

Online SOCIAL IDENTITY MAPPING Licence Agreement

Parties

UQ **The University of Queensland ABN 63 942 912 684** a body corporate constituted under the *University of Queensland Act 1998* (Qld)
of Brisbane in the State of Queensland 4072

Licensee Name

Licensee Address

Background

- A UQ owns the Online SOCIAL IDENTITY MAPPING tool (**oSIM**), including electronic and hard copy online Instruction Manuals, additional support materials, information, components of the tool, or knowhow relating to oSIM, including any information that may be exchanged in the course of developing and delivering the tool.
- B The Licensee seeks to licence oSIM and to use oSIM for the Approved Purposes
- C UQ has agreed to license **oSIM** to the Licensee on the terms of this agreement.

Operative terms

1 Definitions and interpretation

1.1 Definitions

In this agreement:

- Approved Purpose** means the approved purpose specified in Schedule 1.
- Business Day** means a day in Brisbane which is not on a weekend or a public holiday gazetted by the State of Queensland for Brisbane.
- Confidential Information** with respect to a party means the terms of this agreement and any information in any medium anywhere in the world:
- (a) relating to the dealings of that party;
 - (b) relating to employees, contractors, students or other persons doing business with that party;
 - (c) of that party which is by its nature confidential;
 - (d) which is designated as confidential by that party; or
 - (e) of that party which the other parties know or ought to know is confidential,
- irrespective of whether that information was disclosed before, on or after the date of this agreement, and includes all information relating to the Project, but excludes information:
- (f) that a party can show by contemporaneous written records was already known to, in the rightful possession of or independently developed by that party in good faith and free of any obligation of confidence; or
 - (g) that a party can show by contemporaneous written records is in the public domain otherwise than by a breach of this agreement or other obligation of confidence.

- COVID-19 Event** means an event or circumstance caused by the COVID-19 pandemic, including but not limited to:
- (a) travel restrictions imposed by a government authority or agency;
 - (b) actions taken in response to warnings or advice issued by a government authority or agency;
 - (c) the unavailability or shutdown of premises or facilities;
 - (d) unavailability of personnel due to illness, isolation or quarantine measures;
 - (e) failure or delay in supply of or access to necessary materials, consumables or equipment;
 - (f) unavailability of sufficient or economic insurance cover; or
 - (g) reasonable actions taken by a party in relation to paragraphs (a) to (f).

Effective Date means the date that this agreement is signed by all parties.

End-User means the person(s) who will be participating in a study run through **oSIM** and managed by the Licensee.

Force Majeure Event with respect to a party means an unforeseeable event beyond the control of an affected party which occurs without fault or negligence of the affected party including:

- (a) fire, lightning, flood, subsidence, volcano activity, earthquake, natural disasters or acts of God;
- (b) war, riot, insurrection, vandalism or sabotage;
- (c) infectious disease outbreak, epidemic, pandemic or any analogous event or biosecurity issue, other than a COVID-19 Event;
- (d) strike, lockout, ban, limitation of work or other industrial disturbance; and
- (e) law, rule or regulation of any government or governmental agency and executive or administrative order or act of general or particular application, expropriation or a government declaration of a state of emergency.

Initial Term means the period of 12 months from the Effective Date.

Instruction Manual means the online and offline documentation about the use of **oSIM**, which will be updated from time to time during the Term without notice to the Licensee.

Intellectual Property means all industrial and intellectual property rights anywhere in the world, in any medium, whether registered or unregistered, including:

- (a) patent rights, trade mark rights, copyright, plant breeders' rights and rights in relation to inventions, trade names, business names, company names, indications of origin, designs, plant varieties, semiconductors, circuit layouts, Confidential Information and knowhow;

- (b) any right of registration of, provisional applications for, claim of priority from, continuation of or division of such rights; and
- (c) all other intellectual property as defined in article 2 of the *Convention Establishing the World Intellectual Property Organisation 1967*.

Licence	means the licence, as specified in Schedule 1, to use oSIM granted to the Licensee in accordance with clause 2.1(a) of this agreement.
Licence Fee	means the licence fee payable by the Licensee to UQ during the Term in consideration for the grant of licence to use oSIM. The Licence Fee is set out in Schedule 1, or such other amount prescribed by UQ with prior agreement during the Term.
Licensee Data	means the information, data, or material that are uploaded or transmitted through oSIM by the Licensee or an End-User, or generated by use of oSIM by the Licensee or an End-User, but does not include system data collected by UQ on the performance or operability of oSIM.
Licensee Operator	means the Licensee's employees, students or agents who are permitted by the Licensee to access oSIM for the Approved Purpose. If the Licensee is an individual, then references to a Licensee Operator is a reference to the Licensee.
oSIM	means the Online SOCIAL IDENTITY MAPPING tool as further described in the Schedule.
Personal Information	means 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 an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Privacy Laws	means the <i>Privacy Act 1988</i> (Cth), the <i>Information Privacy Act 2009</i> (Qld) and any other regulatory requirements relating to the handling of Personal Information anywhere in the world if they apply to the transactions the subject of this agreement.
Student	means any research student (including undergraduate and postgraduate student) who is currently enrolled at a tertiary institution.
Term	means the Initial Term and any further periods of renewal of the agreement in accordance with clause 6(a)

1.2 Interpretation

In this agreement:

- (a) no rule of construction applies to the disadvantage of the party that drafts this agreement on the basis that the party suggested the relevant drafting;
- (b) references to a party mean UQ or the Licensee and references to the parties mean both UQ and the Licensee; and
- (c) words such as "includes" and "including" do not impose any limitation on the construction of general language that is followed by specific examples.

2 Licence of oSIM

2.1 Licence

- (a) On and from the Effective Date and subject to the Licensee paying the Licence Fee and complying with

the terms of this agreement, UQ grants the Licensee a non-exclusive, non-transferable, non-sublicensable licence to:

- (i) access and use the object code form of **oSIM** for the Approved Purpose only; and
- (ii) to permit the authorised Licensee Operators to access to **oSIM** for use by the Licensee Operators for the Approved Purpose only,

during the Term on the terms and conditions of this agreement.

- (b) The Licensee must and cause its Licensee Operators to:
 - (i) do all things requested by UQ that are necessary or desirable to give effect to and record the Licence contemplated by clause 2.1(a);
 - (ii) not sub-licence **oSIM** to any third party;
 - (iii) not allow more Licensee Operators to access oSIM than are specified in Schedule 1;
 - (iv) comply with the Instruction Manual at all times during the Term
 - (v) if login details are provided, the Licensee Operator must keep confidential the login details and password and such login details must only be used by the assigned Licensee Operator unless the login has been reassigned to another Licensee Operator;
 - (vi) not access, store or transmit any viruses or material during the course of using oSIM that:
 - (A) is unlawful, harmful, threatening, defamatory, infringing, discriminatory or offensive;
 - (B) involves contravention of any person's rights (including Intellectual Property rights); or
 - (C) is otherwise illegal or causes damage to any person or property; and
 - (vii) not copy, modify, or create derivative works from or based on oSIM, or remove any copyright notices on oSIM, or de-compile, reverse compile, disassemble or reverse engineer any part of oSIM, except to the extent permitted by law or as expressly permitted under this agreement.

2.2 Obligations of the Licensee

The Licensee must comply:

- (a) with all of applicable laws, regulations, codes and industry standard, including if the Licensee is using **oSIM** for research purposes as part of the Approved Purpose, the *Australian Code for the Responsible Conduct of Research and the National Statement on Ethical Conduct in Human Research* ;
- (b) obtain ethical clearances if these are necessary for the use of **oSIM** for the Approved Purpose;
- (c) with all legislation, codes of conduct, regulations or directives related to the access and use of **oSIM** for the Approved Purpose.
- (d) The Licensee agrees that UQ is not responsible for obtaining any clearances, consents or approvals for the Licensee to access and use **oSIM** and the Licensee indemnifies UQ against any loss or damage that occurs as a result of the Licensee not obtaining the clearances, consents or approvals for its access and use of **oSIM**.

3 Licence Fee

3.1 Licence Fee

The Licensee must pay the Licence Fee to UQ as specified in this agreement.

3.2 Payment Method

The Licence Fee may be paid by the Licensee via the UQ online payment portal (details of which will be provided to the Licensee on application) or upon the request by the Licensee for UQ to issue an invoice in accordance with clause 3.3 of this agreement.

3.3 Invoices

- (a) If requested by the Licensee, UQ will invoice the Licensee for the Licence Fee within 14 days of the Effective Date or the date the renewal of the Licence is accepted by UQ under clause 6(a), whichever is applicable.
- (b) The Licensee must pay the invoice issued under clause 3.3(a) within 30 days of the issue of the invoice.

4 Intellectual Property rights and Licensee Data

- (a) The Licensee agrees that all Intellectual Property in oSIM, and any content and/or documentation that accompany and/or are made available through oSIM, and in any modifications, new versions or enhancements to oSIM (whether authorised or unauthorised) belong to UQ, and that the only rights the Licensee has in oSIM are those granted to it under this agreement.
- (b) Licensee Data shall be retained and owned by the Licensee.
- (c) The Licensee grants and must procure from all Licensee Operators all rights, consents and licences to grant to UQ, a non-exclusive, royalty-free perpetual licence to use, reproduce and store Licensee Data to carry out UQ's obligations under this agreement and for the purposes of machine learning, training, and enhancement of user experience purposes to improve oSIM.

5 Confidentiality

5.1 Confidentiality

Each party must:

- (a) keep the Confidential Information of the other party confidential;
- (b) keep the Confidential Information of the other party secure;
- (c) not use or copy the Confidential Information of the other party for any purpose other than for the Approved Purpose;
- (d) only allow access to the Confidential Information of the other party to its officers, employees and agents who have a need to know the Confidential Information and who are bound by obligations of confidence to that party to at least the standard contemplated by this clause 5.1; and
- (e) not use the Confidential Information of another party to the disadvantage of that other party.

5.2 Exception

The obligations of confidence contemplated by clause 5.1 do not apply in relation to Confidential Information of another party to the extent that the Confidential Information is required to be disclosed under applicable law, but only if the disclosing party has given the other party all available notice to enable the other party to attempt to remove or limit that

requirement and the disclosing party only discloses the minimum information required.

5.3 Injunctive relief

Each party acknowledges and agrees that:

- (a) if that party breaches clause 5.1 in relation to another party's Confidential Information, then that other party may suffer loss or damage as a result of that breach for which monetary remedies would not be adequate; and
- (b) if that party attempts to breach or threatens to breach clause 5.1 in relation to another party's Confidential Information, then that other party may seek injunctive relief including an injunction restraining that party from committing any breach of this agreement without the necessity of proving that any actual loss or damage has been sustained or is likely to be sustained by that party.

6 Term and Termination

- (a) The term of this agreement and the Licence is for Initial Term on and from the Effective Date and may be renewed every 12 months if:
 - (i) a new Schedule 1 is completed and provided to UQ within 2 months of expiry of the Term; and
 - (ii) UQ accepts in writing the new Schedule 1.:
- (b) If the agreement is renewed under clause 6(a), the Term will be extended for 12 months and:
 - (i) all the terms and conditions of this agreement apply during the 12 months' extended Term; and
 - (ii) the 12 months' extended Term will be the "Term" for the purposes of this agreement.
- (c) If the parties do not extend the Initial Term or renew the agreement, this agreement will terminate at the expiry of the Initial Term or the Term, whichever is applicable.
- (d) If one party defaults on their obligations contained in this agreement and the default has continued without being remedied by the defaulting party for 14 days, the non-defaulting party may terminate this agreement by written notice to the other party.
- (e) If this agreement is terminated because of a breach of this agreement by the Licensee or a Licensee Operator, Licence Fees that have been paid by the Licensee prior to the termination date will not be refunded to the Licensee.
- (f) This agreement may be terminated by UQ if the provisions of clause 6.2(e) apply.

6.2 Suspension due to COVID-19 Event

- (a) In addition to any other rights under this agreement, if a COVID-19 Event occurs that adversely affects a party's ability to perform their obligations under this agreement, UQ may, by notice in writing to the other party, suspend the performance of all or part of the agreement (**Suspension Notice**).
- (b) The Suspension Notice must specify:
 - (i) the details of the COVID-19 Event, and the obligations in relation to this agreement which are adversely affected and suspended;
 - (ii) the period of suspension will be 90 days unless otherwise agreed by the parties (**Suspension Period**).
- (c) Upon receipt of the Suspension Notice, other party must cease performing those obligations in relation to the performance of this agreement as specified in the Suspension Notice.
- (d) During the Suspension Period, the parties must seek to

agree on a course of action to address the COVID-19 Event.

- (e) If the parties cannot agree on this course of action by the expiry of the Suspension Period, UQ may terminate this agreement or the other party's involvement in this agreement under clause 6.1(e) of this agreement.
- (f) For clarity, the parties must continue to perform any obligations in relation to this agreement that are not suspended in accordance with the Suspension Notice.
- (g) No party will be liable to another party for any costs, losses or damages arising as a result of the suspension under this clause.
- (h) For clarity, despite any Suspension Period, the following fees must be paid in full:
 - (i) any fees due for the performance of obligations up to the date of the Suspension Notice
- (i) A party may issue more than one Suspension Notice under this clause.

7 Access and Privacy

- 7.1** UQ may at any time (acting reasonably) deny access to the Licensee, or remove the Licensee's or a Licensee Operator's access to oSIM including End-User/participant generated oSIM data (whether temporarily or permanently) where the Licensee breaches the provisions of this agreement.
- 7.2** The Licensee must comply, and will ensure that its personnel and Licensee Operators:
 - (a) take all reasonable security, privacy, confidentiality, health and safety measures; and
 - (b) comply with all reasonable directions given by UQ, whilst accessing oSIM.
- 7.3** Whilst UQ will use reasonable endeavours to provide access to oSIM, the Licensee acknowledges and agree that:
 - (a) there will be periods of unavailability of oSIM and Licensee Data for scheduled and unscheduled maintenance;
 - (b) UQ does not warrant that access to oSIM or Licensee Data will be uninterrupted or error free, or that oSIM will meet the Licensee's or Licensee Operator's requirements; and
 - (c) UQ is not responsible for any delays or loss or damage resulting from communications networks, including the internet.
- 7.4** Technical support is available by contacting UQ using the contact details in Schedule 1. Technical support is available during UQ's normal business hours and is subject to the Licensee or the Licensee Operator providing UQ with all necessary details of any problems encountered in order to facilitate correction action by UQ.
- 7.5** UQ will be hosting the storage of Licensee Data and in doing so, UQ will use its best endeavours to:
 - (a) comply with all Privacy Laws that are applicable in Australia to the storage of any Personal Information;
 - (b) keep the Licensee Data secure in accordance with UQ's policies and procedures; and
 - (c) upon termination of this Agreement, will store the Licensee Data for 7 years from the date of termination (or such other period as agreed with the Licensee) and then destroy that Licensee's Data.

8 Limitation of Liability and Indemnity

8.1 Limitation of Liability

The Licensee acknowledges that oSIM is licensed to the Licensee under this agreement on the basis that oSIM is

provided on an "as is" basis and to the maximum extent permitted by law, UQ will not be liable to the Licensee for any loss or damage suffered by the Licensee for any reason including as a result of the exercise of the Licence to oSIM granted pursuant to this agreement. Where UQ's liability in connection with this agreement cannot be excluded, UQ's liability to the Licensee is limited to the Licence Fee paid by the Licensee in the 12 month period to which the liability relates.

8.2 Consequential Loss

Each party is not liable to the other party in connection with this agreement for any loss or damage however caused (including due to the negligence of that party) that is consequential loss, indirect loss, loss of profits, loss of revenue, loss of reputation, loss of bargain or loss of opportunity.

8.3 Exclusion

To the maximum extent permitted at law, each party excludes all implied terms, representations and warranties, whether statutory or otherwise relating to oSIM, the Licence or the subject matter of this agreement other than as expressly set out in this agreement.

8.4 Indemnity

The Licensee indemnifies UQ from and against and is liable for any loss or damage however caused (including due to negligence) in connection with:

- (a) any alleged or actual infringement of a third party's Intellectual Property where such claim relates in whole or in part to any Intellectual Property assigned or licensed by UQ to the Licensee under this agreement; or
- (b) any act or omission of the Licensee to the extent that it causes or contributes to UQ becoming liable for any loss or damage suffered by any third party.

9 General

9.1 Further assurances

Each party must do all things necessary or desirable to give effect to the provisions of this agreement including by signing all documents and performing all acts.

9.2 Merger

The obligations in this agreement will not merge on completion of the transactions contemplated by this agreement.

9.3 Entire agreement

This agreement:

- (a) contains the entire agreement of the parties; and
- (b) supersedes all prior representations, conduct and agreements,

with respect to its subject matter, except to the extent that any express guarantees have been given by a party as contemplated by section 59 of the *Australian Consumer Law* (Cth).

9.4 Costs

- (a) Each party is responsible for its own costs of entering into and performing this agreement.
- (b) Subject to clause 9.5, the Licensor must pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with this agreement.

9.5 GST

- (a) Words or expressions including the term "Tax Invoice" used in this clause 9.5 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the "GST Law") or, if not so defined, then which are

defined in the *Competition and Consumer Act 2010* (Cth), have the same meaning in this clause.

- (b) Any consideration to be paid or provided for a supply made under or in connection with this agreement unless specifically described in this agreement as 'GST inclusive', does not include an amount on account of GST.
- (c) Despite any other provision in this agreement if a party ("Supplier") makes a supply under or in connection with this agreement on which GST is imposed:
 - (i) the Consideration payable or to be provided for that supply under this agreement but for the application of this clause ("GST Exclusive Consideration") is increased by, and the recipient of the supply ("Recipient") must also pay to the Supplier, an amount equal to the GST payable on the supply ("GST Amount"); and
 - (ii) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST Exclusive Consideration is payable or to be provided.
- (d) If a payment to a party under this agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party, or the representative member of a GST group of which that party is a member, is entitled for that loss, cost or expense.
- (e) The Recipient need not make a payment for a taxable supply made under or in connection with this agreement until the Supplier has given the Recipient a tax invoice for the supply to which the payment relates.
- (f) If an adjustment event occurs in relation to a taxable supply made under or in connection with this agreement then the Consideration payable in respect of the supply will also be adjusted as follows:
 - (i) if the adjustment event gives rise to an increase in the GST payable by the Supplier in relation to the supply a payment equal to that increase will be made by the Recipient to the Supplier; and
 - (ii) if the adjustment event gives rise to a decrease in the GST payable by the Supplier in relation to the supply payment equal to that decrease will be made by the Supplier to the Recipient.
- (g) Any payment that is required under clause 9.5(f) will be made within 20 Business Days of the issuing of an adjustment note or an amended tax invoice, as the case may be, by the Supplier.
- (h) If an adjustment event gives rise to an adjustment, the Supplier must issue an adjustment note to the Recipient as soon as it becomes aware of the adjustment event.
- (i) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.

9.6 Force Majeure Events

- (a) If a Force Majeure Event occurs that adversely affects a party's ability to perform any obligations under this Agreement (other than an obligation to pay any amount), then that party will not be liable for, or in breach of this Agreement as a result of, any failure by that party to perform those obligations as a direct result of that Force Majeure Event.
- (b) If a party relies on clause 9.6(a) and the relevant Force Majeure Event continues for a period of more than 90

consecutive days, then UQ may terminate this Agreement by giving 14 days' notice to all of the other parties.

- (c) Any delay by UQ in exercising its termination rights under clause 9.6(b) does not constitute a waiver by UQ of those rights.

9.7 Jurisdiction

The laws of Queensland, Australia apply to this agreement and each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts competent to hear appeals from those courts.

9.8 Severability

To the extent that any portion of this agreement is void or otherwise unenforceable then that portion will be severed and this agreement will be construed as if the severable portion had never existed.

9.9 Counterparts

- (a) This agreement will be validly executed if signed in any number of counterparts and the counterparts taken together will constitute one agreement.
- (b) Each party may communicate its execution of this agreement by successfully transmitting an executed copy of this agreement by facsimile or email to the other party.

9.10 Continuing obligation

Each indemnity contained in this agreement is a continuing obligation notwithstanding any settlement of account or the occurrence of any other thing, and it is not necessary for UQ to incur expense or make payment before enforcing or making a claim under an indemnity.

Execution

Signed as an agreement.

SIGNED for and on behalf of

THE UNIVERSITY OF QUEENSLAND

by its duly authorised officer: in the presence of:

.....
Witness (Print Name)

.....
(Print Name) Date:

SIGNED for and on behalf of

Licensee:

by:

.....
(Print Name)

Date:

.....
(Sign)
Date:

Schedule 1

oSIM	The Online Social Identity Mapping Tool (oSIM); including electronic/online and hard copy Instruction Manual, additional support materials, information, components of the tool, or knowhow relating to oSIM, including any information that may be exchanged in the course of developing and delivering the tool during communications in person or via email/phone/Zoom.															
Approved Purpose	<p>Student: individual student licence for research purposes within the academic institution the student is enrolled in only Student Number: _____ Primary Supervisor Name: _____</p> <p>Academic: research or academic organisations using for their internal research purposes only</p> <p>Clinician/Practitioner: All other organisations for use within their business or operational purposes, including research organisations using for business purposes.</p>															
Licence type	Project title: _____															
Number of Licensee Operators and Licence Fee	<p>Number of Licensee Operators: _____ Licence Fee:</p> <table border="1"> <thead> <tr> <th>Number of Licensee Operators</th> <th>Annual fee* (ex GST) – Student (individual)</th> <th>Annual fee* (ex GST) - Academic</th> <th>Annual fee* (ex GST) - Clinician/Practitioner</th> </tr> </thead> <tbody> <tr> <td>1 Licensee Operator</td> <td>\$875.00</td> <td>\$1,925.00</td> <td>\$2,755.00</td> </tr> <tr> <td>Up to 5 Licensee Operators</td> <td>N/A</td> <td>\$3,150.00</td> <td>\$4,505.00</td> </tr> </tbody> </table> <p><i>*Note: UQ may revise the fees on an annual basis and any changes to fees will be advised to Licensee at each renewal period of the agreement.</i></p>				Number of Licensee Operators	Annual fee* (ex GST) – Student (individual)	Annual fee* (ex GST) - Academic	Annual fee* (ex GST) - Clinician/Practitioner	1 Licensee Operator	\$875.00	\$1,925.00	\$2,755.00	Up to 5 Licensee Operators	N/A	\$3,150.00	\$4,505.00
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Technical support	Email: osim-help@uq.edu.au															
UQ Notices	<p>Address for Notices of The University of Queensland</p> <p>Technical and administrative notices Attention: Centre Co-ordinator, SIGNify Postal address: School of Psychology, The University of Queensland, Brisbane QLD 4072 Telephone number: 07 3346 7562 Email: osim@uq.edu.au</p> <p>Legal notices Attention: Associate Director, Research Commercial Management Postal address: The University of Queensland, Brisbane QLD 4072 Telephone number: 07 3443 1768 Email: associatedirector.rcmu@research.uq.edu.au</p>															
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