1. **OBJECTIVE**

(a) The objective of this Code of Practice in relation to intellectual property is to provide an incentive to inventors to monitor research findings with a view to commercial exploitation rather than lose possible revenue through premature disclosure. Staff or students of the College should not publish nor disclose potentially patentable results until advice has been obtained on protection. Premature publication will lead to loss of rights and ownership. Advice on patenting and the use of confidentiality agreements for discussions with third parties can be obtained from the Head of the Innovation and Enterprise Unit. This advice will be provided in a timely manner to avoid inhibiting the dissemination of knowledge.

(b) Any member of staff or any student of the College may in the normal course of his/her duties or studies, or whilst using College resources, make an invention, discovery, design or other original work, including computer software, which might be the subject of intellectual property rights, such as for example, copyright or patent rights (collectively defined herein as an “Invention”). A definition of forms of intellectual property is contained in Appendix A.

Subject to the exceptions listed in Section 4, any such Invention shall belong to the College, and it is the responsibility of the member of staff or student to notify the College of any such Invention, which might have commercial value.

Accordingly, any member of staff who makes such an Invention must promptly inform the Head of Department and the Head of the Innovation and Enterprise Unit of the Invention in writing. Likewise any student of the College who makes such an Invention must promptly inform his/her supervisor or tutor of the Invention in writing, who in turn should inform the Head of the Innovation and Enterprise Unit.

(c) The College shall:-

(i) in respect of Inventions which it owns, decide whether the submission, prosecution and maintenance in force of patent or other intellectual property protection in relation to the Inventions is reasonably necessary and justified in the circumstances, and

(ii) Working with the inventors use reasonable endeavours to identify appropriate third parties to commercially exploit the Invention and negotiate the best possible terms under which such third parties would be permitted to exploit the Invention commercially.

Whilst the College will endeavour to act in good faith to maximise the commercial value in the best interest of both the College and its employees and students, the College cannot accept any liability whatsoever for any act or omission in relation to the matters referred to in this clause.

If the College decides not to exploit an Invention it will offer to assign the Invention to the inventor(s), subject to any conditions of the funders of research leading to the Invention, on terms to be agreed in good faith.
(d) The exploitation of Inventions may be by outright sale or license granted to a third party for a revenue stream or by assignment to a company set up to carry out the exploitation for an equity shareholding in the company. The basis of the incentives to inventors, whether employees or students of the College, in each of these options is set out in sections 2 and 3 respectively.

2. **SHARING OF INCOME FROM SALE OR LICENSE OF AN INVENTION**

(a) The Net Income from the sale or license of an Invention to a third party will be apportioned between the inventors collectively and the College according to the following scale which provides a strong incentive at all levels of Net Income.

<table>
<thead>
<tr>
<th>Net Income</th>
<th>Inventor(s)</th>
<th>College*</th>
</tr>
</thead>
<tbody>
<tr>
<td>First £5,000</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Next £45,000</td>
<td>75%</td>
<td>25%</td>
</tr>
<tr>
<td>Next £50,000</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>In excess of £100,000</td>
<td>33(\frac{1}{3})</td>
<td>66(\frac{2}{3})</td>
</tr>
</tbody>
</table>

Note: *See Appendix B

The College will provide an annual statement to inventors of the income received from Inventions that have been licensed or sold together with details of the apportionment according to this Section.

(b) Net Income for the purposes of paragraph 2(a) above means sums received by the College as a result of exploitation of the Invention but does not include any funding of future research and development by a third party (whether related to the Invention or otherwise).

(c) The following shall be deducted in calculating the Net Income:

(i) Value Added Tax.

(ii) Direct costs associated with seeking patent protection and legal expenses directly related to the exploitation of the Invention.

(iii) Any other expenses directly related to the obtaining or exploitation of the Invention.

(iv) Any payment due under a revenue sharing agreement to a third party involved in the research leading to the Invention.

(d) If an employee is entitled to a share of Net Income derived from more than one Invention and those Inventions are not closely related then the Net Income received will not be aggregated but will be treated quite separately when the division of Net Income is calculated. Where Inventions are directly related Net Income will be aggregated. Where Net Income is not separately apportioned but relates to two or more Inventions the College will apportion the Net Income to the Inventors on a fair and equitable basis for the operation of this Code.
(e) Where an Invention is the result of work by two or more inventors the Net Income will be shared in proportions to be agreed between the co-inventors concerned. In the absence of agreement as to their respective shares this will be determined by an independent arbitrator appointed by the Principal of the College on a fair and equitable basis. Should the arbitrator nominated be unacceptable to a party, the matter will be referred to an arbitrator appointed by the President for the time being of the Law Society. The costs of the arbitrator will be borne out of the Net Income which the inventors are sharing.

(f) The College shall account to the inventor for his/her share of Net Income within 90 days of receipt or the date upon which the extent of the inventor’s share is determined or agreed (whichever is the later) together with a written statement evidencing the account due.

(g) Net Income paid to an inventor shall be subject to income tax as appropriate. An inventor may waive all or part of his/her personal payment and request that it be used for research purposes within his/her department. Any resulting payment to research budget within the department will not be taxable provided notification is made before payment has been made to the inventor.

(h) To facilitate payments under this Code of Practice inventors must keep the College informed of their contact details once they leave the College.

3. **SHARING OF EQUITY IN COMPANIES ESTABLISHED TO EXPLOIT AN INVENTION**

(a) Experience both at the College and at other universities has shown that each company arises from different circumstances and that it is not feasible to devise a formula for distributing the initial equity set aside for the College/founders which will be fair in all cases. It is, however, possible to set out the main factors, representing historic and future contributions to the protection and exploitation of the Invention, which need to be taken into account.

(b) For the founder inventors the following contributions may be relevant:-

* the extent of their personal contribution to the Invention made available to the company (number of inventions, value of know-how etc.)

* the time commitment which (with College approval) they propose to devote to the company, often a crucial factor for success

* the extent to which they are acting as entrepreneur in setting up the company and perhaps attracting investment

* the extent of any personal cash investment in the company.

(c) For the College the following contributions may be relevant:-

* use of the College’s name

* the amount and nature of the IP to be licensed or assigned to the company bearing in mind that the College owns the Inventions of its employees and students

* the investment in salaries, running costs, equipment and infrastructure which allowed the work giving rise to the Inventions to be undertaken

* the investment in protecting the Inventions in terms of patent costs and the time of College staff
* the investment in establishing the company in terms of the time of College staff and legal costs

* the investment in future nurturing of the company by College staff and provision of board expertise

* the access to space and facilities (if any) which the College intends to grant to the company

* the need to retain some equity to reward new inventors (not founders) who may generate further Inventions through a “pipe-line” agreement

* access to the expertise of other research groups in the College

* The extent of any cash investment in the company.

(d) As a general rule, the contribution of the College’s Inventions, its investment in protecting the Inventions and the investment in staff alone should merit typically 60% of the initial equity available for the College/founders together. The aim should be to reflect the College’s true contribution to the company so as to achieve a fair return on its investment if successful, while incentivising the academic staff and students through providing them with an equity stake of typically 40% of that available to the College/founders together. See also Appendix B.

(e) The Director of Resources (or his/her delegated authority) will be responsible for the negotiation of the initial equity distribution in companies, with investors (such as seedcorn funds and venture capitalists), funders of the research (where appropriate), and any company management as well as with the founders. Once the negotiation is complete he/she will seek the Principal’s approval on behalf of the Council to the distribution. The Principal is, of course, able to seek advice from other staff as appropriate.

(f) Where there are two or more inventors as founders of the company, the equity share allocated to the founder inventors will be shared in proportions to be agreed between the founder inventors concerned. In the absence of agreement as to their respective shares this will be determined by an independent arbitrator appointed by the Principal of the College on a fair and equitable basis. Should the arbitrator nominated be unacceptable to a party the matter will be referred to an arbitrator appointed by the President for the time being of the Law Society. The costs of the arbitration will be borne by the founder inventors.

(g) The founder inventors will be responsible at their own cost for obtaining appropriate legal and financial advice in relation to becoming a shareholder (and director where appropriate) in the company.

4. EXCEPTIONS TO THE CODE OF PRACTICE

The College recognises that the ownership of copyright in original work requires special consideration. In many cases, the academic works of members of staff produced at his/her own initiative are central to the development of his/her academic reputation and career, however, in other situations, such as the development of distance learning materials at the instigation of the College they contribute to a key business activity. Hence the following exceptions are made to the generality of the Code:
(a) Nothing in this Code shall detract from the right of an author to be acknowledged as such and to ensure that his/her work is treated in a suitable fashion. This moral right, being personal, is separable from any copyright in the original work.

(b) The ownership of copyright in research papers, review articles, and books written by academic staff will normally be waived by the College in favour of the author(s), subject to any conditions placed on the works by the funder. However the copyright in original works created by academic staff in the normal course of their employment at the direct instigation of the College for the purpose of tuition of students such as lecture notes, e-learning or distance learning programmes shall belong to the College and members of staff shall not be entitled to a proportion of the income from tuition of students. In this latter case a member of staff will be granted a royalty-free, non-exclusive license to use the materials he/she created for their own bona fide teaching or research purposes, provided this use is not in competition with the College’s programmes.

(c) The ownership of copyright in theses, dissertations and other written work of students will vest in the author.
APPENDIX A

FORMS OF INTELLECTUAL PROPERTY

**Patent:**
A monopoly right acquired by registration to prevent any dealing in an original and novel invention during a period of 20 years (in the United Kingdom).

**Copyright:**
The right, without need for registration, enabling the author or subsequent owner to prevent the copying of other substantial reproduction of certain forms of expression such as literary (which includes computer programs), musical and artistic works, sound recordings, films and typographical arrangements of published editions. Duration will usually be the life of the author plus 70 years.

**Registered Design:**
The monopoly right, acquired by registration, to prevent any dealing in an original design consisting of features of shape, configuration or ornament (other than as dictated by function) applied to at least 50 articles by industrial process such that the finished articles appeal to the eye. Duration is now 25 years.

**Design Right:**
A new right arising on or after 1 August 1989, without the need for registration, in an original design of any aspect of the shape or configuration of the whole or part, internal or external, of an article whether functional or aesthetic. Features required to make the article fit or match another or of surface decoration only are excluded. Duration will either be 15 years from the end of the year when the design was first recorded in a material form or 10 years from the date of first marketing, provided that was within 5 years of the creation of the design.
APPENDIX B

DISTRIBUTION OF COLLEGE SHARE

The College share of Net Income from sale or license of an invention or from the sale of equity in companies established to exploit an invention will be divided equally between the College and the resource centre (whether School, Faculty, Institute or Department) of the inventor(s). Where there are several inventors in more than one resource centre, the distribution will be pro-rata to the number of inventors in each resource centre.

19-9-03