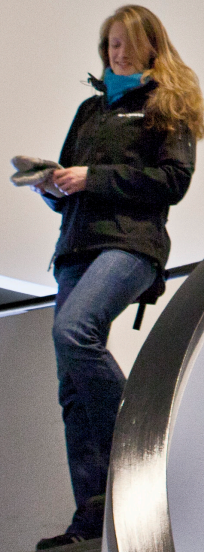


Collaborating with DTU

Framework for agreements on research collaboration





COMPLEXE TECHNICE INFORMATICI/BIOSYSTEME
1 SAL.

DTU - your collaborating partner

Collaboration with the corporate sector is part of DTU's DNA.

When founded in 1829, DTU's objective was to develop and utilise the technical sciences to the benefit of society in close collaboration with industry. Ever since then, we have continuously pursued this ambition with all means and opportunities, tirelessly seeking new and better ways of creating and optimising the framework for collaboration between the university and industry.

Collaboration on specific research projects is one of many interaction opportunities available to scientists and companies. At DTU, we have a long tradition of and extensive experience in project-specific collaboration of this kind, and we conclude more than 1,100 research agreements with private companies every year.

The beneficial effects of doing research collaboration are obvious and measurable. We know, for instance, that Danish companies that collaborate with DTU are seeing higher growth rates than other companies in their field.

With this pamphlet, we hope to demonstrate that there are excellent opportunities of finding solutions that fit a diverse variety of projects and collaborating partners and that the path from idea to agreement is often short and simple.

Thank you for choosing DTU as your collaborating partner


Anders O. Bjarklev, *President of DTU*





Framework insights

- a quick path to solid agreements

Negotiations must be efficient and agreements workable. This also applies to research collaboration agreements.

Once a DTU scientist and a company have decided to collaborate, the parties are often eager to begin the work. Consequently, the whole process of reaching a research collaboration agreement may seem to be a delaying factor and a challenging obstacle - especially if the process drags out.

In our experience, negotiations become more efficient, and the agreement better, if the parties know each other's framework and conditions for collaboration and are aware of the specific differences between the frameworks.

With this pamphlet, we wish to inform our partners of the opportunities for research collaboration provided by the framework applicable to DTU as a public research institution.

We hope that this pamphlet will pave the way for smooth, efficient and successful negotiations and clear and operational agreements.

Marianne Thellersen,
Senior Vice President - Innovation and Entrepreneurship, DTU

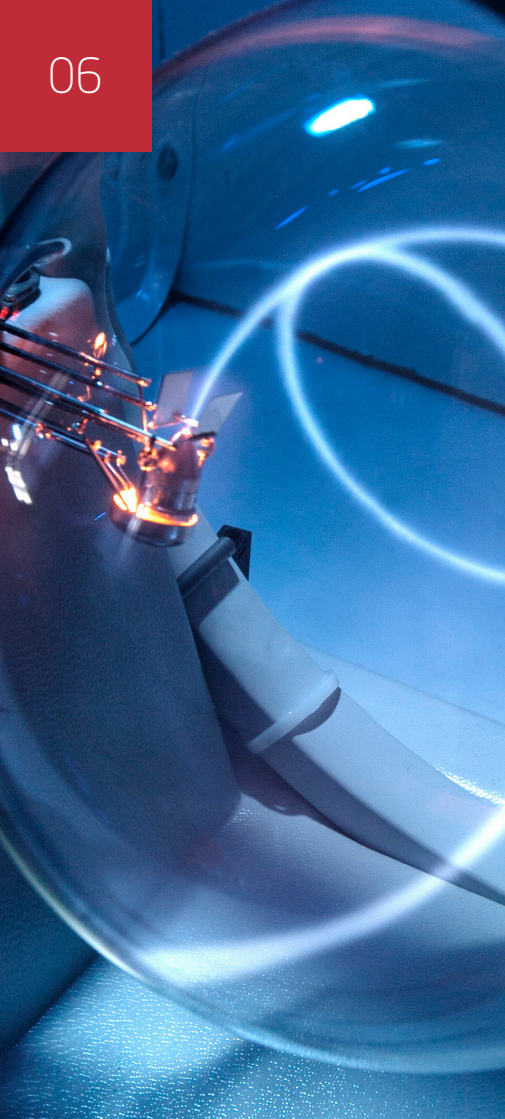
Two models for research collaboration

DTU may enter into research collaboration in two different ways, as research collaboration may be carried out as either "co-financed research" or "commissioned research".

The basic structures of the two models are determined by law.

The two models differ in a number of areas and set out different terms for exploitation of the project results, keeping results confidential, and fixing the price of the work in the budget. This way, the two models offer the parties various opportunities of pursuing their interests in the agreement.

It may therefore prove beneficial to know a bit about the two models if you are to enter into negotiations about a collaboration agreement with DTU.



Co-financed research

Co-financed research is research that serves to expand the knowledge base of the university as well as the company.

Generally, co-financed research is financed by means of the company's and DTU's contribution of resources to the project. The project may also be co-financed with the help of external funds, for example funds provided by Innovation Fund Denmark. The contribution of government funds means that the final results of the project must benefit society as a whole.

In the budget of a co-financed research project, funds are allocated to cover DTU's overhead costs.

Co-financed research agreements concluded by DTU are subject to a number of conditions:

- DTU is only allowed to participate in a co-financed project if DTU has a research-related interest in the project.
- The results created by DTU through the project will remain the property of DTU. DTU is entitled to transfer the right to exploit the results commercially if the transfer is on market terms.
- DTU must have the possibility of publishing its own research results.
- DTU cannot guarantee that the project will lead to results that may be applied by the company.
- DTU is obliged to limit its liability and cannot take out a liability insurance policy.

Commissioned research - commercial activities

Commissioned research is research conducted on commercial terms. Research of this kind must derive naturally from DTU's normal activities and may, depending on the circumstances, be of research-related interest or merely consist of a commercial utilisation of DTU's expertise or equipment. This may, for example, include sale of consultancy services, analyses, measurements, and testing.

Commissioned research must be financed in full by the company ordering the research.

Financing provided by the company must cover DTU's total direct and overhead costs. According to DTU's internal guidelines, the overhead budget for the project must, as a rule, be fixed at 180% of payroll costs.

A commissioned research agreement may include a number of terms that differ from the terms set out in co-financed research agreements:

- DTU may assign the rights to DTU's results and consider the payment for the results to be included of the company's financing of the project.
- DTU may keep confidential its own results from the commissioned research.
- DTU has insurance to cover any product liability as well as professional liability.



Difference between the two collaboration models

	Co-financed research	Commissioned research
Type of project	DTU's project activities must underpin DTU's main tasks and must support research and publication for the common good.	The activities must derive from DTU's normal activities and are thus not key research tasks.
University finances	DTU is able to finance part of the project with own funds. The project budget must allow for overhead costs. Government research funds normally operate with overhead costs of 44% of total expenses.	DTU's total costs must be covered and must not undermine competition in the area. Therefore, the budget must reflect higher overhead costs compared with research collaboration - normally 180% of payroll costs.
Publication	Publication of DTU's results must be possible.	DTU's results may remain confidential.
Rights	DTU's results are DTU's property. DTU may grant the company a right to utilise the results on market terms.	The collaborating partner may acquire the right to DTU's results without paying any additional consideration.

Who may exploit the knowledge generated in the project?

The majority of research projects lead to the creation of new knowledge.

New knowledge may have been created by the university or the company - or in a joint venture.

When DTU has contributed to the creation of new knowledge, it is essential for DTU that the knowledge created is brought into play.

Sometimes, new knowledge can be subject to certain rights referred to as intellectual property rights (IPR) such as a patent. When patent rights are attached to an invention, only the owner of the rights is entitled to utilise the new knowledge in a commercial context.

If DTU researchers have made an invention as part of a commissioned research project, DTU will grant its collaborating partner the rights to exploit the invention as part of the actual project agreement.

If an invention was made by DTU researchers as part of a co-financed research project, DTU may opt to grant its collaborating partner a priority right to exploit the invention.

In agreements on commissioned research and co-financed research alike, DTU prefers that the company's right to DTU's results is limited to include only the specific field

of expertise covered by the project. This allows DTU to separate the rights granted in various research projects. In practice, the rights granted are separated by means of the description of what is referred to as "field".

How much does the company pay for the rights?

In commissioned research projects, DTU grants the rights to the invention to its collaborating partner as part of the project agreement. Payment for the rights is included in the payment for the commissioned research.

In co-financed research projects, payment for the rights is not included in any contributions made by the company to DTU's research. Here, the company must pay the market price for the invention. If DTU transfers the rights to the company at a price lower than the market price, DTU may be granting illegal state aid to the company.

Which inventions are owned by DTU?

The framework defining DTU's right to use the inventions created by DTU's researchers is set out by law. Being familiar with this framework may prove useful since DTU's collaboration agreements are made within this framework.



DTU can only enter into agreements on inventions that are protected by rights held by DTU.

In pursuance of the Danish Act on Inventions at Public Research Institutions (forsk-erpatentloven) (the "Act"), DTU may take over the right to inventions made by DTU employees.

The Act also allows DTU to enter into agreements with students or visiting scientists, among others, to assign their rights to an invention to DTU.

The Act sets out a number of requirements to be met when a DTU employee has made an invention:

Immediately upon making an invention, the researcher must report the invention to DTU. Within a period of two months after receiving the report, DTU must decide whether the university wants to take over the invention.

If deciding to take over the invention, DTU must work actively to utilise the invention. If DTU fails to do so, the rights to the invention must be assigned back to the inventor. DTU must share any profit from a commercialisation of the invention with the inventor.

At DTU, the inventor will receive a share of the profit equal to one third of the profit earned by DTU. If the invention was made by several DTU inventors, the profit share will be divided between them.

Which software rights are owned by DTU?

DTU automatically owns the copyrights to software developed by DTU employees when at work.

If software is developed by persons who are not DTU employees, DTU may enter into an agreement to assign the rights to the software to DTU. This may be relevant for students or visiting scientists.

The copyright to software is not subject to the same rules as apply to inventions. Consequently, DTU is not obliged to utilise the software or assign the rights back to the researcher(s) who have developed the software.

Part of the software developed at DTU is based on other software covered by an open source licence. This means that DTU's possibilities of entering into agreements on the rights to DTU's software are restricted.

Is DTU obliged to achieve specific results?

DTU can never become obliged to achieve certain results. This would be in contravention of the generally accepted principles of good research. DTU may undertake to complete a specific project or perform specific measurements.

Will project results be published?

DTU's researchers undertake to publish own results, provided that results are suitable for publication.

The only exception from this rule is results achieved through commissioned research.

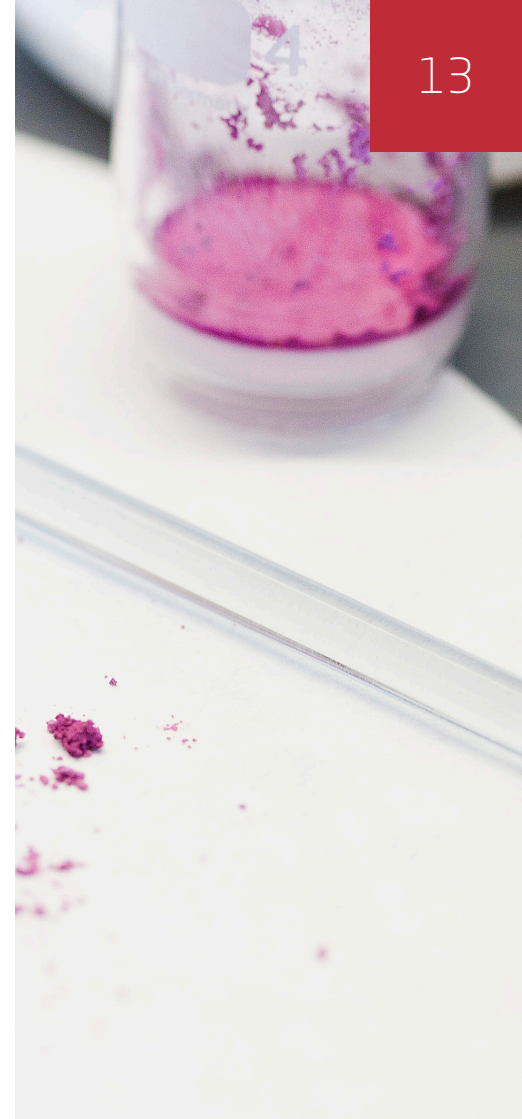
When entering into co-financed research agreements, DTU may conclude an agreement with its collaborating partner on the time and place of publication. This way, the parties can ensure that there is enough time to file a patent application if patenting of DTU's results is useful and feasible.

Will DTU keep certain types of information confidential?

The collaborating partner's secrets

DTU's researchers must keep confidential any secrets received from a company, just as they must keep confidential own results from commissioned research projects.

As for secrets obtained by a researcher from a company, the duty of confidentiality may follow directly from the law, or it may be set out in an agreement.



Information that must be kept secret under the law may include information on technical installations or on businesses where it is of significant financial importance to the person or company whom the information concerns that the information is not disclosed. In such case, DTU's researchers must keep the information confidential irrespective of whether or not an agreement has been concluded to that effect.

Some companies may also request that the duty of confidentiality apply to more information than is required by law. In such case, DTU may to a wide extent enter into an agreement with the company on confidentiality of such information. The agreed duty of confidentiality may also apply for a certain period of time after conclusion of the project.

Public access to information on private financing

The law requires DTU to give public access to information on private financing. Accordingly, the company must accept that information about the research project title, company name and the size of the contribution is made accessible to the public.

PhD students

No matter where they work, all PhD students must make a public defence of their thesis in order to be awarded their PhD degree. During the public defence, the student must present the results of his or her work.

The defence will take place within three months from submission of the PhD thesis. The defence may be postponed up to four months if required for the purpose of protecting the invention by patent.

Room for negotiation

The two models for research collaboration (co-financed and commissioned research) provide different possibilities for making an agreement that fulfils the interests and requirements of DTU's collaborating partner. Combined, the possibilities are vast, yet the two models each provide a clear framework.

Therefore, when negotiating a research project agreement, it may prove useful for both parties to define for themselves what they find important and what is in fact feasible.

Within these frameworks, there is ample room to find solutions customised to the individual project and project partners.

Further information is available on request to DTU's attorneys in Legal and Contracts, a unit under the Office of Innovation and Sector Services, DTU.

Information on research collaboration agreements is also available in a folder published by Universities Denmark. The folder is available on Universities Denmark's website www.dkuni.dk or via this link:
http://dkuni.dk/~media/Files/Publikationer/Forskningssamarbejde_hjemmeside.ashx



www.dtu.dk

