

## University College London (UCL) Revenue Sharing Policy Statement

### 1. Principles, Purpose and Effect

- 1.1. Capitalised terms used in this Revenue Sharing Policy Statement (“**Policy**”) have the meaning defined in Schedule 1.
- 1.2. This Policy is supplemental to and should be read in conjunction with:
  - 1.2.1. UCL’s Policy Statement on Intellectual Property Rights/Copyright in relation to Staff – <http://www.ucl.ac.uk/library/copyright/ipr> and
  - 1.2.2. UCL’s Policy Statement on Intellectual Property Rights/Copyright in Relation to students– [http://www.ucl.ac.uk/current-students/guidelines/intel\\_prop\\_rights](http://www.ucl.ac.uk/current-students/guidelines/intel_prop_rights)(together the “**IPP**”).
- 1.3. The IPP sets out the circumstances in which Originators are entitled to a share of revenue derived from commercialisation of Applicable IP by or on behalf of UCL or UCL Business (“**UCLB**”).
- 1.4. This Policy sets out the arrangements that apply to the distribution of revenue derived from the commercialisation of an Originator’s Applicable IP, where the right to a revenue share arises under the IPP, with effect from 1 January 2015.
- 1.5. In the event of any conflict or inconsistency between this Policy and the IPP, the terms of the IPP shall prevail to the extent necessary to resolve the inconsistency.

### 2. Application

- 2.1. An Originator’s right to a share of revenue arises under the IPP only and not this Policy. No right of an Originator to a share of revenue arises unless the same is expressly provided for in the IPP.
- 2.2. For the avoidance of doubt, save in respect of Inventions, no share of any revenue shall be payable where UCL is the owner of the Applicable IP unless expressly provided for in the IPP.
- 2.3. Commercialisation activity is typically undertaken by UCLB but may, in some limited cases, be undertaken by UCL. Where UCL is commercialising Applicable IP, references to UCLB in this Policy shall be read as references to UCL, where appropriate.
- 2.4. This Policy is effective from 1 January 2015 and is applicable as follows:
  - 2.4.1. This Policy will apply in respect of any Intellectual Property first disclosed to UCLB on or after 1 January 2015.
  - 2.4.2. Where new Intellectual Property is disclosed to UCLB after 1 January 2015 and these are commercialised as part of a package Intellectual including Intellectual Property disclosed prior to 1 January 2015, a fair apportionment between the previous revenue sharing distribution and the current revenue sharing distribution will be made. In case of dispute the Vice-Provost (Enterprise) will determine the appropriate distribution. In such circumstances, the Vice-Provost (Enterprise) will act as expert, not arbitrator, and their decision will be final and binding on all parties.

- 2.5. In circumstances where this Policy is not applicable pursuant to clause 2.4, UCL's previous policies in respect of revenue sharing will apply (if appropriate) in respect of any right to share of revenues. These are detailed in Schedule 2 of this Policy Statement.
- 2.6. For the purposes of this Policy, in the case of any Intellectual Property which is, at the sole discretion of UCLB, capable of commercialisation:
- 2.6.1. Originators will be determined by their creative or inventive contribution as set out in the relevant UK law governing the subject Intellectual Property; and
- 2.6.2. in the case of patentable inventions, only pending patent applications or PCT applications shall be considered for the purposes of determining the Originators that are eligible for revenue sharing and:
- 2.6.2.1. only the individuals who have made an inventive contribution identified in a pending patent application(s) or issued patent(s) shall be considered eligible Originators; and
- 2.6.2.2. an individual who was previously identified as an inventor on a pending patent application, but is no longer so identified because a change in the claims of the patent application necessitated a change in the named inventors on such application, may still be recognised as an Originator and entitled to a share of revenue under this Policy, provided that all named inventors on such pending patent application agreeing to such an inclusion in writing.

### 3. Revenue distribution

- 3.1. The aggregate total Net Revenue received by UCLB from commercialisation of Applicable IP will be disbursed in accordance with the table below:

<b>Net Revenue (£)</b>	<b>Originator(s) (%)</b>	<b>UCLB/UCL (%)</b>	<b>Department (%)</b>
≤£100,000	80%	10%	10%
>£100,000 but ≤£1m	50%	30%	20%
>£1m	30%	40%	30%

- 3.2. For the avoidance of doubt, the percentage share applies to each band of Net Revenue generated, such that:
- 3.2.1. For Net Revenue up to £100,000, the share is 80:10:10;
- 3.2.2. For the part of the Net Revenue that exceeds £100,000 up to £1m, the share is 50:30:20; and
- 3.2.3. For the part of the Net Revenue that exceeds £1m, the share is 30:40:30.
- 3.3. It is acknowledged by the Originator by entering into any revenue sharing agreement with UCL or UCLB that in relation to revenue sharing provided for in the IPP and this Policy in relation to Intellectual Property or any equity holding in a company in addition to or in lieu of all or part of their revenue share pursuant to paragraph 7 that:

3.3.1. revenue is not guaranteed;

3.3.2. UCL is complying with its obligations to share revenue under the IPP and this Policy; and

3.3.3. the share is just and fair for the purposes of s40 to 42 of the Patents Act 1977 or any other equivalent provision in respect of other Intellectual Property in force.

3.4. Originators will enter into a separate agreement in writing to give effect to this Policy and any arrangement made in respect of payment of the Originators' revenue shares will take precedence over this Policy.

#### **4. Payment and allocation of the Originator(s)' share**

4.1. Payment of the Originator(s) share of Net Revenue will be made by UCLB in accordance with the terms of any revenue sharing agreement signed with each eligible Originator. Subject to section 5, in the absence of any revenue sharing agreement, payment shall be made to the Originator every six months in arrears.

4.2. In the case of employee Originators, payments will be subject to the deduction of income tax under section 874, Income Tax Act 2007 (Sections 929 -938 ITA 2007) or any other applicable legislation in force at the time of payment.

4.3. Originators are free to:

4.3.1. request in writing to UCLB that UCLB pay their revenue share, in whole or in part, on a case by case or ongoing basis to another person or to UCL to support their teaching and research at UCL (for the avoidance of doubt this cannot be paid into discretionary accounts); and/or

4.3.2. withdraw any previous instruction given to UCLB pursuant to this paragraph 4.3;

provided that any such requests may (at UCLB's option) require the execution of additional documents to give effect to the request and any instructions will only apply to subsequent payments to be made by UCLB after the later of the date of those instructions and execution of those documents.

4.4. Any payment made by UCLB to an Originator or any other person nominated pursuant to paragraph 4.3.1 shall constitute a full and adequate discharge of UCLB's obligation to make such payment.

4.5. An Originator that leaves the employment of UCL (or completes his/her period of study) shall continue to be entitled to his/her revenue share. In the case of deceased Originators, the estate of the Originator shall be entitled to the Originator's share on the terms of this Policy. It shall be the responsibility of the Originator (or their personal representatives) to provide forwarding and contact details to UCLB and such other information that UCLB may reasonably require.

#### **5. Multiple Originators**

5.1. The share of Net Revenue allocated to Originator(s) as identified in the table in paragraph 3.1 above represents the total proportion payable by UCLB in respect of all eligible Originators.

- 5.2. Where there is more than one Originator entitled to a share of Net Revenue arising from exploitation of Applicable IP, the percentage of Net Revenue identified in the above table will be divided among all the Originators based upon the relative contributions of all the Originators.
- 5.3. An agreement to revenue share allocation:
  - 5.3.1. will be documented in a written revenue sharing agreement signed by all eligible Originators and, unless UCLB agrees otherwise in writing, UCLB; and
  - 5.3.2. may include an individual who has made a contribution to the Intellectual Property but is not an Originator, for the purpose of revenue distribution under this Policy, provided that the named Originators sacrificing a portion of their revenue share in favour of the individual agree to such an inclusion in writing.
- 5.4. UCLB accepts no responsibility for any payment in accordance with this Policy where paragraphs 5.3 has not been complied with.
- 5.5. If there is disagreement among Originators over the percentage allocation of their respective personal contribution and they are unable to agree and/or execute a revenue sharing agreement, any individual Originator may apply to the Vice-Provost (Enterprise) for consideration of their case.
- 5.6. The Vice-Provost (Enterprise) will determine any reference made to him pursuant to paragraph 5.5 and the most appropriate action to enable resolution of the dispute. In such circumstances, the Vice-Provost (Enterprise) shall act as expert and not arbitrator.

## **6. Payment of the Department share**

- 6.1. Payment of the Department share, will be transferred from UCLB to UCL no later than 60 days after the end of each UCLB financial year and will be allocated by UCL to the relevant Faculty(ies) for disbursement to the relevant Department(s).
- 6.2. The relevant Department(s) for the purposes of the Policy is/are the principal Department(s) where the Originator(s) hold(s) their primary appointment(s) with UCL (and/or, in the case of students, their primary focus of study). Where there are multiple Originators, the split in payment to Departments follows apportionment in the ratio of the affiliated Originators' shares.
- 6.3. The relevant Faculty(ies) for the purposes of this Policy will be the UCL Faculty(ies) with which the relevant Department(s) is/are affiliated by UCL. In the event of any doubt regarding the appropriate Department and/or Faculty for the purposes of this Policy, a final determination shall be made by the UCL Vice-Provost (Enterprise).

## **7. Share of Equity**

- 7.1. Originators may be given the option of taking equity in any corporate vehicle in which Intellectual Property created by them is vested (often referred to as a "spin-out" company) in addition to, as provided for in paragraph 7.4, or in lieu of all or part of their revenue share.
- 7.2. The share of equity of an Originator in a spin-out company will be negotiated on a case by case basis having due regard to the potential value of the business being created and the respective contributions, commitments or involvement, including but not limited

to intellectual, creative, financial and benefits in kind, of the Originators, UCL and/or UCLB.

- 7.3. Contributions of new Intellectual Property and funding beyond formation are matters for individual negotiation and agreement thereafter.
- 7.4. Where equity is agreed then this shall be in lieu of a revenue share except in limited circumstances and agreed in writing. It is possible in some circumstances to permit an Originator to take a revenue share and equity together where the Originator is not involved in the management or running of the spin-out company. This is to ensure that there is no conflict of interest, potential or actual. Any such agreement shall be made in writing. For the avoidance of doubt, where there is no conflict of interest, potential or actual, the Originator may be able to partake in both equity and revenue sharing dependent on the circumstances of the business and agreement.
- 7.5. For the avoidance of doubt, where UCL or UCLB receives an interest in a company other than in return for the licensing of rights in Intellectual Property to the new company, including without limitation by way of investment of its own funds or in consideration for access to facilities, Originators shall not be entitled to share income generated from such an interest.

## Schedule 1 - Definitions

The capitalised terms used in this Policy have the meaning set out below:

**“Applicable IP”** means any Intellectual Property created by an Originator that attracts a revenue share in accordance with the IPP and this Policy.

**“Costs”** means all costs, fees, expenses (whether internal or external, but excluding internal UCLB/UCL staff and facilities costs), taxes and duties and including without limitation:

- (a) costs, fees and expenses paid to patenting, legal, accounting, auditing and other external advisers and consultants;
- (b) official fees paid to patent offices and other external bodies;
- (c) VAT and withholding tax to the extent that it is not recovered from HM Revenue and Customs or any other tax authority;
- (d) payments to third parties who have a legal interest in the Intellectual Property or income derived from the Intellectual Property (“Third Party Contributors”), including without limitation payments that:
  - (i) UCLB and/or UCL has an obligation to make to any charity, company or other person or entity that funded some or all of the research conducted at UCL from which the relevant Intellectual Property arose or was developed; and
  - (ii) that are related to the benefits that UCLB and/or UCL obtains from exploitation of the such Intellectual Property which should reasonably be deducted as a direct cost rather than being allocated among contributors after deduction of direct costs.

For the avoidance of doubt, and subject to prior agreement in each case, payments to Third Party Contributor(s) should normally be allocated among contributors (including UCL) after deduction of direct costs;

- (e) expenditure incurred in relation to litigation and claims, including damages and payments in settlement paid to any third party;
- (f) the amount of any cash investment by UCL and/or UCLB in proof of concept or other development activities with respect to the Invention; and
- (g) travel and other expenses incurred by UCLB staff or others.

**“Department”** means a department of UCL, as identified on the UCL website (as amended from time to time).

**“Faculty”** means a faculty of UCL, as identified on the UCL website (as amended from time to time).

**“Intellectual Property”** means patents, rights to inventions, copyright and related rights, trade marks, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world.

**“Invention”** means any invention, whether patentable or not.

**“IPP”** means UCL’s Policy Statement on Intellectual Property Rights/Copyright in relation to Staff and UCL’s Policy Statement on Intellectual Property Rights/Copyright in Relation to students, as applicable.

**“Net Revenue”** means the total Revenue received by UCL/UCLB less all Costs.

**“Originator”** means the inventor, author, creator or other generator of Intellectual Property (as determined by relevant statute) who is an employee and/or student of UCL at the time of invention, authorship, creation or other generation.

**“Policy”** means this revenue sharing policy statement.

**“Revenue”** means the aggregate of all income received by UCL and/or UCLB through an agreement with a third party under which Applicable IP has been commercialised, including all forms of tangible revenue such as (but not limited to) income from license agreements, royalties and cash received through sale of equity taken as part of a licensing transaction. Revenue shall not include patent cost reimbursements or expense reclaims or any funds received for the purposes of carrying out research under collaborative research agreements.

## Schedule 2 – Previous Revenue Sharing Scheme

The following outlines UCL's formula for sharing revenue with staff in force from 1 April 2003 until 31 December 2014.

Net cumulative income	Exploitation fee	Inventor(s) / Authors	UCL Central Funds	Department
<50k	30%	50%	10%	10%
>50k	30%	30%	30%	10%

The income allocated to inventors/authors is shared on the basis of their contribution to the patent/paper. For example, equal inventors/authors would each receive half of this income.

Net Cumulative Income is Gross Cumulative Income less patent, legal and development costs incurred by UCL or its nominee.