*This Material and Data Transfer Agreement (MDTA) is used by Northern Sydney Local Health District (NSLHD) to supply biospecimens and associated data to research organisations. The Requested Material is collectively referred to as "Material". Material is supplied in accordance with a formal request (via email or in writing) submitted by the research organisation. The Request sets out, amongst other things, the specified purpose for which the Requested Material is sought and the HREC (or equivalent) approval for this purpose. Material is only supplied with Participant (patient) consent. NSLHD retains ownership in any Original Material supplied to ensure that the Original Material can be dealt with in accordance with the Participants’ (patients’) consent, which may change from time to time. NSLHD retains the intellectual property rights in the Original Material (and "Material") so that it is free to provide it to other persons. NSLHD does not own Modifications of the Original Material and makes no claim to own intellectual property rights in the Modifications. The intellectual property rights in Modifications to Original Material sourced from Other Organisations are subject to the position of the Other Organisations.*

**Parties**

This is an Agreement between Northern Sydney Local Health District (NSLHD) and the Recipient as specified in the below Details.

**Background**

1. NSLHD operates health facilities where surgery and other procedures are performed. NSLHD is the recipient of explanted human tissue which is donated by patients, who are admitted to, or being treated at, a NSLHD facility (**Original Material**).
2. The Recipient has requested NSLHD supply the Requested Material for the Permitted Use.
3. The parties have agreed that any supply of Requested Material will be for the Permitted Use in accordance with the terms and conditions of this Agreement.

**Scope of this agreement**

This Agreement comprises:

(a) this document;

(b) the Standard Terms and Conditions;

(c) the Details; and

(d) any other document referenced or incorporated in the Details.

If there is any ambiguity in or inconsistency between the documents comprising this Agreement, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

**Submission instructions:**

* Please note that only the highlighted text on pages 3 - 4 should be completed and changes should not be made to the standard terms and conditions.
* It is strongly recommended that the draft MDTA (without signatures) is submitted to the RGO for review prior to SSA submission. Please email the MDTA to [NSLHD-Research@health.nsw.gov.au](mailto:NSLHD-Research@health.nsw.gov.au), attention RGO.

|  |  |  |  |
| --- | --- | --- | --- |
| **Details** | | | |
| **Northern Sydney Local Health District**  (see definitions in clause 13(a)) | Name: Northern Sydney Local Health District  ABN: 63 834 171 987  Address: Executive Unit, Level 14 Kolling Building, Royal North Shore Hospital, Reserve Rd, St Leonards NSW 2065 | | |
| Principal Investigator:  Position:  Tel:  Email: | | |
| **Recipient**  (see definitions in clause 13(a)) | Name:  ABN:  Registered address:  Representative:  Position:  Tel:  Email: | | |
| **Term**  (clause 1) | Commencement Date: [insert date or write “the date on which it is signed by the last party”.]  Expiry Date: [insert date of expiry to the HREC (or equivalent) approval] | | |
| **Research** | [Title of the research, NSLHD Reference number, Principal Investigator, contact at site and protocol number if applicable] | | |
| **Requested Material**  (clause 2) | INSERT details of requested material as approved by the HREC and as aligned with donor consent (if applicable). | | |
| **Location**  (clause 4.2(b)) | Insert details of premises (i) at which the Material is to stored or used for the Permitted Use; and (ii) the research premises, at which Research is to be conducted to the extent known. Details of all research premises must be included. | | |
| **Permitted Use**  (clause 4.2(c)) | The use which is the subject of the Recipient’s HREC (or equivalent) approval, as described in the request: [insert details or the Recipient’s HREC approval (or equivalent)] | | |
| **Key Recipient Personnel** (clause 4.2(e)) | List Key Personnel of the Recipient who will be responsible for the Material: The Material will be used under the direction of the Key Recipient Personnel: | | |
| Position | Name | Organisation |
|  |  |  |
| **Fees**  (clause 5.1) | Fees payable to NSLHD are at $[specify amount if known] or [estimated at $] [insert agreed reasonable costs for the of the removal, evaluation, storage, processing and distribution of the Material] | | |
| **Collection details**  (clause 3.1) | [insert details of where, when or how the Requested Material will be made available for routine collection by the Recipient] | | |
| **Acknowledgements** | The Recipient must acknowledge NSLHD in any Publication in the form as follows or as otherwise reasonably required by a NSLHD Representative, journal editors and/or funding bodies. "The biospecimens and data (where appropriate) used in this project were provided by [insert name of facility with appropriate regulatory approval. We acknowledge the contribution of NSLHD to this research project." | | |
| **Reporting requirements**  (clause 9.5 b)) | Insert specific details of reports requested from the researchers, the format of those reports and the frequency. If no reports required, put ‘Not Applicable’ in this box. | | |
| **Other documents forming part of this Agreement** | Only use this field If applicable – if not put ‘Not Applicable’ in this box. | | |

**MATERIAL and DATA TRANSFER AGREEMENT: STANDARD TERMS AND CONDITIONS**

1. **Duration of agreement**

1.1 **(Term)** This Agreement commences on the Commencement Date and will end on the Expiry Date, unless terminated earlier in accordance with this Agreement.

1.2 **(Extension of Term)**

1. The parties may agree to extend the Term of this Agreement in writing.
2. Any such further term will be on the same terms and conditions as this Agreement.
3. **Supply of requested material**

2.1 **(Supply)** Subject to clause 2.2 and the terms and conditions of this Agreement, NSLHD will supply the Requested Material to the Recipient.

2.2 **(Exclusivity and agency)** The Recipient acknowledges that NSLHD may supply Requested Material to other parties; is under no obligation to supply any, or any minimum quantity of, Requested Material to the Recipient; and may act through NSW Health Pathology to release any Requested Material to the Recipient for collection in accordance with the terms and conditions of this Agreement.

1. **Collection and Risk**

3.1 **(Collection)** The Recipient must collect or arrange for the collection of the Requested Material from NSLHD at its own cost.

3.2 **(Comply with safety standards on collection)** When the Recipient's personnel enter the premises of NSLHD, the Recipient must ensure that the Recipient Personnel use reasonable endeavours to act in a safe and lawful manner and comply with the safety standards and policies of NSLHD.

3.3 **(Risk)** All risk in the Requested Material transfers to the Recipient upon collection**.**

1. **Use of Material**

4.1 **(Participant consent)** The Recipient acknowledges and agrees that NSLHD is providing the Requested Material with a Participant’s consent; a Participant may withdraw or amend the Participant's consent to use of Original Material at any time; and if Participant consent is withdrawn, the Recipient must return or destroy the Original Material as directed by NSLHD.

4.2 **(Approved Use)** The Recipient agrees that it must use the Requested Material only:

1. insofar as the Requested Material comprises Original Material, in accordance with the then current Participant consent (as notified by NSLHD to the Recipient from time to time);

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1. at the Location;
2. for the Permitted Use;
3. in accordance with all statements and representations made by the Recipient to NSLHD as to the use of the Requested Material which are set out in the request; and
4. under the direction of the Key Recipient Personnel;
5. in accordance with all relevant ethics clearances and regulatory approvals.

4.3 **(Uses not authorised)** The Recipient agrees that it must not:

1. export the Requested Material from Australia other than as authorised under a current HREC approval and applicable current laws;
2. use the Requested Material to create a product for human use or consumption;
3. use, store or access the Requested Material contrary to the HREC approval; or
4. dispose of the Requested Material other than in accordance with the HREC approval and any other applicable laws governing the disposal of Explanted Human Tissue.

4.4 **(Complying with laws)** The Recipient agrees to use, and ensure the use of, the Requested Material:

1. in accordance with all laws applicable to the use of Material under this Agreement, including the Human Tissue Act 1983 (NSW) (which prohibits trading in the Original Material) and privacy laws; and
2. to the standards that would be reasonably expected from a prudent, expert and experienced user of the Material, including the National Statement and any applicable standards issued by the National Health and Medical Research Council in connection with the use of human tissue and derivatives and associated data.
3. **Fees and GST**

5.1 **Fees**

1. The Recipient must pay any applicable Fees to NSLHD within 30 days from the date it receives a valid tax invoice.
2. The Recipient acknowledges that the Fees are an amount to recover the reasonable costs of the removal, evaluation, storage, processing and distribution of the Requested Material by or on behalf of NSLHD.

5.2 **GST**

1. Terms used in this clause 5.2, have the same meaning as those terms in the *A New Tax System (Goods and Services) Act 1999* (Cth).
2. Unless expressly stated otherwise, all amounts payable under this Agreement are exclusive of GST.
3. Where a party (**Supplier**) makes a taxable supply to another party (**Receiving Party**) under or in connection with this agreement, the Receiving Party must pay to the Supplier an additional amount equal to the GST payable on the supply (unless the consideration for that taxable supply is expressed to include GST). The additional amount must be paid by the Receiving Party at the later of the following:

(i) the date when any consideration for the taxable supply is first paid or provided; and

(ii) the date when the Supplier issues a tax invoice to the Receiving Party.

1. If, under or in connection with this Agreement, the Receiving Party has an adjustment for a supply under the GST law which varies the amount of GST payable by the Receiving Party, the Receiving Party will adjust the amount payable by it to take account of the varied GST amount. The Receiving Party must issue an adjustment note to the Supplier within 28 days of becoming aware of the adjustment.
2. If a party is entitled to be reimbursed or indemnified under this Agreement, the amount to be reimbursed or indemnified does not include any amount for GST for which the party is entitled to an input tax credit.
3. **Ownership of Material and Intellectual Property Rights**

6.1 **(Ownership of the Material)** The parties acknowledge and agree that:

1. NSLHD is the owner of the Original Material or holds the Original Material on behalf of Other Organisations, who own the Original Material;
2. the Recipient will own:
3. Modifications; and
4. those substances created through the use of the Requested Material or Modifications, which are not Unmodified Derivatives or Modifications (i.e., which do not contain the Material or Unmodified Derivatives).

6.2 **(Grant of licence to use)** NSLHD grants to the Recipient a non-exclusive licence to use the Requested Material for the Permitted Use subject to the terms and conditions of this Agreement**.**

6.3 **Ownership of Intellectual Property Rights**

1. If the Requested Material includes Original Material owned by NSLHD, then NSLHD owns all Intellectual Property Rights in the Material comprising or derived from the Original Material.
2. If the Requested Material includes Original Material owned by Other Organisations, then each of the Other Organisations own all Intellectual Property Rights in Material comprising or derived from the Original Material.
3. NSLHD makes no claim to own Intellectual Property Rights generated by use of Requested Material for the Permitted Use, including but not limited to rights in:

(i) Modifications; and

(ii) other substances or processes created by the Recipient through the use of the Requested Material, which are not Modifications or Unmodified Derivatives.

Where Requested Material is sourced from any Other Organisation, the ownership of Intellectual Property Rights generated by use of the Other Organisation’s Requested Material is dealt with in accordance with another document outlining the agreement between NSLHD and the Other Organisation, such agreement to form part of, and be annexed to, this Agreement.

1. **Transfer of Material**

7.1 **(No transfer without approval)** The Recipient must not transfer Material to any third party, other than a party working under the direct supervision of the Recipient Personnel at the Location, unless the Recipient obtains the prior written approval of NSLHD.

7.2 (**Approved Transferee**) Where the transfer of Material is approved by NSLHD, the Recipient must ensure:

1. the Recipient has obtained the prior written approval of a HREC, or equivalent;
2. the terms and conditions of the transfer from the Recipient to the Transferee are in writing which give effect to, and are not inconsistent with, the terms of this Agreement, including that NSLHD’s rights under clause 6 (Ownership of Material and Intellectual Property Rights) and clause 10 (Suspension and Termination) are expressly included in such terms and conditions; and
3. the Recipient makes available to NSLHD the details of, and the terms of transfer with, all Transferees under this Agreement upon request.

7.3 **Responsibilities for the transfer of Material**

1. The Recipient will not, as a result of any transfer of Material to a Transferee or an approved third party be relieved of its obligations under this Agreement and will be liable for all acts and omissions of the Transferee or approved third party.
2. Notwithstanding clause 7.3(a), the Recipient has the right, without restriction, to distribute substances created by the Recipient through the use of the Material, only if those substances are not Material.
3. **Insurance, Liability and Indemnity**

8.1 (**Insurance**) The Recipient must, for so long as any obligations remain in connection with this Agreement, effect and maintain appropriate insurance policies against any risk or liability arising out of or in connection with this Agreement. Upon NSLHD’s request, the Recipient will provide proof of insurance acceptable to NSLHD.

8.2 **(Indemnity and liability)** The Recipient acknowledges and agrees that:

1. the Requested Material is experimental and may have hazardous properties (including infectious diseases); and
2. it uses the Requested Material at its own risk; and

(ii) it is solely responsible and liable for the conduct of the Research;

1. the NSLHD:
2. accepts no responsibility for the transmission of any disease as a result of the use of any Material supplied by NSLHD;
3. to the extent permitted by law, excludes all conditions and warranties (express or implied), including warranties as to merchantability and fitness for a particular purpose;
4. does not warrant that the Recipient will receive any Material of a type or quality suitable or fit for the purpose of the Research; and
5. makes no representation that the use of the Material will not infringe any third party intellectual property rights;
6. to the extent permitted by law, the Recipient assumes all liability for loss or damage arising from the possession, handling, storage, use, transport and disposal of the Material by the Recipient;
7. the Recipient will be liable for and indemnify and hold harmless NSLHD, its officers, employees and agents against all liability, damages, loss, expense, cost and proceedings of any nature whatsoever as a result of each or any one of the following:
8. its acceptance, use and disposal of the Material;
9. the conduct of the Research for the Permitted Use; and
10. any negligence or wilful default or breach of this Agreement or breach of statute of the Recipient or its employees or other people to whom the Recipient has transferred the Material;
11. a party's liability under an indemnity in this Agreement will be reduced by the loss, damage or injury caused or contributed by the party being indemnified (or its employees, agents, officers and contractors) to the extent of their contribution; and
12. NSLHD has no liability whatsoever (whether in contract, tort including negligence, pursuant to statute or otherwise) to the Recipient, to people to whom the Recipient has transferred the Material, their officers, employees and agents for any loss, costs, loss of profits, liability to any third party, or any indirect or consequential loss or damage whatsoever arising out of or in relation to this Agreement.
13. **Managing information**

9.1 **(Records)** The Recipient must:

1. keep and maintain all proper operational records to be able to verify the Recipient’s carrying out or performance of its obligations under this Agreement;
2. make those records available for inspection as reasonably required by NSLHD;
3. permit NSLHD to inspect or appoint a third party to inspect the Recipient’s premises to confirm compliance with this Agreement; and
4. provide all appropriate resources and all reasonable assistance required by any person conducting any inspection, and fully co-operate with that person in good faith and at the Recipient’s own cost.

9.2 **Confidentiality**

1. A party to this Agreement must not disclose to any third party, without the prior written consent of the other party, any Confidential Information provided from the other. This obligation does not extend to information which:
2. is in or becomes part of the public domain otherwise than through breach of this Agreement;
3. is received from a source other than the disclosing party where such source is entitled to disclose the information; or
4. is independently developed by the receiving party.
5. Notwithstanding clause 9.2(a), a party may release information necessary to conform to all applicable laws and regulations.

9.3 **Privacy**

1. The Recipient must:
2. comply with the Privacy Laws;
3. only use and otherwise handle Personal Information to the extent necessary in accordance with its obligations under this Agreement;
4. only disclose Personal Information with the NSLHD’s consent or where required by law (in which case the Recipient must notify NSLHD as soon as it becomes aware that such a disclosure may be required);
5. immediately notify NSLHD in the event of a Privacy Incident;
6. comply with all reasonable directions by NSLHD relating to the means by which the Recipient complies its obligations under this clause 9.3, including in relation to data security;
7. co-operate with NSLHD in the investigation, resolution and remediation of any Privacy Incident;
8. ensure that any third party to which the Recipient discloses or makes accessible any Personal Information, agrees to and does comply with this clause 9.2 to the same extent as the Recipient is required to comply; and
9. on expiry or termination of this Agreement, immediately return or destroy (at NSLHD’s option) all Personal Information unless otherwise required by law or this Agreement, and provide confirmation to NSLHD of compliance with this requirement.
10. Without limiting clause 9.3(a), the Recipient must keep any personally-identifying Participant information confidential at all times and must not use or disclose the personally identifying information otherwise than in accordance with the Participant’s consent, the HREC approval and Privacy Laws.

9.4 **(Data protection)** The Recipient must take all action necessary to maintain the confidentiality, integrity and availability of the Data, including:

1. complying with the data protection standards and policies of NSLHD as notified to the Recipient from time to time; and
2. not taking any steps to re-identify any Participant.

9.5 **Notifications and reporting**

1. The Recipient must notify NSLHD as soon as possible:
2. when it becomes aware of any Adverse Event or serious incident in relation to its obligations under this Agreement; and
3. of any change in control of the Recipient (of the ultimate holding company of the Recipient) within 7 days after that change occurs.
4. The Recipient must provide to NSLHD Representative:
5. reports in respect of the Recipient’s performance of its obligations under this Agreement at the times, in the format and containing the matters specified in the Details; and

data or information that NSLHD or its Representative may request to enable it to adequately assess the obligations of the Recipient under this Agreement.

9.6 **(Publicity)** The Recipient must not use the name of NSLHD or its personnel in any publicity, advertising or news release without the prior written approval of an authorised representative of NSLHD.

1. **Suspension and Termination**

10.1 **(Suspension)** Either party, acting reasonably, may immediately suspend this Agreement at any time by written notice to the other party.

10.2 **(Termination for convenience)** Either party may terminate this Agreement without cause at any time by giving 30 days written notice to the other party.

10.3 **(Preservation of rights)** The expiry or termination of this Agreement is without prejudice to any accrued rights of either party as at the date of termination.

10.4 **(Effect of termination)** Upon termination, the Recipient must:

1. comply with all reasonable directions of NSLHD in relation to return or destruction of Material;
2. comply with the National Statement in the course of any destruction of Material at the direction of NSLHD;
3. ensure that all Transferees cease use of Material and return the Material to the Recipient.

10.5 (**Continuing clauses)** Clauses 6 (“Ownership of Material and Intellectual Property Rights”), 8 (“Insurance, Liability and Indemnity”), 9 (“Managing information”),10.4 (“Effects of Termination”) and 11 (“Notices”) survive the expiration and termination of this Agreement as well as any other term of this Agreement which by its nature survives the expiration or termination of this Agreement.

1. **Notices**
2. **(Form)** Unless stated otherwise in this Agreement, all notices, consents, approvals, waivers must be in writing and addressed to the other party’s Representative. Any requirement in this Agreement that a document of notice be given "in writing" will be satisfied by the expression or transmission of such document or notice by electronic means.
3. **(Delivery)** A notice, consent, request or any other communication under this Agreement must be:
4. left at the address of the addressee;
5. sent by prepaid post (airmail if posted to or from a place outside Australia) to the address of the addressee; or
6. sent by email to the email address or as notified by the receiving party.
7. **General**
8. (Approvals and consents) Unless this Agreement expressly provides otherwise, a party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions).
9. (Relationship between the parties) The parties are independent contractors and nothing in this Agreement creates a relationship of employer and employee, principal and agent, joint venture or partnership between them.
10. (Assignments and transfers) The Recipient must not assign or transfer any of its rights or obligations under this Agreement except in accordance with this Agreement or with the prior written consent of NSLHD.
11. (Entire agreement) This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes any previous understandings or agreements on that subject matter.
12. (Execution of counterparts) This Agreement may be executed in counterparts and by electronic means. All counterparts when taken together are to be taken to constitute one instrument. This Agreement takes effect when the counterparts are exchanged between the parties.
13. (Severability) If any part or provision of this Agreement is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remainder of the Agreement will continue to operate.
14. (Variation) No variation of this Agreement will be of any force or effect unless it is in writing and signed by each party to this Agreement.
15. (Waivers) A provision of this Agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound. A waiver only affects the particular obligation or breach for which it is given. The fact that a party fails to do or delays in doing, something the party is entitled to do under this Agreement does not amount to a waiver.
16. (Governing law and jurisdiction) This Agreement is governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.
17. **Definitions and interpretation**
18. **(Definitions)** The meanings of terms used in this Agreement are set out below.

**Adverse Event** means any event or circumstance arising that could have or did lead to unintended or unexpected harm, loss or damage and "harm" means injury (physical or psychological), disease, suffering, disability or death.

**Agreement means this** agreement and includes the Details, these standard terms and conditions and any documents attached by reference.

**Business Day** means a day other than a Saturday or Sunday or a public holiday in Sydney, New South Wales.

**Commencement Date** means the commencement date stated in the Details.

**Confidential Information** means confidential information of a party and includes information whether verbal, written or in some other form, including but not limited to electronic form relating to:

(i) the Research and Permitted Use;

(ii) the Material and all documents, records and reports and other information relating to the Material;

(iii) knowledge or information regarding the business transactions, affairs, property, policies, processes or activities of the other party;

(iv) any document which is marked confidential;

(v) any document, tangible item or information which a party advises the other party is confidential or that each party should know or realise is confidential; and

(vi) the medical records of the Participants including all patient details and patient personal information.

but excludes information which:

(i) is in or becomes part of the public domain other than through a breach of this agreement;

1. the Recipient can prove by contemporaneous written documentation was already known to it at the time of disclosure by the Recipient; or

(vii) the Recipient acquires from a third party lawfully entitled to disclose it.

**Data** means the information provided by NSLHD to the Recipient relevant to the transfer of Material to the Recipient that is Confidential Information of the NSLHD.

**Details** means the section of this Agreement headed Details.

**Explanted Human Tissue** means living tissue removed from the natural site.

**Expiry Date** means the expiry date stated in the Details.

**Fees** means the costs specified in Details.

**HREC means the Human Research Ethics Committee** registered with the National Health and Medical Research Council that is responsible for reviewing medical research and clinical trial protocols.

**Intellectual Property Rights** means patents, trademarks, copyrights, trade secrets, Know How, topography rights, rights to extract information from a database, design rights, rights to keep Know How confidential and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them.

**Key Recipient Personnel** means senior personnel employed or contracted by the Recipient who are responsible for the use and storage of the Material (or any other such personnel which the Recipient has most recently notified to NSLHD).

**Know How** means all technical and other information which is not in the public domain, including but not limited to information comprising or relating to concepts or discoveries, data, designs, formulae, ideas, inventions, methods, models, procedures, designs for experiments and tests and results of experimentation and testing, processes, specifications and techniques, laboratory records, clinical data, manufacturing data, and information contained in submissions to regulatory authorities**.**

**Location** means the premises:

(i) at which the Material is to be stored or used for the Permitted Use; and

(ii) the research premises, at which Research is to be conducted, and as may be described in the Details, the request or HREC approval, and includes the premises of any work outsourced in the ordinary course for the purpose of the Research.

**Material** means any Original Material, Unmodified Derivatives or Progeny (whether created by NSLHD or through use of the Requested Material) but does not include:

(i) Modifications; and

(ii) other substances created by the Recipient through the use of the Requested Material which are not Modifications or Unmodified Derivatives.

**Modifications** substances created by the Recipient which contain/incorporate the Material but which are not Unmodified Derivatives. Some examples include genetic modification or manipulation of cells extracted from the Original Material.

**National Statement** means the publication entitled 'National Statement on Ethical Conduct in Research Involving Humans' issued by the National Health and Medical Research Council in accordance with the National Health and Medical Research Council Act 1992 (Cth) and any Supplementary Notes published by the National Health and Medical Research Council.

**Northern Sydney Local Health District** means the local health district established as a statutory corporation constituted under section 17 of the Health Services Act 1997 and all facilities under its control.

**Original Material** means that part of Material being transferred as specified in the Request including but not limited to:

(i) Explanted Human Tissue including, tissue, blood, bodily fluids or other bio-specimen specified in the Details;

(ii) any genetic information extracted from the Explanted Human Tissue;

(iii) any genetic or biochemical or other derivative derived from that tissue, blood or bio-specimen (including but not limited to cells, proteins, DNA, RNA, cloned genes, etc.);

(iv) any associated Data.

**Other Organisation** means a third party organisation that collects or creates Original Material and which is stored by NSLHD at any of its facilities.

**Participant** means the person from whom the Original Material was taken.

**Permitted Use** means the permitted use of the Material (by the Recipient or a Transferee) as set out the Details.

**Personal Information** as defined in the Privacy Laws, means any information or an opinion about a person whose identity is apparent or can reasonably be ascertained from the information or opinion, including health information and genetic information.

**Progeny** means unmodified descendent from the Original Material, such as virus from virus, cell from cell, or organism from organism.

**Privacy Incident** means any breach or alleged breach of any obligations under clause 9.3 (“Privacy“) and any actual or apparent misuse or loss of, or unauthorised access to, modification of or disclosure of any Personal Information.

**Privacy Laws** means the *Privacy and Personal Information Protection Act 1998* (NSW), the *Health Records and Information Privacy Act 2002* (NSW) and all other applicable laws as may be in force from time to time which regulate the collection, storage, use or disclosure of information about individuals.

**Publication** means a paper, article, manuscript, report, poster, internet posting, presentation slides, abstract, outline, video, instruction material or other disclosure which contains or pertains to the Research, in printed, electronic, oral or other form.

**Recipient** means the entity identified as such in the Details.

**Requested Material** means the specific Material that the Recipient requests NSLHD to provide to it described in the request, and which NSLHD does supply under this Agreement.

**Research** means the research for which the Material will be used as may be described in Details, or as approved by NSLHD from time to time.

**Research Premises** means the premises at which the Research is to be conducted, specified Research Premises as may be described in the Details, the Request or HREC approval.

**Standard Terms and Conditions** means the Standard Terms and Conditions of this Agreement.

**Term** means the term of this Agreement determined in accordance with clause 1.

**Transferee** means any third party to whom Materials are transferred in accordance with clause 7.2

**Unmodified Derivatives** means substances which constitute an unmodified functional subunit or product expressed by the Original Material. Some examples include: unmodified portions thereof fixed as tissue sections or in arrays, and unmodified proteins, RNA, or DNA extracted from Original Material.

(b) **(Interpretation)** In the interpretation of this Agreement, the below provisions apply unless the context otherwise requires.

(i) Headings are included for convenience only and are not to affect the interpretation of this Agreement.

(ii) If the day on which any act is to be done under this Agreement is not a Business Day, the act must be done on the next Business Day.

(iii) A reference in this Agreement to 'dollars' or '$' is a reference to the lawful currency of Australia and all amounts payable under this Agreement are payable in Australian dollars.

(iv) A reference in this Agreement to any law, legislation or legislative provision includes common law, principles of equity, and laws made by parliament (including State, Territory and Commonwealth laws and regulations and other instruments under them and consolidations, amendments, re-enactments or replacements of any of them).

(v) A reference in this Agreement to any document or agreement includes any variation or replacement of it.

(vi) A reference to a clause, annexure or attachment is a reference to a clause in, or an annexure or attachment to this Agreement.

(vii) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

(viii) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

(ix) A word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates the other genders.

(x) A reference to the word 'include' or 'including' is to be interpreted without limitation.

(xi) Any annexure or attachments form part of this Agreement.

**EXECUTED** as an agreement

**Signed** for and on behalf of **Northern Sydney Local Health District** by its duly authorised officer in the presence of:

......................................................................

*Signature of Authorised Officer*

......................................................................

*Name of Authorised Officer*

.................................................................

*Position of Authorised Officer*

..........................................................

*Date*

**Signed** for and on behalf of **[Recipient]** by its duly authorised officer in the presence of:

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*Signature of Authorised Officer*

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*Name of Authorised Officer*

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*Position of Authorised Officer*

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*Date*