



IIMT UNIVERSITY

MEERUT

INTELLECTUAL PROPERTY POLICY

Preface

IIMT University is a research oriented State Private University of Uttar Pradesh established by Govt. of Uttar Pradesh, India vide U.P. Act no. 32 of 2016, with the legacy of group of colleges since 1995 which are now brought under the aegis of IIMT University since 2016 to meet the ever growing needs of higher professional education in different disciplines such as Engineering and Technology, Life sciences, Basic sciences, Computer sciences and applications, commerce and management, law, pharmacy, applied health sciences, ayurveda etc.

IIMT-U objectives include turning innovations into Enterprises, to increase the successful development of new start-ups/businesses, job creation and employment in specific sectors that are aligned with a region's unique areas of opportunity.

We believe in serving the mission of the Government of supporting early start-ups, Entrepreneurship and creating innovative ecosystem within the educational institution, based on an action plan aimed at promoting guidance, training and financing for start-up ventures to boost entrepreneurship and encourage start-ups with jobs creation.

An intellectual property rights policy is the amalgamation of innovation and creativity for academia. It provides predictability and a framework for innovative imaginative minds to create what they can do best: create and innovate. The ultimate goal of these model guidelines is to promote student-led startups and ventures to protect and respect intellectual property.

This IP policy for implementation at IIMT University, Meerut, is prepared on the model guidelines for implementation of IPR policy in Academic Institution, prepared by Cell for IPR Promotion & Management (CIPAM-DIPPT Model IPR draft policy guidelines).

The provisions of these model guidelines are based on the "Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations, WIPO, Geneva, published on the WIPO website" and other existing intellectual property policies of several universities and HEIs like IITs, IISc etc. who are pioneer in the field.

Objectives of the IP policy

- To provide a framework to foster innovation and creativity in the areas of technology, sciences, and humanities by nurturing new ideas and research, in an ethical environment.
- To protect intellectual property (IP) rights generated by faculty/ personnel, students, and staff of the academic institution, by translating their creative and innovative work into IP rights.
- To lay down an efficient, fair, and transparent administrative process for ownership control and assignment of IP rights and sharing of revenues generated by IP, created and owned by the academic institution. Additionally, in cases of government funded research, the inventor(s)/ organization(s) should disclose their IP filings to the Government Agency(s) that have funded their research.
- To promote more collaborations between academia and industry through better clarity on IP ownership and IP licensing.
- To create a mechanism for knowledge generation and its commercial exploitation. The purpose of IP commercialization is also to augment the financial self-sustenance goals of IIMTU & its labs and to reward faculty and researchers.
- To establish an IP cell for supporting all innovation, creativity and IPR related endeavors of students, research scholars and faculty members.
- This IP cell will be the nodal agency to implement the mandate of the draft guidelines for IP cells.

Terminology used

Author: An author is as defined under Section 2(d) of the Copyright Act, 1957. ¹

Collaborative Activity: is the research undertaken by the personnel in academic institution, in cooperation with industry and/or another researcher(s), who are not the personnel from the academic institution.

¹ Section 2(d) defines author, it says "Author" means –

- (1) In relation to a literary or dramatic work, the author of the work;
- (2) In relation to a music work, the composer;
- (3) In relation to artistic work other than a photograph, the artist;
- (4) In relation to photograph, the person taking the photograph, the artist;
- (5) In relation to a cinematograph film or sound recording, the producer; and
- (6) In relation to any literary, dramatic, musical or artistic work which is computer- generated, the person who causes the work to be created.

Creator/inventor means the researcher who contributed to the creation of the Intellectual Property (IP) (essentially copyrights, designs, etc.).

External Partners: includes Government of India, State Government(s), Local Self- Governments, Government Departments, Foreign Governments, International Organizations, Public Sector Undertakings (PSUs), all types of Private Sector Organizations, Multinational Corporations, Non-Governmental Organizations, and/or other institutions that provide research projects or consultancy assignments to researchers on regular or irregular basis; or any combination(s) of the above.

Moral Rights: Moral rights are enshrined under the aegis of Section 57 of the Copyright Act, 1957.² They are the author's or creator's special rights which include: the right to paternity and the right to integrity.

Intellectual Property: Intellectual Property, as provided under Article I of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), refers to all categories of intellectual property that are subject of Sections 1 to 7 of Part II of the TRIPS Agreement.

Intellectual Property Rights: means ownership and associated rights relating to aforementioned Intellectual Property, either registered or unregistered, and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case, all rights or forms of protection having equivalent or similar effect anywhere in the world. The IPRs recognized in India are broadly listed below:

- Patent: As defined under Section 2(m) of the Patents Act, 1970.
- Copyright: Copyright is a right given to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Works are as defined under the Copyright Act, 1957.

² Section 57 – Author’s special right:

- (1) Independently of the author’s copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right –
 - (a) to claim authorship of the work; and
 - (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work which is done before the expiration of the term of copyright if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation: Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of section 52 applies. Explanation.—Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.
- (2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

- Trade Mark: As defined under Section 2(zb) of the Trade Marks Act, 1999.
- Design: As defined under Section 2 (d) of the Designs Act, 2000.
- Semiconductor Integrated Circuit: As defined under Section 2(r) of the Semiconductor Integrated Circuits Layout Design Act, 2000.
- Plant Variety: It is governed by the Protection of Plant Variety and Farmers Rights Act, 2001. It recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource- constrained farmers.
- Geographical Indication: As defined under Section 2 (e) of the Geographical Indications Act, 1999.

Inventor: means the researcher who contributed to the creation of the Intellectual Property (essentially patents).

Research: Ownership rights over IP generated in academic institutions may vary as per source of funding, for the research through which IP was generated. Hence, it is important to understand the different contexts in which IP may be generated within the academic institutions. Some of the important contexts in which they produce IP are:

1. Research undertaken by a researcher in the normal course of his/her engagement/ appointment with the academic institution, utilising resources of the institution. This includes, but is not limited to, use of space, facilities, materials, or other resources of the academic institution, specific monetary support for research through grants or fellowships, funds for procuring books/ equipment or materials for specific research projects, and creation/ modification of infrastructure like labs for the specific needs of research.
2. Research undertaken by a researcher in collaboration with an external partner. This support from external partners includes, but is not limited to, specific monetary support given for research through grants or fellowships.

Researcher means;

- i) persons employed by the academic institution, including student employees and technical staff;
- ii) students, including undergraduate, postgraduate, doctoral and post-doctoral students of the academic institution;
- iii) any persons, including visiting scientists;
- iv) who use the resources of the academic institution and who perform any research task at the academic institution or otherwise participate in any research project(s) administered by the academic institution, including those funded by external sponsors. Wherever different conditions

are applicable for any of the sub-categories of researchers, they are specifically mentioned in the guidelines.

Research Agreement: May refer to Research Service Agreement, Cooperative Research and Development Agreement, Material Transfer Agreement, Confidentiality Agreement, Consultancy Agreement and any other type of agreement concerning research pursued by researchers and/or IP created at the academic institution.

Royalty: It is the payment made to an inventor/author or an institution for legal use of a patented invention or any intellectual property when licensed.

Sufficient Disclosure: It means providing a detailed description of features essential for carrying out the invention, in order to render it apparent how to put the invention into practice to a person skilled in the art.

IMPORTANT TO NOTE:

- (i) **Publication/ Display in Public Exhibition of Invention before Filing for Patent:** Generally,³ an invention, if published or publicly displayed cannot be patented, as such publication or public display leads to lack of novelty.
- (ii) **Inventions/ Innovations that cannot be patented:** Innovations/ Inventions falling under the category of Sections 3 and 4⁴ of the Indian Patents Act, 1970 cannot be patented in India.
- (iii) **Acts that do not constitute copyright infringement:** Section 52 of the Indian Copyright Act, 1957, specifically state certain acts as not being infringement of copyright. The “doctrine of fair dealing” envisaged under section 52 of the Indian copyright law allows certain use(s) of copyrighted works in special cases such as: private use for the purpose of education, research, critique, review, etc.
- (iv) **Attribution or Citation should be done wherever references have been sourced from other work(s):** Copying or using any work from an already published or non-published work,

³ Under certain circumstances, the Indian Patents Act, 1970, provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organized by the Government or disclosure before any learned society or published by the applicant. The detailed conditions are provided under Chapter VI of the Patent Act (Sections 29 – 34).

⁴ Sections 3 and 4 of the Indian Patents Act, 1970, specifically state exclusions to what cannot be patented

in India. They are: Section 3 – What are not inventions AND Section 4 – Inventions relating to atomic energy not patentable.

whether digital or in physical form, should be rightly attributed and referenced to the original source. Unless allowed as “fair dealing”, copying should not be done without obtaining required permissions/ licences from the author/ creator. Remember, plagiarism is not only immoral, it is also illegal.

- (v) **Keep a record of all legal and related documents:** All agreements which are to be entered into with co-creators/ inventors / third parties should be documented properly to establish the ownership of any IP created. Additionally, keep a record of all documents relating to the IP, since the expressed inception of the idea.
- (vi) **Rain check regarding names/ brands before choosing a trade mark:** A prior public search for trademarks would prove beneficial before choosing a name or a brand name. This would aid in checking whether the same has been registered already as a trade mark.

Guidelines for intellectual property right protection, its licensing

(These guidelines do not constitute legal advice. For help with a particular legal problem, advice from an intellectual property lawyer may be sought)

Guidelines for intellectual property protection and its licensing;

1. An IPR Chair IIMTU, an interface between the faculty and the Patent/copyright attorney shall guide and help the faculty and students of IIMT University in patentability assessment and to apply for patents / copyright/ trademark applications/ design patents/ other IPR.
2. The University faculty desirous of filing a patent or copyright or trademark application would be advised to contact the IP chair regarding these issues.
3. The paper formalities for filing IPR shall be done by the IPR chair with the sharing of draft / Invention disclosure of IPR with the applicant and inventors.
4. Invention disclosure/ Patent/Copyright/Trademark and similar documents are to be treated as confidential and would be placed under special duty to maintain confidentiality by the signing of a Non- Disclosure Agreement at IPR cell along with a declaration for anti- plagiarism.
5. Since patenting is expensive, efforts should be made to get the patent filed through other funding agencies such as DBT, MSME, NRDC and DST (TIFAC), apart, to facilitate the patenting/ IPR, following policy is to taken into account;

Applicant, if it is IIMTU, will contribute the fee of filing complete patent/ trade marking / design patent / copyright. In the case, inventor /s shall not be entitled for any claim for the incentive based on IPR.

Applicant, if Inventors with place of work as address as IIMT University, shall contribute for official fee of filing complete patent/ trade marking / design patent / copyright and fee for early publications.

At the stage of commercialization of patents the sharing of profit will be as; applicant/ IIMTU will share 40% (20% will be shared by the parent department/school/institute which is a place of work and rest 20 % will be shared by the University) of the profit and inventors/ creators shall share 60% of the profit in either above case.

Moreover in case of extraordinary novel idea with the scope of immediate commercialization, university can sponsor the complete funding for filing the patent/ IPR.

6. The IP chair shall help the inventor in drafting the patent specification / copyright or trademark application and filling of relevant forms.
7. The draft application along with the relevant forms shall then be forwarded to a patent attorney on the panel of the University.
8. The IPR Chair shall correspond with the attorney and the inventors on IP matters.
9. The committee for approval for patent filing would consist of: Inventor/s, Dean Research, The IP Chair and Finance Officer or his nominee in case where IIMTU funds are to be utilized.
10. The inventors would be required to cooperate with the IP chair to expedite furnishing of information for timely actions since delay would mean payment of extra fee to the patent office and the attorney, if the delay will be made by the inventor/s, the penalty will be borne by them only.
11. After filing of the application for IP protection, the inventors shall inform the IPR cell of any further development, if any, in the related R&D work.
12. The IPR Cell and inventors in collaboration with Research Council shall work together for dissemination of the Intellectual property to public and industry to aid in commercialization.

(Following Para 15-31 related to IPR are the part of Research Policy of IIMTU, hence, taken from there; Para 1-14 of said Research policy are not pertaining to IPR hence are not the part of this IP policy of IIMTU)

Para-15: INTELLECTUAL PROPERTY AND OWNERSHIP

Para-15.1: Copyrights

The University will not own the rights in copyrightable works such as books, articles, monographs, lectures, speeches and other communications produced by the staff in the course of research and teaching using University resources. Ownership of copyright of all copyrightable work shall rest with the author(s) with the following exceptions:

- i. If the work is produced during the course of sponsored and/or collaborative activity, specific provisions related to IP, made in contracts governing such activity, shall determine the ownership of IP.
- ii. The University shall be the owner of the copyright of work, including software, created by the University personnel with significant use of University resources. The University may demand assignment of the copyright in whole or in part depending on the degree of University-supported resources used in producing the copyrightable work.

- iii. The University shall be the owner of the copyright on all teaching materials developed by the University personnel as a part of any of the academic programs at the University. However, the authors shall have the right to use the material in her/his professional capacity. As the traditional exception, the University shall not claim ownership of copyright on books and publications authored by the University personnel.
- iv. The University shall be the owner of the copyright of work produced by non- University personnel associated with any activity of the University with the intellectual contribution of the University personnel. However, the authors shall have the right to use the material in her/his professional capacity.
- v. The ownership rights in lecture videos or Massive Open Online Courses (MOOCs), films, plays, and musical works, institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the academic institution, shall ordinarily be vested with the academic institution. The moral rights shall continue to vest with the author(s) wherever applicable.

The student and his/her supervisor(s) will jointly have the ownership of copyright in the thesis / dissertation / project report written by a student.

Where copyright has not been assigned to the University, the University will be entitled to a non-exclusive, non-transferable license to use the work within the University for non-commercial educational and research purposes, or to possess a limited number of copies for such purposes, whichever is relevant.

Any copyrightable work generated as a work for hire will belong to the University as per the terms of the original contract.

Para-15.2: Invention(s), Design(s), Integrated circuit layouts, and other creative work(s)

Invention(s) including software, design, and integrated circuit layouts created by the University personnel without significant use of the University resources and not connected with the profession for which he/she is employed at the University shall be owned by the creator(s).

For invention(s) including software, design, and integrated circuit layouts produced during the course of sponsored and / or collaborative activity, specific provisions related to IP made in contracts governing the collaborative activities shall determine the ownership of IP.

The University shall be the owner of all invention(s) including software, design, and integrated circuit layouts, created by a team of the University and non- University personnel associated with any activity of the University. Non-University personnel, who create invention(s) including software, design, and integrated circuit layouts at the University without any intellectual contribution of the University personnel and significant use of the University resources, shall be the owner of such invention(s).

Except as stipulated above, the University shall be the owner of all invention(s) including software, design, and integrated circuit layouts, created at the University.

Para-15.3: Patents

This section refers to intellectual property that is patent-able or protect- able by confidentiality agreements.

- i. If the academic institution determines that an invention was made by an individual(s) on his/her

own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the invention shall vest with the individual(s)/ inventor(s).

- ii. All inventions whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the academic institution), developed by utilizing the resources of the academic institution, or with the mix of funds, resources and/or facilities of the academic institution, shall ordinarily be vested with the academic institution.

The University will require to be assigned to it such intellectual property as is created by the creators through the use of University-supported resources. In this case, the University will take steps to commercialize the property through patenting or agreements. Where a patent is applied for, the creator shall agree to maintain all relevant details of intellectual property secret and confidential until the patent application is filed. In the case of protection through confidentiality, the same information will be kept secret and confidential as long as the intellectual property has commercial value. The creator shall furnish such additional information and execute such documents from time to time as may be reasonably requested for effective protection and maintenance of proprietary rights of the University in the intellectual property.

- i. The intellectual property created through sponsored research where the sponsor does not claim intellectual property rights .
- ii. The creators of University-owned intellectual property shall retain their right to be identified as such unless they specifically waive off this right in writing.
- iii. Royalty accruing or any type of payment received from the commercialization of the University-owned intellectual property will be shared between the University and the creators as per decided policy (**refer para 19.6**)

Para-15.4: Trade mark(s)/ Service mark(s)

- i. The ownership rights in all trademarks involving the academic institution shall ordinarily be vested with the academic institution. The academic institution may formulate necessary guidelines regarding the usage of the name of the academic institution through their trade mark.

In cases of all IP produced at the University, the University shall retain a non-exclusive, free, irrevocable license to copy/ use IP for teaching and research activities, consistent with the confidentiality agreement(s), if any, entered into by the University.

The authorities responsible on behalf of the University and creators have the responsibility to ensure the following:

- Any association with the University implied by third parties is accurate.
 - The activities with which the University is associated through third parties maintain standards consistent with the University's educational purpose.
- ii. If the academic institution determines that the creator of the trade mark was created by an individual(s) on his/ her own time and unrelated to his/ her responsibilities [e.g. name of a company/ start-up venture by the student(s)], then the right to the same shall ordinarily be vested with the said individual(s).

Para-15.5: INDUSTRIAL DESIGNS

- i. All industrial designs whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the academic institution) developed by utilising the resources of the academic institution, or with the mix of funds, resources and/or facilities of the academic institution, shall ordinarily be vested with the academic institution.
- ii. If the academic institution determines that the industrial design was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the industrial design shall vest with the individual(s).

Para-15.6: SEMICONDUCTOR INTEGRATED CIRCUITS AND PLANT VARIETY

- i. The ownership rights over integrated circuits and plant varieties, with the utilization of resources of the academic institution, shall vest with the academic institution.
- ii. If the academic institution determines that the semiconductor integrated circuit layout design or plant variety was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the semiconductor integrated circuit layout design or plant variety shall vest with the individual(s).

Para-16: IPR ADMINISTRATION

This policy shall be applicable to all the University personnel, as well as non- University personnel associated with any activity of the University such as, but not limited to outcomes of research, consultancy or Continuing Education Programmes, and covers different classes of Intellectual Property - Patents, Designs, Trade Marks/Service marks, Copyright, Integrated Circuits Layout, Trade Secret and undisclosed Information.

Para-16.1: Legal status of IPR policy

This policy shall be applicable from the date notified by the University. Any addition, insertion and / or deletion from the policy document, which curtails the rights of a researcher, will not operate retrospectively. Any alterations in this policy will not take effect until the University Intellectual Property Committee (UIPC) takes a unanimous decision, and such changes would be effective for inventions and other research results arising out in the future.

An employee is required to observe the university's policy on Intellectual Property Rights as may be decided by the UIPC from time to time.

Para-16.2: Constitution of University Intellectual Property Committee

An University Intellectual Property Committee (UIPC) shall comprise of the Dean, Research as Head, two faculty as Coordinators, two students coordinators IPR Cell, and three additional members nominated by the Chairperson of the committee. The nominees will serve a five years term.

UIPC shall be responsible to administer all decisive issues related to IP policy and such other relevant matters as shall be determined from time to time.

Para-16.3: Scope of the Policy

This policy covers all rights arising from intellectual property devised, created, or made by the staff in the course of their employment by the University irrespective of the eligibility of these rights for registration. The IP arising from academic research includes patents, designs, trademarks, service marks, copyright, know-how and undisclosed information.

Para-16.4: Disclosure

When the creators believe that they have generated patent-able or commercialize-able intellectual property using University-supported resources, they shall report it promptly in writing along with relevant documents, data and information, to the University through the appropriate authority using the Invention Disclosure Form of the University. Disclosure is a critical part of the IP protection process for claiming the inventor-ship. The information shall constitute a full and complete disclosure of the nature, particulars and other details of the intellectual property, identification of all persons who constitute the creator(s) of the property, and a statement of whether the creator believes he or she owns the right to the intellectual property disclosed, or not, with reasons. Where there are different creators of components that make up a system, the individual creators and their contributions must be identified and treated separately. In case of the sponsored and/or collaborative work the provisions of the contract pertaining to disclosure of the creative work is applied. By disclosure the inventor(s) shall assign the rights of the disclosed invention to the university.

Para-16.5: Confidentiality

All University personnel and non-University personnel associated with any activity of the University shall treat all IP related information which has been disclosed to the IPR Cell and/or whose rights are assigned to the University, or whose rights rest with the University personnel, as confidential. Such confidentiality shall be maintained till such date as is demanded by the relevant contract, if any, between the concerned parties unless such knowledge is in the public domain or is generally available to the public. Having filled the Disclosure Form, the creator shall maintain confidentiality i.e. refrain from disclosing the details, unless authorized otherwise in writing by the University, until the University has assessed the possibility of commercialization of the intellectual property.

Subject to the right of academic freedom the University staff shall not directly, except in the proper course of their duties, either during or after a period of their appointment, disclose to any third party or use for their own purposes or benefit or the purposes of any third party, any confidential information about the business of the University unless that information is public knowledge or he/she is required by law to disclose it.

The following guidelines should be followed when dealing with confidential information in the context of third parties such as commercial organizations:

- i. The amount of information given to prospective licensees before the signing of any confidentiality or secrecy agreement should in no case exceed or fall outside that which is set out in the Technology Profile Form for any particular intellectual property.
- ii. When a third party is interested in commercialising an item of intellectual property on offer after inspecting the relevant Technology Profile, they may apply on the prescribed form and with the

deposition of the required fee for transfer of the technology. They will be required to demonstrate their capacity to commercialise the technology to the University's satisfaction. The University will then require the third party to sign contractual confidentiality or secrecy agreements undertaking to maintain the confidentiality of all information disclosed, before any further disclosure is made. The format of the Bilateral Secrecy Agreement, should be followed.

- iii. Third parties must obtain express authorization writing from the University to commercialize/exploit the intellectual property. Confidentiality agreements will continue in force even if the commercialization process is aborted at any stage. However, it is recommended that no disclosure should be made if there is any doubt as to the outcome of the commercialization process.
- iv. If running royalties are to accrue to the University and the creator, the licensees must be bound by their contract to take adequate measures to protect that matter from becoming known to others through the licensee's practice, and thereby made available to others whose activities may adversely affect royalty returns.
- v. Access to areas where University-owned intellectual property including confidential information is made available, seen or used, and to confidential documents, records, etc. is to be limited only to those who are creators or are bound by confidentiality agreements.
- vi. Creators and/ or University personnel must take care not to disclose confidential details of University-owned intellectual property in their publications, speeches, or other communications.

Para-16.6: Evaluation and Exploitation Decisions

The authorized/ designated office/ committee of the University will evaluate the disclosure made by the creator on the prescribed Invention Disclosure Form and determine whether there is a good prima facie case for believing that the intellectual property has economic value and it needs IPR protection. The University shall communicate to the creator within 90 days from the date of disclosure, its decision whether the

- i. University wishes to own and commercialize the intellectual property.
- ii. University is unwilling to commercialize the intellectual property.
- iii. The ownership of the intellectual property is in doubt.

Para-17: Where the University wishes to own and commercialize the intellectual Property

In this case, the University will take steps to commercialize the property through patenting or confidentiality. Where a patent is applied for, the creator shall agree to maintain all relevant details of intellectual property secret and confidential until the patent application is filed. In the case of protection through confidentiality the same information will be kept secret and confidential as long as the intellectual property has commercial value. The creator shall furnish such additional information and execute such documents from time to time as may be reasonably requested for effective protection and maintenance of proprietary rights of the University in the intellectual property.

Para-18: Where the University is unwilling to commercialize the intellectual property

It shall merely record the fact of the creation of the intellectual property without prejudice to the rights of the creator and hold all information communicated in this regard by the creator, secret and confidential.

- The University will have no liability to keep the information secret and confidential if the intellectual property subsequently either comes into public domain or is commercialized otherwise.
- The University will be entitled to a non-exclusive, non-transferable license to use the work within the University for Non-commercial educational and research purposes.

Para-19: Where the ownership of the intellectual property is in doubt

In all such cases the issue of ownership shall be referred by the University Intellectual Property Committee to an Arbitration Committee constituted by the Executive Council of the University. The Arbitration Committee must communicate its decision on the matter to the creators within one month of the referral of the issue to the Committee. The decision of the Arbitration Committee will be final and binding on the creator(s) and the University.

Para-20: Commercialization of University-owned IP Commercialization through licensing of rights by the university

All expenses for obtaining and maintaining statutory rights in University- owned intellectual property will be borne by the University. The University will take steps to commercialize all University-owned property according to the time schedule outlined below:

Para-20.1: Date zero: the creator discloses the nature and particulars of the intellectual property they have created to the University in the prescribed Disclosure Form.

Para-20.2: Zero plus one hundred eighty days (six months) or earlier: If the property is found to be assignable to the University and the University wishes to own the property, the University files the patent, or proceeds directly for commercialization through confidentiality agreements with third parties, whichever is practicable.

Para-20.3: The creator should provide all necessary data and documents for filing the patent within 15 days of the notice served by the University intimating its decision to patent. Should the University fail to inform the creator of its decision within the said deadline, the creator, without encumbrance, will hold the rights of the intellectual property.

Para-20.4: Zero plus five years: the University reviews the situation if the intellectual property has been commercialized; the subsequent cost of maintaining statutory protection will be met through receipts from the licensee. If the property has not been commercialized, all rights and responsibilities in it will revert to stand a good chance of being commercialized within the next year, in which case the University opts to pay for another year of protection and retains the rights for that year.

Para-20.5: Zero plus six years: After the end of the sixth year, if the intellectual property is still not commercialized, all rights and responsibilities in the property will revert to the creator, subject to any contractual agreements with a sponsor, if any, and the University shall no more be liable to pay for statutory protection of the property.

Para-20.6: At any time during the above process, the University will have the right to revert the rights in the intellectual property to the creator at a mutually agreeable date with notice of three months of its intention to do so. If the property is commercialized subsequently, the creator may be required to pay a royalty to the University on first slab of the net profit in a proportion 60% for the creator/inventor, 20% to the department/centre of the creator/inventor and 20% to the University as

per IPR Guidelines.

Para-21: Commercialization through licensing of rights by third parties

The University will license at its discretion the University-owned intellectual property for commercialization through third parties who may or may not be the creator through the grant of exclusive/ non-exclusive licenses, or assign its ownership rights to third parties/ creator safeguarding the interests, financial or otherwise, of the University.

- All such licensing agreements or assignments in particular where the third party is also the creator, would be carefully examined by the University to determine that no conflict of interest will occur as a result of their ratification. The third party when interested in any such transfer of rights must demonstrate technical and business capability to commercialize the intellectual property.
- The costs of transfer of interest/ right/ ownership and maintenance of rights in the University-owned property by way of license, assignment or otherwise devolution of rights for such purposes will be borne exclusively by the licensee, assignee, and person acquiring such rights. The University may under special circumstances retain a non-exclusive royalty-free license to use the property for teaching and research.
- The assignment or license may be subject to additional terms and conditions, such as revenue sharing with the University or reimbursement of the cost of statutory protection, when justified by the circumstances of development of the intellectual property licensed. If the University finds that the third party has not taken steps to commercialize the property within one year of acceptance of the license, the University will be free to revoke the license.

Para-22: Transparency of IP Administration

The University will inform the creators of Intellectual Property of progress regarding filing of the patent, commercialization and/ or disposition of the intellectual property. The University and the creators shall maintain complete transparency in sharing information at all stages of the process. The creators shall keep the University informed of updates or development of the Intellectual property, which lead to tangible effects on the property.

Para-23: University's Acceptance of Independently Owned Intellectual Property

The University may accept assignment of intellectual property owned by other parties provided that such assignment is found to be consistent with the public interest and the University's academic mission. Intellectual property so accepted shall be administered in the same manner as other university-owned intellectual property.

Para-24: University's Right to Update and Maintain Course Materials

In all cases the author's special rights under section 57 of the Indian Copyright Act 1957 protect the creator of the original work.

Para-26: Where University owns the Rights

The University will be at liberty to update, revise, and/ or translate (hereinafter revise) course material in which it owns the right through assignment of copyright, provided that such revision

does not damage the reputation or honour of the original creator. All such revision will be treated as work for hire. The creator will retain the right to be identified as the creator of the original work, and the University must clearly state on the derived work and related documents that the derived work is adapted from the original work.

The question of whether the creator of the original work is to be paid a royalty, and if so how much, on receipts from the commercialization of the derived work, shall be determined on a case-by-case basis by the University

Intellectual Property Committee, on the criterion of how extensively the alteration has been carried out. The following guidelines may be followed by the University in this matter:

- i. If the revision, etc. is significant in terms of cost and extent but not such as to drastically alter the original work, the University may charge the cost of revision against the royalty receipts or other fees due to the creator of the original work.
- ii. If the revision is such that the new version is almost a new work, then the creator of the original work may be offered a financial compensation package significantly lower than that specified in the original agreement.

Para-27: Where creator owns the Rights

Regarding course materials in which the University has licensed rights from the creator, the University shall give first refusal to the creator of the original work in producing derived works including updates, translations and revisions, regardless of whether the creator continues to be employed by the University or not. In order to enable the University to contact creators for this purpose, creators would keep Dean Research informed of their current address at all times. It will be the responsibility of the creator(s) to inform the Dean Research for their consent or otherwise to undertake the revision proposed by the University within one month from the date of request by the University. The following cases will then apply:

- The creator of the original work is unable or unwilling to do the work required within the necessary time frame. (This time frame could be 3 months in the case of minor revision and/ or updating, 6 months for revision/ updating requiring moderate effort, and 12 months in the case of extensive changes):

The University will have the right to extend these deadlines as it deems fit. In such a case, the University must inform the creator of the original work of its intention to contract with any other party to revise, update, or translate the work to the extent necessary to maintain the usefulness and quality of the course material as an instructional offering from the University. In such cases, the University shall state the name of the reviser on the derivative work and in all documentation relating to it, and it shall be clearly stated that the work is adapted from the original work.

- The original creator is willing to do the work required within the stipulated time frame:

Since it is the duty of a copyright holder to revise and update the work from time to time, additional remuneration for such work may at best be nominal, if paid at all.

For development of Educational Course Material in electronic form the comprehensive guidelines are to be followed.

Para-28: Statement by Creators

The creators of intellectual property under the terms of this policy shall be required to determine and to state that to the best of their knowledge the intellectual property does not infringe on any existing copyright or other intellectual property or other legal rights of third parties.

- If any part of the work is not the original work or creation of the creators, the creators must show that the necessary permission for use has been obtained from the owner, or state their reasons for believing that such permission is not necessary as the use constitutes fair use. They will further certify that the work contains no libelous material nor material that invades the privacy of others.
- In case a third party alleges infringement of their rights by a creator and the University IPR Cell finds that the creator may have made false claims, the University will take immediate steps to dissociate itself from the said intellectual property.
- All agreements with creators should indemnify the University against all damages arising out of such litigation.

Para-29: Consulting Agreements

Since consultancy comes to academic staff through University channels and is administered centrally, any intellectual property arising from consultancy should be assigned to the University in the interests of transparency and fair negotiation with consulting firms. The University will offer a first refusal option on the licensing of such intellectual property rights to the consulting firm, as with sponsored research. However, in recognition of the fact that a percentage of the consultant's fee is paid to the University, the royalty arising from commercialization of intellectual property generated through consultancy will be distributed following the procedure as mentioned in IPR Guidelines. The creators who are engaged in consulting work or business should not be in conflict with University policy or with the University's prior contractual commitments. Such creators should make their University obligations known to outside parties before they make such agreements and should provide such parties with copies of all applicable University policies.

Para-30: Responsibilities of Departments

Each department will administer University policy as defined herein through its Departmental Faculty Board. In particular each creator must maintain in his or her department records detailing his or her activities in generating intellectual property. Such records must be made available on demand to the University IPR Cell.

Para-31: Collaborative research

The Collaborative R&D Projects constitute the projects wherein there are two or more agencies are the participants. These projects are partially funded by a private entity (client) and/or supplemented by the university and/or by a Government R&D funding agency.

If any research is conducted in collaboration with other organizations / industry then the any point in question will be answered on mutually agreed terms of MoU.

A committee must be constituted for approval of Technology Transfer and to take decisions on the following issues. It may consist of the inventors, the Head of the respective Department, Dean Research and/or the IPR Chair.

- a. Project costing/costing of technology/know-how,
- b. Permissions required by the PI for collaborative research with industry, other institutions and tech transfer.
- c. authorized signatories for the same,
- d. Modalities of IP protection and its maintenance,

- e. Source of the funds required for IP protection and maintenance,
- f. Modalities of IP protection (whom to approach, authorized department/officer/committee),
- g. The terms and conditions of MoA for collaborative R&D and authorized signatories,
- h. Evaluation of technology/know-how.
- i. Ownership of the patents, if any, generated out of the collaborative research
- j. Modalities of tech transfer/IP licensing from identification of private partner, negotiations, MoA finalization to finalization of terms and conditions etc.

Following terms and conditions shall be followed for the collaborative research and IPR;

1. Non-disclosure agreement may be signed with the private party prior to discussions and negotiations.
2. The responsibilities and deliverables expected from all the participating agencies should be clearly mentioned in the MoA for collaborative work.
3. Back ground Knowledge: The background knowledge is the know-how already developed by the university which is to be either further developed or validated by the company on implementation of the collaborative project. The background knowledge document/s is to be clearly mentioned in the MoA and attached as **an annexure-1**
4. The exit and arbitration clauses for all the participating agencies should be well formulated in the MoA so as to avoid future legal disputes in case of premature project closure.
5. The IP rights for the IP generated out of the collaborative project shall be jointly shared among the participating agencies.
6. The intellectual property, product, prototype or process generated out of such projects shall be co- owned among the participants on mutually decided terms.
7. Costs of IP protection and its maintenance to be equally shared among the participating agencies.

References:

- CIPAM-DIPP Model IPR Draft Policy Guidelines.
https://dipp.gov.in/sites/default/files/Draft_Model_Guidelines_on_Implementation_of_IPR_Policy_for_Academic_Institutions_09092019.pdf

ANNEXURE-1

Intellectual Property Agreement

This Intellectual Property Rights Agreement (this Agreement) is entered into as of(the Effective date) between(Inventors) having address at....., and(University/Institute) having address at.....

..... (Institute/university) is a research driven (Institute/university), it expects its faculty and students to spend a significant fraction of its time engaged in research and innovation. Even (Institute/university) aims to offer world-class modern undergraduate and post-graduate programs, its curriculum, pedagogy, and teaching and learning materials are expected to be creative and uniquely different.

I. Purpose:-

..... (Institute/university) has formulated this policy for the management of Intellectual Property Rights to:

- i. provide conducive environment leading to the development of Intellectual Property;
- ii. facilitate, encourage, promote and safeguard scientific investigation and research and the freedom of the scholars involved in R&D;
- iii. establish an Intellectual Property Rights and procedural guidelines for making available to the public the inventions and discoveries made in the course of research carried out in the Institute;
- iv. frame standards for do's and don'ts for the Institute, creators of intellectual property and their sponsors relating to inventions, discoveries, and original works originating from the Institute;
- v. promote, facilitate and provide incentives to the members of the community of creators who take initiatives to transfer Institute intellectual property to the public under this Policy;

- vi. enable the Institute to secure sponsored/not sponsored research funding at all levels of research;
- vii. make the Institute a prime academic research institution pursuing the highest ideals of scholars and teaching professionals by dissemination of the benefits of Intellectual Property originated from the Institute to the community and society;
- viii. make the creator of IPR aware of the applicable laws and rules for ensuring their compliance; and
- ix. enable the Institute to make beneficial use of such developed IP for the maximum possible benefit of the creators, the Institute, and the nation at large.

II. Intellectual Property and Ownership

This IPR policy on IPR Rights will apply to full-time members of the university (and this includes faculty, staff, incubation, and students). This policy on IPR will also apply to all part-time “Guest” or “Adjunct” faculty or part-time students, but only to the extent of their engagement with the university. This IPR policy will also have a bearing on an agreement that the university signs with a sponsoring organization, collaborating organization, or with a vendor.

This document is subject to the IPR laws of India, such as the Patent Act, 1970, Copy Rights Act, 1957 and Designs Act, 2000, etc., and their amendments. The document should be periodically reviewed, and changes made depending upon the need and experience gained.

a) Patents

This section refers to Intellectual Property that is patent-able or protectable by confidentiality agreements:

- i. By virtue all the patents will be assigned to (institute/university) and the Intellectual Property invented by the inventor(s) where there is the use of usual Institute resources either originated at the University/Institute or any other place. In this case,

the Institute will take steps to commercialize the property through patenting or agreements.

- ii. The inventor(s) shall agree to maintain all relevant details of Intellectual Property secret and confidential until the patent application is filed. In the case of protection through confidentiality, the same information will be kept secret and confidential as long as the intellectual property has commercial value. The inventor(s) shall furnish such additional information and execute such documents from time to time as may be reasonably requested for effective protection and maintenance of proprietary rights of the Institute in the Intellectual Property.
- iii. The inventor(s) of Institute-owned Intellectual Property shall retain their right to be identified as such unless they specifically waive off this right in writing.
- iv. Royalty accruing or any type of payment received from the commercialization of the Institute-owned intellectual property will be shared between the organization and the inventor/s.
- v. Ownership of Intellectual Property generated as a result of research collaboration with researchers from another organization that is not funding the research will be decided mutually anytime during the course of the collaboration.
- vi. For every academic program offered, the.....(institute/university) will own the IP concerning its curriculum (viz. description of admission & graduation requirements, program structure, pre-requisites, description of individual courses together with associated credits, standardized lab experiments together with lab manual, pedagogy, etc.).
- vii. In cases where IP is licensed or transferred to a third party, the institute/university will seek to retain the right to use the IP for purpose of teaching and continued research at the Institute/university.
- viii. Every time an inventor (or group of co-inventors) identifies and proposes that a certain research outcome be protected by the Institute/University, the Institute/University will follow a defined process to determine whether it will seek the protection of the proposed IP in the form of a patent.

b) Copyrights

The (Institute/University) will be the owner of work, including software created by (Institute/university) personnel with significant use of (Institute/university) resources. If the institute foresees a gainful return from copyrights, it may initiate steps to file and protect such copyrights and share the financial benefits with the inventor on the terms and conditions of the institute.

..... (Institute/University) shall be the owner of the copyright on all teaching material developed by (Institute/University) personnel as part of any of the academic programs at (Institute/University). The authors shall have the right to use the non-funded technical material in his/her professional capacity. If the technical material is prepared by the author on behalf of a funding agency, then the copyright will be equally shared between the institute and the funding agency. As a traditional exception ... (Institute/University) shall not claim ownership of the copyright on books and publications authored by (Institute/University) personnel.

Ownership of the copyright of all copyrightable work shall rest with the author(s) with the following exceptions:

- i. If the work is produced during the course of sponsored and/or collaborative activity, specific provisions related to IP, made in contracts governing such activity, shall determine the ownership of IP.
- ii. The (Institute/university) shall be the owner of the copyright of work, including software, created by the Institute personnel with significant use of Institute resources. The Institute may demand assignment of the copyright in whole or in part depending on the degree of Institute-supported resources used in producing the copyrightable work.

- iii. The (Institute/university) shall be the owner of the copyright on all teaching materials developed by the Institute personnel as a part of any of the academic programs at the Institute. However, the authors shall have the right to use the material in her/his professional capacity. As the traditional exception, the Institute shall not claim ownership of the copyright on books and publications authored by the Institute personnel.
- iv. The (Institute/university) shall be the owner of the copyright of work produced by non-Institute personnel associated with any activity of the Institute with the intellectual contribution of the Institute personnel. However, the authors shall have the right to use the material in her/his professional capacity.

The student and his/her supervisor(s) will jointly have the ownership of the copyright in the thesis/dissertation/project report written by a student.

Where copyright has not been assigned to the(Institute/University), the(Institute/University) will be entitled to a non-exclusive, non-transferable license to use the work within the Institute for non-commercial educational and research purposes or to possess a limited number of copies for such purposes, whichever is relevant. Any copyrightable work generated as a work for hire will belong to the Institute as per the terms of the original contract.

c) Industrial Designs and other creative works

Invention(s) including software, and Industrial design, created by the Institute personnel without significant use of the (Institute/University) resources and not connected with the profession for which he/she is employed at the Institute shall be owned by the creator(s). For invention(s) including software and design, produced during the course of sponsored and/or collaborative activity, specific provisions related to IP made in contracts governing the collaborative

activities shall determine the ownership of IP. The
(Institute/University) shall be the owner of all invention(s) including software and designs created by a team of the Institute and non-Institute personnel associated with any activity of the Institute. Non-Institute personnel, who create invention(s) including software and design at the Institute without any intellectual contribution of the Institute personnel and significant use of the Institute resources, shall be the owner of such invention(s).

Except as stipulated above, the (Institute/university) shall be the owner of all invention(s) including software and design created at the (Institute/university).

III. IPR Administration

This policy shall be applicable to all the Institute personnel, as well as non-Institute personnel associated with any activity of the Institute such as, but not limited to outcomes of research, consultancy or Continuing Education Programs, and covers different classes of Intellectual Property - Patents, Designs, Copyright, and undisclosed Information.

i. Legal Status of IPR Policy

This policy shall be applicable from the date notified by the Institute. Any addition, insertion and/or deletion from the policy document, which curtails the rights of a researcher, will not operate retrospectively. Any alterations in this policy will not take effect until the Institute Intellectual Property Committee (IIPC) takes a unanimous decision, and such changes would be effective for inventions and other research results arising out in the future. An employee is required to observe the institute's policy on Intellectual Property Rights as may be decided by the IIPC from time to time.

ii. Technology transfer

The Intellectual Property of the Institute held either in the name of

..... (Institute/University) or jointly with other Institutions/Industry will be marketed for commercial exploitation under agreements involving technology transfer, licensing and revenue sharing models. The IP Cell shall identify potential licensee(s) for the IP to which (Institute/University) has ownership. In case of joint ownership, the Organization/Industry which has sponsored the activity will have the first right to commercially utilize and exploit Intellectual Products emanating from the collaboration activity, whether or not the same have been formally protected by patent(s). The licensing to commercially exploit would involve a technology transfer fee and also royalty payment from the first date of such commercial exploitation for a period that will be mutually agreed upon. In the event of the other collaborating organization/industry not undertaking the commercial exploitation within a reasonable period of two years from the first date of development of the technology, (Institute/University) reserves the right to transfer the said know-how to a Third Party for its commercial exploitation and use. In such instance, however,..... (Institute/University) shall share the net proceeds from such commercial assignments, in equal measure with the collaborating organization/industry in the ratio as agreed upon in the Memorandum of Understanding of the specific project.

..... (Institute/University) would endeavour to exploit the IP by commissioning a Technology Management Agency and thereby bring to a favourable light the IP produced by its Inventor(s). The Inventor(s) may seek (Institute/University) to assign the rights to them after a certain holding period.

iii. **Revenue Sharing**

The revenue arising out of licensing of IP and royalty would be shared in the appropriate ratio (currently, this ratio is 60:40) between the inventor(s) and the Institute/university. Where

(Institute/University) reassigns the right of the IP to its investor(s), the inventor(s) shall reimburse all the costs incurred by (Institute/University), which includes protection, maintenance, marketing and other, associated costs.

iv. **Infringements, Damages, Liability, and Indemnity**

As a matter of policy, (Institute/University) shall, in any contract between the licensee and (Institute/University), seek indemnity from any legal proceedings including this, but not limited to manufacturing defects, production problems, design guarantee, upgradation and debugging obligation. (Institute/University) shall also ensure that (Institute/University) personnel have an indemnity clause built into the agreements with the licensee(s) while transferring technology or copyrighted material to licensees. (Institute/University) shall retain the right to engage in or desist from or not in any litigation concerning patent and license infringements.

v. **Conflict of Interest**

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) and/or their immediate family have a stake in a licensee-company, then they are required to disclose the stake they and/or their immediate family have in the company, and license or an assignment of rights for a patent to the licensee - company in such circumstances, shall be subject to the approval of the IP Management Committee.

vi. **Dispute Resolution**

In case of any disputes between (Institute/University) and the Inventor(s) regarding the implementation of the IP policy, the inventor(s) may appeal to the Principal of (Institute/University). Efforts shall be made to address the concerns of the inventor(s) by developing and instituting an arbitration mechanism and arrangement. The Principal's decision in this regard

would be final and binding on both institute and inventor.

vii. **Contracts and Agreements**

All agreements including but not limited to the following categories, for activities undertaken by any (Institute/University) personnel need to be approved by the (Institute/University).

- Confidentiality Agreement / Non-disclosure Agreement
- Consultation Agreement
- Evaluation Agreement
- Research and Development Agreement (R&DA/MOU)
- License Agreement
- Technology Transfer Agreement
- Alternative Dispute Resolution Agreement
- Collaborative MOU with University / Organization

viii. **Jurisdiction**

All agreements to be signed by (Institute/University) will have the jurisdiction of the(Name of the city)..... in the state of(Name of the State)..... and shall be governed by applicable laws of India from time to time.

In WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by a duly authorized officer on the day and year first above written.

Inventor(s)

By: _____

Name: _____

Title: _____

University/Institute

By: _____

Name: _____

Title: _____