



Inspiring Innovation and Leadership

KARATINA UNIVERSITY

INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY

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SIGNATURE PAGE

This Intellectual Property Rights Policy was approved by Karatina University Council on 25th September 2013.


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Prof. Mucai Muchiri
Vice Chancellor

Approved by Council on 25th September 2013

VISION

To be a University of global excellence meeting the dynamic needs and development of society

MISSION

To conserve, create and disseminate knowledge through training, research innovation and community outreach

CORE VALUES

Equity
Teamwork
Meritocracy
Academic freedom
Accountability
Excellence
Probity

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LIST OF ACRONYMS AND ABBREVIATIONS

DRI	Directorate of Research and Innovation
DVC	Deputy Vice-Chancellor
IP	Intellectual Property
IPR	Intellectual Property Rights
IPRC	Intellectual Property Rights Committee
IPRP	Intellectual Property Rights Policy
KarU	Karatina University
ODEL	Open Distance and Electronic Learning
PCIT	Patent Cooperation Treaty
WIPO	World Intellectual Property Organization
VC	Vice Chancellor

CHAPTER 1: INTRODUCTION

1.0 Background

Over the past decade, appreciation of the commercial value of intellectual property has grown both within the academic community and in the society at large. Concerns related to confidentiality, publication, and ownership of intellectual property are now commonplace. The pace of modern science, resulting in new and useful inventions, initiated a need for a central policy in determining the course of the creation, protection, and commercialization of intellectual property in the University.

The policy is intended to encourage a healthy atmosphere conducive to research and development through a generous system of rewards and incentives for the creation of intellectual property while at the same time giving proper consideration to the economic rights and responsibilities of the University.

1.1 Intellectual Property Rights in the National Context

The proposed Kenya National Industrialization Framework, 2010 recognizes that an effective Intellectual Property Rights (IPR) system is an incentive to innovation. The framework further recognizes the need for the development of a national policy framework to deal with intellectual property rights.

Kenya as a country is affiliated to the World Intellectual Property Organization (WIPO). Kenya's affiliation to WIPO has propagated the enacted of various legislations in Kenya administering intellectual property rights such as:

- a. The Industrial Property Rights Act, 2001, Laws of Kenya
- b. Copyrights Act, 2001
- c. Trademarks Act, Cap 506, Laws of Kenya
- d. Seeds and Plants Varieties Act, Cap 306, Laws of Kenya

The Constitution of Kenya, 2010 on its part as the supreme law in Kenya recognizes the importance of protecting and promoting the intellectual property rights of the people of Kenya manifested through various forms national and cultural expressions such as literature, arts and traditional celebrations. The Constitution further recognizes the role of science and indigenous technologies in the development of the nation.

1.2 Mandate

According to Karatina Charter, 2013 the objects and functions of Karatina University are to:

- a. Provide and advance university education and training to appropriately qualified graduates, leading to the conferment of degrees and award of diplomas and certificates and such other qualifications as the Council and Senate shall from time to time determine and in so doing contribute to national development and humanity;
- b. Assemble and provide resources for university level education, training and research, scholarship, and for the establishment of facilities, institutes, divisions, departments, centres and such other units as the University Council may deem necessary;
- c. Determine who may teach, what may be taught, to whom it may be taught and how it may be taught in the University;
- d. Establish colleges, schools, institutes, centres, departments, and such other institutions as may be deemed necessary by the University Council;

- e. Conduct both applied and basic research geared towards local, national, regional and global development;
- f. Establish and maintain an Information Resource Centre including the collection of literature, films, information data bases and other materials relating to natural resources, agriculture, engineering, entrepreneurship, management, law, medicine, social and applied science theories and practices;
- g. Enter into collaborations, linkages, and consultancy network in promoting excellence meeting the dynamic needs and development of society;
- h. Provide balanced programmes and experiences including participation in natural and cultural conservation, commercial ventures and other activities to the benefit of the University, the community and stakeholders;
- i. Facilitate student mobility between programmes of study at different technical training institutions, polytechnics, and universities;
- j. Foster the general welfare of all staff and students; and
- k. Carry out any other functions as may be permitted and approved by the University Council to further the vision, mission and philosophy of the University.

It is in the carrying out of the aforementioned mandates that intellectual property will be developed within the University and thereby necessitating the need for an institutional policy to address various pertinent issues.

1.3 Justification

Technological innovations in recent years have broadened the scope of knowledge and technology that can have potential commercial value and therefore, should be treated as assets, subject to University ownership and control. In addition to new inventions, compositions of materials and written materials which traditionally have been the subject of patents and copyrights, among others are now normal outcomes of University activities. Thus, Karatina University requires a broad policy covering all aspects of intellectual property rights to provide protection to the originators of such property.

1.4 Guiding principles

- 1.4.1 The University will encourage, recognize and protect all creative and scholarly works in form of patents, copyrights, industrial designs, trademarks and trade secret, as the case may be, developed by its employees/students as a result of their research.
- 1.4.2 The University will protect the rights of the originators regarding intellectual property created by them as per the legal framework of Kenya. However, the University, as a corporate body, shall share this right with inventors – staff, student or guest, in a just and fair manner.
- 1.4.3 The University will give recognition to the respective interests of all participants by ensuring that the benefits of such property accrue to the public, to the inventor and or innovator as the case may be, to the University and to sponsors of specific research projects in varying degrees of protection, monetary return and recognition, as circumstances justify or require.
- 1.4.4 The University will guard against disclosure not made in accordance with policy or in breach of a confidentiality agreement and will take all measures and avenues within its powers in ensuring redress to any person aggrieved by such disclosure or breach.

1.5 Scope

- 1.5.1 This policy applies to all University employees and students, regular or full time, contractual basis. Every member of the academic community, student, non-teaching

and teaching staff alike, must be knowledgeable about intellectual property both to protect their own rights and to respect the rights of others.

- 1.5.2 This policy applies to all potentially patentable inventions and discoveries, industrial designs, copyrightable materials such as books, publications, electronic courseware, computer programs, electronic circuits etc., protectable trademarks and trade secrets, which are developed using University equipment, supplies, facilities, employee time, or trade secret information, or which relate directly to the University's business, research or development.
- 1.5.3 It covers all intellectual property conceived, first reduced to practice, written, or otherwise produced by all faculty, staff, and students of the University whether using University resources or not. It also covers intellectual property created by part time students, employees and visitors or collaborators using University funds, facilities or other resources.
- 1.5.4 This Policy shall apply to all the employees of the University and visitors using University facilities under the supervision of University staff and to all the students of the University including doctoral and Postdoctoral fellows.

1.6 Goal and Objectives

1.6.1 Policy Goal

The primary goal of the policy is to establish appropriate principles for creation, protection, ownership and management of intellectual property in the University. The endeavor is to provide an intellectual property rights environment that encourages innovations for the best interest of the public, the creator sponsor. This will permit timely protection and disclosure of such intellectual property by development and commercialization after securing available protection.

1.6.2 Objectives of the Policy

The policy objectives are to:

- a. Provide an enabling environment to the employees and students of the University for creation, protection, and commercialization of Intellectual Property and to stimulate innovation.
- b. Encourage research, scholarship, and a spirit of inquiry, thereby generating new knowledge.
- c. Provide an administrative system for the determination of commercial value of innovations.
- d. Provide an equitable distribution of economic gains resulting from intellectual property among the innovator, sponsor and the university.
- e. Safeguard, review and manage the intellectual property rights so that it may receive adequate and appropriate legal protection against unauthorized use.
- f. Create awareness on IPR policy and ensure recognition and respect of other people's intellectual property rights through conducting seminars, conferences, invited talks and lectures, and training programs among the academic community.
- g. To create respect for other people's Intellectual Property among members of the University community.

1.7 Definitions

- 1.7.1 **Intellectual Property (IP):** For the purpose of this policy, "Intellectual Property" is defined as the tangible or intangible results of research, development, teaching, or

other intellectual activity. Intellectual property may include but not limited to the following:

- a. Patents on new and useful scientific or technical advancements by way of inventions or discoveries for example of processes, computer hardware and software, unique materials, machines, devices, instruments, apparatuses, circuits, plant varieties etc.
- b. A utility model which means any form, configuration or disposition of element of some appliance, utensil, tool, electrical and electronic circuitry, instrument, handicraft mechanism or other object or any part of the same allowing a better or different functioning, use, or manufacture of the subject matter or that gives some utility, advantage, environmental benefit, saving or technical effect not available in Kenya before and includes micro-organisms or other self-replicable material, products of genetic resources, herbal as well as nutritional formulations which give new effects.
- c. Copyright in industrial and architectural design, models, engineering drawings, integrated circuit layout designs, computer software, animations and visualizations, information technology products and processes including hardware and software features, original innovative, creative or artistic works and their derivatives or adaptations, whether dramatic, musical, literary works, work of graphics or plastics art and cinematographic and animated films, teaching material for classroom and online courses such as courseware for distance education, original data and records of research, undisclosed and/or unpublished information etc.
- d. Trademarks, service marks, logos, collective marks, certification marks, trade names etc.

The four categories stated above are not mutually exclusive; a given article of intellectual property may include aspects of all four categories.

- 1.7.2 Fair Use:** The term “Fair Use” refers to the amount of copying or usage that may be permitted for a copyrighted material so that it does not obstruct the progress of human knowledge. Limited portions of a work can be copied without the right holder’s permission for non-commercial and academic use, although the exact permissible percentage may have to be determined by the courts. In general, use of a small part of the work which does not hurt the present or potential market for that work is allowed under fair use, but there are many grey areas where the law has to be decided on a case-by-case basis. Fair use in the classroom during regular teaching is understood more liberally than that permissible in teaching for distance education through print or multimedia packages. This is because distance education packages are commercial products and hence permission has to be sought for the use of any intellectual property held by others. The possibility of fair use exists only in the case of copyright and does not apply to patents.
- 1.7.3 Employee:** An “Employee” of the University is defined as any person receiving compensation for service, or any person volunteering services for the benefit of the University. The uncompensated activities of students in furtherance of their education shall not be considered service within the meaning of this policy, even if such activities benefit the University. A scholarship, fellowship, assistantship or any other payment received by a student during the course of his studies does not classify him as an employee.
- 1.7.4 University Personnel:** Part-time and full-time members of the faculty, technical, administrative or the supporting staff and all other agents and employees, and undergraduate, postgraduate students and postdoctoral fellows of the University.

- 1.7.5 Inventions:** Shall mean any patentable or potentially patentable idea, discovery or know-how and any associated or supporting technology that is required for development or application of the idea. **Supported Invention:** Shall mean an Invention conceived or reduced to practice by a person covered by this policy (whether alone or together with others) if conceived or reduced to practice in whole or in part:
- a. Under or subject to an agreement between the University and a third party; or With use of direct or indirect financial support from the University, including support or funding from any outside source awarded to or administered by the University; or With use (other than incidental use) of space, facilities, materials or other resources provided by or through the University.
- 1.7.7 Incidental Invention:** Shall mean an Invention (other than a Supported Invention) that is conceived or reduced to practice by a person covered by this policy in the course of their ordinary use of space, facilities, materials or other resources related to the conception or reduction to practice of such Invention. **Inventor:** Shall mean a person covered by this policy who individually or jointly with others makes an Invention and who meets the criteria for inventor-ship under Kenya's patent laws and regulations. **Originator:** Any person related to the University through a relationship which is in the form of a part-time or full-time member of a faculty, permanent or contractual staff, agent or employee, graduate, postgraduate student, or postdoctoral fellow of the University, who is involved; in the Invention as defined herein shall be deemed to be the Originator for the purpose of this document. **Work for Hire:** Work for hire is defined for the purpose of this document as any work commissioned by the University. The ownership of the resulting intellectual property shall be assigned to the University through a written contract between the concerned parties.
- 1.7.11 Technovation:** means a solution to a specific problem in the field of technology, proposed by an employee of the University for use by the University, and which relates to the activities of the University in any of its enterprise but which, on the date of the proposal, has not been used or actively considered for use by that enterprise;

CHAPTER 2: INSTITUTIONAL FRAMEWORK

This Chapter addresses the key areas of the Karatina University Intellectual Property Rights Policy. It defines the policy areas the respective objectives and policy statements. The key policy areas addressed include ownership of intellectual property and rights, commercialization of intellectual property, royalties and income sharing, mechanisms for disclosure and maintaining confidentiality, creating intellectual property rights awareness and capacity building, archiving thesis and other relevant materials, procedures for filing applications for protection of IPR, Release of IP and Dispute Resolution.

2.0 OWNERSHIP OF INTELLECTUAL PROPERTY AND RIGHTS

The University shall establish mechanisms for determination of ownership of intellectual property developed by any of the university personnel in a fair and equitable manner. The University shall also work towards protection of intellectual property rights once ownership rights have been determined.

2.1 Policy Objective

To determine ownership of intellectual property developed by the originator, author or the University whether solely or jointly involving other third parties.

2.2 Exclusive Ownership of IP by the University

Policy Statements

- 2.2.1 The University shall have sole ownership of all intellectual property created by an employee who was hired specifically to work on a target product or process (or other intellectual property) or was commissioned by the University or a component of the University for the Specific Objective leading to creation of the intellectual property.
- 2.2.2 The University shall assert its ownership of all intellectual property created by the outside agencies commissioned by the University for the specific purpose under a work for hire arrangement.
- 2.2.3 The University shall recognize and ensure that the creator of the intellectual property generated under a work-for-hire arrangement whether being the employee or agency is identified as the creator of the intellectual property as much as the right of commercialization shall rest only with the University.
- 2.2.4 In the event that the intellectual property is developed under a work for hire arrangement is an invention of exceptional importance the University shall ensure the employee is equitably remunerated taking into consideration his salary and the benefit derived by the University from the said invention.
- 2.2.5 In a supported invention, the University shall have the right to own title and interest and each Inventor, shall at the University's request, assign to the University all of his/her right, title and interest in the supported invention.

2.3 Ownership of Intellectual Property Developed from projects sponsored jointly by the University and a Sponsoring agency

Policy Statements

- 2.3.1 The intellectual property generated from research projects sponsored by government/ non-government agencies shall be jointly owned by the creator(s), the Principal Investigator or Chief Consultant, the sponsoring agency and the University as the case may be.

- 2.3.2 In making a joint application for protection for protection of intellectual property, the sponsoring agency shall bear fifty percent (50%) of the protection costs or forgo the rights to the intellectual property.
- 2.3.3 Notwithstanding the foregoing clauses 2.4.1 and 2.4.2, the specific terms pertaining to ownership of intellectual property included in a government grant, agreement or contract made with a sponsor agency shall prevail.
- 2.3.4 Where research has been sponsored by a private industry/foundation or government agency and no prior agreement exists on sharing of intellectual property, licensing of patents shall be negotiated between the sponsor and the University.

2.4 Ownership of Intellectual Property generated by Employees

Policy Statements

- 2.4.1 Intellectual property generated by a full-time employee shall be joint property of the originator and the University where the University resources are used.
- 2.4.2 Where any University employee creates intellectual property while working in another organization where university has contributed wholly or in part, the IP shall be jointly owned by the creator, the University and the host institution.
- 2.4.3 Intellectual property generated by a part-time employees or students or a visiting professionals by use of University facilities and/or support shall come under joint ownership of the University and the originator.
- 2.4.4 The University shall give recognition and accordingly issue a technovation certificate to an employee who has developed a technovation in accordance with the Kenyan Law prevailing at the time.
- 2.4.5 In the event that the University or any of its enterprise uses the technovation or communicates it to a third person, it shall ensure that the technovator is entitled to a remuneration the amount and method of payment of which shall, in the absence of an applicable a mutual agreement be determined in accordance with the dispute resolution mechanism provided for under Clause 11.
- 2.4.6 Ownership of an Incidental Invention shall remain with its Inventor(s), subject to any rights that may be granted to the University as required by this policy.

2.5 Ownership of Intellectual Property Generated by students

Policy Statements

- 2.5.1 The University shall recognize ownership to the copyright of the thesis submitted by any student in partial fulfillment of the requirements for an academic degree.
- 2.5.2 The student shall however grant a non-exclusive, non-transferable royalty-free license to the University to use, in the course of non-commercial academic activity, the records and data generated in the course of his research.
- 2.5.3 Where the research that the student carries out as part of the program of study may result in the generation of intellectual property other than the text of the thesis; the copyright of the thesis in which this intellectual property is described or outlined shall remain with the student while the University will restrict access to the thesis for a limited period depending on commercial value as decided by the IPRC.
- 2.5.4 If a student is employed to assist in execution of a sponsored project or programme, the intellectual property rights originating from his/her contribution to the project shall be governed by the terms of the contract between the University and the sponsoring agency.
- 2.5.5 If the intellectual property has been generated as a work-for-hire, the student shall retain the moral right to be identified as the creator of the intellectual property, but right of commercialization shall rest with the University.
- 2.5.6 In the event that the intellectual property is generated by the student in course of his/her study as part of program, the University shall lodge the application to obtain a

patent for the invention on behalf of the student and the benefit-sharing mechanism shall be abided by as proposed in Clause 4.

2.6 Ownership Determination

Policy Statements

- 2.6.1 The Directorate of Research and Innovation (DRI) shall upon review of a disclosure document submitted in accordance with Clause 9 determine whether the Invention is a Supported Invention or an Incidental Invention.
- 2.6.2 In the case of a Supported Invention, the DRI, shall further determine, with assistance from IPRC, who are the Inventor(s), consistent with Kenya's patent law.
- 2.6.3 Any dispute as to ownership of IP shall be resolved in accordance with Clause 11 of this policy.

3.0 COMMERCIALIZATION OF IP

In the recent years, technological innovations have broadened the scope of knowledge and technology that can have potential commercial value. This policy area addresses the commercialization of any IP that may be generated from activities in the University. Therefore, it is the University that shall provide guidance on commercialization of IP. To this end, it shall be the sole discretion of the Vice Chancellor of the IPRC to determine on commercialization of the property.

In seeking and developing commercialization of intellectual property, the University shall be guided by the following principles:

- a. That it is the primary objective and responsibility of the University to ensure that the products of its intellectual activity are brought into the widest possible use for the general benefit of society.
- b. That Intellectual property should be treated as an asset and an appropriate return should be sought.
- c. That active participation of the originator in all commercialization efforts shall be sought.

3.1 Policy Objective:

To facilitate commercialization of IP.

Policy Statements:

- 3.2 The DRI shall ensure that all IP being commercialized is legally and adequately protected and treated as proprietary information, technical know-how, or trade secret.
- 3.3 The IPRC shall determine whether the University has a legal interest in the commercialization of the property. The University is not however legally bound to commercialize each property and the originator may not claim such right.
- 3.4 The University shall also have the prerogative of finding a suitable partner for commercialization of the patents for first two years from the date of grant of the patent.
- 3.5 Upon lapse of two years, the originator may choose a suitable partner for commercialization of intellectual property created by him/her. However, benefit sharing mechanism shall be adhered to as per Clause no.4 provided that the originator shall be required prior to proceeding with the technology transfer to seek the permission of the VC through the IPRC.

4.0 ROYALTIES/ INCOME SHARING

4.1 Policy Objective

To create a framework for sharing of IPR commercial benefit in an equitable manner.

Policy Statements

- 4.2 The University shall develop guideline for equitable sharing of income resulting from commercialization of IPR.
- 4.3 Revenue received as a result of commercialization of IP shall be distributed equitably and in such manner as to encourage the development of IP, development of technology and transfer in the University taking into account the level of contribution that each party has made in commercialization.
- 4.4 The revenue distributable as income shall be net of all expenses incurred by the University in protecting, maintaining and commercialization of the IP, including costs of defending and/or prosecuting a suit grounded on infringement that may arise. Ordinary administration expenses will not be considered as direct costs and will not be chargeable unless where the same are services of professional nature that would normally be incurred if available internally.
- 4.5 Except in circumstances where the level of contribution made is determinable, any royalties net income derived upon commercialization shall be distributed as follows:

Annual Net income	Cumulative	Inventors/ Originators	University	Department of originators	Research Fund
Up to Kshs. 1 million		70%	17%	10%	3%
Between Kshs. 1 Million to 5 Million		60%	25%	10%	5%
Over Kshs. 5 Million		50%	30%	15%	5%

- 4.6 The University shall ensure that a co-sponsoring or supporting organization will get their share of the proceeds as per agreement and in accordance provided that where the same has not been agreed them the same shall be obtained from the University's share.
- 4.7 Any royalty income allocated to the originators or inventors shall be paid to the directly as personal income and on an annual basis.
- 4.8 In the event of multiple originators or inventors (including visiting or adjunct professionals) who have made a contribution to the invention, royalties shall be distributed from the originators share of income as per agreement and shall only be made upon receipt of a signed agreement made between them.
- 4.9 In the event of a disagreement between the multiple originators or inventors as to the sharing of the income accruing to them, any of them may refer the dispute to the DRI for determination in accordance with Clause 11.
- 4.10 The originators/inventors rights to the royalty income shall not cease upon termination of the employment with the University or upon death. Upon death the income shall accrue to the estate of the deceased.

5.0 DISCLOSURE AND CONFIDENTIALITY

The Policy area addresses issues of disclosure and confidentiality of Intellectual Property.

5.1 Policy Objective

To provide an avenue for disclosure of new IP.

Policy Statements:

- 5.2 The University shall ensure that the procedures for disclosure and confidentiality of IPR are adhered to.
- 5.3 At an appropriate stage in the development of an invention, the originator shall make a written disclosure of the concepts to the IPRC, providing all such particulars as are vital to judge its commercial prospects.
- 5.4 The DRI shall on behalf of IPRC promptly acknowledge, in writing, the receipt of the disclosure and the date of receipt.
- 5.5 All the departments in the University shall be bound by the non-disclosure and confidentiality terms to be clearly spelled in a confidential agreement (separate agreement).
- 5.6 Each department is under obligation to file their product(s) manuscripts, if any, on time to time basis, with the IPRC.
- 5.7 The Originator who shall have communicated with the DRI under Clause 5 shall refrain from publishing, reading, dissipating, circulating or disclosing the conception in any form whatsoever without the prior written consent of the IPRC.
- 5.8 The originator shall only disclose such conception, upon a prior written permission from the IPRC, once an application for a patent, trademark or copyright has been made on the conditions described herein and the commercial rights in the conception are secured to the University.
- 5.9 All departments and/or any university personnel is required to treat any information related to any Invention as Intellectual Property and therefore is not to be divulged to a third party without the prior consent of the IPRC.
- 5.10 A breach of confidentiality necessary to ensure protection of any intellectual property shall be handled as a research misconduct and any allegation shall be determined in accordance with the provisions in the Research and Innovation Policy.

6.0 OPEN DISTANCE AND ELECTRONIC LEARNING (ODEL)

Distance education packages and Open Learning resources are recognized as commercial products hence protection of the products has to be sought whilst ensuring that there is fair distribution of the benefits accruing from the use of such materials.

6.1 Policy Objective

To define the use, dissemination and ownership of Open Distance and Electronic Learning materials.

Policy Statements

- 6.2 The University shall determine the use, dissemination and ownership of Electronic and Distance education materials.
- 6.3 All original works submitted by the contributors for the purpose of open, distance and electronic materials developed shall remain the joint property of the concerned contributors and the University.
- 6.4 The University shall have the right to use the course (including all related materials) developed by the faculty member and/or other employees involved in the development of a distance learning and/or e-learning course for the University's own educational, research, and other purposes without any additional compensation to the faculty member or any other employee who is an author of the course.
- 6.5 If the course and/or related materials are licensed, sold, or otherwise conveyed to a third party, the mechanism as per Clause 11 will govern the distribution of any proceeds.
- 6.6 If the material is used in open, distance and electronic learning is generating revenue under a scheme where instructors or other University personnel receive specific

compensation, the originator of the courseware is entitled to a fair share of the proceeds, the exact amount being determined with the assistance of IPRC and implemented by the DRI.

- 6.7 The faculty member(s) or other employee(s) who are the authors of the course shall have the primary responsibility for revising and updating the course and related materials as long they remain employed by the University.
- 6.8 In the event that a faculty member (or other employee) who is an author is no longer employed by the University or is unable to revise and update the course as needed (as determined by the department), the material shall be revised and updated by other University faculty members and other employees.
- 6.9 All employees shall adhere and respect IP belonging to other persons in the course of developing the instruction materials in educational multimedia, digital imaging, and distance learning mode.

7.0 CREATING IPR AWARENESS AND CAPACITY BUILDING

IPR awareness is important for innovation and in ensuring that the same is protected right from the inception stage. This Policy recognizes the importance of creating IP awareness among Staff and Students of the University.

- 7.1 Policy Objective:
To create awareness of IPR.

Policy Statements:

- 7.2 The University shall ensure awareness creation of IPR.
- 7.3 The DRI shall take a proactive approach for generation and protection of intellectual property in the University.
- 7.4 The DRI shall with the assistance of IPRC, the DRI shall identify all intellectual property developed in the University through a review of undergraduate and postgraduate theses right from the conception stage, inviting ideas from students and faculty, and using all other means of collecting information.
- 7.5 Where the DRI identifies prospects for a successful commercialization of any IP, the DRI shall:
 - a. Advise the originator on the steps to be taken for protecting the ownership rights to the property, and
 - b. Forward the matter to the Vice Chancellor with clear recommendations for appropriate course of action on the part of the University.
- 7.6 All associated costs shall be borne by the University and shall accordingly be offset against future income.
- 7.7 Any income derived upon a successful commercialization shall be distributed among the originator(s), the University and other stake holders in accordance with this policy.
- 7.8 The University shall regularly organize and/or facilitate workshops, sensitization of IPR to its members of staff and students.

8.0 ARCHIVING THESES AND OTHER MATERIALS CONTAINING INTELLECTUAL PROPERTY WITH COMMERCIAL POTENTIAL

8.1 Policy Objective:

To ascertain the suitability of thesis and other materials containing potential IP to ensure protection.

Policy Statements

- 8.2 The DRI shall regularly examine all the theses and find and find the suitability of protection of IP created by the students right from the conception stage.
- 8.3 Where potentiality for development of IP is identified, such thesis or material shall be protected and shall be subject to non disclosure as provided for in Clause 5 for a period not exceed one year which may be renewed for a further term of one year with the mutual agreement with the student.

9.0 PROCEDURES FOR FILING APPLICATION FOR PROTECTION OF IPR

This policy recognizes that the process of applying for protection of IP is usually rigorous, complex and requires financing.

9.1 Policy Objective

To facilitate the university personnel with an avenue to protect IP under the Kenyan system.

Policy Statements

- 9.2 Faculty members, technical staff and students interested to protect their intellectual creations under IP law of Kenya shall apply to the DRI using a Invention and Technology Disclosure Form.
- 9.3 The DRI shall then table the request in a meeting of the IPRC for evaluating the IPRC substance for possible protection within two months of receiving the request.
- 9.4 The IPRC shall determine how, when, and where the intellectual property is to be protected and shall forward a recommendation thereof to the VC for approval.
- 9.5 A determination on manner and application to seek for protection shall be made on the basis of:
 - a. Adequacy of the means of protection sought
 - b. Commercial potential
 - c. Obligations to and rights of third parties, or for
 - d. Other reasons which the IPRC, in its discretion shall deem appropriate.
- 9.6 The expenditures for protection of IP substance shall be borne by the University.
- 9.7 If the IP substance is not fully developed for possible protection, DRI will guide the originators where to improve it. The DRI shall also give guidance on drafting the Patent forms etc. even with provisional specifications.
- 9.8 Inventor(s) of a Supported Invention for which patent applications are filed shall be obligated to cooperate, without expense being occasioned to the Inventor, in the patenting process in all ways required by the University or its agent or designee.
- 9.9 A decision by the University to seek a patent or any other form of protection of the intellectual property shall not obligate the University to pursue such protection internationally.
- 9.10 The University's decision relating to the geographical scope and duration of such protection shall be final. If the originator intends to seek protection internationally or through Patent Cooperation Treaty (PCT) application, the University shall permit the originator to proceed on his own initiative or with the assistance of other individuals or agencies.
- 9.11 In the event that the IPRC finds that the property is not appropriate for protection by the University, it shall release the same to the originator in accordance with Clause10
- 9.12 Upon release of the invention, the originator becomes the sole owner of the property and is at liberty to apply for protection accordingly.

10.0 RELEASE OF INTELLECTUAL PROPERTY

10.1 Policy Objective

To provide mechanisms for the release of IP.

Policy Statements

- 10.1 In the event where the IPRC has made a finding that the property is not appropriate for protection by the University it shall make a recommendation thereof to the VC.
- 10.2 In the event where the University has determined that it will not pursue any application for protection of IP in whatever form, or where the University has abandoned an application prior to issuance of any protection certificate or where it abandons ownership of the IP, the University shall release the IP to the originator upon request.
- 10.3 The University shall in any case release the IP upon a determination that the same is not in violation of the terms of an external funding agreement and that it is in the best interests of the University and the community in general.
- 10.4 Upon a decision to release the IP, the University shall in doing so assign or release all interests which it holds or has the right to hold in IP to all the originator(s) in equal shares, or such other shares as the originators shall agree.
- 10.5 Release of any Supported Inventions shall be conditioned upon, among other things, agreement by the originator/Inventor(s) to the following:
 - a. To reimburse the University for all out-of-pocket legal expenses and fees incurred by the University.
 - b. To share with the University 20% of the net income (income remaining from gross income after repayment of University expenses above and the Inventor(s)' legal and licensing expenses) received by the Inventors from the Invention. Income subject to this revenue sharing provision includes equity received by Inventors as consideration for the Invention but does not include financing received for purposes of research and development.
 - c. Upon request, to report to the University regarding efforts to develop the Invention for public use and, at the University's request, to reassign those Inventions which the Inventor(s), their agents or designees are not developing for the benefit of the public.
 - d. To fulfill any obligations that may exist to sponsors of the research that led to the Invention.
 - e. To grant back to the University any irrevocable, perpetual, royalty-free, nonexclusive, worldwide right and license to use the Invention for its research, education and clinical care purposes and a right to grant the same rights to other non-profit institutions.
 - f. To agree to such limitations on the University's liability and indemnity provisions as the University may request.

11.0 DISPUTE RESOLUTION

This policy area recognizes the potential occurrence of disputes related to IP matters between originators, inventors, employees and the University.

11.1 Policy Objective

To provide procedures for dispute resolution involving parties within the University.

Policy Statements

- 11.2 All disputes grounded on any IP issue arising between employees, originators and not involving the University shall be determined by the IPRC in the first instance.

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- 11.3 Any party aggrieved by a decision of the IPRC or the DRI made in course of implementation of this policy shall have the right of appeal to the VC within thirty (30) days of communication of the decision.
- 11.4 The VC shall upon receipt of the appeal constitute a five-member panel that is independent and which shall comprise persons knowledgeable with the discipline.
- 11.5 The panel shall determine the Chairman and Secretary.
- 11.6 The Panel shall in making any determination ensure that all affected persons are given an opportunity to be heard.
- 11.7 The panel shall also have the right to summon any person to appear before it to make answer to any inquiry including taking an opinion from an expert.
- 11.8 In the event that a person is dissatisfied with the decision of the panel, he or she shall have a right to appeal to the Council through the Council Chairman.
- 11.9 The Council shall upon receipt of the appeal constitute an independent panel to determine the appeal and make recommendations thereon to Council.
- 11.10 A person not satisfied with the decision of Council shall be at liberty to pursue any other remedy and/or relief available to him or her under the Kenyan Law.

CHAPTER 3: POLICY IMPLEMENTATION

12. IMPLEMENTATION OF INTELLECTUAL PROPERTY POLICY

This policy shall be operationalized upon approval by the Council. To effectively implement this policy; the University shall create new structures while at the same time strengthening the existing ones so as to facilitate the implementation of this policy.

The key offices existing and to be established to facilitate implementation shall include but not limited to the following:

- a. The University Council
- b. The Senate
- c. The Directorate of Research and Innovation
- d. The Inter-School Research Committees.
- e. The Intellectual Property Rights Committee
- f. The Schools' Research and Committees
- g. The Departmental Research Committees

The relationships of various offices are as shown in the organo-gram (Appendix 1).

12.1 Role of the Deputy Vice Chancellor -ARSA

The Deputy Vice-Chancellor, Academic, Research and Student Affairs(ARSA) shall have the overall mandate for Intellectual Property Rights Policy framework implementation, assisted by the Directorate of Research and Innovations. The Deputy Vice-Chancellor (ARSA) reports directly to the Vice-Chancellor and is the chair of the Research, Innovation and Community Outreach Committee of Senate. The DRI is responsible for formulation of Research and Innovation Policy that advise the Senate on all matters related to research and innovations.

12.2 Directorate of Research and Innovation (DRI)

The Directorate of Research and Innovations (DRI) shall be established within the Academic, Research and Students Affairs Division. The Directorate will be headed and coordinated by a Director answerable to Deputy Vice-Chancellor (ARSA). The position shall be advertised internally and qualified applicants must have extensive research experience as evidenced by publications in referred journals and books in addition with knowledge in IP matters.

The DRI shall be responsible for:

- a. Development, commercialization and protection of intellectual properties;
- b. Facilitate departments and sections of the University in all matters relating to intellectual property;
- c. Maintain central databases and files of patent applications, issued patents, trademarks and copyrights, licenses and agreements,
- d. Coordinate with various departments in negotiating and preparing license and other agreements,
- e. Review and approve all agreements relating to intellectual property.
- f. Review causes of possible infringements on the University's intellectual property and take action as deemed necessary.

12.3 Inter-School Research Committees

Inter-school research committees being charged with the role of coordinating research activities between schools, will be charged with the role of assisting the DRI in identification of potential Intellectual property under development. The committee shall report directly to the Directorate of Research and Innovations in respect to IPR Matters.

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12.4 Departmental and School Research Committees

Departmental and School research committees being responsible for all activities of research under their respective mandate will be charged with the role of assisting the DRI in identifying potential intellectual property eligible for protection as provided in this policy.

12.5 Intellectual Property Rights Committee (IPRC)

The University's Senate shall establish an IPRC to help administer intellectual property rights and to make suitable recommendations for the implementation of this policy. The Committee shall assist in the creation and protection of intellectual property and rights by innovators within and/or in collaboration with the University. The Intellectual Property Rights Committee shall also work together with all stakeholders within and outside the University in implementation of the roles vested to in this policy.

CHAPTER FOUR: POLICY REVIEW AND MONITORING

13.0 REVIEW

This policy shall be reviewed from time to time as the need may arise to ensure that it remains relevant.

14.0 MONITORING AND EVALUATION

- 14.1 Monitoring and evaluation will be critical due to the dynamic nature of research and rapid technological changes which are likely to result to the development of IP.
- 14.2 Monitoring and evaluation of implementation of this policy shall be on a regular basis and a report shall be submitted annually to Senate.
- 14.3 The broad quantifiable performance indicators shall include:
 - a. Number and nature of potential IP identified;
 - b. Number of applications made for protections;
 - c. Research innovations and inventions patented;
 - d. Number and nature of protection certificates issued;
 - e. Establishment of Directorate of Research and Innovation;
 - f. Establishment of Departmental and School Research Committees;
 - g. Establishment of the Intellectual Property Rights Committee (IPRC);
 - h. Income earned from commercialization of IP

APPENDIX 1: IMPLEMENTATION ORGANOGRAM

