



ASSIGNMENT OF KNOW-HOW AND NON-DISCLOSURE AGREEMENT: BACKGROUND INFORMATION

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When to use this document

It is always advisable to resolve any issues around the ownership of know-how in writing *prior* to the commencement of any outsourced work. However, in practice, there are many occasions when collaborations are initiated in the ordinary course of business without a clear view as to what knowledge, if any, will prove to be important in the creation of a new product or service (here described as an Invention).

This assignment form has been drafted to cater for situations where an Invention has been developed, refined or perfected using some essential process or knowledge known to a third party (called a "Proprietor" in the document). This third party might be an individual who is not an employee of your company, or another company. In either case, you need to ensure that your commercial rights will not be affected by any subsequent claim or dispute.

The structure of the assignment creates an obligation on the part of the third party not to use his know-how nor to disclose it to others in the future. However, it would not be reasonable or advisable to make this non-disclosure element binding for an extended or indefinite period because it could give rise to concerns under competition law. In most cases your interests as the Recipient will be served by using a period of one or two years, but if this timescale is a matter of concern, seek specialist advice.

Note that the assignment wording includes a warranty from the third party that they have the rights to pass copyright in the materials described in the Schedule.

How to use this document

The assignment form needs to be completed with relevant information prior to use and is provided as a standard word processor file (.doc format). The parts most likely to require modification are highlighted using **red type** or **[red type and square brackets]** on the file. When editing the document please ensure you tailor all these sections to suit the circumstances, without deleting any sections in ordinary round brackets (as shown here).

- a) The date at the top should show the date on which the agreement is intended to come into effect. This does not have to pre-date the provision of the know-how – it should reflect the dates of signature.
- b) The information at i) relating to the Proprietor should provide sufficient detail to identify them clearly and unequivocally. In the case of a limited company the address used could be their trading address or their registered office if this is different. It is also helpful to insert the registered company number where applicable. The information at ii) should be completed on the same basis.
- c) The description provided at 1. must be sufficient to identify clearly what the Invention is.
- d) The amount inserted at 4. will usually be a nominal sum (such as £1), on the basis that separate arrangements have already been made with the third party to remunerate them for their contribution, which might take the form of a one-off payment, staged payments or an ongoing royalty. Sometimes it is appropriate to agree a higher amount depending on the nature of the contribution that has been made.
- e) For the reasons explained above, the term chosen for 4.3 will normally need to be for a short period.

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