

## The National Biofilms Innovation Centre IPR

### Guidelines Part 1 – NBIC Principles for Intellectual Assets

#### Intellectual Assets

The expectation of the BBSRC and InnovateUK and the NBIC, is that they will create and develop a multitude of intellectual assets (technology expertise, know-how, intellectual property and associated intellectual property rights) and that they will do so with an understanding of the value these assets can bring to the businesses with which they interact.

The ultimate impact of the NBIC will be judged by the development of novel technologies that exploit biofilm related science and technology with an associated growth in the industrial and economic base of the UK.

It is recognised that intellectual assets are both tangible and intangible in nature, and both should be addressed strategically by the NBIC Parties. Building a long-term relationship between universities and industry underpins successful exploitation of intellectual assets; a broad view of exploitation should be taken, in order that too narrow a focus on patentable intellectual property (IP) is avoided.

#### Intellectual Property

The NBIC Parties will manage IP in a professional and transparent manner. Their approach will encourage collaborative working and help with appropriate exploitation of IP.

The NBIC Parties will maintain a common approach to IP such that industry can approach any single NBIC Party and have confidence that the IP arrangements for one NBIC Party will not be different to another NBIC Party.

The NBIC Parties will not operate on a business model that depends unduly upon income from IP to finance future activities. NBIC Parties will ensure that their own IP supports the maintenance of their own knowledge base, and will regularly review the merit of maintaining that protection.

The IP arrangements between the NBIC Party and its partners or customers should facilitate the achievement of the NBIC Party's overarching goal – accelerating the commercialisation of an emerging technology, using the output from UK research to help businesses to grow, and enhancing the growth of UK high-technology industries.

The arrangements for IP in relation to the NBIC will:

- Encourage collaborative working between the NBIC Parties, businesses and the research and knowledge base;
- Recognise that, between the NBIC Parties and their project partners, the widest possible access to the fruits of new (foreground) IP is the desired outcome;
- Take account of the long gestation period from invention to licensable process;
- Not inhibit academic freedom, recognising that arrangements for collaboration and/or exploitation must not prevent the future progression of research and the dissemination of research results;
- Manage the development, protection and exploitation of new technology for the benefit of industry and encourage a knowledge of existing third party IPRs;
- Be flexible enough to be tailored to the different circumstances of partners and business

## Proof of Concept IPR

- users, large and small;
- o Not create perverse incentives for partners or businesses;
- o Avoid infringing any of the state aid rules and ensure that the NBIC Party can maintain “no aid” status;
- o Not create burdensome costs for small companies and other customers;
- o Record and protect existing (background) IPR, including commercially-sensitive information, from the Hubs and collaborating partners;
- o Ensure that new (foreground) IPR created within the NBIC is recorded and can be protected and exploited successfully to the benefit of all the project partners, including the NBIC Parties themselves, depending on the circumstances of projects.

Note that R&D contracted with business(es) that is **wholly funded** by the private sector would be covered by an exploitation agreement contained within the specific contract and, in general, new IP would lie solely with the businesses contracting with the NBIC Party. IP arrangements with the customer must not inhibit future use of the NBIC Party’s background IP (e.g. for other customers).

## Part 2 – IPR Principles

1. Parties will use all reasonable endeavours to ensure that all Arising IPR generated in Projects initiated by or funded in whole or in part by the NBIC are made available for the purposes of further academic research and teaching within the NBIC Parties.
2. When determining the IP ownership position and respective rights to commercialise in Projects involving Third Parties, the relevant parties to the Project Agreement must take into account the following factors:
  - (a) The funding context and the respective financial and in-kind contributions of the parties to the Project Agreement and the NBIC.
  - (b) Which party or parties have taken the lead in setting the scope of the work and the extent to which the project is intended to build and expand on the Background IPR of a party to the particular Project Agreement or the Background IPR.
  - (c) Whether commercialisation activities can be restricted to a particular field of use.
  - (d) The longer-term financial viability of the parties to the Project Agreement.
3. All arrangements in respect of the ownership and use of Arising IPRs must comply with applicable state aid rules.
4. The NBIC is expected to enhance the growth of UK high-technology industries. Thus, Arising IP is expected to be registered, protected and used in and for the benefit of the UK wherever practicable and reasonably possible. All exclusive commercialisation rights granted to a Party, Parties and/or Third Parties therefore in respect of Arising IP should be accompanied by appropriate commercialisation obligations, failing which it should be considered whether the Arising IP can be made available to interested parties for exploitation in the UK.