

# Student intellectual property and confidentiality agreement

## Parties

**UQ**            **The University of Queensland ABN 63 942 912 684**  
a body corporate constituted under the *University of Queensland Act 1998* (Qld)  
of Brisbane in the State of Queensland 4072

**Student**        the individual specified in the schedule

**Moral Rights**    means moral rights as described in Part IX of the Copyright Act 1968 and any analogous rights arising under statute that exist, or may come to exist, anywhere in the world.

**Project**            means the research project(s) described in the schedule.

**Project Intellectual Property**    means all Intellectual Property created or acquired in the course of the Project.

**UQ's Representative**    means the person specified as UQ's representative in the schedule, as varied by UQ from time to time.

**Thesis**            means the Student's thesis or any other work required for assessment purposes, relating to the Student's participation in the Project.

## Background

- A    The Student is a student of UQ whose studies include participating in the Project.
- B    The Student, after seeking independent legal advice (an executed copy of which advice shall be furnished to UQ simultaneously with this Agreement), has agreed on the terms and conditions of this Agreement to:
- (a)    keep the Confidential Information confidential; and
  - (b)    assign to UQ all Intellectual Property created or acquired by the Student during his or her participation in the Project.

## Operative terms

### 1 Definitions and interpretation

#### 1.1 Definitions

In this agreement:

- Attorney**            means any attorney appointed under this document and any person who by delegation directly or indirectly derives a right from an Attorney.
- Business Day**      means a day in Brisbane which is not on a weekend or a public holiday gazetted by the State of Queensland for Brisbane.
- Confidential Information**    means any ideas, concepts, drawings, technical information, financial information, trade secrets, know-how, computer source code, integrated circuit layout designs and any other information of any kind or any part thereof, and in any form or medium whatsoever, relating directly or indirectly to the Project or the operation of UQ other than information in the public domain other than by breach of an obligation of confidence.
- DVC**                means the Deputy-Vice-Chancellor (Research) as appointed from time to time.
- Intellectual Property**    includes all copyright and neighbouring rights, and all rights in relation to inventions (including patents), plant varieties, registered and unregistered trade marks, registered designs, confidential information (including trade secrets and know-how) and circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
- IP Policy**            means the intellectual property policy approved by UQ's governing body, as amended from time to time.

#### 1.2 Interpretation

In this agreement:

- (a)    no rule of construction applies to the disadvantage of the party that drafts this agreement on the basis that the party suggested the relevant drafting;
- (b)    references to a party mean UQ or the Student and references to the parties mean both UQ and the Student; and
- (c)    words such as "includes" and "including" do not impose any limitation on the construction of general language that is followed by specific examples.

### 2 Intellectual property

- (a)    Subject to the copyright referred to in clause 4(a), the Student hereby assigns to UQ all Project Intellectual Property created or contributed by the Student.
- (b)    The Student agrees to execute any document and to do all things that may be necessary to give effect to the assignment in this clause and record the assignment of the Project Intellectual Property with any relevant intellectual property office.
- (c)    The Student irrevocably appoints UQ as his or her Attorney:
  - (i)    with the power at any time to:
    - (A)    do everything which in the Attorney's reasonable opinion is necessary or expedient to enable the exercise of any right of UQ in relation to this Agreement including:
      - (I)    performing any act to be done; and
      - (II)    signing any document which would otherwise be signed by the Student, including any patent application document which requires the signature of the inventor,

in order for UQ to obtain, enforce or otherwise deal with any Intellectual Property from the Project which may arise in any country;

- (B) complete this document;
- (C) appoint substitutes and otherwise delegate its powers (including this power of delegation); and
- (D) exercise any right solely for the benefit of UQ even if exercise of the right constitutes a conflict of interest or duty; and

(ii) if the Student is in default under this Agreement, to do all acts and things which the Student is obliged to do under this Agreement.

- (d) The Student by this Agreement ratifies anything done or not done by the Attorney pursuant to the power of attorney.
- (e) The appointment of UQ as the Student's Attorney under clause 2(c) will continue beyond the cessation, for any reason, of the Student's involvement with the Project.

### **3 IP policy**

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- (a) The Student agrees to comply with the IP Policy.
- (b) To the extent that the terms of this Agreement are inconsistent with the IP Policy, the terms of this Agreement shall prevail.

### **4 Copyright in theses and publications**

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- (a) Notwithstanding anything else in this Agreement, the Student retains copyright in his or her Thesis and in any other articles for publication authored solely by the Student.
- (b) The Student grants a permanent, irrevocable, royalty-free, non-exclusive licence to UQ to use and reproduce his or her Thesis for non-commercial educational and research purposes. This licence is in addition to any rights set out in UQ's policies, rules, or procedures relating to theses including the IP Policy.

### **5 Protection of the assessment process**

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- (a) Nothing in this Agreement will prevent the Student's Thesis from being created or assessed in accordance with UQ's rules and procedures relating to assessment.
- (b) The Student acknowledges that any restrictive rules for theses containing Confidential Information may operate for such assessment.

### **6 Publication**

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- (a) The Student must not publish, and must not allow to be published, the Student's Thesis or any Project Intellectual Property without the prior written consent of UQ's Representative, which consent may not be unreasonably withheld.
- (b) If UQ's Representative deems it necessary to impose measures limiting access to the Student's Thesis for the purpose of maintaining the confidentiality of any Confidential Information or Project Intellectual Property, the Student agrees to cooperate with UQ in that regard and to comply with any such measures.

### **7 Sharing of income**

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- (a) In consideration of the assignment in clause 2(a) and the licence granted in clause 4(b), UQ will ensure that the Student is included, along with any other student or any of UQ's employees who participated in the generation of the Project Intellectual Property, in sharing any income arising from the commercial exploitation of the Project Intellectual Property in accordance with the IP Policy, if this should occur.
- (b) The sharing of any commercial benefits received from the commercial exploitation of the Project Intellectual Property will be in accordance with the IP Policy, which the Student acknowledges may be varied from time to time.

### **8 Confidential information**

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- (a) The Student must not disclose, or allow to be disclosed, any Confidential Information to any person except:
  - (i) as required by law if the Student has given UQ all available notice to enable UQ to attempt to remove that requirement and only discloses the minimum information required; or
  - (ii) with the prior written consent of UQ's Representative.
- (b) The Student agrees not to use any Confidential Information (whether owned by UQ or a third party) disclosed to the student for a purpose related to the Student's participation in the Project for any other purpose, without the prior written consent of UQ's Representative.
- (c) The Student agrees not to use any Intellectual Property (whether owned by UQ or a third party) which the Student is granted the right to use for a purpose related to the Student's participation in the Project for any other purpose, without the prior written consent of UQ's Representative.
- (d) The Student agrees to comply with any terms imposed on UQ by a third party in relation to the use and confidentiality of any confidential information or Intellectual Property, as if the Student was bound by those terms.
- (e) If the Student's participation in the Project comes to an end for any reason, the Student will deliver to UQ's Representative, all documents and data of any nature relating to the Project including any Confidential Information and must not take nor retain any documents, disks or data in any form containing or relating to any Confidential Information.

### **9 Moral rights**

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- (a) To the extent permitted by law, the Student hereby consents to and authorises:
  - (i) UQ;
  - (ii) UQ's licensees and successors in title; and
  - (iii) any other person authorised by UQ or by such a licensee or successor in title,  
(each a "**Beneficiary**") to perform, and refrain from performing, all acts to enable the Beneficiary to enjoy the full benefit of the Project Intellectual Property which might otherwise amount to an act or omission in breach of the Student's Moral Rights in respect of the Project Intellectual Property.
- (b) Without limiting clause 9(a), the Student hereby

consents for each of the Beneficiaries to:

appeals from those courts.

- (i) make alterations to or deletions from the Project Intellectual Property, however substantial they might be; and
  - (ii) use the Project Intellectual Property in a manner that does not identify the Student.
- (c) The consents given in this clause do not apply in respect of the Student's Thesis or any other articles for publication authored solely by the Student.
- (d) The Student acknowledges and agrees that the consent given in this Agreement is genuinely given and not provided under duress, and the Student further acknowledges and agrees that this consent is unconditional and irrevocable.

**Execution**

**SIGNED** for and on behalf of

**THE UNIVERSITY OF QUEENSLAND**

by its duly authorised officer:

in the presence of:

.....

.....

Executive Dean / Director

Witness (Print Name)

.....

.....

Print name

Date:

.....

Print title

**SIGNED** by

the Student

in the presence of:

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.....

Signature

Witness

.....

.....

Date

Print Name of Witness

**10 Student warranties**

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- (a) The Student warrants that any works created by the Student during his or her participation in the Project will be his or her own original work, except for insubstantial excerpts from other works included with acknowledgment of the original copyright owners.
- (b) The Student warrants that his or her performance of all of the terms of this Agreement does not and will not breach any agreement to keep confidential any confidential information acquired by the Student prior to his or her participation in the Project and agrees not to enter into any agreement (whether written or oral) that conflicts with this Agreement.

**11 Authority**

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The Student authorises UQ to make the terms of this Agreement and the fact of the Student's obligations under it known to any person, including a future employer of the Student.

**12 Review**

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- (a) If the Student is dissatisfied with a decision of UQ's Representative under this Agreement, including the withholding of any consent, the Student may notify the Chair of the Research Degrees Committee in writing that the Student requests a review of that decision.
- (b) The Chair of the Research Degrees Committee shall make a response to the Student not later than five Business Days from the date the matter is raised. If the Student is dissatisfied with the reply (or if the reply is not timely) the Student should advise the DVC of the unresolved dispute.
- (c) The DVC will then follow through the unresolved dispute in accordance with the appeals process outlined in the IP Policy.
- (d) The Student must comply with the decision of UQ's Representative until such time as the DVC notifies the Student in writing of the decision in relation to the appeals process.

**13 Survival of obligations**

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The obligations in this Agreement will survive termination of the Student's enrolment at UQ and will not merge on completion of the transactions contemplated by this Agreement.

**14 Governing law**

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This Agreement is governed by and is to be construed in accordance with the laws applicable in Queensland and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland and courts competent to hear

**Schedule 1**

**STUDENT**

**Student's Name:** \_\_\_\_\_

**Student's Address:** \_\_\_\_\_

**Student No:** \_\_\_\_\_

**UQ REPRESENTATIVE**

**Director, Research Partnerships, UQ Research and Innovation**

**PROJECT**

**Project Description including project title:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Title of Thesis:** \_\_\_\_\_

**Course of Study:** \_\_\_\_\_

**Name of School/Faculty:** \_\_\_\_\_

**Name of Principal Supervisor:** \_\_\_\_\_

## Schedule 2

### CERTIFICATE BY INDEPENDENT LEGAL ADVISER

To:

The University of Queensland

I \_\_\_\_\_ (full name)

of \_\_\_\_\_ (full address)

#### CERTIFY THAT:

1. I am admitted to practice as a solicitor.
2. I have been retained by \_\_\_\_\_ (full name of student) ("the Student") to advise the Student in relation to a Student Intellectual Property and Confidentiality Agreement to which this Certificate is attached.
3. I have been retained by the Student independently of The University of Queensland, and independently of UniQuest Pty Limited
4. I have fully advised the Student in relation to:
  - (a) the Student's ownership of the intellectual property being assigned;
  - (b) the choices available to Student in relation to the Student's ownership of the intellectual property being assigned;
  - (c) what the Student will be foregoing as a result of executing the Student Intellectual Property and Confidentiality Agreement;
  - (d) the benefits described in the Student Intellectual Property and Confidentiality Agreement that will accrue to the Student as a result of signing the Student Intellectual Property and Confidentiality Agreement;
  - (e) the Student's obligations in the Student Intellectual Property and Confidentiality Agreement;
  - (f) the Student's rights in the Student Intellectual Property and Confidentiality Agreement; and
  - (g) the nature and effect of the Student Intellectual Property and Confidentiality Agreement.
5. I asked the Student whether the Student understood the Student Intellectual Property and Confidentiality Agreement and my advice and the Student responded "Yes".
6. I asked the Student whether the Student executed/intended to execute the Student Intellectual Property and Confidentiality Agreement voluntarily and the Student responded "Yes".

Dated \_\_\_\_\_

Signature \_\_\_\_\_

Print full name \_\_\_\_\_