Commercialisation of Intellectual Property Procedure

1 Purpose

To establish the processes and responsibilities for evaluation, protection, and Commercialisation of Intellectual Property at the University.

2 Scope

This Procedure applies to Employees, Students and Visitors.

3 Procedure Overview

The University seeks to facilitate the transfer and dissemination of knowledge created at the University through the protection and Commercialisation of Intellectual Property.

Intellectual Property may be Commercialised or used in various ways that will benefit the University, Creator/s (or Contributor/s if applicable) and the community depending on the nature of the Intellectual Property and its commercial value.

This Procedure outlines the University's processes for:

- disclosure, evaluation and protection of Intellectual Property;
- Commercialisation of Intellectual Property; and
- distribution of Net Commercialisation Revenue derived from the Commercialisation of Intellectual Property.

4 Procedures

4.1 Obligations of Creators and Contributors to disclose Intellectual Property

All Employees, Students and Visitors involved in developing Intellectual Property that is owned by the University under the Intellectual Property Policy or the Intellectual Property Procedure must:

- identify and disclose the Intellectual Property to the Office of the Deputy Vice-Chancellor

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(Research and Innovation) as soon as possible after its creation;

- treat the Intellectual Property as confidential information;
- promptly provide additional information and materials required by the Office of the Deputy Vice-Chancellor (Research and Innovation), including but not limited to information about the Intellectual Property, the use of any Background Intellectual Property or any Indigenous Knowledges in the development of the Intellectual Property, and details of any individuals who may have been Creators of, or Contributors to, the Intellectual Property; and
- provide assistance to the Office of the Deputy Vice-Chancellor (Research and Innovation) regarding the evaluation, protection and Commercialisation of Intellectual Property, including but not limited to attendance at meetings with external advisors who are assisting in protection and Commercialisation (such as patent attorneys) or with Commercialisation partners, reviewing technical documents developed in the protection or Commercialisation process (such as patent documents) or reviewing patent office correspondence.

The Office of the Deputy Vice-Chancellor (Research and Innovation) provides guidance and informational materials regarding the disclosure process on its website.

4.2 Evaluation, protection, and Commercialisation of Intellectual Property

The Office of the Deputy Vice-Chancellor (Research and Innovation) has the specific function of evaluating, protecting and Commercialising Intellectual Property (other than Teaching Material) developed at the University.

The Office of the Deputy Vice-Chancellor (Research and Innovation) will consult with the Creator/s of and Contributor/s (if any) to the Intellectual Property in relation to evaluation, protection, and Commercialisation of the Intellectual Property.

Once the Intellectual Property has been disclosed, the Office of the Deputy Vice-Chancellor (Research and Innovation) may undertake an evaluation of the Intellectual Property. This may include determining any third-party encumbrances and any reliance on Background Intellectual Property, the potential market and potential commercial value. The Office of the Deputy Vice-Chancellor (Research and Innovation) will determine if and how the Intellectual Property is to be protected and will be responsible for applying for protection of Intellectual Property.

The determination regarding the protection and Commercialisation of the Intellectual Property will be made by the Deputy Vice-Chancellor (Research and Innovation) within two years from the formal disclosure of the Intellectual Property to the Office of the Deputy Vice-Chancellor (Research and Innovation) and communicated to the Creator/s, resulting in any of the following:

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- Commercialisation: A potential commercial opportunity is identified, and activities are commenced to undertake further development of the Intellectual property, to protect the Intellectual Property and to identify and engage with potential third parties to assess the commercial potential of the Intellectual Property. The Office of the Deputy Vice-Chancellor (Research and Innovation) will develop a Commercialisation plan in consultation with the Creator/s. All Commercialisation agreements concerning Intellectual Property must be prepared, negotiated and executed by the Office of the Deputy Vice-Chancellor (Research and Innovation) in accordance with the University's contract management requirements and financial delegations;

- Other knowledge transfer: Where the Intellectual Property is assessed as being of little or no commercial value the Intellectual Property may be made available by the University for free or on a cost-recovery basis to support the University's impact and engagement in the community; or

- Decision not to Commercialise or transfer the knowledge in other ways.

Subject to any contractual obligations to a third party, if the Deputy Vice-Chancellor (Research and Innovation) decides not to Commercialise University Intellectual Property, not to transfer the knowledge in other ways, or to discontinue Commercialisation already undertaken, the Deputy Vice-Chancellor (Research and Innovation) may decide to offer to assign ownership of that University Intellectual Property to the Creator/s and determine the terms on which this offer will be made.

The Office of the Deputy Vice-Chancellor (Research and Innovation) provides guidance and informational materials regarding evaluation, protection, and Commercialisation of Intellectual Property on its website.

4.3 Distribution of Net Commercialisation Revenue

4.3.1 Distribution

Net Revenue received from Intellectual Property Commercialisation by the University will be distributed as follows:

- 50% to the Creator/s and approved Contributor/s;

- 25% to the Division of Research and Innovation of the University; and

- 25% to the relevant organisational unit of the University that employs the Creator/s and the relevant organisational unit that is responsible for the project/s that the Intellectual Property is created in.

Any such Net Commercialisation Revenue will be paid to a Creator's or Contributor's estate if the Creator or Contributor is deceased.

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4.3.2 More than one Creator

Where there is more than one Creator, the Creators must determine how the share of the Net Commercialisation Revenue is to be divided among them and inform the Office of the Deputy Vice-Chancellor (Research and Innovation) in writing of their agreement. If an agreement has not been reached within six months from the date the University receives the Net Commercialisation Revenue, the Deputy Vice-Chancellor (Research and Innovation) will decide how the funds are to be divided after consulting with the Creators. Until a decision is reached, any Net Commercialisation Revenue owed to the Creators will be retained by the University.

4.3.3 Contributors

Where the development and Commercialisation of the Intellectual Property may have been supported by Contributors, the Deputy Vice-Chancellor (Research and Innovation) will determine if any Net Commercialisation Revenue will be disbursed to them. Where the Deputy Vice-Chancellor (Research and Innovation) has determined that Contributors will be entitled to a share of Net Commercialisation Revenue, the Creators and Contributors must determine how the share of the Net Commercialisation Revenue is to be divided among them and inform the Office of the Deputy Vice-Chancellor (Research and Innovation). If an agreement has not been reached within six months from the date the University receives the Net Commercialisation Revenue, the Deputy Vice-Chancellor (Research and Innovation) will decide how the funds are to be divided after consulting with the Creators and Contributors. Until a decision is reached, any Net Commercialisation Revenue owed to the Creators and Contributors will be retained by the University.

4.3.4 Organisational Unit receiving Net Commercialisation Revenue

The sharing of Net Commercialisation Revenue from Commercialisation of Intellectual Property should act as an incentive to organisational units employing the Creator and responsible for the conduct of the projects to encourage further research and technology transfer activity.

Where more than one organisational unit was involved in employing the Creator and responsible for the project, the heads of these organisational units will agree how the share of Net Commercialisation Revenue is to be divided among the units and inform the Office of the Deputy Vice-Chancellor (Research and Innovation). If an agreement has not been reached within six months from the date the University receives the Net Commercialisation Revenue, the Deputy Vice-Chancellor (Research and Innovation) will decide how the funds are to be divided after consulting with the heads of the organisational units. Until a decision is reached, any Net Commercialisation Revenue owed to the organisational units will be retained by the University.

4.4 Commercialisation of University Teaching Materials

Any Commercialisation of University Teaching Materials will be conducted under the direction of the Provost. Decisions about the evaluation, protection and Commercialisation of Teaching Materials and the distribution of Net Commercialisation Revenue will follow the principles set out

in sections 4.1, 4.2 and 4.3. Any references to the Deputy Vice-Chancellor (Research and Innovation) in sections 4.1, 4.2 and 4.3 will be read as references to the Provost in the context of Commercialisation of Teaching Materials.

The use of Teaching Materials by the University in the delivery of any courses or programs in the University's ordinary course of business will not constitute Commercialisation of those Teaching Materials, and fees charged to Students and other persons who are enrolled in courses or programs at the University that utilise Teaching Materials will not form part of Net Commercialisation Revenue.

4.5 Commercialisation and Indigenous Knowledges

Where Indigenous Knowledges have been used in the creation of Intellectual Property that is being Commercialised, the Deputy Vice-Chancellor (Research and Innovation) or the Provost for Teaching Materials, will negotiate benefit-sharing arrangements with Aboriginal and Torres Strait Islander peoples and communities, making such Indigenous Knowledges available.

The Deputy Vice-Chancellor (Research and Innovation) or the Provost for Teaching Materials, will consult the Pro Vice-Chancellor (First Nations Education and Research) to assist with and where appropriate to take part in this negotiation process.

4.6 Deputy Vice-Chancellor (Research and Innovation) and Provost as attorney

A Creator will, as required by the University, complete all documentation or any other action that the University deems necessary for the use, protection and Commercialisation of Intellectual Property owned by the University, including to perfect any licences granted in favour of the University in this Procedure, the Intellectual Property Policy, or the Intellectual Property Procedure. If a Creator fails to complete any such documentation or any other action that the University deems necessary, the Deputy Vice-Chancellor (Research and Innovation) - or for Teaching Material, the Provost - has the right to execute all such documents and do all such acts as the Creator's attorney. The Deputy Vice-Chancellor (Research and Innovation) or the Provost may exercise such power of attorney even if the University benefits from this power. However, this power of attorney may not be exercised in instances where failure by the Creator to complete documentation or undertake acts is a result of any genuine conflict as to ownership of the Intellectual Property, or where the relevant Intellectual Property is the subject of an ongoing dispute between the Creator and the University.

4.7 Dispute resolution

Where a dispute arises under this Procedure, the dispute resolution process outlined in the Intellectual Property Procedure will apply.

5 References

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Nil.

6 Schedules

This procedure must be read in conjunction with its subordinate schedules as provided in the table below.

7 Procedure Information

Accountable Officer	Pro Vice-Chancellor (Research, Development and Commercialisation)
Responsible Officer	Director (Commercialisation and Partnerships)
Policy Type	University Procedure
Policy Suite	Intellectual Property Policy
Subordinate Schedules	
Approved Date	2/1/2026
Effective Date	2/1/2026
Review Date	13/12/2028
Relevant Legislation	*Biodiscovery Act 2004* *Copyright Act 1968* *Designs Act 2003* *Financial Accountability Act 2009* *Information Privacy Act 2009* *Patents Act 1990* *Plant Breeder's Rights Act 1994* *Public Records Act 2023* *Public Sector Ethics Act 1994* *Right to Information Act 2009* *Trade Marks Act 1995*
Policy Exceptions	Policy Exceptions Register

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Related Policies	Code of Conduct Policy Complaints Management Policy Conflict of Interest Policy Costing and Pricing Policy Fraud and Corruption Risk Management Policy ICT Information Management and Security Policy Marketing and Brand Policy Research Code of Conduct Policy
Related Procedures	Commercialisation of Intellectual Property Procedure Conflict of Interest Procedure Copyright Procedure (under development) Costing and Pricing (Research) Procedure Research Data and Primary Materials Management Procedure Research Management Procedure Website Procedure
Related forms, publications and websites	AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research Access to biological resources in States and Territories Australian Code for the Responsible Conduct of Research Australian IP Toolkit for Collaboration Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples How to protect Indigenous Knowledge Indigenous Knowledge: Issues for protection and management Keeping research on track II (toolkit for applying the Ethical guidelines for research with Aboriginal and Torres Strait Islander peoples)

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	National Statement on Ethical Conduct in Human Research Open Access and Creative Commons (UniSQ Library resources) FAIR Principles What is Open Access?
Definitions	**Terms defined in the Definitions Dictionary**
	Commercialisation The application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation, sale or other utilisation of Intellectual Property for the purpose of directly or indirectly generating financial or other social or cultural gains. Commercialise and Commercialising have corresponding meanings. Intellectual Property The result of an individual's intellectual endeavours that is capable of being protected by legal rights. Examples include, but are not limited to: inventions and discoveries in relation to new products and processes that can be protected by a patent; Copyright in Teaching Materials; other works in which Copyright subsists including literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, broadcasts, published editions and certain types of performances; industrial designs, which protect the shape, configuration, pattern or ornamentation of a product, that is, what gives a product a unique appearance; plant breeders' rights, which protect varieties of plants and trees; trademarks, which protect the branding, reputation and goodwill of products and services; circuit layout rights, which protect the layout plans or designs of electronic components in integrated circuits, computer chips, or semi-conductors used in personal computers and computer-reliant equipment; and trade secrets and know-how, that is, knowledge about products, processes, and inventions and discoveries: prior to the time they are incorporated into a publication or become the subject of a patent or design application; or which are never made the subject of an application for Intellectual Property registration. University Members Persons who include: Employees of the University whose conditions of employment are covered by the UniSQ Enterprise Agreement whether full time or fractional, continuing, fixed-term or casual, including senior Employees whose conditions of employment are covered by a written agreement or contract with the University; members of the University Council and University Committees;

visiting, honorary and adjunct appointees; volunteers who contribute to University activities or who act on behalf of the University; and individuals who are granted access to University facilities or who are engaged in providing services to the University, such as contractors or consultants, where applicable.

Definitions that relate to this procedure only

Aboriginal and Torres Strait Islander

Any person who:

- is of Aboriginal and Torres Strait Islander descent;
- identifies as an Aboriginal and Torres Strait Islander, and;
- is recognised by the Indigenous community in which they live as an Aboriginal and Torres Strait Islander.

Background Intellectual Property

Intellectual Property that existed prior to, or that is created contemporaneously with but separately from and independently of, a research, teaching or other activity for which it is made available.

Contractor

A third-party person or entity who enters into a contractual relationship with the University through which they supply goods or services (including consulting services) to the University.

Contributor

Any Employee, Student or Visitor other than a Creator who the Deputy Vice-Chancellor (Research and Innovation) has identified as a person who has substantially assisted with the development or Commercialisation of Intellectual Property that the University owns and Commercialises under the Commercialisation of Intellectual Property Procedure.

Copyright

A right of protection in relation to literary, dramatic, musical or artistic works, and other works including, but not limited to, films, broadcasts, multimedia and computer programs. Copyright law in Australia is governed by the *Copyright Act 1968* (Cth).

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Creator

An Employee, Student or Visitor who creates Intellectual Property that the University owns and Commercialises under the Commercialisation of Intellectual Property Procedure, and includes inventors of patentable subject matter, designers of industrial designs and authors of works and makers of other subject matter that is subject to Copyright.

Indigenous Knowledges

Indigenous Knowledges consist of:

- traditional knowledge - a living body of knowledge resulting from intellectual activity in a traditional context, which includes know-how, practices, skills, and innovations, and is not limited to any specific technical field, and may include agricultural, environmental, medicinal knowledge and cultural laws; and
- traditional cultural expressions - tangible and intangible forms in which traditional knowledge and culture are expressed, including music, dance, art, ceremonies, and which are typically transmitted from generation to generation, often forming part of the identity and heritage of an indigenous community.

Teaching Materials

Any material whether in electronic, written or any other form of media created by an Employee in the course of their employment for use in, or in connection with, a program, Course, pathway, short course, microcredential or professional development program offered or to be offered by the University or on behalf of the University (i.e., by an affiliated open learning or education agency).

University Intellectual Property

Intellectual Property owned by the University under the terms of this Policy, the Intellectual Property Procedure or otherwise by operation of law.

University Project

Any program of research administered by the University that has the potential to generate Intellectual Property and which may include a program:

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- funded by an external organisation;
- funded by a specific allocation of University funds or resources in excess of that which is ordinarily provided to the relevant University organisational unit;
- conducted by a team involving a Student or Visitor and at least one University Employee;
- where University Employees (including supervisors) contribute to the creation of the Intellectual Property;
- utilising or incorporating University Intellectual Property; or
- that is the subject of an agreement between the University and a third party.

Visitor

A University Member who is:

- a visiting, honorary and adjunct academic;
- a volunteer who contributes to University activities or who acts on behalf of the University; and
- an individual who is granted access to University facilities.

Commercialisation Costs

The expenses incurred by the University in the production, development, protection, marketing and Commercialisation of Intellectual Property, and may include:

1. patenting and other Intellectual Property protection expenses;
2. legal expenses incurred on the Commercialisation project (not just on the particular transaction giving rise to the revenue);
3. external professional expenses incurred on the Commercialisation project (and not just on the particular transaction giving rise to the revenue), which may include:
    a. accountants' expenses for financial and taxation modelling;

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	b. valuers' expenses; and c. other Consultants' expenses (e.g., Commercialisation consultants); 4. costs associated with the development of the Intellectual Property including proof of concept studies, prototype development, marketing studies and business planning; 5. costs associated with the establishment of a start-up company (e.g., incorporation, legal, taxation and advisory costs); 6. travel and accommodation expenses incurred on the Commercialisation project (and not just on the particular transaction giving rise to the revenue) by any person (whether staff member, or an external professional); 7. legal costs and related expenses incurred to commence or defend infringement proceedings; 8. salary costs (base salary, 30% on-costs and 30% indirect costs) of University staff engaged in the protection, marketing and Commercialisation of the Intellectual Property; 9. insurance costs; 10. taxes, duties or any other government levies incurred by the University, in respect of the Commercialisation project or revenue and does not include: a. University administration expenses; or b. the cost of undertaking research on the Commercialisation project unless such research is funded by the University. **Net Commercialisation Revenue** Gross revenue received by the University generated from the Commercialisation of a particular item or related items of Intellectual Property less the Commercialisation Costs relating to the Commercialisation of that Intellectual Property.
Keywords	Intellectual Property, ownership, Moral Rights, Copyright, patents, trademarks, Commercialisation

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