



Appendix 1

Standard Revenue and Equity Sharing
Agreement

Standard Revenue and Equity Sharing Agreement

1. Definitions

- 1.1 'Commercialising Party' means whichever of the Organisation or Technology Transfer Group (if there is one) as is, or will be, responsible from time to time for technology transfer and commercialisation matters with respect to the Wellcome-funded IP. For these purposes, 'commercialisation' includes but is not limited to commercialisation by way of licence, assignment, option, sale or other agreement, for cash or equity consideration. However, if Wellcome takes over responsibility as Commercialising Party in accordance with the Wellcome Grant Conditions, then references to Commercialising Party herein shall be construed as references to Wellcome.
- 1.2 'Cumulative Income' means total Net Income received as a result of commercialisation of the Wellcome-funded IP.
- 1.3 'Direct Costs' means all reasonable patent and legal costs and other incidental expenses that are incurred directly in connection with commercialisation of the Wellcome-funded IP, including official patent filing, prosecution, maintenance and renewal fees.
- 1.4 'Equity' means the issuing of equity or any other interest (whether by way of debenture, warrant, security or otherwise) from time to time in any company in consideration of the commercialisation of Wellcome-funded IP.
- 1.5 'Grant(s)' means those Wellcome award(s) identified in an Organisation's IP & Commercialisation Report in connection with

new commercial agreements entered into by the Organisation, and its Technology Transfer Group (if relevant), during the period covered by that report and for which no bespoke revenue share approach has already been agreed.

- 1.6 'Gross Income' means all cash sums or other monetary consideration actually received in respect of commercialisation of the Wellcome-funded IP, including licence, signing and option fees, royalties, and milestones, but excludes any Equity or other interests (whether by way of debenture, warrant, security or otherwise) or monies paid specifically to fund the undertaking of a research programme.
- 1.7 'Intellectual Property' means any and all rights in inventions, discoveries, materials, technologies, products, data, algorithms, software, know-how, patents, databases, copyright, trademarks, design rights, applications for any of the foregoing, moral rights, and any other intellectual property rights whether or not registered or capable of registration and whether or not subsisting in the UK or in any other part of the world.
- 1.8 'Net Income' means Gross Income less:
- (a) Direct Costs and
 - (b) any applicable taxes on Gross Income and Direct Costs.
- 1.9 'Organisation' means the institution, organisation or company submitting the report to which this Revenue and Equity Sharing Agreement is attached.
- 1.10 'Other Party' means Wellcome when the Organisation (or its designated Technology Transfer Group) is the Commercialising Party and means the Organisation should Wellcome become the Commercialising Party.
- 1.11 'Technology Transfer Group' means a body which is responsible for providing technology transfer services to the Organisation and which carries out commercialisation activities with respect to the Wellcome-funded IP.
- 1.12 'Wellcome' means The Wellcome Trust Limited as trustee of the Wellcome Trust, a charity registered in England with number 210183.
- 1.13 'Wellcome-funded IP' has the meaning given to it in Wellcome's Grant Conditions and includes Intellectual Property which is or has been created, exemplified or developed (whether in whole or in part) using the Grant, whether such Grant funds are used before or after an invention disclosure or patent filing, and whether or

not any person in receipt of Wellcome funding or working on a Wellcome-funded Project is named in invention disclosure records.

- 1.14 'Wellcome-funded Project(s)' means the research and other activities to which the funding under the Grant(s) have been applied.
- 1.15 'Wellcome Grant Conditions' means Wellcome's standard grant conditions, as may be amended from time to time (a copy of which are available [here](#)).

2. Consent to commercialise trust-funded intellectual property

- 2.1 In consideration for your entering into the terms of this Revenue and Equity Sharing Agreement, Wellcome consents to the commercialisation of the Wellcome-funded IP via the new commercial agreements referred to in clause 1.5 above.

3. Revenue sharing

- 3.1 In consideration for consent being granted pursuant to clause 2 above, the Commercialising Party shall share Gross Income and Equity as set out in this clause 3.
- 3.2 The Commercialising Party shall first determine if:
 - (a) the Grant (together with other Wellcome funds) is the sole source of funding for the Wellcome-funded Project, in which case clauses 3.3 and 3.4 shall apply to the total Gross Income or Equity received in respect of that Wellcome-funded Project, or
 - (b) the Grant (together with other Wellcome funds) is not the sole source of funding for the Wellcome-funded Project, in which case the Gross Income or Equity received in respect of that Wellcome-funded Project shall be pro-rata calculated to take into account:
 - i) the inventive contribution of each of the inventors/creators; followed by

- ii) the proportionate funding contributions of Wellcome, the Organisation and other third party funders of each such inventor/creator as appropriate (such funding contribution to exclude any salary support provided by the Organisation from its internal funding, overhead or other indirect costs including higher education funding council funding);

and the revenue and equity sharing formulae set out in clauses 3.3 and 3.4 below shall then apply to the portions of Gross Income or Equity attributed to the Wellcome contribution pursuant to this clause 3.2(b).

Income Sharing:

3.3 Where income is received, the Commercialising Party shall in respect of each individual Wellcome-funded Project that is exploited:

- (a) receive Gross Income due;
- (b) deduct and reimburse as appropriate any and all Direct Costs;
- (c) Unless otherwise agreed in writing distribute remaining Net Income received in the following revenue shares: Organisation and Technology Transfer Group 75% (seventy-five per cent) and Wellcome 25% (twenty-five per cent).

Equity Sharing:

3.4 Where rights to take Equity are received, the Commercialising Party shall in respect of each individual Wellcome-funded Project that is exploited:

- (a) share any Equity received in the following proportions: Organisation and Technology Transfer Group 75% (seventy-five per cent) and Wellcome 25% (twenty-five per cent); and
- (b) Unless otherwise agreed in writing, use all reasonable endeavours to ensure that the Equity is issued on terms whereby the proportionate shareholdings due to the parties are issued direct to them.

3.5 Wellcome's share of any Net Income or Equity shall be allocated to Wellcome prior to the deduction of any reward to the Organisation's employees or students who are inventors, authors or creators of the Wellcome-Funded IP. The Organisation shall be solely responsible for the payment of such reward (in accordance with its internal policies) out of the revenue and equity share to

which the Organisation is entitled under clauses 3.3 and 3.4 above.

4. Accounting, reporting and payments

- 4.1 The Organisation shall, on an annual basis and in respect of each Wellcome-funded Project, provide to Wellcome (as part of its IP and Commercialisation Report) the financial information specified from time to time in Wellcome's template for that report.
- 4.2 The Commercialising Party shall keep accurate records and accounts relating to the protection and commercialisation of Wellcome-funded IP, including all relevant Direct Costs, Gross Income and Net Income, and the Other Party shall have the right to audit these in accordance with standard UK accounting practice on request. The Commercialising Party shall provide the Other Party with copies of supporting financial documentation and calculations on reasonable request.
- 4.3 The Commercialising Party shall send to the Other Party the appropriate payments within 30 (thirty) days of receipt of the proper VAT invoice(s). Late payments shall be subject to interest payable on demand at the rate of 4 (four) per cent above the then current Bank of England base rate. Interest shall be calculated daily and compounded quarterly from the due date to the actual date of payment inclusive.
- 4.4 All payments shall be made in pounds sterling unless otherwise agreed, using the exchange rate applicable on the date the revenue is received by Organisation. Payments shall exclude any taxes or duties that may be imposed, including value added tax, which shall, where applicable, be payable in addition at the rate in force at the due time for payment.

5. Monitoring Wellcome-funded intellectual property and its commercialisation

- 5.1 With respect to the Wellcome-funded IP, the Commercialising Party must:
 - (a) unless copies are provided with this Revenue and Equity Sharing Agreement, provide to the Other Party, as and

when they arise, unredacted copies of any signed commercialisation agreements entered into; and

- (b) deliver at least annually a report detailing the commercialisation activities for that year to the Other Party, including details of any patent applications, grants and abandonments (including title, filing number and date). In the case of the Organisation being the Commercialising Party, this should take the form of their annual IP and Commercialisation Report to Wellcome.

6. Errors and omissions

6.1 Should the Organisation (at any stage) become aware of any errors or omissions in any previous report, it shall promptly notify Wellcome in writing of such errors or omissions. Such notification shall include the following information:

- (a) an explanation as to why such error or omission took place; and
- (b) a proposal to rectify such error or omission going forward.

7. General

7.1 The Organisation shall be responsible for ensuring that its Technology Transfer Group (should it have one) complies with this Agreement.

7.2 This Agreement shall take effect from whichever is the earlier of the date of last signature of this Agreement or the date that commercialisation first takes place, and shall terminate on whichever is the later of the expiry of the last of the Wellcome-funded IP or when all revenues and equity due in respect of commercialisation of all the Wellcome-funded IP have been distributed to the parties in accordance with the provisions herein.

7.3 This Agreement is in addition to the Wellcome Grant Conditions (as may be amended from time to time), which continue to apply. Should there be any conflict between this Agreement and the Wellcome Grant Conditions, then this Agreement shall prevail.

- 7.4 Nothing in this Agreement shall give rise to any partnership or the relationship of principal and agent between Wellcome and either of the Organisation or its Technology Transfer Group.
- 7.5 All notices and communications relating to this Agreement shall be in writing.
- 7.6 None of the rights or obligations under this Agreement may be assigned or transferred without the prior written consent of the other party. This Agreement shall be binding on and ensure for the benefit of the successors in title of the parties.
- 7.7 No waiver of any breach or default under this Agreement or any of the terms herein shall be effective unless such waiver is in writing and has been signed by the parties. No waiver of any such breach or default shall constitute a waiver of any other or subsequent breach or default.
- 7.8 If any provisions of this Agreement are held to be invalid, illegal or unenforceable (in whole or in part) such provisions or parts shall to that extent be deemed not to form part of this Agreement but the remainder of this Agreement shall continue in full force and effect. In the event of such deletion, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision in place of the provision(s) so deleted.
- 7.9 Each party shall do and execute or arrange for the doing or executing of all acts, documents and things as may be necessary in order to implement this Agreement.
- 7.10 This Agreement (and any dispute, controversy, proceedings or claim of whatever nature arising out of this Agreement or its formation) shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

Wellcome supports science to solve the urgent health challenges facing everyone. We support discovery research into life, health and wellbeing, and we're taking on three worldwide health challenges: mental health, infectious disease, and climate and health.

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The Wellcome Trust is a charity registered in England and Wales, no. 210183.
Its sole trustee is The Wellcome Trust Limited, a company registered in England and Wales, no. 2711000
(whose registered office is at 215 Euston Road, London NW1 2BE, UK).