supply) at which GST is payable by the supplier on a Taxable Supply;
- 1.1.32 **“Intellectual Property”** means the rights relating to, literary, artistic and scientific works, performances of performing artists, phonograms, and broadcasts, inventions in all fields of human endeavour, scientific discoveries, industrial designs, trade marks, service marks, and commercial names and designation, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
- 1.1.33 **“Member”** means a person appointed to the Executive Committee by the Steering Committee;
- 1.1.34 **“Normal Commercial Terms”** means terms which would be contained in a contract or transaction entered into by persons dealing with each other at arm’s length and from comparable bargaining positions;
- 1.1.35 **“Parties”** means the parties to this Agreement named and described in Item 1 of Schedule 1 and “Party” means any of the Parties, except as otherwise determined in accordance with this Agreement;
- 1.1.36 **“Personal Information”** means information to which each Party has access in connection with this Agreement, comprising information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;
- 1.1.37 **“Personnel”** means a Party’s employees, agents, contractors and authorised visitors working for or accessing the SA NT DataLink premises and in the case of a University, students who are directly involved with SA NT DataLink;
- 1.1.38 **“Pre-existing Intellectual Property”** means any Intellectual Property owned by a Party prior to the commencement of this Agreement or
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developed outside of SA NT DataLink and is used by a Party for the purposes of this Agreement;

- 1.1.39 “**Quorum**” means at least 50% of the total number of Delegates and/or members of each Committee;
- 1.1.40 “**Researcher**” means a person who is approved to access the data provided by SA NT DataLink for research, evaluation and planning purposes;
- 1.1.41 “**SA NT DataLink**” means the premises and resources to be provided by the Administrating Organisation and all Personnel responsible for developing, maintaining and managing the systems, and includes those systems and the organisational units established to store, link and provide access to Data in accordance with the functions set out in Item 5 of Schedule 1;
- 1.1.42 “**State**” means the Crown in right of the State of South Australia;
- 1.1.43 “**State’s Data**” means the data provided to, collected by or recorded by the State;
- 1.1.44 “**Steering Committee**” means the committee specified in clause 7.1.1;
- 1.1.45 “**Sub-committee**” means a committee set up by the Steering Committee in accordance with clauses 7.1.2 and 7.1.3;
- 1.1.46 “**Taxable Supply**” has the meaning in the GST law;
- 1.1.47 “**Tax Invoice**” has the meaning in the GST law;
- 1.1.48 “**Territory**” means the Northern Territory;
- 1.1.49 “**Territory’s Data**” means the data provided to, collected by or recorded by the Territory; and
- 1.1.50 “**Universities**” means the University of South Australia, The University of Adelaide and The Flinders University of South Australia.

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- 1.2.1 words denoting the singular number or plural number include the plural number and single number respectively;
 - 1.2.2 words denoting any gender shall include all genders;
 - 1.2.3 headings are for convenience only and shall not affect interpretation;
 - 1.2.4 words denoting individuals shall include corporations and vice versa;
 - 1.2.5 a reference to a Party includes its successors and permitted assigns, and, unless a contrary intention is indicated, a Party’s officers, employees and agents;
 - 1.2.6 a reference to a clause or Schedule or Annexure is a reference to a clause or Schedule or Annexure of this Agreement;
 - 1.2.7 this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the Parties;
 - 1.2.8 writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax, email and internet;
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1.2.9 reference to any act, regulation or by-law shall be deemed to include all amendments and all statutory provisions substituted.

The Parties acknowledge that the statements set out in the Recitals to this Agreement are true and correct.

2. NATURE OF RELATIONSHIP

Nothing in this Agreement:

- 2.1 will be construed so as to constitute any of the Parties to be a partner, agent or representative of the other, or to create any trust or commercial partnership, or other partnership, with any company or corporate or commercial entity for any purpose; or
- 2.2 constitutes any relationship of employer and employee or partnership between the Parties. No Party has any authority to bind any other Party in any manner without the prior written consent of the other Parties; and
- 2.3 the rights, obligations and liability of each Party under this Agreement are several not joint or joint and several.

3. TERM

- 3.1 The Agreement commences on the Commencement Date and, unless terminated earlier in accordance with this Agreement or by special resolution of the Steering Committee, shall expire on the Expiry Date.
- 3.2 The Parties may extend the term referred to in clause 3.1 for such period as the Parties shall agree.
- 3.3 If a Party does not wish to extend the term the provisions of clause 26 in respect of retirement will apply save and except that the Party will not be required to give six (6) months prior written notice to the other Parties.

4. ESTABLISHMENT OF SA NT DATALINK

The Parties will establish SA NT DataLink in accordance with the guidelines specified in Schedule 1.

5. OBLIGATIONS

- 5.1 Subject to clause 5.2 each Party agrees to:
 - 5.1.1 provide its Contribution to the Consortium in accordance with this Agreement;
 - 5.1.2 avoid jeopardising another Party's rights to use or protect any SA NT DataLink Intellectual Property;
 - 5.1.3 use the Contributions only for the SA NT DataLink and for meeting all expenses in respect of SA NT DataLink as set out in Schedule 2;
 - 5.1.4 take prompt action in giving approval or making decisions in respect of SA NT DataLink;
 - 5.1.5 act in good faith when participating in the Consortium; and
 - 5.1.6 ensure its Personnel involved in SA NT DataLink comply with this Agreement;
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- 5.1.7 pay the salaries and insurance premiums payable in respect of its Personnel; and
- 5.1.8 avoid use of another Party's Intellectual Property unless it has been granted a written licence for such use.
- 5.2 Each Data Custodian may exercise reasonable discretion to not provide data for a project in circumstances where to do so is inappropriate or infeasible and if asked will provide sound reason to the Steering Committee for its decision.

6. **ADMINISTERING ORGANISATION**

The Administering Organisation shall have the responsibilities specified in Item 3 of Schedule 1.

7. **COMMITTEE STRUCTURE**

- 7.1 The Committee structure, comprises:
 - 7.1.1 the Steering Committee;
 - 7.1.2 the Executive Committee, a sub-committee of the Steering Committee;
 - 7.1.3 other sub-Committees set up by the Steering Committee from time to time to manage various aspects of SA NT DataLink.

The Director, SA NT DataLink will be a non-voting member of the Steering Committee and the Executive Committee.

- 7.2 The roles and responsibilities of the:
 - 7.2.1 Steering Committee are specified in Item 1 of Schedule 3;
 - 7.2.2 Executive Committee are specified in Item 5 of Schedule 3; and
 - 7.2.3 Sub-committees are specified in Item 6 of Schedule 3.

8. **COMMITTEE MEMBERSHIP**

8.1 **The Steering Committee**

- 8.1.1 The Steering Committee will consist of one Delegate appointed in writing by each Party.
 - 8.1.2 The Chairperson of the Steering Committee:
 - (a) will be appointed by the Steering Committee for any term they resolve, or if no term is specified, for two (2) years with the option of re-appointment for a maximum of three (3) further terms of one (1) year each; and
 - (b) may be:
 - (i) a Delegate; or
 - (ii) a person independent of the Parties.
 - 8.1.3 A Delegate is authorised to exercise all of the powers and functions of its Party under this Agreement, except the power to vary this Agreement.
 - 8.1.4 A Delegate will have voting rights.
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- 8.1.5 At the first meeting of the Steering Committee, the Delegates must vote to appoint a Deputy Chairperson.
- 8.1.6 Each Party may replace its Delegate on the Steering Committee at any time by giving prior written notice to the Committee.
- 8.1.7 In the event a Delegate is unable to attend a meeting of the Steering Committee, the Party that appointed the Delegate may by prior written notice to the Chairperson appoint a person to attend on its behalf.
- 8.1.8 The Steering Committee can delegate any of its powers to the Executive Committee or any Sub-Committee and at any time revoke those powers.
- 8.1.9 A delegation of a power to the Executive Committee or other Sub-Committee pursuant to this clause will not prevent the Executive Committee or Sub-Committee from exercising such delegated power provided that if the Steering Committee has already exercised a power in relation to the matter then the pronouncement and decisions of the Steering Committee will prevail over the Executive Committee or other Sub-Committee (whichever is applicable).

8.2 The Executive Committee

- 8.2.1 The Executive Committee will consist of not more than 5 Members appointed by the Steering Committee with at least one (1) Member from one (1) University, one (1) Member from a Government Agency and one (1) Member from the research (non-University) Parties.
- 8.2.2 A Member will have voting rights.
- 8.2.3 At the first meeting of the Executive Committee, the Members must vote to appoint a Chairperson and a Deputy Chairperson.
- 8.2.4 If a Member withdraws from the Executive Committee, that person shall be replaced by a Member appointed by the Steering Committee in accordance with clause 8.2.1 by prior written notice.
- 8.2.5 In the event a Member is unable to attend a meeting of the Committee, the Steering Committee may by prior written notice to the Chairperson appoint another person to attend on the Member's behalf.

8.3 Other Sub-Committees

- 8.3.1 Subject to clause 8.3.2 the Steering Committee shall set up any Sub-Committee/s that it deems necessary.
- 8.3.2 One (1) sub-committee shall be known as the Selection and Evaluation Committee.
- 8.3.3 The composition, purpose, powers and duration of each Sub-Committee shall be specified by the Steering Committee.

9. ASSOCIATES

- 9.1 Associates shall be bodies or individuals that support the objectives set out in this Agreement.
 - 9.2 The Steering Committee will consider and may accept applications from bodies or individuals that wish to become Associates.
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- 9.3 The Administering Organisation may enter into an agreement with each body and individual approved by the Steering Committee to become an Associate and the terms and conditions of the agreement shall be determined by the Steering Committee.
- 9.4 Associates shall not be:
 - 9.4.1 entitled to the same rights as Parties of the Consortium or be entitled to become members of the Consortium unless proposed by the Parties in accordance with clause 25; or
 - 9.4.2 required to make a financial Contribution.
- 9.5 Associates shall be entitled to receive such reports and general information about the SA NT Data Link as the Steering Committee determines and attend such activities conducted by the SA NT DataLink as are approved by the Steering Committee from time to time.

10. **MANAGEMENT AND GOVERNANCE**

The Committees shall have the roles and responsibilities specified in Schedule 3.

11. **COMMITTEE MEETINGS**

- 11.1 The Steering Committee must meet a minimum of four (4) times per year.
- 11.2 The Executive Committee must meet the minimum number of times per year as determined by the Steering Committee.
- 11.3 The Committees may adjourn and regulate their meetings as they think fit.
- 11.4 The Director, SA NT DataLink will ensure that:
 - 11.4.1 all Delegates and/or Members are given not less than fifteen (15) business days prior written notice of Committee meetings;
 - 11.4.2 an agenda is prepared and circulated in advance for each Committee meeting; and
 - 11.4.3 minutes are prepared in accordance with clause 12.
- 11.5 If the Chairperson or Deputy Chairperson is not present at any Committee meeting within 30 minutes of the commencement of the meeting, the Delegates or Members present may elect another Delegate or Member to be an interim Chairperson and Deputy Chairperson of such meeting.

12. **MINUTES**

- 12.1 The Director, SA NT DataLink is responsible for ensuring that minutes of proceedings at a Committee meeting are recorded in writing and circulated to the Committee's members, in advance of the next meeting of the Committee, by personal delivery, post, fax, email or by other electronic means, including via the SA NT DataLink website.
 - 12.2 The minutes must be confirmed by resolution of the relevant Committee and signed by the Chairperson of the meeting at which they are confirmed.
 - 12.3 Meetings of the Committees will be governed by the provisions of this Agreement, which deal with Committee meetings.
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13. DECISION MAKING AND VOTING

- 13.1 A decision of any Committee is only valid if a Quorum is present at a meeting.
- 13.2 If a Party has not made the required financial Contribution in accordance with this Agreement a Committee may refuse to allow that Party's Delegate and/or Member to attend meetings and vote until the outstanding financial Contribution is made.
- 13.3 Any Committee must attempt to reach decisions by consensus. If this cannot be achieved, decisions will be made by voting and carried by a simple majority of those present.
- 13.4 At the request of any Delegate and/or Member a particular decision of any Committee must be deferred until the Delegate and/or Member has had a reasonable opportunity to confer with the Party they represent.
- 13.5 A decision of any Committee will bind the Parties, unless the decision:
 - 13.5.1 is inconsistent with this Agreement;
 - 13.5.2 it is clearly expressed in this Agreement as a matter for a Party to decide.
- 13.6 Only the Parties (and not the Steering Committee) can make decisions about:
 - 13.6.1 varying this Agreement; or
 - 13.6.2 releasing or waiving any breach of this Agreement by a Party.
- 13.7 A Delegate and/or Member of any Committee who has a direct or indirect personal, pecuniary or professional interest in a matter before any Committee decided or under consideration by that Committee must:
 - 13.7.1 immediately, disclose to the Committee full and accurate details of the interest;
 - 13.7.2 not take part in any discussion by that Committee relating to that matter;
 - 13.7.3 not vote in relation to that matter; and
 - 13.7.4 be absent from the meeting room when any discussion or voting is taking place regarding that matter.

14. DIRECTOR, SA NT DATALINK

- 14.1 The Steering Committee is responsible for selecting the Director, SA NT DataLink.
 - 14.2 The Director, SA NT DataLink is accountable to the Steering Committee for carrying out his/her duties specified in Schedule 4.
 - 14.3 The terms and conditions of engagement of the Director, SA NT DataLink including the terms relating to performance and termination will be agreed by the Steering Committee and subject to the Administering Organisation's approval prior to the engagement of the Director, SA NT DataLink.
 - 14.4 The Administering Organisation will be the contracting entity with the Director, SA NT DataLink on behalf of the Parties.
 - 14.5 The Director, SA NT DataLink will be a non-voting member of the Steering and Executive Committees, and will not be present when issues relating to his/her performance are likely to be under discussion.
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15. **CONSORTIUM PROJECT**

A Consortium Project must be conducted in accordance with the special conditions specified in Item 7 of Schedule 1.

16. **BUDGETING AND EXPENDITURE**

16.1 The Director, SA NT DataLink will submit a proposed Budget annually to the Steering Committee for approval or amendment not less than 10 Business Days before the meeting at which the Steering Committee will consider whether or not to approve it.

16.2 The Steering Committee will determine appropriate financial delegations.

16.3 The Administering Organisation will establish procurement and financial processes to enable implementation of the Budget.

17. **CONTRIBUTIONS**

17.1 Each Party must pay its financial Contribution in accordance with Schedule 2 quarterly in advance to the Administered Fund.

17.2 A Party may contribute further support to the Consortium in the form of additional financial contributions, advice from Personnel, access to that Party's data bases and other such support as a Party may nominate to provide. Such further support will not be regarded as a Contribution for the purposes of this Agreement.

17.3 Any Contribution is GST exclusive and does not include any amount referable to GST.

17.4 Subject to clause 17.5, in addition to a Party's Contribution ("**base consideration**"), that Party must pay an additional amount of consideration ("**GST consideration**") by multiplying the GST Rate by the base consideration. The GST consideration is payable at the same time and subject to the same conditions as the base consideration.

17.5 If for any reason the supply for which payment is claimed is not a Taxable Supply in relation to a base consideration; a Party is not obliged to pay the GST consideration in respect of that supply.

17.6 Subject to clause 17.7, the Administering Organisation does not have to pay an invoice unless the invoice is properly rendered. An invoice is properly rendered if it is a Tax Invoice within the meaning of the GST law.

17.7 An invoice does not have to be a Tax Invoice if the supply for which payment is claimed is not a Taxable Supply.

18. **ASSETS**

18.1 Any Assets purchased by the Administering Organisation with the cash Contributions of the Parties for the conduct of SA NT DataLink will be owned by the Administering Organisation unless otherwise agreed by the Steering Committee. The Steering Committee will establish protocols for access to Assets purchased with cash Contributions.

18.2 Ownership of Assets purchased by any of the Parties with funds other than their Contribution will remain with the purchasing Party.

19. ACCOUNTS

- 19.1 The Administering Organisation will establish and oversee the operation of the Administered Fund, into which financial Contributions will be paid.
- 19.2 The Parties agree that the Administering Organisation will carry out the financial requirements of SA NT DataLink under the direction of the Steering Committee including:
 - 19.2.1 consolidating the accounting information provided to it by the Parties; and
 - 19.2.2 obtaining from each Party the financial component of its Contribution, and crediting that amount to the Administered Fund.

20. INTELLECTUAL PROPERTY

- 20.1 The Parties:
 - 20.1.1 acknowledge that each Party may make available its Pre-existing Intellectual Property to a Consortium Project subject to any conditions of its use;
 - 20.1.2 jointly own all Consortium Intellectual Property; and
 - 20.1.3 agree that, the Steering Committee will put in place the procedures in respect of Intellectual Property specified in Item 3 of Schedule 3, or as agreed between the Parties.
 - 20.2 Each Party must:
 - 20.2.1 co-operate with each other Party and promptly do all things and execute all documents necessary to vest/identify ownership of Pre-existing Intellectual Property and Consortium Intellectual Property in the relevant Party or Parties;
 - 20.2.2 notify the Director, SA NT DataLink of Pre-existing Intellectual Property it makes available for a Consortium Project and any conditions of use placed on its Pre-existing Intellectual Property;
 - 20.2.3 use its best efforts to promptly identify and report to the Director, SA NT DataLink any Consortium Intellectual Property.
 - 20.3 The Steering Committee may authorise use of money in the Administered Fund to keep each Party indemnified against all costs, expenses and liabilities arising out of or in connection with any claim that the performance of SA NT DataLink is in breach of third party Intellectual Property.
 - 20.4 A Party may only use Consortium Intellectual Property:
 - 20.4.1 for its internal use; or
 - 20.4.2 on terms approved by the Steering Committee.
 - 20.5 Any Intellectual Property not developed under a Consortium Project belongs to the Party who creates or develops it.
 - 20.6 The Parties will enter into a separate agreement in relation to the Commercialisation of Consortium Intellectual Property on the basis of Normal Commercial Terms. The Party responsible for the Commercialisation of Consortium Intellectual Property will be determined by the Parties at the time of such Commercialisation.
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21. CONFIDENTIALITY

- 21.1 Subject to this Agreement, the Party (“**receiving party**”) to whom Confidential Information is disclosed by another Party (“**disclosing party**”) must not disclose Confidential Information to any person without first obtaining the disclosing party’s written consent.
- 21.2 There will be no breach of the obligations of the receiving party under this Agreement if the Confidential Information is legally required to be disclosed or the circumstances of its disclosure are permitted by this Agreement.
- 21.3 The receiving party may disclose Confidential Information to its authorised Personnel if:
- 21.3.1 the authorised Personnel needs to know the Confidential Information for the performance of his or her duties under this Agreement;
 - 21.3.2 the receiving party first notifies the proposed disclosure to the disclosing party;
 - 21.3.3 the receiving party and authorised Personnel have signed Confidentiality Agreements in the form agreed to by the disclosing party and the original of that form is deposited with the disclosing party; and
 - 21.3.4 the receiving party first makes the authorised Personnel aware of the confidential nature of the Confidential Information and requires the authorised Personnel to treat it confidentially.
- 21.4 Notwithstanding anything else in this Agreement, it is a condition to any permitted disclosure that the receiving party must notify the disclosing party promptly if the receiving party becomes aware of any unauthorised disclosure by a third party. The receiving party must give the disclosing party all assistance reasonably required by that party in connection with any proceedings, which it may institute against any persons for the disclosure.
- 21.5 The receiving party must, if required by the disclosing party, deliver to the receiving party or destroy any documents containing the Confidential Information and must for that purpose retrieve any document given to or made by an authorised Personnel.
- 21.6 The receiving party indemnifies the disclosing party against any loss or damage which the disclosing party may suffer or for which the disclosing party may become liable as a result of:
- 21.6.1 any disclosure or use of Confidential Information in breach of this Agreement by the receiving party; or
 - 21.6.2 any unauthorised disclosure or use by an authorised Personnel of Confidential Information.
- 21.7 The Parties acknowledges that the State may disclose Confidential Information:
- 21.7.1 to Parliament, the Governor, Cabinet or a Parliamentary or Cabinet committee or subcommittee;
 - 21.7.2 where required by law to do so;
 - 21.7.3 to any agency, authority instrumentality, Minister or Officer of the State to whom it is customary for the State to disclose information such as the Confidential Information (whether or not the State is legally obliged to do so); or
-

- 21.7.4 for the purposes of prosecuting or defending any legal proceedings.
- 21.8 The Parties acknowledge that the Territory may disclose Confidential Information:
 - 21.8.1 to Parliament, the Administrator, Cabinet or a Parliamentary or Cabinet committee or subcommittee;
 - 21.8.2 where required by law to do so;
 - 21.8.3 to any agency, authority instrumentality, Minister or Officer of the Territory to whom it is customary for the Territory to disclose information such as the Confidential Information (whether or not the Territory is legally obliged to do so); or
 - 21.8.4 for the purposes of prosecuting or defending any legal proceedings.
- 21.9 A receiving party must notify the other Parties promptly if it is aware of any disclosure of the Confidential Information otherwise than as permitted by this Agreement, or with the authority of the disclosing party.
- 21.10 This clause 21 survives the termination of this Agreement.

22. **PERSONAL INFORMATION**

- 22.1 Each Party must comply with:
 - 22.1.1 the requirements set out in Schedule 6 with respect to Personal Information; and
 - 22.1.2 all applicable laws relating to the protection of privacy.
- 22.2 A Party must not do anything on the State's behalf, or use the State's Data without the State's prior written consent.
- 22.3 A party must not do anything on the Territory's behalf or use the Territory's Data without the Territory's prior written consent.

23. **POLICIES, STANDARDS AND OTHER REQUIREMENTS**

Each Party acknowledges the content set out in Schedule 7.

24. **PUBLICATIONS AND PUBLIC ANNOUNCEMENTS**

- 24.1 A Delegate of the Steering Committee appointed by the Steering Committee is responsible for making public announcements about the Consortium, or a SA NT DataLink publication.
- 24.2 A Party must not make any public announcement about:
 - 24.2.1 the Consortium or SA NT DataLink, or this Agreement, unless the Steering Committee first gives prior written notice; or
 - 24.2.2 another Party's involvement in the Consortium, unless that other Party has first given prior written notice to the other Parties.

25. **NEW PARTIES**

- 25.1 The Parties will establish guidelines to cover:
 - 25.1.1 any alteration to the rights and obligations of existing Parties upon admission of new parties; and
-

- 25.1.2 requirements for admission of new parties, including Contributions to the Consortium.
- 25.2 A Party may propose to the Steering Committee, by giving ten (10) Business Days prior written notice, that a new party be admitted to the Consortium as a Party and before a new Party is admitted:
 - 25.2.1 the existing Parties must agree in writing; and
 - 25.2.2 the new Party must sign any agreements the existing Parties require, including to be bound by this Agreement.

26. RETIREMENT AND EXPULSION

- 26.1 A Party may retire from the Consortium and terminate involvement in this Agreement by giving 6 months' prior written notice to the Parties, unless otherwise specified in Schedule 2.
- 26.2 Delegates on the Steering Committee, other than the Delegate representing the defaulting Party, may by unanimous decision, expel a Party from the Consortium if the other Delegates on the Steering Committee:
 - 26.2.1 determine that Due Cause exists; and
 - 26.2.2 notify the defaulting Party that Due Cause exists; and
 - 26.2.3 the defaulting Party does not remedy the subject of the Due Cause within 20 Business Days of notification.
- 26.3 The effect of expulsion or retirement is that a defaulting or retiring Party:
 - 26.3.1 does not have to make further Contributions;
 - 26.3.2 is not entitled to a refund of monies paid up by that defaulting or retiring Party, whether expended or not;
 - 26.3.3 must assign or relinquish its rights under this Agreement including its rights to ownership of Consortium Intellectual Property except on such terms as may be agreed by the Steering Committee from time to time;
 - 26.3.4 retains rights to returns from the Consortium Intellectual Property, which it has contributed before expulsion or retirement;
 - 26.3.5 continues to be bound by the obligations of confidentiality given under this Agreement for a period of 5 years beyond the Expiry Date;
 - 26.3.6 will not be entitled to have Delegates and/or Members on any Committees.

27. EFFECT OF EXPIRY OF AGREEMENT

- 27.1 Before expiry of the Agreement, or as soon as possible afterwards, the Parties, excluding any Party which has retired or who has been expelled, will meet to agree on:
 - 27.1.1 whether the Parties will retain ownership of Consortium Intellectual Property on termination of the Agreement, or whether they will consolidate ownership (for example by transferring interests in specified Consortium Intellectual Property to each other); and
 - 27.1.2 any other matter not addressed in this Agreement required to be resolved on expiry.
-

- 27.2 If the Parties cannot agree on any of the above matters, they will refer those matters for resolution in accordance with clause 29.
- 27.3 Unless otherwise agreed, on termination of this Agreement:
 - 27.3.1 accrued rights and obligations are not affected; and
 - 27.3.2 each Party continues to be bound by the obligation of confidentiality and indemnities given under this Agreement.

28. **CONFLICT OF INTEREST**

- 28.1 Each Party must:
 - 28.1.1 notify the Chairperson of the Steering Committee of any conflicts of interest, which exist between the interests of the Parties or its Personnel and the interests of the Consortium; and
 - 28.1.2 at the request of the Chairperson within five (5) Business Days or any longer period agreed by the Chairperson of the Steering Committee take any steps necessary and reasonable to remove any conflict of interest referred to in clause 28.1.1.
- 28.2 If a Party cannot remove a conflict of interest as required by this clause 28 then it may be expelled by the unanimous agreement of the Parties (excluding the conflicted Party).
- 28.3 Each Party, to the best of its knowledge, at the Commencement Date states that no conflict of interest exists, which is likely to affect the performance of its obligations under this Agreement.

29. **SETTLING DISPUTES**

- 29.1 The Parties must promptly and in good faith attempt to resolve any dispute which arises between them in relation to this Agreement before beginning legal proceedings or any form of external dispute resolution mechanism.
 - 29.2 Except where a Party requires urgent interlocutory injunctive relief, if any Party requires a dispute to be resolved it agrees to do so in accordance with this Clause 29. Each Party acknowledges that it must comply with these provisions before it is entitled to a claim, relief or remedy covering the dispute.
 - 29.3 If a Party wants a dispute resolved it must:
 - 29.3.1 notify the other Parties in writing that the dispute exists;
 - 29.3.2 submit the dispute to the Chairperson of the Steering Committee for resolution, and if the Chairperson is unable to resolve the dispute within twenty (20) Business Days of it being referred;
 - 29.3.3 submit the dispute to the Steering Committee for resolution.
 - 29.4 If the Steering Committee is unable to resolve the dispute within 20 Business Days after referral it must refer the dispute to the Chief Executive of each Party for resolution.
 - 29.5 If the Chief Executive for and on behalf of each Party is unable to resolve the dispute within 20 Business Days after referral, the Parties must submit to arbitration by an independent third party appointed by the Steering Committee.
-

30. **RECOVERABLE MONEY**

30.1 Subject to clause 26.3, any unspent and uncommitted financial Contribution of a Party may be recovered by the applicable Party.

30.2 This clause 30 survives the expiration or termination of this Agreement.

31. **INSURANCE**

31.1 **Professional Indemnity Insurance**

Each Party must effect and maintain professional indemnity insurance for the term of this Agreement. Such insurance shall be for an amount not less than **TEN MILLION DOLLARS** (\$10,000,000.00) for any one event and in the aggregate in any one policy period or such other amount as the Parties may from time to time agree in writing.

31.2 **Public Liability Insurance**

Each Party must effect and maintain public and products liability insurance for not less than **TEN MILLION DOLLARS** (\$10,000,000.00) for any one event or such other amount as the Parties may from time to time agree in writing.

31.3 **Northern Territory**

The Parties acknowledge that the Territory self insures the risks set out in this clause 31 and is not required to obtain the insurances set out herein and the Territory agrees to carry all of its own risk as self-insurer in relation to this Agreement.

31.4 **Crown in right of the State of South Australia**

31.4.1 The Parties acknowledge that those of the Parties set out in Item 8 of Schedule 1 are part of the Crown in right of the State of South Australia and are entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered through the Insurance Division of the South Australian Government Financing Authority (operating under the name "SAICORP") and are not required to obtain the insurances set out herein.

31.4.2 The Parties identified in Item 8 of Schedule 1 will be deemed to be automatically adjusted from time to time as and when any Party becomes or ceases to be (as the case may be) part of the Crown in right of the State of South Australia and entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered through the Insurance Division of the South Australian Government Financing Authority (operating under the name "SAICORP").

32. **LIABILITY**

32.1 Each Party ("**Indemnifying Party**") must indemnify each other Party and its Personnel and Delegates ("**Indemnified Party**") from and against any loss, damage, claim, cost or expense suffered or incurred by any of the Indemnified Party arising out of SA NT DataLink where such loss or liability was caused by any wilful, unlawful or negligent act, omission, or breach of this Agreement by the Indemnifying Party.

32.2 An Indemnifying Party's liability to indemnify must be reduced proportionally to the extent that any wilful, unlawful or negligent act, omission, or breach of this Agreement of the Indemnified Party, its Personnel or Delegate contributed to the claim.

32.3 This clause 32 will survive the expiration or termination of this Agreement.

33. SEVERABILITY

If any clause or part thereof is held by a court to be invalid or unenforceable such clause or part thereof shall be deemed deleted from this Agreement and the Agreement shall otherwise remain in full force and effect.

34. ASSIGNMENT

No Party will assign or otherwise transfer any of its rights or obligations pursuant to this Agreement, whether in whole or in part, without the prior written consent of the other Parties.

35. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws for the time being in force in the State of South Australia and the Parties agree to submit to the jurisdiction of the courts of that State.

36. WAIVER

36.1 A waiver of any provision of this Agreement must be in writing.

36.2 No waiver by one Party of a breach of a term or condition contained in this Agreement shall operate as a waiver of another breach of the same or of any other term or condition contained in this Agreement.

36.3 No forbearance, delay or indulgence by a Party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that Party.

37. NOTICES

37.1 Any notice or other communication to or by any Party must be:

37.1.1 in writing;

37.1.2 addressed to the address of the recipient specified in Item 6 of Schedule 1, or as altered by prior notice given in writing;

37.1.3 left at or sent by prepaid post or by facsimile to that address;

37.1.4 signed on behalf of the sender;

37.1.5 is deemed to be duly given or made in the case of:

(a) delivery in person, when delivered; or

(b) delivery by post, in the ordinary course of posting;

(c) a facsimile, upon a transmission report being printed by the sender's facsimile machine stating that the document has been sent to the recipient's facsimile machine; or

- (d) an email recorded by an electronic system as received by the intended recipient.

If delivery is not made before 4.00 pm Central Standard Time on any business day it will be deemed to be received at 9.00 am Central Standard Time on the next day.

38. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement of the Parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings and negotiations in respect of the matters dealt with in this Agreement.

39. MODIFICATIONS

No addition to or modification of any provision of this Agreement is binding upon the Parties, unless in writing and signed by each Party.

40. COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together constitute one instrument.

41. ASSURANCES

41.1 The Parties agree to do all such acts and conduct themselves in such a manner so as to enable the Parties to comply with their various obligations under the Agreement and with any requirements at law which may arise as a result of them carrying out their obligations under this Agreement.

41.2 The Parties will negotiate in good faith with a view to agreeing reasonable terms on any matter related to the development and operation of the Consortium, or on which a decision is required and to keep each other fully informed of all matters that come to their knowledge which could affect the Consortium.

42. LEGAL COSTS AND REPRESENTATION

42.1 The Parties will bear their own costs in relation to the preparation, negotiation and execution of this Agreement.

42.2 Any Party may retain a solicitor of its choice at its expense to represent its respective rights and interests arising out of this Agreement.

43. COSTS AND EXPENSES

Costs and expenses incurred by a Party relating to the attendance of a Delegate and/or Member at meetings of Committees will be borne by that Party.

44. AUDITOR-GENERAL

Nothing in this Agreement derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (SA).

SCHEDULE 1

GENERAL

ITEM 1 PARTIES

- Minister for Health
- Minister for Mental Health and Substance Abuse
- University of South Australia
- The University of Adelaide
- The Flinders University of South Australia
- Minister For Education And Child Development
- Minister For Communities And Social Inclusion
- Minister For Social Housing
- Northern Territory of Australia c/-the Department of Health
- South Australian Health And Medical Research Institute Limited
- Anti Cancer Foundation of South Australia
- Health Consumer Alliance Of South Australia Incorporated

ITEM 2 COMMENCEMENT DATE

1st day of January 2009.

ITEM 3 ADMINISTERING ORGANISATION

The Administering Organisation until 31 December 2021 will be the University of South Australia unless otherwise agreed by the Parties.

The Administering Organisation is required to:

- comply with all applicable laws;
 - refrain from undertaking any obligation or make any representation or promise to any other Party of behalf of the other Parties except as specifically authorised in this Agreement;
 - have the approval of the Steering Committee before nominating a representative or representing the Parties or the Steering Committee on a committee or body;
 - administer the Administered Fund under the direction of the Steering Committee;
 - receive and expend funds;
 - enter into agreements on behalf of the Parties as authorised by the Steering Committee;
 - engage staff or directly employ or to make use of staff seconded from the Parties;
 - manage Consortium Intellectual Property on behalf of the Parties;
-

- establish and provide financial, accounting and auditing systems;
- provide administrative, human resource, financial and technical support services; and
- undertake NCRIS-PHRN acquittal process.

ITEM 4 CONSORTIUM

4.1 Intent

The Parties:

- seek to establish capacity to facilitate research using linkage of routinely collected data for the purpose of improving the wellbeing and prosperity of the community through enhanced capacity for research, analysis, evaluation and policy development;
- recognise the interrelationship of social, biological and environmental determinants and their impact on wellbeing, human development, health and prosperity. Accordingly, the establishment of SA NT DataLink in South Australia will be undertaken within a multi-agency and multi-disciplinary context involving a range of government agencies and in close conjunction with partners from the research community;
- agree to collaborate to implement the above objectives;
- seek to use their best endeavours to provide data to SA NT DataLink and researchers as expeditiously as possible;
- seek to ensure that all Parties benefit equitably from their involvement in the Consortium; and
- seek to better equip policy makers with relevant data to enable them to understand the impact of decision making and the complex interrelationship between biological, social, environmental and economic factors that impact on individual and community health and wellbeing.

4.2 Objectives

The objectives or aims of the Consortium are to contribute to the promotion, protection and maintenance of the wellbeing and health and prosperity of the public by:

- facilitating evaluation of service delivery in health and human services;
 - enhancing understanding of factors influencing the health, development and wellbeing of the community and facilitate the development of future social and health related policies; and
 - facilitating research, analysis and evaluation for the development of public policy where there is demonstrable scientific merit, ethical acceptability, and a clear public interest;
 - contributing to knowledge regarding data collection and linkage methodologies and the use of data for statistical analysis;
 - contributing to the improvement of the quality of data held by Data Custodians;
-

- developing research and analysis capacity based on data linkage methodologies; and
- collaborating with other data linkage centres in Australia and overseas.

ITEM 5 SA NT DATALINK FUNCTIONS

SA NT Data Link will act under direction from and in accordance with the approved priorities, policies and procedures of the Steering Committee to:

- ensure adequate safe guards and protocols are established to ensure individual privacy is protected and all relevant legislative and policy requirements are met;
- implement the standards rules and protocols under which data will be held and/or linked, the management of data and the policies and protocols regarding access to those data or the linkage keys developed from them;
- undertake the storage and linkage of data provided to SA NT DataLink in accordance with the implemented standards, rules and protocols;;
- implement the linkage and data management systems and manage work program;
- recommend cost recovery fees for services undertaken;
- facilitate the processes necessary for researchers, planners and other approved persons to access de-identified data for an approved project;
- receive and disburse funds from Contributions to meet the objectives identified in Item 4.2.

The provision of services will be discretionary subject to available resources and the above objectives.

ITEM 6 NOTICES

MINISTER FOR HEALTH &

MINISTER FOR MENTAL HEALTH AND SUBSTANCE ABUSE

Tina Hardin
A/ Associate Director,
Information Management Data and Reporting Services
SA Health
PO Box 287
Rundle Mall
Adelaide SA 5000

Phone: 8226 7329
Fax: 8226 7088

UNIVERSITY OF SOUTH AUSTRALIA

Professor Ian Olver
Director: Sansom Institute for Health Research
Division of Health Sciences
University of South Australia
GPO Box 2471
Adelaide SA 5001
Phone: 8302 2934
Fax: 8302 2842

THE UNIVERSITY OF ADELAIDE

Simon Brennan
Director, Research Branch
Level 7
Wyatt House
115 Grenfell Street
Adelaide SA 5000
Phone: 8303 5551
Fax: 8303 3700

THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA

Dr Gayle Morris
Director, Research Services
Office of Research
PO Box 2100
Adelaide SA 5001
Phone: 8201 3393
Fax: 8201 5949

ANTI-CANCER FOUNDATION OF SOUTH AUSTRALIA

Marion Eckert
General Manager, Support, Research & Policy
202 Greenhill Road
Eastwood SA 5063
Phone: 8291 4167
Fax: 8291 4122

MINISTER FOR EDUCATION AND CHILD DEVELOPMENT

Kathryn Jordan
A/Executive Director
Office for Strategy and Performance
Department for Education and Child Development
GPO Box 1152
Adelaide SA 5001
Phone: 8226 3933
Fax: 8226 7839

MINISTER FOR COMMUNITIES AND SOCIAL INCLUSION &

MINISTER FOR SOCIAL HOUSING

Nancy Rogers
Director, Business Affairs
Department for Communities and Social Inclusion
GPO Box 292
Adelaide SA 5001
Phone: 8413 8170
Fax: 8413 8143

NORTHERN TERRITORY OF AUSTRALIA

Steven L Guthridge
Director
Health Gains Planning
Department of Health
4th Floor AANT Building
81 Smith Street
Darwin NT 0800
Phone: (08) 8985 8073
Fax: (08) 8985 8075

SOUTH AUSTRALIAN HEALTH AND MEDICAL RESEARCH INSTITUTE LIMITED

Steven Wesselingh
Executive Director
North Terrace
Adelaide SA 5000
Phone: (08) 8812 8400
Fax: Not Applicable

HEALTH CONSUMER ALLIANCE OF SOUTH AUSTRALIA

Michael Cousins
Executive Director
Health Consumers Alliance of South Australia
Level 1, 12 Pirie Street
Adelaide SA 5000
Phone: (08) 8231 4169
Fax: (08) 8410 5276

ITEM 7 PROJECTS

Any project must be conducted in accordance with:

- National Health and Medical Research Council – National Statement on Ethical Conduct in Human Research (2007) Updated May 2015;
 - National Principles of Intellectual Property Management for Publicly Funded Research;
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- Australian Code for the Responsible Conduct of Research (Australian Government 2007);
- any other applicable policy and guidelines;
- milestones and deliverables;
- terms of the project;
- objectives and aims of a project;
- terms of commercialisation (to be determined on a case by case basis);
- relevant policies of the Parties; and
- the conditions attached to an approval given by an approved Human Research Ethics Committee (HREC)

ITEM 8 PARTIES UNDER SAICORP INSURANCE ARRANGEMENTS

- The following Parties are part of the Crown in right of the State of South Australia and are entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered through the Insurance Division of the South Australian Government Financing Authority (operating under the name “SAICORP”) and are not required to obtain the insurances set out in clause 31. Minister for Health:
 - Minister for Mental Health and Substance Abuse
 - Minister For Education And Child Development
 - Minister For Communities And Social Inclusion
 - Minister For Social Housing

SCHEDULE 2

Please contact SA NT DataLink

SCHEDULE 3

ROLE AND RESPONSIBILITIES OF COMMITTEES

ITEM 1 STEERING COMMITTEE

The Steering Committee will:

- 1.1 provide strategic direction to the sub-committees, SA NT DataLink and the Director, SA NT DataLink;
 - 1.2 establish and oversee the Executive Committee and Sub-Committees and allocate responsibilities;
 - 1.3 nominate one of its Delegates to be Chairperson of the Executive Committee;
 - 1.4 appoint, dismiss or replace:
 - 1.4.1 members of the Executive Committee;
 - 1.4.2 members of the Sub-Committees;
 - 1.5 appoint the Director, SA NT DataLink on recommendation of the Selection Sub-Committee which will comprise of:
 - 1.5.1 the Chairperson of the Steering Committee;
 - 1.5.2 a Delegate of the Administering Organisation; and
 - 1.5.3 three (3) Delegates nominated by the Steering Committee who are not members of the Administering Organisation;
 - 1.6 ensure that the Evaluation Committee comprising of the Chair of the SA NT DataLink Steering Committee and a nominee from the Administering Organisation reviews the performance of the Director, SA NT DataLink annually;
 - 1.7 review the performance of the Executive Committee and Sub-Committees as and when determined by the Steering Committee;
 - 1.8 commission an independent review of the SA/NT Data Link as it considers appropriate;
 - 1.9 monitor and review the performance of the Administering Organisation;
 - 1.10 approve and monitor the SA NT DataLink annual business plans, budget priorities and budget;
 - 1.11 approve the SA NT DataLink annual work program;
 - 1.12 approves linkage prices;
 - 1.13 approve policies and procedures for SA NT DataLink;
 - 1.14 approve Consortium Projects to be undertaken by SA NT DataLink;
 - 1.15 appoint Associates; and
 - 1.16 establish protocols for access to Assets purchased with cash Contributions.
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ITEM 2 FINANCES AND RESOURCES

The Steering Committee must:

- 2.1 set budgetary priorities;
- 2.2 advise the Administering Organisation on the distribution of the cash Contributions and allocate other resources in accordance with the budget;
- 2.3 accept record and monitor in-kind Contributions agreed by the Parties;
- 2.4 accept variations to a Party's Contribution as agreed by the Parties;
- 2.5 receive audit reports and implement recommendations.

ITEM 3 INTELLECTUAL PROPERTY

The Steering Committee must:

- 3.1 put in place procedures to ensure Consortium Intellectual Property and Confidential Information is identified, controlled and protected; and
- 3.2 subject to clause 20.6, make decisions about dealing with Consortium Intellectual Property; and
- 3.3 maintain an Asset and Intellectual Property Register for Consortium Intellectual Property.

ITEM 4 GENERAL

4.1 The Steering Committee will establish protocols to:

- 4.1.1 receive and consider reports from the Director, SA NT DataLink, the Executive Committee and Sub-Committees about SA NT DataLink performance;
- 4.1.2 promote co-operation between the Parties; and
- 4.1.3 approve communications and public relations strategies, including guidelines for the common branding policy and public announcements about the Consortium or the SA NT DataLink publication in accordance with Schedule 7.

4.2 The Steering Committee will:

- 4.2.1 make recommendations to the Parties in respect of the adjustment of rights arising from Contributions;
- 4.2.2 recommend for approval the admission of new Parties; and
- 4.2.3 carry out any other functions conferred on it by the Parties.

ITEM 5 EXECUTIVE COMMITTEE

The Executive Committee will:

- 5.1 report to the Steering Committee by way of minutes not less than 30 days before the next Steering Committee meeting;
-

- 5.2 propose strategic directions for the Consortium, including an agreed set of specific aims to achieve the objectives and key milestones;
- 5.3 recommend performance criteria to determine the progress of the Consortium development in achieving the objectives;
- 5.4 review the performance of SA NT Data Link and provide recommendations to the Steering Committee;
- 5.5 ensure that SA NT DataLink development, maintenance and management is carried out in accordance with this Agreement.

ITEM 6 SUB-COMMITTEE

As determined by the Steering Committee.

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SCHEDULE 4

ROLE OF DIRECTOR, SA NT DATALINK

POSITION DESCRIPTION

Director: SA NT DataLink

Fixed Term Contract: 3 years

The South Australia and Northern Territory Data Linkage Consortium (SA NT DataLink)

The SA NT Data Linkage Consortium is a consortium of government, non government and university stakeholders in South Australia and the Northern Territory which has formed together under a Joint Venture agreement to establish SA NT DataLink as a multidisciplinary data linkage system. It is envisaged that SA NT DataLink will provide an evidence base to better understand the impact of decision making and the complex interrelations between biological, social environmental and economic factors that impact on individual community health and wellbeing. SA NT DataLink will serve the health and human services data linkage needs of South Australia and the Northern Territory and will contribute to the national capacity through the Population Health Research Network and engage in international collaborations. In addition to health data, the SA NT DataLink will link and securely store the data it receives or generates related to the determinants of health and wellbeing.

University of South Australia and SA NT DataLink

The University of South Australia is hosting the SA NT NCRIS PHRN Node (referred to as the South Australia and Northern Territory Data Linkage Consortium or "SA NT DataLink") and will, under contract:

- receive NCRIS funding,
- provide cash and in-kind contributions towards the establishment and operations of the SA NT DataLink, and receive cash contributions from other Consortium members
- enter into an agreement with the other members of the SA NT DataLink consortium,
- host SA NT DataLink and ,
- employ the Director, SA NT DataLink and other staff

The headquarters for the SA NT DataLink will be accommodated in the University of South Australia, Division of Health Sciences, located in the South Australian Health and Medical Research Institute (SAHMRI) at North Terrace Adelaide..

The SA NT DataLink will have a Director, SA NT DataLink, and staff, including an Associate Director, SA NT DataLink, administrative support staff, data linkage staff and data management and analysis staff, project staff to manage researcher and custodian needs, and other staff that may be required from time to time to support SA NT DataLink's objectives and requirements.

Relevant Information Technology and Communications infrastructure and data security protocols will be established and maintained as agreed between the University of South Australia, SA NT DataLink and SAHMRI.

BROAD PURPOSE

The Director, SA NT DataLink will establish and manage the SA NT Node and external stakeholder relationships.

This leadership role includes implementing and achieving the Consortium's strategic intents and representing the Consortium in a variety of national and state fora, committees and meetings.

It also includes representing the Consortium publicly in the media as well as actively engaging with interested community organisations and members of the public and members of parliament. The Director, SA NT DataLink will also lead negotiations with data custodians in relation to data participation in SA NT DataLink.

The Director, SA NT DataLink will actively engage with university researchers and relevant government officers to promote SA NT DataLink as a research facility. This may also include participation, in an advisory capacity, in key research projects.

The Director, SA NT DataLink will be responsible for the SA NT DataLink budget. A key focus of the position will be positioning SA NT DataLink for ongoing sustainable development.

KEY STAKEHOLDERS

The key stakeholders for this position include but are not limited to, the South Australian Government and Universities, Northern Territory Government and University and relevant non-government organisations and community groups.

REPORTING RELATIONSHIPS

The Director, SA NT DataLink principally reports to the Chair and Steering Committee of the SA NT Data Linkage Consortium.

The Director, SA NT DataLink also reports to the Director, Sansom Institute: Division of Health Sciences, University of South Australia for administrative purposes.

The Director, SA NT DataLink will be responsible for all SA NT DataLink staff.

CORE RESPONSIBILITIES

1. Develop, maintain and promote effective infrastructure and supportive working relationships among data custodians, researchers, and Consortium partners focussed on optimizing the policy and research use of the data linkage resource.
 2. Actively engage with government officers and researchers to promote SA NT DataLink as a policy analysis and research tool.
 3. Lead strategic development of SA NT DataLink by implementing strategic directions and priorities agreed by the Consortium Steering Committee.
 4. Lead SA NT DataLink in relation to privacy and ethics issues, and in negotiations with the Privacy Committee of SA and the Australian Government Office of the Privacy Commissioner.
 5. Lead negotiations with data custodians in relation to data participation in SA NT DataLink.
 6. Represent the Consortium in a variety of national and state fora, committees and meetings. Develop and maintain links with data linkage units in other jurisdictions as part of the NCRIS Population Health Research Network.
 7. Represent the Consortium publicly, in the media as well as actively engaging with interested community organisations and members of the public and members of parliament.
 8. Develop, and implement, a community engagement strategy for the Consortium which, in conjunction with national activities, provides accessible information for the community on the privacy protecting data linkage methodologies used and benefits of data linkage.
-

9. Establish and manage the Consortium's administration, finances, human resources and business systems, and ensure that reporting requirements are met.
10. Develop and manage the systems, processes and staff which directly engage with customers of SA NT DataLink, who will primarily include university researchers and government officers.
11. Implement and maintain a pro-active legal compliance framework and systems to ensure all legal obligations are anticipated and met.
12. Oversee the data linkage and data custodian support functions, managed by the Manager, Data Linkage, to ensure the delivery of high quality outputs from the data linkage service, in a timely fashion and in accordance with agreed ethical processes.
13. Oversee the supervision and development of all staff within SA NT DataLink including the establishment of appropriate personnel management processes and annual performance management. Undertake annual performance management of all staff directly reporting to this position and assist the conduct of performance management for those in an indirect reporting relationship where appropriate.
14. Ensure effective relationships are maintained with UniSA, as the Consortium's auspice, and that the University and Division of Health Sciences policies and procedures are complied with wherever applicable.
15. Ensure an effective relationship with SA Health as the provider of data linkage staff.
16. Ensure an effective executive support service is provided to the Consortium Steering and Executive Committees and any sub-committees and working groups.
17. As appropriate, participate in key research projects using data linkage, in an advisory capacity.
18. Manage other projects as specified by the Consortium Steering Committee as required.

The Director, SA NT DataLink must follow and ensure:

- the successful implementation and operation of the University OHSW&IM system in the area of responsibility.
- OHSW&IM planning for the management of work hazards is integrated with other business planning processes.
- University OHSW&IM procedures for identifying hazards, assessing risk and implementing appropriate control measures are implemented.
- OHSW&IM consultative arrangements are in place and operating effectively.
- the implementation of measuring, monitoring and reporting on the effectiveness of local arrangements for OHSW&IM implementation.
- University OHSW&IM procedures for rehabilitation management are implemented.

SELECTION CRITERIA

Essential

1. Relevant tertiary qualifications.
 2. Demonstrated significant experience in creating and sustaining effective external working relationships across a diverse group of stakeholder organisations in a complex operating environment.
 3. Proven leadership skills with the ability to manage, motivate and develop staff and act as a unifying force within a diverse team.
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4. High level interpersonal communication skills, including liaison, negotiation and conflict management.
5. Demonstrated high level achievement in the development, implementation and continuous improvement of policies, procedures, structures and systems that deliver high quality service in diverse operating environments.
6. Demonstrated experience in developing and implementing strategic business plans.
7. Demonstrated experience managing, planning, researching and assessing projects from inception to delivery and successfully delegating these responsibilities to others.
8. Ability to represent the Consortium in a wide range of settings and in a variety of national and State/Territory committees and meetings.
9. Demonstrated and substantial experience in managing a range of administrative and service functions and good understanding of clinical and administrative data sets.
10. Knowledge of a broad range of research methodologies and of data issues pertinent to research and knowledge of information management principles and processes.

Desirable

1. Knowledge of concepts of data linkage and associated privacy and ethics issues.
 2. Experience in working in a multi-disciplinary research team.
 3. An understanding of the Australian higher education sector.
 4. Knowledge of the Australian health system and human services sector.
 5. Relevant post-graduate tertiary qualifications.
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SCHEDULE 5
NON-DISCLOSURE AGREEMENT

The Parties have entered into the SA Data Linkage Consortium Agreement ("**Agreement**").

In order to facilitate the performance of this Agreement:

A Party will permit its Personnel to obtain information and documentation and/or access SA NT DataLink in connection with satisfying the requirements of this Agreement on the understanding that they acknowledge by this instrument, that they are bound by the confidentiality and secrecy provisions as contained in this Agreement, which prohibits them from making a record or disclosing, divulging or communicating to any person or publishing any information or document or part of a document obtained by them in connection with this Agreement, other than in pursuance of this Agreement and within the authority of the Steering Committee.

Dated

Signed

Signed

(duly authorised officer)

Witness

Print Name

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SCHEDULE 6

INFORMATION PRIVACY

1. USE

Each Party must not access, record, retain, amend or disclose Personal Information except:

- 1.1 to the extent necessary to comply with obligations under this Agreement;
- 1.2 if and to the extent expressly authorised by the disclosing party; and
- 1.3 if and to the extent required by law and any applicable privacy laws and policies.

2. SECURITY OF PERSONAL INFORMATION

Each Party must ensure that:

- 2.1 any Personal Information is protected against loss, unauthorised access, use, modification, disclosure or other misuse; and
- 2.2 access to Personal Information is limited to a Party's Personnel who need it for the purposes of carrying out their duties for the purpose of this Agreement.

3. EMPLOYEE AWARENESS OF PRIVACY REQUIREMENTS AND UNDERTAKING

A Party, excluding the State and the Territory, must ensure that any employee of the Party requiring or having access to any Personal Information held in connection with this Agreement:

- 3.1 gives an undertaking in writing to not access, use, disclose or retain Personal Information except in performing their duties of employment; and
- 3.2 is informed that failure to comply with this undertaking may lead a Party to take disciplinary action against the employee.

4. SUBCONTRACTOR OBLIGATIONS

If Personal Information is to be available to or in the custody of a sub-contractor, that Party must ensure that the sub-contractor assumes legally enforceable obligations to implement these requirements by alerting the sub-contractor to the requirements of this agreement and to ensure the sub-contractor has signed an agreement to abide by the terms and conditions herein.

5. NOTIFICATION

- 5.1 A Party must immediately notify the State and the Territory if it becomes aware that disclosure of Personal Information may be required by law.
 - 5.2 A Party must in respect of any Personal Information held or accessed in connection with this Agreement immediately notify the State and the Territory in writing if the Party becomes aware of a breach of the provisions set out in this Schedule 6 or any unauthorised disclosure of personal information.
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6. REASONABLE REQUESTS, DIRECTIONS AND GUIDELINES

A Party must in respect of any Personal Information held in connection with this Agreement cooperate with any reasonable requests or directions of the State or Territory including, but not limited, to the issuing of any guideline concerning the handling of Personal Information.

Nothing in this Schedule 6 shall require a Party to comply with, or comply with a provision of a policy, standard or other requirement of another Party if compliance would put the first Party in breach of a law of any State or the Commonwealth.

SCHEDULE 7

POLICIES, STANDARDS AND OTHER REQUIREMENTS

Under this Agreement, each Party must comply with its policies, standards and other requirements as published from time to time including, without limitation:

- DPC Circular 12 Information Privacy Principles Instructions and Privacy Committee Proclamation (Re-issued July 1992);
 - Department of Health Code of Fair Information Practice (May 2006) for SA Health and Department for Families and Communities;
 - DPC Circular 23 Private Sector Endorsements on Government Public Communications (July 2006);
 - DPC Circular 25 Common Branding Policy for the Government of South Australia (July 2006);
 - Privacy Act 1988 (Cth);
 - Government of South Australia's Intellectual Property Policy (1 July 2006);
 - SA Health Intellectual Property Policy Incorporating the Monetary Rewards Framework for SA Health (January 2007);
 - Information Act 2012 (Northern Territory).
 - The University of Adelaide's Intellectual Property Policy November 2005.
 - University of South Australia's Intellectual Property: Ownership and Commercialisation Guidelines.
 - Flinders University Policies and Procedures : Intellectual Property, December 2008.
 - Flinders University Policies and Procedures : Intellectual Property and Commercialisation Guidelines.
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