

# Intellectual Property Rights Policy (2021)



King George's Medical University  
Lucknow, Uttar Pradesh, India

(Implemented on \_\_\_\_)

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## 1. PREAMBLE

### Context and University Mission

King George’s Medical University (hereinafter referred to as “**KGMU**” or “**the University**”) has comprehensive facilities for education, research and patient-care. The University has a vision to be an outstanding University of Medical Excellence in the world of education, research, and patient-care. It is, therefore, imperative that the knowledge generated in the University is adequately protected while being made available to the public for the larger societal interest.

The KGMU Intellectual Property Rights Policy (IPR Policy) covers the basic principles, policies and operating guidelines on all Intellectual Property (IP) issues and matters related to KGMU, Lucknow. The Policy has been created in line with the mission of the University:

- To become one of the world’s best providers of high-quality teaching and excellence in education;
- Generate outstanding leaders in health sciences
- Promote multidisciplinary scientific biomedical research
- Provide compassionate, patient-centred care of the highest quality

The University is committed to ensuring that IP emanating from its research activity is used in support of the objectives set out in its Mission Statement, and in accordance with the National IPR Policy of India and other legal obligations, for the benefit of the University, the Creators and, most importantly, society at large.

**1.1.Need for IPR Policy:** Innovation is the need of the hour for the growth of every economy. The academic and research institutes are the penultimate hub for nurturing the innovative minds in a country. In this fast-paced era of knowledge economy, it is imperative to protect the innovations generated in these esteemed institutions. The Trade Related Aspect of Intellectual Property Rights (TRIPS) agreement in 1995 is one of the most comprehensive multilateral arrangements on IPR which laid the foundation for the protection of IP worldwide. According to the World Intellectual Property Organization (WIPO), an IPR Policy provides structure, predictability, and a conducive environment in which universities and researchers can flourish, access and share knowledge, technology, and IP. All the prominent universities in the world manage and protect their IPs through efficient IPR Policies. Although India ranks 4<sup>th</sup> based on the journal publications according to the 2020 SCIMAGO journal and country rank, it ranks only 46<sup>th</sup> in the Global Innovation Index 2021. The National IPR Policy was approved by the Government of India in 2016. One of the primary objectives of the Policy is to promote and develop IPR in academic and research institutes and universities for successful generation and commercialization of technologies/IP for the benefit of the general population. The KGMU IPR Policy aims to achieve the mission and vision of the University by aligning itself with the existing science and technology policies of India.

**1.2.Scope of IPR Policy:** This Intellectual Property Rights Policy (hereinafter referred to as “Policy”) is meant to pave the way for academic and non-academic staff/employee (both permanent and

temporary), students/fellow (undergraduate, post-graduate, and research scholars), start-up/spin-off companies generating IPs at the University, and external sponsors on the practices and rules of the University regarding IP Rights and obligations thereunder which include the nature of the IP, its ownership, exploitation, technology transfer, and confidentiality requirements. IPs can be generated through research supported by internal or external funding. This Policy discusses IP issues to safeguard academic freedom, allocates a fair share of the benefits to the creator(s) of IP, and promotes them to conduct research, transfer technology and create substantial benefit from the creation of intellectual property.

**1.3.Right to amend the IPR Policy:** The Intellectual Property Management Committee (hereinafter referred to as “IPMC”) of the University shall have the responsibility of interpreting the Policy and recommending changes in the Policy from time to time to the Executive Committee of the University. Pursuant to such recommendations, the IPR Policy may be amended by the University as and when required through an ordinance passed by the Executive Committee in that regard.

## **2. OBJECTIVES**

The content put forward in this document relates to an IPR policy (and related administrative Procedures) with the following objectives:

**2.1.To promote innovation by the University:** By facilitating researchers and innovators in the generation of IP so that KGMU could effectively discharge its responsibility of stimulating and

encouraging the novel/creative activities in the area of medical sciences and technologies in the broadest of horizons.

**2.2.To promote IP utilization in larger societal interest:** By making available a policy for encouraging the distribution of the KGMU's intellectual property in larger societal interest, so that pragmatic application of 'research' occurs, leading to 'products/processes/services/know-how' which benefit the society, while safeguarding the interests of the creators or licensees of such property.

**2.3.To promote revenue generation for the University and creators therein:** By promoting licensing and commercialization of IP and also giving a fair share in revenue to the creators.

**2.4.To create a dedicated infrastructure for IPR services to the University:** To set up and maintain a dedicated Intellectual Property Management Committee to provide services to the staff and students/fellows for effective commercial application of intellectual property generated at the University in the interests of all concerned, and to oversee the fair dispersal of the revenues accruing therefrom in accordance with this Policy and its amendments.

**2.5.To Create Mechanisms for Legal Support:** To defend and protect the interests of the University and creators of intellectual property against unsanctioned use of such property by creating appropriate mechanisms for legal support in form of panel of advocates and lawyers as per approved list of charges and scope of work.

**2.6.To lay down an efficient and transparent administrative process for IP ownership control:** By streamlining the process of registration of the IP through the University approved mechanism as laid down in the Policy and providing accessibility and awareness about the Policy to the researchers/students/fellows and staff members/employees alike.

**2.7.To educate the students, faculty and employees of the University in all matters related to Innovation, IP and Copyrights:** by organizing various IP awareness and training programs and providing guidance to the Creators regarding potential patentability of the research before the same is sent for journal publications, abstracts for conferences, seminars and poster presentations.

### **3. DEFINITIONS AND INTERPRETATION**

3.1. In this IPR Policy, the following terms shall, unless inconsistent with the context in which they appear have the following meanings and expressions derived from those terms that shall bear corresponding meanings:

- a. **Applicable Law:** Applicable Law shall include all applicable statutes, enactments, acts of legislature or parliament, laws, ordinances, rules, bye-laws, regulations, listing agreements, notifications, guidelines or policies of any jurisdiction and judicial, quasi-judicial, and/or administrative decisions, interpretations, directions, directives, licenses, permits,

- judgements, writs, injunctions, arbitral awards, decree, orders, terms and conditions of governmental or regulatory approvals or agreements with any governmental or regulatory authority.
- b. **Auxiliary Contracts:** An Auxiliary Contract means a document created with mutual consent of involved parties defining the rights, roles and responsibilities of each of the parties, for example, Memorandum of Understanding (MoU), Memorandum of Agreement (MoA), Research Agreement, Consultancy Agreement, Non-Disclosure Agreement (NDA), Deed of Assignment, Material Transfer Agreement (MTA), License Agreement, Service Agreements, Confidentiality agreements, Research Contract, Grant Award Letter etc.
  - c. **Collaborative Projects:** Collaborative Projects are completely or partially funded by the Collaborator and supplemented by provision of inputs from the University such as laboratory facilities, research material, human resource, etc. Collaborative Projects could be for upscaling/improving of laboratory level know-how, technology development or generation of IP, etc. The expected project output/results are well defined.
  - d. **Collaborator:** Collaborator refers to any Government, quasi-government, public enterprise, non-government or private entities or individual(s) which are involved with the University and its employees in the conduct of the research. The Collaborator may be national or international.
  - e. **Conflict of Interest:** A Conflict of Interest is any circumstance wherein genuine or anticipated interests of a Faculty Member, Research Scholar, Fellow or Student might oppose the interests



of the University or contrarily influence their work or obligations.

- f. **Creator:** A Creator is a person or a group of persons such as a Faculty Member, Fellow, Student, or Research Scholar responsible for creating an Intellectual Property (IP) by utilizing the University Resources.
- g. **Faculty Members:** Faculty Member means any person professionally qualified to carry out patient care, teaching, training, and/or research employed at the University either as a whole-time employee or as Emeritus or Visiting professor.
- h. **Grant-in-Aid Projects:** Grant-in-Aid Projects are normally for supporting for basic or exploratory research or for maintaining or creating testing and infrastructural facilities. These projects shall involve grant by way of financial inputs, either in full or in part, assistance in kind, e.g., equipment, human resources, training to supplement KGMU's effort in ongoing or new research & development projects or for creating new capabilities/facilities.
- i. **Intellectual Property (IP):** IP means any right to intangible property, including copyright and related rights, trade secret, trade mark, patent, design, plant variety, geographical indication, layout designs of integrated circuits, as defined under the Copyright Act, 1957, Trade Marks Act, 1999, the Patents Act, 1970, the Designs Act, 2000, the Protection of Plant Varieties and Farmers' Rights Act, 2001 The Geographical Indications of Goods (Registration and Protection) Act, 1999, and the Semiconductor Integrated Circuits Layout-Design Act, 2000.

- j. **IP Fund:** IP Fund shall mean the fund generated out of revenue from licensing fee and royalties in accordance with Section 7. The initial amount shall be generated through seed funding as decided by the University.
- k. **Fellow:** A Fellow is an international student who is not a citizen of India and is enrolled in the University or is visiting the University for the purpose of education under an exchange program.
- l. **Research Contract or Work for Hire:** Research Contract or Work for Hire comprises of all research and development activities undertaken through definite Auxiliary Contracts in that regard and include but are not limited to Sponsored Projects, Collaborative Projects, Grant-in-aid Projects etc.
- m. **Research Project:** Research Project means any project that forms the basis of Research undertaken by the University and includes projects undertaken by a Fellow, Student or under the supervision of a Faculty Member or a Research Scholar, as part of a research degree program.
- n. **Research Scholar:** A Research Scholar is any person who is neither a Faculty Member nor a Fellow/Student of the University who engages in work at the University, including adjunct and conjoint professors, teachers, researchers, scholars and volunteers; and who concludes an appointment agreement with the University
- o. **Scholarly Works:** Scholarly Works include all copyright works which are the outputs of Faculty Members, Fellows, Students or Research Scholars, including research, creative and other outputs

in area(s) of his expertise or professional acumen. It does not include Course Materials.

- p. **Sponsored Projects:** Sponsored Projects are the projects which are entirely funded by an external sponsor having specific research and development objectives, and having a specific expected outcome, generally resulting into the creation of Intellectual Property. Sponsored projects could be funded by multiple sponsors including individual, public/private entity, government organisation.
- q. **Student:** A Student means a person who has registered or enrolled as a full-time student, part-time student, casual student or exchange student from other universities/colleges within India for professional and research training.
- r. **Substantial Use:** Substantial Use shall include the extensive use of the University Resources which include but are not limited to facilities, equipment, human resources or funds and Background IP that is not publicly available. Routine use of libraries and/or office space is not included.
- s. **University's Confidential Information:** University's Confidential Information means all non-public material, research, business-related information, written or oral, whether or not it is marked as such, that is disclosed or made available to the receiving party, directly or indirectly, through any means of communication or observation and includes but is not limited to any document, lab notebooks, discovery, invention, improvement, patent specification, formulations, plans, ideas, books, accounts, data, reports, drafts of documents of all kinds, correspondence, client information, lists and files, decisions,

information about employees, strategies, drawings, recommendations, designs, office precedents, policies and procedures, budget and financial information in any form, i.e. physical, electronic, or otherwise, trade secrets, technical know-how, confidential data and related information about IP owned by the University.

- t. **University Resource:** University Resource means special facilities and equipment, specific funding, Intellectual Property already owned by the University, requisitioning the time and labour of Students and Faculty Members through University's administrative channels, or at the University's instance and expense, and remission by the University of any or all of the normal duties of Faculty Members or Students to provide time or resources for the purpose of generating IP.
- u. **Individual Scholarships, Fellowships and Grants:** No individual scholarship, fellowship or training grant tenable at the University will normally contain any provision giving the awarding agency any right to Intellectual Property created by the recipient. Intellectual property generated by recipients of such funding will be governed by the Auxiliary Contract between the Sponsor of the project and the University.

### 3.2. Unless the context otherwise requires, in this Policy:

- a. Words using the singular or the plural number also include the plural or singular number, respectively;
- b. The terms “hereof”, “herein”, “hereto” and similar words refer to this Policy and not any particular Section, or any other subdivision of this Policy;

- c. References to “Section” or any other document in this Policy shall be construed as references to the Sections of this Policy, or such other document, as may be amended or modified or supplemented from time to time, and shall include a reference to any document which amends, modifies, or supplements it or is entered into, made or given pursuant to or in accordance with its terms.
- d. The headings in this Policy are inserted for convenience only and shall be ignored in construing this Policy.

#### 4. APPLICATION OF THE POLICY

- 4.1. **Intellectual Property (IP):** This Policy applies to each and every IP created at the University, in particular, by the Faculty Members, Fellows, Students, and Research Scholars.
- 4.2. **Background IP:** At the beginning of their employment, enrolment or appointment, as the case may be, Faculty Members, Fellows, Students, and Research Scholars must declare any existing IP which they desire to exclude from the application of this Policy due to creation prior to their employment, enrolment, or appointment at the University.
- 4.3. **Applicability and Commencement:** This Policy applies to all faculty members, fellows, students, and research scholars who participate in a Research Project or produce Scholarly Works and shall commence on \_\_ day of January, 2022 when an ordinance in that regard has been passed by the Executive Committee of the University ratifying the provisions of this Policy. The rights and

obligations under this Policy shall survive the termination of employment, enrolment, or appointment.

**4.4. Binding nature of the Policy:** This Policy constitutes an understanding that is binding on the University, Faculty Members, Fellows, Students, and Research Scholars on the following grounds:

a. **Faculty Members:** The University shall ensure that the employment contract or other agreement establishing any type of employment relationship between the University and Faculty Members includes a provision placing Faculty Members under the scope of this Policy.

b. **Students/Fellows participating in a Research Project:** The University shall ensure that the Students/Fellows participating in a Research Project sign an agreement before the commencement of the Project, to the effect that they have read and will comply with the provisions of this Policy.

c. **Research Scholars:** The University shall ensure that Research Scholars sign an appointment agreement before commencing any activity at the University. Such agreement shall make a reference to this Policy and shall place the Research Scholar under the scope of this Policy, a copy of which shall be made available to the Research Scholar.

d. **Informed Consent:** This Policy shall be published on the University's website, the faculty handbooks, and the student handbooks. In addition, a reference of this Policy shall be made in the terms and conditions of enrolment of Students/Fellows, the agreement of appointment of Research Scholars, and the agreement of employment of the Faculty Members. Said reference

shall be in sufficient detail to enable the full text of the Policy to be easily accessed.

## **5. GOVERNANCE AND OPERATION**

### **5.1. Intellectual Property Management Committee (IPMC):**

Intellectual Property Management Committee (IPMC) will be the central administrative body which shall be responsible for evolving detailed procedures to facilitate implementation of the IPR policy of KGMU and carry out related responsibility on behalf of KGMU. This committee will have five (5) members including the Chairperson. The IPMC shall be chaired by the Vice Chancellor, KGMU or his/her nominee. The In-charge-Innovation and IP Cell shall be the Member Secretary of the IPMC whereas the other three members shall be appointed by the Vice Chancellor, KGMU. One member each should have a legal, accounting, and administrative background. In addition to the 5 members and at the discretion of the Vice Chancellor, a senior official of an organization with expertise and experience in effective management of Intellectual Property Rights (IPRs) and technology transfer to academia, research institutions, government agencies, industry and start-ups in biotechnology and allied subject areas; may be appointed as an external advisor of IPMC to enable smooth implementation of the Policy.

### **5.2. Powers of IPMC:**

The role and powers of the IPMC would be:

- a. To produce and settle procedure and guidelines for implementation of the IPR Policy at the University;
- b. To produce and settle draft agreements to enable IP Protection by the University;
- c. To produce and settle decision regarding framing University IP strategies, IP portfolio maintenance, IP audit, IP litigations and end-to-end technology transfer activities.
- d. To enable administrative filings of IP by both the University empanelled organisations (such as any law firm or IP firm) as well as individual Faculty Members using their projects and other funding and formulate programs for educating Faculty, Fellows, Students, and Research Scholars about IPR and other associated issues;
- e. To efficiently and diligently manage as well as utilize the IP Fund including investment thereof; and decide on the allocation of the IP Fund suitably.
- f. To decide on funding of any IPR application from Faculty Members, Fellows, Students, and Research Scholars at the University and sanction/permit the formation of any academic spin-off/ start-up by the Faculty Members, Fellows, Students, and Research Scholars;
- g. To redress any conflict, grievance, or complaint regarding ownership of IP, processing of IP proposals, procedures adopted for implementation of IPR policy and interpretation of various clauses of IPR policy.
- h. To examine the matter of violation/infringement of any IP rights related to KGMU and make recommendation to the Vice Chancellor for the efficient resolution of such violation/infringement;



- i. To deal with any other pertinent issues arising out of the promotion as well as implementation of this IPR Policy and any other task assigned to it by the Vice Chancellor, KGMU from time to time.

## 6. OWNERSHIP OF INTELLECTUAL PROPERTY

**6.1. Generation of IP:** There may be several ways and methods through which IP is generated at the University. This Policy will apply to them as follows:

- a. **Sponsored Projects:** The IP generated from Sponsored Projects shall be jointly owned by the University and the Sponsor(s) and the Sponsored Research Agreement shall contemplate a clause embodying this principle. The protection and maintenance of the IP generated through Sponsored Projects shall be the joint responsibility of the University and the Sponsor(s). The decision of protection of IP rights shall be mutually decided by the University and the Sponsor(s). In case a mutual decision is not arrived at, the Vice Chancellor, KGMU, shall finally decide upon which shall be binding on the Creator(s) and Sponsor(s).
- b. **Collaborative Projects:** The IP generated from Collaborative Projects shall be jointly owned by the University and the Collaborator(s) and the Collaborative Research Agreement shall contemplate a clause embodying this principle. The protection and maintenance of the IP generated through Collaborative Projects shall be the joint responsibility of the University and the Collaborator(s). The decision of protection of IP rights shall be

mutually decided by the University and the Collaborator(s). In case a mutual decision is not arrived at, Vice Chancellor, KGMU, shall finally decide upon which shall be binding on the Creator(s) and Collaborator(s).

- c. Grant-in-aid Projects: Prior to undertaking any assignments from any national or international agency including government organizations, the ownership rights of any potential IP shall be mutually decided or as governed by the grant agreement. However, in case of non-government agencies or in the absence of any specific conditions of the Grantor in that regard, the University shall own the IP generated from Grant-in-aid Projects.

**6.2. Patents and Inventions:** As a general rule, the University shall own the IP which have been created using the University Resources and which, in the opinion of the University, are commercially viable. The Creator(s) shall enter into a Commercial Rights Agreement with the University, wherein it shall be clearly stated that the University owns the IP but the Creator(s) are vested with the right to pursue potential licensee for the commercialization of the IP. No separate permission shall be required to be taken from the Vice Chancellor, KGMU in that regard post the execution of the Commercial Rights Agreements. The Commercial Rights Agreement shall also incorporate the revenue sharing model as contemplated in Section 7 herein. The Vice Chancellor, KGMU shall execute all the License Agreements, whether exclusive or non-exclusive, notwithstanding the existence of a Commercial Rights Agreement. The Commercial Rights Agreement does not vest the Creator(s) with a right to

license the IP in their own name. The University shall also own all the IP created through Sponsored/ Collaborative Projects wherein the Sponsor(s)/Collaborator(s) do not claim ownership to the IP rights. At the discretion of the University, the IP may be assigned to the Creator(s) who have incorporated themselves into a legal entity, through a deed of assignment as per the prevalent norms of the University. The valuation of the IP for such assignment shall be carried out by the IPMC through itself or through an external agency.

**6.3. Copyrights:** The author of a literary work shall own any and all copyrights in theses, dissertations, research papers, laboratory records, books, articles, including online works such as blogs, vlogs, YouTube videos/ channels, and other copyrightable works made or maintained by the Fellows, Students, Faculty Members, or Research Scholars in the course of their studies, employment or appointment at the University, as the case may be. However, any copyrightable work produced as a work for hire will belong to the University or to the Sponsor, as per the terms of the Auxiliary Contract. The University shall also be entitled to a share of 10% in the revenue obtained in the form of licensing fee/ royalty of such Copyright or monetization of such literary/ online works.

**6.4. Licensing of Intellectual Property:** Wherever, the ownership of an IP lies with the University, the rights to license the IP, either on an exclusive or a non-exclusive basis, shall also lie with the University in consultation with the IPMC. As a general rule, the IP owned by the University shall be first offered to be licensed to the

respective Creator(s). The expenses related to maintenance and the protection of IP shall be borne by the Creator(s) if the IP is owned by the Creator(s) or by the licensee once the IP has been licensed to them. In case of joint ownership of the IP between the University and a Sponsor, Collaborator or any other agency, the first right to commercial exploitation through licensing may be given to the Sponsor, Collaborator, or other agency, as the case may be, after prior written communication has been sent to the University by the concerned interested party in that regard.

#### 6.5. IP created by Faculty Members

- a. **University's Ownership:** The University owns all IP created by a Faculty Member in the course and scope of his employment or making Substantial Use of the University Resources.
- b. **Faculty Member Ownership:** Faculty Members will own the IP they have created when such IP is outside the scope and course of their employment and without Substantial Use of the University Resources. In such a case, the Faculty Members shall obtain a No Objection Certificate from the IPMC to seek ownership in IP.
- c. **IP emanating from Research Contracts:** In the absence of provisions to the contrary in any national law or where there is no Substantial Use of the University Resources, the terms of the Research Contract will regulate ownership of IP created by Faculty Members in the course of a Research Project that forms part of a Research Contract.
- d. **Appointment of Staff Members at another Institution:** It is the responsibility of each Faculty 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 IPMC, 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 Faculty Member pursuant to such appointment, the Faculty Member shall ensure that the Host Institution negotiates a suitable IP arrangement with the University.

#### 6.6. IP created by Students/Fellows

- a. **University ownership:** IP created by a Student/Fellow in the course of study at the University (except any copyrightable work not produced as a work for hire) will be owned by the University. The University may elect to not own or manage an IP/technology if in its opinion the technology/IP is not commercially viable. In such case, the Student/Fellow may get the IP/technology protected in its own name after obtaining an No Objection Certificate from the IPMC.
- b. **Theses or dissertations:** The Student must submit his/her final thesis or dissertation to the University repository.
- c. **IP emanating from Research Contracts:** The terms of the Research Contract shall regulate the ownership of IP created by a Student/Fellow in the course of such Research Contract.
- d. **Bursaries/scholarships:** An external party that grants a bursary or scholarship to a Student/Fellow may elect to own the IP created by that Student/Fellow in the course of his/her study at the University provided the Student/Fellow and the University

have consented to the assignment of IP ownership in writing and such consent is not contrary to any Applicable Law.

- e. **Student/Fellow Owned IP:** IPMC may, upon agreement, provide Commercialization services to Students for their IP. In this event, Students/Fellow may be required to assign their IP to the University and will be afforded the same rights and obligations as Faculty Members under this Policy.

**6.7. IP Created by Research Scholars:** Unless otherwise agreed to in writing by the University and the Research Scholar's home institution prior to the tenure at the University, Research Scholars are required to assign to the University any IP created in the course and scope of their appointment at the University or created by making Substantial Use of the University Resources through a deed of assignment. On departure from the University, a Research Scholar must sign and submit to IPMC an Invention Disclosure Form (IDF) disclosing any IP created, as per Section 6.7, whilst at the University.

## **7. REVENUE SHARING/ INCENTIVE FOR CREATORS**

For University-owned IP, the Creator(s) shall get 80% and the University shall get 20% of the revenue earned out of licensing fee and royalty after the deducting the expenses incurred for registration and maintenance of the IP. Out of the University's share of 20%, 50% shall go to the IP Fund of the University; 50% goes to the concerned department for the development of R&D infrastructure and to the IPMC to meet its revenue/capital expenditure. The allocation of funds to various departments of the University shall be decided by the IPMC. The

IP Fund shall be used for maintaining the IP, Filing of New IPs, promotion, demonstration, further commercialization and upgradation of the invention. A separate bank account shall be opened to effectively manage the money accumulated in the IP Fund. Any unspent amount from the IP fund at the end of a financial year will be used for Research Projects, IP/technology transfer and expenditure toward IPMC's other innovation related activities at the discretion of IPMC. If the University owns the IP with another Sponsor or in case of Collaborative Projects, the revenue sharing shall be in accordance with the Auxiliary Contracts. In case the University chooses not to own or manage the IP (including Copyrights not owned by the University) in accordance with Clause 6.5.b or Section 9, the University shall still be entitled to 10% of the revenue earned out of licensing fee in case of Copyrights and 20% in case of Patents and other IP. The Creator(s) shall ensure that the Auxiliary Contracts licensing such IP incorporates a provision for embodying this Section of revenue sharing. In such a case, the Creator(s) are entitled to deduct the expenses for registration and maintenance of the IP before distributing the revenue to the University. The revenue sharing model is subject to review by the IPMC after the completion of 5 years from the effective date of this Policy.

## **8. PUBLICATION, NON-DISCLOSURE AND TRADE SECRETS**

**8.1. Right of Publication:** The University encourages and supports the right of the Creator(s) to decide if and when to publish their Scholarly Works provided that, in case any IP is emanating or purports to emanate from such Scholarly Works, the Scholarly Works are first cleared by the IPMC by giving a No Objection

Certificate to the Creator(s) in writing after having an opportunity to first protect such IP.

**8.2.Non-disclosure for IP Protection:** In conjunction with the right of publication, Creator(s) should be aware that premature public disclosure may result in loss of IP protection rights. Therefore, they are strongly advised to make all reasonable efforts to identify any protectable IP as early as possible and shall consult IPMC before making any public disclosure of potential IP.

**8.3.Trade Secret:** The University may designate certain Confidential Information as a Trade Secret, owned by the University. In such event, all Creator(s) will be obligated to maintain secrecy of the Trade Secret and to follow the direction for management of the Trade Secret by IPMC.

## **9. EVALUATION AND MANAGEMENT OF IP**

The evaluation, protection, marketing, licensing, and management of the IP generated at the University shall be the responsibility of the Intellectual Property Management Committee (IPMC) of the University. In order to ascertain whether the University desires to own and manage the IP, the creators of the IP shall provide all the necessary information to the IPMC. As a general rule, an Invention will only be patented by the University if it has ultimate commercial motivation and viability, even if it is not in the immediate future. The University may permit the Creator(s) to file patents and protect the IP on their own in case it decides not to own and manage the IP by providing a No Objection Certificate in that regard. However, share of the University in revenue



resulting to the Faculty Member/Student from licensing from such IP will be determined as described in Section 7. In the case of patentable IP, it is essential that IP is adequately protected by filing the patent application before publication or disclosure in any other form in public domain of the patentable IP. The IPMC will examine the IP application and will then make specific observations regarding Patentability/Registration of the proposal by the University. The IPMC may seek the aid of experts/ outsource the task with proper service agreement for this purpose. In all these endeavours, confidentiality of the IP shall be strictly ensured. In case the contract/agreement/MoU with a sponsor/collaborator specifies that the sponsor/collaborator will manage the process of filing of patents and bear the associated costs, the Creators will provide information to the IPMC of each such filing/application. Details of the invention need not be provided in such cases in the interest of confidentiality, if so desired. Progress of the application through various stages, such as international filing through Patent Cooperation Treaty (PCT), foreign national phase, etc. will be informed to the IPMC by the Creator(s) as and when the Creators become aware of such progress.

## **10. IP PORTFOLIO MAINTENANCE**

### **10.1. Registration of IP**

The Creator(s) of the IP shall disclose all the information to the IPMC in the Invention Disclosure Form (IDF) in order to facilitate the IPMC to ascertain whether or not the University wants to own the IP. As a general practice, an invention shall be patented by the University only if it is of the opinion that the invention has

commercial impetus and feasibility. If the University does not wish to own the IP, it shall permit the Creator(s) to file for their own IP and shall issue a No Objection Certificate in this regard. However, the revenue generated by such IPs shall be shared by the University as stated in Section 7 of this Policy. It is imperative to file the patent application before academic publication or any kind of disclosure to the public in the case of patentable IP in order to protect the interest of the Creator(s) as well as the University. In the case of a Sponsored Project, if the Sponsor wishes to manage the filing of patents and bearing the cost, the Creator(s) shall inform IPMC about the same and shall also provide a status update of such application to the IPMC from time to time.

a. **IP filing procedure from the University**

- The Student/Research Scholar/Faculty Member/Fellow concerned shall have to submit the IDF about invention in the prescribed format to IPMC. IDF is available with the IPR policy posted on the University webpage. It can also be obtained from the IPMC office. The IDF should clearly state which form of IP is proposed to be filed; and may also include request for guidance from IPMC on the applicable form of IP.
- On the basis of the IDF received, the IPMC and the patent agent/attorney in consultation with the Creator(s) shall carry out a prior art search and patentability assessment. The assessment shall be completed within a period of one-two weeks from the date of receiving the IDF.
- A provisional specification or complete specification of the patent application, based on the development stage of the invention, would be drafted by the patent agent/attorney duly

empanelled by the University once the invention meets the patentability criteria and has market potential.

- The patent filing shall be done on behalf of the Creator(s) and the University by the patent agent/attorney.
- All the necessary application forms for filing the IPR will be signed by the Vice Chancellor, KGMU as the authorized signatory of the University.
- On the successful filing of the patent application, IPMC shall inform the Creator(s) of the filing details and ensure that all the post-filing formalities are duly complied with in a time-bound manner.
- A similar process shall be followed for assessment and filing of all other forms of IPR as per their respective life-cycles in India and other jurisdictions.
- The IPMC is responsible for managing the entire IP lifecycle including prosecution, maintenance, and commercialization of the created IP and coordinating with the Creators/ University authorities/ Patent agents/ attorneys in this regard in a time-bound manner.
- The IP prosecution and commercialization is a time consuming and complicated process but brings prominence and glory to the University. The Students/ Research Scholars/ Faculty Members/Fellows are hereby informed that they shall be given the appropriate and requisite guidance from IPMC in order to facilitate the protection of the IPs created by and in the University.

**b. Filing of Application in India**

Creator(s) are motivated to file a provisional patent application in the name of the University as soon as possible. The permission of filing shall be automatically given before evaluation of the application by IPMC if the creator(s) can bear the cost of filing a provisional patent application. In such cases, the Creator(s) need not disclose the details of the invention to IPMC at this stage. However, if the University decides not to manage the IP, the Creator(s) shall take proper steps to file the complete specification within 12 months. In such cases, the University shall waive off its ownership right for that IP. If the University decides to own the IP jointly or fully, the cost for provisional patent filing shall be reimbursed to the Creator(s) in proportion to the ownership of the University.

#### 10.2. **Renewal of Patents**

Subject to Clause 6.4, the University shall be responsible for maintenance of a patent; and payment of all prosecution and annuity costs up to the 5<sup>th</sup> year from the first filing date of the patent application. In case the patent is jointly owned by the University and other sponsor(s), the cost of patent filing, prosecution and maintenance shall be shared as per the terms of the Auxiliary Contract. The licensee/assignee shall pay the renewal fees for the subsequent fifteen (15) years of the patent term from the revenue generated out of licensing and royalty in case the patent has been commercially exploited within the first five (5) years. If such a situation does not occur and the patent has not been commercialized within the first five (5) years, then the University, through the IPMC, would discontinue

maintenance of the patent and allow it to lapse on its own due to non-payment of requisite renewal fees.

### 10.3. **Recording, Monitoring and Accounting**

IPMC, or any external entity designated by the IPMC, shall maintain records of the University's IP in an appropriate form in digital mode 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, make payments or inform the person or department designated to make such payments. IPMC shall also maintain income/expense accounting records on each IP so that revenue sharing allocations can be calculated.

## **11. ENCOURAGING ENTREPRENEURSHIP AND STARTUP CREATION**

The University shall grant a license on the IP, on an exclusive/ non-exclusive basis, as the University may deem fit, to the Creator(s) of the IP, who opt to create an academic spin-off. If any Faculty Member of the University wants to start a venture (academic spin-off), a sabbatical leave may be considered as per the Government of India norms. The Faculty Member shall be allowed to join back the University in case the venture undertaken by him/her is unsuccessful. The University shall promote and support the Faculty Members/ Research Scholars/ Students/ Fellows who want to start any innovation-based venture. The start-up/ venture set up by a researcher may be exempted from any upfront fee and/or royalty accrued to the academic institution for a

certain period of time at the discretion of the University in order to encourage such venture/ start-up.

## **12. RESEARCH ETHICS AND INTEGRITY**

The University shall properly monitor research ethics and integrity for all the Research Projects to check academic dereliction and elevate the quality of research. Each Student/ Research Scholar / Fellow shall be issued a laboratory notebook by the University which is a vital tool for research data management and can act as documentary evidence for proving inventorship/authorship in the court of law. Each Student/ Fellow/ Research Scholar is advised to properly and accurately record data collected during their research in order to reinforce the practice of responsible research along with the signature of two witnesses. The research guide is responsible for educating his team/scholars about the use of lab notebooks. Any and all individuals who have contributed as authors must be acknowledged with regard to any scientific publication. Plagiarism in journal articles, doctoral and master's theses, or any other scientific report is a disciplinary violation that will entail disciplinary action. Any allegation of research misconduct should be addressed to the Vice Chancellor, KGMU. The lab notebook is the sole property of the University. At the time of submission of thesis, the Students/ Fellows/ Research Scholars are required to surrender their lab notebooks. The Students, Fellows, Faculty Members, and the Research Scholars shall abide by all the relevant Applicable Laws including, but not limited to, Drugs and Cosmetics Act, 1940, Indian Medical Council Act, 1970 and the rules made thereunder.

### 13. IP AWARENESS AND TRAINING PROGRAM

The members of the IPMC are obligated to educate the students, fellows and staff alike regarding the IP laws. The University shall make it compulsory for all the Faculty Members to participate in the IP awareness and training programs conducted by the IPMC. The Creator(s) shall seek the guidance of the IPMC regarding potential patentability of the research before the same is sent for journal publications, abstracts for conferences, seminars and poster presentations.

### 14. CONFIDENTIALITY, DATA PROTECTION, AND PRIVACY

All users of information and documents (“**University’s Confidential Information**”) within the University are required to ensure that such information and documents are kept confidential. The University shall ensure the execution of proper non-disclosure agreements with the user(s) to protect the integrity and confidentiality pertaining to such information and documents. Notwithstanding anything contained hereinabove, the following information shall not be considered as confidential:

- a) Information already pre-existing in the public domain;
- b) Information required to be disclosed pursuant to Applicable Laws;
- c) Information independently developed by the Creator without the use of any University Resources; and
- d) Information received from a third party that is not bound by any covenants of non-disclosure.

## **15. INFRINGEMENT, DAMAGES, LIABILITY, AND INDEMNITY**

15.1. Pursuant to any Auxiliary Contract entered into by and between KGMU and any individual or body corporate, University shall obtain indemnity from legal proceedings against the University including its employees, without limitation, due to any reasons whatsoever.

15.2. As a general practice, the University shall obtain, through Auxiliary Contracts, indemnification from the organisations to which the IP is being transferred, arising out of its commercial exploitation against any direct or indirect liability.

15.3. The University shall have the right to oppose, prosecute, engage in, desist from becoming a party in any litigation concerning IP and licensing infringements.

## **16. LIMITATION OF LIABILITY**

KGMU shall not be held liable for any damages arising out of the breach of any of the Auxiliary Contracts whether or not such Contract has been approved by the University. In case of any conflict with the provision of the Auxiliary Contracts and this Policy, the provisions of this Policy shall prevail.

## **17. CONFLICT OF INTEREST**

The Creator(s) are required to disclose any potential and existing Conflict of Interest. If the creator(s) and/or their blood relatives have a



stake in a licensee-company, then they are required to disclose the stake they and /or their blood relatives 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 IPMC. Each individual should make his/her duties and responsibilities clear to those with whom any Auxiliary Contracts may be made and should ensure that they are provided with a copy of this Policy. The decision on the existence of a Conflict of Interest shall be taken by the Vice Chancellor, KGMU in consultation with the IPMC and such decision shall be final and binding.

## **18. AGREEMENTS AND CONTRACTS**

All Auxiliary Contracts and other agreements including but not limited to the following categories need to be approved by the University. The Vice Chancellor acts as a final signing authority in all categories of agreements to be entered into by the University including but not limited to i) Confidentiality agreement/ Nondisclosure agreement, ii) Collaborative research agreement, iii) Material transfer agreement (iv) License Agreement, (v) Option Agreement, (vi) Memorandum of Understanding (MoU), (vii) Memorandum of Agreement (MoA). All the agreements will be in accordance with the templates provided in the attached Annexure. In case a specific agreement is not available in the Annexure, the agreement shall be provided by the IPMC, as needed.

## **19. DISPUTE RESOLUTION**

19.1. In case of any disputes between the IPMC and the Creator(s) of KGMU regarding the implementation of the IPR policy and IP

Portfolio Maintenance which shall include the apportionment of the cost and the expenses payable by each of them, the Creator(s) may appeal to the Vice Chancellor, KGMU. The decision in this regard would be final and binding on both.

19.2. Disputes arising from Collaborative research or from externally sponsored research out of or in relation to the construction, meaning, scope, operation or effect of IP ownership and exploitation shall be governed by the Auxiliary Contract. Provided, in the absence of any written Auxiliary Contract and if parties thereto agree, the Vice Chancellor, KGMU shall refer the dispute to an independent expert who shall conciliate and pass an award that shall be final and binding on all the relevant parties. The seat of conciliation shall be Lucknow and the proceedings shall be conducted in English Language. Please note that researchers entering into any such Auxiliary Contracts should endeavour to integrate the above stated Dispute Resolution Mechanism, therein unless the sponsor is governed by any other prescribed mode of Alternative Dispute Resolution Mechanism.

## **20. JURISDICTION**

As a policy, all the agreements to be signed by the University along with any and all issues arising in relation to or in connection with those agreement shall be exclusively subject to the jurisdiction of the competent courts situated at Lucknow, Uttar Pradesh and shall be governed by appropriate laws in India.