



**Trinity College Dublin**  
Coláiste na Tríonóide, Baile Átha Cliath  
The University of Dublin

# **Trinity College Dublin**

## **The University of Dublin**

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# **Policy, Practice and Regulations on Intellectual Property - 2018**

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**In the absence of written direction to the contrary from Trinity Research & Innovation, or in the absence of alternative clear contractual terms formally agreed to by a designated authority in Trinity College Dublin, the Policy, Practice and Regulations on Intellectual Property described herein shall apply**

## **Executive Summary**

Trinity College Dublin, the University of Dublin has a proud tradition of performing world class research and translating this research excellence into solutions with global economic and social impact. TCD is further committed to fostering a culture of innovation and entrepreneurship across all disciplines for all Staff and Students within the higher education ecosystem. Translation of research through collaboration and commercialisation is an essential activity for TCD to continue realising impact from research.

Intellectual Property (IP) is a valuable output of research that often underpins successful third-party collaborations and translation of research through commercialisation. This IP Policy aims to lay down the principles underlying the ownership, protection, management and commercialisation of IP that arises from TCD research.

These principles aim to ensure that TCD Staff and Students are incentivised and recognised for the societal and economic impact which their research outputs have achieved through innovation and entrepreneurship. The principles further aim to ensure that there is fair and reasonable return and maximal benefits to TCD and Ireland in recognition of State-funded research.



## GENERAL INTRODUCTION

### Purpose & Objectives

This document, “Policy, Practice and Regulations on Intellectual Property” (Policy), sets out the policy and regulations governing intellectual property (IP) in Trinity College Dublin (TCD). It has been developed from;

- i. original documents prepared in 1986; followed by
- ii. minor amendments made in 1991; followed by
- iii. a major review and revised document of 2005; followed by
- iv. recommendations for update and amendments made by an IP Working Group in 2013/14 pursuant to Action 3.6 of the TCD Strategic Plan 2009-2014; followed by
- v. minor amendments made in 2015 and approved by Board (BD/14-15/136 Finance Committee); and followed by
- vi. recommendations by Knowledge Transfer Ireland and the Higher Education Authority as set out in the “*Review of Intellectual Property Management and Conflicts of Interest*” published on 08 February 2018.

This Policy is aligned with and informed by national policy, specifically the National IP Protocol 2016 - Inspiring Partnership as detailed in Appendix I. The Policy regulates the ownership, protection and management of IP-related matters and provides specific direction to Staff, Students and Visitors. The IP-related obligations of Staff and Students (as defined hereunder) are governed by their contracts as employees, by legislation (Appendix I), by the terms and conditions of specific funding contracts and by the regulations set out in this Policy as amended from time to time by the Board. The Policy aims to provide incentives to Staff and Students to realise impact from research activity.

### Review procedure

The Policy shall be reviewed every four (4) years and/or within six (6) months of amendments to the national IP Protocol, national code of governance or any other relevant national policy or guideline.

### Provision of Information

Trinity Research & Innovation (TR&I) provides support and advice on all elements of the IP Policy and on the procedures for its implementation. Information is available at <http://www.tcd.ie/innovation/>. Customised seminars and workshops, individual advice and further information are available from TR&I.



## DEFINITIONS:

<b>“Commercialisation Proceeds”</b>	means any financial sums of income accruing to TCD as per the terms of any agreement governing commercialisation of TCD IP, including without limitation: a licence, option or assignment agreement.
<b>“Consultancy”</b>	means the provision of expertise and existing knowledge by Staff to an external client organisation for a defined purpose and which is not research activity.
<b>“Contributor”</b>	means an individual who contributes to the development of IP but does not make a material contribution and is not an Inventor.
<b>“Equity”</b>	means an ownership interest in a company, as defined in the Companies Act, 2014 (see Appendix I).
<b>“Equity Proceeds”</b>	means any financial sums of income accruing to TCD from the sale of Equity.
<b>“Intellectual Property” or “IP”</b>	means, but is not limited to, any and all patents, trademarks, service marks, materials, data, registered designs, drawings, utility models, prototypes, design rights, hardware, business ideas, concepts, inventions, discoveries, copyright, including moral rights thereof (including the copyright in software in any code), Teaching Material, database rights, trade secrets and other confidential information, technical information, novel instrumentation, technology, know-how, business or trade names, goodwill and all other intellectual property and rights of a similar or corresponding nature in any part of the world, whether registered or not, or capable of registration or not, and including all applications and the right to apply for any of the foregoing rights.
<b>“Inventor”</b>	means an individual who has made a material intellectual contribution to the generation of IP. An Inventor is synonymous with the terms Creator, Breeder, Designer and Author as referenced herein.
<b>“Net Commercialisation Proceeds”</b>	means any financial sums of income accruing to TCD under the terms of the respective licence, option or assignment, or any other such agreement governing commercialisation of TCD IP, net any deductions as more particularly described in Section 6.3.
<b>“Spin-In”</b>	means an existing incorporated company which is co-located on the TCD campus for the purpose of licensing developing or otherwise exploiting IP and/or leveraging Staff, utilising TCD infrastructure and/or other TCD resources.
<b>“Staff”</b>	means all employees of TCD including without limitation those on full-time part-time, permanent or temporary contracts working in an academic, professional, technical or administrative capacity.
<b>“Start-Up”</b>	means a company incorporated by Staff or Students that may or may not become a TCD Campus Company.
<b>“Students”</b>	means a postgraduate or undergraduate student registered with TCD.



<b>“TCD”</b>	means The Provost, Fellows, Foundation Scholars, and the other members of Board of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, or Trinity College Dublin.
<b>“TCD Campus Company”</b>	means a company incorporated: <b>i)</b> for the purposes of exploiting TCD IP; and <b>ii)</b> where TCD shall be allocated Equity; and <b>iii)</b> where Staff are directly involved in the TCD Campus Company and considered an academic founder and may hold Equity.  For the avoidance of doubt, the term Campus Company is synonymous with the terms ‘spin-out’ or ‘spin-off’. Any TCD Spin In or TCD Start Up is eligible to become a TCD Campus Company, subject to Section 9.
<b>“TCD IP”</b>	means IP of which TCD claims ownership, as set out in Section 1.
<b>“TCD Research”</b>	means research which involves the use of one or more of the following without limitation: <b>(i)</b> TCD IP; <b>(ii)</b> TCD research infrastructure (excluding the TCD Libraries), research facilities or research equipment; <b>(iii)</b> TCD-administered funding, including funding received from third parties.
<b>“Teaching Material”</b>	means materials produced by Staff or Students in the course of, or for use in, teaching at TCD (including by way of example only: lecture notes and material, syllabi, handouts, study guides, course software and assessment materials) regardless of format (including by way of example only: printed, digital, electronic, multi-media presentations and web content), but excludes personal lecture notes produced by Staff which are not made available to Students or personal notes taken by Students to assist in study.
<b>“Visitor”</b>	means any person other than Staff or Students.



## REGULATIONS

### SECTION 1 - Intellectual Property Ownership

#### 1.1 **Ownership.** TCD claims ownership of all IP which is devised, made or created by;

- 1.1.1. Staff in the course of their employment and/or in the fields of expertise in which they are employed to work;
- 1.1.2. Students engaged in TCD Research in the course of, or incidentally to, their studies;
- 1.1.3. Visitors engaged in TCD Research in the course of, or incidentally to, their activities in TCD;
- 1.1.4. Visitors or Students engaged in activities commissioned by third parties under which TCD is contractually obliged to ensure that it owns any and all IP arising from such activities.

#### 1.2 **TCD does not claim ownership of;**

- 1.2.1 Copyright encompassed in scholarly works of Staff and Students that are of literary, historical, social, philosophical, scientific, musical, photographic or critical nature, books and textbooks whether creative works or works of analysis, art works and newspaper articles, or films. Copyright in software is explicitly excluded from this exemption; or
- 1.2.2 Copyright material submitted as an exercise in full or partial fulfilment of the requirements for the award of a qualification from TCD, subject to TCD's contractual obligations to any third party. Copyright in software is explicitly excluded from this exemption; or
- 1.2.3 IP created by Visitors in the course of;
  - (i) sharing their knowledge with the community, or
  - (ii) entering into discussions regarding collaborations; or
  - (iii) lecturing, examining, reviewing or using library facilities; or
- 1.2.4 IP created by Staff in the course of conducting Consultancy work which has been approved by TCD in accordance with Section 8; or
- 1.2.5 IP created by third parties who are located in TCD premises, as permitted under the terms and conditions of a property licence agreement or equivalent; or
- 1.2.6 IP created independently by Students, which does not fall under section 1.1.2; or
- 1.2.7 IP created by Students in receipt of TCD-administered funding, where such funding is solely granted for the purpose of supporting a Start-up; or
- 1.2.8 IP created by undergraduate students in receipt of TCD-administered funding, where such funding is granted solely for the purpose of independent and self-directed research.



TCD's rights under section 1 above in relation to any IP may be waived or modified by agreement in writing as mutually agreed by TR&I and the relevant parties. Notwithstanding the above, Students should note the 'IP Guidelines - Student Researchers' as set out in Appendix VI.

## SECTION 2 - Disclosure and Assignment of Intellectual Property to TCD

**2.1 Disclosure.** Staff and Students are required to disclose IP to TR&I, where such IP may have commercial potential or other such value. IP should be disclosed by way of completing an Invention Disclosure Form ("IDF") or Software Disclosure Form ("SDF"), as soon as possible after its creation and, in any event, prior to the any public disclosure/dissemination or submission of abstracts or manuscripts for publication. TR&I will evaluate the IP for commercial potential and patentability, and discuss with the Inventors a suitable commercialisation roadmap. IDF/SDF forms can be downloaded at <http://www.tcd.ie/innovation/>. All IDFs/SDFs must be completed and signed by all Inventors, detailing their percent contribution towards creating the IP. Staff and Students should adhere to Section 6 "Data" of the Policy for Good Research Practice (Appendix II) for the purpose of ensuring all data that constitutes IP is accurately recorded, complete and secure.

**2.2 Open Source.** Under Section 1 of this Policy, TCD claims ownership of IP encompassed in software. Open source is a licensing model allowing Authors, on behalf of TCD, to make software available to the public domain whilst still maintaining copyright. All open source software is copyrighted, with or without a copyright notice. Software that has been open-sourced may also be licensed for commercial purposes through dual licensing. Importantly, it should be understood that distribution of software code under an open source model *is not restricting* the code to the public domain.

TCD supports Authors to "open source" or to make source code owned by TCD, available to third parties for collaborative development. Authors may open source their works, provided that in doing so, it does not conflict with TCD's existing contractual obligations to third parties, such as Industry partners or State funding agencies. TCD reserves the right to license software for commercial purposes and Authors should seek advice from TR&I when wishing to open source software.

All open source software must be released under the appropriate open source licence terms and conditions, and this should only be done in consultation with TR&I. The default open source licence for use should be a 'Permissive' licence; permitting freedoms for use, modification and redistribution, but also permitting proprietary derivative works. Authors must ensure that TCD ownership of software is asserted on all licences as follows "*© [Year] Trinity College Dublin*".

**2.3 Assignment.** TCD owns IP in accordance with Section 1.1. Inventors may be required to assign their IP rights by way of a confirmatory deed of assignment to TCD. At the request of TCD, Inventors shall execute, in a timely manner, confirmatory deeds of assignment and other documentation necessary to give effect to the IP ownership. Shares of Net Commercialisation Proceeds to Inventors are set out in Section 6 below. Contributors are not bound by this Clause 2.3 but may receive a share of Net Commercialisation Proceeds as agreed between the Inventors and Contributors. In some circumstances, such as those detailed in Sections 1.1.5 to 1.1.8, Students may be required to assign their IP rights prior to engaging in research activities. Where Students assign their IP rights to TCD,



they will be treated as an Inventor and will receive Net Commercialisation Proceeds in accordance with Section 6.

**2.4 Assignment by TCD.** Without limitation to TCD's right as owner, TCD may assign its rights, title and interests in TCD IP to a Campus Company and to other third parties at its sole discretion, under specific circumstances and subject to compliance with EU State Aid Legislation (Appendix I).

### SECTION 3 - Management of TCD Intellectual Property

**3.1 General.** TCD must fulfil its contractual obligations to external funders, including State funding agencies and industry partners. The terms and conditions of funding may require TCD to protect, manage and commercialise IP. Staff and Students shall co-operate with TR&I to implement procedures for the protection of TCD IP and ensure that confidentiality and obligations of publication are adhered to in accordance with the terms and conditions of any third-party agreements, and the Policy on Good Research Practice (Appendix II). In the event of a conflict between the terms of the funding contract and this IP Policy, the terms of the legal contract shall supersede. Students should note the 'IP Guidelines for Student Researchers' as set out in Appendix VI.

**3.2 Confidentiality.** Staff and Students should engage with TR&I prior to any third-party discussions or disclosures of confidential information, unprotected TCD IP or commercially-sensitive TCD IP. Specifically, Staff and Students should not submit for publication (under Section 4) abstracts, posters, manuscripts or theses, or participate in seminars which may disclose confidential information, potentially-patentable or commercially-sensitive IP.

**3.3 Non-Disclosure Agreements.** Staff and Students wishing to discuss confidential information, unprotected TCD IP or commercially-sensitive TCD IP with a third party should first consult TR&I to ensure that a suitable non-disclosure agreement is concluded in advance of such discussions.

**3.4 Material Transfer Agreements.** Staff and Students wishing to provide to or receive materials and/or data from a third party, should first consult TR&I to ensure that a suitable material/data transfer agreement is concluded in advance of any transfer.

**3.5 IP Protection.** All TCD IP disclosed to TR&I (under Section 2.1) is evaluated for patentability and commercial potential. Where a decision has been made to file a patent application, TR&I will liaise with the Inventors/Contributors. Patent applications are typically filed in the name of TCD and may have other third parties as a co-applicant, where there are third party Inventors. TR&I, in consultation with the Inventors/Contributors (and licensee if applicable), shall have the sole responsibility for all decisions regarding the continued prosecution or maintenance of pending and granted TCD patents.

All decisions shall take into account the commercial potential of the IP, existing contractual obligations to third parties, maturity of the IP, availability of further research or third-party funding to add value to the IP, and Inventor/Contributor support and engagement. For the avoidance of doubt, TR&I is under no obligation to protect IP that does not meet criteria for patentability (novelty, utility, non-obviousness) and commercialisation.



TR&I shall not lapse or abandon any pending or granted patent without prior consultation or without having made all reasonable efforts to consult with the Inventors, and prior to doing so shall offer to assign back TCD IP to the Inventor(s) in accordance with Section 3.7.

**3.6 Teaching Material.** In accordance with Section 1.1, all Teaching Material developed by Staff and Students is owned by TCD. Any published and distributed Teaching Material must contain adequate copyright protection notices and clearly specify use for non-commercial and academic and teaching purposes. All copyright materials owned by TCD must include the following statement:

*"© [Year] Trinity College Dublin. All rights reserved."*

TR&I must be consulted if commercial access to Teaching Material has been requested, in which case TR&I will provide appropriate licences and copyright notices in accordance with Section

5. Any Commercialisation Proceeds received from third party licences shall be shared in accordance with Section 6 of this Policy.

**3.7 Assignment of TCD IP back to Inventors.** TCD may, at its sole discretion, assign TCD IP back to the Inventors if:

- (i) TR&I has not succeeded in commercialising TCD IP, despite making all reasonable efforts with the support of Inventors/Contributors; and/or
- (ii) TR&I wishes to lapse or abandon any pending or granted patent.

As mutually agreed by TCD and the Inventors, TCD shall assign TCD IP to the Inventors, who shall together be responsible, and at their expense, for the future prosecution and maintenance of the IP. In the event that not all of the Inventors request assignment and wish to waive their rights to the IP, then it is incumbent on the lead or remaining Inventor, to provide TR&I with written confirmation of such a waiver.

For the avoidance of doubt, TCD shall no longer be responsible for any subsequent costs of the IP after assignment to the Inventor(s). The terms of the assignment of TCD IP to the Inventors shall clearly state: In consideration for assignment of the IP, the Inventors shall share with TCD 33.3% of any future revenue from the commercialisation of the IP after deduction of reasonable and vouched costs of marketing and patent protection.

**3.8 Moral Rights.** TCD recognises the moral rights of the Authors of certain works in accordance with the Copyright and Related Rights Act, 2000 and any subsequent legislation adopted by the Oireachtas amending the Copyright and Related Rights Act, 2000. These include the right of fair attribution, and the right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work which would prejudice the Author's reputation. Where an Author agrees to be involved in research activities as part of a project between TCD and an external sponsor or other third party, TCD shall not agree to waive the Author's moral rights, unless expressly consented to in writing by the Author.



## SECTION 4 - Publication

**4.1 Publication.** Subject to any legal or contractual obligations as stipulated in the terms of any agreement between TCD and any entity that is funding or sponsoring research, Staff and Students have the academic freedom to publish the results of their research as and when they choose and in accordance with the Policy on Good Research Practice (Appendix II).

**4.2. Delays.** Where legal and contractual obligations require TCD to manage and commercialise IP arising from research and to protect it appropriately, appropriate publication delays may be enforced in order for TR&I to manage and commercialise IP in accordance with Sections 2, 3 and 5 respectively of this Policy. TR&I shall always endeavour to ensure that the terms of any agreement with a third party shall not jeopardise or unnecessarily delay the ability of Staff and/or Students to publish their academic work. In some circumstances, Section 4.3 may apply.

**4.3. Thesis Stay.** Any thesis that describes potentially patentable and commercially valuable IP may have a stay placed on it in accordance with the terms in Section 1, paragraph 114 of the University Calendar Part III, "Withheld access ". A Student authoring a thesis who wishes to or is required to withhold permission for the use of his/her work to protect and commercialise IP in accordance with this Policy, is required to make a written application to the Dean of Graduate Studies at the time of submission of the thesis for examination. A template letter to justify such a stay can be provided by TR&I.

## SECTION 5 - Commercialisation of TCD Intellectual Property

**5.1 Options, Licences and Assignments.** The value and impact of TCD IP may be realised by transferring IP to a third-party commercial entity under specific terms and conditions. Licensees/Optionees/Assignees may be established companies, organisations, Spin Ins, Start-ups or Campus Companies. Commercialisation of TCD IP is governed by the terms of an evaluation licence, an option to a licence, an exclusive or non-exclusive licence or an assignment.

**5.2 Commercial Terms.** The terms of any commercial agreement are dependent on a number of factors including, but not limited to, technology stage of development and contractual obligations to funders and/or industry sponsors. In return for the rights to commercialise TCD IP, commercial terms may include, but are not limited to: royalties on product sales, up-front or development milestone payments, and recovery of and future payment of patent costs. In all licences governing the use and commercialisation of TCD IP, TR&I will ensure that TCD retains the rights to use the licensed IP for internal non-commercial research and teaching purposes. TR&I will endeavour to negotiate terms that will maximise the impact of IP commercialisation, be on fair and reasonable commercial terms, be in accordance with international best practices so as to avoid conflict of interest issues and comply with State Aid legislation. All Net Commercialisation Proceeds are disbursed in accordance with Section 6.

## SECTION 6 - Disbursement of Net Commercialisation Proceeds

**6.1 Disbursement.** TCD shall share Net Commercialisation Proceeds arising from the commercialisation of TCD IP with Inventors and Contributors, as appropriate. This right as an



Inventor/Contributor to receive Net Commercialisation Proceeds applies regardless of whether the Inventor/Contributor is still associated with TCD. Net Commercialisation Proceeds will be paid to the Inventor's/Contributor's estate if deceased. Inventors/Contributors shall benefit from Net Commercialisation Proceeds on a 'per commercialisation agreement' basis.

**6.2 Percentage contribution.** The Inventors'/Contributors' share of Net Commercialisation Proceeds shall be disbursed in accordance with the percentage contribution as agreed in writing in the IDF/SDF (Section 2.1) and which relates to the TCD IP. The percentage contribution may change from time to time if additional Inventors/Contributors have contributed to the development of the TCD IP or if the patent prosecution changes the inventorship. Any such changes in Inventors/Contributors and percentage shares must be agreed in writing by all parties. Inventors/Contributors shall reserve the right to waive their share of Net Commercialisation Proceeds, and the waived share shall be redistributed to the School/Institute as agreed by the Inventors/Contributors and the School/Institute. Any dispute arising with respect to Inventors'/Contributors' share of Net Commercialisation Proceeds shall be resolved in accordance with Section 13 of this Policy.

**6.3 Deductions.** TR&I reserves the right to deduct the following costs and/or fees from Commercialisation Proceeds prior to disbursement to Inventors/Contributors:

- (i) taxes and any monies properly required by grant agencies in accordance with TCD contractual obligations; and/or
- (ii) patent protection and/or legal costs incurred by TCD; and/or
- (iii) direct costs or fees associated with commercial exploitation incurred by TR&I; and/or
- (iv) Following deductions as set out in (i) (ii) and (iii), any Commercialisation Proceeds due to third party co-owners or joint inventors of the IP, as set out in the relevant agreement.

#### 6.4 Disbursement Structure for Net Commercialisation Proceeds

Net Commercialisation Proceeds	Inventor/Contributors	School/ Institute (as applicable)	TCD Central Funds
€20,000	100%	-	-
€20,001 - €100,000	70%	15%	15%
€100,001- €500,000	50%	25%	25%
Over €500,001	34%	33%	33%

Under this disbursement structure, a limit of €1,000,000 (one million) shall apply to each TCD School's/Institute's accumulated share of Net Commercialisation Proceeds, subject to review by the Board following a recommendation from the Vice-Provost. Above this limit and after allocation of the Inventor/Contributor, Net Commercialisation Proceeds or a percentage thereof shall be retained by TCD Central Funds and/or may be allocated to TR&I, subject to the approval of the Vice-Provost of TCD.



**6.5 Statutory Deductions.** In the case of TCD Inventors/Contributors, disbursements shall be subject to statutory deductions of certain taxes and income. In accordance with the Finance Act 2011 Section 26, Commercialisation Proceeds derived from royalties and related distributions are not tax exempt. TCD is required to ensure all appropriate deductions are made in order to be compliant with applicable legislation in force at the time of disbursement.

## SECTION 7 - New Venture Formation

**7.1 Overview.** TCD encourages the formation of new ventures to promote innovative, technology-based, job-creating, investable enterprises in Ireland. TR&I provides support, such as infrastructure and space, through appropriate property licensing arrangements, and facilitates Staff to support the running of Campus Companies, Start Ups and Spin Ins in accordance with their contracts of employment. Staff founders engaging with Campus Companies in their academic capacity, using TCD resources, should do so under the terms of an appropriate agreement, e.g. services, Consultancy or secondment agreement. TCD reserves the right to nominate an observer to the board of a Campus Company for an agreed period of time, typically for a 12-month period, commencing on Campus Company approval. If necessary, TCD may appoint a non-executive member to the board for a specific purpose.

**7.2 Staff Insurance.** Staff acting as a Director of a Campus Company, must ensure that they have adequate insurance cover with respect to Directors' and Officers' liability.

**7.3 Equity.** TCD shall be allocated Equity in a Campus Company in recognition of the supports and ecosystem, provided by TCD and the State, that have underpinned the development of the Campus Company prior to incorporation. These supports range from, but are not limited to, infrastructure, facilities, services, Staff founders' salaries, State-funded research, business planning and commercial supports. Once TCD has been allocated Equity, TCD and/or TR&I have no role in determining the Equity allocated to a Staff founder but may guide the Staff founder in obtaining independent advice with respect to Equity allocation. The allocation of Equity to TCD is an independent transaction from the terms of any TCD IP licensing agreement as agreed between TCD and the Campus Company. The terms and conditions of Equity allocation shall be governed by a shareholder's agreement, as mutually agreed by TCD and the Campus Company.

Equity allocation is as follows:

- (i) TCD reserves the right to negotiate additional terms to ensure that fair and reasonable Equity is allocated to TCD to reflect the development and commercialisation status of the Campus Company and provision of TCD supports that have underpinned the Campus Company;
- (ii) TCD shall be allocated no less than five percent (5%) Equity in all Campus Companies;
- (iii) Equity can be allocated in the form of ordinary shares which may be fully-dilutable and/or shares bounded by value, time or an event;
- (iv) Equity shall be allocated as soon as possible after incorporation of the Campus Company.



**7.4 Approval Procedures. Campus Company.** The Director of TR&I is responsible for the approval of TCD Campus Company status, and the Dean of Research shall endorse all such approvals. Prior to formally seeking approval:

**A.** The applicant company must:

- (i) be incorporated at the Companies Registration Office (<http://www.cro.ie/>); and
- (ii) provide the Director of TR&I with an acceptable business plan detailing a credible, sustainable business opportunity, outline commercial development plans, details of the proposed team, a description of the TCD IP that they are seeking to license following approval, and details of any other TCD resources to which they require access; and
- (iii) certify in writing to TR&I that they will allocate Equity to TCD as agreed; and
- (iv) receive approval from the founder's Head of School to engage with the Campus Company.

**B.** Staff founders must:

- (v) provide their written agreement to TCD's and founder's Equity allocation and provide written assurance to TR&I that the amount of time that they propose spending on Campus Company activities has been approved by their Head of School; and
- (vi) agree that they will promptly declare in writing to the Director of TR&I any potential conflict of interest which may arise as a result of their involvement with the TCD Campus Company.

Upon receipt of the above, and after evaluation and acceptance of the business plan described in section (ii) above, the Director of TR&I shall sign a Letter of Agreement approving the Campus Company status. The company authorised signatory countersigns and the Dean of Research endorses the agreement. The Letter of Agreement must be signed by a designated authorised signatory in the Campus Company.

**7.5 Approval Procedures. Spin In.** The Director of TR&I is responsible for the approval of TCD Campus Company status, and the Dean of Research shall endorse all such approvals. Prior to formally seeking approval:

**A.** The applicant company must meet the following criteria:

- (i) be incorporated at the Companies Registration Office (<http://www.cro.ie/>), demonstrating they have an Irish entity engaging with TCD; and
- (ii) have a designated TCD Staff member to promote the Spin In who may be a founder or shareholder; and
- (iii) engage with TCD, through in-licensing of the applicant IP and/or through collaborative research that is intended to create and develop new IP for commercial exploitation; and
- (iv) be co-located on the TCD campus or affiliated incubation space. The nexus of the collaboration between the applicant Spin In and TCD must be co-located and include full-time company employees. A property licence agreement between the applicant company and the host faculty/school/institute must be in place prior to locating in TCD; and

**B.** Staff founder must:

- (vii) provide written assurance to TR&I that the amount of time that they propose spending on Spin In activities has been approved by their Head of School; and



- (viii) agree to promptly declare in writing to the Director of TR&I any potential conflict of interest which may arise as a result of their involvement with the Spin In.

An applicant Spin In company is not mandated to allocate Equity to TCD. However, in certain circumstances where TCD has provided considerable value and supports, the applicant company may offer Equity to TCD or TCD may request an Equity share in the Spin In.

**7.6 Licensing of TCD IP.** TR&I and the Campus Company may conclude the appropriate commercialisation agreement in accordance with Section 5 of this Policy. Negotiations may start prior to approval as a TCD Campus Company. TCD shall seek to ensure that licences of TCD IP to Campus Companies will maximise the level of knowledge transfer and will be on fair and reasonable commercial terms, in line with international best practice so as to avoid conflict of interest issues and potential infringement of State-Aid Rules. If TCD Inventors/Contributors of the TCD IP are shareholders in the TCD Campus Company, they may not be actively involved in negotiations on behalf of the company, in order to avoid a potential conflict of interest in accordance with Section 10.

**7.7 Equity Management.** TR&I manage all Equity transactions on behalf of TCD. When Equity is liquidated, the Equity Proceeds (net of TR&I costs) are administered by the Financial Services Division for TCD central funds. TR&I may apply to the Board and Chief Financial Officer of TCD for an allocation of such funds to further promote TR&I knowledge transfer activities and initiatives across TCD.

Equity is allocated to TCD and is a separate transaction from Commercialisation of IP as per Section 5 of the Policy. For the avoidance of doubt, Equity Proceeds are not disbursed to Staff founders, Inventors or Contributors regardless of their relationship with the Campus Company that has allocated the Equity.

## SECTION 8 - Consultancy

**8.1. General.** Staff may engage in Consultancy for third parties, either in their *private* capacity or in their *academic* capacity. Staff may engage in Consultancy work for third parties, subject to:

- (i) the current Regulations on Outside Earnings where applicable (Appendix II); and
- (ii) the prior written approval of their Head of School or Institute as required in accordance with each individual's contract of employment; and
- (iii) adherence to TCD's Policy on Good Research Practice (Appendix II)

**8.3 Academic Consultancy.** Staff may engage in Consultancy through the Consultancy Office of TR&I where TCD will contract with a client on behalf of Staff. The Consultancy Office provides a support service to Staff including contract and fee negotiations, arrangements for use of TCD IP and facilities as appropriate, invoicing, income receivables and distribution of income directly to the relevant School of the Staff carrying out the Consultancy.

**8.4 Private Consultancy.** Where Staff wish to engage in Consultancy in their private capacity, the Staff will contract directly with the client and must seek their own legal advice. The consultant manages



invoicing, payment collection and all tax liabilities. Staff may also undertake private Consultancy on an unpaid or *pro bono* basis. Staff are not permitted to use any of the following to carry out private Consultancy:

- (i) IP owned, controlled or licensed to TCD; or
- (ii) Any TCD resources including, but not limited to, TCD office facilities, telephones, email or stationery; or
- (iii) TCD information, results, data, research plans, or material, which is not already in the public domain; or
- (iv) the brand name of TCD or logos, unless expressly permitted by TCD.

Staff must consult with the Consultancy Office if any of the above are required by Staff to carry out private Consultancy, whether paid or *pro bono*. Should a conflict of interest arise where Consultancy being carried out in a private capacity conflicts with the academic research activity of the consultant, the Director of TR&I should be immediately notified in accordance with the provisions of Section 11. Staff carrying out Consultancy in their private capacity are advised to use the disclaimer as set out in Appendix IV.

## SECTION 9 - Engagement with Industry

TCD, through TR&I, is committed to supporting collaborative industry engagements, from short term to long term scalable collaborative projects. We work with national and international industry stakeholders and agencies to share infrastructure and expertise, tackle industry-relevant research challenges and problems, or address grand challenges.

TR&I supports and encourages such engagements using a range of template agreements to govern the relationships. Collaborative engagements may include: part-funded projects, fully-funded projects, research service projects, consultancy, State-sponsored (full/part)-industry projects.

In order to ensure consistency of approach when negotiating terms and conditions, TR&I has adopted the Knowledge Transfer Ireland (KTI) model agreements. <http://www.knowledgetransferireland.com/Model-Agreements/KTI-Practical-Guides/KTI-Practical-Guide-to-Collaborative-Research-Agreements.pdf>.

Every research collaboration is unique. All negotiations with respect to IP ownership, access and commercialisation must take into consideration each party's intellectual, financial and in-kind contributions to the project. TCD and the industry partner must be compliant with State Aid legislation (Appendix I). The negotiation and sign-off of legal agreements governing industry partnerships shall be in accordance with Section 10.

## SECTION 10 - Designated Authority & Signatory

**10.1 Negotiation.** All agreements, governing the transfer, use and ownership of TCD IP must be negotiated by TR&I on behalf of TCD. No Staff or Student may act on behalf of TCD, or act in their own name, to assign, license, protect, enforce, commercialise or otherwise deal with TCD IP, unless specifically permitted in writing by TCD and TR&I to do so.



**10.2 Authorised Signatory.** To ensure validity of all legal agreements governing the transfer and use of TCD IP and any other agreement as per Section 5, an authorised signatory must sign on behalf of TCD. Unauthorised Staff and Students cannot sign legal agreements on behalf of TCD.

**10.3 Decision-making.** Decisions made by TR&I with respect to the various activities set out in this Policy are summarised in Appendix III.

## SECTION 11 - Conflict of Interest

In accordance with section 3A.1.3 of the TCD Code of Governance 2013, a conflict is described as "*a situation in which there is or may be perceived to be a divergence between the private financial benefit or financial interest or personal benefit of a person, family member, or an outside party, and that person's obligations to the University, such that an impartial observer might reasonably question whether related actions to be taken or decisions made by the person would be influenced by consideration of the person's own interests*".

TCD has a written code of conduct in respect of governance for members of the Board and Staff. The Code has been approved by the Board, taking into account the implications of all the relevant provisions of the Universities Act 1997 as well as the Ethics in Public Office Act 1995 and Standards in Public Office Act 2001. There is an obligation placed on Staff in receipt of research grants to declare any interest that would interfere with or compromise the performance of research supported by the grantor. This is to ensure that the technical integrity and impartiality of Staff research activity. Any conflict of interest, whether financial or otherwise, that is actual, perceived or potential arising with respect to any of the activities through implementation of this Policy, must be immediately brought to the attention of TR&I. Further guidance on conflict of interest is set out in the Policy for Good Research Practice, 'Integrity' Section 3.4 and in the procedure for Regulations on Outside Earnings, 2015, Section 7.1.

Conflicts of interest that may arise in connection with the activities that fall under this IP Policy may include, but are not limited to, the following;

Staff using their position of employment to:

- influence a contract or other favourable terms for a company in which they, or a relative or friend, have a financial interest; and/or
- obtain financial or non-financial benefits for themselves or for a relative or friend in return for providing advantage, or potential advantage; and/or
- use of TCD resources or confidential information for personal financial or non-financial benefit, or benefit to a relative or friend; and/or
- conducting business, employment or activity outside of TCD, which adversely affects Staff's ability to perform their duties; and/or
- Staff compromising research objectivity or independence in return for financial or non-financial benefit for him/herself or for a relative or friend.



TR&I will support and assist with identifying potential, actual or perceived conflicts of interests that may arise in connection with IP. If a conflict of interest is identified by either TR&I and/or Staff, conflicted Staff are advised to consider the following if applicable:

- avoid taking part in discussions of certain matters;
- avoid engaging in sponsored research with a company where Staff or his/her relative or friend has a financial interest;
- avoid making decisions regarding certain matters;
- request that an alternative Staff member of TCD of sufficient authority and where there is no reporting line to the conflicted Staff, deals with matters;
- complete a declaration of interest form;
- temporarily suspend conflicting authorised Consultancy or research activity until the matter has been resolved by TR&I.

TR&I must be notified of any potential conflict of interest between the Consultancy or TCD Research or other activities of the Staff. Notification shall be provided by way of completing a Declaration of Interest Form as set out in Appendix V. The nature and quantity of the activities of Staff must also be disclosed. TCD may decline to enter into any contract with third parties if the scale of such activity with TCD is inappropriate relative to the Consultancy.

TR&I shall provide an annual written report to the Vice Provost and Secretary recording all Declarations of Interest submitted to TR&I. The report shall highlight how actual conflicts of interest were dispositioned.

## SECTION 12 - Data Protection

TR&I may request personal data from time to time from Staff, Students and/or Visitors in order to implement regulations set out in this IP Policy. All data, personal or other, requested by TR&I is processed in accordance with TCD's Data Protection Policy which undertakes to protect the rights and privacy of individuals in accordance with the General Data Protection Regulation (GDPR) (EU) 2016/679 and the Data Protection Act, 2018. Personal data may be requested for, but not limited to, the purpose of:

- filing patent applications or other such intellectual property filings;
- disbursing future revenue to Inventors/Contributors;
- carrying out commercial and patentability due diligence on disclosed inventions;
- abiding by Trinity Policies.

Staff and Students should at all times ensure compliance with Section 6 (Data) and Appendix 2 (Data Protection Acts - Advice in relation to academic research) of the Policy on Good Research Practice.

## SECTION 13 - Implementation, Derogation, Dispute Resolution & Appeals

**13.1 Reporting and Oversight.** The Board of TCD devolves responsibility for the interpretation and implementation of this Policy to the Director of TR&I. The Director of TR&I reports to TCD through the Vice-Provost. TR&I has general responsibility for management and commercialisation of TCD IP. Any powers exercised under this Policy may be transferred to other Officers as decided by the Vice-Provost and ratified by the Board. TCD's responsibilities in respect of IP management and commercialisation activities shall be discharged by TR&I in accordance with this Policy.



**13.2 Derogation.** Requests for specific derogations from this Policy should be addressed to the Dean of Research and/or Vice-Provost and submitted through the Director of TR&I. The Dean of Research may, at his/her discretion, consult the Research Committee or any other such committee as appropriate.

**13.3 Dispute Resolution.** TR&I shall make every reasonable effort to resolve fairly, by negotiation, all issues raised by Staff in relation to the implementation of this Policy, in consultation with the relevant Case Manager, Director of TR&I and Vice-Provost as required. Disputes arising in connection with this Policy, which cannot be settled amicably, may be referred to the Vice-Provost. Any dispute between Inventors/Contributors with respect to inventorship and the disbursement of Commercialisation Proceeds shall be resolved internally where possible or may be referred to an external independent expert. All disputes shall be resolved with all reasonable endeavours as soon as possible, or if possible, within ninety (90) days of the recording of such disputes with TR&I.



## APPENDIX I - Legislation and National Policy

### **The Patents Act 1992**

<http://www.irishstatutebook.ie/eli/1992/act/1/enacted/en/html>

The Act states that if an inventor is an employee, the right to the patent shall be determined in accordance with the law of the state in which the employee is wholly or mainly employed. In Ireland, the Common Law principle is that the employer will own the product of the work of an employee in the course of employment.

### **Copyright and Related Rights Act 2000**

<http://www.irishstatutebook.ie/eli/2000/act/28/enacted/en/html>

The act provides that the employer will be the first owner of any copyright in work made by an employee in the course of employment, subject to any agreement to the contrary.

### **Data Protection**

<http://www.irishstatutebook.ie/eli/2003/act/6/enacted/en/html>

[https://data.oireachtas.ie/ie/oireachtas/bill/2018/10/eng/ver\\_d/b10d18s.pdf](https://data.oireachtas.ie/ie/oireachtas/bill/2018/10/eng/ver_d/b10d18s.pdf)

The main Irish law dealing with data protection is the Data Protection Act 1988 and Data Protection Act, 2018. The 1988 Act was amended by the Data Protection (Amendment) Act 2003, bringing Irish law into line with the EU Data Protection Directive 95/46/EC. The General Data Protection Regulation (GDPR) enforced on 25 May 2018, replaced the existing data protection framework under the EU Data Protection Directive. The Data Protection Act, 2018 gives further effect to Directive (EU) 2016/680.

### **State Aid Legislation**

<https://dbei.gov.ie/en/What-We-Do/EU-Internal-Market/EU-State-Aid-Rules/What-is-State-Aid-/>

[http://ec.europa.eu/competition/state\\_aid/legislation/provisions.html](http://ec.europa.eu/competition/state_aid/legislation/provisions.html)

State Aid refers to forms of public assistance, using taxpayer-funded resources, given to undertakings on a discretionary basis, with the potential to distort competition and affect trade between member states of the European Union. State aid is banned because of its anti-competitive effects. However, various schemes are approved as their positive effects are considered to outweigh their negative impact, for example to promote regional development or Research, Development and Innovation (RDI) in Industry.

### **National IP Protocol**

<http://www.knowledgetransferireland.com/ManagingIP/KTI-Protocol-2016.pdf>

The national IP Protocol 2016 is a revision of the first national IP Protocol issued in 2012. It provides a framework for the way in which companies and research performing organisations can work together and how companies can benefit from access to new ideas, technology and inventions/IP.

### **Universities Act 1997**

<http://www.irishstatutebook.ie/eli/1997/act/24/enacted/en/print>

### **Ethics in Public Office Act, 1995**

<http://www.irishstatutebook.ie/eli/1995/act/22/enacted/en/print.html>

### **Standards in Public Office Act 2001**

<http://www.irishstatutebook.ie/eli/2001/act/31/enacted/en/print.html>



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**Companies Act, 2014**

<http://www.irishstatutebook.ie/eli/2014/act/38/enacted/en/html>



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## **APPENDIX II - TCD Policies**

### **Policy on Good Research Practice**

[https://www.tcd.ie/research/dean/assets/pdf/FINAL\\_Good%20Research%20Practice%20policy\\_CO\\_UNCIL%20APPROVEDandminutedgg.pdf](https://www.tcd.ie/research/dean/assets/pdf/FINAL_Good%20Research%20Practice%20policy_CO_UNCIL%20APPROVEDandminutedgg.pdf)

### **Regulations on Outside Earnings**

<https://www.tcd.ie/hr/assets/pdf/rocedure15-outside-earnings.pdf>

### **Calendar Part 3**

<https://www.tcd.ie/calendar/graduate-studies-higher-degrees/2014-15/part-iii-graduate-studies-and-higher-degrees.pdf>



### **APPENDIX III - Decision-making process for Policy Implementation**

<b>Decision event</b>	<b>Approve By;</b>
IP protection, management, commercial evaluation and exploitation of IP	TTO, Case Managers
Decision to abandon/return a patent	TTO, Case Mangers (in consultation with Inventors)
Equity terms of Campus Company	Head, OCPKE
Management of Equity	Head, OCPKE
Decision-making on Inventors/Contributors	Inventors/Contributors
Permission to allow academic founders to create a spin-out company	Head of School TR&I Director
Permission to allow academic founders Equity	Head of School/Head of Institute
Permission to allow academic Founder to act as spin-out company director	Head of School/Head of Institute
Decision to allow spin-out companies access to TCD facilities	Institute/School hosting TR&I authorised signatory on Property Licence Agreement

**Note:** To avoid any conflict of interest, if the above listed Approvers are involved in a particular decision event, an alternative Approver with sufficient authority will be designated by TR&I.



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## **APPENDIX IV - Private Consultancy Disclaimer**

Please note that the services are provided by [●Name of consultant] acting in a private capacity. [●Name of consultant] is not, and shall not be deemed to be, acting as agent or employee or representing in any way Trinity College Dublin. Accordingly, you and your company, by accepting the services, (i) acknowledge that Trinity College Dublin has no responsibility or liability for the services and (ii) are deemed to have waived any right or entitlement to pursue or instigate any claim or action against Trinity College Dublin for any injury, loss or damage you or your company may sustain as a result of [Name of consultant) undertaking the services for you or your company



## **APPENDIX V - Declaration of Interest Form**

[https://www.tcd.ie/research/dean/assets/pdf/FINAL\\_Good%20Research%20Practice%20policy\\_CO\\_UNCIL%20APPROVEDandminutedgg.pdf](https://www.tcd.ie/research/dean/assets/pdf/FINAL_Good%20Research%20Practice%20policy_CO_UNCIL%20APPROVEDandminutedgg.pdf)

As part of the College's Policy on Good Research Practice 2014, an obligation is placed on the recipients of research grants to declare any interest that would interfere with or compromise the performance of research supported by the grantor. Declarations of interest of all participants or proposed participants in research must be disclosed at the time of contract acceptance. Declaration of interest extends to the researcher or his/her partner or members of his/her family or the research grouping with which the researcher has an employment relationship and/or has an interest. An apparent conflict of interest exists when an interest would not necessarily influence the researcher but could result in the researcher's objectivity being questioned by others. Intentionally failing to reveal a known interest will be regarded as research misconduct and may be subject to disciplinary action.

Please note that this Declaration of Interest may be accessed under the Freedom of Information Act. Where a conflict of interest appears to have been revealed, the University may need to consult with the grantor to ensure that the conflict of interest does not compromise the research funded by the grantor. It should be stressed that the existence of a conflict of interest does not automatically disqualify a researcher from participating in an award.

There are different types of conflict of interest. For example, the following list, which is not exhaustive, is provided for your guidance.

1. A current proprietary interest in a substance, technology or process (e.g. ownership of a patent), considered in or otherwise related to the subject matter of the research.
2. A current financial interest, e.g. shares or bonds, in a commercial entity with an interest in the subject of the research (shares > 10,000 Euro except share holdings through general mutual funds or similar arrangements where the expert has no control over the selection of shares).
3. Positions such as employment, consultancy, and directorship with current or expected financial remuneration, with any commercial entity which has an interest in the subject matter related to the research contract. Consultancy is defined as professional activity related to the person's field or discipline, where a fee-for-service or equivalent relationship with a third party exists.
4. Performance of any paid work or research during the past four years commissioned by an organisation with interests in the subject-matter of the research endeavour. Also included is any other non-funded interest in such an organisation with interests in the subject matter of the research endeavour during the past four years.
5. With respect to the above, an interest in a competing substance, technology or process, or an interest in or association with work for or support by a commercial entity or organisation having a direct competitive interest should similarly be disclosed.



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Declaration:

Have you or your partner/family and/or research group any financial or other interest in the subject matter of the research in which you will be involved, which may be considered as constituting a real, potential or apparent conflict of interest?

If yes, give details in the space below.

Type of Interest: e.g. patent, shares, etc. and to whom they belong.

I/We the undersigned investigators, do hereby declare that we are familiar with the University's Code of Good Research Practice and in particular with the section on conflict of interest. I/We believe that, to the best of my/our knowledge, accepting the grant/conducting this research mentioned above through Trinity College Dublin, The University of Dublin does not involve me/us in any conflict of interest. We/I are also aware that if during the course of this research project any conflict of interest arises, we/I will undertake to inform the University as expeditiously as possible and understand that the University may choose to inform the grantor. I/We hereby declare that the disclosed information is correct and that no other situation of real, potential or apparent conflict of interest is known to me/us.

Name(s):

Signature(s):

Date:

Witness to the Signature(s):



## **APPENDIX VI - IP Guidelines for Student Researchers**

The following guidelines aim to clarify principles of engagement and management of intellectual property when Students are engaged in research projects during the course of their programmes.

TCD endeavours to protect and manage IP in accordance with the TCD Policy, Practice and Regulations on Intellectual Property. As such, TCD requires Students who are engaged in research projects, as permitted by a supervising Principal Investigator (PI), to consider the following guidelines:

- All research projects and project results should be considered confidential;
- No IP (i.e. data, results, etc.) should be disclosed/presented/disseminated/published without the permission of the supervising PI;
- Students must consult with their supervising PI prior to submitting an abstract/poster/project summary for public dissemination (internally or externally);
- Students must consult with their supervising PI prior to submitting their Thesis dissertation and/or depositing a publication to TARA via the TCD Research Support System;
- Supervising PIs may, at their discretion, request that a Student signs an undertaking to assign IP and maintain obligations of confidentiality if necessary:
  - This may be dependent on terms and conditions of the funding underpinning a project; and
  - This may be dependent on the commercial sensitivity of the project.;
- Subject to the nature of and commercial sensitivity of IP created by a Student, the Students may be advised that their IP must be assigned to TCD in accordance with TCD's IP Policy:
  - Confirmation that assignment is necessary should be agreed by the Students in advance of participating in any research project; and
  - The assignment would be facilitated by the Technology Transfer Office.;
- Subject to the nature of and commercial sensitivity of IP created by a Student, the Student may be advised that a stay on a Thesis may be necessary to prevent public access - until such time as IP can be patent-protected or otherwise disclosed. Any stay required is in accordance with Section 1, paragraph 114 of the University Calendar, Part III, "Withheld access".
- Students wishing to engage with third party Academic Institutions or Industry, and where Student-owned IP may be discussed or used for such engagement and/or collaboration, should always consult with their supervising PI or Head of School or TR&I, as appropriate. In the case of such external engagements, an agreement outlining terms and conditions of IP ownership and use between the parties may be required.

The Student is encouraged to always consult with the supervising PI with respect to the research project and any conditions which may be attached in terms of ownership of IP, publication, confidentiality and thesis submission. Any concerns with respect to the above guidelines should be raised by the Student prior to selecting or being assigned a research project.



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All queries regarding these guidelines can be directed to:

Office of Corporate Partnership & Knowledge Exchange, Trinity Research & Innovation

✉ [OCPKE@tcd.ie](mailto:OCPKE@tcd.ie)

## **APPENDIX VII - TR&I**

Trinity Research & Innovation (TR&I) provides supports and advice along the continuum from research funding application, through contract execution, through IP management to exploitation by licensing to campus companies or established industry. TR&I enables research from concept to impact.

<http://www.tcd.ie/innovation/>

✉ [innovation.centre@tcd.ie](mailto:innovation.centre@tcd.ie)

✉ [Partnership@tcd.ie](mailto:Partnership@tcd.ie)

The **Office of Corporate Partnership and Knowledge Exchange** supports both industry engagement and the commercialisation and exchange of TCD research and IP. The office reaches out to industry and the business community to develop partnerships which enable industry to benefit from the world-leading teaching, research and infrastructure within TCD.

The OCPKE further supports consultancy through the Consultancy Office within TR&I.

✉ [consult@tcd.ie](mailto:consult@tcd.ie)

The **Research Development Office** supports TCD researchers with information and advice on all applications for research funding.

✉ [research.office@tcd.ie](mailto:research.office@tcd.ie)

The **Contracts Office** reviews, negotiates and executes all legal contracts relating to research activities on behalf of TCD.

✉ [rescon@tcd.ie](mailto:rescon@tcd.ie)