

Intellectual Property Policy

Version 3 – July 2016

CONTENTS	PAGE NO
1. INTRODUCTION	2
2. INTELLECTUAL PROPERTY POLICY STATEMENT	3
3. INTELLECTUAL PROPERTY MANAGEMENT PROCEDURES	4
4. INTELLECTUAL PROPERTY FRAMEWORK FOR EXPLOITATION	6

APPENDIX 1 – STUDENT IP ASSIGNMENT AND CONFIDENTIALITY AGREEMENT

APPENDIX 2 – CONFIDENTIALITY AGREEMENT

VERSION:	3	AUTHOR/ OWNER:	Prof Andrew Pollard Intellectual Property Manager
Approved Date:	17th July 2016	Approved By:	Academic Board – Chairs Action
Review Date:	July 2018		

1. Introduction

The University of Wolverhampton has a proud history of benefitting society through its research, enterprise and innovation.

Intellectual Property (IP) is the output or result of intellectual activity, endeavour or creativity and is important to the functioning of the University. Research, inventions and scholarly activity raise the profile of the University and that of its staff and students in the academic and business world.

Intellectual Property Rights (IPR) are the rights granted under the law to the owner of IP. These include copyright material, inventions, designs and trademarks.



This document sets out the University's policy on Intellectual Property. It explains the arrangements the University has put in place to deal with Intellectual Property created by its staff and students.

As a University, there are particular matters in respect of the creation and use of 'Copyright' material set out in the University Statement on Copyright and in respect of 'Publication' set out in more detail in the University of Wolverhampton's Publication Policy (refer to University Policies and Regulations, or links provided in Section 3).

2. Intellectual Property Policy Statement

It is the University of Wolverhampton's policy to encourage and facilitate the successful exploitation of Intellectual Property to maximise benefit for the institution and its staff, its students and society in general.

The University reserves the right to protect the IP it owns, with responsibility for recording, monitoring and maintaining the University IP Portfolio resting with the University IP Manager.

IP Ownership The University is the first owner of IP created by employees in the course of their normal duties or as the result of a task specifically assigned by the University (Patents Act 1977, Copyright Designs and Patents Act 1988) or at any other time when using University facilities.

Relevant IP is that IP for which the University would normally expect to exercise its rights of ownership and is determined in relation to staff terms and conditions of employment.

Confidential Information Students and staff are reminded that it may prove impossible to secure full protection for the IP in an innovation if it has been disclosed inappropriately. It is in all parties' interests that requirements for confidentiality are complied with, particularly in terms of disclosures through giving a lecture/seminar/presentation/poster, or publishing a paper/abstract/thesis, or holding discussions with external parties, or supplying samples/materials. All staff and students are expected, and required, to maintain confidentiality in respect of any project(s) with which they are associated. This is an obligation contained in the terms & conditions of employment for staff.

Taking care with Confidentiality is key to protecting Intellectual Property

Originator means any individual who contributes significantly to the generation, creation, development, discovery, invention, authorship, derivation or other production of the IP in question.

Need to know more? Contact the University IP Office at:

University IP Office
Caparo Innovation Centre
University of Wolverhampton Science Park

Internal phone: 1763
Email: IPoffice@wlv.ac.uk

The IP Office offers free, confidential and non-binding advice relating to potential IP generated by staff or students alike

3. Intellectual Property Management Procedures

The principal purpose of these Intellectual Property Management Procedures is to enable the successful exploitation of Relevant IP, and matters relating to Copyright or Publication are covered in the University Statement on Copyright <https://www.wlv.ac.uk/media/departments/office-of-the-vice-chancellor/documents/UoW-Statement-on-Copyright.pdf> or the University of Wolverhampton Publications Policy <https://www.wlv.ac.uk/media/departments/office-of-the-vice-chancellor/documents/University-of-Wolverhampton-Publications-Policy.pdf>

Where an employee's normal duties or specifically assigned task involves work completed under contract with a third party, first ownership of IP arising therefrom must be the subject of an approved agreement between the parties, prior to such work commencing.

IP created from work carried out by an employee under an outside consultancy (for which specific permission has been given by their Dean of School or Faculty, Head of Department or an Executive member, as appropriate) is subject to the terms of the consultancy agreement, but will be deemed to be included in the definition of Relevant IP where such IP derives in whole or part from work carried out by an employee in the course of their University duties or when using University facilities.

The University recognises that it cannot automatically assume ownership of IP generated by students in the course of their studies. However, students accept as a condition during the enrolment process that they may be required to sign a Confidentiality and IP Assignment Agreement (example form of Agreement in Appendix 1) assigning first ownership of such rights to the University as a condition of participation on a specific project. This is most likely to arise where an external funder sponsors the research, or where the project is part of an ongoing research effort where the University considers there is a need to protect the integrity of IP ownership. Any students asked to assign IP and/or IPR to the University are advised that they are responsible for seeking their own independent legal advice, as appropriate, and may wish to approach the Students' Union student advice centre. If a student generates IP that makes a significant contribution to a larger IP project and the University goes on to exploit such IP, then it will normally treat the student as an Originator and share benefits deriving from any exploitation in a fair and reasonable way alongside other Originator interests.

Students may generate other IP and are invited to discuss this with the University IP Office who will advise on appropriate means of protecting the IP and may offer to collaborate with the student in the exploitation of it. Where there has been input by University staff, or use of University resources, to assist the student in the exploitation of IP that they have generated, this will be taken into account when agreeing how any revenue arising from any exploitation should be shared.

IP issues will be considered as an essential part of planning for any externally funded activity. The University of Wolverhampton will generally seek to retain rights to IP arising from its research, development and other work. However, it recognises that where a collaborator pays at least the full cost of a project this may not be appropriate. The University will seek to derive a benefit from collaborative projects commensurate with its contribution to a project.

Confidentiality Agreements, or Non-Disclosure Agreements The University and its staff and students may possess confidential information, trade secrets, know-how and understanding which are vital for the success of any commercial exploitation of University IP. In addition, the University and its staff and students may be party to confidential information that is protected under an obligation of confidentiality to others. Wherever confidential information is to be disclosed or shared between the University and third parties, an approved Confidentiality Agreement shall be completed (example form of Agreement in Appendix 2). Staff and students shall familiarise themselves with the terms of such agreements and adhere strictly to them. In particular, the head of the project, supervisor or principal investigator shall be responsible for ensuring that the handling and storing of confidential information is in accordance with the terms of the contract and or agreement with client.

The Intellectual Property Manager (IP Office) is responsible for the maintenance of Confidentiality Agreements completed on behalf of the University. Any member of staff can request the preparation of a Confidentiality Agreement by contacting the IP Office or PSO and advising the purpose for which it is required and the name and address details of the other party. The IP Office shall issue an approved form of Confidentiality Agreement and arrange the requisite authorisation on behalf of the University.

Authorisation is usually obtained from the following in accordance with the University's schedule of delegations:

- Members of the Offices of the Vice Chancellor
- Secretary to the Board and Director of Corporate Governance
- Deans and Directors of Departments
- Associate Deans
- Commercial Manager (PSO or OVC roles)
- Intellectual Property Manager (IP Office)

No other member of staff is authorized to approve a Confidentiality Agreement on behalf of the University.

All completed Confidentiality Agreements are to be returned to the IP Office.

It is especially important that staff note that they are not authorized to approve a Confidentiality Agreement offered by third parties, unless it has been pre-approved by the IP Office. If presented with such a document in a meeting with third parties, representatives of the University must decline to complete, and offer to continue discussions on a non-confidential basis only. This is an absolute requirement to protect the interests of the University, staff and students and anticipation of this will prevent any delay in discussions.

4. Intellectual Property Framework for Exploitation

The University recognises that staff and students have specialist knowledge, while the University is capable of providing expertise in legal, commercial and other areas required for the exploitation of intellectual property. The University, its Research Institutes and its Faculties, Schools and Departments also provides the infrastructure, environment and other support to encourage and enable ideas to be developed to a point where they may be commercially exploited. The University seeks to build on these complementary relationships and to take a collaborative approach to exploitation, with any benefits being appropriately shared.

Step 1 – Disclosure of idea Any member of the University (staff or student) is invited and encouraged to approach the University Intellectual Property Office for advice on an IP-related issue, including where they have an idea or invention that might be commercially exploitable. These discussions will be in confidence and without commitment.

Contact the University IP Office at: University IP Office
 Caparo Innovation Centre
 Wolverhampton Science Park

Internal phone: 1763
Email: IPoffice@wlv.ac.uk

Step 2 – Assessment of idea The University IP Office shall record the origination of any idea or invention disclosed to them, consider who might have a claim on ownership and whether there has been any prior disclosure outside the provisions of a relevant Confidentiality Agreement, and assess whether it comprises Relevant IP.

For non-Relevant IP, the University IP Office shall offer basic advice to the member of staff or student concerned.

For Relevant IP, the University IP Office shall carry out a preliminary assessment of the technical and commercial potential of the idea, and any time constraints that impact on the exploitability of the IP. NB: Good ideas do not necessarily rely on legally protectable IP Rights, and for some good, commercial ideas time and money spent on trying to secure IPR can be an unhelpful use of resources. It is worth discussing options with the University IP Office before embarking on unnecessary action.

Step 3 – Assessment of Relevant IP The University IP Office shall arrange a review meeting, normally to include the Originator(s), the University IP Manager and the University Commercial Manager. The purpose of the review is to further assess the technical and commercial potential of the idea, and it will normally require further actions to be completed by the Originator(s), the University IP Office and Project Support Office.

As a result of this process, which shall be carried out without committing any external expenditure, if it is concluded that there is Relevant IP then a Project Team shall be established to manage its further development. The Project Team membership shall normally comprise:

1. the Originator(s)
2. a senior representative of the Faculty (or equivalent)
3. the University IP Manager
4. the University Commercial Manager

For IP which, after full disclosure of all relevant information, the University decides not to support, the University will normally waive any interest in the idea or invention. However, the University reserves the right to take other action, postpone or delay exploitation where it is appropriate so to do. Following a University decision not to support or discontinue the exploitation, individuals may seek consent from the University to exploit the IP themselves, in their own time and at their own expense, consistent with any terms and conditions of employment or study. Such consent may not be unreasonably withheld.

Step 4 – IP Project Development The Project Team shall manage the further development of the Relevant IP until such point as the IP is exploited or there is a decision not to exploit. Key aspects of this process are:

1. Minutes shall be taken at each Project Team Meeting and circulated to members of the Project Team, the Dean of the sponsoring Faculty and the University Deputy Vice-Chancellor for Research and Enterprise.
2. A work order shall be created against which all exploitation costs relevant to the individual project shall be accrued.
3. Assignment agreements, or equivalent formal records, that evidence the transfer of ownership of Relevant IP from all Originators to the University shall be completed. Such agreements shall include the terms under which any payments may be made from the University to Originators. The apportionment of any surplus that may be received in the future will be agreed on a case-by-case basis depending on specific circumstances, but will normally be within the range summarized below:

Originator(s)	25% min – 40% max
University	75% max – 60% min

Where there is more than one Originator, initial responsibility for agreeing the apportionment between Originators lies with those individuals. In the case of income from exploitation of patents, individuals need not be named inventors to be treated as Originators if they have contributed important know-how to the IP project.

4. If and when it is decided that it is appropriate to file a UK patent application, then the costs of preparing and first filing of the application will be fully met from the University IP fund.
5. Any further external expenditure required and agreed to progress the exploitation shall normally be considered for funding on a 50:50 basis by the University IP fund and the sponsoring School, Faculty or Institute.
6. If members of the Project Team are unable to reach unanimous agreement over the steps to be taken to progress the exploitation of Relevant IP, then the decision over the appropriate course of action to take shall be referred to the Dean of the sponsoring School or Faculty and the University Deputy Vice-Chancellor for Research and Enterprise.
7. If the sponsoring School or Faculty determines that it does not wish to contribute to funding the further development of the IP project then it may withdraw from that

commitment, but will also lose entitlement to a share in any future surplus arising from exploitation.

8. At the beginning of the project, and prior to each new financial year thereafter, the Project Team shall prepare a budget for exploitation costs to be approved by the Dean of the sponsoring School or Faculty and the University Deputy Vice-Chancellor for Research and Enterprise. No expenditure may be committed in excess of the budget figure.

Step 5 – IP Project Exploitation

1. In many cases, licensing to existing companies in the field will be the most appropriate route for exploitation of Relevant IP. The Commercial Manager will normally be responsible for negotiation and drafting of the agreement, in consultation with the Project Team and other University central functions, as appropriate. The agreement will be presented to the University's Offices of the Vice-Chancellor for approval.
2. In some cases, assignment of Relevant IP to a new or existing company will be the most appropriate route for exploitation and the University may acquire an equity stake in companies in this case. This route to exploitation may require complex negotiations due to unique and individual circumstances, and detailing of this process is beyond the scope of the University IP Policy.
3. If there is a decision by the University not to continue exploitation, Originators may then seek consent from the University to exploit the IP themselves, at their own expense, consistent with their terms and conditions of employment. Such consent may include an assignment of IP from the University to the Originator(s) on fair and reasonable terms.
4. In all cases where a surplus is made from IP Project Exploitation, the University will share the benefits with the Originator(s) of the IP. This will include, for example, income from licensing agreements, assignment or sale of IPR and royalty streams. Surplus will only be recognised by the University after the costs of exploitation (such as patent fees, legal fees, administration costs, development work, audit of licensees etc.) have been recovered. Costs of exploitation may be incurred prior to completion of a licence or assignment agreement or similar, and may continue to be incurred post-completion of such an agreement.
5. The apportionment of any surplus will be based on the terms agreed in the Assignment or equivalent completed with Originator(s). For those cases where a sponsoring School (or equivalent) has maintained support for the IP Project throughout, then the share due to the University shall be divided on a 50:50 basis between the University IP fund and the sponsoring School (or equivalent):

Notes

- a) If an Originator or School (or other sponsor within the University) wishes to request an alteration to the initially agreed apportionment, the request shall be put in writing to the Deputy Vice-Chancellor Research & Enterprise who will refer it to the University's Offices of the Vice Chancellor for final determination, if appropriate, before making a decision. This situation may arise, for example, when an additional Originator is recognised during development of the IP project; or when it is found necessary to invest significant new resources into the project which should be rewarded through a share in the surplus arising.

- b) Leaving employment of University - Cessation of employment, under normal circumstances, will not affect an Originator's right to receive a share of income.
- c) Death - In the case of the death of an Originator due a share of income, that share of any income will normally be payable to the estate of the deceased.
- d) Rewards for other contributors - The University reserves the right, where appropriate, to reward others (members of staff, or students), in addition to the Originator(s), when it is recognised that they have contributed significantly to the development of the exploitation of the opportunity. Such reward shall be treated as an exploitation cost but shall not exceed the amount distributable to Originators in any particular year.
- e) Income Tax & National Insurance - The Originator(s) will be responsible for any income tax and national insurance appertaining to their share, to the extent it has not been deducted at source (e.g. under PAYE).

Appendix 1 – Student IP Assignment and Confidentiality Agreement

Template reference PSO-IPO-StudentIP-Template1.1 Prepared August 2011

General notes and issues

The University Intellectual Property Policy and both undergraduate and postgraduate prospectuses require that students enter into a confidentiality agreement and assign any intellectual property which may arise from research which they undertake at the University before the commencement of such research.

This precedent is the agreement requiring them to do so and is the confidentiality and IP assignment agreement referred to and included as Appendix 2 to the University's Intellectual Property Policy.

DELETE THIS PAGE BEFORE USING THIS PRECEDENT.

Student Intellectual Property Assignment and Confidentiality Agreement

DATE: [day] [month] 201[]

PARTIES:

- (1) **THE UNIVERSITY OF WOLVERHAMPTON** of Wulfruna Street, Wolverhampton, West Midlands, WV1 1LY (“**University**”); and
- (2) [] of []
[Student number (where applicable): [] (“**Student**”)]

BACKGROUND:

- (A) The Student is to undertake the Research Project at the University during which the Student may contribute to the generation of Intellectual Property.
- (B) The University’s Intellectual Property Policy adopts an approach towards any Intellectual Property which is fair taken from both the University’s and the Student’s point of view.
- (C) The Intellectual Property Policy requires that students enter into a confidentiality agreement and assign any Intellectual Property which may arise from research which they undertake at the University before the commencement of such research.
- (D) In line with the Intellectual Property Policy, the Student agrees to assign any Intellectual Property which arises from his/her Research Project and to keep confidential all confidential information, on the terms and conditions set out below.

IT IS AGREED:

1. Interpretation

- 1.1. The definitions and rules of interpretation in this clause apply in this agreement.

“Confidential Information” means all information in whatever form (including, without limitation, in written, oral, visual or electronic form, or on tape or disk) relating to the Research Project, that is directly or indirectly disclosed whether before or after the date of this agreement, to the Student by the University, any agent or employee of the University, or which comes to the Student’s attention in connection with the Research Project but not including any information that:

- a) is or becomes generally available to the public (other than as a result of its disclosure by the Student or its representatives in breach of this agreement), (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or
- b) was available to the Student on a non-confidential basis prior to disclosure by the University; or
- c) was, is or becomes available to the Student on a non-confidential basis from a person who, to the Student’s knowledge, who does not owe any duty to the University or is otherwise prohibited from disclosing the information to the Student; or
- d) was lawfully in the possession of the Student before the information was disclosed to it by the University as evidenced by written records; or
- e) the parties agree in writing is not confidential or may be disclosed.

“Intellectual Property Policy” means the current University policy on Intellectual Property;

“Intellectual Property” means patents, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, rights to goodwill and to sue for passing off and unfair competition, 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 (and rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world;

“Research Project” means the Student’s course of research described in Schedule 1.

- 1.2. Clause and schedule headings shall not affect the interpretation of this agreement.
- 1.3. The schedule forms part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the schedules.
- 1.4. References to clauses and schedule are to the clauses and schedule of this agreement.
- 1.5. Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, provided that, as between the parties, no such amendment or re-enactment shall apply for the purposes of this agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party. This clause does not, however, apply in relation to tax.
- 1.8. A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.

2. Ownership of Intellectual Property

- 2.1. In consideration of the University offering the Student a share in the exploitation of any Intellectual Property arising from the Student’s work in connection with the Research Project in accordance with the University’s Intellectual Property Policy, the Student:
 - a. assigns to the fullest extent permitted by law all rights in and to any Intellectual Property created by or arising from, the Student’s work in connection with the Research Project for the full duration of such rights, wherever in the world enforceable;

- b. to execute (at the expense of the University or the sponsor, as the case may be) all and any documents as may be required from time to time to ensure that Intellectual Property arising from the Student's work in conjunction with the Research Project is vested in the University in accordance with the Intellectual Property Policy or to register the University as the owner of all registerable rights in such Intellectual Property; and
 - c. irrevocably and unconditionally waives to the fullest extent permitted by law all moral rights he/she may have in respect of the Research Project including any rights under the Copyright, Designs and Patents Act 1988 as amended, and all similar rights in any other part of the world; and
 - d. agrees to assist and provide all such information to the University in any proceedings relating to the enforcement of any and all Intellectual Property arising from the Research Project.
- 2.2. To support the efforts of the University and any research sponsor in conducting registration and protection of all Intellectual Property arising from the Research Project, the Student agrees to:
- a. disclose in full all Intellectual Property arising from his/her Research Project to his/her supervisor or otherwise to the University;
 - b. describe fully his/her creative contribution to such Intellectual Property;
 - c. being named as an inventor in respect of such Intellectual Property.

3. Confidentiality

- 3.1. The Student agrees:
- a. to keep in strict confidence all information and data relating to the Intellectual Property unless or until such information has been published or protected by patent application;
 - b. keep secret any Confidential Information and know-how which is given to him/her and which is identified, whether verbally or in writing, as being confidential by either the University or research sponsor;

- c. not to publish or disclose any results or information arising from his/her Research Project without the consent of his/her supervisor or otherwise of the University; and
- d. to disclose know-how, and any Confidential Information of the University which is provided by the University to him/her for the purposes of the Research Project, only to those persons to whom disclosure is necessary for the purposes of the Research Project and only to the extent necessary for the proper performance of his/her duties.

4. Research Project

- 4.1. The Student agrees to comply with all applicable laws and directions from the University and if engaged in science-based research to comply with good laboratory practice and at all times maintain and keep up-to-date true and accurate laboratory note books in respect of the Research Project.

5. Miscellaneous

- 5.1. The agreement constitutes the entire understanding between the Student and the University with respect to the subject matter contained herein and supersedes and replaces all prior agreements, negotiations and discussions between them relating to it.
- 5.2. This agreement shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the non-exclusive jurisdiction of the English Courts.

This agreement has been entered into on the date stated at the beginning of it.

Research Project

[Insert details/description of the Research Project]

Signed for and on behalf of)
THE UNIVERSITY OF WOLVERHAMPTON)

.....

.....
Print Name

.....
Date

Signed by [INSERT NAME OF STUDENT])

.....

.....
Print Name

.....
Date

Appendix 2 – Confidentiality Agreement

Template reference PSO-IPO-CDA-Template1.3

Prepared July 2015

General notes and issues

This precedent is to be completed and signed before the University discloses or shares confidential information with other parties. Confidential information can include trade secrets, know-how and understanding which may be vital for the success of its commercial exploitation. Taking care with confidentiality is key to protecting intellectual property.

This agreement has been drafted so that it can be used where the other party to the agreement is a company, but it can also be adapted for use if the second party is an individual or other legal entity.

This precedent may also be used as the confidentiality agreement referred to and included as Appendix 3 to the University's Intellectual Property Policy, but seek advice from PSO or the University IP Office before sending this template to a third party.

If you are asked by other parties to enter into their confidentiality agreement, you should not do so. Alternative forms of confidentiality agreements cannot be entered into on behalf of the University without the approval of the Project Support Office. Any proposed amendments to the University's confidentiality agreement should also be referred to, and approved by the Project Support Office.

DELETE THIS PAGE BEFORE USING THIS PRECEDENT.

Confidentiality agreement

DATE: [.....]

PARTIES:

- (1) **THE UNIVERSITY OF WOLVERHAMPTON** of Wulfruna Street, Wolverhampton, West Midlands, WV1 1LY (“**University**”); and
- (2) **[INSERT NAME OF COMPANY]**, a company incorporated under the Companies Acts (Registered number [INSERT REGISTERED NUMBER]) whose registered office is at [INSERT DETAILS OF REGISTERED OFFICE] [OR] **[INSERT NAME OF INDIVIDUAL]** of [INSERT HOME ADDRESS] (“**Second Party**”)

BACKGROUND:

- (A) The Parties wish to have discussions concerning **[state the subject area of proposed discussions in general terms]** (“the Permitted Purpose”). In order to allow the Parties to hold such discussions, the Parties are prepared to disclose Confidential Information to each other;
- (B) Each Party recognises that the unauthorised disclosure of the other Party’s Confidential Information could prejudice the other Party. Therefore the Parties have agreed to enter into this Agreement.

IT IS AGREED:

1 **Definitions**

“**Agreement**” means this agreement;

“**Commercially Sensitive Information**” shall have the meaning as ascribed to it in the FOIA;

“**Confidential Information**” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, developments, trade secrets, Intellectual Property, know-how, personnel, customers and suppliers of either Party, and the Commercially Sensitive Information;

“**FOIA**” means the Freedom of Information Act 2000 and any subordinate legislation made under the Act from time to time;

“**Intellectual Property**” means all patents, trade marks, registered designs (and any applications for any of the foregoing), copyright, database right, unregistered design right, trade names, business names, know-how and any other intellectual property right or similar or equivalent right in each and every part of the world;

“**Parties**” means the parties to this agreement and a reference to “Party” shall mean a reference to either one of them;

“**Permitted Purpose**” has the meaning given in Background (A) above;

“**Writing**” and any similar expression includes facsimile transmission and comparable means of communication, including electronic mail when there is evidence of receipt.

2 Confidentiality

2.1 In respect of any Confidential Information it may receive from the other Party (“the Discloser”) and subject always to the remainder of this clause 2, each Party (“the Recipient”) shall

2.1.1 treat all Confidential Information belonging to the Discloser as confidential and safeguard it accordingly and shall not disclose any such Confidential Information to any other person without the prior written consent of the Discloser except to such persons and to such extent as may be necessary for the performance of this Agreement or except where disclosure is expressly permitted by the provisions of this Agreement.

2.1.2 use the Confidential Information only for the Permitted Purpose

2.1.3 not without the Discloser’s prior written consent make any commercial use of or make any gain from the Confidential Information or seek to obtain any protection of the Intellectual Property contained in the Confidential Information

2.2 The provisions of clause 2.1 shall not:

2.2.1 prevent the Recipient from using any general knowledge, experience or skills which were in its possession prior to the commencement of this Agreement;

2.2.2 apply to any Confidential Information which:-

- (i) is in or enters the public domain other than by breach of this Agreement or other act or omissions of the Recipient;
- (ii) is obtained from a third party who is lawfully authorised to disclose such information; or
- (iii) is authorised for release by the prior written consent of the Discloser; or
- (iv) the disclosure of which is required to ensure the compliance of the University with the FOIA.

2.3 Nothing in this clause 2 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, where the Second Party is a Company, to the Company's immediate or ultimate holding company provided that the Company procures that such holding company complies with this clause 2 as if any reference to the Company in this clause 2 were a reference to such holding company.

2.4 The Second Party acknowledges that the University is or may be subject to the FOIA, both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) ("Codes of Practice") and the Environmental Information Regulations 2004 ("Regulations") as may be amended, updated or replaced from time to time. The Second Party agrees that it shall assist and co-operate with the University to comply with its disclosure obligations under the FOIA, the Regulations and the Codes of Practice to the extent that they apply to the Second Party's performance under the agreement. The University may consult the Second Party in relation to any request for disclosure of the Second Party's Confidential Information in accordance with all applicable guidance, but the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the University.

3 Limitation of transferred rights

3.1 The Recipient acknowledges and agrees that the property and copyright in Confidential Information disclosed to it by the Discloser belongs to the Discloser.

3.2 This Agreement is neither to prejudice nor limit the rights of the Discloser in respect of any Intellectual Property rights in the Confidential Information.

3.3 This Agreement is not to be construed to:

3.3.1 Grant the Receiver any licence or rights other than as expressly set out in this Agreement in respect of the Confidential Information; nor

3.3.2 Require the Discloser to disclose any Confidential Information to the Recipient

4 Limitation of liability of Discloser

4.1 The Discloser gives no warranties in relation to the Confidential Information disclosed by it under this Agreement and, in particular, no warranty or representation, express or implied, is given by the Discloser as to the accuracy, efficacy, completeness or capabilities of any materials or information provided under this Agreement.

5 Termination

5.1 This agreement shall terminate 5 years after its formation.

6 Notices

6.1 Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail.

6.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

7 Dispute Resolution

7.1 If any dispute arises in connection with this Agreement, the Parties shall, within 21 days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute.

8 Governing law and jurisdiction

8.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

This Agreement has been entered into at the date stated at the beginning of it.

**Signed for and on behalf of
the University**

)
)

.....
Signature

.....
Print Name

.....
Date

.....
Position

**Signed for and on behalf of
the Second Party**

)
)

.....
Signature

.....
Print Name

.....
Date

.....
Position