2.a. Appendix A. Selection of the relevant parts of the COLLECTIVE LABOUR AGREEMENT (CAO) OF DUTCH UNIVERSITIES, 1 JANUARY 2011 - 31 DECEMBER 2013

The current CAO contains no direct provisions on the control of research data. With regard to other intellectual property rights, however, it determines that employees should observe the instructions given by their employer. Database law provides for a form of control for anyone who invests substantially in the creation of a database, and a certain measure of investors' protection, with the exception of research from public databases. However, this provisions were not written with an eye to the interests of research collaboration[1]. NWO's policy follows database law by stating in its grant conditions that NWO, together with the university or research institute, can be considered the 'database producer'. It could be argued that, even without a CAO provision, this also applies to cases where the institute is a substantial investor in the creation of a database. In addition to database law, copyright law can be relevant to decisions on data publication if the data consist of articles to which copyright applies.

Section 3 Patent right and copyright

Article 1.20 General

1. The employee is obliged to comply with provisions reasonably laid down by the employer with regard to patent right and copyright, with due observance of the legal provisions.

2. The employer may impose more detailed rules with regard to the provisions referred to in Articles 1.21 and 1.22.

Article 1.21 Obligation to report

1. An employee who, during or otherwise coinciding with the performance of his duties, creates a possibly patentable invention or, by means of plant selection work, isolates a new variety for which plant breeder's rights may be obtained, is obliged to report

this in writing to the employer and must submit sufficient data to enable the employer to assess the nature of the invention or variety.

2. The obligation referred to in paragraph 1 arises the moment the employee is reasonably able to conclude that there is a question of such an invention or such a variety. In any event, the employee shall be considered to have been able to reach

such a conclusion the moment the invention is completed or the variety has been isolated.

3. The provisions in this article apply by analogy as far as possible if the employee creates work that is protected by copyright, if and insofar the employer has not determined otherwise.

Article 1.22 Transfer and retention of rights

1. Without prejudice to the provisions in Article 12 of the State Patents Act, Bulletin of Acts & Decrees 1995, 51, Article 31 of the Seeds and Planting Materials Act, Bulletin of Acts & Decrees 1966, 455 and Article 7 of the Copyright Act, Bulletin of Acts & Decrees 1912, 308, the employee, if and insofar he is entitled to other than moral rights to the invention, the variety or the work, for which the obligation to report in Article 1.21 exists, shall transfer these rights to the employer in whole or in part if so requested, in order to enable it to make use of them in the context of fulfilling its statutory duties within a term to be established later.

2. As soon as the term referred to in paragraph 1 has expired without the employer actually having made use of the rights that were transferred to it, the employee is entitled to reclaim them. If the employee subsequently decides in favour of exploitation, the second sentence of paragraph 3 applies by analogy.

3. Except in cases contrary to the substantial interests of the university, the employee is entitled not to comply with the request as referred to in paragraph 1. In that case, the employer may decide that the costs it has invested are at the employee's expense,

including salary, the costs of the facilities made available to the employee, insofar as they are directly related to the creation of the rights the employee now wishes to keep for himself, plus the interest accrued. The term 'substantial interests of the university' shall be interpreted to include interests arising from agreements entered into with third parties by or on behalf of the employer.

Article 1.23 Reimbursements

1. In the event the employer makes use of the rights transferred to it, the employee is entitled to fair reimbursement. Article 1.4 paragraph 5 is not applicable.

2. When determining this compensation, consideration shall be given to the financial interests of the employer in the assigned rights and to the circumstances under which the result was achieved.

3. When rights are transferred, the employee is eligible for reimbursement of the costs borne by him personally which costs are demonstrably linked directly to the invention, the isolation of the variety or the creation of the work.

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[1] See http://wetten.overheid.nl/BWBR0010591/geldigheidsdatum_22-09-2014