

THIS AGREEMENT is made

BETWEEN **MACQUARIE UNIVERSITY**, a statutory corporation established pursuant to the *Macquarie University Act 1989*, of North Ryde, NSW 2109 (“**the University**”) of the one part,

AND _____,
[Student's full name]

of _____
[Student's home address]

_____ (“**the Student**”) of the other part.

BACKGROUND

- A The Student has been offered enrolment as a candidate for a postgraduate research degree at the University and upon completion of enrolment will undertake a research project (possibly as a member of a research team and/or in conjunction with a third party) as part of his/her candidature at the University (“**the Research**”).
- B During the term of his/her enrolment as a postgraduate degree research student, the Student may develop commercialisable intellectual property of interest to the University (“**Project Intellectual Property**”).
- C The Student is the owner of the Intellectual Property Rights in the Project Intellectual Property.
- D The Student agrees to assign her/his Intellectual Property Rights in any Project Intellectual Property to the University on the terms and conditions of this Agreement.
- E The University agrees to grant to the student the rights and benefits arising from the Project Intellectual Property as set out in the University's Intellectual Property Policy (which states *inter alia* that after the deduction of the University's costs, 50% of the net commercial benefits arising from the Project Intellectual Property will be distributed to the creators of said Intellectual Property).

OPERATIVE PROVISIONS

In consideration of the rights and benefits conferred on the Student by the University's Intellectual Property Policy (the receipt and adequacy of which the Student hereby acknowledges), the parties **AGREE** as follows:

1. DEFINITIONS

“**Background Intellectual Property**” means any intellectual property which was developed by the Student prior to enrolment as a candidate for a postgraduate research degree at the University and described in the Annexure attached to this Agreement.

“**Intellectual Property Policy**” means the University's policy on intellectual property which can be found at: www.research.mq.edu.au/policy/?a=12140 (a copy of which the Student acknowledges receipt of) as amended from time to time.

“**Intellectual Property Rights**” means all intellectual property rights anywhere in the world, including but not limited to:

- (a) patents, copyright, EL rights (and similar rights outside Australia in circuit layouts), plant variety rights (and similar rights outside Australia in plant varieties), registered designs, trade marks, know-how, technical information and any rights to have confidential information and knowledge kept confidential; whether created before or after the date of this agreement; and
- (b) any application or rights to apply for registration of any rights referred to in paragraph (a).

“**Materials**” means the prototypes, working drawings, plans, modules, specifications, reports, copies, files, software and all other materials relating to the Research and prepared by the Student or prepared by the Student in conjunction with other University students, employees or third parties working with him or her.

2. ASSIGNMENT OF INTELLECTUAL PROPERTY RIGHTS AND LICENCE OF BACKGROUND INTELLECTUAL PROPERTY

2.1.1 The Student hereby assigns to the University all his/her entire right, title and interest in any Intellectual Property Rights in respect of the Project Intellectual Property in the Research and Materials.

2.1.2 The Student:

- (a) acknowledges that no additional documentation is necessary to complete the assignment made under this clause and by virtue of this clause all existing and future Intellectual Property Rights in the Research and Materials (i.e. the Project Intellectual Property) vest in the University upon their creation.

For the avoidance of doubt any Intellectual Property developed by the Student prior to enrolment as a candidate for a postgraduate research degree at the University, or outside the scope of the Research, will remain vested in the Student (see also Section 5).

- (b) must do all things reasonably requested by the University (at the latter's expense) to enable the University or its assignee or licensee to assure and/or exploit further the Intellectual Property Rights assigned under this clause.

2.1.3 Where the Student is the owner of Background Intellectual Property and that Background Intellectual Property is utilised in the Research, the Student will identify and disclose details of the Background Intellectual Property in the Annexure attached to this Agreement.

2.1.4 Where the Background Intellectual Property is a necessary adjunct to commercialisation of the Project Intellectual Property the Student, by separate agreement with the University (upon commercial terms to be agreed by the parties) agrees to grant to the University an irrevocable, world-wide licence (including a right of sub-licence) to use the Background Intellectual Property for commercialisation of the Project Intellectual Property.

3. EXPLOITATION AND ROYALTIES

3.1 Where, in its absolute discretion, the University wishes to exploit the Project Intellectual Property, Research and/or Materials, it shall use all reasonable efforts in doing so. All royalties or other proceeds of exploitation, whether by licensing or sale of the Project Intellectual Property associated with the Research or otherwise, will be received by the University and shall be distributed in accordance with the University's Intellectual Property Policy. Any changes in the conditions governing the distribution of any royalty income will only be made with the approval of both Parties to this Agreement.

3.2 As outlined in the University's Intellectual Property Policy, where the University determines not to commercially exploit the Project Intellectual Property the University shall within a reasonable period reassign the Intellectual Property Rights in the Project Intellectual Property to the Student.

4. PUBLICATION & REPORTING

4.1 Where the University is of the view that it is desirable to do so, it will take reasonable steps to protect the Project Intellectual Property to ensure that patent or other protection may be obtained while the Student's thesis is in preparation and before any disclosure. Such steps shall not, however, involve delay in the submission of the thesis nor the excision of material from the thesis that represents an essential or significant part of the Student's work, nor the prevention of the assessment of the thesis under the University's usual procedures. **Copyright in the Student's thesis shall be retained by the Student.**

4.2 In accordance with University policy, Public access to the thesis may be restricted for a limited period (not exceeding 12 months) to enable the Parties to arrange for protection of any commercial Intellectual Property arising from the results of the Research.

4.3 The Student must immediately report any Intellectual Property Rights in the Research and Materials created by the Student to his/her supervisor.

5. DEVELOPMENTS

The Student acknowledges that any future developments of Intellectual Property Rights in the Project Intellectual Property, Research or Materials made by the University, its employees, students, agents, affiliates or sub-contractors will immediately vest in the University upon their creation.

For the avoidance of doubt, the University makes no claim on any Intellectual Property Rights developed by the Student following completion of his/her postgraduate research degree at the University ("**Post Completion IP**") except for in relation to Post Completion IP that incorporates or utilises Project Intellectual Property or any part of Project Intellectual Property as pre-existing material.

6. CONTINUING OBLIGATIONS

Each Party must do or cause to be done all things necessary or desirable to give effect to this Agreement, and shall refrain from doing things that would hinder the performance of this Agreement or the exploitation of the Project Intellectual Property, Research and/or Materials.

7. FORMAL PROVISIONS

- 7.1 This Agreement together with any Annexures constitutes the entire agreement between the Parties dealing with the Intellectual Property Rights in the Research and/or Materials and supersedes all prior agreements and arrangements (if any) in relation to that Intellectual Property.
- 7.2 No waiver of any breach of this Agreement shall be deemed to be a waiver of any other or any subsequent breach, nor shall the failure of either party to enforce at any time any of the provisions of this Agreement be interpreted as a waiver of such provisions nor affect the validity of this agreement or any part of it, or the right of the University to enforce each and every provision.
- 7.3 If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement shall remain otherwise in full force apart from such provision which shall be deemed deleted.
- 7.4 Any amendment or variation to this Agreement is not effective unless it is in writing and signed by the parties.
- 7.5 This Agreement shall take effect from the date upon which it is executed by the Student.
- 7.5 This Agreement is governed by and construed according to the laws in force in New South Wales and the parties agree to submit to the jurisdiction of the courts of that jurisdiction.

EXECUTED as an Agreement in New South Wales in two parts on the dates indicated.

SIGNED by <FirstName> <LastName>

:
Signature of Student

.....
Date

in the presence of:
Name of witness

.....
Signature of witness

OFFICE USE ONLY:
(To be completed by the University's authorised officer)

SIGNED for and on behalf of
MACQUARIE UNIVERSITY by an authorised officer:

.....
Signature

.....
Date

in the presence of:
Name & capacity of witness

.....
Signature of witness

ANNEXURE

LIST OF BACKGROUND INTELLECTUAL PROPERTY

(to be completed by the enrolling student, where appropriate)