



**SHIV NADAR UNIVERSITY**

**INTELLECTUAL PROPERTY RIGHTS POLICY**

**2016**

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# THE INTELLECTUAL PROPERTY RIGHTS POLICY

## **PREAMBLE**

The Intellectual Property Rights (IPR) Policy of the Shiv Nadar University (SNU) aims at familiarizing all faculty, staff and students with the process of filing of patent applications on their innovations, and associated issues, to encourage and facilitate transfer of technologies, which may offer shared benefits to both SNU and the inventors and have positive impacts on the society.

## **1. RECITALS**

- 1.1. The Shiv Nadar University (hereinafter referred to as the “**University**”) IP Policy 2016 (hereinafter referred to as the “**Policy**”).
- 1.2. This Policy shall be applicable from 1 January 2016.
- 1.3. The Policy shall be read together along with the other rules, bye laws and regulations etc. of the University.
- 1.4. This Policy is binding on the Faculty, Support Staff, Students and Visitors of the University (“**Personnel**”).
- 1.5. The Policy shall be applicable to Personnel including those who use University funds, facilities or other resources, or participate in University administered research, including visiting faculty, and industrial personnel.
- 1.6. The University recognizes public benefits from IP resulting from discoveries and inventions made by Personnel connected with the University in the course of their University activities.
- 1.7. The said Policy has been implemented keeping in mind various interests and also the University’s primary commitment to the public interest and public benefit.
- 1.8. The University’s policy governing the ownership and disposition of Intellectual Property which includes, but is not limited to, inventions, copyrights (including computer software) and trademarks has been more specifically laid out in clause 2 of this Policy. From time to time, advances in science and arts may result in new structures of Intellectual Property. They shall all be considered to fall within this Policy to the extent practicable.
- 1.9. The Policy encourages that ideas or creative works produced in (or) at the University should be used in ways that are meaningful in the public interest.
- 1.10. Although the Policy recognizes that public benefit should be placed before financial gain, it is often desirable for the University and Inventors/Authors to benefit financially from the use of a particular invention or creative work. The University shall consider

the benefits and consequences for the public, for the Inventors/ Authors, as well as for the University.

- 1.11. The Policy protects the traditional rights of Personnel with respect to products of their intellectual endeavors. Where the University takes ownership or control over scholarly works, the University shall consult with Author/Inventor on plans for publication, and shall not interfere with the rights of the Author/ Inventor to publish books or articles.
- 1.12. Where financial or other support in terms of facilities, equipment or staff for development of Intellectual Property has been provided or administered by or through the University, the University may have Associated Agreements which must be recognized or may have made financial investments for which reimbursement through commercial application is appropriate.
- 1.13. The University also has a compelling interest in ensuring that its name and insignias are properly used, especially that the use of its name or insignia to imply association with the University is accurate and appropriate, and that it receives a fair share of any commercial fruits from the use of its names.
- 1.14. From time to time, it may be in the best interest of the University to enter into Associated Agreements with third parties that are exceptions to the Policy and the Personnel covered by this policy. Exceptions shall be made by the University only upon written agreements signed by people who are authorized to grant such exceptions on behalf of the University.

## 2. **TYPES OF INTELLECTUAL PROPERTY**

- 2.1. The intellectual property (“**Intellectual Property**” or “**IP**”) can be broadly listed as:
  - 2.1.1. Patents
  - 2.1.2. Copyrights
  - 2.1.3. Trademarks
  - 2.1.4. Industrial design
  - 2.1.5. IC layout design
  - 2.1.6. New plant variety and Biotechnology Inventions
  - 2.1.7. Traditional Knowledge and Geographical Indications

## 3. **INTERPRETATION**

The terms referred to in this Policy shall, unless defined otherwise or inconsistent with the context or meaning thereof, have the same meaning ascribed to them under the relevant statute/legislation.

#### 4. **DEFINITIONS**

- 4.1. **Patents:** is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.
- 4.2. **Copyrights:** is an exclusive right given to the Author of the original literary, architectural, dramatic, musical and artistic works, cinematographic films and sound recordings.
- 4.3. **Author:** The word Author shall have the meaning so ascribed to it under section 2 (d) of the Copyright Act, 1957
- 4.4. **Trademarks:** means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colors.
- 4.5. **Industrial Design:** means only the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article whether in two dimensional or three dimensional or in both forms by any industrial process or means whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device.
- 4.6. **IC Layout Design:** means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit.
- 4.7. **New Plant Variety and Biotechnology Inventions:** a plant variety that is novel, distinct and shows uniform and stable characteristics. Biotechnological inventions include recombinant products such as vectors, nucleotide sequences, micro-organisms.
- 4.8. **Traditional Knowledge and Geographical Inventions:** The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to agriculture, food, medicine etc. over a period of time and has been passed from one generation to another traditionally. Geographical Indication means an indication which identify such goods as agricultural goods, natural goods as originating or manufactured in the territory of a country or a region or locality in that territory where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, regions or locality as the case may be.
- 4.9. **Inventor:** shall mean a person or a group of persons covered by this Policy who individually or jointly with others makes an invention and who meets the criteria of an invention as under the Patents Act 1970 and rules thereunder.
- 4.10. **Invention:** means a new product or process involving an inventive step and capable of industrial application.

- 4.11. **Disclosure Form:** Immediately upon creation of an invention or creative work, the inventor(s)/author(s) is (are) required to notify the University of such invention or creative work through a Disclosure Form as would be provided by the University. The said Disclosure Form shall be made available to Personnel via the University's website/ Administrative Office/ IP cell, or such other manner as may be notified by the University from time to time.
- 4.12. **Filing IP Applications:** Based on the Disclosure Form, University shall have the sole discretion for determining whether an IP application shall be filed. Filing determination may be made on the basis of commercial potential, obligations to and rights of third parties, or for other reasons which the University deems appropriate.
- 4.13. **Commercialization:** The University shall have the sole discretion with respect to the commercialization of the IP, but shall take into account the public interest. Where an IP is subject to an external agreement with a third party (which may include the Indian State and Centre and State government agencies, foreign government and other private agencies, etc.), the University shall make decisions consistent with that agreement. The University shall make decisions concerning commercialization as it deems appropriate and shall make reasonable efforts to keep Author(s)/Inventor(s) involved and informed of its commercialization efforts.
- 4.14. **Faculty:** means a person professionally qualified to carry out teaching and research at the University as a whole time employee or a visiting professor appointed by the University
- 4.15. **Support Staff:** means a person employed full time or part time by the University to support the research, development, teaching and other supporting activities including administrative activities of the University.
- 4.16. **Student:** means a person who has registered or enrolled as full time or part time, exchange student from other universities/colleges.
- 4.17. **Work for Hire:** the work or a product originated from the University and is meant for the specific purpose of the University and produced by the Personnel.
- 4.18. **Third Party:** Any governmental or non-governmental organization with whom the University or Personnel interacts for any activity with or without exchange of consideration in cash/kind.
- 4.19. **Associated Agreement:** document created by the University with mutual consent of involved parties defining the rights, roles and responsibilities of each of the parties.
- 4.20. **Visitor:** A person either from India or abroad visiting under a collaborative or associated work at the University. It is expected that the visit has been approved by the competent authority of the University.
- 4.21. **Personnel:** Include Faculty, support staff and students of Shiv Nadar University

## 5. **NON-DISCLOSURE AGREEMENT/ CONFIDENTIALITY AGREEMENT**

The Personnel warrant that they shall not disclose and shall keep confidential any information related to IP which is considered confidential by the University (“**Confidential Information**”). Any disclosure of Confidential Information shall be made only with the prior written approval of the University. An agreement intending to protect proprietary or Confidentiality Information shall be entered into and executed by the Personnel with the University.

## 6. **OWNERSHIP OF IP (OTHER THAN COPYRIGHT)**

6.1. The Ownership of the IP is predicated upon the type of activity leading to the generation of the said IP.

6.1.1. **In-house Activity:** Research or activities undertaken by Personnel of the University in the normal course of their appointment/engagement in the University. Also, any activity funded solely by the University.

6.1.2. **Collaborative Research/Activity:** research undertaken in collaboration with other universities, institutes, agencies and public or private companies located in India or abroad.

6.1.3. **Sponsored Research/Activity:**

a) Research undertaken by the Personnel on behalf of an external funding agency. The funding agencies may include the Indian State and Centre and State government agencies, foreign government and other private agencies etc.

b) Research or consulting projects undertaken by the Personnel with the support of private companies and organizations.

6.2. **Exclusively owned by the University:** All the rights in the IP arising out of research or any other activity carried out by University Personnel shall be exclusively owned by the University.

6.3. The IP is wholly and exclusively owned by the University if it has been developed with the use of funds/facilities provided by the University under an Associated Agreement; or

6.4. **IP can be owned jointly by the University and a Third Party, if:**

6.4.1. The IP has been generated with funding from external sources/ Third Party, including sponsored research, consulting projects and collaborative projects with formal signed agreement/MOU between the University and the external entity(ies).

- 6.4.2. In case of research project sponsored by the Indian Government, the ownership shall be in compliance with the statute prescribed by the funding agency at the time of approval of funding.
- 6.4.3. In case of collaborative projects, a signed MoU stating the ownership of the IP will determine the ownership. The MoU will reflect the relative contributions of the each stakeholder.
- 6.4.4. If the IP have been generated out of work carried out by the Personnel during a visit or sabbatical to external institution, then such IP shall be jointly owned by both, i.e., The University and the said institution.
- 6.5. The IP can be owned by the Personnel, where the IP is not related to the Personnel's engagement with the University. It is also expected that the concerned Personnel should have pursued these activities outside of working hours of the University.

## **7. OWNERSHIP OF COPYRIGHT**

### **7.1. Owned by the University:**

- 7.1.1. Any work generated using University resources including but not limited to funds, facilities, equipment or other resources, shall be owned by the University. University may choose to protect the copyright and share any financial benefits it receives, if any, with the Author, according to University terms and conditions.
- 7.1.2. Any work done for the University under contract and copyright generated out of such work will be owned by the University.

### **7.2. Owned by the Author:**

Subject to the exception in subsection 7.1, the University shall not claim ownership of copyrights on books, publications and other creative work authored and conceived by Personnel. The Personnel however should mention their University affiliation wherever applicable.

### **7.3. Owned by Personnel**

The copyright ownership of thesis, papers and other documents authored and generated by Personnel during course of their study/ association with the University may remain with such Personnel unless restricted by an Associated Agreement with the University or other entity. The in case of a thesis, student has to specify that the same does not include any information requiring IP protection from the University before copyright ownership is granted. The University may also explore the thesis for patentable information and use the same for filing for IP protection.



## 8. **ADMINISTRATIVE MECHANISM**

### 8.1. **Recordal of IP:**

University will implement a mechanism/ Disclosure Form, either in physical or electronic form or both, to record ideas, concepts/ IPs in a centralized location. Any Personnel who create new IP are mandated to disclose their ideas/ concepts/ IPs to the University forthwith by way of the said mechanism/ Disclosure Form. University shall ensure the confidentiality of such Disclosure Form by the Personnel on a best endeavor basis.

### 8.2. **Initial Review:**

University shall set up an “Internal Screening Committee” to determine whether an IP application should be filed on the basis of an initial review of the IP mentioned in the Disclosure Form, by way of conducting an IP search and/or evaluating its commercial potential, etc. If required, University may also use an external organization(s) of their choice for such initial review.

### 8.3. **IP Filings:**

8.3.1. The University at its discretion shall decide whether any IP application should be filed to protect the idea/ concept in the said IP.

8.3.2. If required, the University may take help of an external organization(s) to file and process such IP applications.

8.3.3. Subject to clause 6 & 7 above, University shall be the sole applicant/ one of the applicants in the IP application, and the concerned Personnel as mentioned in the Disclosure Form shall be the inventor(s)/ author(s) of the said IP.

### 8.4. **Use and Transfer of IP:**

8.4.1. The University along with the Personnel shall strive to identify potential use of the IP generated.

8.4.2. The University shall reserve the rights to obtain the services of a suitable agency to assist in the commercialization of the IP owned by the University.

8.4.3. IP owned by the University may be assigned/ licensed to a Third party solely at the discretion of the University.

8.4.4. IP owned jointly by the University and collaborating organization shall be explored for commercial exploitation under an Associate Agreement regarding technology transfer, licensing, assignment and revenue sharing.

8.4.5. In case the collaborating organization is uninterested in undertaking commercialization of jointly owned IP, the University reserves the right to license the IP to appropriate entity for commercialization. The net proceeds shall

however be shared with the respective collaborating organizations based on the Associated Agreement.

**8.5. Policy for IP Licensing and Assignment:**

The University shall enter into Associate Agreements with one or more than one person/entity for the use and exploitation of the IP.

**8.6. Use of Name/Trademark of the University by Third Party:**

The University may in its sole discretion allow the use of its name and trademark owned by it to a Third Party to whom IP has been licensed/ assigned through an executed Associated Agreement.

**9. REVENUE SHARING**

9.1. Any revenues received through assignment/licensing of the IP shall be shared between the University and the concerned Personnel in the ratio 40:60, i.e., 40 per cent of the revenues shall go to the University and 60 per cent of the revenues shall go to the Personnel.

9.2. Notwithstanding anything stated in clause 9.1, the University reserves the right to determine the share of a Third Party involved in IP creation from time to time.

9.3. Sharing of revenue with the Personnel shall continue even after association of the Personnel ends with the University.

**10. WAIVER OF IP RIGHTS**

10.1. Subject to an Associated Agreement and with appropriate approval from the sponsor, the University may waive its rights to specified IP in favor of the Inventor if:

10.1.1. Ownership of the Inventor is essential to disseminate benefits of the Invention to the society; or

10.1.2. The University decides not to pursue the protection of IP within a period of six (6) months from complete disclosure. Decision to pursue/not to pursue by the University shall be conveyed within three (3) months of full disclosure.

10.2. Notwithstanding anything to the contrary stated in this Policy and unless explicitly agreed to by the University, the University shall normally retain a perpetual, royalty-free license to use the IP and any corresponding patents, copyrights or trademarks for research and educational purposes.

**11. NON-COMPLIANCE AND BREACH**

All Personnel shall be responsible for compliance with government rules and this Policy and other rules for the development and use of the IP as the University may prescribe from time to time. In the event of non-compliance or breach of any of the provisions of

the Policy by the Personnel will cause the University damage for which recovery of money damages alone would be inadequate, and that, in addition to any and all remedies available at law, the University shall be entitled to seek equitable relief, including without limitation injunctive relief and/or specific performance from the competent courts in India to protect its rights under this Policy.

## 12. **INDEMNITY**

The Personnel (“**Indemnifying Party**”) agrees to jointly and severally indemnify and hold harmless the University, its agents and their officers, directors, employees (individually an “**Indemnified Party**” and collectively as the “**Indemnified Parties**”) promptly upon demand at any time and from time to time, from and against any losses claims, damages, actions, causes of action, costs and expenses to which any Indemnified Party may become subject, insofar as such losses arise out of, or result from: (i) any misstatements in the disclosure agreement of an invention/creative work; (ii) breach/non-compliance of the provisions of the Policy; (iii) any claim or proceeding by any Third Party against the Indemnified Party arising out of any act, deed or omission by the Indemnifying Party, insofar as such act, deed or omission relates to matters covered in this Policy, excepting always liability arising out of the independent acts or omissions of the Indemnified Parties.

## 13. **COMPLIANCE WITH LAWS**

The parties to this Policy shall perform their obligations under this Policy in strict compliance with all applicable laws, rules, regulations, notifications and guidelines of all governmental authorities.

## 14. **ENTIRE POLICY**

This Policy and the documents referred herein or that are expressed to be entered into in connection with the it constitutes the entire policy of the parties herein with respect to the subject matter of this Policy and supersede all other policies, agreements, negotiations and undertakings in respect thereof. The University shall in its sole discretion change/modify the Policy from time to time as and when required.

## 15. **GOVERNING LAW AND JURISDICTION**

This Policy shall be governed and construed in accordance with the laws of India. The courts at New Delhi, India shall have exclusive jurisdiction.

## 16. **AMENDMENT OR WAIVER**

No modification or amendment to this Policy and no waiver of any of the terms or conditions hereof shall be valid or binding or unless made in writing and duly executed by both parties.

## 17. PARTIAL INVALIDITY

If any provision of this Policy or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent for any reason including by reason of any law or regulation or government policy, the remainder of this Policy and the application of such provision to those persons or circumstances other than those as to which it is held invalid or unenforceable shall not be effected thereby, and each provision of this Policy shall be valid and enforceable to the fullest extent permitted by law. Any invalid or unenforceable provision of this Policy shall be replaced with a provision, which is valid and enforceable and most clearly reflects the original intent of the invalid and unenforceable provision.

## 18. SETTLEMENT OF DISPUTE AND ARBITRATION

- 18.1. If any dispute or difference (“**Dispute**”) arises between a Third Party or the Personnel with the University (individually referred to as a “**Party**” and jointly as the “**Parties**”) during the subsistence or thereafter, in connection with the subject matter of this Policy, the Parties shall endeavor to settle such Dispute amicably. The process for amicable settlement shall be initiated by either Party issuing a written notice (“**Notice**”) to the other Party in this regard. If no amicable settlement is reached within sixty (60) days of the receipt of Notice by the other Party, the attempt to bring about an amicable settlement shall be considered to have failed.
- 18.2. In case of the failure of the process of amicable settlement of the Dispute as contemplated above, the Dispute between the Parties shall be referred to a sole arbitrator to be selected and appointed by mutual consent of all Parties.
- 18.3. The Arbitration proceedings shall be governed by the Indian Arbitration and Conciliation Act, 1996.
- 18.4. The place of arbitration shall be New Delhi, India and the supervisory courts shall exclusively be the courts located at New Delhi, India.
- 18.5. The arbitration proceedings shall be conducted in English language.

## ON BEHALF OF THE UNIVERSITY

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**SEAL AND SIGNATURE**

**DATE:**

**PLACE:**