APPENDIX 4: MEMORANDUM OF AGREEMENT TEMPLATE

THE UNIVERSITY OF SUSSEX / xxxxxxxxxx

Memorandum of Agreement

This Agreement is made on the …………………..…. day of ……………….…

Between:

1. University of Sussex incorporated by Royal Charter (dated 16 August 1962) whose address is The University of Sussex, Falmer, Brighton BN1 9RH (“the University”); and

2. [ ] [Company Number:] [whose registered office is at or whose principal place of work is at] (“ the Partner Institution”)

Recitals

1. The University is engaged in both undergraduate and postgraduate research and teaching. From time to time it enters into collaborate agreements with commercial companies and educational institutions.

2. The Partner Institution is an organisation engaged in the delivery and administration of educational products.

Definitions

In this agreement, the following words have the following meanings:

“Agreement”…………………….. means the Memorandum of Agreement and the signed annexes

“Effective Date”…………………….. means the date on which the Memorandum of Agreement was entered into by the parties

“Intellectual Property Rights”………….. means rights existing in the patents, inventions, know-how, trade marks, trade and business names, design rights, registered designs, copyrights, rights in databases and rights protected by confidence in or granted under the laws of England and Wales or any other jurisdiction and whether registered, unregistered or forming pending applications

“Parties”…………………….. means the University and the Partner Institution

“Course”…………………….. means a course of academic study delivered by the Partner Institution for the students of the Partner Institution whether they are contracted to the University or with the Partner Institution directly
“Services” means the services to be provided by the University and the Partner Institution

Objectives

1. Parties, as leading providers of education and training and with a strong commitment to regional collaboration, agree to co-operate in areas which can be developed to the benefit of both institutions whilst also pursuing their own distinctive missions and maintaining financial and planning autonomy.

2. The objectives of collaboration are:
   
   2.1 enrichment of the provision of high quality education services in the region through the enhancement of taught courses, and of administrative and support services, to the benefit of students and participating staff;
   
   2.2 exchange and dissemination of good practice and the provision of staff development;
   
   2.3 beneficial outcomes for the economy of the region;
   
   2.4 the validation of courses of study.

3. The Parties agree to establish policies, mechanisms and procedures for initiating, considering and authorising collaborative developments and to work in accordance with them. Any supplementary agreements, if any, will after they have been fully detailed and costed, be the subject of an individual annex to this Memorandum. Such annexes will set out the nature of the collaboration and each institution's commitment (academic, administrative, financial) together with any mechanisms for appraisal and review of the activity. A schedule of Annexes will be attached to the Memorandum of Agreement and may be revised on an annual basis. The Memorandum of Agreement and the Annexes constitute the Agreement between the Parties.

4. In order to provide a mechanism for oversight of all aspects and issues arising from collaborative developments, the Parties agree to establish a Steering Group comprising appropriate members from the Parties. Where appropriate, decisions of the Steering Group will be subject to ratification by the appropriate authorities of the Parties. The University of Sussex reserves the right to representation on the Governing Body of the Partner Institution.

5. The University is responsible for the oversight and maintenance of the academic standards of validated and/or franchised courses, provided by the Partner Institution, leading to awards of the University.

6. Any research generated during the course of the partnership is owned by the individual or the individual's employer. However should there be any jointly generated outputs, and if the features of such jointly generated results are such that it is not possible to separate them for the purpose of applying for or obtaining the relevant patent protection or other Intellectual Property Rights, then these will be jointly owned by the Parties. At the outset of any joint research collaboration the Parties should contact the Partnership Office at the University, and an agreement will be facilitated between the parties on a case by case basis with input from Sussex IP, a wholly owned subsidiary of the University, which exclusively manages and commercialises the University's intellectual property portfolio, and, where
appropriate, the University’s Research and Regional Development Division which manages the University’s research.

7. All documentation and other property and intellectual property arising from the courses shall be the sole property of the Partner Institution or its nominee who may use the same as it considers appropriate. The University shall be entitled to use such documentation, property and intellectual property for the purposes of performing its obligations in relation to the students studying at the Partner Institution. The Partner Institution shall own all intellectual property rights, whether registered or not, and the goodwill in the name and the brand in xxxxxxxxxxxxxxxx. The University shall be permitted to utilise the name in all its promotional material.

8. All collaboration within the scope of this Agreement shall be without prejudice to the activities engaged in separately and individually by the institutions except where they run counter to the spirit of this Agreement or the decisions of the Steering Group. Within the limitations of commercial confidentiality, the Parties agree to exchange information about the developments and changes which may impact on the other.

9. The Parties agree to review jointly, through the Steering Group, the progress towards collaboration and to take appropriate action either to facilitate further progress or to terminate the process.

Liability

10. Nothing in this Agreement shall limit a party’s liability in respect of death or personal injury caused by its negligence or for any fraudulent misrepresentation, or for any other liability which cannot be excluded under applicable law.

11. Except as a pursuant to clause 9 neither party shall be liable to the other whether in contract, tort (including negligence) or otherwise for:

12. Any direct loss suffered by the other in amount exceeding the fees payable under this Agreement in the twelve months preceding the date on which such liabilities arose; or

13. Any indirect or consequential loss, loss of business, profit, goodwill, sales or financial loss of any amount.

14. The Partner Institution will indemnify the University against all claims and losses enforced by the Court or Office of Independent Adjudicator’s related to the breakdown in the provision of Service unless the breakdown was caused by an act or omission of the University.

15. The Partner Institution shall ensure that the students have insurance with a reputable insurer that covers third party liability whilst undertaking their studies and will indemnify the University if they do not.

16. Each party is responsible for the payment of all tax on income arising out of its performance of this Agreement, and for paying and accounting for all applicable VAT and other such duties.

General

17. Neither party may sub-contract, delegate or assign any of its rights or obligations under this agreement without the prior written consent of the other party.

18. Neither party shall have any liability or be deemed to be in breach of this agreement for any delays or failures in performance of this agreement which result from circumstances beyond the reasonable control of that party, including, but not limited to, strikes, lock-outs, labour disputes, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, regulation or direction, accident, breakdown of plant or machinery, fire, flood, severe weather, the impact of
epidemics, pandemics and diseases or, telecommunication failure. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in the performance and when they cease to do so.

19. No failure of delay on the part of either party to exercise any right or remedy under this agreement shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy include the further exercise of such right or remedy.

20. If any provision or part of this agreement is held to be invalid amendment to this agreement may be made by the addition or deletion of wording as appropriate to remove the invalid part of provision but otherwise retain the provision and the other provisions of this agreement to the maximum extent permissible under applicable law.

21. Neither party shall make any press or other public announcement concerning any aspect of this agreement, or make any use of the name or the other party in connection with or in consequence of this agreement, without the prior written consent of the other party.

22. The Parties agree to issue a joint press release on significant events.

23. The Parties agree to fulfil their obligations under the Data Protection Act 1998 (in particular the eight principles set out in schedule 1 to that Act).

24. The Partner Institution acknowledges that this agreement will be subject to the provisions of the Freedom of Information Act 2000.

25. This agreement does not create any right enforceable by any person not a party to it.

26. Nothing in this agreement shall constitute or be deemed to constitute a partnership or other relationship of a similar nature between the parties and none of them shall have any authority to bind the others in any way.

27. Any notice to be given under this agreement shall be in writing and shall be sent by first class mail, or by fax (confirmed by first class mail) to the address of the relevant party set out at the head of this agreement, or to the relevant fax number set out below, or such other address or fax number as that party may from time to time notify to the other party in accordance with this clause. The fax number of the parties are [           ]. Notices to the University shall be marked for the attention of [                          ]. Notices to the Partner Institution shall be marked for the attention of [                          ].

28. Notices sent as above shall be deemed to have been received three working days after the day of posting (in the case of inland first class mail) or on the next working day after transmission (in the case of fax messages).

29. This agreement can only be amended in writing signed by a duly authorised representative of the University and the Partner Institution.

30. The validity construction and performance of this agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
SIGNED as a DEED by a duly authorised representative of the University of Sussex

Title: Registrar and Secretary
Date: 
Witness: 
Name: 
Address: 
Occupation: 

SIGNED as a DEED by a duly authorised representative of XXXXXXXXXXXXXX

Title: 
Date: 
Witness: 
Name: 
Address: 
Occupation: 
Annexes (not available here)

The following annexes detail the collaborative arrangements under the Memorandum of Agreement:

1. Institutional Recognition and Memorandum of Agreement
2. Procedures for the validation of taught courses of study
3. Administrative arrangements for students
4. Assessment procedures
5. Complaints and appeals procedure
6. Annual Monitoring Procedure
7. Staffing arrangements
8. Use of the University’s title
9. Steering Group
10. Schedule for payment of fees in respect of recognition for the purposes of validation and the validation of courses of study and arrangements for the reporting of student numbers.
11. Confidentiality
12. Termination of the Agreement