



Ollscoil
Teicneolaíocht
an Atlantaigh

Atlantic
Technological
University

Intellectual Property Policy and Procedure Version 2.0

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This Policy was approved by the Approving Authority on **17 February 2025**. It shall be reviewed and, as necessary, amended by the University every two years or at or at such time as is deemed necessary or if there has been a material change to any legislation or national guidelines informing this policy area. All amendments shall be recorded on the revision history section above.

Note: Prior to publication and dissemination of policies and procedures, documents must be reviewed for accessibility as part the University's commitment to Equality, Diversity, and Inclusion (EDI). Further advice on accessibility can be obtained from the EDI Team.

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1. Introduction

The mission of Atlantic Technological University (the University) is to develop life-long learning opportunities through, teaching, research and support for regional development. The generation of Intellectual Property (IP) is an area of very substantial importance in the academic environment of the University which supports and resonates with the University's mission.

In Ireland, each Institute of Technology, university and other public research organisation (Research Performing Organisation, or RPO) is required to ensure that it has in place an internal Intellectual Property management system that meets or exceeds the requirements described in the National IP Protocol and that all of its research is carried out in compliance with that system. Where commercially exploitable IP arises as a result of any publicly funded research and development activities undertaken by the RPO, the RPO is further required to ensure that the opportunity is taken, where possible and appropriate, to commercialise that IP in all possible fields, applications and territories.

The University has developed the University IP Policy (the Policy) to clarify the role of IP in the activities of the University. It takes account of the requirements of the National IP Protocol and draws on guidelines from various research funding agencies in relation to the treatment of IP and similar policies from a selection of Irish and international higher education institutions.

The goals of this Policy are to:

- Encourage Personnel to consider the potential for IP arising from their work;
- Promote an entrepreneurial culture within the University that fosters the development of

potentially commercial IP arising from research at the University;

- Clarify rights, obligations and procedures with regard to IP and its commercialisation;
- Describe the University's incentive program related to IP;
- Provide an efficient process by which the commercial potential of IP can be assessed by the University and its advisors;
- Ensure that the process of IP evaluation, protection and Commercialisation is carried out in a timely and professional manner;
- Outline the University offices and procedures responsible for IP;
- Encourage strategies of Commercialisation and knowledge transfer that provide the greatest benefit to the University, our region, and to the Irish economy;

This Policy sets out the principles and rules that govern the creation, ownership and Commercialisation of IP which is created by Personnel during the course of their work, and/or while making more than Incidental Use of University Resources. It is intended to provide information and guidance in relation to IP and to outline the steps required to help ensure the protection, management, dissemination and/or exploitation of that IP in a manner which is mutually beneficial for Personnel and the University and is consistent in all material respects with the National IP Protocol.

Appendix 1 contains a list of important definitions used in this Policy, while Appendix 2 contains details of the approval process for Spin Out companies. Copies of relevant forms referred to in this Policy may be obtained (in electronic or printed versions) by contacting the University function with responsibilities for Knowledge Transfer (the Knowledge Transfer Office or KTO).

This Policy applies to all Personnel, including, for the avoidance of doubt, visiting or adjunct

faculty or staff, and others participating in programmes carried out using University Resources. Should any clarification be needed on this policy please contact the designated Head of the KTO.

2. Administration of the IP Policy

The administration of this Policy is the responsibility of the KTO and the KTO will manage, in consultation with members of the IP Committee as required, decisions related to the approval of licensing agreements, Spin Out companies and other arrangements or agreements related to the exploitation of IP. In the event that circumstances arise related to the exploitation of University IP fall outside the scope of this Policy, these matters will be dealt with by the KTO in consultation with the IP Committee.

2.1 Responsibilities of the KTO

The KTO is the office within the University charged with managing day-to-day matters relating to the identification of IP, securing and maintaining IP rights where appropriate and exploiting IP consistent with the University's values and mission. In furtherance of this role, the KTO shall:

- Provide training and support on IP to Personnel;
- File and manage patent applications on behalf of the University;
- Evaluate, in cooperation with Personnel and outside experts as appropriate:
 - The commercial potential of IP;
 - The appropriate form(s) of IP protection to be pursued;

- Develop an appropriate Commercialisation strategy for University IP;
- Negotiate on behalf of the University any and all contracts and agreements relating to the generation, ownership, protection and exploitation of IP;
- Deal with IP issues that may arise in the administration of such agreements or contracts.
- Assist the promoter(s) of University Spin Out companies in preparing and presenting a business case to the IP Committee.

2.2 Responsibilities of the IP Committee

The role of the IP Committee is to ensure that University IP is managed by the KTO in line with the Policy, ATU strategy and the National IP Policy. The IP Committee provides oversight and guidance as may be required from time-to-time by the KTO related to Commercialisation of University IP.

The IP Committee meets on a quarterly basis or as needed to consider:

- Approving all decisions related to filing patents and other forms of IP
- Reviewing the commercial value of University IP and/or inventions;
- Reviewing and approving licensing and/or assignment terms related to University IP negotiated by the KTO;
- Facilitating a fair and equitable return to those Personnel involved in the Commercialisation of University IP;
- Nominating negotiators with third parties and ensuring a reasonable financial return to the relevant Personnel (where appropriate) and to the University;
- Reviewing and approving Spin Out formation and on an ongoing basis, review and approve any modifications (e.g. disposal of shareholdings) to agreements related to Spin Out formation.
- Review and approve the exercise of rights associated with agreements related to Spin Out formation (e.g. voting shares, appointment of directors, disposal of assets) in line with the 'Code of Practice for the Governance of State Bodies'.

All signatories on agreements must comply with the University's Policy for Signing Authorities.

The processes and procedures adopted by the IP Committee shall consider the University's obligations, and general guidance, as may from time to time be addressed in guidance from funding agencies and other relevant State bodies.

The IP Committee will be appointed by the University President and will consist of the following members:

- VP for Finance and Corporate Services (Chair)
- VP for Research and Innovation leading the Knowledge Transfer function;
- Head of Compliance/Legal Affairs;
- Head of the KTO;
- A representative of University research community with experience in Commercialisation
- Additional members as appointed from time to time by the Chair.

The composition of the IP Committee may be changed from time to time at the discretion of the President of the University.

Members of the IP Committee who are, or could reasonably be perceived to be, in a conflict of interest situation with respect to any matter before the Committee shall excuse themselves from all involvement with the Committee on such matters. Any individual who is related to, reports to, or is a business partner of, someone who would be considered to have a conflict of interest with respect to a specific matter may themselves have a conflict of interest with respect to that matter and should also excuse themselves from all involvement with the IP Committee on such matters.

Recognising the fact that personal information may be involved in matters before the IP Committee, all members of the IP Committee shall be required to sign a confidentiality agreement with respect to all matters before it.

2.3 Responsibilities of Personnel

Results of all research or projects, which are likely to have generated IP should be fully, promptly and completely disclosed to the University, through the KTO as soon as possible after such IP becomes apparent as described in section 3.1. The IP should be kept confidential until an assessment of the IP by the KTO has taken place. No public disclosure of any form should be made prior to this assessment. Confidentiality agreements and/or non-disclosure agreements should be used where appropriate, these agreements to be managed by the KTO.

It is the responsibility of all Personnel to keep proper records of research conducted and results recorded according to international best practice. Records created for the purpose of research and development activities undertaken by the University may be subject to the Freedom of Information Act, 2014.

It is the responsibility of all Personnel to:

- execute documents to assign or transfer IP rights as may be required to Commercialise the IP;
- perform actions as may reasonably be required to assist any licensee of any patent application or other IP to obtain, protect and maintain its rights, title and interest; and
- provide such reasonable assistance as may be reasonably required from time to time for the purpose of giving the University the full benefit of the provisions of this Policy.

3. Identification of Intellectual Property

Commercial exploitation of University IP plays an important role in promoting the University's mission by providing real-world impacts arising from research.

3.1 Disclosure

In order to ensure that IP is identified at a sufficiently early stage and to avoid the unintentional loss of available protection, Personnel must disclose to the KTO on a timely basis anything they

believe may have an IP component. IP should be disclosed to the KTO by filing an Invention Disclosure Form (IDF). The IDF is used by the KTO to assess the invention and to identify its Creator(s). Failure to properly identify the Creators of IP may jeopardise the ability to acquire or maintain rights in the IP.

It is important to note that, the premature or inappropriate public disclosure of IP may result in the loss of future patent protection.

3.2 Publication of Results

It is University policy to encourage staff and students to publish the results of their research in the public domain either through publication in learned journals or presentation at conferences. This is a vital factor for academic recognition. However, such disclosure must not be in violation of the terms of any agreement that has been entered into by the University with a sponsor, funder or other third party. In the event that Personnel believe they have generated IP, such IP should be disclosed to the KTO in the form of an IDF prior to any disclosure or publication. Any disclosure or publication must be delayed for a minimum of 90 days to allow for KTO assessment for protectable IP.

It must be recognised that premature publication or disclosure, except on a confidential basis, may make it impossible to obtain patent protection.

The placing of a thesis in the University library without ensuring that accessibility is restricted, constitutes publication.

4. Ownership of Intellectual Property

All University IP is the property of and vests solely and absolutely in the University. The KTO is responsible for the management of the University's IP. As such, the KTO is responsible for all negotiations, evaluation, marketing, licensing, assignment, and disposal of the University's IP.

For the avoidance of doubt, University IP includes the following:

- IP which results from the course of a Creator's normal employment, even if he/she is not specifically requested to create such IP.
- The IP arising out of research carried out by Personnel where such research has, in the opinion of the IP Committee, made use of University Resources.

IP arising from research or other work sponsored by an external organisation (e.g. Enterprise Ireland or an industry sponsor) shall be subject to the IP provisions that are stipulated in the related agreement between the University and the external organisation ("External Agreement"). Where an External Agreement requires all new IP rights to be assigned to an external organisation, any existing IP (Background IP) (should be disclosed to the KTO in an IDF prior to signing of the External Agreement so that it is not inadvertently assigned to the external organisation. All External Agreements should be reviewed by the University's legal authority or representative.

4.1 Research Student- Created IP

For the avoidance of doubt, IP created by Research Students of the University is owned by the University. In the case of Research Student-created IP owned by the University, the Research Student would participate in any commercial benefits, as described in Section 6, in the same way as would any other Personnel.

4.2 Visitors

While visiting faculty and staff may participate fully in University activities, it must be recognised that such visitors may not be employees of the University or may simultaneously be under employment obligations to other institutions or companies (and such obligations are likely to also address issues of confidentiality and IP generation, exploitation and ownership). The University is bound contractually and by the National IP Protocol to ensure that it maintains such ownership rights as clearly as practically possible.

Prior to offering a visiting position, the relevant Head of Department should be consulted by the visitor's sponsor, to ensure that, if necessary, protections in relation to IP rights are incorporated from the outset. The KTO can provide advice to the Head of Department on such matters and will ensure that appropriate agreements are drawn up where necessary. Consultation with the KTO is recommended even in cases where no IP-related agreements will be required of the visitor.

Offer letters should be contingent on acceptance by the visitor of any requirements as directed by the Head of Department.

4.3 Consultants

Consultants should not be engaged without a specific written agreement as appropriate to the case in hand and developed in conjunction with the KTO. Copies of all such agreements must be maintained by the University.

Consultants engaged on behalf of the University should agree to be bound, for the purposes of the engagement (each engagement separately in cases where the same consultants are used for multiple engagements) by an appropriate agreement, including addressing the provision of IP ownership. The KTO can assist with such agreements.

4.4 Personnel Based Temporarily Outside of the University

Personnel who spend time at institutions outside of the University (Host Institution) shall continue to be bound by this policy and shall not enter into any IP agreements with the Host Institution except through a formal written agreement between the University and the Host Institution.

4.5 Dual/ Joint Appointments

In the case of dual/joint appointments, where academic staff are also employed at another

academic institution, a separate written agreement shall be entered into between the University and the other institution to deal with IP and related matters prior to the commencement of the dual/joint appointment).

4.6 Return of Ownership to Creators

At its sole discretion the University, may assign to Creator(s), by written instrument only, any IP created by the Creator(s) and owned by the University, but which the University has determined not to be of commercial interest to it. Further, it is understood that if the University does not find a means of exploiting such IP within a reasonable period of time, then the University has the right, but not the obligation, to assign ownership rights to the Creator(s). Requests for assignments to the Creator(s) should be made to the KTO. It is understood that once assignment of ownership has taken place in accordance with this Policy, the University forfeits its rights to any future income derived from such IP and cannot be held responsible for any IP costs generated after that date.

4.7 Literary Works

Although the University makes no claim of ownership to Literary Works, the University reserves for itself and shall maintain a non-exclusive, royalty-free, irrevocable and perpetual licence to use such Literary Works in its teaching and research activities wherever conducted. Except to the extent expressly provided herein or as may otherwise be agreed in writing between the University and the Creator(s), the Creators of Literary Works may use their Literary Works in other contexts and the University will not seek to benefit commercially from such use. In such situations, however:

- a) the University should be appropriately acknowledged and no other usage of the University's name or Marks may be made without the prior written approval of the University;
- b) the University provides neither warranty, representation nor indemnity of any form regarding the content, suitability, reliability, completeness, accuracy, use or otherwise of the Literary Works; and

- c) the Creators who use their Literary Works in such other contexts do so at their own risk and it is solely the responsibility of the Creators to ensure that any such usage (i) does not infringe the IP or other proprietary rights of any third party and (ii) complies with all applicable laws and regulations.

5. Commercialisation

5.1 IP Evaluation and Protection

Once an IDF has been submitted to the KTO, the KTO shall determine the commercialisation potential of the invention and shall decide, with the approval of the IP Committee whether to pursue patent protection of the invention, the University to bear the costs of such protection.

Based on the IDF and in consultation with the Creator(s), the KTO will conduct a commercial evaluation of the IP. The criteria to assess the commercial value of the IP should include (without limitation):

- The market size of the proposed invention;
- Identification of novelty, non-obviousness and inventive step(s) of the invention;
- Technical, financial, legal and commercial feasibility and due diligence;
- Development stage of the invention and route to market;
- Analysis of existing patent claims, publications and other disclosures;
- The competitive landscape;
- Commercial potential: likelihood to become a licence or spin out;
- Estimated cost of patent filing and maintenance (less IP grants, e.g. EI);

Whilst the criteria listed above are not exhaustive, it provides guidance to persons submitting an IDF as well as to those determining the commercial value. As it is a complex decision, the KTO will present its recommendations on the commercial evaluation to the IP Committee, who will make the decision on whether to proceed with a patent application.

Prior to a patent application being filed by the University, Personnel must assign to the University any and all IP disclosed in the relevant IDF.

The University may decide at any stage to withdraw from the process of exploiting a particular piece of IP. For example, this may arise where:

- concern exists regarding commercial feasibility of the IP;
- concern exists regarding the technical, financial or legal status of the IP;
- costs of exploiting and maintaining the IP are excessive; or
- funding of the process is no longer available.

The Creator(s) of the IP will be notified by the KTO in writing of the intention of the University to withdraw from the process and the withdrawal will apply with immediate effect. The IP may, at the University's entire discretion, be assigned to the Creator(s) as described in Section 4.6.

5.2 Licence and Agreement

Following submission and assessment of an IDF, the KTO will make recommendations regarding Commercialisation of the relevant IP. This may include:

- Licensing the IP to a third party for a fixed sum and/or royalties related to future sales;
- Developing the commercial potential of the IP through a Spin Out;
- Any other arrangement that may be considered appropriate.

The KTO will give due consideration to the retention of the right to use and access for the purpose of continuing and further teaching and research. In addition, the policies and principles of the National IP Protocol governing state-funded research in Ireland will be applied to ensure that social and economic impact is achieved, where possible, in Ireland. Assignment of IP may be considered in exceptional circumstances where this is demonstrably the most effective way of exploiting the IP subject to adequate safeguards as described in the National IP Protocol. Following KTO recommendations, all license and assignment agreements must be approved by the IP Committee before execution.

5.3 Spin Out Companies

The University encourages Personnel, where appropriate, to consider commercialising any IP they have created through a start-up company (Spin Out). Where a company is created for the specific purpose of exploiting University-owned IP, that company would be regarded as a Spin Out. The KTO will assist Creators in exploring such opportunities where possible and appropriate.

An application for approval of a company as a Spin Out should be submitted by the KTO to the IP Committee in conjunction with the promoters for the company. The application is considered and approved by the IP Committee. As part of the approval process outlined in Appendix 2, consideration will be given to the following during the assessment:

- Business plan
- Technical and commercial feasibility
- Management team
- Capitalisation / financial arrangements
- Possible conflicts of interest
- Accommodation, lab space, etc.
- National IP Protocol Compliance
- State Aid Compliance

The University will consider allocation of a minimum of a 10% fully dilutable equity stake in the Spin Out to be appropriate in recognition of the support of the environment which produced the IP. Depending on the circumstances the University will normally elect to take, additional payment of royalties, milestone payments and/or other licence fees as part of the commercial agreement with the Spin Out.

The University reserves the right to appoint a director to the board of a Spin Out. The University's objective in appointing directors is to bring an appropriate mix of business and scientific expertise to support the management of the company at the early stages. The University reserves the right to audit the accounts of any Spin Out.

Personnel may take on such roles as serving as a director, a consultant, an advisor or part-time employee in a Spin Out. Personnel may be compensated for their contributions. The University will, in a manner consistent with its other policies, taking into account the specific roles involved within the University and the needs and/or commitments of the University, endeavour to support Personnel wishing to do so. Any such external employment, self-employment, working partnerships or consultancy work undertaken by an individual in their own name must be pre-approved by the President of the University.

In order to avoid the potential for any conflict of interest or any conflict of commitment in the case of Spin Outs, the Personnel receiving compensation, or likely to receive compensation, from such activities should always declare their involvement to their direct supervisor, and to the VP for Research and Innovation leading the Knowledge Transfer functions and Office.

It is the responsibility of each individual Personnel member to inform the University, and to keep the University informed, of any actual or perceived conflict of interest or conflict of commitment.

In no circumstances can the IP Committee be forced to dispose of the University's stake in a Spin Out against its wishes. The IP Committee may, dispose of any or all of the University's shares in the company as it wishes.

5.4 Spin Ins

The University may, at its sole discretion, allow individuals external to the university assign IP to the University in order to access the University's, research, funding, technologies and facilities (Spin In). Commercialisation of Spin In IP is managed by the KTO consistent with this policy.

6. Incentivisation Program

The purpose of the University's Incentivisation Program is to fairly reward those responsible for the creation of commercially successful University IP and to incentivise staff and students to be entrepreneurial in this respect. In order to benefit from the Incentivisation Program and to share in the revenues generated from the Commercialisation of the University IP, the Creator(s) of the University IP must comply with the terms of this Policy.

Commercial benefits may be derived from the exploitation of IP in a number of ways. These include, for example, revenues in the forms of royalties, up front, annual or minimum license fees, dividends related to equity ownership or revenue derived from the sale of equity interests.

The goals of this Incentivisation Program are to:

- encourage the development and exploitation of IP;
- reward those responsible for the creation of commercially valuable IP;

6.1 Revenue Share Arrangement

The following general principles apply to the sharing of Revenue derived from University IP:

- All direct expenses incurred by the University in:
 - the patenting or other registration or protections of University IP; and
 - the Commercialisation of an invention or any other University IP; including (without limitation) administrative, licensing, legal, and any other expenses and costs and any subsequent investigation, development and promotion,

will be deducted from any Revenue. However, such charges will only be deducted to the extent they are out of pocket expenses for the University and apply specifically to the IP in question. No Revenue will be made available for distribution to Creators until such expenses have been recovered.

- If more than one Creator or Department is involved, , the Creator's and department's share set out below shall be divided according to the relative contribution of the Creators as detailed in the IDF describing the Commercialised IP.
- The division of royalty income will be carried out annually by the University, such divisions will be paid at the end of the financial year / academic year.
- In the event that a Creator leaves the University, their share of any Revenue shall continue to be paid.
- The KTO can use its share to assess, protect and facilitate the Commercialisation of University IP through the pursuit of patent or other protection, the granting of licenses, the development of Spin Out companies and/or otherwise to ensure maximum benefit to the University and the public good, as determined by the IP Committee in line with this Policy.
- Any monies received by the Department/Research Centre in respect of its share of the Revenues may be used by the Department/Research Centre to reward people other than the Creator(s) who, in its reasonable discretion, the Department/Research Centre believes contributed to the development of the IP, and also to foster the goals of the Department/Research Centre.
- Creator(s) have the option to receive Revenue through payroll or into a nominated Research and Innovation University account.

Revenue derived from the Commercialisation of University IP is dispersed to the following three beneficiaries:

- 1) the Creator(s) of the relevant University IP;
- 2) the KTO/University; and
- 3) the Department or Research Centre of the Creator(s)

The relative dispersion of Revenues to the three beneficiaries is outlined in the table below.

Net Cumulative Revenue	Creator(s)	KTO	Department or Research Centre of the Creator(s)
<€20,000	75%	10%	15%
€20,001 - €200,000	60%	20%	20%
€200,001 - €500,000	40%	30%	30%
>€500,001	35%	30%	35%

For example, in the case of the receipt by the University of €1,000,000 in relation to a specific piece of IP, in which case €10,000 in costs was incurred by the University in legal fees associated with finalising a license agreement, and €90,000 in costs was incurred by the University in patent costs, the distribution would be as follows:

Calculation	Creator(s)	KTO	Department or Research Centre of the Creator(s)
Cost Recovery		€100,000	
Revenue Share (First €20,000)	€15,000	€2,000	€3,000
Revenue Share (€20,001 - €200,000)	€108,000	€36,000	€36,000
Revenue Share (€200,001 - €500,000)	€120,000	€90,000	€90,000
Revenue Share (+€500,001)	€140,000	€120,000	€120,000
TOTAL	€383,000	€248,000	€269,000

In the case of IP in which the University is a part owner, the process is similar with the revenue eligible for distribution under this Policy referring only to that portion of the revenue attributed

to (and paid to) the University in accordance with its portion of ownership.

6.2 Spin Out Company Incentives

Where a Creator elects, at their discretion, to take an equity share in any Spin Out or other private company to which the University IP is licensed, it is important to note that the Creator will in such circumstances be deemed to have forfeited, and will forfeit, his/her right under this Policy to share in the distribution of any Revenues howsoever generated by and paid to the University as a result of the Commercialisation of that University IP.

In the event that there are multiple Creators and not all take an equity share in the Spin Out, then the distribution of the share of any Revenues to be distributed by the University to the Creators will be made on a pro rata basis amongst the Creators not taking an equity share in the Spin Out.

7. Consultancy

Staff are permitted to engage in consultancy projects for third parties subject to compliance with applicable University consultancy policies and subject to approval by the President of the University. Any such approved consultancies must be disclosed to the KTO and advised to the IP Committee.

8. Conflicts of Interest Relating Specifically to Commercialisation

The University recognises that in the pursuit of commercially orientated research or the commercialisation of IP, there will be situations in which University staff will find themselves in a position that may constitute a conflict of interest or a conflict of commitment. This is not unusual, conflicts of interest occur in all professional environments and are not uncommon with respect to IP Commercialisation.

It is important, however, when conflict of interest situations (or their appearance) arise that they are acknowledged and handled appropriately as per the University's Conflict of Interest

Policy. Failure to do so can, in extreme situations, cause serious damage to individual and institutional reputations, incur the loss of support and potentially result in significant costs, legal and otherwise.

The University encourages full disclosure of potential areas of conflict and open discussion at an early stage. Members of the IP Committee shall be required to declare any interest or potential conflict of interest position relative to any matter to be presented to the Committee. If a member has any such interest, or potential conflict, they will absent themselves from any Committee discussion pertaining to such matters. While specific mention is made here of potential conflict of interest issues related to the workings of the IP Committee, it is important to realise that in exercising their responsibilities under this Policy, all Personnel must exercise due caution to avoid even the appearance of acting while in a conflict of interest situation.

Personnel are required to inform the Chair of the IP Committee of situations where they have an interest in, or potential conflict of interest related to any proposed commercialisation and to abide by the Chair's guidance with respect to their participation in such commercialisation endeavours.

Should a Personnel member feel they may have a conflict of interest, or be affected by one, the proper action to take is to disclose their concern, in writing if possible. Such disclosure should be made to any of the Heads of Faculty/School of the University. The Personnel member is free to choose whichever Head of Faculty/School they wish, not being restricted to the Faculty/School with which they may be associated. The Head of Faculty/School will treat such matters in confidence and should bring the disclosure to the Chair of the IP Committee.

In many cases, simply disclosing the potential for conflict may be sufficient action. However, in certain cases, at the discretion of Chair of the IP Committee, and subject to consultation with the President of the University, it may be deemed appropriate to modify responsibilities in order to mitigate any conflict. The reasons for, and extent of, any such guidance shall be documented in writing by the IP Committee and provided to those involved.

In certain cases, Personnel may be subject to the terms of the Ethics in Public Office Act of 1995 and 2001, or the Standards in Public Office Act of 2001. Nothing in this Policy undoes or modifies in any way obligations that University Personnel may have to comply with the provisions of the foregoing acts.

9. Dispute Resolution

Creators may appeal decisions made by the KTO concerning the commercialisation of IP they have created, to the VP for Research and Innovation leading the Knowledge Transfer functions and Office. Similarly, decisions of the IP Committee may be appealed to the President of the University.

Any dispute or difference arising out of, or in connection with, the University President's decision shall then be referred to mediation by a professional and independent mediator appointed by the University. If the mediation is abandoned by the mediator, or is otherwise concluded without the dispute or difference being resolved, then such dispute or difference shall be referred to and finally resolved by arbitration. Expenses incurred in dispute resolution may be deducted from any revenue income related to the commercialisation of any related IP, before distribution.

10. Monitoring and Evaluation of Policy

This Policy will be monitored by the KTO on an annual and on-going basis. The Policy and related research, commercialisation and technology transfer will be monitored and evaluated at least every four years and within six months of any new or updated National IP Protocol or, the relevant Code(s) of Governance and the Annual Governance Statement to the Higher Education Authority.

11. Appendix 1: Definitions

Commercialisation – means the use of IP to create, conduct or develop a commercial activity. This may involve exclusive or non-exclusive licensing or assignment of the IP, may lead to new company formation or the introduction of new or improved products or services.

Creator - means someone who, alone or in collaboration with others, creates Intellectual Property. A Creator may be Personnel, whether permanent, temporary or visiting, or a student. In the case of patents, Creators are those who meet the legal standard for inventorship, and in the case of copyright materials are the authors of the work in question.

Incidental Use - means minor usage of normal office equipment, including on-line or electronic teaching support facilities, and resources that does not interfere with the normal performance of the duties of the Personnel initiating the use, nor of any other Personnel, nor the normal operations of the University.

Intellectual Property – means patents, trademarks, service marks, registered designs, drawings, utility models, design rights, business ideas, concepts, inventions, discoveries, breeders' rights, copyright (including the copyright in software in any code), database rights, know-how, trade secrets and other confidential information, technology, business or trade names, goodwill and all other rights of a similar or corresponding nature in any part of the world, whether registered or not or capable of registration or not, and including all applications and the right to apply for any of the foregoing rights.

Literary Works means literary works of copyright to the extent created by a Creator during the course of (and/or as part of) his or her employment including, but not limited to, books, articles and other scholarly publications, manuals, slides, audio-visual materials, multi-media materials, musical and artistic materials, on-line content and Teaching and Related Materials, other than and excluding:

- a) any works or materials which were commissioned by the University or by any party with which the University contracted to produce such works or materials;

- b) any other works or materials which were carried out as part of or for the purposes of funded research or otherwise with the support of funding provided by any third party;
- c) computer software and databases; and
- d) the University IP.

National IP Protocol – means the National Intellectual Property Protocol 2019 “A Framework for Successful Research Commercialisation” Rialtas na hÉireann 2019.

Other Relevant Parties – means all individuals other than Staff and Students who are engaged in research at the University including but not exclusively visiting academics, visiting students, adjunct staff and all others undertaking research for the University or utilising the University Resources.

Personnel - means all personnel of the University, including without limitation all Research Students, staff (including Senior Staff) and other relevant parties of the University.

Policy – means the University IP Policy

Research Student – means any undergraduate or postgraduate student of the University, who is in receipt of University-administered stipend, scholarship, grant or salary which is intended to enable the student to carry out research, or is engaged in a research project that is being carried out for a party with which the University has a contract (including but not limited to a funding agency, industry partner or charity).

Revenue – means all revenue derived from the Commercialisation of any University IP which includes (without limitation) up-front licence fees, down payments, minimum annual payments, sale of equity interest, royalties on sales and is net of any expenses incurred by the University in Commercialising or protecting the relevant IP.

Spin In – means an existing incorporated company that intends to license, develop or otherwise

exploit

University IP and/or leverage staff, infrastructure and/or other University Resources on agreed terms.

The spin-in must be co-located within the University.

Spin Out – means an incorporated entity which at the time of formation was dependent on the exploitation of specific intellectual property rights of the University. The rights to the company can be linked to a specific researcher who was within the University at the time of company formation. The University will hold equity in the spin-out and/or has issued the company with a licence to the IP –or -- an incorporated entity which at the time of formation was not dependent on the exploitation of specific intellectual property rights of the University but which relied on know-how or expertise of a specific researcher or member of the University. The University will hold equity in the spin-out.

Staff – means University part-time and full-time staffing having casual, indefinite duration, permanent, pro rata or temporary contracts (including, without limitation ATU post-doctoral researchers) and persons employed by the University on fixed purpose academic contracts.

Teaching and Related Materials – means the teaching and related instructional materials, films or other media, books, textbooks, articles or other scholarly publications which are developed or used by a Personnel and provided, or made accessible, in the normal course of providing such instruction to registered students of the University in association with their participation in any educational program provided by the University in whatever form.

University Resources – means the physical or financial resources, assets, facilities, equipment, Know-How, Confidential Information, services or personnel of the University and/or the University IP.

12. Appendix 2: Spin Out Approval Process

The IP Committee reviews and recommends to the President approval of University Spin Outs. The Spin Out Approval Process is outlined below.

Procedure

1. Promoter(s) with support from the relevant KTO case manager will complete an approval application for (i) University Spin Out and for (ii) University commercial licence and will submit them to the Head of KTO for review and submission to the IP Committee.
2. The relevant Head of Department must supply a letter to the IP Committee confirming that no conflicts of interest exist or provides the agreed action plan for potential conflicts of interest.
3. The IP Committee will review the application and make a recommendation to the President.
4. The President makes his/her decision having received the recommendations of the IP Committee.
5. If approved, the KTO case manager will engage with the promoter(s) to conclude the relevant documentation which typically includes a Shareholders Agreement and Licence Agreement.
6. Any significant changes to the documentation that arise during this process must be reviewed by University legal and brought to the President for approval if they extend beyond the scope of the approval already given by the President.
7. Execution of Licence Agreement is subject to prior/parallel execution of the Shareholder Agreement.

