



Spinout Company Policy Statement

University College Cork

Version 2.0

**APPROVED BY UCC GOVERNING BODY FINANCE COMMITTEE
MAY 23RD 2016**

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Approval

This document requires the following approvals

University Management Team – Operations	23.5.2016
Governing Body Finance Committee	23.5.2016



SPIN-OUT COMPANIES – POLICY STATEMENT

UNIVERSITY COLLEGE CORK [“UCC” or “the University”]

APPROVED BY UCC GOVERNING BODY 14th JUNE 2016

Transferring knowledge and research outputs from the University to industry and commerce is an integral part of the University’s mission. (SUSTAINING EXCELLENCE: 2013 – 2017). University College Cork’s knowledge transfer strategy is aligned with Government, HEA and research funding agency policies for, and funding of, third stream activities (Innovation 2020: Ireland's Strategy for Research and Development, Science And Technology [DEJI]: National Strategy For Higher Education 2030 [HEA]). In accordance with UCC’s Intellectual Property (IP) policyⁱ, the University owns the intellectual property (IP)ⁱⁱ generated by its employees during the course of their normal duties and students during their courses of study. This applies to teaching, research, management and administrative staff and all students. The University is committed to identifying and maximising opportunities for commercialisation of this intellectual property for the benefit of the local and national economy by licensing it to companies for commercialisation. The University has established the Office of Technology Transfer (OTT) and has set out a policy with associated procedures in its Intellectual Property Management Policy to encourage its staff to bring forward inventions and innovations, evaluate the commercial opportunity they provide and define the most appropriate methods for commercialisation, including licensing to established companies. In addition to licensing its intellectual property rights to established companies an important knowledge transfer route for the University is the creation of new companies based on the expertise and intellectual property arising from the know-how and research activities of the University and its staff. These new “Spin-out” companies have the potential to create new jobs, new products and to positively benefit the national and regional economy.

Spin-out Companies

The University:

- i. will operate this policy through the Office of Technology Transfer, with oversight from the Governing Body Finance Committee and the University Management Team Operations, through the Vice President for Research and Innovation.
- ii. encourages staff of the University to bring forward ideas and inventions such that IP and knowledge capable of commercial exploitation within the University can be recorded and assessed.
- iii. through the OTT, will evaluate the commercial opportunities provided by the IP and the appropriate form and level of IP protection to be sought.
- iv. hold shareholdings (ordinarily a minority stake) in Spin-out companies that might derive from UCC research expertise and/or IP/IPR assets.
- v. Put in place license terms that will recognise the financial circumstances of the new company while ensuring that the University achieves an appropriate return on its intellectual property and that the license terms are in line with government policy, national guidelines and business norms.

The role of the Office of Technology Transfer:

The OTT is the university office with the lead administrative role in establishing university spinout companies as part of its overall role in commercialising Intellectual Property and supporting entrepreneurship in the university. Subject to available resources, the role of the OTT is to:

- i. implement this policy and associated IP policies
- ii. proactively engage with University researchers to identify and develop opportunities for the formation of Spin-out companies.
- iii. Provide mechanisms to support and evaluate the business plans and commercial potential of these opportunities
- iv. identify suitably qualified people to lead Spin-out companies
- v. provide appropriate development and training supports to entrepreneurs leading UCC Spin-out companies
- vi. advise the University Management team on measures and initiatives to increase and incentivise start-up formation by University staff.
- vii. Facilitate the effective engagement between the Spin-out companies and the University during and after the formation of the company
- viii. Provide where available, incubation space and facilities to support UCC Spin-out companies in a commercially appropriate manner recognising the University's obligation to comply with state aid and competition legislation. University Spin-out companies are invited to apply for accommodation on commercial terms in these facilities through GatewayUCC and to participate in the GatewayUCC SPRINT Accelerator program.
- ix. Provide mechanisms to evaluate and support the business plans and commercial champions involved in University Spin-out companies
- x. Work with relevant Spin-out leaders (both internal and external) to navigate, and to facilitate timely compliance with University policy and procedures during the establishment process.
- xi. Facilitate effective and timely engagement between the newly established Spin-out company as a new separate legal entity and the University.
- xii. Provide template documentation to the Spin-out company that reflects the University's position as a shareholder and IP licensor. In implementing the Spin-out Company Policy the University's prime concern is to stimulate and support further generations of Spin-out company formation and to ensure that Spin-out companies will contribute significantly to the University's economic impact in a way that enhances the good name and reputation of the University, its staff members and its stakeholders.

Relationship between UCC staff and UCC Spin-out Companies

- i. The University will, in line with the HR Leave policies of the University, facilitate those staff who wish to take time out from their university duties to support a UCC Spin-out. Such options will be explored at the time of the establishment of the company.
- ii. UCC staff may also support the Spin-out company while maintaining their full time position within the University within the remit and facility provided by the University consultancy policy. However, UCC staff cannot be full time employees of the University and also an employee of a Spin-out company. The primary responsibility of UCC staff is to the University as their employer.
- iii. Staff members may act as directors of University Spin-out companies in a private capacity. Company directorship is a significant and onerous responsibility. Staff acting as Directors of companies will not be covered by University insurance. Given the responsibilities associated with directorship, UCC strongly advises that any staff member taking a directorship role in a UCC Spin-out should take independent legal advice before doing so.
- iv. UCC staff members may hold equity stakes in University Spin-out companies in a personal capacity. The University will not negotiate this personal shareholding on behalf of the staff member. The staff members will outline any commitments or conditions that are anticipated by the company in consideration for their shareholding through the mechanism of the Conflict of Commitment and Conflict of Interest policy.
- v. To protect staff members as well as the University, the engagement of staff with Spin-out companies will be managed through the University Conflict of Commitment and Conflict of Interest policy. It is the responsibility of any staff member that has a role in a Spin-out company as shareholder, director, consultant or employee to declare their interest in the company through the procedures of the Conflict of Interest and Conflict of Commitment Policy and to help the University to effectively manage the conflict of interest and conflict of commitment that arises in accordance with university policy. The OTT will support UCC staff to fulfil this obligation.

Ongoing relationship between UCC and its Spin-out companies.

- i. Once established, the University will engage with Spin-out companies on an 'arm's length' basis.
- ii. UCC expects that its Spin-out companies will have effective management structures and that the company will be governed to high standards of corporate governance appropriate to a company in its circumstances. The University expects that the company will have an effective Board of Directors, including, where possible and appropriate, non-executive members.
- iii. The Spin-out company will be a separate legal entity from the University and for clarity UCC will not underwrite the debts of any Spin-out company or assume any responsibility for the business or affairs of the company. It is not uncommon for investors in companies to seek certain warranties from the shareholders of the company around the status of the company. As UCC does not propose to and does not seek to participate in the day to day affairs of the company it will not provide warranties or indemnities in connection with the company other than in respect of title to the shares being sold by UCC.
- iv. UCC Spin-out Companies that commission research or consultancy activities by the University, will be subject to the normal UCC Research Grants Procedures and the UCC Overhead and Consultancy policies as outlined by the Office for Research Grants and Contracts. It is not appropriate for reductions or discounts in prices or unduly favourable terms to be offered to companies for these activities solely by virtue of their Spin-out status.
- v. The University expects all its Spin-out companies to comply with applicable taxation laws. Where required by law or by University Policy, the University will seek a Tax clearance certificate as a prerequisite for approval of any contractual relationship with a Spin-out company.

- vi. The company will keep UCC informed of the development of the company and its progress in executing its business objectives. The reporting procedure will be agreed in the shareholders agreement and license between the company to ensure that UCC is aware of the financial and governance status of the company and any changes to its business plans. UCC will, of course, treat this information as confidential.

Note on University Spin-out Service Companies

The University recognises and acknowledges that not all companies are founded on or require access to UCC's tangible IP such as patents, copyrighted material, trademarks, etc. and that companies can be formed on the basis of secret know-how or specific expertise. This is common in the case of service-provision and consulting companies. While the University wishes to encourage Spin-out company formation in as wide a range of domains as possible it does retain the right not to support or approve the formation of ventures that:

- (a) Are predicated upon the continued availability of University staff expertise outside the terms of their contract with the University and the University's policy on conflict of interest and commitment management.
- (b) In any way restrict or prohibit the University from fulfilling any of its contractual obligations or its statutory commitments.

The University, through the TTO in consultation with the VP for Research and Innovation, the Office of Corporate and Legal Affairs and the Finance Office, will seek to identify and evaluate any such potential conflicts in a timely fashion with a view to informing promoters at the earliest opportunity of whether the University will support or approve the formation of the venture as a UCC spin out company

Note on University Incubation Facilities

UCC recognises the value to Spin-out companies in maintaining a presence on, or at least proximity to, the University and the research group from which it emanated, particularly in the first few years of operation. UCC has established a number of Business incubation facilities. University Spin-out companies are invited to apply for accommodation on commercial terms in these facilities through GatewayUCC. Admission to these facilities is subject to the approval of the GatewayUCC Client Selection Committee and is subject to a space license agreement. If no suitable incubation space is available within the University, GatewayUCC will assist the company in identifying alternative accommodation in the region.

It takes time for start-up companies to scale and move on. However, as it is important to give equal opportunities to each Spin-out company, it is desirable that companies using UCC incubation facilities do move on to occupy more mainstream commercial business premises. UCC spinout companies that have applied and been approved by GatewayUCC are afforded a two year initial licence on space which can be extended, upon application, but not beyond a 4 year nine month threshold.

In accordance with State Aid rules, the University is obliged to charge commercial rates for access to these facilities, but recognising that it does take time for Spin-outs to win sales, pre-revenue spin-outs are given a 3 month rent-free period while revenue-generating companies are expected to pay from the outset.

For details of the procedures involved in forming Spin-out companies from UCC, please see the associated document: [Procedure for the Establishment of UCC Spinout Companies](#)

ⁱ <https://www.ucc.ie/en/media/support/techtransfer/IPGeneralProvisions.pdf>

ⁱⁱ For the purposes of this policy the university will use the definition of Intellectual Property from the UCC Intellectual Property Policy (<https://www.ucc.ie/en/media/support/techtransfer/IPGeneralProvisions.pdf>)

which is currently defined as

- patentable and non-patentable inventions and related information;
- University-commissioned works and computer-generated work;
- other computer software and firmware;
- registered and unregistered designs and semiconductor chip topographies;
- videotapes, films, drawings, photographs or other documents created or produced using University facilities;
- "know-how" (all confidential information of a scientific, technical or commercial nature acquired or developed by a member of staff or student, other than that which:
 - has been acquired by the member of staff or student without the use of any University facilities or confidential information; and
 - has been developed entirely during the member of staff's or the student's own time; and
 - does not relate to the research being conducted by the member of staff or student at or for the University or result from such research.)