



PROJECT PARTICIPATION AGREEMENT

PROJECT DETAILS		
Project Details	Name of Project:	Imagery and technology forecasting
	SCRIPT reference (if applicable):	RES-59343
	Partnering Deed:	CTR-07299
Researcher	Full Name:	Michael Borck
	Staff ID:	211934G
Special Conditions		

BETWEEN

CURTIN UNIVERSITY (ABN 99 143 842 569) a body corporate established under the *Curtin University Act 1966* (WA) of Kent Street, Bentley, Western Australia 6102 (**Curtin**)

and

THE RESEARCHER

BACKGROUND

- A. The Researcher has participated in, is currently participating in, and/or wishes to participate in the Project.
- B. The Project is a University Project as defined in the Curtin IP Policy.
- C. The Parties wish to record in writing their agreement regarding the Researcher's participation in the Project.
- D. Pursuant to the Curtin IP Policy, the Researcher hereby acknowledges and agrees that all of the Researcher's rights in any Intellectual Property created or developed by the Researcher in relation to the Project will be owned by Curtin.
- E. The Parties agree to the terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS

1. TERM

- 1.1. This Agreement remains in force until terminated by mutual agreement of the Parties in writing.

2. RESEARCHER PARTICIPATION IN PROJECTS

- 2.1. Curtin agrees that the Researcher may participate in the Project and use Curtin's facilities, infrastructure and resources for the purposes of participating in the Project.
- 2.2. The Researcher must:
 - (a) carry out all Project work in a diligent and competent manner and exercising due care and skill;
 - (b) comply with all relevant Curtin statutes, rules and policies including without limitation those relating to research and consulting work, conflicts of interest, occupation health and safety and the Australian Code for the Responsible Conduct of Research;

- (c) maintain accurate and up to date records regarding their conduct and conclusions in relation to any Projects;
 - (d) promptly notify Curtin in writing of any Researcher Background IP;
 - (e) promptly notify Curtin in writing of all Project IP generated by the Researcher;
 - (f) do all things reasonably necessary, including executing any documents, to enable Curtin to make application for, or perfect title to, any Project IP;
 - (g) provide to Curtin, upon request, with access to all information and records, including without limitation premises where work is carried out; and
 - (h) promptly notify Curtin in writing of any significant issues that arise in relation to the Project.
- 2.3. The Researcher irrevocably grants to Curtin a royalty-free, world-wide, non-exclusive, permanent licence, including the right to sublicense, to use Researcher Background IP for:
- (a) the purposes of the Project; and
 - (b) for any other purposes specified in, or required by, a Project Agreement.

3. CURTIN OWNERSHIP OF PROJECT IP

- 3.1. The Researcher acknowledges and agrees that:
- (a) all Project work is deemed to be a 'University Project' for the purposes of the Curtin IP Policy;
 - (b) all Project IP vests immediately on creation in Curtin;
 - (c) to the extent that the Researcher may have rights in any Project IP, the Researcher hereby assigns to Curtin all such rights, titles and interests in such Project IP and agrees to do all things reasonably necessary to give effect to such ownership and assignment; and
 - (d) if Curtin requests, the Researcher will give to Curtin all Intellectual Property in tangible form, including without limitation all Material, which is in their custody or possession and which relates to the Project.
- 3.2. Curtin grants to the Researcher a worldwide, non-exclusive, non-transferable, royalty-free licence to use Project IP for the purpose of:
- (a) the Project; and
 - (b) the Researcher's Thesis, subject to clauses 6 and 7 of this Agreement.
- 3.3. The Researcher may at any time submit a request in writing to be assigned ownership of Intellectual Property rights in accordance with the Curtin IP Policy and applicable regulations.

4. MORAL RIGHTS

- 4.1. Nothing in this agreement impacts on the Researcher's Moral Rights in any Material.

5. CONFIDENTIALITY

- 5.1. The Researcher:
- (a) hereby undertakes to treat all Confidential Information in confidence; and
 - (b) will not disclose Confidential Information to any third party without the prior written consent of Curtin or unless required by law.
- 5.2. Where a Project Agreement contains obligations of confidentiality, the Researcher, when advised of such obligations of confidentiality:
- (a) agrees to comply with those obligations of confidentiality to the same extent as if they were a party to that Project Agreement; and
 - (b) acknowledges and agrees that any such confidentiality obligations may prevent, or permit subject to conditions, the Researcher from publishing the results of any research conducted in relation to the Project.

- 5.3. Clauses 5.1 and 5.2 shall continue to apply despite the termination or cessation of the Researcher's involvement in the Project.

6. INDEPENDENT ADVICE

- 6.1. The Researcher acknowledges that they have had the opportunity to take independent advice prior to signing this Agreement and all consents are genuinely given by them.

7. GENERAL

- 7.1. Special conditions contained in the Project Details take precedence over any other terms of this Agreement to the extent that they are inconsistent.
- 7.2. Each Party will be responsible for its own costs incurred in the preparation of this Agreement.
- 7.3. The rights and obligations of the Parties under this Agreement will not be assignable without the prior written permission of the other Party.
- 7.4. The rights and obligations of the Parties in clauses 2, 3 and 5 survive termination of this Agreement.
- 7.5. The Parties agree to co-operate in good faith to resolve any disputes or differences between them in relation to this Agreement.
- 7.6. Each Party will enter into and execute all documents and do all acts as may be reasonably required by the other Party to effectively carry out the terms and intentions of this Agreement.
- 7.7. If any provision of this Agreement is held unenforceable or void, the remaining provisions will be enforced in accordance with their terms.
- 7.8. Any failure by a Party to compel performance by other Parties of any of the terms and conditions of this Agreement will not constitute a waiver of those terms or conditions.
- 7.9. Nothing in this Agreement will be construed so as to make any Party an employee, agent or partner of another Party, or create any relationship of partnership, agency, or trust whatsoever.
- 7.10. This Agreement shall be construed and governed in accordance with the laws of Western Australia and subject to the non-exclusive jurisdiction of the courts of Western Australia.
- 7.11. This Agreement may be signed in any number of counterparts.
- 7.12. This Agreement may be varied only by written agreement of both Parties.

8. DEFINITIONS AND INTERPRETATION

8.1. Definitions

Agreement means this agreement, including any schedules and any amendments agreed in writing by the Parties.

Confidential Information means the confidential subject matter of financial information and other commercially valuable or private information in whatever form, unpatented inventions, trade secrets, formulae, know-how, drawings, works, improvements, concepts, ideas, designs, biological materials, chemical compounds and formulae, samples and other materials of whatever description or form, whether written or oral which a Party claims is confidential to itself and excludes information which:

- (a) is already legally in the public domain, or after the date of this Agreement becomes part of the public domain otherwise than as a result of unauthorised disclosure by the recipient Party;
- (b) is or which becomes available to the recipient Party from a third party lawfully in possession of such information and who has the lawful power to disclose such information to the recipient Party;
- (c) is rightfully known by the recipient Party (as proven by its written record) prior to the date of disclosure to it pursuant to the terms of this Agreement; or
- (d) which is independently developed by an employee of the recipient Party who has no knowledge of the disclosure of it pursuant to the terms of this Agreement.

Curtin IP Policy means Curtin's policy on Intellectual Property.

Infringing Act means any act or omission with respect to the Material, of any of the following classes or types:

- (a) an act or omission which constitutes an infringement of the right of attribution of authorship in respect of the Material;
- (b) an act or omission which constitutes an infringement of the right not to have authorship of the Material falsely attributed, and/or
- (c) an act or omission which constitutes an infringement of the right of integrity of authorship in respect of the Material.

Intellectual Property or **IP** means statutory and other rights in respect of inventions, patents, registered and unregistered designs, registered and unregistered trademarks or applications thereof, circuit layouts, copyright, scientific discoveries, know-how, and all other intellectual property rights as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation, 1967.

Material means any documents and any other material and anything in which Intellectual Property rights subsist, in any form, including without limitation reports authored by the Researcher, and falling into the following categories:

- (a) created as part of the Project; or
- (b) created independently of the Project (whether before or after the date of this Agreement) and is used or otherwise made available to, for, or in connection with the Project.

Moral Right has the same meaning that it has under the *Copyright Act 1968* (Cth).

Parties means Curtin and the Researcher and **Party** means either Curtin or the Researcher as the context requires.

Project means the project referred to in the Project Details.

Project Agreement means any written agreement executed by Curtin for, or in relation to, the Project.

Project IP means all Intellectual Property created, resulting from or arising in the course of carrying out the Project but excluding the copyright in a Thesis by the Researcher.

Researcher Background IP means pre-existing or independently developed Intellectual Property which is used or otherwise made available to, for, or in connection with the Project by the Researcher.

8.2. Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context requires otherwise:

- (a) a reference to a statute, ordinance, code, law, rule or Curtin policy includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them occurring at any time after the date of this Agreement;
- (b) the word 'person' includes an individual, a body corporate, a trust, an agency and other body;
- (c) words importing the singular shall include the plural (and vice versa) and words denoting a given gender shall include all other genders;
- (d) this Agreement is not to be construed against a Party merely because that Party was responsible for preparing it;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns; and
- (f) headings are for convenience only and do not affect the interpretation of this Agreement.

EXECUTED AS AN AGREEMENT BY THE PARTIES

For and on behalf of **CURTIN
UNIVERSITY** (ABN 99 143 842 569)

Authorised signatory

Witness

Name of authorised signatory (Print)

Name of witness (Print)

Date:

By the **RESEARCHER**



Researcher

Michael Borck

Name of Researcher (Print)

25 Jan 2018

Date:



Witness

Adriana Farcut

Name of witness (Print)

25 Jan 2018