

**WELLCOME TRUST-FUNDED INTELLECTUAL PROPERTY:
EXPLOITATION CONSENT AND STANDARD REVENUE/EQUITY-SHARING
AGREEMENT**

This Agreement is made between the parties whose details are set out below:

A.	TRUST	
	Name:	The Wellcome Trust Limited as trustee of the Wellcome Trust
	Company no:	2711000
	Address:	Technology Transfer, The Wellcome Trust, 215 Euston Road, London NW1 2BE
	Contact:	Wellcome Technology Transfer
	Tel:	+44 (0)20 7611 8202
	E-mail:	techtransfer@wellcome.ac.uk
B.	INSTITUTION	
	Name:	
	Address:	
	Contact:	
	Tel:	
	E-mail:	
C.	TECHNOLOGY TRANSFER GROUP (if applicable)	
	Name:	
	Company no:	
	Address:	
	Contact:	
	Tel:	
	E-mail:	

THE PARTIES HEREBY AGREE as follows:

1. DEFINITIONS

- 1.1 **'Cumulative Income'** means total Net Income received as a result of exploitation of the Trust-funded Project.
- 1.2 **'Direct Costs'** means all reasonable patent and legal costs and other incidental expenses that are incurred directly in connection with exploitation of the Trust-funded Project, including official patent filing, prosecution, maintenance and renewal fees.
- 1.3 **'Equity'** means the issuing of equity or any other interest (whether by way of debenture, warrant, security or otherwise) from time to time in any company in consideration of the assignment or grant of a licence or an option thereto to such company in respect of any Trust-funded IP.
- 1.4 **'Exploiting Party'** means whichever of the Institution or Technology Transfer Group (if there is one) named above as is or will be responsible for technology transfer and commercialisation matters with respect to the Trust-funded Project for and on behalf of the Institution. For these purposes, **'exploitation'** includes but is not limited to commercialization by way of licence, assignment, option, sale, research collaboration or other agreement, or for cash or equity consideration.
- 1.5 **'Grant'** means the grant, details of which are set out in Schedule 1 to this Agreement.
- 1.6 **'Gross Income'** means all cash sums or other monetary consideration actually received in respect of exploitation of the Trust-funded Project, including licence, signing and option fees, royalties, and milestones, but excludes any Equity or other interests (whether by way of debenture, warrant, security or otherwise) or monies paid specifically to fund the undertaking of a research programme.
- 1.7 **'Institution'** means the institution named in the details set out above.
- 1.8 **'Intellectual Property'** means any and all rights in inventions, discoveries, materials, technologies, products, data, algorithms, software, know-how, patents, databases, copyright, trademarks, design rights, applications for any of the foregoing, moral rights, and any other intellectual property rights whether or not registered or capable of registration and whether or not subsisting in the UK or in any other part of the world.
- 1.9 **'Net Income'** means Gross Income less Direct Costs.
- 1.10 **'Other Party(s)'** means the Party(s) which is not the Exploiting Party.
- 1.11 **'Participation Round'** means the company's first Equity fundraising.
- 1.12 **'Technology Transfer Fee'** means the percentage of Net Income which the Exploiting Party is entitled to in recognition of its exploitation of the Trust-funded Project.
- 1.13 **'Technology Transfer Group'** means a body which is responsible for providing technology transfer services to the Institution and which has been approved by the Trust to carry out exploitation activities with respect to the Trust-funded IP, details of which are set out above.
- 1.14 **'Trust'** means The Wellcome Trust Limited as trustee of the Wellcome Trust, a charity registered in England with number 210183, details of which are set out above.

- 1.15 **'Trust-funded IP'** means any and all Intellectual Property which is or has been created, exemplified or developed (whether in whole or in part) using the Grant, whether such Grant funds are used before or after an invention disclosure or patent filing, and whether or not any person in receipt of Trust funding or working on a Trust-funded activity is named in invention disclosure records.
- 1.16 **'Trust-funded Project'** means the research funded by the Grant.
- 1.17 **'Trust Grant Conditions'** means the Trust's Grant Conditions, as may be amended from time to time.
- 1.18 **'WTT'** means the Trust's technology transfer division, Wellcome Technology Transfer.

2. CONSENT TO EXPLOIT TRUST-FUNDED IP

- 2.1 In consideration for entering into the terms of this Agreement and pursuant to the Trust Grant Conditions, the Trust consents to the exploitation of the Trust-funded IP in accordance with the details set out in the Schedules to this Agreement.

3. REVENUE SHARING

- 3.1 In consideration for consent being granted pursuant to clause 2 above, the Exploiting Party shall share Gross Income and Equity received in respect of a Trust-funded Project as set out in this clause 3.

- 3.2 The Exploiting Party shall first determine if:

- (a) the Grant (together with other Trust funds) is the sole source of funding for the Trust-funded Project, in which case clauses 3.3 and 3.4 shall apply to the total Gross Income or Equity received in respect of that Trust-funded Project, or
- (b) the Grant (together with other Trust funds) is not the sole source of funding for the Trust-funded Project, in which case the Gross Income or Equity received in respect of that Trust-funded Project shall be pro-rata calculated to take into account:
 - i) the inventive contribution of the inventors; followed by
 - ii) the proportionate funding contributions of the Trust, the Institution and other third party funders of each inventor as appropriate (such funding contribution to exclude any salary support provided by the Institution from its internal funding, including for the avoidance of doubt higher education funding council funding);

and the revenue-sharing formulae set out in clauses 3.3 and 3.4 below shall then apply to the portions of Gross Income or Equity attributed to the Trust contribution pursuant to this clause 3.2(b).

Income Sharing:

- 3.3 Where income is received then the Exploiting Party shall in respect of each individual Trust-funded Project that is exploited:
- (a) receive Gross Income due;

- (b) deduct and reimburse as appropriate any and all Direct Costs;
- (c) be entitled to receive a Technology Transfer Fee on Net Income received (determined by reference to Cumulative Income) as follows:

Cumulative Income	Technology Transfer Fee
£0 – £100 000	30% (thirty per cent)
£100 001 – £500 000	25% (twenty-five per cent)
≥ £500 001	20% (twenty per cent)

- (d) distribute remaining Net Income received in the following revenue shares (determined by reference to Cumulative Income) as follows:

Cumulative Income	Institution and Technology Transfer Group	Trust
£0 – £100 000	65% (sixty-five per cent)	35% (thirty-five per cent)
≥ £100 001	60% (sixty per cent)	40% (forty per cent)

Equity sharing and potential future investment

- 3.4 Where rights to take Equity are received then the Exploiting Party shall in respect of each individual Trust-funded Project that is exploited:

- (a) share any Equity received in the following proportions;

Institution and Technology Transfer Group	Trust
60% (sixty per cent)	40% (forty per cent)

- (b) use all reasonable endeavours to ensure that the Equity is issued on terms whereby:

- i) the proportionate shareholdings due to the parties are issued direct to them;
- ii) the Trust is given no less than two months' written notice prior to completion of a Participation Round, and is provided with copies of the business plan, signed or proposed term sheet, and any other relevant documentation as is being provided to the other investors;
- iii) at the Participation Round, the Trust is entitled (but not obliged) to invest in the company at the same rate as the other investors, such that the Trust's total holding is increased up to a maximum of 10 per cent of the

fully-diluted equity of the company at completion of the Participation Round.

- 3.5 For the avoidance of doubt, the Trust's share of any Net Income or Equity shall not be affected by any scheme or policy operated by the Institution to reward its employees or students who are inventors of the Trust-Funded IP. The Institution shall be solely responsible for the payment of such reward out of the revenue and equity share to which it is entitled under clauses 3.3 and 3.4 above.
- 3.6 Notwithstanding the terms of this clause 3, the Institution and its Technology Transfer Group shall be free to agree how to share between themselves any Technology Transfer Fees, or shares of Net Income and/or Equity due to either or both of them under this Agreement.

4. ACCOUNTING, REPORTING AND PAYMENTS

- 4.1 Within three (3) months following the annual accounting date set out in Schedule 1, the Exploiting Party shall provide to the Other Party(s) a statement or statements setting out financial information for the preceding 12-month period ending on such annual accounting date in respect of each Trust-funded Project commercialized, including Gross Income, Net Income, Cumulative Income, Direct Costs, Technology Transfer Fee(s), Equity, revenue shares and taxes. All such statements shall include a breakdown of the calculations on which the amounts involved were determined. The Exploiting Party shall send to the Other Party(s) the appropriate payments required in respect of such statements within 14 (fourteen) days of receipt of the proper VAT invoice(s).
- 4.2 The Exploiting Party shall keep accurate records and accounts, and the Other Party(s) shall have the right to audit these in accordance with standard UK accounting practice on request. The Exploiting Party shall provide the Other Party(s) with copies of supporting financial documentation on reasonable request. Late payments shall be subject to interest payable on demand at the rate of 4 (four) per cent above the then current Bank of England base rate. Interest shall be calculated daily and compounded quarterly from the due date to the actual date of payment inclusive.
- 4.3 All payments shall be made in pounds sterling unless otherwise agreed, and shall be exclusive of any taxes or duties that may be imposed, including value added tax, which shall where applicable be payable in addition at the rate in force at the due time for payment.
- 4.4 The Institution shall be free to agree accounting, reporting and payment practices with its Technology Transfer Group in respect of the revenue shares due to them under this Agreement.
- 4.5 If WTT takes over responsibility as Exploiting Party in accordance with the Trust Grant Conditions, then references to Exploiting Party herein shall be construed as references to WTT, and WTT shall share any Gross Income or Equity received accordingly.

5. MONITORING TRUST-FUNDED IP

- 5.1 With respect to the Trust-funded IP, the Exploiting Party must:

- (a) unless otherwise scheduled to this Agreement, provide to the Other Party(s) as and when they arise:
 - i) copies of any signed agreements entered into; and
 - ii) details of any patent applications, grants and abandonments (including title, filing number and date);
- (b) deliver at least annually an exploitation report detailing the commercialization activities for that year to the Other Party(s); and
- (c) arrange and hold update meetings at least once every six (6) months, or at such other intervals as may be otherwise agreed with the Other Party(s).

5.2 The party(s) receiving information about exploitation activities from the Exploiting Party pursuant to this Agreement listed in Schedule 3 or otherwise shall keep such information confidential. For these purposes, 'information' includes but is not limited to any data, results, inventions, intended publications, intended or pending patent applications, designs, plans, agreements, commercial and/or financial information, whether disclosed in writing or orally. However, 'information' does not include information which is already in the public domain, which is otherwise lawfully known to the receiving party at the time of disclosure, is obtained lawfully from a third party or independently developed by the receiving party, or which is required to be disclosed in order to comply with a legal requirement. Where disclosure of information is required under the Freedom of Information Act 2000 from a party designated as a public authority under the Act and such information relates to another party, the Institution shall notify that party within five (5) business days of receiving an information request that such a request has been made and the details thereof. The Institution shall allow five (5) business days to consult with and, to the extent permitted by law, take into account any representations made by the party concerned before such information is disclosed to the requestor and shall on request provide an update of the status of the Institution's response and the information which it is intending to disclose

5.3 The parties acknowledge that the information contained or listed in Schedule 3 to this Agreement is information which the parties reasonably consider is exempt from disclosure under the Freedom of Information Act 2000 on the basis that it is confidential and/or commercially sensitive information, which if disclosed without the prior consent of the party to which the information relates, would, or would be likely to prejudice the commercial interests of that party.

6. GENERAL

6.1 The Institution shall be responsible for ensuring that the Exploiting Party complies with this Agreement, including where the Exploiting Party is its Technology Transfer Group.

6.2 This Agreement shall take effect from whichever is the earlier of the date of last signature of this Agreement or the date that exploitation takes place, and shall terminate on whichever is the later of the expiry of any patent issued in respect of the Trust-funded IP or when all revenues due in respect of exploitation of the Trust-funded IP have been distributed to the parties in accordance with the provisions herein. Alternatively this Agreement shall be terminable by mutual agreement of all the parties.

6.3 This Agreement is in addition to the Trust Grant Conditions (as may be amended from time to time), which continue to apply. Should there be any conflict between this Agreement and the Trust Grant Conditions, then this Agreement shall prevail.

- 6.4 Nothing in this Agreement shall give rise to any partnership or the relationship of principal and agent between the Trust and either of the Institution or its Technology Transfer Group.
- 6.5 All notices and communications shall be in writing and addressed to the parties at the relevant address stated at the beginning of this Agreement (or such other address as may be notified from time to time).
- 6.6 None of the rights or obligations under this Agreement may be assigned or transferred without the prior written consent of the other parties. This Agreement shall be binding on and enure for the benefit of the successors in title of the parties.
- 6.7 No waiver of any breach or default under this Agreement or any of the terms herein shall be effective unless such waiver is in writing and has been signed by the parties. No waiver of any such breach or default shall constitute a waiver of any other or subsequent breach or default.
- 6.8 If any provisions of this Agreement are held to be invalid, illegal or unenforceable (in whole or in part) such provisions or parts shall to that extent be deemed not to form part of this Agreement but the remainder of this Agreement shall continue in full force and effect.
- 6.9 Each party shall do and execute or arrange for the doing or executing of all acts, documents and things as may be necessary in order to implement this Agreement.
- 6.10 The construction, validity and performance of this Agreement shall be governed by English law, and the parties shall submit to the exclusive jurisdiction of the English courts.

SCHEDULE 1
CONSENT APPLICATION FORM

(Insert completed consent application form here)

SCHEDULE 2
AGREEMENT(S) TO BE ENTERED INTO

(Insert copies of relevant proposed agreements here)

SCHEDULE 3
CONFIDENTIAL INFORMATION

SIGNED BY the duly authorised representatives of the parties.

Signed for and on behalf of **THE WELLCOME TRUST LIMITED** as trustee of the **WELLCOME TRUST**:

Signed: _____
Name: Dr Richard Seabrook
Title: Head, Business Development
Date: _____

Signed for and on behalf of **THE WELLCOME TRUST LIMITED** as trustee of the **WELLCOME TRUST**:

Signed: _____
Name: Dr Daniel Nelki
Title: Head, Legal and Operations
Date: _____

Signed for and on behalf of **[INSTITUTION]** by:

Signed: _____
Name: _____
Title: [Secretary of Institution/Finance Officer]
Date: _____

Signed for and on behalf of **[TECHNOLOGY TRANSFER GROUP]** by:

Title: [Managing Director/Head]

Date: _____