

NATIONAL UNIVERSITY OF IRELAND, GALWAY

INTELLECTUAL PROPERTY POLICY AND PROCEDURES

August 2, 2007

May, 2006 (*draft #8*)

**Presented to and Reviewed by the Research Committee, National University of Ireland,
Galway, May 3, 2006**

Circulated to all staff of NUIG during May 2006 for comment and feedback

**Circulated to Finance Committee, National University of Ireland, Galway, in June 2006 and
considered on September 27, 2006**

Reviewed with Bursar, November 16, 2006

Reviewed with KPMG, November-December 2006

Presented to FRC, December 8, 2006

Executive Summary:

The Intellectual Property (IP) Policy and Procedures (2007) of NUI Galway sets out the principles relating to the ownership and commercialisation of all Intellectual Property (IP) arising from research programmes and other academic activity undertaken by the National University of Ireland, Galway (NUI Galway) and the rules that govern the creation, ownership and commercialisation of Intellectual Property developed by University staff, postgraduate students, undergraduate students, visiting academics, adjunct staff and others participating in research programmes carried out for the University or undertaken using University Assets. The Technology Transfer Office (TTO) is responsible for the management of the intellectual property / patent portfolio of the university with a view to maximise its commercialization and technology transfer to start-up companies and industry through the university patent holding company, AthruTech Ltd. The IP Policy & Procedures (2007) is intended to actively support the commercialisation of University IP in a manner which ensures maximum benefit to society while providing recognition for the creators and inventors of the IP, the University, the Department(s) / Research Institute(s) to which inventor(s) belong to and where appropriate, the sponsor of the research. The policy provides for the assignment of IP to the university through completion of the university IP Assignment Form as new IP is developed and as patents are filed. The policy also provides that the university aims to use income received from any licensed IP through its patent holding company to recognize the contribution of inventor(s) and the department(s) / research institution(s) to which the inventors belong to, central funds and the TTO.

At a minimum 15% of any income received from licensed IP / patents / technologies from the patent holding company will go back to the department(s) / research institutes to which the inventor(s) belong to for further re-investment in the department(s) / research institutes and in particular in the technology / project areas from which the licensed IP / patents / technologies arose initially. The IP Policy and Procedures will be supported by a Guideline Policy (“GUIDELINE POLICY FOR TECHNOLOGY AND INTELLECTUAL PROPERTY COMMERCIALISATION”) which will provide direction to the Office of the Director of Technology Transfer and to the university as how best to evaluate the intellectual property (IP) arising out of NUI Galway. A sub-committee (“Commercialization Committee”) chaired by the Director of Technology Transfer Office (TTO) and made up of the Director of Technology Transfer Office (TTO), The Vice President for Research, The Deputy President & Registrar and The Bursar or representatives from these offices will oversee the general implementation of the guideline policy on Technology and Intellectual Property evaluation.

The Commercialization Committee will ensure that proper corporate governance procedures are in place and adhered to in the commercialization of NUI Galway Intellectual Property.

INTRODUCTION

The purpose of this Policy is to set out the principles relating to the ownership and commercialisation of all Intellectual Property arising from research programmes and other academic activity undertaken in the National University of Ireland, Galway (NUI Galway). This document outlines the policy that govern the creation, ownership and management of Intellectual Property developed by University staff, postgraduate students, undergraduate students, visiting academics, adjunct staff and others participating in research programmes carried out for the University or undertaken using University Assets.

The Policy is intended to actively support the management of University Intellectual Property in a manner which ensures maximum benefit to society while providing recognition for the creators and inventors of the Intellectual Property, the University and where appropriate, the sponsor of the research. The University actively encourages the management of University Intellectual Property by offering a support programme and aims to use income received from any licensed IP from its patent holding company to recognize the contribution of inventors and the department(s) / research institutes to which the inventors belong to, central funds and the TTO. The University's share of income will be used in support of the University's mission including to fund further research and development, innovation, entrepreneurship, technology transfer, commercialisation, spin-out company formation, related and other activities.

This document replaces the previous 'Policy on Intellectual Property for National University of Ireland, Galway' which was approved by the then Governing Authority of the University. It incorporates the main provisions of the previous policy and takes account of the developments outlined here-in and also changes in Irish legislation relating to intellectual property.

The distribution of license income and royalty income from licensing agreements which predates this policy shall be governed under the terms of the previous 'Policy on Intellectual Property for National University of Ireland, Galway'.

DEFINITIONS

"Intellectual Property" means all intellectual property rights including patents, trade marks, service marks, design rights, copyright, database rights, moral rights (whether or not any of these are registered and including any applications for registration of any such rights), inventions, know how, confidential information and trade secrets, together with all goodwill attaching or relating thereto, and all rights or forms of protection of a similar nature or having similar effect to any of these which may exist or come into existence in the future anywhere in the world.

Intellectual Property includes, but is not limited to, multi-media works, records of confidential information, laboratory records, data, text, construction material, tests, research findings, organisms, cells, viruses, DNA sequences or other biological materials, plant lines and chemical compounds. Intellectual Property may exist in a written or electronic form, it may be in the form of text, multi-media, computer programs, spreadsheets, formatted fields in records or forms within files, databases, graphics, digital images, video and audio records, two or three dimensional works of art, film, slides, charts or CD ROMs.

"Policy" means this Intellectual Property Policy.

"University" means National University of Ireland, Galway.

"University Intellectual Property" is any Intellectual Property that vests in the University in accordance with the terms of this Policy.

"University Personnel" means all employees (whether full or part time), consultants, undergraduate students, and postgraduate students of the University, visiting academics, adjunct staff and all others participating in research programmes carried out for the University or undertaken using University Assets and all other people that use University Assets.

For the avoidance of doubt reference to undergraduate students in the context of University Intellectual Property (IP) refers to intellectual property that may arise from salary-paid summer projects that such students may partake in. For undergraduate students who develop intellectual property during enrolment in their primary degree, this will be reviewed on a case-by-case basis, as other University Personnel may also contribute to such IP.

“**University Assets**” means all facilities, materials, know how, confidential information or Intellectual Property of the University.

AIMS OF POLICY

The basic aims of the Policy are as follows:

- To maximise the management of Intellectual Property arising from University research for the benefit of the university, the inventor(s), the economy and society;
- To encourage public use of University Intellectual Property by facilitating its transfer from the University to industry and business;
- To establish principles and procedures for the protection and management of University Intellectual Property;;
- To provide genuine incentives, support and recognition for creators of Intellectual Property;
- To utilise the financial and other returns to the University from University Intellectual Property, in support of the University’s Mission including to advance and encourage research and development, innovation, entrepreneurship, technology transfer, spin-out company formation, related and other activities at the University;

The University will not claim income from pedagogical or scholarly works in the form of dissertations, articles or books.

SCOPE OF POLICY

This Policy applies to all University Personnel, as defined elsewhere, who create Intellectual Property either within the scope of their employment or using the University’s Assets.

Intellectual Property related to University Personnel’s job responsibilities, even if he or she is not specifically requested to create it, will belong to the University. Work is related to an individual’s job responsibilities if it is the kind of work that the individual is employed to do or if it is for use by your colleagues or the use of the University. The creation of the Intellectual Property shall be performed substantially at the University using University Assets, but an individual’s use of personal time or other facilities to create the work would not change its basic nature if it is related to the individual’s job as described above. Intellectual Property that has nothing to do with an individual’s job duties or research will remain the property of the individual, so long as he or she makes no more than incidental use of the University’s Assets.

Visiting lecturers, post graduate students and other personnel at the University who have a prior existing and conflicting intellectual property arrangement with another employer or third party must enter into an agreement with the University (and their employer or relevant third party) (ANNEX I) to abide by the conditions of this Policy in the course of their activities at the University.

The Policy applies particularly but not exclusively to any Intellectual Property rights in materials and/or inventions which are created in whole or in part or caused to come into existence:

- while undertaking 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 creator of the Intellectual Property to further the University’s interest or

- when using the University's Assets, or
- using the University's confidential information, trade secrets, know how or any of the Intellectual Property of the University or
- in relation to any work performed for the University (including pursuant to any third party funded research programmes).

OWNERSHIP OF INTELLECTUAL PROPERTY

Subject to the exceptions set out in this Policy any Intellectual Property created by University Personnel within the scope of this Policy (and whether using University Assets or otherwise) is the property of and vests solely and absolutely in the University.

All University Personnel hereby agree to assign all rights in applicable Intellectual Property to the University. As a condition of employment as a University employee or engagement as a consultant or as a condition of admission of each post-graduate student, undergraduate student or staff member (as the case may be) all University Personnel agree to comply with the Policy and by acceptance of the Policy hereby agree to assign all rights in applicable Intellectual Property to the University (or a person or company designated by the University, including the University's Patent Holding company or an agency which provided the funding for the relevant research). An Assignment Form is included in Annex II and must be signed by all University Personnel.

The University shall have the sole right to determine the use of applicable Intellectual Property under this Policy. That determination shall take into account the interest of the University, the public and, where applicable, the University Personnel member who created the Intellectual Property.

University Personnel do not have a legal right to, and may not assign or license any rights in applicable Intellectual Property to third parties without the written consent of the University.

University Personnel who create Intellectual Property shall assist, as reasonably necessary, the University in obtaining statutory protection for the Intellectual Property and shall perform all obligations to which it may be subject concerning the Intellectual Property, including executing appropriate assignments and other documents required to set forth effectively the University's ownership of and right to the Intellectual Property and also to secure any protection that the University may deem appropriate for the Intellectual Property.

OUTLINE OF INTELLECTUAL PROPERTY SUPPORT PROGRAMME

The University office responsible for supporting the development and management of University Intellectual Property is The Technology Transfer Office ("TTO"). The university's patent holding company, AthruTech Ltd will be responsible for the commercialization of university IP.

The main functions of the TTO are as follows:

- Providing assistance in relation to formal disclosure and assignment procedures related to Intellectual Property (IP);
- Identification of Intellectual Property and evaluation of commercial potential;
- Processing of patent, registered design, copyright and trade mark applications where appropriate financial support is available;
- Development of Technology Capsules which will facilitate dissemination of information of the new technology or IP to potential licensees, commercial partners, etc;
- Securing financial support for patent applications;
- Identifying appropriate Patent Attorneys to progress patent filings and patent applications;
- Marketing of University Intellectual Property;
- Identification of Venture Capital houses for further investment in the Intellectual Property and potential spin out companies;

- Identification of management teams and Interim Chief Executive Officers to lead the spin-out of University developed technologies into new High Potential Start-up (HPSU) companies;
- Provision of support programmes which facilitate spin-outs including writing business plans, raising finance etc;
- Providing incubation facilities, advice and support for establishment and development of campus companies.

DISCLOSURE

All Intellectual Property developed by University Personnel must be disclosed on a timely basis to the TTO. Disclosure must be made at the earliest opportunity, and in any event, not later than three weeks after the observation that new Intellectual Property may have been created. Where specified policies are in place between the University and an industrial party governing disclosure of Intellectual Property generated from industry-funded research then these policies, where relevant, must be closely adhered to.

To help University Personnel identify whether any Intellectual Property has been created a guide to the standard forms of intellectual property is set out in Annex III.

The disclosure to the TTO shall be made by completing the Invention Disclosure Form which can be downloaded from the TTO web site. The disclosure should be sufficiently complete in technical details to convey a clear understanding of the nature, purpose, operation and to the extent known, the physical, chemical, biological, electrical, software, algorithms or other characteristics of the Intellectual Property.

USE OF UNIVERSITY INCOME FROM COMMERCIALISATION OF UNIVERSITY INTELLECTUAL PROPERTY

(a) Financial Provisions

The University aims to share a proportion (i.e., 15%) of net royalty and other net income generated by the University from the commercialisation of the University Intellectual Property through license agreements with the department(s) or research institute(s) from which the creators or inventors of the said Intellectual Property are affiliated with. This cumulative sharing of income per each license agreement with said department(s) or research institute(s) is subject to the terms of the Policy being met by the creators and inventors of the University Intellectual Property, including the execution of all appropriate documentation to assign to the University all rights in University Intellectual Property. The aim is to achieve an equitable distribution of the income that arises from the commercialisation of University Intellectual Property per each license agreement between the University, the department(s) / research institutes to which an inventor is affiliated to, and to recognize the creators and inventors of the intellectual property and, where appropriate, a third party sponsor. Furthermore the University will develop a separate “Guideline Policy on Technology and IP Commercialization” addressing the general terms expected from the management of University Intellectual Property, the internal mechanism for approval of such management and the terms by which the income per each license agreement which accrues to the University, is to be allocated to (a) third parties sponsors, (b) to cover any legal costs, (c) is distributed between the department(s) / research institutions to which inventor(s) are affiliated with, (d) central university funds and (e) the Technology Transfer Office. This “Guideline Policy on Technology and IP Commercialization” will indicate the proposed percentage distribution of such University accrued income to department(s) / research institutions (i.e., 15%), to central university funds and to the Technology Transfer Office and will give guidance on the types of activities to which such distributed income should be used.

The procedure for distribution of the actual net income outlined in this Clause does not relate in any way to income earned by the University from equity holdings in campus companies or in other companies to which University Intellectual Property has been licensed and in which the University has taken an equity position but in which an inventor has not taken an equity position. Where the University but not an

inventor(s) of University Intellectual Property holds equity in a campus company to which such University Intellectual Property has been licensed and where the University derives income from such a license then the aim is that such income will be distributed as follows:

Table 1: Distribution of Cumulative Net Income from IP licensed out by NUI Galway to start-up companies in which the university only, but not inventor(s) of the IP holds an equity position:

<i>Net Income (€)</i>	<i>Creators / Inventors or their estate</i>	<i>University *</i>
Up to €125,000	75%	25%
€125,001 - €200,000	50%	50%
€200,001 - €500,000	40%	60%
€500,001- €1,000,000	35%	65%
>€1,000,001	30%	70%

* Relevant Department/Institute from which inventor(s) of the IP are affiliated to, will receive from the University share a minimum 15% share of total net cumulative income
The University will continue to support the development of Research, Technology Transfer and Commercialisation Activity from Central Funds.

Example:

If cumulative income of €200,000 is received from a start-up company in which the university, but not inventor(s) hold an equity position, then the following ideal amount may be distributed to an inventor or their estate:

(a) 75% of €125,000 = €93,750
(b) 50% of €75,000 = €37,500

The University could make the following payment to the inventor(s) or their estate: €131,250

If cumulative income of €750,000 is received then the following ideal amount may be distributed to an inventor or their estate:

(a) 75% of €125,000 = €93,750
(b) 50% of €75,000 = €37,500
© 40% of €300,000 = €120,000
(d) 35% of €250,000 = €87,500

The University could make the following payment to the inventor(s) or their estate: €338,750

If more than one party, including parties external to the university, is involved in the creation / invention of the particular piece of University Intellectual Property, the ideal division of payments between the parties will be based on their relative intellectual contributions and will be agreed by the parties concerned and notified to the TTO in the Invention Disclosure Form filed with the TTO. The University will not file an initial patent application or distribute the Net Income unless the relevant parties have agreed the proportions or % contribution between themselves. If the parties cannot agree the proportions then the University, through the TTO, will act as arbitrator on the matter and the decision of the University shall be final.

Where both the University and the inventor(s) of University Intellectual Property holds independent equity in a campus start-up or spin-out technology company to which such University Intellectual Property has been licensed into and where both the University and the inventor(s) of such University Intellectual Property derives income from such a license based on their respective and independent equity holdings then it is not intended that such University income will be distributed between the University and the

inventor(s) of the licensed University Intellectual Property (i.e., it will be retained by the University) and such inventor(s) income will not be distributed between the University and the inventor(s) of the licensed University Intellectual Property [i.e., it will be retained by the inventor(s)].

All direct expenses incurred by the University in the protection and management of University Intellectual Property that arises from a particular project or research (including legal and other costs involved in seeking patent protection for an invention and any subsequent investigation, development and promotion) will be recouped first by the University from the initial royalty or other income or lump sum or license fee before calculating the amount of income which can be shared with central funds and the department(s) or research institutes to which an inventor(s) is affiliated to. The amount recouped shall not exceed 50% of the total gross income to the University from the commercialisation of the relevant research project in a given calendar year unless the income is specifically intended to cover expenditures such as patent costs.

Furthermore, where third parties such as Enterprise Ireland and/or others support the University in patent applications through financial support, in particular financial support for PCT filings and for Patent Nationalization (i.e., stage 2 and stage 3 financial support, respectively under the Enterprise Ireland Patent Support scheme for HEIs effective from January 1, 2006), then it is acknowledged that Enterprise Ireland will have a first call on recouping its financial support for stage 2 and stage 3 patent filings from any license income or royalty income that the university receives.

Where a technology is licensed out to a third party in exchange or part exchange for an up-front payment of a license fee and a stipulation of that license agreement is that the license fee is returned to the third party where e.g., a technology does not scale-up during subsequent development, then the initial license fee will be held in an escrow account until firm agreement is reached on the scalability and commercial potential of said technology, at which point the retained upfront licensee fee will be distributed as per the terms of this policy.

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It is essential that good research records are prepared during the course of each project. Thus, it is imperative that the recently established NUI Galway Good Laboratory Notebook Policy is closely adhered to when writing up research results in laboratory notebooks. In the event of a dispute, the research records will be of prime importance in making an apportionment between the parties concerned.

The division of royalty and other income will generally be carried out within six weeks of receipt of such income. For the avoidance of doubt no division of royalty and other licensing income will be distributed on campus unless the University has received income or royalties from such commercialisation.

(b) Non Financial Provisions

It is recognised that the development of University Intellectual Property is dependent on the existence of satisfactory and equitable agreements on the use of income to provide recognition to departments and creators of University Intellectual Property. However, the University may at its discretion provide non-financial rewards for such activities including academic recognition, improvement in the Department/Centre's facilities and funds for research, promotion.

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 the 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 TTO and

the contract has been signed by the University. University Personnel may be required to enter into agreements with such third party agencies in relation to the ownership of Intellectual Property arising from the research funded by such third parties.

PUBLICATION OF RESEARCH RESULTS

It is University policy to encourage staff and post-graduate students to place the results of their research in the public domain either through publication in journals or presentation at conferences or through presentation on University web pages or through other forms of public disclosure. This is a vital factor for academic recognition.

However, it must be recognised that premature publication or verbal disclosure (except on a confidential basis,) or presentation at conferences or posting on a web-site etc, may make it impossible to obtain valid patent protection in different territories. Furthermore, the acceptance of a grant award from many granting agencies requires the University to identify Intellectual Property where so created using that grant support and to make every best effort in ensuring that patent applications are undertaken to protect that Intellectual Property prior to public disclosure.

The TTO will provide advice and assistance in relation to pre-mature publication of research results where new Intellectual Property may reside, and in relation to consideration of confidentiality agreements or collaborative research agreements associated with research projects from which such results were derived. The TTO will require at least 30 days for review of any manuscripts in the context of existing confidential arrangements with external third parties or sponsoring / industrial parties prior to proposed submission of such publications to scientific journals. This 30 day review period may be extended if requested by the TTO prior to submission for publication.

It is important to ensure that the Intellectual Property remains confidential and is not published or presented at conferences or posted on University web pages etc for a limited period to enable adequate arrangements to be put in place for its protection where this is feasible. Publication that is in violation of the terms of any agreement between the University with the sponsor of the research, with granting agencies or other Third Party must be avoided at all times.

A thesis work may contain intellectual property which has not been protected through patent filings or other forms of IP protection. The placing of a thesis in the University library without ensuring that accessibility is restricted constitutes publication. Thus, the placing of a thesis on a library shelf should be delayed until such IP is considered for patent filing or other form of IP protection by the TTO.

A typical arrangement for publication of a patentable invention is described in ANNEX IV. Where Research Institutions at NUI GALWAY have policies in place governing publication and disclosure of research results such policies must also be closely adhered to.

CONFLICT OF INTEREST AND ETHICAL ISSUES

It is the policy of the University that its officers, faculty, staff, and others acting on its behalf have an obligation to avoid ethical, legal, financial, or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligations to the University or its welfare. Any questions in relation to research ethics should be referred to the recently established University's Research Ethics Committee.

PROCEDURES

Responsibility for implementation and administration of this Policy rests with the TTO. University Personnel requiring advice or clarification should contact the TTO.

ARBITRATION

Any dispute in relation to the Policy or its effects will be dealt with as provided for in ANNEX V. Expenses incurred by the University in resolving disputes shall be deducted from royalty income before

distribution unless an Arbitrator is appointed. The costs of the Arbitrator shall be borne by the Parties as outlined in ANNEX V.

CONTACTS

Any queries should be directed to the Technology Transfer Office as follows:

<p>Dr Daniel O'Mahony Director, Technology Transfer Office Science & Engineering Technology Building The National University of Ireland University Road, Galway Tel: 091-49-2147 Email: Daniel.omahony@nuigalway.ie</p>	<p>Ms. Patricia Walsh Executive Administrator Technology Transfer Office Science & Engineering Technology Building The National University of Ireland University Road, Galway Tel: 091-49-2147 Email: patricia.walsh@nuigalway.ie</p>
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INTELLECTUAL PROPERTY POLICY ACKNOWLEDGEMENT

I have read and understood the attached National University of Ireland, Galway Policy (“Intellectual Property Policy and Procedures”). I understand that the provisions of this Policy apply to all employees, students, researchers, visiting academics, adjunct staff and any other persons employed or engaged by the University, to all persons receiving funding administered by the University, or receiving other compensation from the University. I agree to abide by the provisions of the Policy.

Name: _____

Department: _____

Contact Details: _____

Date: _____

Signed: _____

ANNEX I

Intellectual Property Agreement for University Personnel 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, National University of Ireland Galway (NUI GALWAY) is governed in the handling of intellectual property by its official policy titled *Intellectual Property Policy and Procedures*, (a copy of which I have read), and I agree to abide by the terms and conditions of this Policy in the course of my NUI GALWAY activities.

As a general rule (and subject to the exceptions set out in this Policy) any Intellectual Property (as defined in the Policy) created by me in the course of my work or study with NUI GALWAY is the property of and vests solely and absolutely in NUI GALWAY (“University Intellectual Property”). Pursuant to this Policy, and in consideration of my participation in projects administered by NUI GALWAY, access to or use of facilities provided by NUI GALWAY and/or other consideration, I hereby agree as follows:

1. I will disclose to NUI GALWAY all potentially patentable inventions and other University Intellectual Property conceived or first reduced to practice in whole or in part in the course of my NUI GALWAY responsibilities, my participation in research projects at NUI GALWAY or with use of University resources. I further assign [jointly] to NUI GALWAY [and to my non-NUI GALWAY employer] all my right, title and interest in such patentable inventions and other University Intellectual Property created in connection with NUI GALWAY 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 NUI GALWAY or with any other agreement I have entered into.
2. I will not use any information defined as confidential or proprietary by my non-NUI GALWAY employer in the course of my NUI GALWAY responsibilities and I will not do consulting or research work for my non- NUI GALWAY employer while at any facility owned or leased by NUI GALWAY.
3. I am free to place my inventions in the public domain as long as in so doing neither I nor NUI GALWAY violates the terms of any agreements that governed the work done or my agreements with my non- NUI GALWAY 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 NUI GALWAY hire, enrolment or participation in projects administered by NUI GALWAY, and is binding on me, my estate, heirs and assigns.

Signed this -----day of -----, 200_

Signature Printed or typed name

NUI GALWAY title
NUI GALWAY Department

Acknowledged and accepted:

Non-NUI GALWAY Employer: -----
(Insert name)

Signature

Title

Date

ANNEX II

Intellectual Property Assignment Form for signature by all staff, post-graduate and under graduate students at NUI GALWAY, and by visiting academic staff, adjunct staff and consultants where appropriate

I [*insert name of employee / researcher*]
acknowledge that in accordance with NUI Galway's Intellectual Property Policy and Procedures (a copy of which I have read) any invention or other form of intellectual property right created by me during the course of my work or research with NUI Galway is the property of and vests solely and absolutely in NUI Galway. I further acknowledge and understand that some of the work / research that I may be involved in may form part of a project funded by state agency funding, industrial partner funding or through other funding sources and that the terms of such funding may require an assignment of intellectual property rights from me to NUI Galway and / or the party funding the project.

IT IS AGREED:

For the purposes of this Agreement the term "Intellectual Property Rights" or "IPR" means all intellectual property rights including without limitation patents, (including utility models and inventions), trade marks (including service marks, trade names and business names), design rights, copyright and related rights (including but not limited to rights in respect of software), internet designations (including domain names), moral rights and database rights, (whether or not any of these is registered and including any application for registration of any such rights), know-how, confidential information and trade secrets for the full term of such rights and including any extension to or renewal of the terms of such rights and all rights or forms of protection of a similar nature or having similar effect to any of these which may exist anywhere in the world.

Pursuant to the above, and in consideration of my employment with NUI Galway and / or enrolment as a student and /or my participation in any NUI Galway research project or projects ("Projects") I hereby agree as follows:

1. I hereby assign to NUI Galway absolutely (a) all right, title and interest in any such IPR created by me during the course of my employment with NUI Galway or participation in any Projects (and during the course of any other activities in which I am engaged while at *NUI Galway*) including all statutory and common law rights attaching thereto (b) the right to sue for past infringement and to retain any damages as a result and (c) any rights and benefits relating to the above including the right to claim priority.
2. To the extent that I cannot assign any IPR to NUI Galway I hereby agree that any such right (including, where applicable, any moral right, such as a right of paternity or integrity) shall be irrevocably and unconditionally waived and I shall not be exercise such right against NUI Galway.
3. I shall at no additional charge, on being requested to do so by NUI Galway and at the cost and expense of the NUI Galway, now or at any time in the future, promptly execute and deliver all such documents and do all such other acts or things as may be necessary or desirable to give full effect to this Agreement and secure to NUI Galway the full benefit of the rights assigned by way of this Agreement. I hereby irrevocably appoint NUIIG (or its nominee) to be my attorney to act in my name and on my behalf to execute and do any such instruments and things and generally to use my name for the purpose of giving to NUIIG (or its nominee) the full benefit of this Agreement.
4. That I will not use any information defined as confidential or proprietary by any non-NUI Galway employer (if any) in the course of my NUI Galway responsibilities and I will not do consulting or research work for any non-NUI Galway employer during the course of my participation in any Projects (unless such work is approved of in writing by NUI Galway) as per the current NUI Galway Policy on Consultancy.]
5. I acknowledge that the terms of this Agreement are not inconsistent with the terms of any other agreement into which I have entered and that I will not enter into agreement creating any obligation in conflict with this Agreement.

This agreement is effective as at the date of my commencement of employment with NUI Galway or enrolment in courses at undergraduate, post-graduate or post-doctoral level or first participation in any Projects (whichever is the earlier).

IN WITNESS whereof this Agreement has been duly executed as a Deed on the date shown below.

Executed this.....day of....., 200-

Signed, Sealed & Delivered

Print or type name

Signed for & on behalf of
National University of Ireland, Galway

Print or type name and position

ANNEX III

OVERVIEW OF INTELLECTUAL PROPERTY

Intellectual Property

Intellectual Property is the tangible or intangible results of research, development, teaching, or other intellectual activity and includes individually and collectively all technical innovations, inventions, improvements, and/or discoveries, information, know how and knowledge. .

Main Forms of Intellectual Property Protection

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 and generally operate on a country by country basis...

Patents protect ideas.

Copyrights

Copyright gives the author of a copyright work the right to control the use, copying and distribution of the copyright work (primarily material such as books and other literature, art, music, sound recordings, films and broadcasts and software). Most, but not all, uses of copyright material will require permission from the copyright owner. Copyright protection is automatic in that there is no official application or recording system.

Copyright protects the expression of an idea.

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. Trademarks can either be registered or unregistered. Trademarks like patents are territorial and generally work on a country by country basis (the main exception being a Community Trade Mark which is effective in all EU member states).

Trade Marks protect the branding of an idea

Industrial Designs

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. Like trade marks industrial designs can be registered or unregistered and also generally work on a country by country basis.

Confidential Information and Know How

Protection for confidential information and know-how arises from the law of confidentiality. All Confidential Disclosure Agreements (CDAs), Non Disclosure Agreements (NDAs), Mutual Disclosure Agreements (MDAs) and Material Transfer Agreements (MTAs) must be processed through the TTO.

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.; an EU Domain name policy has also recently come into effect.

Other Forms of Intellectual Property

Other forms of intellectual property include, but are limited to, database right for certain types of database; protection for semi-conductor topographies; plant breeders' rights in certain plant varieties; and protection against unfair competition under "passing off" law.

ANNEX IV

Typical arrangement for publication of a patentable invention.

Every effort shall be made to ensure that Intellectual Property protection causes a minimum delay to the publication of related research. Where possible the delay in publication to enable a patent application to be filed should be for an agreed limited period, typically less than 60 days.

In the case of research funded by third parties such as industry, typically the research contract between the University and the Sponsor or Industrial Party makes provision for a publication process for research. A typical arrangement is as follows:

- The third party would be informed at least 30 days before submission of a publication
- The third party would be given 30 days to decide whether publication should be delayed
- Upon the request of the third party the submission for publication may be delayed for up to a further 30 days to enable the parties to secure adequate protection of the Intellectual Property that would be affected by publication.
- In the event that the protection of Intellectual Property is not feasible and where publication may jeopardise commercialisation, the submission for publication may be delayed for up to an additional period (60 days) to enable an approach to commercialisation to be agreed.

ANNEX V

Dispute Resolution

1. Informal Dispute Resolution

Prior to the initiation of formal dispute resolution procedures, the Parties shall first attempt to resolve any dispute, controversy or claim arising under or in connection with this Policy (a “Dispute”) informally, as follows:

1.1 First, the Parties to the Dispute shall meet as often, for a duration and as promptly as the Parties deem necessary to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute;

1.2 If the Parties are unable to resolve the Dispute within 30 days after the referral of the Dispute to them, the Dispute will be referred to the President of the University, through the TTO. The President shall nominate a person or persons who shall use reasonable efforts to resolve such Dispute.

2. Alternative Dispute Resolution

If a Dispute cannot be resolved as provided in Clause 1, then prior to resorting to litigation, the following shall apply:

2.1: Either of the Parties may refer such matter for determination to such person as may be appointed by agreement between the Parties or, in default of agreement, nominated on the application of either Party by the President of the Law Society of Ireland.

2.2: Any person to whom a reference is made under Clause 2.1 shall act as an arbitrator (“the Arbitrator”) and shall be entitled to appoint such technical expert or experts as he/she considers necessary to assist him/her in determining the matter referred to him/her. The decision of the Arbitrator (which shall be given by him/her in writing stating his/her reasons therefore) shall be final and binding on the Parties. The arbitration shall be conducted in accordance with the Arbitration Acts 1954-1998.

2.3: The Parties shall provide any Arbitrator with such information as he/she may reasonably require for the purposes of his determination. The Arbitrator shall be entitled to order discovery of documents where he/she considers expedient to do so in the interests of justice and to reduce costs.

2.4: The costs of any Arbitrator (including the costs of any technical expert appointed by him) shall be borne in such proportions as the Arbitrator may determine to be fair and reasonable in all the circumstances or, if no such determination is made by the Arbitrator, by the Parties in equal proportions.

3. Exceptions to Dispute Resolution Procedure.

The provisions of Clauses 1 and 2 will not be construed to prevent from:

3.1 Seeking a temporary restraining order or injunctive or other equitable relief with respect to a breach (or attempted breach) of the Policy; or

3.2 Instituting litigation or other formal proceedings to the extent necessary (i) to avoid the expiration of any applicable limitations period or (ii) to preserve a superior position with respect to other creditor.