

**Institutional IP Policy Model
for Universities and Research Institutions
in ASEAN**

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I. Introduction

Recognizing that the core stages of intellectual property (creation, protection, commercialization and technology transfer, management) play an important role in the various aspects of the development of a country, it is critical that intellectual property (IP) is leveraged in order to contribute in a relevant and strategic way to the attainment of the development goal. A well-defined and transparent legal framework involving IP and well-established IP policies for creators are among the essential elements for a successful technology transfer. A transparent technology transfer framework makes for better research collaboration, including between and among

individual creators, universities and research institutions within a country. When these countries belong to a regional block (economic, political, or otherwise) such as the Association of Southeast Asian Nations (ASEAN), the importance of collaboration in technology transfer cannot be overemphasized. Multiplying those ten times among the ASEAN Member States (AMS) makes for a valuable synergistic impact in the region leading to better products and services for the public, not to mention potential exponential revenue streams for universities and research institutions to fulfill their mandates.

With the ten (10) Member States comprising the ASEAN studdling in a spectrum of development, the Initiative for ASEAN Integration (IAI) and Narrowing the Development Gap (NDG) aimed at narrowing the development divide and enhancing ASEAN's competitiveness was first established by the ASEAN Leaders at their Summit in 2000.¹ For its part, the ASEAN Working Group on Intellectual Property Cooperation formulated the *ASEAN IPR Action Plan 2016-2025* identifying multiple deliverables, among which is Deliverable 16.3, namely: Comprehensive collaborative programs between the IP Offices and Science & Technology, Research & Development Institutions, and Universities to improve their capacity to identify, protect, and manage their IPs are developed.

The World Intellectual Property Organization (WIPO) on the other hand, supports and provides services to universities and research institutions that are members of the Technology and Innovation Support Centers (TISCs) program. In line with WIPO Expected Result 4.4 as it relates to universities and research institutions, the IP for Innovators Department (IPD), in order to develop and reinforce the services and support of TISCs, as well as existing Technology Transfer Offices (TTOs)/Intellectual Property Management Offices (IPMOs)/University IP Office and other structures in AMS in the fields of technology transfer and IP commercialization, is set to develop a series of tools focusing on the pillars of institutional ecosystems that aim to support deliverable 16.3 of the *ASEAN IPR Action Plan 2016-2025* through several projects.

This project on the development of institutional IP Policy model for the ASEAN was made possible and implemented with the generous financial support from Funds-In-Trust Japan Industrial Property Global provided by the government of Japan, through the Japan Patent Office.

A. Goal of the Project

This project aims to support the ASEAN region by creating an enabling legal framework for knowledge/technology transfer among academic institutions, as well as with industry partners for economic, social and cultural development of the region. In this context the goal of the project is to assess the existing legislation and practices in the area of technology transfer in the ASEAN region and develop a customized IP Institutional Policy Model for academic institutions in the region. This regional IP Policy Model will assist universities and research institutions deal with key issues relevant for efficient IPR management of research outcomes and their successful transfer to public and private users. The Institutional IP Policy Experts Group was established to collect data, make assessments of findings and provide national perspectives on policy, legal and

¹ <https://asean.org/our-communities/initiative-for-asean-integration-narrowing-development-gap-iai-ndg/>

practical considerations in his/her home country and in a second country in the ASEAN where they have particular knowledge and experience. Based upon the findings the Expert Group will propose a draft model of regional Institutional IP Policy for consideration and adoption of ASEAN Member States.

B. Goal of the ASEAN Regional IP Policy (ARIPP) Model

The ASEAN Regional IP Policy (ARIPP) Model provides customized model provisions based upon identified existing regional practices. The ARIPP intends to serve as a guide or tool for universities and research institutions in customizing or crafting their own institutional IP policies in order to stimulate technology transfer (TT) activities, incentivize researchers and technology transfer professionals and ensure the most effective use of IP in commercialization of innovative ideas for the regional market while complying with their respective national legal frameworks.

C. Rationale

ARIs are major stakeholders in IP through their participation in technology transfer activities because they are hubs for research that produce a multitude of IP. The collective contributions of institutions contribute to the economic development of an AMS and are critical players in strengthening their existing IP environments. However, survey assessments point to low adoption rate of national guidelines or recommendations, lack of clarity around IP Commercialization, and gaps in IP management, among others, as issues plaguing the Region. Unaddressed, these dampen the potential of IP to boost the economies of the AMS.

The ARIPP acknowledges the diversity of the AMS in national legal framework, culture, and research priorities. The Model provides a standard sufficiently flexible to take these inherent differences into account. Government agencies and ARIs in the region self-reported their IP policies and practices, and these in turn were used as data points to localize the WIPO Intellectual Property Policy Template for Universities and Research Institutions for institutions in the AMS.

Ultimately, the ARIPP aims to advance the level of the research activities within the ARIs by raising awareness of their roles, rights and obligations as active contributors to outcomes that may contribute to a more robust IP system in their country and eventually in the ASEAN. Specifically, the ARIPP serves as a tool for ARIs to define and clarify their policies on ownership, protection, commercialization, and benefit sharing, among others.

II. Scope of the ARIPP Model

- a. **IP Cycle.** The essential elements in the IP cycle from creation, ownership, protection, IPR management, technology transfer and IP commercialization of research results, and other aspects that make up, support and strengthen these elements.

- b. **Creators.** The different creators of IP in university and research institution settings, namely Students, Academic Staff, Visiting Scientists/Researchers, and Independent Contractors.
- c. **IP Rights.** Patents, Utility Model, Industrial Design, Copyright, Trademark/Service Mark, Geographical Indication, Lay-out Design, Trade Secret or Undisclosed Information, Genetic resources, traditional knowledge, and traditional cultural expressions (GRTKTCE), Plant Variety, Plant Breeders that are protected under national laws.

III. Methodology

The ARIPP Model is a product of at least six months of study of the IP framework of AMS through the conduct of surveys, interviews, and desk research. The Institutional IP Policy (IIPP) Experts Team² conducted two (2) surveys: an assessment on the legal framework for technology transfer for Government Ministries/Agencies (Questionnaire No. 1) and a needs assessment for technology transfer activities for Academic and Research Institutions (ARIs) (Questionnaire No. 2). The responses to these separate surveys became vital sources of the content of the Final Assessment Report. The survey data painted a picture of the current landscape of the legal framework enabling the use of IP for technology transfer processes in the ASEAN and provided important insights with respect to on-ground realities relating to IP and IPR management in various institutions in AMS, with the analytic inputs of the IIPP Experts Team.

Moreover, aside from the survey responses, fifty-eight (58) laws and regulations relating to IP and technology transfer were considered in the national assessment of IP-related laws relevant for TT activities. At the level of ARIs, the IIPP Experts Team reviewed at least sixty (60) English versions (plus a number in the local languages) of IP Policies submitted by the ARIs through WIPO's electronic survey platform.

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Regional Expert:

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In the series of online brainstorming sessions that followed conducted for the purpose of crafting the language for this ARIPP model, the *WIPO IP Policy* template (WIPO template) became the working document not only for the ARIPP provisions but for the definitions as well. The process for drafting the ARIPP is as follows:

1. Each provision in the WIPO template was meticulously reviewed and discussed in the context of the region.
2. As needed, other resources were consulted to give the IIPP Experts team more perspective.
3. For each provision, experts made the decision to **retain**, **delete**, or **modify** provisions in order to fully customize them with relevant ASEAN national laws and institutional practices in the crafting of the ARIPP model.
4. Where applicable, provisions were reordered or regrouped into new articles or sub-articles for more coherence.

Changes made to the WIPO template through the process above include additions and amendments to the definitions to localize them to the ASEAN context. As an example, a definition for Independent Contractors was added to differentiate them from other Creators such as Students, Staff Members, and Visiting Scientists/Researchers. A sub-article was added to address their ownership rights, as well. These additions were made to capture the prevalent practice of engaging experts in the field as Independent Contractors, usually on part-time basis in teaching and research positions, for reasons such as but not limited to lack of permanent items in the organization, preference of experts to go part-time only, reached the retirement age.

Another notable change made was on the general rule for the ownership of Course Materials; the WIPO template stipulated for the institutional ownership, generally, while the ARIPP now provides for the creator owning it by default – whether the creator is a Staff Member, Visiting Scientist/Researcher, or Independent Contractor unless they have been specifically compensated for preparing it. The IIPP Experts observed that this more accurately reflected the situation on the ground, since academics and lecturers are often compensated on the basis of their teaching load or actual hours only.

The final result is an evidence-based document in the form of model IP policy for an ARI in the ASEAN region, constituted on the data collected in the two surveys described above, the relevant technical expertise, knowledge, and experience of the members of the IIPP Experts team, supplemental desktop research, and personal interviews conducted of some ARIs.

IV. How to Apply and Adopt the ARIPP Model

Aware of the uneven levels of maturity of the technology transfer systems in AMS in terms of the adoption and use of an IP system framework, the Model is not aimed to be a one-size-fits-all policy for the ARIs of the AMS. This document should be viewed as a model of provisions or

template which ARIs could use in developing or customizing their own institutional IP Policy, the way WIPO IP Policy Template was used in this Project. The ARIs have the liberty to choose parts of the ARIPP for adoption or modification depending on the prevailing factors affecting them such as their national laws and regulations, institutional classification, resources, status, level of research activity and realities, preferences, circumstances, and other relevant factors. The advantage of adopting the ARIPP as a base is the potential harmonization of legal frameworks in the region that would facilitate academic collaboration and knowledge/technology transfer for the ASEAN market. However, in crafting such a Model it is necessary that the ARIs fully consider institutional context such as the ARI's Research Policy, as both documents being essential guides to entering into Research Contracts within and outside of the institution, not to mention employment contracts with academic, research, and administrative staff, including entering into contracts of service or commissioning works.

V. Definitions

The following definitions shall be considered when reading the ARIPP, unless otherwise stated:

Appointment. A formal agreement for Visiting Scientists/Researchers at the Institution, which is a prerequisite to participate in or conduct Research, scholarship, creative work, or teaching at the Institution.

Background IP. Any pre-existing IP created before the execution of any Research Collaboration, or prior to a Creator becoming subject to this IP Policy, by virtue of Appointment in the case of an employment contract in the case of a Staff Member, or registration in the case of a Student.

Conflict of Commitment. Any case in which any Employee is committed to doing external work, whether paid or not, that requires the Employee to be committed in time to do this work, even if this work is of value to the University or Research Institution.

Conflict of Interest. Any case in which any Employee prioritizes his personal interests or interests of any other party over the interests of the University or Research Institution.

Commissioned Work. Any work commissioned by a person/s other than the employer of the creator who pays or agrees to pay for it, and the work is made in pursuance of the commission.

Commercialization. Any form of economic utilization of the Foreground IP that may have an economic benefit for the University or Research Institution sooner or later, such forms include assignments, licensing, and internal utilization in the Academic or Research Institution, or establishing startup/spinoff companies.

Course Materials. All materials used in, or in connection with, and for the purpose of, teaching through the provision of lectures, tutorials, recordings, seminars, workshops, field or laboratory classes, assessments, practicum and other teaching activities conducted by the Institution.

Creator. An individual or group of individuals, including Staff Members, Students, Visiting Scientists/Researchers, and Independent Contractors, who make, conceive, reduce to practice, author, or otherwise make a substantive intellectual contribution to the creation of intellectual property. It includes the definition of "inventor" used in national patent law for patentable inventions and the definition of "author" used in the national copyright acts for copy written works of authorship.

Developing Countries. Countries listed by the World Bank as "Low-Income Economies," as such list may change from time to time.

Enabler. Individual(s) who conducted technical work that contributed to the creation of the Foreground IP, whereby this creation would not be done without this technical work.

Foreground IP. Any IP generated pursuant to a Research Collaboration by Staff Members, Students or Visiting Scientists/Researchers, or Independent Contractors.

Genetic Resources. Any material of plant, animal, microbial, or other origin containing functional units of heredity.

Gross IP Revenue. All revenue received by the Institution for Commercialization of Institution IP before any cost recovery or deductions for IP Expenses

Independent Contractor. A self-employed individual who provides work for the institution under a contract and is not classified as an employee of the institution.

Independent contractors typically have specialist skills or knowledge that is required to perform the assigned task/s within a specific period.

Intellectual Property (IP). All outputs of creative endeavors in any field at the Institution for which legal rights may be obtained or enforced pursuant to the law. IP may include:

- a. literary works, including publications in respect of Research results, and associated materials, including drafts, data sets and laboratory notebooks;
- b. teaching and learning materials;
- c. other original literary, dramatic, musical or artistic works, sound recordings, films, broadcasts, and typographical arrangements, multimedia works, photographs, drawings, and other works created with the aid of Institution resources or facilities;
- d. databases, tables or compilations, computer software, preparatory design material for a computer program, firmware, courseware, and related material;
- e. patentable and non-patentable technical information;
- f. designs including layout designs (topographies) of integrated circuits;
- g. plant varieties and related information;

- h. trade secrets;
- i. know-how, information and data associated with the above;
- j. Genetic resources, traditional knowledge, and traditional cultural expressions (GRTKTCE); and
- k. any other Institution-commissioned works not included above.

IP Expenses. All expenses incurred by the Institution in the protection and maintenance of IP and other direct costs as agreed .

Institution IP. IP owned or co-owned by the Institution.

Net Revenues. Gross IP Revenue less IP Expenses.

Public Domain. The freely accessible public realm in which works that are not protected by IP rights, due to any of the following:

- a. the rights have been forfeited, or
- b. the rights have been expired, or
- c. the rights have been waived by the rights holder, or
- d. the creator or his/her employer or institution cannot own the relevant IP

are thereby held by the public at large and available for all to use without permission from the Creator or owner.

Revenues. The total revenues of utilizing the Foreground IP by one or more Entity.

Scholarly Works. A subset of copyrightable works created independently and at the creator's initiative for academic purposes. Examples may include syllabi, class notes, books, theses and dissertations, instructional materials and software that creators may design for courses, articles, non-fiction, fiction, poems, musical works, dramatic works including any accompanying music, pantomimes and choreographic works, pictorial, graphic and sculptural works, or other works of artistic imagination that are not created as an institutional initiative. This includes performances, sound recordings and broadcasting organizations covered by Related Rights.

Serendipitous IP. Results of research are serendipitous IP when such research was originally funded for one purpose but turns out to be useful for another.

Socially Responsible Knowledge/Technology Transfer. Facilitating the availability of Products in Developing Countries at locally affordable prices, under reasonable circumstances and terms to improve access to such Products in such countries.

Staff member. Any person who is under a contract of employment with the Institution including academic, research, technical, administrative and adjunct staff, whether full-time or part-time or on a temporary basis.

This does not include independent or individual contractors, those under a contract of service, or those with no written agreement.

Substantial use. Extensive usage of the Institution's resources, for free or for which no payment was given, which include but are not limited to any or all of the following: facilities, equipment, human resources or funds [Option: and Background IP that is not publicly available]. Not included is routine use of libraries and/or office space.

Trade Secret. [Definition under the national Trade Secret Law].

Or undisclosed information that:

- (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- (b) has commercial value because it is kept secret; and
- (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

[Or: Confidential information not publicly available that has commercial value because of its confidential nature, and which the owner has taken reasonable efforts to keep secret.]

Trade secrets include technical know-how (tangible and intangible) and technical information or data such as laboratory notes and results, process flowcharts, packaging and storing instructions.

Visiting Scientist/Researcher. Any person who is neither a Staff Member nor a Student of the Institution nor an Independent Contractor who engages in work at the Institution, including visiting professors, adjunct and conjoint professors, teachers, researchers, scholars and volunteers; and who holds an Appointment agreement with the Institution.

VI. Ownership Rights and Rights of Use

6.1. IP Created by Staff Members.

- 6.1.1. **Institution ownership.** The Institution owns all IP created by a Staff Member:
 - a. in the course and scope of his/her employment; or
 - b. making Substantial Use of the Institution's resources.

6.1.2. **Staff Member ownership.** Staff Members will own/co-own the IP they have created when such IP:

- a. is outside the course and scope of their employment and without Substantial Use³ of the Institution's resources;
- b. vests in Scholarly Works (see Article 7.6);
- c. **[Option]** Other IPRs, as required by national law, or for which the Institution cannot or does not wish to claim ownership and the Institution has communicated such in writing].

6.1.3. IP emanating from Research Contracts. In the absence of provisions to the contrary in any national law or regulations, the terms of the Research Contract will regulate ownership of IP created by Staff Members in the course of a Research Project that forms part of a Research Contract, as set out in Article 9.

[Option] 6.1.4. Appointment of Staff Members at another Institution. It is the responsibility of each Staff Member that holds an honorary or other academic or research appointment at another institution (Host Institution) to bring to the attention of the Host Institution, including its IPMO, his/her obligations in terms of this Policy, prior to the tenure at the Host Institution. To the extent that the Host Institution's IP Policy makes a claim on IP created by the Staff Member pursuant to such appointment, the Staff Member shall ensure that the Host Institution negotiates a suitable IP arrangement with the Institution.

6.2. IP Created by an Independent Contractor

6.2.1. Independent Contractors ownership.

In the absence of provisions to the contrary in any national law, Independent Contractors will own the IP they have created when -

- a. the contract is silent on the ownership of IP;
- b. the Institution cannot legally claim ownership;
- c. when the Institution does not wish to claim ownership and the Institution has communicated such in writing.
- d. **[Option]** when it involves Scholarly Works. Nothing prevents Independent Contractors from co-owning the IP emanating from Research Contracts which regulate ownership of IP created by Independent Contractors.

6.3. IP Created by Students

6.3.1. Student ownership. IP created by an undergraduate student in the course of study at the Institution (including theses, dissertations and other Scholarly Works) will be owned by the Student, except when the IP is a potentially patentable invention, in which case the Student shall co-own with the Institution. **[Option]** In lieu of ownership, the revenue-sharing benefit as provided in Article 12 may apply.

IP created by a postgraduate Student or Students in a Research Project, shall be governed by Article 6.3.3 below.

6.3.2. Institution ownership. IP emanating from a Student's Research Project shall be owned by the Institution in the following circumstances:

³ Use will be deemed not Substantial if minimal overhead costs have been incurred by the Institution (such as the use of office space, the library, facilities or traditional desktop computers); only a minimal amount of time has been spent using significant Institution facilities; or the IP has been written or developed in the personal (unpaid) time of the Creator.

- a. if the IP is created by making Substantial Use of the Institution's resources (excluding supervision) for free or there is no reimbursement agreement concluded between the Institution and the Student; or
- b. if the Research carried out by the Student forms part of the Institution's Research Projects.

[Option] The Institution may grant the Student a royalty-free, non-exclusive license to commercialize the IP arising from their Research Projects.

6.3.3. IP emanating from Research Contracts. The terms of the Research Contract shall regulate the ownership of IP created by a Student in the course of such Research Contract, as set out in Article 9.

6.3.4. Institution ownership responsibilities. If the Institution is the owner of IP created by a Student, in terms of Article 6.3.3 or Article 6.3.4, and hence created in terms of a Research Project or Research Contract, respectively, the Institution shall:

- a. provide the Student with an explanation of the reasons for the assignment of IP rights to the Institution;
- b. advise the Student to seek independent advice regarding the assignment;
- c. obtain a deed of assignment from the Student for all IPRs emanating from the Student's Research Contract or Research Project, where relevant, in return for revenue sharing as provided for in Article 10; and
- d. withdraw the Student from the Research Project or Research Contract if a Student elects not to assign the relevant IPRs to the Institution.

6.4. IP Created by Visiting Scientists/Researchers

6.4.1. Institution ownership. Unless otherwise agreed to in writing by the Institution and the Visiting Scientists/Researchers' home institution prior to the tenure at the Institution, Visiting Scientists/Researchers are required to assign to the Institution any IP:

- a. created in the course and scope of their Appointment at the Institution; or
- b. created by making Substantial Use of the Institution's resources.

6.4.2 Background IP. Background IP shall be owned by the holders of IP unless otherwise agreed to in a Research Contract.

6.4.3. Institution IP. On departure from the Institution, a Visiting Scientist/Researcher must sign and submit to IPMO an IP Disclosure form disclosing any IP created especially those with the potential for commercialization, as per Article 6.3.1, whilst at the Institution.

6.5. Public Domain

6.5.1 Public Domain. Institution IP forms part of the Public Domain in the following circumstances:

- a. if a Research Contract provides that the Research results be placed into the Public Domain; or
- b. if Creators made use of OERs or resources licensed through Open Source or Creative Commons Licenses and the licensing conditions require release of derivatives into the Public Domain.

6.5.2 **Release into the public domain.** The Institution will release IP into the Public Domain in the following circumstances:

- a. where it is deemed to be in the public interest;
- b. if the IP has low commercial or other development potential and low prospects of fostering the development of new products or services; or
- c. if deemed necessary by the Institution.

6.5.3 **Co-owned IP.** In case IP is co-owned, and the national law requires it, an express written consent must be obtained from co-owners before its release into the Public Domain.

VII. Copyright and Related Rights

7.1. Special Rules for Scholarly Works

7.1.1 The Institution shall encourage Creators to protect their IP before publication is made and to coordinate with the IPMO in this regard.

7.1.2. **Publication.** The Institution recognizes and endorses the rights of Creators to publish their Scholarly Works, provided that any Scholarly Work which may have good prospects for commercialization shall first be cleared by IPMO after having an opportunity to protect such Institutional IP according to Article 10.

7.1.3. **Institutional repository.** Creators should endeavor to obtain publishers' permission to include published Scholarly Works in the Institutional repository [whether as a published edition or in pre-publication form].

7.1.4. **Licensed to the Institution.** Creators shall grant to the Institution a non-exclusive, royalty free license to use their Scholarly Works for the Institution's [administrative, promotional,] Research and teaching purposes.

7.2. Special Rules for Course Materials

7.2.1. **Academic Staff ownership.** The academic Staff Member or Visiting Scientists/Researchers will own the IP in Course Materials created by them, except in the following instances:

- a. Course materials created as a specific requirement of employment or as an assigned duty that may be specified, for example, in a written job description or an employment agreement. Such specification may define the full scope or content of the employee's duties comprehensively or may be limited to terms applicable to a single copyrightable work.
- b. Course Materials that are created from or for Open Educational Resources, in accordance with Article 6.5.1.

7.2.2. **Independent Contractor ownership.** In the case of Independent Contractors who are non-employees of the institution and are paid based solely on actual teaching hours, unless a separate and reasonable amount of remuneration is paid for developing Course

Materials, such Independent Contractor shall own the copyright over such Course Materials.

7.2.3. Licensed by the Creator. The Creators of the Course Materials grant the Institution a royalty-free, non-exclusive license to use the Course Materials created by them for teaching and Research purposes at the Institution.

[Option] With the express prior written permission of the Creators, such license may be utilized for commercial purposes outside the Institution.

7.2.4. Institution Ownership/Licensed by the Institution. In case of Institution ownership of the Course Materials, the Institution shall grant the Creators of Course Materials a royalty-free, non-exclusive license to use the Course Materials created by them for teaching and Research purposes at the Institution.

7.3. Theses or dissertations.

[Option 1] The Student must submit his/her final thesis or dissertation to the Institutional repository.

[Option 2] The Student must grant a royalty-free license to the Institution to reproduce his/her thesis or dissertation and to distribute copies thereof to the public.

7.4. Respect for Economic and Moral Rights. The Institution undertakes to respect and protect the economic and moral rights which copyright law confers on Authors of copyright works. This shall accordingly apply to performers and producers of Related Rights as well.

7.5. Moral Rights. The Institution acknowledges that moral rights vest in Authors of copyright works irrespective of the copyright ownership thereof and include:

- a. the right of attribution of authorship in respect of the copyright works;
- b. the right not to have authorship of the copyright works falsely attributed; and
- c. the right of integrity of authorship in respect of the copyright works.

Similarly, the Institution acknowledges the moral rights of performers, producers of sound recording, and broadcasting organization under Related Rights.

7.6. No waiver. The Institution will not require Creators to waive their moral rights as a condition of employment, enrolment, Appointment or funding.

VIII. Publication, Non-disclosure, and Trade Secrets

8.1. Right of publication. The Institution encourages and supports the right of Creators to decide if and when to publish their Research results, in accordance with Article 6.5 above.

8.2. Protection of IP. In conjunction with the right of publication, Creators should be aware that premature Public Disclosure may result in loss of IP protection rights. Thus, the Institution strongly encourages the Creators to appropriately and timely protect their IP by making all reasonable

efforts to identify any protectable IP as early as possible, according to Article 10, and to consult IPMO before making any Public Disclosure of potential Institution IP.

[Option] or exercising their academic freedom rights.

8.3. Trade Secrets. The Institution may designate certain confidential information as a Trade Secret, owned by the Institution. In that event, all Creators will be obligated to maintain secrecy of the Trade Secret and to follow the direction for management of the Trade Secret by IPMO.

IX. Research Contracts

9.1. Government rules. Research Contracts shall comply with any applicable law and/or Government regulations and/or rules, which may be applicable to Research undertaken by the Institution, in particular, as far as it relates to the ownership of IP resulting from such Research.

[Option] The appropriate legal representative of the Institution will be consulted in this respect before signature of any Research Contract unless this responsibility has been delegated to IPMO by the Institution.

9.2. Approval.

[Option 1] Proposed Research Contract and other legal statements concerning the Institution's IPRs shall comply with the provisions of this Policy. Any variance from this Policy must be approved by the Senior Responsible Officer.

[Option 2] Before signing, the full copy of the proposed Research Contract and other legal statements concerning the Institution's IPRs shall be submitted to IPMO for advice and approval by the Senior Responsible Officer, unless this responsibility has been delegated in writing to IPMO by the Institution.

9.3. Authority. Staff Members, Students and Visiting Scientists/Researchers shall not have the right to enter into a Research Contract with external parties on behalf of the Institution unless they are authorized to do so by an official representative of the Institution.

9.4. Research Contract Policy. All Research Contracts must be executed and performed in compliance with the Institution's Research Contract Policy (where available.)

9.5. Due diligence. Persons acting for and on behalf of the Institution shall exercise all due diligence and consult IPMO when negotiating and signing contracts that may affect the Institution's IPRs.

9.6. Ownership and rights to use. Subject to any provisions in law to the contrary, ownership and rights to use shall be agreed upon with the external entity, in accordance with the institution's Research Policy guidelines and this IP policy.

9.7. **Basic Principles.** The IP clauses in all Research Contracts shall be governed by the following basic principles:

9.7.1 **Concluded from the outset.** A Research Contract must be executed in writing and signed by the Institution and the external party(ies)/sponsor(s) prior to the commencement of any Research Project and, as appropriate and without limitation, must contain terms relating to ownership, management and use of IP arising from the Research Project as well as any Background IP.

9.7.2 **Background IP.** All Background IP belonging to/owned by the Institution and/or the external party/sponsor must be properly recorded and declared prior to the commencement of a Research Contract. Use of such Background IP requires express written permission of the owner.

9.7.3 **Foreground IP (IP arising from the Research Contract).** IP generated pursuant to a Research Contract by Staff Members, Students or Visiting Scientists/Researchers shall be governed in terms of the above provisions relating to IP generated by these parties. The general rule is that such IP shall be owned by the party that generated or co-owns it.

9.7.4 **Co-owned Foreground IP.**

- a. **Terms for co-ownership.** Co-ownership of IP generated pursuant to a Research Collaboration Agreement shall be in accordance with national legislative provisions, failing which,
[Option 1] as mutually agreed contractually;
[Option 2] in an equal undivided manner; or
[Option 3] as per the percentage of IP created by the Institution and the external party(ies)/sponsor(s.)
- b. **Costs for protecting and maintaining co-owned IP.** The costs for protecting and maintaining any IPRs shall be shared between the Institution and the external party(ies)/sponsor(s)
[Option 1] as mutually agreed contractually;
[Option 2] in an equal manner; or
[Option 3] in accordance with the percentage of IP ownership.

9.7.5 **Serendipitous IP.** Any IP created during the course of the Research Contract which falls outside of scope of the Research Contract shall be owned by the Institution or the external party(ies)/sponsor(s) which developed such IP, unless agreed contractually otherwise in the Research Contract.

9.7.6. **Right of first refusal to the IP.** The Research Contract may include provisions giving the external party(ies)/sponsors, a right of first refusal to Commercialize the IP

emanating from the Research Contract, through a license or joint venture arrangement or assignment. **[Option]** Such right of first refusal is time-limited to x months.

9.7.7. Publication delay. It is the strict policy of the Institution to allow Creators freedom to publish their work. However, the Institution acknowledges that delays in publication for the purpose of initiating statutory protection of the IP is often necessary. In this regard, the Institution will agree, on a case-by-case basis, to a contractual delay in publication by Creators. Such delay will not exceed [typically 90 calendar days] from the date IPMO is notified of the intent to publish, unless authorized by the Senior Responsible Officer.

[Option] The IPMO may, if so required, facilitate the signing of a non-disclosure agreement by the journal appointed peer reviewers, such that review of the article for publication can proceed while the necessary procedures are being followed for IP protection.

9.7.8. Use of the IP for Research and teaching. In instances where the Institution IP is licensed exclusively or assigned as part of the Research Contract, all efforts should be made to secure a royalty-free license for use of the IP for on-going Research and teaching purposes.

9.8. Exceptions to the Policy. In certain cases, it may be necessary and/or beneficial to the Institution to enter into a Research Contract that contains exceptions to the provisions of this Policy. Any such exceptions require prior, written approval from the Senior Responsible Officer.

X. Mandate and Responsibilities of the IPMO/TTO⁴

10.1. Responsibility to Disclose IP

10.1.1. Recording. Creators shall keep appropriate records of their Research in accordance with the Institution's applicable policy procedures and make reasonable efforts to ensure that only those individuals within the Institution who have a need to have access to such records for the performance of their duties are granted such access.

10.1.2. IP Disclosure. Where a Creator identifies potential IP resulting from his/her Research [or that of his/her team], he/she shall disclose such potential IP to IPMO promptly by means of an IP Disclosure Form.

10.1.3. Complete disclosure. Creators must provide to IPMO such full, complete and accurate information as IPMO may reasonably require to enable it to sufficiently assess the technical and related features and functions, ownership, commercial potential and IP protection that might be applicable to such IP. Upon complete disclosure, the IP Disclosure

⁴ The term IPMO may cover external committees formed by the IPMOs themselves and the Institution.

will be registered and assigned a reference number and IPMO will share this reference number with the Creators to signify that the IP Disclosure has been formally received by the Institution.

[Optional] 10.1.4. Disclosure Clause for IP related to GRTKTCE. When potential IP has been developed using GRTKTCE, the IPMO [shall/could] require its Creators to disclose relevant information, in accordance with national legislation.

10.2. Creatorship and Ownership

10.2.1. **Creatorship.** Creators shall, upon request, sign the appropriate legal documents provided by IPMO that attest to creatorship. Where there is more than one Creator, and there is a dispute as to the contribution to creatorship, IPMO shall in consultation with the Creators, assist in the determination of the percentage IP creatorship, failing which it shall be assumed that there was an equal, undivided contribution unless stipulated otherwise.

10.2.2. **Ownership.** Once creatorship has been determined, the Creators shall be required to formally assign any right, title or interest they may have in that IP to the Institution in the form of a contract that specifies the rights that will accrue to the Creator(s) and the Institution and the obligations they will have to assist the Institution with the Commercialization of that IP. Article 11.3 will apply.

10.3. Determination as to IP Protection and Commercialization

10.3.1. **Evaluation and recommendation.** IPMO will analyze the information disclosed in the IP Disclosure within [for example, 60-90 days] of formal receipt. The analysis will include: whether or not the subject matter is protectable as IP; an assessment of economic viability or marketability; and determination of any rights of external parties, such as a funder or collaborator. After evaluation, IPMO will prepare a preliminary report with findings that enable the Institution to decide if it will proceed with IP protection and Commercialization. IPMO shall share the preliminary report with the Creator(s), and seek their input.

[Option] In case a national law is instructive as to the determination of the rights of external parties, such as a funder or collaborator, the national law shall govern the evaluations and recommendations as to the subject IP.

10.3.2. **Decision to protect/Commercialize.** The Institution will decide, as soon as reasonably practicable, whether or not it wishes to protect and/or Commercialize the IP. IPMO will use all reasonable efforts to notify the Creator(s) of the Institution's decision within [e.g. 60-90 days] of formal receipt of the IP Disclosure. IPMO will also make a determination in relation to the validity of any claim made by a Staff Member, Visiting Scientists/Researchers or a Student that they are the true Creator(s) of that IP and in relation to their rights under this Policy.

[Option] In case external IP committees are involved, they shall make a recommendation to the IPMO.

10.3.3. **Institution's obligation to notify Creators of its decision.** Within no more than [e.g. 60-90 days] IPMO will notify the Creator(s) of the decision of whether the Institution will or will not pursue IP protection and Commercialization of their IP Disclosure.

10.4. **Institution Elects not to Protect /Commercialize the IP**

10.4.1 **IP abandoned or not Commercialized.** The Institution reserves the right not to protect or Commercialize IP that it owns if after consultation with the Creators:

- a. there is no reasonable prospect of commercial success;
- b. it is not deemed to be in the best interest of the Institution;
- c. it is not deemed to be in the public interest; or
- d. it is deemed that the IP requires further data or development before it can be protected or Commercialized.

10.4.2 **Transfer of Ownership.** In the event the Institution decides not to pursue IP protection and/or Commercialization, it will take steps to return said IPRs to the Creator(s), contingent on any other superseding contract rights of external party(ies)/sponsor(s).

[Option 1] Creators may request for the return of the IP]

[Option 2] The Institution may opt not to return said IPRs to the Creator(s) where such IP may form the building blocks for future research and development.]

10.4.3. **Written notification.** If the Institution is unable to or decides not to protect or Commercialize the Institution IP, it should notify the relevant Creator(s) of its decision in writing and in a timely⁵ manner.

10.4.4. **No prejudice to IP protection.** The Creator(s) should receive the written notification in a timely manner that enables the relevant Creator(s) to take any formal steps to ensure the protection of IP, should they so desire.

10.4.5. **Patent maintenance and termination.** The decision to maintain a patent is within the discretion of the institution, in line with the national law/s governing patents and institutional policies. In cases where the institution decides to abandon a patent or terminate its maintenance, the disposition shall be offered first to the inventor, or in accordance with national laws.

10.4.6. **Assignment.** If the Creator elects to take assignment of the IP and the Institution agrees to assign the IP, the Institution shall ensure that a deed of assignment is executed without delay.

10.4.7. **Terms and conditions.** If the Institution assigns IPRs to the Creator in terms of this Article 8.4.5, the assignment may be subject to one or more of the following terms and conditions:

- a. that upon Commercialization, the Institution be compensated for any expenditure it may have incurred in connection with the protection and/or Commercialization of such IP; and/or
- b. that the Institution be granted a non-exclusive, royalty-free license to use the IP for Research and teaching purposes.

⁵ "Timely" means sufficient not to cause the loss of IP rights by failure to act.

XI. Institutional IP Commercialization

11.1. **Determination of the Commercialization Strategy.** Within a reasonable time frame and time limits established by the national or Institutional IP Commercialization Policy, the Institution will determine, with input from the Creators, the most appropriate commercialization strategy and decide to protect or commercialize the IP under Article X.

11.2. **Assistance to IPMO.** Creators of IP which have been selected for IP protection and Commercialization by the Institution must provide IPMO with all reasonable support in the assessment, protection (including preventing premature disclosure and execution of any documents including deeds of assignment and deeds attesting to creatorship), and Commercialization of the IP.

11.3. **Sovereignty and Cooperation.** The Institution shall have the sole discretion regarding the Commercialization of IP owned by it. Notwithstanding, the Institution will ensure that reasonable efforts are made to keep the Creators informed and, where appropriate, involved in the Commercialization of the IP to which they contributed. The Commercialization of Institution IP will be planned, executed, and managed by IPMO.

11.4. **Commercialization Pathways.** Modes of IP Commercialization may include:

- a. **[Option]** license, either exclusive or non-exclusive, and variations thereof **[Option:** Preference for licensing to small and medium-sized companies or businesses];
- b. assignment (sale), in accordance with government and institutional procedures in selling assets **[Option]** in extraordinary circumstances];
- c. formation of a Commercialization Entity (may also be referred to as startup or spinoff) to which the IP is licensed or assigned in terms of this Policy;
- d. non-profit use or donation;
- e. joint ventures;
- f. royalty free access on humanitarian or other grounds; or
- g. various combinations of the above.

11.5. **Guidelines.** Regardless of the mode of IP Commercialization, the transaction will be executed in a contract which:

- a. protects the national interest and the interests of the Institution, its Staff Members, Students and Visiting Scientists/Researchers;
- b. retains rights for the Institution to use the IP for educational and research purposes;
- c. assures that the IP will be utilized in a manner which will serve the public good;
- d. assures that the IP will be developed and brought to the marketplace as useful goods and services; and
- e. prohibits the “shelving” or “mothballing”⁶ of the IP or its use in any illegal or unethical manner.

11.6. **[Option]** The Institution will endeavor to Commercialize IP in a manner that enhances local, regional, and national economic development.

⁶ Shelving or mothballing of academic IP refers to IP and invention disclosure bundles that remain unexplored, unlicensed or unused.

11.7. **[Option]** The Institution will endeavor to Commercialize IP in a manner that encourages and fosters scientific research, innovation, and entrepreneurship by Staff Members and others and which supports Commercialization Entities.

11.8. **Socially Responsible Knowledge/Technology Transfer.** The institution agrees to take into consideration the principle of “Socially Responsible Knowledge/Technology Transfer” which means facilitating the availability of Products in Developing Countries at locally affordable prices, under reasonable circumstances and terms to improve access to such Products in such countries. “Developing Countries” means those countries listed by the World Bank as “Low-Income Economies,” as such a list may change from time to time. Solely by way of example, the parties may mutually agree to revise royalty rates, adjust fair market value, consider non-monetary consideration, and/or develop patent strategies in support of each party’s dedication to Global Social Responsibility.

11.9. **Breach.** External violations and infringement of IPRs must be reported to the IPMO or relevant institutional authority for proper action. The IPMO or the institutional authorities are expected to act on the notification of breach and/or infringement within a reasonable time frame, as specified by the national law/s or institutional IP Policy.

XII. Incentives and Distribution of Revenues

12.1. The Institution’s Incentive Structure.

12.1.1. **Purpose and scope.** The Institution, in the interest of promoting knowledge/technology transfer, will give due consideration to incentives to researchers to foster Research that has socio-economic impact; such incentives may be financial or non-financial. A Creator/Enabler may receive incentives from each IP they created/enabled which is Commercialized.

12.2. Sharing of Revenues.

12.2.1. **General.** The Institution, in line with national policy and the minimum requirements set out in relevant national legislation [namely [Title Legislation] where there is such legislation] will award Creators/Enablers in the sharing of monetary benefits that may accrue to the Institution from the Commercialization of Institution IP.

12.2.2. **Calculation of revenues for distribution.** Calculation of Gross IP Revenue, IP Expenses, and Net IP Revenue shall be in accordance with the following rules:⁷

12.2.2.1. **Calculation of Gross IP Revenue.** “Gross IP Revenue” is defined in Article 2 as “all revenue received by the Institution for Commercialization of Institution IP before any cost recovery or deductions for IP Expenses” and includes, but is not limited to, outright sale of IP, and receipt of option payments, license fees, evaluation fees, upfront and milestone payments, royalty payments, share of profits, dividends, commissions, income through disposal of equity, and direct sale of products or services.

⁷ Article 12.2 needs to be adapted to applicable national laws and policies which may contain mandatory rules for the calculation of the Gross and Net IP Revenues and/or for the sharing of benefits

12.2.2.2. **IP Expenses.** “IP Expenses” is defined in Article 2 as “*All expenses incurred by the Institution in the protection and maintenance of IP and other direct costs as agreed*” and includes, but is not limited to, those expenses that relate to (i) the Institution’s expenses incurred by payment to external entities for securing, maintaining and enforcing IP protection, such as patenting and litigation expenses; (ii) costs incurred by the Institution in the licensing/assignment of IP, including marketing costs, contract negotiation and drafting costs; and **[Optional]** (iii) costs in making, shipping or otherwise distributing products, processes or services that embody the particular IP, **[Recommended]** but not including staff time or general administrative costs.

12.2.2.3. **Calculation of Net IP Revenue.** IPMO shall maintain accurate and transparent documentation of IP Expenses incurred for a particular IP and shall be entitled to cover all IP Expenses it has incurred, as set out in 12.2.2.2 above. The “Net IP Revenue” is calculated as the Gross IP Revenue less IP Expenses.

12.2.2.4. **Co-owned IP.** Where the IP is co-owned by the Institution and an outside organization, the Gross IP Revenue received by the Institution will be shared in accordance with a pre-determined formula as per a contractual arrangement. Thereafter, the Gross IP Revenue received by the Institution and the Net IP Revenue will be determined, and revenues will be shared in accordance with sections 12.2.3.1 and 12.2.3.2 below.

12.2.3. **Sharing of revenues – Creators/Enablers**

12.2.3.1. **Standard Creator’s share.**

[Option 1] [Number]% of the Gross IP Revenue **[Option:** the first [amount] of the Gross IP Revenue] will be allocated to the Creators. Where there is more than one Creator, the Creators are entitled to an equal or *pro rata* share, based on contribution, of the [number]% of the Gross IP Revenue. Thereafter, the Creator(s) shall be entitled to [number]% of the Net IP Revenue.

[Option 2] [Number]% of the Net IP Revenue will be allocated to the Creator. Where there is more than one Creator, the Creators are entitled to an equal or *pro rata* share, based on contribution, of [number]% of the Net IP Revenue, except where there is a prior written agreement between all the Creators to the contrary.

12.2.3.2. **Standard Enabler’s share.**

[Option 1] Creator(s) may at their joint sole discretion choose to provide for Enablers to receive a share of the Creator(s)’ portion of the Gross or Net IP Revenue. This arrangement must be agreed to in writing by all Creators, if more than one.

[Option 2] The Institution may elect to set aside [number]% of the Gross or Net IP Revenue for an Enabler. Where there is more than one Enabler, the Enablers are entitled to an equal or *pro rata* share, based on practical contribution, of [number]% of the Gross or Net IP Revenue, except where there is a prior written agreement between all the Enablers to the contrary.

12.2.3.3. **Disputes.** In the event of a dispute or uncertainty regarding the Creators'/Enablers' share of the Gross or Net IP Revenue from a specific IP, the issue shall be brought for resolution to the IP Committee.

12.2.3.4. **Payment.** Payment to the Creators/Enablers will be made by the Institution on a periodic basis as agreed in writing, but no later than [typically twelve] months after receipt of the Gross IP Revenue by the Institution.

12.2.3.5. **Taxes.** Payments made as per 12.2.3.4 are subject to personal tax⁴. **[Optional]** The Institution may, if so obliged by national tax laws, make any applicable tax deductions before making payments to the Creators/ Enablers.

12.2.3.6. **Entitlement.** Creators/Enablers and their heirs will be entitled to IP revenue sharing for as long as the Institution receives Gross IP Revenues from Commercialization of the Institution IP. **[Option:** The entitlement to a Creator's/Enabler's share of Gross or Net IP Revenue shall survive any resignation/termination of employment].

12.2.3.7. **Banking details.** The onus is upon each Creator/Enabler to ensure that the Institution has their current banking details for the purpose of revenue sharing. The Institution will keep the relevant IP revenue amounts in reserve for a maximum period of 3 (three) years after which all rights of Creators/Enablers to receive such payments will be forfeited. If the Institution pays an amount into an incorrect account as a result of information supplied to it being outdated or incorrect, the Institution will not have any further obligation or liability in respect of such payment, which will be deemed to have been duly and properly made.

12.2.4. **Sharing of revenues – Institution.** The Institution's share of Net IP Revenue is distributed internally as follows:

[number]% for further Research; [number]% to IPMO; [number]% for further IP prosecution and maintenance costs; and [number]% to institutional overheads.

12.3. Other Incentives.

12.3.1. **General.** As a default position, the Institution will refrain from accepting non-monetary benefits for the Commercialization of its IP or from offering incentives other than revenue sharing, unless they are in addition to the revenue sharing as per 12.2.3.1 and 12.2.3.2, as appropriate. The Institution will thus give consideration, on a case-by-case basis, to the provision of other incentives, where monetary benefits (revenues) are not available or where the Creator/Enabler elects to choose other benefits *in lieu of* revenue sharing, which may only be realized in due course. Other incentives will include, but are not limited to, the incentives described in Article 12.3.2. – 12.3.4.

12.3.2. **Growth, development and acknowledgement.** A framework for growth and development of the Creator/Enabler in their professional and personal capacity shall be developed including (i) recognition of IP generation and Commercialization performance

in appraisal procedures; and (ii) opportunities for enterprise development or capacity development through, for example, specific training opportunities, sabbaticals, and local and international exchanges in their relevant Research field or in the field of IP management and knowledge transfer.

12.3.3. **Research funds.** The Institution will actively, primarily through its IPMO, promote, source and/or facilitate collaborative arrangements with industry partners to secure funding for further Research for the Creators/Enablers.

12.3.4. **Creator/Enabler receiving shares in a Commercialization Entity or other licensee.**

12.3.4.1. In the case where a Creator/Enabler is granted equity in a Commercialization Entity that licenses the Institution IP which the Creator/Enabler has created,⁸ such Creator's/Enabler's portion in the standard revenue sharing formula of Article 12.2.3.1 or 12.2.3.2 will be

[Option 1] unaffected.

[Option 2] adjusted accordingly, taking into account the shares held in the company by the Creator/ Enabler. All other Creators/Enablers will be rewarded in accordance with the formula in Article 12.2.3.1 or 12.2.3.2.

12.3.4.2. Where the Institution receives shares in a licensee company, which company may be a Commercialization Entity, as consideration for an IP license, the Institution will **[Option 1, recommended]:** hold all the shares until liquidation, at which time the income will be considered Gross IP Revenue and the Creators/Enablers will receive their share according to the revenue sharing formula in Article 12.2.3.1 or 12.2.3.2. **[Option 2]:** take steps such that the Creators/Enablers will be issued their licensee company shares in the revenue sharing proportions, at the time the shares are issued to the Institution by the licensee.

12.3.4.3. Notwithstanding the benefit sharing in respect of shares in terms of this Article 12.3.4, the Creators/Enablers will still be entitled to their share of any other revenues under the IP license.

12.4. **Contact Details.**

12.4.1. **Contact details.** The onus is upon each Creator/Enabler to ensure that the Institution is in receipt of their current address details for the purpose of revenue sharing. Unless contrary to law, should the Institution be unable to locate the Creators/Enablers through reasonable efforts, in order to effect payment of the revenue share amount, and a period of [five] years has passed since an initial attempt, then the portion owed to that Creator/Enabler or his/her heirs will be paid to the Institution's central fund to be used to support Research and innovation activities.

⁸ The institutional policy regulating Conflict of Interests must be consulted to assess additional measures that should be put in place especially when the researcher outsources research to the spin-off or start-up company, in which the researcher has a material interest.

XIII. IP Portfolio and Maintenance

13.1. **Recording and monitoring.** IPMO [or an external entity designated by the IPMO] shall maintain records of the Institution's IP in an appropriate form and in sufficient detail. It shall monitor the deadlines for the payment obligations related to the maintenance or annuity fees of protected IP, and shall, within a reasonable time, inform the person or department designated to make such payments.

13.2. **Accounting.** The institution and IPMO shall maintain income/expense accounting records on each IP so that revenue-sharing allocations can be calculated.

XIV. Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions - GRTKTCE

14.1. When Research is conducted at the Institution using GRTKTCE, provisions of national legislation must be observed,⁹ which provisions may include prior informed consent, and access and benefit-sharing, and the need to obtain any relevant permits.

14.2. The Institution shall formulate procedures and mechanisms for disclosure and access to GRTKTCE in order to comply with national legislation.

14.3. The Institution shall make provision in all Research Contracts concluded for the protection of any IP which may arise from the use of GRTKTCE.

XV. Conflicts of Interest and Conflicts of Commitment

15.1. **Policy.** The Institution will develop a separate and comprehensive policy on COI, in order to increase the awareness of Staff Members and Visiting Scientists/Researchers about COI and COC; outline requirements for disclosure of COI and COC; and establish procedures to identify them, avoid or properly manage such conflicts.

15.2. **Commitment to the Institution.** Staff Members' and Visiting Scientists/Researchers' primary commitment of time and intellectual contributions should be to the education, research and academic programs of the Institution.

15.3. **Best Interests of the Institution.** Staff Members and Visiting Scientists/Researchers have a primary professional obligation to act in the best interests of the Institution; they should avoid

⁹ For instance, when a member of the Institution needs to access and use GRs for the purpose of the research or when it is envisaged to share samples of GRs with partners from other countries, the Institution shall abide by the national laws in place.

situations where external interests could significantly and negatively affect their work ethic and research integrity.

15.4. Agreements with External Parties. It is the responsibility of all Staff Members and Visiting Scientists/Researchers to ensure that their agreements with external parties do not conflict with their duties and responsibilities in terms of this Policy. This provision shall apply in particular to private consultancy and other research service agreements concluded with external parties. Each individual should make his/her duties and responsibilities clear to those with whom such agreements may be made and should ensure that they are provided with a copy of this Policy.

15.5. Disclosure of External Activities and Financial Interests. Staff Members and Visiting Scientists/Researchers shall annually report any potential and existing Conflict of Interest (COI) or Conflict of Commitment (COC) to the appropriate Institutional authority or any change, in compliance with applicable COI/COC policies. The authority will be responsible for resolving the conflict or reaching a solution satisfactory to all parties concerned. [**Option:** The decision must be approved by a high-level academic functionary (e.g., Dean or Rector)].

XVI. Dispute

16.1. Violation. Breach of the provisions of this Policy shall be dealt with under the normal procedures of the Institution, and in accordance with the relevant provisions of laws and regulations in force.

16.2. Dispute Resolution.

16.2.1. Any internal disputes or questions of interpretation arising under this Policy must in the first instance be referred to the appropriate authority. However, IP issues must be first raised to the IPMO for proper referral to appropriate authorities.

16.2.2. If the matter cannot be resolved by the office that first received the dispute or question of interpretation, or if any of the parties want to appeal the judgment, the matter shall be elevated to the office or unit that has appellate jurisdiction relating to IP within the institution.

16.2.3. The office or unit within the institution referred to in 15.2.2. may, at its sole discretion, refer the matter to the highest decision-making body of the academic and research institution. The institution's IP Policy must carry provisions on alternative dispute resolution.

16.3. Appeal. Individuals covered by this Policy shall have the right to appeal the application of any aspect of this Policy to the appropriate institutional authority.

XVII. Amendments

17.1. Revision. This Policy may be amended at any time by a decision of the appropriate institutional authority. In this case:

- a. all IP disclosed on or *after* the effective date of such amendment shall be governed by the Policy as amended; and
- b. all IP disclosed *prior* to the effective date of the amendment shall be governed by the Policy prior to such amendment, provided that the provisions of the Policy (as amended) shall apply to all IP licensed or otherwise Commercialized on or after the effective date of any such amendment regardless of when the IP is disclosed.