

# PROTECTING INNOVATION

*Best practices*

*Group Legal Division – Corporate Department*  
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"In each of our activities and in each of our specialities, we must achieve improvements day after day:

- to meet the increasingly demanding requirements of our clients, Public Transport Authorities and passengers;
- to respond to the pressure from our competitors;
- to fulfil our own standards of safety and operational and economic efficiency.

To meet these challenges, the development and sharing of our know-how are major levers, in particular to respond to the needs of our clients and to set us apart from our rivals.

But we must also be capable of protecting our confidential information and our creations to maintain the competitive advantage that we have succeeded in developing!

This guide runs through best practices for protecting confidential information and intellectual property within the Keolis Group, and their legal foundations.

It is designed in the form of factsheets that are easy to distribute and implement.

It is essential that we deploy these best practices across all of our activities and specialities, throughout the Keolis Group.

This is the only way that we can prevent sensitive information from being disclosed.

By maintaining the exclusive nature of our unique know-how, we gain the upper hand on our competitors and provide the best responses to the requests of our clients.

We count on your support in making the protection of innovation a natural reflex for all!"

Isabelle Balestra

Laurent Kocher

## • ***Why produce this Guide?***

This guide is a logical extension of the Group's *Guide for Ethical Business Conduct* which lays down the fundamental principles for protecting our confidential information and intellectual property rights.

In this respect, we must protect and value our innovations, know-how, technical creations and more generally any information which may hold economic or strategic value in the short or long term.

This information is exposed to various risks: loss or misuse, theft of computer-based media, interception of communications, etc.

Everyone must be fully aware of the sensitivity and vulnerability of some of this information that they hold and of the necessity of controlling its circulation and use, both internally and externally.

It is just as important to protect our creations and innovations, something which contributes to their value. Particular caution should be exercised when working with third parties. Intellectual property law offers several forms of protection, which are studied in this Guide.

In this regard, our protection objective is therefore:

- Either to restrict the disclosure of certain sensitive information,
- Or to prohibit use of all or part of "our innovation" by non-authorised third parties,
- Or, to allow, through a contractual document, their use under certain conditions (financial reward, possibility of delivering improvements and using them, etc.).

Protecting innovation and sensitive information should be a concern for all of the Group's employees.

# Contents

## Part 1. Protecting confidential information

⇒ **Factsheet n°1** The notion of confidential information

⇒ **Factsheet n°2** Identifying confidential information: *Marking documents*

⇒ **Factsheet n°3** Recommendations for projects and partnerships: *Managing non-disclosure*

⇒ **Factsheet n°4** KeoShare: *An example of managing non-disclosure*

## Part 2. Intellectual property

⇒ **Factsheet n°5** Basic notions of Intellectual Property

⇒ **Factsheet n°6** Protecting innovations

⇒ **Factsheet n°7** Protecting written documents: *Copyright indications*

⇒ **Factsheet n°8** Protecting know-how

⇒ **Factsheet n°9** Recommendations for projects and partnerships: *Managing intellectual property rights*



**Please note:** This guide is not exhaustive. The tools proposed may not provide a solution to every case and should be adapted to suit the situation and comply with local legislation. Do not hesitate to ask the Group Legal Department for assistance with your projects.

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# PROTECTING INNOVATION

## PART I

# PROTECTING CONFIDENTIAL INFORMATION

# Factsheet n°1 The notion of confidential information

## The notion of confidential information

Confidential information can be defined as *"information which, due to its sensitive nature, can only be made accessible to a limited number of people."* Those who have access to this information are forbidden to disclose it or are allowed to make restricted use of it (this obligation may be specified in an employment contract, a non-disclosure agreement or a privacy statement).

Information falling within the **public** domain is not confidential. For example, transport data made public as part of Open Data initiatives, or a company's registration number, are not confidential.

## Confidential information can usually be found in:

- **Technical information:** know-how, information falling under industrial secrecy law, patents, technological concepts and all innovative solutions developed by the Group.
- **Strategic information:** information relating to the Group's strategy, its development plans, its strategic and technological intelligence.
- **Commercial and financial information:** information provided by Public Transport Authority clients, passengers, partners, shareholders, commercial suppliers and service providers, information concerning tenders or non-published financial data for the Group's companies, etc.
- **Organisation-related information:** the Group's recruitment and pay policy, its structural organisation, and more generally its organisational strategy.
- **Personal data:** relating to Group employees, clients, etc.

## Trade Secrets

Trade secret law is governed by national legal systems. However, international standards for protecting secrets (called "undisclosed information") were established as part of the TRIPS Agreement in 1995 (adopted by 100 of the 159 members of the WTO).

## Not everything is confidential!

In assessing the reality of confidential information, you should act with discernment and not automatically assume that every item of information about the Group is confidential.

## Factsheet n°2 Identifying confidential information (1/2)

### *Marking KEOLIS documents with wording "Confidential"*

The best way of indicating confidential information is to use a marking system shared by all employees and applied to documents.

We recommend marking confidential documents as such, according to their level of confidentiality and their accessibility.

This can be applied as follows:

Type of document	Marking applicable
■ 1 : Documents which may <b>only</b> be circulated to people bound by a non-disclosure agreement	"Confidential" + "For internal use only, except for people external to the Group subject to a non-disclosure obligation"
■ 2 : Documents <b>strictly for internal use</b> which may not be circulated externally under any circumstances	"Confidential" + "Strictly for internal use"
■ 3 : Documents for use by a specific group of people (a named person, a Department, etc.)	"Confidential" + "Exclusively for use by XXX"

## Factsheet n°2 Identifying confidential information (2/2)

If there is no indication of confidentiality, what questions should you be asking yourself before circulating the document?

- Who is the document for? (A supplier, a customer, etc.)
- Is this person subject to a non-disclosure agreement?
- By disclosing the information transferred, is there a potential risk for Keolis?

### DO THE RIGHT THING

Before transferring documents containing confidential information, a Non-Disclosure Agreement (NDA) must be signed **in advance** with the partner, supplier or service provider.

This NDA aims to ensure the non-disclosure of any confidential information exchanged as part of a project or a partnership (see factsheet n°3).



# Factsheet n°3 Recommendations for projects and partnerships

## *Managing non-disclosure*

When starting up a partnership or a project, it is advisable to conclude a non-disclosure agreement (NDA) before you start working. This agreement prohibits the disclosure of confidential information exchanged during pre-contractual (negotiations, discussions) and/or contractual phases.

### The scope of confidential information

The scope of confidential information is generally quite wide. It includes any information of document shared between the Parties and excludes the information already known to the Parties or in the public domain.

It can also apply to future improvements or developments.

### Duration of non-disclosure obligation

The duration of a NDA is correlated to the duration of the negotiations between the Parties.

The NDA may extend the non-disclosure obligation beyond the end of the negotiations. Failing this, the Parties will be relieved of their non-disclosure obligations if talks break down.

Therefore, in the event of a short negotiation period, it is wise to extend the non-disclosure period beyond that of the negotiation.

### Unilateral or reciprocal

According to each situation, a NDA can be either unilateral or reciprocal.

In the case of a unilateral NDA, only one of the Parties transfers confidential information to the other.

### Exclusivity

It is possible to insert an exclusivity clause into a NDA. This clause generally stipulates that it is forbidden to enter into negotiations at the same time with a third party.

This can for example prevent a Supplier from conducting negotiations with competitors for the same purpose for the duration of the NDA or for any other period specified by the NDA.

*Ask the Legal Department for a NDA template or for any other advice relating to your Project.*

## Factsheet n°4



# KeoShare®: an example of how to manage non-disclosure on a collaborative platform

The **Keoshare** platform is a secure shared work space for use by Keolis Group employees and all other authorised third parties in order to facilitate their exchanges.

Due to the large quantities of data and documents circulating on the platform, there is an increased risk of breach of confidentiality.

This could happen, for example, if a document is transmitted to a non-authorised person, or if a confidential document is deposited on the platform which is exclusively for the use of a certain category of people (Finance Department, Legal Department, etc.).

## SOLUTIONS ADOPTED TO ENSURE CONFIDENTIALITY ON KEOSHARE

### 1/ Implementation of General Conditions of Use (GCU)

The GCU specifies that all users are bound by a non-disclosure obligation with regard to the information accessible via the platform. This obligation applies to all forms of contribution: the depositing, the deletion or the simple use of a document.

By accepting the GCU, the user undertakes to preserve the confidentiality of sensitive or strategic documents stored on the platform.

### 2/ Definition of the role of Administrators

In accordance with current legislation and the Keolis S.A. Systems Administrator Charter, administrators may carry out **inspections** to ensure that **KeoShare** is being used correctly.

Furthermore, the GCU specifies that users must inform Administrators of any risk of breach of confidentiality on the platform of which they are aware.

Keolis S.A. takes all the necessary technical measures to guarantee the security of personal data.

# PROTECTING INNOVATION

## PART II

## INTELLECTUAL PROPERTY

# Factsheet n°5 Basic notions of Intellectual Property

## WHAT IS INTELLECTUAL PROPERTY?

Intellectual property refers to creations of the mind: inventions; literary and artistic works, symbols, names and images used in commerce.

Intellectual property rights allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights (UDHR). The term "Intellectual Property Rights" covers several specific and different areas.

Intellectual property is divided into two categories :



### Industrial Property

-> includes patents for inventions, trademarks, industrial designs, etc.)

### Copyright

-> covers literary works, films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design.

### Article 27 of the UDHR

*"Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."*

# Factsheet n°6 Protecting Innovations (1/3)

## 1. The notion of innovation

From a legal perspective, innovation can apply to a number of different areas of Intellectual Property.

For example, in a research and development project, innovation may exist in items such as:

- **patentable inventions,**
- **trademarks,**
- **designs,**
- **software,**
- **literary and artistic works,**
- **databases,**
- **domain names,**
- **know-how.**

### Example of a product with several components of innovations: a smartphone



The innovations delivered within the same project can apply to different categories of Intellectual Property, and as a consequence be subject to very different legal regimes.

Identifying the different components of the innovation will help to define a protection strategy and to choose the appropriate measures to take.

# Factsheet n°6 Protecting Innovations (2/3)

## 2. TYPES OF PROTECTION ACCORDING TO TYPE OF INNOVATION

**This table relates to rules under French law and should be adapted according to local legislation**



	Item to be protected	Conditions	Form of Protection	Period of Protection
<b>Patent</b>	A new product / process or a new application of known means.	A new invention with a potential for industrial application and displaying an inventive feature	Registration with relevant IP body (INPI in France)	20 years guaranteeing a monopoly on manufacture and sale. Non-renewable.
<b>Trademark</b>	A distinctive sign	A distinctive, available and lawful sign.	Registration with relevant IP body (INPI in France)	10 years, renewable
<b>Designs</b>	A design (in 2D) or a model (in 3D)	A new characteristic that is apparent and ornamental (and not a simply utilitarian or functional form)	Registration with relevant IP body (INPI in France)	5 years, with extensions by 5-year periods up to a maximum of 25 years
<b>Copyright</b>	Any work created by the mind: research studies, IT developments, presentations, commercial or technical know-how	An original and unavailable creation	Indication of Copyright and warning; possibly registration, according to type of document ( <b>see fact sheet no. 7</b> )	70 years after the death of the author  70 years following its creation, if the author is a legal entity
<b>Software</b>	The <i>form</i> of the programme and not its functions or algorithms	An original creation reflecting an extra intellectual contribution by the author	Registration with SCAM, APP, a notary or a bailiff (France)	70 years from the date that the programme was published
<b>Databases</b>	1/Data base structure (organisation of items stored)  2/Programming or items necessary for its operation	1/The producer is the initiator and makes a substantial investment (equipment, financial, human)  2/Structure protected by copyright	Copyright protects the form and <i>sui generis</i> law protects the database contents	15 years following its completion or distribution

# Fiche n°6 Protecting Innovations (3/3)

## 3. EXAMPLES OF REGISTRATIONS

### 3.1 TRADEMARKS REGISTERED BY KEOLIS (REGISTERED WITH INPI)

#### ➤ KEOBILL (ticketing):

- Work mark (a verbal term without a logo)
- Registered 23 May 2012.
- Class 9, 36, 38, 39
- To be renewed in 2022

#### ➤ LUCIOL (real-time information):



- Semi-figurative trademark (verbal with visual)
- Registered on 14 February 2008.
- Class 9, 39
- To be renewed in 2018

#### ➤ Examples of brands registered internationally:

- "Think like a passenger"
- "Moving further together"



### 3.2 A FEW SOFTWARE SOLUTIONS REGISTERED BY KEOLIS (WITH APP)

#### OKAPI

Solution for assistance with budgetary planning, staff management for pre-pay, and legal compliance with working hours.

#### CELTIC

Management tool for group fines. The tool may be connected to an online payment solution. It is also compliant with personal data protection recommendations.

#### SAMBA

A tool enabling the planning of vehicle servicing and maintenance, staff working hours and the management of spare parts and labour costs.

### 3.3 DESIGNS REGISTERED BY EFFIA TRANSPORT

#### ➤ Information terminals for bike parking

- Registered: 10 July 2007
- Expiry date: 10 July 2017
- Registered with: INPI PARIS.
- Number of reproductions of model: 7



# Factsheet n°7 Protecting written documents

## *Copyright indications*

In order to ensure optimal protection of Keolis creations, it is recommended to mark documents with the appropriate indications (1).

In certain exceptional cases such as those set out below (2), it may also be necessary to register the creation in order to assert proof of priority.

### 1/ MARKING THE DOCUMENT WITH APPROPRIATE INDICATIONS

These indications are used as a form of prevention, and serve as a reminder of the documents' legal protection.

#### ➤ **Indication of "Copyright"**

© XXX – date of first publication – the word "copyright" (no other procedure necessary) indicates that the document is copyright protected.

It is universally recognised and serves as a reminder of the legal protection of a creative work or a document.

In general, this indications appears at the bottom of each page.

e.g. © Keolis – 2015

#### ➤ **Warning on the front page** of the document (presentation, training manual, etc.):

The contents of this document are protected by copyright.

It is unlawful to use, display or reproduce these contents either partially or fully, without the consent of Keolis.

### 2/ ESTABLISHING PROOF OF PRIORITY OF COPYRIGHT OWNERSHIP

If the document in question develops an idea, concept, or a form of know-how which does not exist elsewhere in the market either now or in the past, it may be advantageous to carry out a registration.

This will establish a specific date for the creation which will enable the production of proof in the event of dispute.

Registration modes vary according to local law.



# Factsheet n°8 Protecting know-how

## The notion of know-how

Know-How is commonly defined as a set of technical, transmissible knowledge which is not immediately accessible to the public and which is not covered by a patent.

At European level, the Article 1 of the Regulation of 27 April 2004 on technology transfer agreements (n°772/2004), defines know-how as "**a package of non-patented practical information (...) which is:**

- **secret**, i.e. not generally known or easily accessible;
- **substantial**, i.e. significant and useful for the production of results;
- **identified**, i.e. described in a sufficiently comprehensive manner so as to make it possible to verify that it fulfils the criteria of secrecy and substantiality."

To protect its know-how, a company must organise how its strategic information is to be kept confidential (1). French law also provides for specific actions in the event of breach of know-how secrecy (2).



### 1/Secrecy: the only protection for know-how

If it does not remain secret, know-how loses all its value and can no longer claim to be know-how.

The following should therefore be observed:

- Each Group **employee** who has access to know-how should be bound by a non-disclosure agreement that runs beyond the end of their employment contract.
- any **third party** that may be in contact with Keolis' know-how should sign a NDA (see factsheet no.3).
- all information systems, archives, cupboards, offices etc. should be made as **secure** as possible.

### 2/In the event of fraudulent breach of know-how

National legislation provides for litigation in the event of breach of know-how.

For instance, in France, the law can sanction anyone who gains access to the know-how of a firm by illicit means.

- **An action for "unfair competition"** allows a firm to **act against a third party (e.g. a competitor) which has unlawfully acquired its know-how.**

The company must prove concurrently:

- **the anteriority** of its know-how,
- **The fault** of the third party (e.g. non-compliance with a NDA),
- **The damage suffered** (loss of future income, damage to reputation, etc.).

# Factsheet n°9 Recommendations for projects and partnerships

## *Managing intellectual property rights*

A partnership is a way of bringing together different and complementary skills. The parties decide to pool innovation and know-how to deliver a project together.

It is therefore essential to plan ahead and define the rules of how the partnership will work, which should also cover the budgetary split and the conditions of the collaboration, made official in the form of a contract.

In addition to non-disclosure necessities (see factsheet n°3), it is also essential to address Intellectual Property rights in this type of situation.

This consists on the one hand of protecting Keolis Intellectual Property (innovations) and on the other of providing for the acquisition of the rights arising from the project and any future improvements.

### Tips and Advice:

#### 1. Identify the type of intellectual property:

- Rights belonging to each party
- Rights acquired during the project

#### 2. Establish the means of protection and ownership:

- Registrations (patents, trademarks, software)
- Registration of distinctive signs (trademarks, domain names)
- Markings or adoption of visual branding guidelines

#### 3. Take contractual measures:

##### Project with service provider

Draw up a contract for transfer of intellectual property rights or a specific clause in the service contract.

##### Partnership

The partnership agreement should address the regime and what will ultimately happen to the works created together. This particularly applies to their ownership, their exploitation and their commercialisation.

Reminder of the fundamental principles laid down in the KEOLIS Group  
GUIDE FOR ETHICAL BUSINESS CONDUCT  
(Excerpts)

[...]

**4** **PROTECTING  
GROUP AND  
THIRD-PARTY  
INTERESTS**

• **4.1. PROTECTING CONFIDENTIAL INFORMATION**

It is essential to protect confidential information concerning the Group and staff, transport authority clients, shareholders, business partners, suppliers and service providers.

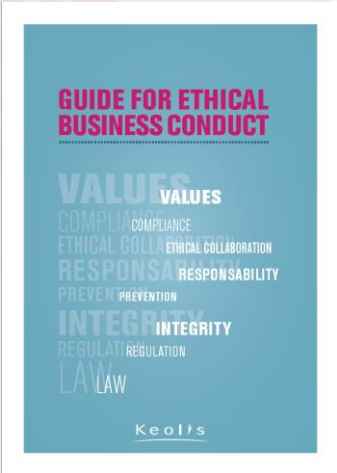
[...]

• **4.2. INTELLECTUAL AND/OR INDUSTRIAL PROPERTY**

It is essential to ensure the validity and the protection of all intellectual and industrial property rights belonging to Keolis Group, in particular those linked to intellectual works, brands and patents. The intellectual or industrial property rights of our clients, competitors, business partners and suppliers must also be respected.

EMPLOYEES MUST TAKE CARE NOT TO JEOPARDISE ANY ITEM OF INTELLECTUAL OR INDUSTRIAL PROPERTY BELONGING TO THE GROUP OR ITS CLIENTS, WHETHER THIS BE LEGALLY PROTECTED OR NOT, BOTH FOR THE DURATION OF THEIR WORK CONTRACT AND AFTER LEAVING THE GROUP.

[...]



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