

Appendix XXXII Intellectual Property Policy



Policy and Procedure Title: South East Technological University Carlow Intellectual Property Policy

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Form(s)	Responsibilities/ Owner
	Head of Department/Faculty/Campus Vice President for Development & Research President
Superseded or Obsolete Procedures	
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1. INTRODUCTION

Intellectual Property is an area of very substantial importance in the academic environment of South East Technological University Carlow. The purpose of defining an Intellectual Property Policy is to provide guidance to staff, students¹ and other relevant parties regarding issues such as ownership, income from intellectual property and the use of University facilities to ensure that the development of intellectual property is mutually beneficial. The University recognises and encourages the principle that South East Technological University Carlow Intellectual Property should be used for the greatest public benefit. Commercialisation is often the most efficient means of promoting the widest possible dissemination and use of South East Technological University Carlow Intellectual Property. In such circumstances, it is appropriate and desirable for South East Technological University Carlow and the originator to benefit from the commercial exploitation of Intellectual Property produced at South East Technological University Carlow.

This document sets out the South East Technological University Carlow Intellectual Property Policy and the rules that govern the creation, ownership, management, protection and exploitation of intellectual property developed by South East Technological University Carlow staff, students, and others participating in programmes carried out using South East Technological University Carlow facilities, know how, confidential information or intellectual property. This is the Intellectual Property Policy referenced in the contract of employment or registration form or acceptance form or intellectual property assignment which is signed by staff or students. This Intellectual Property Policy also forms part of the regulations of South East Technological University Carlow which govern the conduct of registered students and South East Technological University Carlow staff members.

2. DEFINITION

South East Technological University Carlow defines intellectual property as the tangible or intangible results of research, development, teaching, or other intellectual activity. Such intellectual property may be created by academic, research and other University staff (full time or part time or contract), undergraduate and post-graduate students and other third parties involved in University research, development, teaching and other intellectual activity (collectively referred to as “University personnel” in this Intellectual Property policy).

Intellectual property allows creativity and innovation to be captured and owned in the same way as physical property can be owned. Intellectual Property includes individually and collectively all technical innovations, inventions, improvements, and/or discoveries, information, writings and software, whether or not patentable or otherwise susceptible to

¹ ‘Students’ refers at all times to undergraduate and postgraduate students.

intellectual property protection, including technology and materials in their tangible form and includes intellectual property generated from University Assets. ***See further details on definition of intellectual property in Annex 1.***

3. AIMS OF THE POLICY

The objective of this policy document is to provide a consistent framework within which University Intellectual Property is developed and managed for the benefit of South East Technological University Carlow, the originator and the public good.

The specific aims of the Policy are as follows:

- To create an environment that encourages the generation of new knowledge by South East Technological University Carlow departments, staff and students
- To ensure South East Technological University Carlow is compliant with the National Intellectual Property Protocol (2012 and revised in 2016) and national policies for the management, protection and exploitation of intellectual property
- To encourage the recognition and identification of Intellectual Property within South East Technological University Carlow and promote an entrepreneurial culture among South East Technological University Carlow staff and students that fosters the development of potentially commercial Intellectual Property arising from their research at the University
- To provide an efficient process by which the commercial potential of Intellectual Property can be assessed by South East Technological University Carlow and its advisors
- To motivate the development and exploitation of Intellectual Property by providing appropriate rewards to creators and South East Technological University Carlow and administrative assistance to creators
- To provide support and supervision for the creation of economic structures through which South East Technological University Carlow Intellectual Property is developed and used commercially
- To maximise the earnings potential from commercialisation and utilising the financial and other returns to advance and encourage research in South East Technological University Carlow
- To encourage public use and commercialisation of South East Technological University Carlow IP by facilitating its transfer from the University to industry and business
- To continue to recognise the traditional University practices with respect to publication and scholarly works
- To ensure that the financial return from the development of intellectual property does not distort decisions and operations of the University in a manner contrary to the mission of the University

4. INTELLECTUAL PROPERTY COMMITTEE

A Committee shall be set up in South East Technological University Carlow and consist of the following members (“Intellectual Property Committee”):

- Vice-President for Development and Research
- Head of Research and Commercialisation Support
- CORE Director / Lead Principle Investigator of a Research Programme
- Head of Faculty
- Head of Department
- Industry / Legal Representative

The committee members will be required to sign a confidentiality agreement regarding the inventions produced at the University and presented to the Intellectual Property Committee. This will ensure that new ideas are protected.

Members of the Intellectual Property Committee will be required to declare their interest in a proposal if such exists and to absent themselves from any discussion pertaining thereto.

5. ROLE OF THE INTELLECTUAL PROPERTY COMMITTEE

The Intellectual Property Committee will meet as required but at least on a quarterly basis to

- Review the activity of the technology transfer strengthening initiative
- Assess the commercial benefits from Intellectual Property generated by University activities that may accrue to individuals or entities, internal or external to the University and to make recommendations relating to same to the Senior Executive for approval or noting as required by Governing Body,
- Review the current status of South East Technological University Carlow’s compliance with the National Intellectual Property Management Requirements.

Where matters arise the committee will make recommendations to the Senior Executive as to how these can be resolved and will have the responsibility to ensure the remedy is implemented. The Intellectual Property Committee shall provide an annual report to the University President. The committee’s report will be made available publically on the University website. The committee shall have a quorum of three members.

6. GENERAL PROVISIONS OF SOUTH EAST TECHNOLOGICAL UNIVERSITY CARLOW INTELLECTUAL PROPERTY POLICY

6.1 As a general rule (and subject to the exceptions set out in this Intellectual Property policy any Intellectual property rights in any material/works, created by University personnel, (inter alia staff, undergraduate students, postgraduate students, researchers) in the course of their employment or education by South East Technological University Carlow or in relation to work carried out for the University is the property of and vests solely and absolutely in the University or such companies or organisations as the University may nominate for such purposes. Such material/works include, but are not limited to any:

- copyright (including rights in computer software and moral rights)
- patent
- design right
- trademark rights
- brand rights
- database rights
- know how
- trade secrets
- confidential information rights in design
- semiconductor topography rights
- or other intellectual property rights or other property rights, (whether vested, contingent or future anywhere in the world).

This applies to any intellectual property rights in materials which are developed by University personnel, which they cause to come into existence:

- during the working or teaching hours of the University; or
- when using the University's equipment, supplies, facilities or the University Assets: or
- using the University's confidential information, trade secrets, know how or any of the intellectual property of the University's; or
- in relation to any work performed for the University (including pursuant to any third party funded research programs).

6.2 At the University's reasonable cost, the University's personnel will also agree at any later time to execute any documentation or otherwise provide assistance to the University to secure, protect, perfect or enforce any of the University's rights, title and interests in its intellectual property.

- 6.3 The Intellectual Property Policy is applicable to South East Technological University Carlow Intellectual Property that is owned by the University any of the reasons outlined below:
- It is developed by University personnel in the course of their normal or specifically assigned duties either when intellectual property could be reasonably expected to result from the carrying out of those duties and/or, at the time the intellectual property was developed, there was a special obligation on the relevant University personnel to further the interest of South East Technological University Carlow.
 - Under the 2000 Act (as defined in Annex 1 of this Intellectual Property Policy), the South East Technological University Carlow is the first owner of any copyright in the work created by University personnel in the course of their employment unless precluded by a prior agreement between the University and a third party (or is covered by Clause 5 of this Intellectual Property Policy).
 - The intellectual property arises out of funded or non-funded research where such research has, in the opinion of South East Technological University Carlow, made use of the equipment, facilities, South East Technological University Carlow assets and other resources of the South East Technological University Carlow unless such action was precluded by prior agreement between the South East Technological University Carlow and third parties.
 - If it is a condition of a research contract with a third party that the South East Technological University Carlow shall have ownership of the intellectual property arising from the contract.
- 6.4 Intellectual Property arising from research or other work sponsored by an external organisation (e.g. Enterprise Ireland) shall be subject to the Intellectual Property provisions that are stipulated in the related agreement between South East Technological University Carlow and the external organisation ("External Agreement"). In the case of doubt the provisions of the External Agreement will necessarily prevail. Where any External Agreement requires all Intellectual Property rights to be assigned to private industry, the entry level knowledge of the University personnel shall be defined. Any External Agreement shall be reviewed by a legal person representing South East Technological University Carlow.
- 6.5 The intellectual property policy also extends to non-employees who participate in research projects at the University including visiting academics, industrial personnel etc. unless a specific waiver has been approved. Visiting lecturers and other personnel at South East Technological University Carlow who have a prior existing and conflicting intellectual property agreement or arrangement with another employer or third party must enter into an agreement with the South East Technological University Carlow (and their employer or relevant third party) (see

Annex III) to abide by the conditions of this Intellectual Property Policy in the course of their activities in South East Technological University Carlow.

6.6 Spin-Out Companies

The formation of a Spin-Out Company is chosen if the Intellectual Property is best exploited through (and is capable of supporting) a new company rather than an existing one. South East Technological University Carlow provides supports to Spin-Outs through the Research and Commercialisation Support Centre (RCSC).

The establishment of a Spin-Out requires that a detailed business plan, a suitable management team and investment are all in place. In some cases the South East Technological University Carlow Inventor/Creator may leave South East Technological University Carlow to join the Spin-Out full-time. In other cases, the University Inventor/Creator will remain in South East Technological University Carlow and not take an executive role in the Campus Company (although they may provide scientific support on an ad-hoc basis). The management team will be asked to form a company, usually with a standard company constitution.

South East Technological University Carlow will then license Intellectual Property subject to execution of a License Agreement and a Subscription and Shareholders agreement. The inventor, the management team, the investors and South East Technological University Carlow will subscribe for equity in the Campus Company.

South East Technological University Carlow will subscribe for shares based on its exclusive licensing of the Invention without requirement for upfront payments, on fair commercial royalty rates, and for the supports it can provide to the Spin-Out. Such South East Technological University Carlow shareholding will either be:

- a) 20% of issued share capital if South East Technological University Carlow subscribes for shares before an external and significant cash investment is made in the Spin-Out; or
- b) 15% of issued share capital if South East Technological University Carlow subscribes for shares in the Spin-Out at the same time as the first seed investment by an angel or other investor is made.

South East Technological University Carlow may choose to dispose of its equity share as it sees fit, subject to any terms of restriction in the Spin-Out company constitution and the Subscription and Shareholders Agreement. Any financial gain from such equity sale shall vest exclusively in and be for the benefit of South East Technological University Carlow.

7. CONSULTANCY

Full time members of the South East Technological University Carlow staff are permitted to engage in consultancy projects for third parties subject to applicable South East Technological University Carlow policies in force from time to time and subject to approval by the Director of the University. It is the responsibility of each individual staff member to inform the University, and to keep the University informed, of any actual or perceived conflict of interest or conflict of commitment.

8. INTELLECTUAL PROPERTY ASSIGNMENTS AND PATENT ASSIGNMENTS

For the avoidance of doubt the provisions of this section apply to all the departments, , Universitys, faculties, full-time members of staff, part-time members of staff, undergraduate and postgraduate students, South East Technological University Carlow consultants or any third party conducting research or other intellectual activity using South East Technological University Carlow supplies, facilities, South East Technological University Carlow assets, confidential information, trade secrets or existing intellectual property of South East Technological University Carlow.

As a condition of employment as an South East Technological University Carlow employee or contractor and as a condition of admission of every student, each student, staff member or relevant third party (as the case may be) shall comply with this Intellectual Property Policy and shall agree to assign to the South East Technological University Carlow (or a person or company designated by the South East Technological University Carlow or an agency which provided the funding for the relevant research) any and all inventions discovered and produced or otherwise developed while the person was an employee or a student of South East Technological University Carlow. Staff, students and relevant third parties (South East Technological University Carlow Personnel) will agree to sign an Intellectual Property Assignment Agreement (see Annex II). In addition, all abovementioned South East Technological University Carlow Personnel agree to execute such documents of assignment or other documentation required to assign or transfer Intellectual Property and have any moral rights to ensure, protect, perfect and enforce South East Technological University Carlow rights, title and interest in the South East Technological University Carlow Intellectual Property. In addition each student, member of staff and relevant third party personnel agree to do anything that may reasonably be required to assist any assignee of any patent application or other intellectual property to obtain, protect and maintain its rights, title and interest.

9. RESEARCH FINANCED BY THIRD PARTIES

Any research which is partly or wholly financed by any third party agency shall be subject to the specific provisions of the grant or contract covering that work. In the event of any inconsistency between this Policy and the terms of any such grant or contract then the provisions of the said grant or contract shall prevail provided that the intellectual property clauses in the contract have been reviewed by the Intellectual Property Committee (who

will seek external advice if necessary) and the contract has been signed by South East Technological University Carlow.

10. ADMINISTRATION OF THE INTELLECTUAL PROPERTY POLICY

At South East Technological University Carlow, the office responsible for supporting the development and commercialisation of South East Technological University Carlow Intellectual Property is the Office of Vice-President for Development and Research. All South East Technological University Carlow Intellectual Property created by South East Technological University Carlow Personnel must be disclosed in accordance with the procedures laid down in this policy.

The Research and Commercialisation Support Centre (RCSC) is the function within the University charged with day to day matters relating to the identification of Intellectual Property, securing and maintaining Intellectual Property rights where appropriate and facilitating the exploitation of Intellectual Property in a fashion consistent with the University's values and mission. In furtherance of this role, the RCSC shall:

- Provide training and support on Intellectual Property matters
- Assist in formulating invention disclosures, and processing patent applications
- Evaluate the commercial potential of intellectual property in cooperation with other University staff and outside experts as appropriate
- Develop and undertake an appropriate Commercialisation strategy for University-owned Intellectual Property
- Negotiate on behalf of the University any and all contracts and agreements relating to the generation, ownership, protection and exploitation of Intellectual Property
- Deal with Intellectual Property issues that may arise in the administration of such agreements or contracts
- Support the formation of Spin-Out companies
- Create, foster and inform an Intellectual Property aware research culture

The Research and Commercialisation Centre reports to the Office of Vice-President for Development and Research.

11. DISCLOSURE

It is a condition of admission of the student to South East Technological University Carlow and a condition of the employment of each member of staff that the results of all research or projects shall be fully and completely disclosed.

In order to enable South East Technological University Carlow to ensure that it fulfils its obligations to organisations such as Science Foundation Ireland, Enterprise Ireland, companies and other third parties in both the public and private sectors, who are funding

research at South East Technological University Carlow, all South East Technological University Carlow Personnel must disclose any intellectual property arising from such research to South East Technological University Carlow through the Office of Vice-President for Development and Research as soon as possible after such intellectual property is apparent. The discovery shall be kept confidential for a period of time until a timely evaluation of the case including patentability assessment has taken place. No publication shall be made prior to disclosure. Confidentiality agreements shall be used where appropriate.

Procedures to be followed in respect of invention applications

1. Submission of Invention Declaration Form (see Annex IV)
 - The Policy requires that a staff member or student or of the University, or relevant third party, complete an Invention Declaration Form regarding any discovery or invention made by the individual (or group of individuals that might be useful, patentable or otherwise protectable.
 - This form shall be submitted to the Office of Vice-President for Development and Research
2. Commercial Evaluation of Intellectual Property
 - The invention reported shall be submitted to the Intellectual Property Committee for assessment under the guidelines of the policy and for recommendations to the University regarding the patentability or potential commercialisation of a particular invention.
 - The Intellectual Property Committee may recommend that other suitably qualified advisors or external consultants be engaged to advise on the assessment of the submission.
 - The criteria to assess the commercial value of the Intellectual Property shall include:
 - Assessment that the invention does not cater for a once-off need and that it has a potential long-term benefit
 - Technical and commercial feasibility
 - Proof of concept (business plan, access to finance, etc.)
 - Potential for sale or licensing of technology or consultancy
 - Demonstrates a competitive advantage based on differentiated or innovative product or service
 - Development stage of the subject matter
 - Commercial focus and profit motive
 - Study of comparable existing subject matter, licences and commercialisation practices

- Proximity to market
- Market valuations – in other words ‘what is the current market willing to pay?’
- Barriers to entry into markets
- Estimated projected sales based on market research
- Third party assistance including for example input from industry and state agencies
- Estimated cost of patent process

While the criteria listed above are not exhaustive, it provides guidance to persons submitting an application as well as to those determining the commercial value. As it is a complex decision, the Intellectual Property Committee may refer to other expertise where necessary, and further criteria may be applied.

- A decision will be made by the Intellectual Property Committee within a reasonable time (e.g. 60/90 days, but in any event no longer than one year from date of report) of receipt of the application, where practicable, and the inventor will be notified in writing of the decision made.
- If the evaluation is rejected by the Intellectual Property Committee, the Intellectual Property Committee may decide in appropriate circumstances, to offer the opportunity to the inventor to pursue exploitation independently if appropriate under agreed terms. South East Technological University Carlow has no rights if it subsequently proves successful.

3. Submission of a patent application:

- The University shall have the right, but not the obligation, either directly or through an outside agent, to seek patent or other protection of the invention and to undertake efforts to introduce the invention into public use.
- Where a decision is made by the Intellectual Property Committee to proceed with a patent application, the inventor is required to cooperate in every reasonable way and shall assist the Intellectual Property Committee in completing the patent application form, but all ownership rights will be assigned by the inventor to South East Technological University Carlow. The application shall remain confidential until such time as the process is complete. Confidentiality agreements will be used where appropriate.
- Commercialisation activities shall recognise specific terms and conditions in appropriate funding contracts including any External Agreements.
- The cost of the submission of the application shall be paid by South East Technological University Carlow. Any expenses incurred will be reimbursed to South East Technological University Carlow prior to the distribution of any royalty income (if any) from the invention.

- The inventor and the University shall take all reasonable precautions to protect the integrity and confidentiality of the Intellectual Property in question. The inventor shall be aware that publication prior to the filing of patent applications may prevent the granting of certain patents.
- South East Technological University Carlow may decide at any stage to withdraw from the process of exploiting an invention. This may arise where:
 - concern regarding the technical or commercial feasibility of an invention
 - costs of exploiting the invention are excessive
 - external sponsorship of the process is no longer available
- The inventor will be notified in writing of the intention of South East Technological University Carlow to withdraw from the process and the withdrawal will apply from immediate effect.
- The invention will be returned to the originator and ownership may be transferred to them in appropriate circumstances, offering the opportunity to the inventor to pursue exploitation independently if appropriate under agreed terms.
- No patent application, assignment, licensing or other agreement may be entered into or will be considered valid with respect to South East Technological University Carlow Intellectual Property except as entered into by an Officer of the University specifically authorised to do so.

12. LICENSING AND DIVISION OF INCOME

- South East Technological University Carlow welcomes the development by industry, for public use and benefit, of inventions and other Intellectual Property resulting from South East Technological University Carlow research. South East Technological University Carlow will maintain a flexible and open approach to bringing University Intellectual Property into commercial use. Each case will be considered individually and will involve an assessment of all the potential risks and potential rewards.
- In instances where Intellectual Property is not sufficiently strong or broad enough to trigger the creation of a Spin-Out, then the best commercialisation opportunity for a particular piece of Intellectual Property may be to license it to an existing company. With the assistance of the Inventor/Creator, the Office of Vice-President for Development and Research will have the responsibility to negotiate a licence to a third parties on an exclusive or non-exclusive basis and at fair and reasonable commercial terms to the maximum benefit of South East Technological University Carlow . All such licence agreements shall be approved by the senior executive and note by governing body

- Income derived from inventions or other Intellectual Property which are patented and/or commercialised by South East Technological University Carlow in accordance with the provisions of this Intellectual Property Policy will be distributed between the Inventor(s), the Inventor's Department and the South East Technological University Carlow Research and Innovation Support Fund (inclusive of Technology Transfer) as outlined in the following table:

	Inventor(s)	South East Technological University Carlow Research and Innovation Support Fund (incl. Technology Transfer)	Inventor's Department
First €20,000	70%	15%	15%
Over €20,000	35%	30%	35%

Division of income other than outlined in the above table may occur from time to time and must be approved by the Vice-President for Corporate Affairs of South East Technological University Carlow .

- The definition of 'income' includes, but is not limited to, up-front licence fees, down payments, minimum annual payments, royalties on sales and is net of any expenses incurred by the South East Technological University Carlow in commercialising the relevant Intellectual Property.
- All direct expenses incurred by South East Technological University Carlow in the patenting and commercialisation of an invention, including administrative, licensing, legal, and any other expenses and costs involved in patenting an invention and any subsequent investigation, development and promotion, will be deducted from the initial royalty income or lump sum. No royalty income will be made available for distribution until such expenses have been recovered.
- If more than one inventor or department is involved, unless formally agreed amongst themselves, with due regard to the value and substance of their respective contributions, the Inventor's share set out above shall be divided equally among them.
- The division of royalty income will be carried out within 2 months of the receipt of such income by South East Technological University Carlow.
- The inventor's share shall continue to be paid to the Inventor even though they may have left South East Technological University Carlow.

13. INTELLECTUAL PROPERTY CREATED OUTSIDE SOUTH EAST TECHNOLOGICAL UNIVERSITY CARLOW EMPLOYMENT

The South East Technological University Carlow will have no interest in any inventions or other intellectual property created by University personnel entirely on their own time without the use of any South East Technological University Carlow assets. The onus shall be on University personnel asserting their rights under this clause 13 to prove to the satisfaction of the South East Technological University Carlow that the said invention or intellectual property was in fact created by them on their own time without the use of any South East Technological University Carlow assets. University personnel must not infringe the Intellectual Property Rights of any third parties.

14. PUBLICATION OF RESEARCH RESULTS

It is South East Technological University Carlow policy to encourage staff and students to place 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. It is mandatory that disclosure is not in violation of the terms of any agreement that has been entered into by the South East Technological University Carlow with a sponsor or other Third Party.

It must be recognised that premature publication or disclosure except on a confidential basis may make it impossible to obtain valid patent protection. Where possible the delay in publication to enable a patent application to be filed shall be for a period of 90 days. The placing of a thesis in the South East Technological University Carlow library without ensuring that accessibility is restricted constitutes publication.

15. ARBITRATION

Any dispute between the South East Technological University Carlow and the creator of intellectual property will be forwarded to an independent arbitrator to be agreed by the parties. Failing agreement, the arbitrator will be appointed by the Director for the time being of the Incorporated Law Society. Expenses incurred in arbitration shall be deducted from royalty income before distribution.

16. CONFLICT OF INTEREST RELATING SPECIFICALLY TO TECHNOLOGY TRANSFER AGREEMENTS

16.1 The University encourages full disclosure (ANNEX V) of potential areas of conflict and open discussion at an early stage. The University will endeavour to help alert staff to recognise where conflicts may occur and to manage and resolve these conflicts.

16.2 As a condition of employment, engagement or admission by the University, University personnel shall furnish all such information, documents and reasonable assistance as may be required to review, determine and/or manage any potential conflicts and to otherwise enable South East Technological University Carlow to fulfil its obligations under the National Intellectual Property Protocol to minimise and manage Conflicts of Interest.

16.3 A potential Conflict of Interest occurs when an University personnel's personal or private interests might lead an independent observer to reasonably question whether their professional actions or decisions are influenced by considerations of personal interest, financial or otherwise. Listed below are examples of situations that may give rise to a perception of, potential or actual Conflict of Interest. This list is provided by means of example only and is non-exhaustive.

- Use of public grant funds or other resources to realise inappropriate personal gain
- Private business related to a research programme or activities
- Employment in addition to University employment
- Outside professional activities and consultancy
- Holding executive or non-executive directorships
- Holding an interest in an external body which is involved in the negotiation of any research or licence agreement or other arrangements with the University
- Receipt of gifts or direct benefits, such as sponsorship, provision of materials, facilities or personal support, travel, accommodation, conference fees or expenses from external organisations or individuals with a direct interest in the subject matter or materials of a Personnel Member; and/or any other activity or interest which would be deemed under the National Intellectual Property Protocol to constitute a Conflict of Interest.

16.4 Where there is doubt as to whether a potential or actual Conflict of Interest or Conflict of Commitment exists, the activity or interest must be reported to the Intellectual Property Committee.

16.5 Disclosure of potential Conflicts of Interest shall be made;

- (a) prior to the commencement of such a conflict
- (b) when circumstances change in such a way that may give rise to a potential conflict
- (c) in response to such information requests or updates as may be reasonably required by the University from time to time in accordance with its relevant procedures

16.6 In any case affecting a partially or wholly State funded research programme, South East Technological University Carlow is required to report to the State research funding organisation concerned any unresolved Conflict of Interest and must agree with that funding organisation appropriate steps to deal with the conflict.

16.7 A written record of how the conflict was dealt with and resolved will be maintained by the Office of Vice-President for Development and Research. All such records will be

retained for a period of at least seven (7) years from the date of disclosure. Without limiting South East Technological University Carlow's obligation to treat and maintain confidentially all disclosures may be subject to internal audit from time to time in accordance with the University's relevant procedures.

17. MONITORING AND EVALUATION OF POLICY

This Intellectual Property Policy will be monitored by the University. The Policy will be evaluated on a twice annual basis by the Intellectual Property Committee and may be amended by the South East Technological University Carlow from time to time. All amendments to this Intellectual Property Policy shall be posted on the South East Technological University Carlow website.

17.1 National Intellectual Property Policy

South East Technological University Carlow implements the Intellectual Property management procedures detailed in the National Intellectual Property Protocol (2012 and revised in 2016). The National Intellectual Property Protocol provides a framework for best practice, guiding on the expected norms for research-related engagements between industry and State research performing organisations (RPOs). The National Intellectual Property Protocol comprises two volumes: the Policy Document which sets out the framework underpinning research collaboration and access to intellectual property from state-funded research; and the Resource Guide which provides an overview of the national Intellectual Property management guidelines and links to a wealth of resources and template documents that support these guidelines. It also provides an overview of the knowledge transfer structures in Ireland and the kinds of agreements that can be used to formalise research-industry engagements.

There are nine fundamental requirements of the Intellectual Property Protocol for the management of Intellectual Property:

	Requirement	Details
1	Ensure early awareness of the importance of Intellectual Property management amongst Researchers.	Appropriate programme of Intellectual Property awareness is delivered by South East Technological University Carlow to the RPO Researcher community.
2	Set obligations of individual Researchers to ensure Intellectual Property is managed in a professional way.	Principal Investigator confirms that - as accountable Project leader – they are aware of their particular responsibilities in respect of the Collaborative Research Agreement.

		All Researchers involved in the Project confirm that they have read and understood the Collaborative Research Agreement.
3	Maintain confidentiality before publication and confidentiality of data provided by others.	Include suitable confidentiality terms and suitable processes for pre-publication review in Collaborative Research Agreement.
4	Protect Intellectual Property arising from research Projects or Programmes.	<p>Appropriate Programme of Intellectual Property awareness is delivered by the South East Technological University Carlow to the RPO researcher community.</p> <p>South East Technological University Carlow has adequate procedures in place.</p> <p>South East Technological University Carlow undertakes due diligence and appropriate protection of Intellectual Property arising from research Project or Programme and in accordance with the terms of the Collaborative Research Agreement.</p>
5	Introduce existing Background Intellectual Property into a Project diligently.	<p>Background Intellectual Property to be introduced into a research Project or Programme by all parties is detailed in the Collaborative Research Agreement.</p> <p>South East Technological University Carlow completes a Background Intellectual Property Due Diligence Form prior to signature of the Collaborative Research Agreement.</p>
6	Conduct appropriate due diligence before licensing Intellectual Property.	Researcher and South East Technological University Carlow complete Invention/ Intellectual Property Disclosure Form (IDF).
7	Maintain records of Intellectual Property and licences.	South East Technological University Carlow has robust Intellectual Property and licence management systems and databases in place.
8	Manage conflicts of interest.	South East Technological University Carlow has a published policy for management of conflicts of interest.
9	Implement systems for the sharing of income from the commercialisation of Intellectual Property within the RPO.	South East Technological University Carlow has a published policy for commercialisation and revenue share.

The South East Technological University Carlow is committed to protecting the rights and privacy of individuals with respect to the processing of their personal data. A copy of the University's Privacy notice is available on the University's website (<https://www.itcarlow.ie/resources/data-protection.htm>). This website also contains further information relating to your rights regarding subject access requests, records retention and data protection in general. Any further queries in relation to the GDPR can be addressed to the University's Data Protection Oversight Group (e-mail: gdpr@itcarlow.ie)

ANNEX I

Definition of Intellectual Property

1 Intellectual Property

The South East Technological University Carlow defines intellectual property as the tangible or intangible results of research, development, teaching, or other intellectual activity. Intellectual property allows creativity and innovation to be captured and owned in the same way as physical property can be owned. Intellectual property includes individually and collectively all technical innovations, inventions, improvements, and/or discoveries, information, writings and software, whether or not patentable or otherwise susceptible to intellectual property protection, including technology and materials in their tangible form.

1.1 Patents

Patents are intended to protect new and improved products and processes that have some technical innovation and are capable of industrial application.

A Patent gives its owner the right, for a limited period, to stop others from making, using or selling the invention without the permission of the owner in a particular territory. Patent rights are territorial in that an Irish Patent does not give Patent rights outside Ireland. Most Patents are for improvements in a known technology rather than the devising of a completely new technology.

1.2 Copyrights

Most of the Copyright and Related Rights Act, 2000 came into force on January 1, 2001. This was intended to transpose a number of EU Directives into Irish law and to bring Irish law into conformity with its obligations under various International Treaties.

Copyright gives the right to control use of certain material such as books and other literature, art, music, sound recordings, films and broadcasts. However, copyright does not protect inventions (see Patents) or brand names (see Trademarks). Most, but not all, uses of copyright material will require permission from the copyright owner.

Copyright protection is automatic in Ireland in that there is no official application or recording system.

1.3 Trademarks

Trademarks are intended to protect a brand's identity so as to distinguish the goods or services of one trader from those of another trader. A Trademark may be a word, logo, slogan, colour, three-dimensional shape and even a sound or smell. The Trademark must be capable of being represented in words and/or pictures.

1.4 Industrial Design and Unregistered Design Right

The Industrial Designs Act 2001, which brings Irish law into compliance with EU Directive 98/71/EC, came into force on **July 1, 2002**. Designs cover the appearance of a product, either the whole or a part, resulting from such features as lines, contours, colours, shape, texture or materials of the product itself or its ornamentation. The term **product** embraces any industrial or handicraft item. The term **product** has a wide meaning that includes packaging, get-up and graphic symbols (e.g. Desktop icons) etc.

Registration is not available for features of a design which are dictated by the technical function of the product. The new law contains a *must fit* exclusion under which it is not possible to obtain registration for features which are dictated by the need for the product to fit another. However, modular products, i.e, made up of several components which can be fitted together in different ways, are protectable.

Design Registration gives the owner the right, for a limited period (up to 25 years, with renewals every 5 years), to stop others from making, using or selling a product to which the design has been applied, or in which it is incorporated.

From early 2003, it will be possible to obtain a *Registered Community Design* covering all member states of the EU. Registered Community Design Applications will be handled by the office (OHIM) which currently handles Community Trade Marks.

An *unregistered design right* is available at Community level and eligibility for protection is the same as for a Registered Design. The right comes into existence automatically by the mere fact of making the product incorporating the design available to the public within the European Community. Protection is limited to 3 years and to preventing the use of copies of original designs. It is important to note that a Registered Design gives exclusivity whereas an *unregistered design right* can only be enforced where copying can be proved.

1.5 Confidential Information and Know How

Protection for confidential information and know-how arises from the law of confidentiality. The confidential information may be know-how associated with a Patent or a Patent Application, or material in existence before, for example, a Patent Application is filed, or material already protected by another form of intellectual property, for example, copyright.

1.6 Domain Names

A domain name is a unique address on the Internet. There are various generic TLDs, such as .com and .biz, as well as, ccTLDs (Country code), such as .ie.

1.7 Tangible Research Property

This includes biological materials such as cell lines, plasmids, hybridomas, monoclonal antibodies and plant varieties; computer software, data bases, integrated circuit chips, prototype devices and equipment, circuit diagrams: and analytical procedures and laboratory methods, whether or not intellectual property protection is available through Patents and/or copyright or otherwise.

1.8 Other Forms of Intellectual Property

Other forms of intellectual property include, but are not limited to, database right for certain types of database (under Copyright and Related Rights Act, 2000); protection for semiconductor topographies; plant breeders' rights in certain plant varieties; and protection against unfair competition under "passing off" law.

The Intellectual Property Policy is applicable to *South East Technological University Carlow Intellectual Property* that is owned by the South East Technological University Carlow for any of the reasons outlined below:

- It is developed by South East Technological University Carlow Personnel in the course of their normal or specifically assigned duties either when intellectual property could be reasonably expected to result from the carrying out of those duties and/or, at the time the intellectual property was developed, there was a special obligation on the relevant South East Technological University Carlow Personnel to further the interest of South East Technological University Carlow .
- Under the 2000 Act, the South East Technological University Carlow is the first owner of any copyright in the work created by South East Technological University Carlow Personnel in the course of their employment unless precluded by a prior

agreement between the South East Technological University Carlow and a third party (or is covered by Clause 5 of this Intellectual Property Policy).

- The intellectual property arises out of funded or non-funded research where such research has, in the opinion of South East Technological University Carlow, made use of the equipment, facilities, South East Technological University Carlow Assets and other resources of the South East Technological University Carlow unless such action was precluded by prior agreement between the South East Technological University Carlow and third parties.
- If it is a condition of a research contract with a third party that the South East Technological University Carlow shall have ownership of the intellectual property arising from the contract.

□ **COPYRIGHT AND RELATED RIGHTS ACT, 2000 (“2000 Act”)**

First ownership of copyright.

Section 23 (1) of the 2000 Act provides that: “The author of a work shall be the first owner of the copyright unless the work is made by an employee in the course of employment, in which case the employer is the first owner of any copyright in the work, subject to any agreement to the contrary”.

Maker of database.

Section 322 (2) of the 2000 Act provides that: Where a database is made by an employee in the course of employment, his or her employer shall be regarded as the maker of the database, subject to any agreement to the contrary”.

□ **PATENTS ACT 1992 (“1992 Act”)**

Right to patent.

Section 16(1) of the 1992 Act provides that: “The right to a patent shall belong to the inventor or his successor in title, but if the inventor is an employee the right to a patent shall be determined in accordance with the law of the state in which the employee is wholly or mainly employed or, if the identity of such state cannot be determined, in accordance with the law of the state in which the employer has his place of business to which the employee is attached.”

ANNEX II

Intellectual Property Assignment Agreement for Personnel at South East Technological University Carlow

Research Project Name: _____ (the “Project”)

I understand that, consistent with applicable laws and regulations, South East Technological University Carlow (South East Technological University Carlow) is governed in the handling of intellectual property by its official Intellectual Property Policy entitled *Intellectual Property Policy and Procedures*, (a copy of which I have received), and I agree to abide by the terms and conditions of this Intellectual Property Policy in the course of my South East Technological University Carlow activities and in the work that I carry out on the Project.

As a general rule (and subject to the exceptions set out in this Intellectual Property Policy) any intellectual property rights in any material, (including any copyright (including rights in computer software and moral rights), patent, design right, trademark rights, brand rights, database rights, know how, trade secrets, confidential information rights in design, semiconductor topography rights or other intellectual property rights or other property rights, whether vested, contingent or future anywhere in the world), created by me in the course of my work with South East Technological University Carlow (and in particular in the course of my work on the Project) is the property of and vests solely and absolutely in South East Technological University Carlow (“South East Technological University Carlow Intellectual Property”).

Pursuant to this Intellectual Property Policy, and in consideration of my participation in projects (and the Project) administered by South East Technological University Carlow , access to or use of facilities provided by South East Technological University Carlow and/or other consideration, I hereby agree as follows:

1. I will disclose to South East Technological University Carlow all potentially patentable inventions and other South East Technological University Carlow intellectual property conceived or first reduced to practice in whole or in part in the course of my South East Technological University Carlow responsibilities, my participation in the Projects at South East Technological University Carlow or with more than incidental use of South East Technological University Carlow resources. I further assign to South East Technological University Carlow all my right, title and interest in such patentable inventions and other South East Technological University Carlow intellectual property created in connection with South East Technological University Carlow and/or the Project and to execute and deliver all documents and do any and all such things necessary and proper on my part to effect such assignment. Such assignment is not

inconsistent with the terms of my continuing employment outside of South East Technological University Carlow (if any) or with any other agreement I have entered into.

2. I will not use any information defined as confidential or proprietary by any non-South East Technological University Carlow employer (if any) in the course of my South East Technological University Carlow responsibilities and I will not do consulting or research work for any non-South East Technological University Carlow employer (unless such work is approved of in writing by South East Technological University Carlow).
3. I will not enter into any agreement creating copyright or patent obligations in conflict with this agreement. I hereby waive any moral rights to which I may be entitled under any legislation now existing or in future enacted in any part of the world and for the avoidance of doubt this waiver shall extend to the licensees and successors in title to the copyright in the South East Technological University Carlow intellectual property and the Project.
4. This agreement is effective on date of my South East Technological University Carlow hire, enrolment or participation in projects administered by South East Technological University Carlow , and is binding on me, my estate, heirs and assigns.

Signed this ----- day of -----,

Signature

Printed or typed name

South East Technological University Carlow title South East Technological
University Carlow Department

ANNEX III

Intellectual Property Agreement for Personnel at South East Technological University Carlow who have a prior existing and/or conflicting Intellectual Property Agreement or arrangement with another employer or a third party

I understand that, consistent with applicable laws and regulations, South East Technological University Carlow (South East Technological University Carlow) is governed in the handling of intellectual property by its official Intellectual Property Policy entitled *Intellectual Property Policy and Procedures*, (a copy of which I have received), and I agree to abide by the terms and conditions of this Intellectual Property Policy in the course of my South East Technological University Carlow activities.

As a general rule (and subject to the exceptions set out in this Intellectual Property Policy) any intellectual property rights in any material, (including any copyright (including rights in computer software and moral rights), patent, design right, trademark rights, brand rights, database rights, know how, trade secrets, confidential information rights in design, semiconductor topography rights or other intellectual property rights or other property rights, whether vested, contingent or future anywhere in the world), created by you in the course of your work with South East Technological University Carlow is the property of and vests solely and absolutely in South East Technological University Carlow ("South East Technological University Carlow Intellectual Property").

Pursuant to this Intellectual Property Policy, and in consideration of my participation in projects administered by South East Technological University Carlow, access to or use of facilities provided by South East Technological University Carlow and/or other consideration, I hereby agree as follows:

1. I will disclose to South East Technological University Carlow all potentially patentable inventions and other South East Technological University Carlow intellectual property conceived or first reduced to practice in whole or in part in the course of my South East Technological University Carlow responsibilities, my participation in research projects at South East Technological University Carlow or with more than incidental use of South East Technological University Carlow resources. I further assign [jointly] to South East Technological University Carlow [and to my non-South East Technological University Carlow employer]² all my right, title and interest in such patentable inventions and other South East Technological University Carlow intellectual property created in connection with South East Technological University Carlow and to execute and deliver all documents and do any and all such things necessary and proper on my part to effect such assignment. Such assignment is not inconsistent with the terms of my continuing employment

² To be considered on a case by case basis

outside of South East Technological University Carlow or with any other agreement I have entered into.

2. I will not use any information defined as confidential or proprietary by my non-South East Technological University Carlow employer in the course of my South East Technological University Carlow responsibilities and I will not do consulting or research work for my non-South East Technological University Carlow employer while at any facility owned or leased by South East Technological University Carlow.
3. I am free to place my inventions in the public domain as long as in so doing neither I nor South East Technological University Carlow violates the terms of any agreements that governed the work done or my agreements with my non-South East Technological University Carlow employer.
4. I will not enter into any agreement creating copyright or patent obligations in conflict with this agreement.
5. This agreement is effective on date of my South East Technological University Carlow hire, enrolment or participation in projects administered by South East Technological University Carlow, and is binding on me, my estate, heirs and assigns.

Signed this ----- day of -----,

Signature

Printed or typed name

South East Technological University Carlow title South East Technological
University Carlow Department

Acknowledged and accepted:

Non-South East Technological University Carlow Employer: -----
(Insert name)

----- Signature -----
Title
----- Date

ANNEX IV

INVENTION DECLARATION FORM

1. Title of Invention

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2. Inventors

Name	Department	Affiliation with University (i.e. department, student, staff, visitor)	Address, contact phone no., e-mail	% Contribution to the Invention

3. Contribution to the Invention

Each contributor/potential inventor shall write a paragraph relating to their contribution and include a signature and date at the end of the paragraph.

4. Description of Invention

(Please highlight the novelty/patentable aspect. Attach extra sheets if necessary including diagrams where appropriate).

--

5. **Why is this invention more advantageous than present technology?**
 What are its novel or unusual features?
 What problems does it solve?

6. **Sponsorship**

Government Agency & Department	
% Support	
Contract/Grant No.	
Contact Name	

Phone No.	
Address	

Industry or other Sponsor	
% Support	
Contract/Grant No.	
Contact Name	
Phone No.	
Address	

7. Where was the research carried out?

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8. What is the potential commercial application of this invention?

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9. Was there transfer of any materials/information to or from other institutions regarding this invention?

If so please give details and provide signed agreements where relevant.

10. Have any third parties any rights to this invention?

If yes, give names and addresses and a brief explanation of involvement.

11. Are there any existing or planned disclosures regarding this invention?

Please give details.

12. Has any patent application been made? Yes/No

ANNEX V

South East Technological University Carlow

Declaration of Potential Conflict of Interest Relating Specifically to Technology Transfer Agreements

Name of Staff Member:

Position:

Name of Department/Faculty/Campus:

**Head of
Department/Faculty/Campus:**

Client/Company Name and Address (*where necessary*):

Give a brief description of your Reportable Financial or Personal interests:
(*e.g., equity, share options, directorship, remunerated service agreements, etc.*)
(*Additional pages may be attached, if required*)

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Declaration:

I declare that I have read and will comply with the University's Intellectual Property Policy. I declare that I have disclosed my full personal interest and confirm that I have no other activities, responsibilities or ownership entitlements that might lead to a Conflict of Interest situation or a Conflict of Commitment relating to research activities and/or Intellectual Property Commercialisation. I understand it is my responsibility to submit this completed declaration to the University for its review and determination

Signature: _____ Date: _____
Staff Member

I acknowledge this personal interest declaration of my staff member.

Signature: _____ Date: _____
Head of Department/Faculty/Campus

Received and acknowledged for and on behalf of the South East Technological University Carlow.

Signature: _____ Date: _____
Title: _____

