

**The University of Surrey**  
**Intellectual Property Code - December 2007**

**1. Purpose and Effect of this Code**

- 1.1 The University of Surrey (the “**University**”) includes in its vision statement a key commitment to the value of furthering its prime scholastic aims by building “enterprising partnerships with industry, commerce and the professions”, and in the statement of its research strategy a recognition that “knowledge transfer based on our research” and the quest for “feedback funding from industry” are integral parts of that strategy.

The creation, nurturing and successful exploitation of Intellectual Property (“**IP**”) is recognised as part of the enterprise culture of the University and therefore is central to the achievement of the University’s overall objectives. It is therefore the University’s policy to encourage and facilitate the successful exploitation of IP.

- 1.2 IP includes rights which depend on registration (such as patents and registered designs) and those which exist without any requirement for registration (for instance copyright) and is defined in paragraph 2.1.4 below. However all IP derives from the provisions of the locally-applicable law, which also regulates ownership issues.

- 1.3 In order to encourage and reward successful exploitation of research results the University also provides in this Code for financial incentives and recognition to those involved in the generation of IP in which the University has an interest in specified circumstances.

- 1.4 This Code sets out the University’s rules regarding IP and provides guidance on the University’s policy and procedures on matters of creation, protection, exploitation and remuneration in respect of IP in which the University has an interest.

- 1.5 The University’s technology transfer arm, Research & Enterprise Support (“**RES**”), has been established to promote the recognition, protection and exploitation of potentially valuable IP produced by Staff and Students of the University. RES exists as a department of the University with the following broad aims:

1.5.1 to increase and facilitate research activity within the University;

1.5.2 to develop and encourage the enterprise and entrepreneurial activities of the University;

1.5.3 to initiate, develop and foster partnerships with industry and commerce; and

1.5.4 to protect and exploit the University’s IP.

- 1.6 Further information regarding this Code and any aspect of IP can be obtained from RES.

- 1.7 This Code shall apply to:

1.7.1 all Staff of the University;

1.7.2 all Students ;

1.7.3 visiting and retired academics and others who use the University facilities and who have signed an agreement with the University agreeing to be bound by this Code.

(all of the above, the “**Affected Parties**”).

Acceptance of this Code by Students at the time of registration will incorporate its provisions as part of the agreement between the University and the Student. This Code is binding on the Student, and will entitle the Student to the same benefits as are afforded to Staff under this Code.

- 1.8 This Code shall come into effect on **1<sup>st</sup> December 2007** and shall supersede all previous codes relating to Intellectual Property issued by the University.
- 1.9 The University reserves the right, at its complete discretion, to modify this Code from time to time as it sees fit. The University shall use its reasonable endeavours to draw the new Code to the attention of Affected Parties.

## 2. Definitions

- 2.1 In this Code the following words, abbreviations and expressions shall (unless the context requires otherwise) have the meanings set out below:
  - 2.1.1 "**Author(s)**" shall mean academic staff, research associates, technicians, or any other members of staff of the University who are employed under a contract of employment (whether fixed term or permanent); Visiting Staff who develop, adapt or otherwise contribute to copyright materials (as set out in paragraph 4) as part of their engagement with the University; students on paid placement with the University; contractors employed (directly or indirectly) specifically to develop or adapt materials.
  - 2.1.2 "**E-Learning Materials**" shall mean any materials created within the University's Virtual Learning Environment on behalf of the University and that are primarily intended (whether by the University or by some third party) to be used in digital form by students at any level, for the purposes of any course of study those students are following.
  - 2.1.3 "**Commercial Use**" shall mean publication or delivery of e-learning materials for financial gain via specially arranged channels outside of the normal teaching and research activities of the Author(s) or the University, e.g. as a self learning package sold by a publisher, or for delivery by third party institutions.
  - 2.1.4 "**Intellectual Property**", "**IPR**" or "**IP**" shall mean patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.
  - 2.1.5 "**IP Group**" shall mean IP Group plc 24 Cornhill, London, EC3V 3ND
  - 2.1.6 "**Inventions**" shall mean inventions, ideas and improvements, whether or not patentable, and whether or not recorded in any medium.
  - 2.1.7 "**Inventor**" shall mean Affected Parties who made a material contribution to the IP and will include those persons who may be named in any patent application as inventors plus collaborators who made a material contribution to the IP. Note:

under patent law the term 'inventor' has a specific meaning and Affected Parties may not all be listed as inventors in any patent application even though they contributed to the IP.

- 2.1.8 "**Library**" means any library facilities of the University.
- 2.1.9 "**Net Proceeds**" shall mean income after deduction of costs as provided in paragraph 7 of this Code.
- 2.1.10 "**Performed Work**" shall mean presentations of artistic works and/or performances by Affected Parties.
- 2.1.11 "**Principal Investigator**" shall mean the individual responsible for a given research project or topic.
- 2.1.12 "**Royalty**" and "**Royalties**" shall mean all revenues resulting from a licence including royalties, up-front, milestone, termination, assignment or any other lump-sum payments.
- 2.1.13 "**Sponsor**" shall mean any third party sponsor of any research, academic or other project of whatever nature at the University and/or in any way using the University's facilities.
- 2.1.14 "**Staff**" shall mean all employees of the University and its wholly-owned subsidiary companies, including part-time staff and staff who have joint appointments, whilst acting in the course of their employment with the University, and also visiting staff who are not employed by the University but whose appointment is subject to this Code.
- 2.1.15 "**Students**" shall mean full and part-time registered postgraduate and undergraduate students of the University acting in the course of or incidental to their studies.
- 2.1.16 "**Teaching Materials**" shall mean notes, handouts, slides and other material in any form produced for the purpose of informing, teaching or examining students and (without limitation) shall include examination papers.
- 2.1.17 "**Faculty**" shall mean Faculty, School, Department, Directorate, Centre or Unit to which an individual is assigned in accordance with their contract of employment or student registration.
- 2.1.18 "**Scholarly Publications**" shall mean scholarly books, articles, and (without limitation) shall include research papers and conference papers.
- 2.2 The expression "**in the course of employment**" is to be interpreted as used in the Copyright, Designs and Patents Act 1988, as may be amended or re-enacted from time to time.
- 2.3 Functions of the University referred to in this Code may be carried out by the Director of RES or his nominee, who may be the Deputy Director of RES, in each case in consultation with the Dean of Faculty or the nominee of that person.
- 2.4 Headings are inserted for convenience only and shall be ignored in interpreting the provisions of this Code.

### **3. Use of third party owned IP and Confidential Information**

All Affected Parties intending to use any material provided by or amended by third parties must ensure that they and the University are fully authorised by the IP owner to do so. The following provisions shall apply:

#### **3.1 Photocopying and Copyright Licences**

The University holds a number of licences permitting the making of limited copies of certain copyright materials by photocopying and notices giving details of such licences are displayed by photocopiers and in the Library. Additionally "designated persons" in each Faculty may make limited numbers of scanned (digital) copies of printed material under the same licence. Information about the licensing schemes in force and their scope can be found on the Business Support Services website or by contacting the individual responsible for administration of these licensing schemes named on the Business Support Services or the main university library website. Further information about copyright in general (including guidance as to legally permitted use of copyright material) is available on the main university library website.

If a University copyright licence does not cover the proposed copying of copyright material, Affected Parties wishing to make copies of copyright material must obtain copyright clearance direct from the copyright owner, unless the proposed use falls within one of the statutory permitted uses.

#### **3.2 Computer Programs**

The University's IT Services department regulates availability and use of computer programs within the University and the IT Services website gives details of site licences in force and how to access available software.

#### **3.3 Off Air Recording**

The University holds a licence from the Educational Recording Agency which permits the recording and copying of broadcast and cable programmes for the educational purposes of the University. The Media Services department should be contacted for further information on this subject.

#### **3.4 Information Confidential to Sponsors arising from Research**

Where the conduct of sponsored research work results in Affected Parties gaining access to information confidential to the Sponsor, the head of the project, supervisor or Principal Investigator shall ensure that all Affected Parties engaged in such work are provided with appropriate details of the confidentiality obligations of the University and requested to sign appropriate confidentiality agreements, where the relevant contract so requires. Such Affected Parties are obliged to familiarise themselves with the terms of such agreements and adhere strictly to the terms of such agreements. The head of the project, supervisor and Principal Investigator shall be responsible for ensuring that the handling and storage of confidential information is in accordance with the terms of the contract and all confidentiality obligations to which the University is bound. Affected Parties shall not disclose to any third party any confidential information (whether through giving a lecture, presenting or publishing a paper, holding discussions or otherwise), unless authorised in writing to do so.

### 3.5 Trade Marks

Any proposed use of a name, acronym or logo for or in connection with any product or service to be produced or provided by the University or a subsidiary company of the University, must be referred to RES for clearance.

## 4. IP Creation and Ownership

Affected Parties who have reasonable grounds for believing that they have generated IP that can be commercially exploited should bring this to the attention of RES as soon as practicable. For example, it is important for potentially patentable Inventions (in respect of which patentability will be lost in the case of premature unprotected disclosure) and where information would lose its value and/or disclosure would be in breach of confidentiality obligations that no improper or unprotected disclosure occurs. Disclosure of confidential information should therefore not be made except in accordance with the University's published procedures or as authorised by RES.

IP generated by Affected Parties will (unless otherwise agreed) be dealt with as follows:

### 4.1 Inventions and Patents

4.1.1 Staff Inventions made in the course of their employment belong to the University. Staff shall at the request and at the cost and with the necessary support and advice of the University take all reasonable steps to enable the University to create, assert and defend its Intellectual Property rights in such Inventions (including without limitation in the application for and prosecution and maintenance of appropriate protection, such as patent cover, for such Inventions).

4.1.2 Student Inventions do not automatically vest in the University, but all post-graduate Students are required as a condition of their registration to agree to assign all rights in such Inventions to the University and shall at the request and cost of the University do everything necessary to enable the University to complete, create, assert and defend its Intellectual Property rights in such Inventions (including without limitation in the application for and prosecution and maintenance of appropriate protection, such as patent cover, for such Inventions).

4.1.3 The University does not generally seek rights in Inventions made by undergraduate Students, but in some circumstances (such as in the case of contributions made as a joint Inventor to an Invention in which the University has an interest, or if a Sponsor or provider of a placement opportunity has stipulated that all rights must be transferred to it) the University will require an undergraduate to assign all his or her rights in an Invention

4.1.4 Inventors whose rights in an Invention vest in or are transferred to the University (or as the University directs) can expect to benefit from revenues resulting from successful exploitation of the Invention under the University's revenue sharing scheme, details of which are set out at paragraph 7 of this Code.

### 4.2 Copyright

Staff can expect to generate substantial quantities of copyright material in the course of their employment at the University. The copyright in such material belongs to the University but the University recognises that teaching staff and authors of Scholarly Publications may wish to acquire (or be authorised to deal with) certain rights in that copyright material in addition to those "moral rights" they acquire by law. Advice can be

obtained on any of these issues from RES, who will consider such requests on a case-by-case basis.

Unless otherwise agreed, the provisions summarised below will apply to copyright in works produced by Author(s) in the course of their employment with the University and by Students in the course of their studies. Specific provisions relating to the creation and use of e-learning materials are set down in the University Policy on IP in e-Learning Materials, set out in Annex 1.

#### **4.2.1 Teaching materials**

The copyright in Teaching Materials produced by Author(s) belongs to the University and such Teaching Materials will therefore be retained by and can be used by the University after the Author(s) employment ceases. However the University will grant the Author(s) an unlimited licence to use such Teaching Materials.

#### **4.2.2 Scholarly Publications**

Where publication of a Scholarly Publication is proposed, special attention should be given to the confidential nature of any research results proposed to be included or referred to. The University grants an unlimited licence to the Author(s) to facilitate such publication, subject to the consideration of confidentiality as mentioned above. Affected Parties should retain copyright rather than signing this over to the publisher where possible, and instead grant the publisher a licence to publish the work.

#### **4.2.3 Commissioned copyright material**

The University retains ownership of the rights in all works which it commissions including (without limitation) materials referred to in the following sub-paragraphs. Rights in all materials specially commissioned by the University are and should be secured to the University, whether produced by Affected Parties or outside bodies.

#### **4.2.4 Software and Databases**

These materials are recognised as having a significant potential commercial value and where created by Affected Parties are treated in the same way as Inventions under paragraph 4.1 of this Code (whether or not any software is considered to be patentable). The University will not unreasonably restrict use for academic publications based on such material.

#### **4.2.5 E-learning Materials**

These materials, including other copyright material of an educational nature intended or designed for publication outside the classroom at the University, are subject to the guidelines laid out in Annex 1 to this document, which has been based on HEFCE recommendations.

#### **4.2.6 Students' Dissertations and Theses**

Subject to contrary agreement (e.g. if a Sponsor requires ownership of such copyright), copyright in dissertations and theses shall belong to the Student. However special attention should be given to the confidential nature of any research results and (especially if potential patentable Inventions have been made

in the course of the work) special provisions may be required to protect the confidentiality of the results (and the patentability of the Invention), which may limit the Student's right to publish. If conditions attach to the grant or other funding under which the work was sponsored, these must be strictly complied with. Unless the Student specifically requests to the contrary the University will have the right to digitise and make public dissertations and theses and this will be controlled by the University in accordance with its normal academic practice and any obligations to outside bodies.

#### **4.2.7 Examination Scripts**

Copyright in examination scripts belong to the University. Save as otherwise provided in the University's Regulations and procedures relating to appeal proceedings or as agreed, the author shall have no access to or claim in respect of his or her examination scripts or any rights to the copyright in their contents. Examination scripts may be published by the University in whole or in part (provided this is without attribution) for the purpose of teaching or example.

#### **4.2.8 Laboratory Notebooks**

Affected Parties working in a laboratory (whether at the University's premises or elsewhere) are obliged to keep laboratory notebooks, which must be promptly and appropriately completed, countersigned and stored. Copyright in the contents of Affected Parties laboratory notebooks shall belong to the University unless otherwise agreed. Ordinarily Affected Parties may retain and use a copy in connection with their research and academic studies. Terms of any sponsorship and any requirements of the University relating to publication and confidentiality must however be strictly complied with. (For the purpose of clarity "laboratory" is defined as any room or building equipped for scientific experimentation, research, practice, observation, testing, prototype manufacture or development)

### **4.3 Recording and Performances**

#### **4.3.1 Performed Work**

Affected Parties shall own the performers' rights in any Performed Work. Staff and/or Students will grant to the University and its authorised users an irrevocable royalty-free non-exclusive licence to use such material for administrative, educational, teaching and research purposes. Where recording and performances relate to e-learning activity, conditions laid out in Annex 1 to this Code will apply.

#### **4.3.2 Right to acquire physical works**

The University shall have a right to acquire ownership, on fair and reasonable terms, of the physical work in any artistic works produced by Students, including without limitation paintings, photographs, sculptures, fabric patterns and multimedia works, but excluding musical scores.

## **5. Procedure for Identification and Protection of IP**

- 5.1 RES publishes its procedure for identification and protection of IP. That procedure is subject at all times to this Code. Where Staff or Students create IP, the following procedure should be followed:

- 5.1.1 Affected Parties who have reasonable grounds for believing that they have generated IP that can be commercially exploited should bring this to the attention of RES as soon as practicable. (including any IP generated anywhere using University resources and any IP funded by a Sponsor, whether or not owned by the University).
- 5.1.2 RES will then require completion of an Invention Disclosure Form which can be found on the RES website. Affected Parties may be asked for additional information and their opinions of the possible commercial value of the IP. Assuming that commercial exploitation appears feasible, RES will be responsible for ensuring that appropriate Faculty managers are informed prior to making any final decision on whether to protect and/or commercially exploit the IP.
- 5.1.3 The University will decide, normally within 3 months and no later than 6 months from the date of receipt of such notification, whether applications for registered protection are appropriate in the circumstances. RES will inform the Staff and/or Students concerned of the decision. The cost of applying for and maintaining patents or other registered rights and the availability of funds for meeting such cost will be considered by RES in making that decision.

## 5.2 **Reasonable Assistance**

Affected Parties shall at all times at the request and at the cost of the University take all reasonable steps to maintain the confidentiality, registrability and exploitation of any IP. No disclosure of any potentially patentable or confidential information shall be made except on RES's approved terms or as approved by RES.

## 5.3 **Joint IP**

- 5.3.1 Where a third party has an ownership interest in the IP, terms agreed between the University and that third party shall apply.
- 5.3.2 Where IP is generated jointly by Affected Parties (which shall at all times be subject to this Code), each individual will be responsible for informing the University of his or her individual contribution to its generation. It shall be their responsibility to agree their pro rata shares and the Principal Investigator shall inform the University of their relative percentage contributions in writing in a statement signed by all contributors to the IP. In the absence of such a signed statement notification, RES may make a written request for such information and failing receipt thereof within 30 days of such request, RES shall be entitled to make a discretionary split of revenues relative to contributions. In the event of an unresolved dispute paragraph 11 of this Code will apply.

## 6. **Exploitation of IP and Recovery of Costs**

- 6.1 Exploitation of IP may (without limitation) be by way of (i) assignment for consideration, and/or (ii) licensing for consideration, and/or (iii) equity participation in a limited company.
- 6.2 The method of exploitation shall be determined by the University. Should the University decide not act to protect and/or exploit an item of IP within 6 months of RES receiving a completed invention disclosure form, then the inventor will be given the option of taking assignment of the IP. Upon such assignment the Inventor and/or Author should grant an irrevocable licence back to the University to use such IP for its own administrative, education, teaching and research purposes.



## 7. Revenue-sharing on Assignment or Licensing of IP

- 7.1 The University will use its reasonable endeavours to pay the entitlements due under this paragraph regardless of whether individuals leave the University or, in the unfortunate event of death, to pay the individual's estate. However, the University will not be under any obligation to maintain payments where individuals fail to provide adequate personal contact information or where costs of administration would be greater than the license revenue due.
- 7.2 The University's costs incurred in supporting an application for protection, maintaining any protection obtained, commercial development, marketing and exploitation of the IP will be met from central University funds administered by RES and together with legal fees and the direct costs of exploitation of the IP (including without limitation the cost of formation of "Spin-out Companies") shall be a first claim on any income arising. Any other costs to be deducted from income before revenue-sharing shall be determined by RES.
- 7.3 After the deduction of any such costs and any costs incurred in enforcing or defending its rights (including any costs, sums or damages awarded against the University in any proceedings), the cumulative Net Proceeds arising shall be shared between the University and the Inventor(s) (including other Staff and Students who have made a significant contribution to the invention) in tranches as follows:

Cumulative Net Proceeds	Inventor(s)	University
Up to £50,000	70%*	30%
More than £50,000 and up to £100,000	50%*	50%
More than £100,000 and up to £500,000	40%*	60%
More than £500,000	35%*	65%

- \* The Inventor(s) percentage share in the above table shall be divided between the Inventor(s) and distributed to the Inventors by the University according to the percentage notified to RES or determined by RES under paragraph 5.3.2. A worked example can be found in Annex 2 to this Code.
- 7.4 The Commercial Affairs Committee of the University will require RES to submit regular reviews of all patents and other Intellectual Property in which the University has an interest. In particular each patent will be reviewed by the appropriate staff within RES when the patent prosecution or renewal fees are due, and if such patent is considered unlikely to be capable of bringing any significant financial return, a recommendation will be made to the Director of RES and the Dean of Faculty that the patent should be allowed to lapse.
- 7.5 In the case of IP solely owned by the University and in circumstances where the University does not wish to continue ownership or to apply for or maintain registered protection of such IP, the University will, on the written request and at the expense of the Staff and/or Students who generated it, arrange for the assignment of the IP to them.
- 7.6 Terms for such assignment may include repayment of costs incurred by the University or a right for the University to be repaid such costs out of future income derived from exploitation. Such cases will be negotiated individually and the university will not act unreasonably to prevent the potential exploitation of the IP. The assignees will then be free to protect, exploit and exclusively benefit from the IP in any way that they see fit, subject to the rights and interests of third parties.

## **8. Spin-out Companies and Equity Participation**

- 8.1 If it appears to RES, after consultation with the relevant Staff and/or Students and the University, that the most commercially satisfactory way of exploiting any IP would be by way of a limited company to be created or acquired for such a purpose (a “**Spin-out Company**”), then the University may license or assign the IP to such a Spin-out Company, in which case the compensation for the Inventor(s) will be based on two distinct elements:
- 8.1.1 A shareholding by the Inventor(s) in the Spin-out Company (or a share in the University’s financial gains from such a Spin-out Company) in lieu of Royalties which might otherwise have been reasonably expected to accrue to the Inventor(s). The apportionment between the Inventor(s) set out according to paragraph 5.3.2 shall apply to this element which is in lieu of Royalties
  - 8.1.2 A further shareholding by the Inventor(s) in the Spin-out Company (or a share in the University’s financial gains from such a Spin-out Company) to be based on the Inventor(s) contribution to activity within the Spin-out Company, the Inventor(s) participation in raising venture finance and/or the Inventor(s) possible longer term commitment to vest future IP that they may generate into the Spin-out Company.
- 8.2 Shares by the Inventor(s) in the University’s financial gains will be deemed to be equivalent to shares in the Spin-out Company; for example if the Inventor(s) have 50% share in the University’s financial gains and the University has 50% shareholding in the Spin-out Company then the Inventor(s) will be deemed to have shares equivalent to a 25% shareholding in the Spin-out Company.
- 8.3 In any event, the total combined shareholding, including any shareholding that is deemed by way of a share in the University’s financial gains to be equivalent to shares in the Spin-out Company, held by all the Inventors will not exceed one third of the issued share capital of the Spin-out Company at incorporation, prior to any financial investment.
- 8.4 Any deviation from this principle will require the authorisation of the Vice Chancellor who will be advised by the Director of Corporate Services. For the avoidance of doubt the share distribution scheme described above replaces any revenue sharing agreement which may be in place under paragraph 7.
- 8.5 A worked example of the equity split in a Spin Out Company can be found in Annex 3 to this Code.

## **9. Termination of Employment or Registered Studies – Rights and Obligations**

- 9.1 This Code shall continue to be in force after the termination of employment or registered studies in respect of the following:
- 9.1.1 Rights to revenue-sharing or other payment or benefit which may accrue to Staff and/or Students under the University’s IP Code in force from time to time, as described in paragraphs 7 and 8 of this Code
  - 9.1.2 The obligation of any member of Staff or Student to provide all reasonable assistance to the University (at its expense) in the creation, defence or exploitation of the IP shall continue in force and effect for a reasonable period after the employment and/or registered studies have been terminated.

9.1.3 Rights and obligations described in paragraphs 4.2.1 and 6 of this Code

9.1.4 Rights and obligations relating to IPR in e-learning materials described in the Annex to this Code,

9.2 These terms will also be binding on any representatives appointed by individuals who have been party to this Code.

## **10. Authorised Signatories and Execution under seal**

10.1 The authorised signatories on behalf of the University on matters relating to IP shall be the Director of RES and Director of Corporate Services.

10.2 Contracts and agreements executed under seal shall be subject to the University's usual procedures as set out in the University's Charter and Statutes.

## **11. Resolution of Disputes**

11.1 Any unresolved disputes, deadlock or failure to agree between the Dean of Faculty and the Director of RES, regarding any issues where their joint agreement or consultation is required under this Code shall be referred for determination to the Vice-Chancellor or his nominee.

11.2 Any unresolved disputes where Staff and/or Students disagree with any determination made by the University and/or RES under this Code shall in the first instance be referred to the Vice-Chancellor or his nominee.

11.3 In the event of any dispute between the University and/or RES and Staff and/or Students which remains unresolved, the parties will attempt to settle it using standard University Grievance procedures.

11.4 If the Parties fail to reach an amicable settlement of the dispute in accordance with the standard University Grievance procedures, it shall be referred to arbitration by a single arbitrator to be appointed by agreement between the Parties or in default of such agreement within thirty (30) days of the notification of a dispute, upon the application of either Party, by the Chairman of the Bar Council for the time being or his nominee.

11.5 Such arbitration shall be conducted in London in accordance with Rules of the Chartered Institute of Arbitrators and in accordance with the Arbitration Act 1996 or any successor legislation in force in England and Wales.

11.6 To the extent permissible by law, the determination of the Arbitrator shall be final and binding upon the Parties.

## Annex 1

### **Rights and obligations relating to the Creation, Ownership and Use of e-Learning materials**

#### **Title to rights**

- A.1 Subject to the provisions of the Patents Act 1977, the Registered Designs Act 1949 and the Copyright, Designs and Patents Act 1988 all IPR in the e-learning materials originated by the Author(s) and arising in the course of employment or other terms of engagement with the University shall be the property of the University, and the creation of such materials in the Virtual Learning Environment (VLE) will be deemed to vest any such property in the University and to register title in such property in the University.
- A.2 If material from other copyright works is included in the e-learning materials, prior to use in teaching the Author(s) shall identify such material to the University and shall obtain all necessary written permissions from the owners or from any rights organisation authorised by the owner to grant such permissions in respect of such material. Alternatively the Author(s) shall, if the University so agrees, provide the University with sufficient information to enable the University to obtain such permissions, but the University shall not thereby be obliged to secure such permissions and may require that the Author(s) omit any such material from the e-learning materials.
- A.3 The University hereby agrees and acknowledges that all performers' rights in any video or other recording of the Author(s)'s own lectures or presentations or similar works are owned by the Author(s). The Author(s) grant to the University and its authorised users an irrevocable royalty-free non-exclusive licence to use such material for administrative, educational, teaching and research purposes.
- A.4 Nothing in this agreement shall constitute a waiver by the Author(s) of any moral right under the Copyright, Designs and Patents Act 1988, and nothing therein shall constitute an exclusive recording contract within the meaning of Part II of that Act or consent by the Author(s) to the exploitation of any qualifying performance for the purposes of that Part.

#### **Exploitation and income**

- A.5 The University is free to exploit (whether for financial gain or not) such e-learning materials as it sees fit, including licensing or assigning the IPR in the e-learning materials to third parties, or merging said e-learning materials with other materials created within the University or elsewhere. The Author(s) are encouraged to seek opportunities for commercial use of e-learning materials in conjunction with the University. Should the e-learning materials have the potential to be exploited for commercial use, the University agrees that it shall, in accordance with its normal procedures, enter into good faith negotiations with the Author(s) regarding possible rewards as set out in paragraph 7 of the IP code.

Should the University choose not to exploit the materials for commercial use within the timescales identified in paragraph 6.2 of the IP code, the University will enter into good faith negotiations with the Author(s) for the transfer of ownership of the rights in the e-learning materials. In return, the Author(s) shall grant the University and its authorised users an irrevocable royalty-free licence to use such material for administrative, education, teaching and research purposes.

#### **Credits**

- A.6 The University agrees to credit the Author(s) for any significant contribution to the e-learning materials. The University shall comply with any request by the Author(s) in

writing that his/her/their name(s) be removed from the e-learning materials where such request is on grounds that the whole or parts of the e-learning materials are out of date or changed in a manner that might damage his/her/their reputation.

- A.7 The University may update or in any other way amend the e-learning materials to suit its requirements. The University agrees to consult the Author(s) over any significant amendments without any obligation to be bound by the same in deciding on the final form or content of such amendments.

#### **Permitted uses**

- A.8 The University grants to the Author(s) a royalty-free non-exclusive licence to use the e-learning materials created by the Author(s) or jointly with others for non-Commercial Use teaching or research purposes only for as long as the Author(s) remain employed by the University. Such licence may continue after the termination of their employment or studies or engagement with the University provided that the use of the e-learning materials does not damage the exploitation of the materials by the University or prejudice in any way the interests of the University.
- A.9 Should the contract of employment, registered studies or engagement with the University of the Author(s) terminate, the Author(s) shall be entitled to enter into negotiations with the University with a view to permitting the Author(s) to make and retain a copy of the e-learning materials for his/her/their use for non-commercial use teaching and research purposes. In the case of disagreement over these negotiations, dispute settlement procedures in accordance with paragraph 11 of this Code shall be invoked. Neither the Author(s) nor his/her/their new employer(s) is permitted to exploit the e-learning materials for commercial use without the express permission of the University.
- A.10 Nothing herein shall grant to the Author(s) any right or licence to copy or use any versions of the e-learning materials updated or in any way amended by the University after termination of the employment whose terms and conditions are governed by this Agreement.

#### **Prohibited uses**

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## Annex 2

### **Example of License Revenue Inventor share - For the purposes of clarification only**

If two individuals A and B are jointly named on a patent and agree to share Royalties 50:50 and the total legal and patent costs of IP protection and the licensing agreement to a third party amount to £40k:

#### **Royalty received in year 1 = £50k**

Inventors A and B each receive  $(£50k - £40k) \times 70\%/2$

#### **Royalty Received in year 2 = £100k**

Inventors A and B each receive  $(£50k - £10k) \times 70\%/2 + £50k \times 50\%/2 + £10k \times 40\%/2$

In future years each Inventor will receive 20% of Royalties up to the accumulated Net Proceeds of £500k, after which each Inventor will receive 17.5% of Royalties.

### Annex 3

#### **Example of Spin Out share split - For the purposes of clarification only**

Because the level of funding required by individual spin out opportunities varies widely, along with variable terms from venture capital funders, it is only possible to give an outline example. One important point to emphasise is that, unlike the license arrangements described in paragraph 7 of the IP Code, the proportion of the shares received by the individual Inventors will not depend solely on their contribution to the original IP, as described in paragraph 8 of the IP Code.

The example below illustrates the share percentages that could result under the investment agreement in place between venture capital specialist IP Group and the University. Under this agreement the University has agreed to grant IP Group a percentage share ownership of a Spin-out Company in return for considerable support from an IP Group specialist based at the University and for pre-agreed valuation terms for the Spin-out Company. These support and valuation mechanisms overcome two of the major hurdles that would normally be faced by an early stage Spin-out Company seeking finance and places the University and Inventors at a significant advantage in establishing a successful Spin-out Company.

In this example it has been assumed, for simplicity, that 2 Inventors have made equal contributions to the original IP and that both are taking a very active involvement in the Spin-out Company. Both Inventors would forgo the licensing option described in paragraph 7 and instead would receive shares at incorporation in a "shell" Spin-out Company prior to any financial investment as follows:

University share	53.37%
IP Group Share	13.30%
Inventors A + B	33.33%

The Inventors' IP is then assigned to the company. After which IP Group may invest up to a maximum of £500k with a pre-money valuation of £750k (resulting in a post investment value of the company of £1.25m). With the additional shares purchased by IP Group, this would result in the following share ownership.

University share	32%
IP Group Share	48%
Inventors A +B	20%

This arrangement would give a notional starting valuation of the combined Inventors' share of £250k.

There are, of course, many other factors to consider. It is normal, for example to also allocate a percentage share to incentives high quality external commercial management, necessary for the long term success and growth of the company, which would result in further dilution of shares. It is also likely that the Spin-out Company will require at least one or more rounds of further venture funding and the terms of each of these rounds will have to be negotiated separately. However, the aim throughout is to maximise the value of the Spin-out Company at each stage prior to further investment to ensure the best financial return to the shareholders from an eventual trade sale or stock market flotation.