

# THE UNIVERSITY OF MANCHESTER INTELLECTUAL PROPERTY POLICY

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## 1. INTRODUCTION

- 1.1. This Policy deals with the ownership, protection and commercialisation of IP created by Employees and Students, including when collaborating with Third Parties. It also sets out how the rewards from any commercialisation are currently to be shared.
- 1.2. When reading this Policy, it is important to take note of the Glossary, contained in **Appendix A**, as all capitalised terms used in the Policy are defined here, unless otherwise specified.
- 1.3. For a better understanding of what constitutes IP, as well as related issues, you can consult the University's IP guides, links to which can be found at **Appendix G**.
- 1.4. This Policy is a living document and may be subject to change by the University.
- 1.5. This Policy is effective from 1 January 2015. The next formal review will take place in July 2019.

## **2. OWNERSHIP OF IP AND ASSOCIATED LICENCES - EMPLOYEES AND HONORARY EMPLOYEES**

### **2.1. Employee IP Ownership and Confidentiality Obligations**

2.1.1. Save as set out below, ownership of IP created and/or developed by an Employee (including a Student in cases where he/she is also an Employee) will belong to the University as follows:

2.1.1.1. as a matter of law, all rights in IP created and/or developed by an Employee in the course of his or her employment or duties will generally belong automatically to the University;

2.1.1.2. if an Employee creates and/or develops IP outside the course of his/her employment or duties, with more than Incidental Use of University Resources, then, by doing so, he or she agrees to assign such IP to the University and will do so upon the University's request; and

2.1.1.3. if an Employee creates and/or develops IP created and/or developed in the course of, or pursuant to, a sponsored research or other agreement with a Third Party, such IP will initially belong to the University and then ownership will be determined according to the terms of the relevant agreement.

2.1.2. The University will not usually own:

2.1.2.1. IP created and/or developed by an Employee outside the course of his/her employment; or

2.1.2.2. copyright in Scholarly Materials (see section 5 of this Policy for further details).

2.1.3. All Employees must keep secret any Confidential Information to which he or she has access and only use it for the purpose for which it was supplied.

### **2.2. Employee IP Disclosure**

2.2.1. Each Employee must disclose to UMI<sup>3</sup> all IP which is potentially Commercialisable and any associated materials, including Research Results, which they create and/or develop:

2.2.1.1. in the course of his/her employment or duties;

2.2.1.2. in the course of, or pursuant to, a sponsored research or other agreement with a Third Party; and/or

2.2.1.3. outside the course of his/her employment or duties BUT with more than Incidental Use of University Resources.

2.2.2. Where an Employee is in any doubt about whether any IP falls within the ambit of any of the criteria set out above, then the Employee must assume that it does and make a disclosure to UMI<sup>3</sup>.

2.2.3. All disclosures to UMI<sup>3</sup> must be made by submitting to it a **Disclosure Information Form**, a link to which can be found at **Appendix G**.

### 2.3. **Honorary Appointment of an Employee at Another Institution**

2.3.1. Employees may have honorary academic appointments at other institutions.

2.3.2. In all such circumstances, before an Employee commences such honorary appointment, an agreement must be put in place, after consultation with UMI<sup>3</sup>, between the University and the other institution in relation to, amongst other things, IP.

2.3.3. Employees must sign any document that the University reasonably requests to ensure that all rights in IP that are to belong to the University, as set out in this Policy, either remain with, or are assigned to, the University.

2.3.4. Further guidance can be found in the University's "**Procedures for Staff when undertaking Consultancy and Other External Work and Commitments**" guide, a link to which can be found at **Appendix G**

### 2.4. **Honorary Appointments to the University**

2.4.1. Some individuals may have an honorary appointment with the University, but they are neither Employees nor Students.

2.4.2. Despite this, such individuals must adhere to this Policy (including, for the avoidance of doubt, section 2.6) as if they were Employees.

2.4.3. Before such individual's appointment at the University commences, an agreement must have been entered into between the University and the individual who is to have the honorary appointment with the University and/or (where applicable) the Third Party employing the individual. The type of agreement is to be determined by the University.

2.4.4. Unless otherwise agreed by the University, individuals who have an honorary appointment with the University:

2.4.4.1. are required to assign to the University any IP they create and/or develop in the course of their honorary activities for the University or using University Resources; and

2.4.4.2. will be treated as if they were Employees for the purposes of revenue sharing.

## **2.5. Performer's Rights Licence to the University**

- 2.5.1. The University agrees and acknowledges that all performer's rights in IP owned by the University as set out in section 2.1 or licensed to it by section 5.2, including in any video or other recording of an Employee's own lectures, presentations or similar works which are performances in IP terms, are owned by the Employee.
- 2.5.2. Each Employee therefore grants to the University and each of its subsidiaries an irrevocable, royalty-free, non-exclusive, worldwide licence to use such performer's rights of him/her for the administrative, promotional, educational, teaching and research purposes of the University, together with the right to sub-license.

## **2.6. Deposit of Physical Representations and Formats of IP**

- 2.6.1. On request, and in any event before leaving the University's employment, each Employee must deposit with their Authoriser any physical representation of IP, where the Employee is an Originator of such IP.
- 2.6.2. Physical representations would include original (or, if lost, copy) drawings, diagrams, recorded know-how (e.g., laboratory notebooks) and Tangible Research Materials.
- 2.6.3. It is the responsibility of each Head of School or equivalent to control the development, storage, use and distribution of Tangible Research Materials made in the course of research activities, subject to the provisions of any agreements governing the research in question. If any such Tangible Research Material is to be transferred outside the University for others' use, then it should be done so under the terms of an agreement negotiated through the Contracts Team.

### 3. OWNERSHIP OF IP AND ASSOCIATED LICENCES – STUDENTS

#### 3.1. Student IP Ownership and Confidentiality Obligations

- 3.1.1. Subject to the remaining provisions of this section of the Policy, Students who are not also Employees will own IP that they create and/or develop whilst they are a Student.
- 3.1.2. Students who are also Employees are subject to the Employee sections of this Policy in connection with their employment, not those relating to Students, and should refer to them as necessary. To the extent that any IP is created by them in the course of their studies and their employment is separate from those studies e.g. as a student demonstrator, the Student sections of this Policy will apply in relation to such IP.
- 3.1.3. All Students must keep secret any Confidential Information to which he or she has access and only use it for the purpose for which it was supplied.

#### 3.2. When must ‘Student IP’ be Assigned to, and Owned by, the University?

- 3.2.1. Notwithstanding the above, there may be circumstances when to protect the University’s legitimate interests the Student agrees that it will be the University, not a Student, which will own IP created and/or developed by a Student, including where:
  - 3.2.1.1. a Student undertakes a sponsored studentship with a sponsoring Third Party who has a claim on IP arising out of such studentship;
  - 3.2.1.2. a Student participates in a research programme or project in collaboration with Employees where potentially Commercialisable IP may be created;
  - 3.2.1.3. a Third Party is sponsoring research and has rights in IP arising out of such sponsored research;
  - 3.2.1.4. a Student creates IP in Teaching Materials; and/or
  - 3.2.1.5. a Student creates IP outside the course of his/her University studies, with more than Incidental Use of University Resources.
- 3.2.2. In all such circumstances, Students must assign their rights in such IP to the University by signing an **Assignment of IP Rights Form (Students)**, a link to which can be found at **Appendix G**.

3.2.3. The University will then be responsible for determining the ultimate ownership of such IP in accordance with the terms of any agreements with Third Parties and, where applicable, the Student.

3.2.4. For the avoidance of doubt, all agreements between the University, a Student and a Third Party, or any proposed agreement between a Student and a Third Party (if such agreement relates in any way to IP) must be negotiated and/or approved by the University (at the University's discretion) to ensure compliance with this Policy.

### **3.3. Revenue Sharing with Students**

Where IP created by a Student is assigned to the University, the provisions of this Policy relating to IP protection, commercialisation and revenue sharing will apply to the Student as if they were an Employee (but only in relation to such IP).

### **3.4. Consequences to Student of Non-Assignment**

If a Student does not assign his/her rights in relevant IP to the University in accordance with section 3.2 above, then the University may, amongst other things, withdraw the Student from:

- 3.4.1. the sponsored studentship; or
- 3.4.2. the project or research programme; or
- 3.4.3. the research being conducted in collaboration with Employees or employees of a University subsidiary.

### **3.5. Student IP Disclosure**

3.5.1. Each Student must disclose to UMI<sup>3</sup> all IP which is potentially Commercialisable, and any associated materials, including Research Results, which they create:

- 3.5.1.1. in the course of a sponsored studentship under which the sponsoring Third Party has a claim on IP arising out of the studentship;
- 3.5.1.2. in the course of, or pursuant to, a sponsored research or other agreement with a Third Party;
- 3.5.1.3. using equipment or facilities provided to the University under conditions that impose copyright restrictions; and/or
- 3.5.1.4. outside the course of their University studies with more than Incidental Use of University Resources.

3.5.2. Where a Student is in any doubt whether any IP falls within the ambit of any of the criteria set out in section 3.5.1 above, then the Student must assume that it does and make a disclosure to UMI<sup>3</sup>.

3.5.3. All disclosures to UMI<sup>3</sup> must be made by submitting to it a **Disclosure Information Form**, a link to which can be found at **Appendix G**.

### 3.6. **Student IP Licence to the University**

3.6.1. Each Student grants to the University a licence to use the:

3.6.1.1. IP created by him or her in the course of his/her studies at the University and which they own; and

3.6.1.2. IP in any thesis or dissertation submitted to the University for the award of a degree.

3.6.2. In each case, the licence will take effect upon the creation of the relevant IP.

3.6.3. The licence:

3.6.3.1. is a continuing, non-exclusive, worldwide, irrevocable, royalty-free licence to use the IP in any format (whether existing or future);

3.6.3.2. will last for as long as the relevant IP remains in existence; and

3.6.3.3. is granted so that the University can (i) use such IP for its and its subsidiaries' administrative, promotional, educational and teaching purposes; and (ii) do all such things in relation to such IP which would otherwise be an infringement of such IP.

3.6.4. As part of the licence, the University is also permitted to sub-license to others the rights granted to it by Students.

3.6.5. Any thesis or dissertation submitted to the University for the award of a degree may be placed by the University in its institutional repository in electronic or other format.

### 3.7. **Performer's Rights Licence to the University**

3.7.1. The University agrees and acknowledges that all performer's rights in IP to be owned by the University as set out in section 3.2 or licensed to it by section 3.6, including in any video or other recording of a Student which is a performance in IP terms, are owned by the performing Student.

3.7.2. Each Student therefore grants to the University and its subsidiaries an irrevocable, royalty-free, non-exclusive, worldwide licence to use such



performer's rights of him/her for the administrative, promotional, educational, teaching and research purposes of the University, together with the right to sub-license.

### **3.8. Deposit of Physical Representations and Formats of IP**

- 3.8.1. On request, and in any event before ceasing to be a Student, each Student must deposit with their Academic Advisor or Supervisor a copy of all physical representations of any IP they have licensed to the University in accordance with section 3.6 above, whatever format they are in, including electronic formats.
- 3.8.2. Such physical representations would include original (or, if lost, copy) drawings, diagrams, recorded know-how (e.g., laboratory notebooks) and Tangible Research Materials.
- 3.8.3. It is the responsibility of each Head of School or equivalent to control the development, storage, use and distribution of Tangible Research Materials made in the course of research activities, subject to the provisions of any agreements governing the research in question. If any such Tangible Research Material is to be transferred outside the University for others' use, then it should be done so under the terms of an agreement negotiated through the Contracts Team.

## **4. TEACHING MATERIALS**

### **4.1. Ownership of IP in Teaching Materials**

The University will own the IP in Teaching Materials created and/or developed by an Employee or a Student.

### **4.2. Declaration of Teaching Materials**

4.2.1. All Employees shall declare to the University, on or before the start of his or her employment, any Teaching Materials that they are bringing with them for use at the University which they have already created and confirm the basis of their ongoing rights to use them.

4.2.2. The declaration must be made by completing a **Teaching Materials Declaration Form**, a link to which can be found at **Appendix G**.

### **4.3. Commercialisation of Teaching Materials**

4.3.1. The University is free to Commercialise Teaching Materials as it sees fit (whether for financial gain or not), including licensing or assigning the IP in Teaching Materials to Third Parties, or merging such Teaching Materials with other materials created within the University or elsewhere.

4.3.2. The Originator(s) of such Teaching Materials will be rewarded in accordance with **Appendix C** of this Policy that deals with revenue sharing.

### **4.4. Licence from the University**

The University grants each Employee and Student who is an Originator a royalty-free, non-exclusive, worldwide licence to use Teaching Materials created by them, or jointly with others whose IP vests in the University, for teaching or research purposes which are non-commercial, but only for as long as they remain an Employee or a Student. After that, the licence shall be treated as having terminated.

### **4.5. Potential Continuation of Licence to an Originator who leaves the University**

4.5.1. Notwithstanding section 4.4 above, the licence of Teaching Materials granted by the University to an Employee or Student may, at the sole discretion of the University, continue after they have ceased to be an Employee or a Student.

4.5.2. Such licence will not continue if, for example, the use of the Teaching Materials may or does:

4.5.2.1. damage the University's Commercialisation of the Teaching Materials; and/or

4.5.2.2. prejudice in any way the interests of the University.

### **Employees**

4.5.3. When an Originator ceases to be an Employee, he or she may enter into negotiations with the University with a view to obtaining a licence from the University to make and retain a single copy of the Teaching Materials for his/her personal use and for non-commercial teaching and research purposes.

4.5.4. In the case of disagreement over these negotiations, the Dispute Procedure (see section 8 of this Policy) shall apply. Neither the former Employee nor his/her new employer is permitted to Commercialise the Teaching Materials at all without the express written permission of the University.

### **Students**

4.5.5. When an Originator ceases to be a Student, he or she may make and retain a single copy of Teaching Materials created by him/her, which belong to the University, for his/her personal use and for non-commercial teaching and research purposes.

## **5. SCHOLARLY MATERIALS**

### **5.1. Ownership of Copyright in Scholarly Materials**

5.1.1. Subject to Employees complying with the remainder of this section 5, the University waives its rights of ownership of copyright in Scholarly Materials, which means that such copyright is owned by the relevant Employee, except:

5.1.1.1. where such copyright has been created with more than Incidental Use of University Resources;

5.1.1.2. where such copyright has been created in the course of, or pursuant to, a sponsored research or other agreement with a Third Party;

5.1.1.3. in relation to any item authored by an Employee whose job description specifically includes the creation of printed or electronic materials; and

5.1.1.4. where publication of the Scholarly Materials in question might bring the University into disrepute.

5.1.2. If there is any doubt about who owns any particular Scholarly Materials, the matter should be discussed with the Employee's Head of School or equivalent. If the Employee and his or her Head of School or equivalent cannot agree, then the matter shall be referred to the relevant Dean. If the Employee disagrees with the relevant Dean's decision, then the matter shall be dealt with in accordance with section 8 (Dispute Procedure).

5.1.3. For the avoidance of doubt, the University does not waive its rights in any other IP described in Scholarly Materials, such as inventions.

### **5.2. Employee Licence to the University**

Each Employee grants to the University a licence to use the copyright in his or her Scholarly Materials upon the creation of the respective Scholarly Materials. The licence:

5.2.1. is a continuing, non-exclusive, world-wide, irrevocable, royalty-free licence;

5.2.2. which will last for as long as the copyright in such Scholarly Materials remains in existence;

5.2.3. allows the University to use the copyright in the Scholarly Materials for its and its subsidiaries' administrative, promotional, educational and teaching purposes;

5.2.4. is for use in any format (whether existing or future); and

Effective from 1 January 2015

- 5.2.5. allows the University to (i) do all such things in relation to the copyright in such Scholarly Materials which would otherwise be an infringement of such copyright; and (ii) sub-license the rights granted to it under the licence.

### 5.3. **Scholarly Materials Deposit**

- 5.3.1. On request, and, in any event before leaving the University's employment, each Employee must deposit a copy of their Scholarly Materials with their Authoriser, in all the formats in which such Scholarly Materials have been produced at that date, including electronic formats.
- 5.3.2. The University requires all full text versions of Scholarly Materials to be self-archived by the Originator(s) through the University's institutional repository.

## 6. PROTECTION AND COMMERCIALISATION OF IP

### 6.1. Confidentiality

- 6.1.1. A key component of protecting IP is maintaining confidentiality, especially in the early stages of development and when collaborating with Third Parties, including when Employees collaborate with Students.
- 6.1.2. Disclosure or publication of IP prior to filing a patent application may harm, or in certain circumstances eliminate, the opportunity to obtain patent protection for an invention.
- 6.1.3. Employees and Students must therefore ensure that all IP is kept confidential until suitable arrangements for its protection have been put in place during all stages of IP development.
- 6.1.4. Contractual arrangements around confidentiality will be dealt with by the Contracts Team or UMI<sup>3</sup>, and Employees and Students must seek their advice before any documents are negotiated and signed.
- 6.1.5. Links to further information on the respective remits of UMI<sup>3</sup> and the Contracts Team can be found at **Appendix G**.
- 6.1.6. A breach of confidentiality by any person is a very serious matter. A wilful breach of confidentiality will constitute serious misconduct e.g. passing University confidential information to third parties without a suitable confidentiality agreement in place or passing on confidential information of a Third Party which was provided to the University on a confidential basis, and will be a disciplinary matter.

### 6.2. UMI<sup>3</sup> IP Review

- 6.2.1. UMI<sup>3</sup> acts for the University. Although the University's, Employees' and Students' interests will often be the same, Employees and Students are recommended to seek independent advice at their own cost. Commercialisation is time consuming and so an Employee's Authoriser or a Student's Academic Advisor must approve any Commercialisation in principle.
- 6.2.2. Upon receipt of a **Disclosure Information Form**, a link to which can be found at **Appendix G**, or having proactively identified relevant IP, UMI<sup>3</sup> will proceed in a timely manner (subject to any application to self-commercialise pursuant to section 6.5 below) to review the information contained within the **Disclosure Information Form** or which UMI<sup>3</sup> has identified.
- 6.2.3. If UMI<sup>3</sup> believes it requires further information to make a decision about whether the Disclosed IP may be Commercialised, it will notify the Originator(s) and take such other steps as it believes are reasonably necessary to find out any information it requires to make

a decision. The Originator(s) may have to, upon request by UMI<sup>3</sup>, complete an **Invention Record**, a link to which can be found at **Appendix G**.

6.2.4. Once:

6.2.4.1. UMI<sup>3</sup> has all the information it reasonably requires to decide on behalf of the University whether the Disclosed IP might be Commercialised; or

6.2.4.2. it has become apparent that all or part of such information is not obtainable,

then UMI<sup>3</sup> will proceed in a timely manner to decide whether to Commercialise all or part of the Disclosed IP. UMI<sup>3</sup> follows a decision making process as to the Commercialisation of IP which is set out on its website and in its guides, links to all of which can be found at **Appendix G**.

6.2.5. If UMI<sup>3</sup> decides to Commercialise all or any of the Disclosed IP, then it shall proceed in a timely manner to take appropriate steps to protect the Commercialisable IP (through patents or otherwise) and to try to Commercialise it. Neither the University nor UMI<sup>3</sup> has any obligation to protect the Commercialisable IP in any particular territory nor to continue prosecuting any application for registered IP nor to maintain any registered IP which is obtained. If the relevant Originator(s) all wish to take any of these steps which neither the University nor UMI<sup>3</sup> is obliged to do, then such Originator(s) may request to do so in writing and, provided such Originator(s) themselves pay all relevant costs in advance by such date as reasonably required, will ensure that the relevant steps which have been paid for are carried out.

6.2.6. If UMI<sup>3</sup> subsequently realises that it is not able to Commercialise all or part of the Commercialisable IP, then it will notify the relevant Originator(s).

**6.3. Originator Assistance and Obligations**

6.3.1. Each Originator shall provide reasonable assistance in the Commercialisation of IP, including providing additional information on request, attending meetings with potential licensees/investors and advising on further development(s).

**6.4. UMI<sup>3</sup> Declined IP**

6.4.1. If UMI<sup>3</sup>:

6.4.1.1. decides not to; or

6.4.1.2. is unable to; or

6.4.1.3. is deemed to be unable to,

Commercialise all or any part of the Disclosed IP or the Commercialisable IP, then all of the Originator(s) of such UMI<sup>3</sup> Declined IP may ask for it to be assigned to them.

6.4.2. The University may, following such request, after consideration and at its sole discretion, assign all its right, title and interest in such IP to the Originator(s), to the extent it is possible under the terms of any agreement that supported or related to the creation of such IP.

6.4.3. Any assignment will be subject to the Originator(s) paying to the University:

6.4.3.1. an amount as set out in **Appendix C** out of the revenues received by the Originator(s) for such Commercialisation; and

6.4.3.2. any expenses already incurred by the University or UMI<sup>3</sup> in connection with the registration of any such IP (including to patent agents' fees) out of any income or capital realised by or on behalf of the Originator(s) or any Associate of the Originator(s) from the Commercialisation of such IP.

## 6.5. **Application to Self-Commercialise**

6.5.1. If all Originator(s) of some Disclosed IP decide that the best way to Commercialise it is not through UMI<sup>3</sup>, they may submit an application to the Vice-President for Research and Innovation requesting that such Disclosed IP be assigned to the Originator(s), setting out how they propose to Commercialise it.

6.5.2. It is at the sole discretion of the University as to whether such application is granted and If such application is granted it will relate only to such Disclosed IP and not any other Disclosed IP or other IP.

6.5.3. Further details on the application process to self-commercialise are set out at **Appendix B**.

6.5.4. If such application is granted then the Originator(s) will pay to the University:

6.5.4.1. an amount as set out in **Appendix C** out of the revenues received by the Originator(s) for such Commercialisation; and

6.5.4.2. any expenses already incurred by the University or UMI<sup>3</sup> in connection with the registration of any such IP (including patent agents' fees) out of any income or capital realised by or on behalf of the Originator(s) or any Associate of the Originator(s) from the Commercialisation of such IP.



## 6.6. Use of University's or UMI<sup>3</sup>'s name

- 6.6.1. Where Originator(s) or any of their Associates Commercialise any IP assigned to them under section 6.4 or 6.5 above, then the Originator(s) may not, and will procure that anyone to whom they transfer the IP does not, use the University's or UMI<sup>3</sup>'s name in any way, without the University's and/or UMI<sup>3</sup>'s written consent;

## 6.7. Social Responsibility

- 6.7.1. Neither the University nor UMI<sup>3</sup> will promote, support or Commercialise any IP-related project which:

- 6.7.1.1. would create difficulties for the University in relation to its status as a socially responsible institution; or
- 6.7.1.2. in the judgment of the University and/or UMI<sup>3</sup>, might adversely affect either of their reputations.

- 6.7.2. In Commercialising IP, the University will take account of its Humanitarian IP Commercialisation Policy, which can be found at **Appendix E**.

## 6.8. Placing IP in Public Domain

- 6.8.1. The University recognises that Commercialisation of IP may not always be appropriate and sometimes it is in the best interests of knowledge transfer to place IP in the public domain without registering the IP for protection and/or to make the IP open source for a nominal fee or for free.
- 6.8.2. If the Originator or an Employee or a Student believes that this is appropriate, he or she must discuss and agree this with their Authoriser or Academic Advisor or Supervisor, as appropriate.
- 6.8.3. Where IP is being created with the support of a Third Party, then the Authoriser or Academic Advisor or Supervisor, as appropriate, must discuss and agree the position with UMI<sup>3</sup> and the Third Party. The Authoriser or Academic Advisor or Supervisor, as appropriate or UMI<sup>3</sup> (where the IP is being created with the support of a Third Party), will decide with the Originator whether it is appropriate to place the IP in the public domain or to make it open source, each taking account of what the Authoriser or Academic Advisor or Supervisor, as appropriate or UMI<sup>3</sup> (as the case may be) believes is in the best interests of the University.
- 6.8.4. In any event the University will not keep IP secret for long periods of time nor in cases where that would contravene its status.

## **6.9. Timetable for Commercialisation**

- 6.9.1. The timescale for Commercialisation of IP will depend upon market conditions and the state of development of the Disclosed IP. The discussions between UMI<sup>3</sup>, the Originator(s) and the School(s) should set a reasonable initial timetable with regular review points. However, everyone must recognise that circumstances may change as the process develops.
- 6.9.2. If the Originator(s) believe that UMI<sup>3</sup> is not acting in a timely manner as required, then the Originator(s) (acting collectively if there is more than one) may bring this to the attention of the Chief Executive of UMI<sup>3</sup> in the first instance.

## 7. UNIVERSITY COMMERCIALISED IP

- 7.1. Returns from the Commercialisation of University IP via UMI<sup>3</sup> belong to the University.
- 7.2. However, the University has a policy of granting Originators a share of the returns in order to incentivise them. This excludes in relation to IP assigned to the Originator(s) as set out in section 6.4 or 6.5.
- 7.3. The University wishes such Originator share to act as a positive incentive and only seeks to retain more of the returns if:
  - 7.3.1. such returns are so substantial that it would be inappropriate as a charitable organisation for them not to be reinvested in the University's charitable objects; or
  - 7.3.2. the University and / or UMI<sup>3</sup> has provided additional service and/or investment.
- 7.4. The University's revenue sharing structure is set out at **Appendix C**. This structure is subject to any major overarching initiative(s), such as University strategic partnerships with companies or new funds, entered into or created by the University, following relevant consultations, which may have different IP and other reward models.
- 7.5. The revenue share not retained by the University will be passed to the Originator(s) (or their estate(s)), subject to the terms of this Policy. This will apply even where the Originator has ceased to be an Employee or a Student for any reason.

## **8. DISPUTE PROCEDURE**

### **8.1. Initial Referral**

If there is any dispute in relation to a matter arising out of this Policy or in relation to the interpretation of this Policy (other than a dispute relating to the timetable set out in section 6.9 or as set out in section 5.1), then it will be referred in the first instance to the Authoriser(s) for the Originator(s) (if any) raising the dispute and the Chief Executive of UMI<sup>3</sup>.

### **8.2. Subsequent Referral**

If such individuals are unable to reach a unanimous decision, or if the dispute relates to the timetable set out in section 6.9, then the matter will be referred to the Vice-President for Research and Innovation.

### **8.3. Appeal**

If a party to the dispute disagrees with the decision made pursuant to section 8.2 above, that party shall have a right of appeal to the President and Vice-Chancellor (or such individual as the President and Vice-Chancellor shall nominate). The President and Vice-Chancellor's (or nominee's) decision on the matter shall be final.

### **8.4. Student Dispute**

Where a party to such a dispute is a Student, the Student may be accompanied during any appeal by a fellow student, a student representative from the University or its Students' Union or a member of staff of the University of his or her own choice, all of whom may act as an observer.

## **9. GENERAL**

### **9.1. Interpretation**

Questions on the interpretation, or current status, of this Policy may be addressed to the office of the Vice-President for Research and Innovation.

### **9.2. Historical Arrangements**

IP may have been created before 1 October 2004 by an Employee at a time when he or she was employed by the Victoria University of Manchester or the University of Manchester Institute of Science and Technology. If any issues concerning such IP arise, the University will deal with them on a case-by-case basis.

### **9.3. Infringement of Third Party IP**

If an Employee or Student suspects, or becomes aware of, any potential or actual infringement of:

- University IP by any Third Party; or
- Third Party IP by the University,

he or she should immediately notify the Office of the General Counsel and UMI<sup>3</sup> with full details of the nature of the potential infringement.

### **9.4. Conflicts of Interest**

Each Employee and Student must declare any potential conflict of interest that they have in relation to IP to their Authoriser, Academic Advisor or Supervisor, as applicable, as soon as possible.

### **9.5. IP Warranty/Guarantee/Pipeline/Repayments Policy**

In negotiating agreements with Third Parties and Originators relating to IP, the University and its subsidiary undertakings will do so in line with its IP Warranty/Guarantee/Pipeline/Repayments Policy which is set out in **Appendix D**.

## APPENDIX A - GLOSSARY

### Academic Advisor or Supervisor

means a Student's academic advisor or supervisor as appropriate.

### Aggregate Sales Price

means the aggregate consideration for all sales of the shares in a Spin-Out Company issued to the Originator(s) which are sold on arm's length terms:

- by any of the Originator(s) and/or any of their respective Associates; or
- by anyone to whom any of the Originator(s) and/or any of their respective Associates has transferred a share other than by way of a sale on arm's length terms (and so on until there is an arm's length sale).

### Associate

a person is an associate:

- (1) if that person is an individual's husband or wife, or is a relative, or the husband or wife of a relative, of an individual or of an individual's husband or wife.

A person is a relative of an individual if he or she is that individual's brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating:

- any relationship of the half blood as a relationship of the whole blood and the stepchild or adopted child of any person as his or her child; and
- any illegitimate child as the legitimate child of his or her mother and reputed father,

and references to a husband and wife include a former husband or wife;

- (2) of any person with whom he or she is in partnership and of the husband or wife or a relative of any individual with whom he or she is in partnership;
- (3) of any Scottish firm of which he or she is a member of the firm; and
- (4) of any person whom he or she employs or by whom he or she is employed. Any director or other officer of a company is to be treated as employed by that company.

A company is an associate of an individual if that individual has control of it or if that individual and persons who are his or her associates together have

control of it. An individual is to be taken as having control of a company if:

- the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his or her directions or instructions; or
- he or she is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of another company which has control of it;

and where two or more individuals together satisfy either of the above conditions, they are to be taken as having control of the company.

Authoriser

means the individual set out in the table below:

<b>Authoriser</b>	<b>Staff Member</b>
Chair of the Board of Governors	President & Vice Chancellor
President & Vice Chancellor	Registrar, Secretary and Chief Operating Officer, Deans, Vice-Presidents, Director of Finance
Dean	Heads of School or Institute Directors
Registrar, Secretary and Chief Operating Officer	Heads of Directorate other than Director of Finance
Head of School	Academic, academic-related, research or technical staff or others line-managed by the relevant Head of School
Institute Director	Those who are line-managed by the Institute Director
Head of Directorate	Those who are line-managed within the relevant administrative division

Commercialisable IP

means any of the Disclosed IP which UMI<sup>3</sup> decides may be Commercialisable.

Commercialisation

means any form of exploitation or commercialisation of IP, including assignment, licensing or the disposal of any other interest, whether in return for cash or payment in kind or any other form of value, but does not include the delivery of courses by the University or any of its subsidiary companies, in each case whether on their own or in collaboration with a Third Party. “Commercialise”, “Commercialisable” and “Commercialised” shall be construed accordingly.

Community Interest Company or CIC

means a type of company known as such and introduced under the Companies (Audit, Investigations and Community Enterprise) Act 2004, designed for social enterprises that want to use their profits and assets for the public good.

Contracts Team

means the University's Contracts Team based in Research and Business Engagement Support Services.

Contributor

means any Employee or Student who is not a relevant Originator (i) is employed specifically to develop particular IP further, e.g. to reduce such IP to practice or to work on a proof of principle project in respect of such IP or to generate supporting data in respect of such IP (ii) works on a project as part of their studies or due to their relationship with a relevant Originator, e.g. collaborative working as part of a School's activities.

Disclosed IP

means IP, created by anyone to whom this Policy applies, which is disclosed to UMI<sup>3</sup> in a **Disclosure Information Form**, or proactively identified by UMI<sup>3</sup>, other than that comprised solely in University Materials.

Disclosure Information Form

means the form to be used when disclosing IP to UMI<sup>3</sup>.

Dispute Procedure

means the procedure set out in section 8.

Employee

means an employee of the University.

Incidental Use of University Resources

generally, IP will not be considered to have been developed with more than incidental use of University Resources if:

- only a small amount of University funds has been used;
- only a small amount of time has been spent using University Resources or only insignificant University Resources have been used, such as use of office space, library and other general use of information sources, personal computers and personal office equipment or, in the case of a Student, who is an Employee, the use has been in the course of his/her University course work; and



- the development has been made during the personal, unpaid time of the Originator(s).

The issue of whether significant use has been made of University Resources will be reviewed by the Originator('s)(s') Authoriser who will make a recommendation to UMI<sup>3</sup>. If an Originator is in any doubt as to what constitutes “incidental use” or a “small amount of” University funds or University Resources then the Originator should discuss this with his/her Authoriser.

## IP

means all patents, utility patents, copyright, database rights, topography rights, rights in designs, trade marks, rights to prevent passing off, plant breeders rights, trade secrets, know-how (including inventions) and all other intellectual or industrial property rights (in each case whether registered or unregistered or registrable or unregistrable) and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world.

## Originator

means the (i) inventor of an invention, (ii) creator of a copyright work, or design which qualifies for registered or unregistered design right (including topography right), (iii) person who takes the initiative in obtaining, verifying or presenting the contents of a database, (iv) breeder, or discoverer and developer, of a plant variety or (v) developer of know-how which is of standalone importance separately from other IP (ignoring copyright in works which describe such know-how); who is an Employee or a Student at the time of such (i) invention, (ii) creation, (iii) obtaining, verifying or presenting, (iv) breeding or developing or (v) know-how developing.

## Policy

means this IP Policy.

## POP Funding

means proof of principle funding or proof of concept funding or other pre-Commercialisation funding provided by the University (or other such funding provided by third parties where there is an agreement in place) to assist with proving the early stages of any IP.

## Research Results

means the results arising from research including details of any IP, interim results, data, source code and Tangible Research Materials.

## Return on IP

has the meaning set out in **Appendix C, part 2** or **Appendix C, part 3** (as appropriate).

### Scholarly Materials

means any materials of a scholarly nature created by Employees in the course of their employment, such as:

- hard copy textbooks (unless such textbooks were developed using University administered-funds paid specifically to support textbook development);
- academic journal articles;
- conference papers and related presentations;
- notes created only for the Employee's own personal use;
- theses and dissertations;
- popular non-fiction, novels and poems;
- video or film material; and
- works of fine art,

but excluding any such materials or part of them which form part of Teaching Materials or University Materials.

### Shares

has the meaning set out under **Return on IP** in **part 3 of Appendix C**

### Spin-Out Company

means a company established or (if it is to all intents and purposes dormant) made active with a view to Commercialising IP originating at the University (whether on its own or with other IP). These companies are sometimes called start-up companies.

### Student

means any person:

- registered as an undergraduate or postgraduate student of the University; or
- following any University course as if such a student; or
- applying for a PhD by published work.

### Substantial Sum

means (if any is specified in relation to the relevant channel in column 2 of the UMI<sup>3</sup> Channel Table) the aggregate of:

Effective from 1 January 2015

- either (i) zero, if the relevant Disclosure Information Form was received by UMI<sup>3</sup> on or before 31 December 2011, or (ii) £4 million, if the relevant Disclosure Information Form was received by UMI<sup>3</sup> on or after 1 January 2012,

plus

- if (ii) above applies:
  - in the case of Commercialisation of a type covered by **part 2 of Appendix C**, any of the Originator('s)(s') share of the Return on IP as is reinvested by any of the Originator(s) in research at the University;
  - in the case of Commercialisation of a type covered by **part 3 of Appendix C** through a channel set out in the UMI<sup>3</sup> Channel Table, other than the Innovation Optimiser channel, any of the Aggregate Sales Price received by the Originator(s) as is reinvested by any of the Originator(s) in research at the University;
  - in the case of Commercialisation of a type covered by **part 3 of Appendix C** through the Innovation Optimiser channel set out in the UMI<sup>3</sup> Channel Table, any of the Aggregate Sales Price received by the Originator(s) as is reinvested by any of the Originator(s) in research at the University or (where the relevant Spin-Out Company is a Community Interest Company) in good faith in another Community Interest Company;

### Tangible Research Materials

includes biological materials, engineering drawings, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams, equipment and associated research data.

### Teaching Materials

means any materials created by Employee(s) in the course of their employment or created by Student(s) in the course of their studies, that are primarily intended (whether by the University or by some Third Party) to be used or accessed by Students at any level, for the purposes of any course of study which those Students are following, including:

- course guides, handouts, on-line materials (including annotated scores and manuscripts);
- presentation materials (including lecture notes, slides, animations, graphics, interactive software and other audio-visual materials);
- virtual learning environments;
- instruction manuals;
- artefacts (including models and apparatus for practical demonstration and experimental work); and
- assessment and examination questions.

Materials can be in any format including hard copy and electronic.

Third Party

means a corporate body which the University does not control, directly or indirectly, whether by means of holding shares, possessing voting power or exercising contractual powers in or over that corporate body or any other person or entity to ensure that such corporate body's affairs are conducted in accordance with the wishes of the University (which can include Spin-Out Companies established through UMI<sup>3</sup>), or a government body or other entity or an individual who is not an Employee.

UMI<sup>3</sup>

means a wholly-owned subsidiary company of the University, The University of Manchester I3 Limited which is appointed as the University's agent to protect and Commercialise IP.

UMI<sup>3</sup> Channel Table

means the table set out in **Appendix F**, specifying the various channels through which IP can be commercialised and the applicable rates of return to the University on such commercialised IP, depending upon the channel which is chosen.

UMI<sup>3</sup> Declined IP

means all or part of the Disclosed IP or Commercialisable IP which UMI<sup>3</sup> decides, or is deemed to have decided, not to Commercialise or which is not Commercialisable.

University

means The University of Manchester.

University Base Return

means the percentage share of the Return on IP in respect of the IP or bundle of IP which is being Commercialised which will be retained by the University where the University is deemed to be involved in the Commercialisation of IP (as set out in **part 1 of Appendix C**).

University Materials

means any item in any medium which is produced for administrative purposes (including promotion and marketing of University courses, curricula, student and staff recruitment, papers prepared for any internal committee or similar body, material included in any University handbook for Employees or Students) or any other University purpose and any item created by an Employee whose job description specifically includes the creation of printed or electronic materials.

University Resources

means any use of:

Effective from 1 January 2015

- funds, facilities or resources (including equipment and consumables, use/supply of heat, light or power) of the University or UMI<sup>3</sup> or other University subsidiary; and/or
- an Employee and/or employees of UMI<sup>3</sup> or any other University subsidiary outside that individual's personal, unpaid time; and/or
- the University's name in the promotion of the work,

which, in the case of those items mentioned in the first two bullet points above, have not already been fully reimbursed to the University by, for example, full economic cost recovery on relevant grants and contracts or have not been separately paid for if used independently or in any other way.

Any phrase in this Policy introduced by the term "include", "including", "in particular" or any similar expression or any list of items will be construed as illustrating, and will not limit, the sense of the words preceding that term or other items which might be included in the list.

## APPENDIX B – Process for Self-Commercialisation – Further Information

### Self-Commercialisation

Applications to self-commercialise must:

- specify to which Disclosed IP they apply; and
- be signed by all of the Originator(s) of such Disclosed IP.

Following such an application, the Registrar, Secretary and Chief Operating Officer will decide whether the relevant Disclosed IP will be assigned by the University to the relevant Originator(s).

The Registrar, Secretary and Chief Operating Officer may receive advice from the Vice-President for Research and Innovation as to the merits of the application. Where the Originator(s) have experience in the Commercialisation of IP and prospective external partners, this will be taken into account.

If the Registrar, Secretary and Chief Operating Officer decides that the relevant Disclosed IP should be assigned to the relevant Originator(s), the University will assign all its right, title and interest in such IP to the Originator(s) by using the form of **Assignment from University Form**, a link to which can be found at **Appendix G**.

Such assignment is subject to the Originators providing the University with a licence to use such Disclosed IP for the administrative, promotional, teaching and research purposes of the University and its subsidiary undertakings and subject to tax and liability indemnities.

## APPENDIX C – Revenue Sharing

The following revenue sharing principles and guidelines will be followed by the University and UMI<sup>3</sup>.

### 1. Incentive Policy

**University/School/Faculty Share** – The University's retained share of the Return on IP, received by the University on or after 1 August 2015, will be split by the University on a 50:50 basis between:

- the relevant Schools/Faculties from which the IP originated; and
- UMI<sup>3</sup>, for use as the University technology transfer fund managed by UMI<sup>3</sup>,

unless varied on an ad hoc basis by the University Senior Leadership Team.

**No University or UMI<sup>3</sup> Liability** - The University takes the decision (through UMI<sup>3</sup>) how it wishes to Commercialise its IP after consultation with the lead Originator. Neither the University nor UMI<sup>3</sup> can accept any liability to any Originator if the return achieved in relation to such IP is not the best financial return which could have been achieved. The best financial return is, in any event, not necessarily compatible with the University's main objectives. UMI<sup>3</sup> decides, on a case by case basis, after consultation with the key stakeholders of the University (which shall include consultation with the Originator and his/her Authoriser, Academic Advisor or Supervisor, as appropriate) whether obtaining the best financial return from the Commercialisation of University IP is compatible with the University's main objectives. Even if it is, neither the University nor UMI<sup>3</sup> gives any commitment that it will obtain best financial return from such Commercialisation.

**Originator/Contributor Revenue Sharing** – Any applicable Return on IP which is not retained by the University goes to the Originator(s) as set out below. Contributor(s) are not entitled to any share of the Return on IP directly, but an Originator can allocate some of his/her share of such return on IP to a Contributor to such Return on IP. An Originator must do this by written notice to UMI<sup>3</sup> at the time of the Commercialisation.

Where more than one Originator has created the IP or bundle of IP which is being Commercialised:

- any of the applicable Return on IP which is not retained by the University is shared between all of such Originators, and so the applicable "Originator(s) percentage share of Return on IP" referred to below in this **Appendix C** and the UMI<sup>3</sup> Channel Table is shared between all of such Originators; and
- such Originators may decide between themselves as to what proportions they will each share in any such Return on IP allocated to them. Where the Originators cannot agree as to how to share such Return on IP, then the Vice-President for Research and Innovation will decide after having discussed the position with the Originators.

**University involvement** - The share of the Return on IP which the University will retain will depend in part on whether the University is involved in the Commercialisation of the relevant IP. The University will be deemed not to be involved in the Commercialisation of IP only where:

- neither UMI<sup>3</sup> (except as set out in the next bullet point) nor the Contracts Team nor the University Business Engagement Team has any involvement in the Commercialisation of the IP; and
- UMI<sup>3</sup>'s only involvement in the Commercialisation of such IP is in relation to reviewing such IP and undertaking due diligence on the ownership of it and encumbrances affecting it and advising Originator(s) on the next steps to be taken.

**Tangible Research Materials** - If any payment is made for any Tangible Research Material by a Third Party (other than a payment in relation to IP comprised within the Tangible Research Material), then such income will be shared in accordance with this **Appendix C**, except that the Originator's share will be distributed into a research account in the School which produced the Tangible Research Material, subject to any other contractual obligations regarding the distribution of income.

## **2. Licensing, Options etc. (including digital marketing)**

**Return on IP** - The Return on IP, in relation to any IP or bundle of IP which is Commercialised (other than through a Spin-Out Company) will be the aggregate income and capital received by the University from the Commercialisation of any such IP or bundle of IP (excluding IP assigned to the Originator(s) as set out in section 6.4 or 6.5 above), less:

- any payments reasonably paid by the University to satisfy claims by third parties;
- VAT, withholding tax or any other applicable tax;
- any payments received by the University (or its nominated subsidiary company) from or in respect of Students for undertaking a course using the relevant Teaching Materials; and
- all expenses incurred by the University or UMI<sup>3</sup> in connection with the registration, maintenance, development, marketing and Commercialisation of the relevant IP (including but not limited to patent costs and all fees of patent agents and lawyers). These expenses are likely to be substantially higher where IP is actively Commercialised, rather than through a licence which forms an adjunct to a research contract; and
- once the aggregate income and capital received by the University from the Commercialisation of any such IP or bundle of IP (less VAT, withholding tax or other applicable taxes) has reached the sum of £250,000, an amount equal to any POP Funding invested directly by the University in any of such IP or bundle of IP plus any interest at the rate of 7%, at the rate of £1,000 being deductible for every £10,000 of the aggregate of such income and capital received above £250,000.



Income and capital will be payments made for assignment(s) made, or licence(s), or right(s) granted, in respect of any of the relevant IP by the University, or any other income/capital generating arrangement(s), but not:

- shares in a Spin-Out Company (or proceeds from them); or
- any sponsorship or payment made to support a Student; or
- income or capital representing payments for, or on account of, research (whether expressly or which have been taken into account in seeking to recover full economic costs);
- income or capital representing payments (whether lump sum, royalty or otherwise) for a licence of Third Party of IP generated during the course of a research programme, up to and including the full economic cost of such research to the University less the amount of such full economic cost as has been paid by such Third Party or an affiliate of it to the University for such research.

**Share of Return on IP** - The University will retain such percentage share of the Return on IP (subject to part 4 below) or will receive some other reward, as is set out in the UMI<sup>3</sup> Channel Table depending on:

- the channel through which the IP is Commercialised;
- the University's deemed involvement in the Commercialisation of such IP; and
- the POP Funding invested in any of the IP which is being Commercialised; and
- (where specified to be applicable in the UMI<sup>3</sup> Channel Table) whether such Return on IP exceeds the Substantial Sum or not, in which case the increased retention by the University only relates to such part of the Return on IP as exceeds the Substantial Sum.

The aggregate percentage share of the Return on IP detailed in the UMI<sup>3</sup> Channel Table shall be adjusted to reflect that the University's retained percentage share is stated as the net amount after payment of any employer's national insurance contributions due (as per part 6 below).

**Example** - So in where the Protect and Develop channel is used but the University is not involved in the Commercialisation of such IP and no POP Funding has been invested in such IP the Return on IP (subject to part 4 below) will currently be shared as follows:

<b>Return on IP (£)</b>	<b>Originator(s) percentage share of Return on IP*</b>	<b>University percentage share of Return on IP**</b>
Up to and including the Substantial Sum	85%	15%
Over the Substantial Sum	50%	50%

\* adjusted by deduction of any employer's national insurance contributions

\*\* net amount after payment of any employer's national insurance contributions

**University Involved** - Where the University is deemed to be involved in the Commercialisation of IP, then in addition to the relevant University Base Return percentage share detailed in column 2 of the UMI<sup>3</sup> Channel Table, the University will retain an additional share of either 5%, 10% or 15% of the Return on IP, for management services provided by UMI<sup>3</sup> to the Originators, depending on the Commercialisation route, as detailed in column 3 of the UMI<sup>3</sup> Channel Table.

**POP Funding** - If the University, UMI<sup>3</sup> or any Third Party has invested POP Funding in any of the IP which is being Commercialised, then the University or that Third Party (collected by the University on their behalf) will retain a further percentage of the Return on IP as follows (and summarised in in column 5 of the UMI<sup>3</sup> Channel Table):

<b>POP Funding Invested</b>	<b>Return on IP</b>
up to and including £70,000	15%
over £70,000 up to and including £140,000	from 15-30% on a sliding scale
over £140,000	30%

so that, for example, if the University is involved in the Commercialisation of any of the IP through the Protect and Develop channel resulting in an additional retention of 15% of the Return on IP and POP Funding of £100,000 has been invested in any of the IP, then the University would retain in aggregate 51.43% of the Return on IP (15% + 15% + 15% + 6.43%).

### 3. Spin-Out Companies

**Return on IP** - Where any IP or bundle of IP is Commercialised through a Spin-Out Company (excluding IP assigned to the Originator(s) as set out in section 6.4 or 6.5 above), the Return on IP (subject to part 4 below) will (at the University's option) be represented by:

- shares; or
- warrants or options in respect of shares

in the share capital of a Spin-Out Company which would, but for the next paragraph, be issued to the University or to any Third Party in respect of its investment of POP Funding in any of the IP which is being Commercialised ("**Shares**"), and not the dividends or sale proceeds or other rights arising from the shares, or warrants or options in respect of Shares in the Spin-Out Company which are, in fact, issued to the University (or its nominated subsidiary company).

**Share of Return on IP** - The University will retain such percentage of the Shares or will receive some other reward, as is set out in the UMI<sup>3</sup> Channel Table depending on:

- the channel through which the IP is Commercialised;
- the University's deemed involvement in the Commercialisation of such IP; and
- the POP Funding invested in any of the IP which is being Commercialised.

The University will be entitled to:

- additional Shares, where the channel set out in the UMI<sup>3</sup> Channel Table through which the IP is Commercialised is not the Innovation Optimiser channel; or
- other reward, where the channel set out in the UMI<sup>3</sup> Channel Table through which the IP is Commercialised is the Innovation Optimiser channel,

in the circumstances set out under **Substantial Sum** below.

**University Involved** - Where the University is deemed to be involved in the Commercialisation of IP, then in addition to the relevant University Base Return percentage of the Shares detailed in column 2 of the UMI<sup>3</sup> Channel Table, the University (or its nominated subsidiary company) will retain an additional 5%, 10% or 15% of the Shares, for management services provided by UMI<sup>3</sup> to the Originators, depending on the Commercialisation route, as detailed in the UMI<sup>3</sup> Channel Table.

**POP Funding** - If the University, UMI<sup>3</sup> or any Third Party has invested POP Funding in any of the IP that is being Commercialised through the Spin-Out Company, then the University or that Third Party will retain a further percentage of the Shares as follows (and summarised in in column 5 of the UMI<sup>3</sup> Channel Table):

<b>POP Funding Invested</b>	<b>Shares</b>
up to and including £70,000	15%
over £70,000 up to and including £140,000	from 15-30% on a sliding scale
over £140,000	30%

so that, for example, if the University is involved in the Commercialisation of any of the IP and provides management services resulting in an additional retention of 15% of the Return on IP (as set out in column 4 of the UMI<sup>3</sup> Channel Table) and POP Funding of £100,000 has been invested in any of the IP, then the University will retain in aggregate 51.43% of the Shares (15% + 15% + 15% + 6.43%).

An amount equal to any POP Funding directly invested by the University in any of the IP which is being Commercialised through the Spin-Out Company by the University will be returned from the Spin-Out Company to the University, plus any interest at the rate of 7%

on such amount as is outstanding from time to time, in a manner to be determined at the time of IP transfer, (most likely to be in the form of a redeemable preference share).

**Management Services** - The provision of any management services to the Spin-Out Company by UMI<sup>3</sup> will be set out in a separate agreement detailing the context, term and costs for the provision of such services. UMI<sup>3</sup> may also make charges to the Spin-Out Company for any specific services it supplies e.g. project management services.

**Innovation Optimiser** – Commercialisation of IP via a Spin-out Company or other start-up company via information seminars, ideation workshops, idea and customer development and associated awards, coaching and mentoring or using on-line tools will be the Innovation Optimiser channel in the UMI<sup>3</sup> Channel Table. The University will not take shares in such companies but be rewarded as set out in column 2 of the UMI<sup>3</sup> Channel Table in relation to such Innovation Optimiser channel and, in addition, if there is deemed to be University involvement in the Commercialisation, as set out in column 3 of the UMI<sup>3</sup> Channel Table in relation to such Innovation Optimiser channel, depending on whether the relevant company is a Community Interest Company (CIC) or not.

**Substantial Sum** - If the IP has been Commercialised through:

- a channel set out in the UMI<sup>3</sup> Channel Table which is not the Innovation Optimiser channel, and:
  - any Shares in the relevant Spin-Out Company issued to the Originator(s) are and/or have been sold on arm's length terms (whether by the Originator(s) or their respective direct or indirect transferees);
  - the Substantial Sum is specified to be applicable in the relevant UMI<sup>3</sup> Channel Table; and
  - the Aggregate Sales Price of all such Shares as are and/or have been so sold exceeds the Substantial Sum,

then the Originator(s) and any of their direct or indirect transferees who have sold such Shares (as the case may be) will pay to the University 35% of such excess pro rata to the amount of the Aggregate Sales Price received by each of such Originator and such individual transferees (where 35% represents the difference between the University Base Return percentage detailed in column 2 of the UMI<sup>3</sup> Channel Table (15%) and that applicable where the Substantial Sum is exceeded (50%));

- the Innovation Optimiser channel, and:
  - any Shares in the relevant Spin-Out Company issued to the Originator(s) are and/or have been sold on arm's length terms (whether by the Originator(s) or their respective direct or indirect transferees) and the Aggregate Sales Price of all such Shares as are and/or have been so sold exceeds the Substantial Sum; or
  - any Shares in the relevant Spin-Out Company have been admitted by any recognised investment exchange and the aggregate market value of all such

Shares, owned by in the Originator(s) and their respective direct or indirect transferees, at such admission exceeds the Substantial Sum,

then the Originator(s) will ensure that the University is paid the increased percentage of turnover or receives the additional warrants, depending whether the Spin-Out Company is a Community Interest Company or not.

**Further Shares** - By accepting shares in a Spin-Out Company ("**Initial Shares**"), the Originator agrees that, if he or she (or any direct or indirect transferee of the Initial Shares or the Originator's personal representatives) ("**the Shareholder**") is given the opportunity, because of the Shareholder's ownership or control of the Initial Shares, to be allotted or transferred further shares in such Spin-Out Company or in another company ("**Further Shares**"), whether as a result of a rights issue, the effect of pre-emption rights or otherwise, which the Shareholder does not wish to or is unable to take up, in whole or in part, then (where possible) the Shareholder will either:

- direct that the University or its nominee may be allotted or transferred such Further Shares which the Shareholder is unwilling or unable to take up ("**Unwanted Further Shares**"); or
- take up all the Unwanted Further Shares at the University's or its nominee's expense and, at the University's or its nominee's direction, hold all such Unwanted Further Shares as bare trustee for the University or its nominee, or transfer all such Unwanted Further Shares to the University or its nominee.

**Market Value Paid** - The earlier provisions of this **part 3 of this Appendix C** do not apply to any shares subscribed for by an Originator in a Spin-Out Company for which the Originator pays the market value in cash or in kind, e.g. by the supply of consultancy services.

#### **4. Teaching Materials, University Materials and Tangible Research Materials**

**No Share of Return on IP** - Even though creating and developing Teaching Materials is one of the University's core purposes, the University will grant an Originator a share of the Return on IP arising out of the Commercialisation of Teaching Materials as set out above, but the University cannot grant such a share where:

- specific time has been made available during his or her employment (including a paid sabbatical) to an Originator for his or her contribution to the creation of any Teaching Materials; or
- the Originator is specifically employed by the University or any of its subsidiary companies to create Teaching Materials (whether as all or part of their employment); or
- the authorship of such Teaching Materials results from simultaneous or sequential contributions over time by many Employees and/or Students, such that authorship of the relevant Teaching Materials cannot readily be attributed to an identifiable set of authors; or

- the content of such Teaching Materials is relevant to a part of the University's strategy, e.g. teaching of a specific University course or a planned potential income source for any part of the University, except in exceptional cases where the University recognises that such Teaching Materials are very important, breakthrough materials.

Similarly, as University Materials are produced for a University administrative or other purpose, an Originator will not be entitled to any share of the Return on IP arising out of the Commercialisation of University Materials.

**Share of Return on IP** - The University will grant Originator(s) a share of the Return on IP arising out of the Commercialisation of Teaching Materials as set out in **part 2 or 3 (as applicable) of this Appendix C** (despite what is set out under **No Share of Return on IP** above) where the Return on IP is in respect of:

- the method of delivery of teaching (as opposed to the content of Teaching Materials); or
- the content of such Teaching Materials and such content is not relevant to any part of the University's strategy and is not part of a planned potential income source for any part of the University, as is confirmed by an express waiver of interest by the Head(s) of the School(s) to which the Teaching Materials are relevant; or
- Teaching Materials which the University recognises are very important and breakthrough.

## 5. Missing Originators

**Notification of Address** - Each individual, who may be entitled to payments under the University's revenue sharing arrangements as an Originator and who is no longer an Employee or no longer a Student, must ensure that the University is notified in writing at all times of his or her current address to where any revenue sharing payments due to him or her may be sent. If the University is not given such current address details, then they will be a missing Originator and all unclaimed revenue sharing payments for such missing Originator may be invested in a deposit account until such revenue sharing payments are claimed. The University will not be a trustee of any such unclaimed revenue sharing payments.

**Unclaimed Amounts** - Any revenue sharing payments remaining unclaimed for 5 years from the date the relevant Return on IP is received by the University will, after that date, be forfeited and will revert to the University, which will distribute such revenue sharing payments, plus any net interest actually earned, between any others entitled to share in such Return on IP, excluding the missing Originator(s).

## 6. Tax and National Insurance

**Deduction at Source** - All payments to be made by the University/shares in Spin-Out Companies to be allotted to Originator(s) pursuant to this **Appendix C** will be subject to the deduction of any applicable income tax and employer's and employee's national

insurance at source. As noted above, it is the University's responsibility to account for the employer's national insurance contributions but the relevant University Base Return percentage of the Shares detailed in column 2 of the UMI<sup>3</sup> Channel Table is the net amount after payment of this amount.

**Declaration and Payment** - If an Originator is no longer an Employee, then, before the University makes any payment to him or her and before any shares in a Spin-Out Company are allotted to him or her, the University will require:

- a written confirmation from the Originator that he or she will declare such payment on all relevant tax returns and indemnify the University against any tax, national insurance, interest and penalties payable in respect of such payment or allotment; and
- actual payment of any known or reasonably anticipated tax, national insurance, interest and penalties which may arise in respect of such payment/allotment, and the University is authorised to deduct from any payment due to such former Employee.

**Indemnity** - If income tax and/or national insurance subsequently becomes payable on revenue sharing payments made, or in respect of shares in Spin-Out Companies allotted, to Originator(s), then the Originator(s) must indemnify the University against any tax, national insurance, interest and penalties in respect of such payments/shares.

## APPENDIX D - IP WARRANTY/GUARANTEE/PIPELINE/REPAYMENTS POLICY

The University has a duty to develop policies and support services which create the best possible environment for intellectual property (IP) to be created and to be transferred into practical use. The University, however, as a charitable organisation has to be careful not to expose itself and to safeguard its assets from unnecessary risks. Any contract in which the University is being asked to make a representation or give a warranty, indemnity or guarantee could potentially expose the University to risk. It therefore needs to be reviewed, in the case of IP contracts, by the Contracts Team and/or The University of Manchester I3 Limited (UMI<sup>3</sup>).

This Policy then goes on to set out the University's approach to such obligations and its risks under them.

### University Approach

Where the University is commercialising its IP in any way, it may be asked to enter into some obligations to support its position. This is most likely to arise in the context of IP assignments or licences, but can also sometimes arise in the context of other agreements surrounding spin-out companies, which are acquiring some IP of the University or in R&D agreements, where a sponsor is acquiring some rights in IP. The University's approach is that, where the third party is providing real value to the University, it will back up the IP which it is putting into the deal with some limited warranties.

- **Indemnity** - It is not the University's policy to give IP indemnities because of the increased liabilities involved.
- **Representation** -The University also does not wish to give representations, because of the complexities that can arise with them. Any pre-contractual representation must be excluded by what is often known as an "entire agreement" clause.
- **Warranty** -The warranties that the University is prepared to give will vary slightly depending upon the nature of the transaction. Essentially, they might comprise a limited warranty that the University is the registered proprietor of or applicant for the IP in question; and has not previously assigned or licensed the IP in such a way as would prevent the current contract being entered into. The warranty of ownership must be limited to the awareness of the University and that awareness will be based solely upon information supplied by named individuals.

Additional warranties, such as, the IP is not encumbered in any way, the other party's use of the IP will not infringe any third party rights, and/or the IP is valid, increase the University's risk and go beyond the warranties/obligations which the University is prepared to offer and cannot be accepted.

It is also important to be aware of assignments of IP which assign "all rights, title and interest" in the IP. The University will only ever assign "its right, title and interest" in the IP.



## **Pipelines**

Pipelines are created where the University grants to a licensee or spin-out company automatic IP rights to future technology arising from the University. Giving away such IP rights to future technology, such as improvements, is giving away an asset of the University for nothing. As a charitable institution, the University cannot do this.

## **Repayments**

The University will not enter into arrangements under which there could be repayment of sums paid to the University, such as an agreement including a repayable deposit. A repayment does not include a claim for damages.

## **Limitation of Liability**

Where the University has entered into warranties or given other commitments to the other party to a contract, it must limit its liability. That liability should be capped by reference to the financial benefit which the University receives at the time of that contract, such as the immediate cash consideration (excluding any VAT) which the University has received for the assignment of IP. In the case of a licence, it would be linked to royalties received over a specified period.

For spin-out companies, the University will only own a proportion of that company's shares and so its liability must be capped accordingly. It must also be made clear that, if further investment is made into the spin-out company later, then the University will not give further warranties at that stage, nor will its liability increase.

The University also expects to limit the time within which any claims must be brought.

## **UMI<sup>3</sup>**

UMI<sup>3</sup> is a company which is wholly-owned by the University. It is a separate legal entity from the University, funded principally by a fee arrangement (through contract) with the University and from its own independent consulting and grant-winning activities. Its main tasks are:

1. the recordal and evaluation of ideas generated from University research base;
2. promoting suitable opportunities that UMI<sup>3</sup> has selected;
3. recommending investments to the University and negotiating and arranging such investments and similar transactions on behalf of the University;
4. project management of spin-outs and licences; and
5. acting as the University's nominee to some of the spin-outs.

In performing these tasks, UMI<sup>3</sup> is acting for the University. It is not acting on anyone else's behalf. Any party receiving information from UMI<sup>3</sup> is responsible for making its own decision on it and must acknowledge this position.

## **APPENDIX E - HUMANITARIAN IP COMMERCIALISATION POLICY**

The University is committed to supporting fair access to medicines for those in low income countries. It will implement technology transfer strategies that promote the availability of essential medicines in such countries whilst recognising legitimate business concerns.

The University's policy when commercialising the outputs of its research is:

1. To prosecute possible active pharmaceutical ingredient patent applications in low income countries only as necessary (for example, to provide development and marketing leverage for new products, or to exert leverage over global licensees, or to promote product manufacture in the country);
2. To include, where possible, provisions in its stand-alone commercial licences that seek to promote the manufacture of medicines or the availability of active pharmaceutical ingredients at affordable prices to low income countries.

It expects its licensees to appreciate and cooperate with this Policy.

This Policy is a living document and may be subject to change by the University.

**APPENDIX F – UMI<sup>3</sup> CHANNEL TABLE**

<b>UMI3 Channel</b>	<b>University Base Return</b>	<b>UMI3 Involvement</b>	<b>Nature of Involvement (to include any of)</b>	<b>University or approved partner PoP Investment</b>
<b>Protect and Develop</b>	<b>Up to and including Substantial Sum</b>	15%	Conducting market research and identifying market applications Protecting IP (including patenting) Defining value proposition and business model Sourcing IP development funding Managing IP development Marketing IP IP ownership due diligence Identifying management teams Negotiating deal terms Executing licence deals Executing investment agreement and Forming companies	As per policy:- <ul style="list-style-type: none"> <li>• ≥ £70K = 15%</li> <li>• £70K - £140K = sliding scale from 15% - 30%</li> <li>• &gt; £140K = 30%</li> </ul>
	15%			
	<b>Above Substantial Sum</b>			
	50%			
<b>Digital Marketing: Protect and Market</b>	<b>Up to and including Substantial Sum</b>	10%	Conducting market research and identifying market applications Protecting IP (including basic patenting) IP ownership due diligence Marketing IP Executing royalty-based assignments	As per policy:- <ul style="list-style-type: none"> <li>• ≥ £70K = 15%</li> <li>• £70K - £140K = sliding scale from 15% - 30%</li> <li>• &gt; £140K = 30%</li> </ul>
	15%			
	<b>Above Substantial Sum</b>			
	50%			
<b>Digital Marketing: Express IP</b>	<b>Up to and including Substantial Sum</b>	5%	Copyright patent protection Light touch IP due diligence Click2Go or partner marketing channels Online non-exclusive licensing and revenue distribution	n/a
	15%			
	<b>Above Substantial Sum</b>			
	50%			
<b>Innovation Optimiser</b>	<b>Commercialisation through CIC - up to and including Substantial Sum</b>	<b>Commercialisation through CIC</b>	Information seminars Ideation workshops Idea and customer development and associated awards Coaching and mentoring	n/a
	1% of CIC net turnover	1% of CIC net		
	<b>Commercialisation through CIC - above Substantial Sum</b>			

	3.3% of CIC net turnover <sup>1</sup>	turnover	On-line tools IP ownership due diligence if required Possible basic patenting when required	
	<b>Non-CIC Commercialisation - up to and including Substantial Sum</b>	<b>Non-CIC Commercialisation</b>		
	2% Warrant <sup>2</sup> at exit <sup>3</sup>	2% Warrant at exit		
	<b>Non-CIC Commercialisation – above Substantial Sum</b>			
W% Warrant at exit, where: $W = (6.7^4 \times (V^5 - S^6) + 2S) \div V$				
<b>Inventor Self Commercialises</b>	<b>Up to and including Substantial Sum</b>	n/a	n/a	n/a
	15%			
	<b>Above Substantial Sum</b>			
	50%			
<b>UMI3 Declined IP</b>	7.5%	n/a	n/a	n/a

1 3.3 = 1 x 50 / 15

2 Based on the University's standard warrant instrument

33 Arm's length sale or listing of shares

4 6.7 = 2 x 50 / 15

5 **V** is an amount equal to the aggregate consideration for the first sale on arm's length terms of each share in the capital of the relevant Spin-Out Company or (if a listing occurs before all the shares have been so sold) the market capitalisation of the relevant Spin-Out Company immediately following the listing;

6 **S** is the Substantial Sum

## APPENDIX G – LINKS TO FORMS, GUIDANCE AND FURTHER INFORMATION

### **FORMS:**

[ASSIGNMENT FROM UNIVERSITY](#)

[ASSIGNMENT OF IP RIGHTS \(STUDENT\)](#)

[DISCLOSURE INFORMATION FORM](#)

[INVENTION RECORD](#)

[TEACHING MATERIALS DECLARATION](#)

### **GUIDANCE:**

[IP Policy Guide](#)

[IP and Confidentiality – A Researcher's Guide](#)

UMI<sup>3</sup> [Guides and a selection of complementary Researchers' Guides](#)

UMI<sup>3</sup> [Commercialisation decision making process](#)

UMI<sup>3</sup> [Road Map](#)

[Procedures for Staff when undertaking Consultancy and Other External Work and Commitments](#)

### **FURTHER INFORMATION:**

More information about UMI<sup>3</sup> can be found at its website at <http://umi3.com/>

More information about the Contracts Team can be found at its [website](#)

### Version amendment history

Version	Date	Reason for change
1.1	21 <sup>st</sup> September 2016	text substantially re-written and restructured to improve clarity and amended to increase the Substantial Sum for the existing channel for innovation and to reflect the addition of new channels for innovation, and the UMIP Premier Fund now being fully invested

Document control box	
Policy title:	INTELLECTUAL PROPERTY POLICY
Date approved:	18 March 2015
Approving body:	Board of Governors
Version:	January 2015
Supersedes:	January 2013
Previous review dates:	
Next review date:	July 2019
Related Statutes, Ordinances, General Regulations:	Ordinance XIV
Equality relevance outcome:	Low
Related policies:	Copyright Policy and Publications Policy
Related procedures:	
Related guidance and/or codes of practice:	IP Policy Guide; IP and Confidentiality – A Researcher’s Guide; UMI3 Guides and a selection of complementary Researchers’ Guides; UMI3 Commercialisation decision making process; UMI3 Road Map; Procedures for Staff when undertaking Consultancy and Other External Work and Commitments
Related information:	
Policy owner:	Vice-President for Research and Innovation
Lead contact:	Luke Georghiou