

Intellectual Property Rights Policy



School of Planning and
Architecture, Bhopal

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INTELLECTUAL PROPERTY RIGHTS POLICY (Revised Draft)

OF

School of Planning and Architecture Bhopal

1. Preamble

Since 2008, SPA Bhopal has been engaged in teaching, research and consultancy in the domains of architecture, design, physical planning and development. The institute has contributed to real-life problem-solving activities and process-oriented architectural, planning, design and managerial and professional leadership skills. To match the pace of the competitive world of innovation and creativity, an Intellectual property policy is the need of the hour.

Intellectual property plays an important role in providing a competitive edge to an institution. The intangible assets of an organisation, such as know-how, inventions, designs and other creative and innovative products, are today often more valuable than its physical assets. Keeping this in mind, this Intellectual Property Rights Policy Document (hereinafter referred to as the Policy) of the School of Planning and Architecture Bhopal, (hereinafter referred to as the Institute) seeks to guide academic and non-academic staff, scholars, and outside agencies on the practices and the rules of the Institute regarding intellectual property rights (IPR) and obligations, which include the nature of intellectual property (IP), its ownership, exploitation, technology transfer (commercialisation), revenue sharing and confidentiality requirements. This policy is expected to promote academic integrity and provide a conducive environment for research and development for ethical IP creation. This policy has been prepared after considering existing IPR policies of various other institutions such as IIT Roorkee, IIT Bombay, IIT Ropar, IIT Jodhpur, NIT Trichy, NIT Surathkal etc.

2. Purpose

The Institute has formulated this Policy for the management of intellectual property rights to:

- a) Provide a conducive environment leading to the development of intellectual property.
- b) Facilitate, encourage, promote and safeguard research and knowledge creation and the rights of the scholars involved in R&D.
- c) Establish an IPR management policy and procedural guidelines for making available to the public the inventions and discoveries made in the course of



research carried out in the institute.

- d) Frame standards for do's and don'ts for the Institute, creators of intellectual property and their sponsors relating to inventions, discoveries and original works originating from the Institute.
- e) Promote, facilitate and provide incentives to the members of the community of knowledge creators who take initiatives to transfer Institute intellectual property to the society at large under this Policy.
- f) Enable the Institute to secure sponsored research funding at all levels of research.
- g) Make the Institute a prime academic research institution pursuing the highest ideals of scholarship and teaching by dissemination of the benefits of Intellectual Property originated from the Institute to the community and society.
- h) Make the creator of IPR aware of the applicable laws and rules for ensuring their compliance; and
- i) Enable the Institute to make beneficial use of such developed IP for the maximum possible benefit of the creators, the Institute, and the nation at large.

3. Objectives

The objectives of the Policy are as follows, namely:

- a) To safeguard the process of creation of intellectual property at the Institute.
- b) To provide a comprehensive single window reference system for all intellectual property rights issues relating to intellectual property generated at the Institute.
- c) To safeguard the interest of creator of intellectual property and provide fair distribution of returns accruing from the commercialisation of IPR.
- d) To help in introducing prudent IP management practices within the Institute to promote an IPR culture.
- e) To provide legal support, wherever necessary, to defend and protect the intellectual property rights obtained by the Institute against any infringement/unauthorised use.
- f) To create an environment for acquiring new knowledge through innovation and research, compatible with the educational mission of the Institute.
- g) To preserve the academic freedom to publish the research results and to make them aware that if they do decide on public release, the patent system cannot be brought into play thereafter.
- h) To ensure that once they decide to explore the prospects of commercialisation of IP, they must disclose it to the Institute, while continuing to keep the information confidential until patent applications, if any, are being processed.
- i) To ensure the release of the Institute's rights relating to an IP back to the

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researcher where the Institute decides not to pursue the opportunity for commercialisation.

4. Intellectual Property and Ownership

Types of IP:

There are many types of IP. These are as defined under many of the Acts enacted in India. Some of these are as follows:

- IP defined as Copyrights in The Copyright Act 1957 and Amendment, 2023 (for example: Protection of literary and artistic work)
- IP defined as Design in the Designs Act, 2000 (for example: Protection of visual configuration, shape, pattern)
- IP defined as Patent in the Patent Act 1970 and Amendment Rules 2024 (for Example: Product / Process / Utility to protect technologies)
- IP defined as Trademark in the Trademark Act, 1999 and Jan Vishwas (Amendment of Provisions) Act, 2023 (for Example: Protection of words, signs, logos, labels)
- IP defined as Geographical Indications (GI) in the Geographical Indications of Goods (Registration and Protection) Act, 1999 (for Example: Protection of region-specific products)
- IP defined as IC Layout Design in the Semiconductor Integrated Circuits Layout-Design Act, 2000
- IP defined as Plant Varieties in the Protection of Plant Varieties and Farmers' Rights Act, 2001

4.1 Copyrights

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

- i. If the work is produced during sponsored and/or collaborative activity, specific provisions related to IP, made in contracts governing such activity, shall determine the ownership of IP.
- ii. The Institute shall be the owner of the copyright of work, including software or applications (mobile apps), created by the Institute personnel with significant use of Institute resources. The Institute may demand assignment of the copyright in whole or in part, depending on the degree of Institute-supported resources used in producing the copyrightable work.
- iii. The Institute shall be the owner of the copyright on all teaching materials (including other materials such as GIS based settlement maps, documentation of buildings and other structures, product and design details from course assignments etc. prepared by students but supervised by institute personnel)

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developed by the Institute personnel as a part of any of the academic programs at the Institute. However, the authors shall have the right to use the material in her/his professional capacity. As a traditional exception, the Institute shall not claim ownership of copyright on books and publications authored by the Institute personnel. However, if the publication is by the Institute, the ownership of the document shall remain with the Institute.

- iv. The Institute shall be the owner of the copyright of work produced by non-Institute personnel associated with any activity of the Institute, with the intellectual contribution of the Institute personnel. However, the authors shall have the right to use the material in her/his professional capacity.

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

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

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

4.2 Invention(s), Design(s), planning layouts, processes, policies and other creative work(s) :

Invention(s) and other similar creative works created by the Institute personnel without significant use of the Institute resources and not connected with the profession for which he/she is employed at the Institute shall be owned by the creator(s).

For invention(s) and other similar creative works produced during sponsored and / or collaborative activity, specific provisions related to IP made in contracts governing the collaborative activities shall determine the ownership of IP.

The Institute shall be the owner of all invention(s) and other similar creative works created by a team of the Institute and non-Institute personnel associated with any activity of the Institute. Non-Institute personnel, who create invention(s) and other similar creative works at the Institute without any intellectual contribution of the Institute personnel and significant use of the Institute resources, shall be the owners of such invention(s).

Except as stipulated above, the Institute shall be the owner of all invention(s) and other similar creative works, created at the Institute.

4.3 Patents

This section refers to intellectual property that is patentable or protectable by confidentiality agreements.

- i. The Institute will not require to be assigned to it the intellectual property



created by the creator(s) where there is use of the usual Institute resources only including funds and grants received at the Institute.

- ii. The Institute will require to be assigned to it such intellectual property as is created by the creators using Institute-supported resources. In this case, the Institute will take steps to commercialise the property through patenting or agreements. Where a patent is applied for, the creator shall agree to maintain all relevant details of the intellectual property secret and confidential until the patent application is filed. In the case of protection through confidentiality, the same information will be kept secret and confidential as long as the intellectual property has commercial value. The creator shall furnish such additional information and execute such documents from time to time as may be reasonably requested for effective protection and maintenance of the proprietary rights of the Institute in the intellectual property.
- iii. The intellectual property created through sponsored research where the sponsor does not claim intellectual property rights vide section 5.12.
- iv. The creators of Institute-owned intellectual property shall retain their right to be identified as such unless they specifically waive this right in writing.
- v. Royalty accruing or any type of payment received from the commercialisation of the Institute-owned intellectual property will be shared between the Institute and the creators vide section 5.2 (v).

4.4 Trademark(s)/ Service mark(s)

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

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

- i. Any association with the Institute implied by third parties is accurate.
- ii. The activities with which the Institute is associated through third parties maintain standards consistent with the Institute's educational purpose.

4.5 Geographical Indications (GI)

If the Institute personnel are involved in the process of documentation process necessary for achieving GI for any form of goods (particularly related to cultural heritage such as, traditional crafts, building crafts, handicrafts etc.), the ownership of the documentation shall be with the Institute. The Institute shall retain a non-exclusive, free, irrevocable license to copy/ use IP for teaching and research activities, consistent with the confidentiality agreement(s), if any, entered into by the Institute.

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



- i. Any association with the Institute implied by third parties is accurate.
- ii. The activities with which the Institute is associated through third parties maintain standards consistent with the Institute's educational purpose.

5. IPR Administration

This policy shall apply to all the Institute personnel, as well as non-Institute personnel associated with any activity of the Institute, such as, but not limited to, outcomes of research, consultancy or Continuing Education Programmes, and covers different classes of Intellectual Property, e.g., Patents, Designs, Trademarks/ Service marks, Copyright, Trade Secret and undisclosed Information.

I. Legal status of IPR policy

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

An employee is required to observe the institute's policy on Intellectual Property Rights as may be decided by the IIPC and Senate from time to time.

II. Constitution of the Institute Intellectual Property Cell (IIPC) and ECIP

- There shall be an Institute Intellectual Property Cell (IIPC) and an Evaluation Committee for Intellectual Property (ECIP).
- An Institute Intellectual Property Cell (IIPC) shall comprise the Dean (Research) as Chairperson, Coordinator, IIPC (nodal person), and four additional members nominated by the Chairperson of the Senate, which may include external legal and/or IPR expert. The nominees will serve a two-year term.
 - IIPC shall be responsible for administering all decisive issues related to IP policy and such other relevant matters as shall be determined from time to time.
 - The Dean (Research) shall be responsible for the implementation of all the recommendations and decisions through IIPC.
- The Evaluation Committee for Intellectual Property (ECIP) shall comprise both Institute personnel and external domain experts nominated by the Chairperson of the Senate. The nominees will serve a two-year term.
 - The ECIP shall evaluate the Intellectual Properties for the prospect of copyrighting/patenting/trademarking etc., for commercialisation.
 - The creator(s) would be free to suggest names of faculty who are qualified to evaluate the creative work and who may be invited by the Dean (R), to be a

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part of the ECIP.

- The evaluation process shall, inter alia, consist of the following activities (but not limited to):

IP Assessment and ascribing the ownership.

- i. Assessment of IP, that is, if it is novel, innovative and appropriate for application for patenting/trademarking, etc. in India and other nations.
- ii. Assessment of IP, if it has a strong probability that the Intellectual Property will be commercialised.
- iii. After the assessment of the IP, if SPAB decides not to take the responsibility for the protection of the IP, then it will assign all the rights of the IP to the inventors.
- iv. Even in such cases, as in (i), SPAB may take the responsibility of facilitating protection of the IP on a case-by-case basis.
- v. The IIPC shall recommend the need for annual renewal of IP rights. If SPAB IIPC recommends full or partial non-renewal of any IP, the rights of the IP, wherever relevant, will be assigned to the "Inventors/ Innovators."

Further details about the Assessment process may be referred in section 5.14 of this policy document.

III. Scope of the Policy

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

5.1 Disclosure

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

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disclosed invention to the institute.

5.2 Confidentiality

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

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

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

- i. The amount of information given to prospective licensees before the signing of any confidentiality or secrecy agreement should in no case exceed or fall outside that which is set out in the Innovation Profile Form for any particular intellectual property.
- ii. When a third party is interested in commercialising an item of intellectual property on offer after inspecting the relevant Innovation Profile, they may apply on the prescribed form and with the deposition of the required fee for the transfer of the technology/ Innovation rights. They will be required to demonstrate their capacity to commercialise the technology/ innovation to the Institute's satisfaction. The Institute will then require the third party to sign contractual confidentiality or secrecy agreements, undertaking to maintain the confidentiality of all information disclosed, before any further disclosure is made. The format of the Bilateral Secrecy Agreement should be followed.
- iii. Third parties must obtain express authorisation in writing from the Institute to commercialise/exploit the intellectual property. Confidentiality agreements will continue in force even if the commercialisation process is aborted at any stage. However, it is recommended that confidentiality be maintained if there is any doubt as to the outcome of the commercialisation process.
- iv. If running royalties are to accrue to the Institute and the creator/inventor, the licensees must be bound by their contract to take adequate measures to protect that matter from becoming known to others through the licensee's practice, and availability to others whose activities may adversely affect royalty

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- v. Access to Institute-owned intellectual property, including confidential information, and to confidential documents, records, etc., is to be limited only to those who are creators/ inventors or are bound by confidentiality agreements.
- vi. Creators /Inventors or Institute personnel must take care not to disclose confidential details of Institute-owned intellectual property in their publications, speeches, or other communications.

5.3 Evaluation and Exploitation Decisions

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

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

5.3 (a) Where the Institute wishes to own and commercialise the intellectual property

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

5.3 (b) Where the Institute is unwilling to commercialise the intellectual property

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

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

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5.3 (c) Where the ownership of the intellectual property is in doubt

In all such cases the issue of ownership shall be referred by the Institute Intellectual Property Cell to an Arbitration Committee constituted by the Board of Governors of the Institute. The Arbitration Committee must communicate its decision on the matter to the creators within two months of the referral of the issue to the Arbitration Committee. The decision of the Arbitration Committee will be final and binding on the creator(s) and the Institute.

5.4 Commercialisation of Institute-owned IP

5.4 (a) Commercialisation through licensing of rights by the institute

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

- Date zero: the creator discloses the nature and particulars of the intellectual property they have created to the Institute in the prescribed Disclosure Form.
- Zero plus one hundred eighty days (six months) or earlier: If the Intellectual property is found to be assignable to the Institute and the Institute wishes to own the property as per section 5.3 (a), the Institute files the patent or proceeds directly for commercialisation through confidentiality agreements with third parties, whichever is practicable.
- The creator should provide all necessary data and documents for filing the patent within 30 days of the notice of the Institute, intimating its decision to patent. If the Institute fail to inform the creator of its decision within the said deadline, the creator, without encumbrance, will hold the rights of the intellectual property.
- Zero plus five years: the Institute reviews the situation if the intellectual property has been commercialised; the subsequent cost of maintaining statutory protection will be met through receipts from the licensee. If the property has not been commercialised, all rights and responsibilities in it will revert to stand a good chance of being commercialised within the next year, in which case the Institute opts to pay for another year of protection and retains the rights for that year.
- Zero plus six years: After the end of the sixth year, if the intellectual property is still not commercialised, all rights and responsibilities in the property will revert to the creator, subject to any contractual agreements with a sponsor, if any, and the Institute shall no longer be liable to pay for statutory protection of the property.

At any time during the above process, the Institute will have the right to revert the rights of the intellectual property to the creator at a mutually agreeable date with notice of three months of its intention to do so. If the property is commercialised subsequently, the creator may be required to pay a royalty to the Institute on first

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slab of the net profit in a proportion 60% for the creator/inventor, 20% to the department/centre of the creator/inventor and 20% to the Institute following the procedure as mentioned in Section 2 of the associated IPR Guidelines and Procedures.

5.4 (b) Commercialisation through licensing of rights by third parties

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

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

5.5 Transparency of IP Administration

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

5.6 Institute's Acceptance of Independently Owned Intellectual Property

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

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5.7 Institute's Right to Update and Maintain Course Materials, GIS based settlement maps, documentation of buildings and other structures, product and design details from course assignments etc.

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

5.7 (a) Where the Institute owns the Rights

The Institute will be at liberty to update, revise, and/ or translate (hereinafter revise) course material in which it owns the right through assignment of copyright, provided that such revision does not damage the reputation or honour of the original creator. All such revisions will be treated as work for hire. The creator will retain the right to be identified as the creator of the original work, and the Institute must clearly state on the derived work and related documents that the derived work is adapted from the original work.

The question of whether the creator of the original work is to be paid a royalty, and if so, how much, of the receipts from the commercialisation of the derived work, shall be determined on a case-by-case basis by the Institute's Intellectual Property Cell, on the criterion of how extensively the alteration has been carried out. The following guidelines may be followed by the Institute in this matter:

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

5.7 (b) Where the creator owns the Rights

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

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

The Institute will have the right to extend these deadlines as it deems fit. In such a case, the Institute must inform the creator of the original work of its intention to contract with any other party to revise, update, or translate the work to the

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extent necessary to maintain the usefulness and quality of the course material as an instructional offering from the Institute. In such cases, the Institute shall state the name of the reviser on the derivative work and in all documentation relating to it, and it shall be clearly stated that the work is adapted from the original work.

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

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

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

5.8 Statement by Creators

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

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

5.9 Consulting Agreements

Since consultancy comes to academic staff through Institute channels and is administered centrally, any intellectual property arising from consultancy should be assigned to the Institute in the interests of transparency and fair negotiation with client agencies and / or other associated consulting firms. The Institute will offer a first refusal option on the licensing of such intellectual property rights to the client and/ or other associated consulting firm, as with sponsored research as laid out in section 5.13. However, in recognition of the fact that a percentage of the consultant's fee is paid to the Institute, the royalty arising from commercialisation of intellectual property generated through consultancy will be distributed following the procedure as mentioned in section 2 of IPR Guidelines and Procedures. The creators who are engaged in consulting work or business should not be in conflict with Institute policy or with the Institute's prior contractual commitments. Such creators should make their Institute obligations known to outside parties before



they make such agreements and should provide such parties with copies of all applicable Institute policies.

5.10 Responsibilities of Departments

Each department will administer this Institute policy and in particular, each creator must maintain in his or her department, records detailing his or her activities in generating intellectual property. Such records must be made available on demand to the Institute Intellectual Property Cell.

5.11 Authority of Contracts

All Commitments, Agreements, Memoranda of Understanding, etc. relating to commercialisation or exploitation of Institute-owned intellectual property will be granted in the name of the Institute for and on behalf of the Institute by the Director, SPA Bhopal or his nominee.

5.11 (a) Contracts and agreements

All agreements including but not limited to the following categories, undertaken by any Institute personnel and student/scholars need to be approved by the institute:

- i. Allegiance, Affirmation & Confidentiality Agreement
- ii. Consultation Agreement
- iii. Evaluation Agreement
- iv. Research and Development Agreement (R&DA/MOU)
- v. License Agreement
- vi. Technology Transfer Agreement
- vii. Alternative Dispute Resolution Agreement
- viii. Classified Information Non-disclosure (specific) Agreement
- ix. Materials Transfer Agreement (MTA) clause 15, Annexure-I.

IIPC shall facilitate the process of framing such agreements by way of providing templates and services of professional consultants.

5.11 (b) Obtaining IPR

If the Institute opts to protect the creative work, it shall provide an IPR Advisor/Patent Attorney for drafting the IP application as appropriate. The institute shall pay for access to the relevant IP information databases and other associated costs. The inventor(s) shall conduct IP searches, study the present state of art and provide the necessary inputs to assist in the drafting of the IP application. The Institute shall bear all costs of drafting and filing an Indian IP application. If the institute/creator chooses to file IP applications in other countries, then it shall bear the cost of application and other associated costs. The Institute shall be free to enter into agreements with overseas institutions for protection and licensing of the IP.

5.12 First-refusal Option for Sponsors

Unless the Institute decides otherwise on the merits of the case, agreements governing sponsored research shall provide that all intellectual property developed as a result of the sponsored research project shall belong to the Institute.

- When the creator discloses the generation of such intellectual property to the Institute, the sponsor will receive first refusal as an option to license the resulting intellectual property on terms to be negotiated on a case-by-case basis. The sponsor may either accept or refuse its first-refusal option within 90 days of the date of offer of the option by the Institute to the sponsor. If the Institute finds that the sponsor has not taken steps to commercialise the property within one year of acceptance of the option, the Institute will be free to revoke the license. Confidentiality agreements will continue to apply in that event.
 - The Institute may, at its own discretion, contract with sponsors to allow them specific rights, whether exclusive or non-exclusive, in the intellectual property whose creation they sponsor, if in the Institute's opinion the granting of such rights will facilitate the commercialisation of the intellectual property.
- In all cases, the terms of licenses or assignment shall be determined through negotiation between the sponsor and the Institute once the sponsor agrees to exercise his or her licensing option. Considerations that must be taken into account are as follows, namely:
- i. the nature and application of the intellectual property;
 - ii. the relative contributions of the Institute and the sponsor to resources involved in its creation; and
 - iii. the Institute's opinion on the best way to commercialise the intellectual property.
- If the sponsor refuses to exercise his or her first-refusal licensing option, the Institute will proceed to commercialise the intellectual property in such manner as it deems fit.

5.13 Handling of Theses, Term Papers and Research Submitted by Student/scholars

It is a requirement in academia that the supervising teacher and the student/scholar must own the copyright of the thesis, which the student/scholar submits for the partial fulfilment of the requirements for an academic degree. However, the supervising teacher and the student/scholar will grant a non-exclusive, non-transferable royalty free license to the Institute to use, in the course of non-commercial academic activity, the records and data generated in the course of the student/scholar's research.

Furthermore, it is possible that the research that the student/scholar carries out as part of the program of study may result in the generation of intellectual property other than the text of the thesis. Supervisors should advise the student/scholars during the course of their work that certain kinds of research may lead to the generation of intellectual property which will require protection of its commercial value through confidentiality, for which the student/scholar will have to forgo publication during the period of sealing of a patent. Care should be taken at all stages to see that no conflict of interest arises between the student/scholar's academic activities and the generation of intellectual property.

This additional intellectual property will be assigned to the Institute if:

- such property has been generated using Institute-supported resources and





is commercialise-able within the scope of this document. The Institute will then have the rights in this intellectual property assigned to it as per section 5.3(a) while the copyright of the thesis in which this intellectual property is described or outlined will remain with the teacher and the student/scholar vide section 5.14 (a). The supervising teacher and the student/scholar will undertake to maintain confidentiality while the Institute will restrict access to the thesis for a limited period as per sections 5.1, 5.2 and 5.3.

- the student/scholar is employed to assist in execution of a sponsored project or program. The intellectual property rights in their contribution to that project will be governed by the terms of the contract between the student/scholar, the Institute and the sponsoring body of the project, vide clause 8(d), Annexure –I.
- the intellectual property has been generated as a work-for-hire. In all such cases the student/scholar and/or his/her supervising teacher will retain the moral right to be identified as the creator of the intellectual property as per sections 5.3.

In the case of any intellectual property generated in the course of a student/scholar's program of study, it is the duty of the student/scholars and the supervising teacher to make sure that the publication/submission of such work does not violate any confidentiality agreement.

Where the thesis of a student/scholar contains details of commercialise-able intellectual property, the Institute, the supervising teacher and the student/scholar must agree to keep the thesis, in part or whole, and all relevant documents, confidential until the process of securing statutory protection for the intellectual property is complete. It should be noted that the submission of the thesis for examination does not violate confidentiality because the thesis remains confidential until the examination process is over.

It is to be noted that retention of the hard copy by the Institute library is essential for meeting the requirements for a degree, and the supervising teacher and the student/scholar must agree to allow the abstract of the thesis to be made available electronically, the supervising teacher and the student/scholar will have the option to refuse releasing of the full electronic text of the thesis on any network. On the Institute's part, the library has a duty to ensure that the use of the texts of thesis held by it is consonant with laws governing copyright and fair use, as well as sound academic practice.

5.14 Assessment of Invention & Innovation for Protection

Institute shall have the right to consult on a confidential basis with appropriate experts in the field of IPR in question in order to assist in the assessment of innovation and its commercial potential in India and abroad.

The ECIP shall assess the disclosure in a timely manner and shall make recommendations to the Dean (R) about the patentability of the invention /innovation according to the provisions of sections 5.2 and 5.14 of this policy. The ECIP may make one of the following recommendations:

- That the Institute shall take the responsibility of protection of the IP, in which case, the Institute will initiate appropriate processes.
- That the Institute shall not take the responsibility of protection of the IP, in

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which case, the rights to the disclosed invention/innovation shall be promptly reassigned to the creator(s). The creator(s) may then choose to protect the creative work on their own.

5.14 (a) Filing of IP Applications in foreign countries

Subjected to the provisions of section 39 of the Patent Act, 1970 the Institute shall, decide on the suitability of protection of the invention in foreign countries within six months of filing the Complete IP Application in India if no secrecy direction is received from Patent Office.

If the Institute opts not to undertake such protection in any specific country requested by the inventor(s) relating to the application where no secrecy has been imposed by the Patent Office, the Institute shall assign rights of the IP in that country to the creator(s) for the purpose of such protection.

5.14 (b) Renewal of IP Rights

EPIC will take a decision on the renewal of IP rights. If the Institute decides not to renew the IPR in any country, then it will assign the rights of the IP in that country to the creator(s) upon a request to that effect from the creator(s). In case of patents, the process of reassignment will be completed in a period of three months before the due date for its renewal.

In all cases, where IP rights in any specific country have been reassigned to the inventor(s), the Institute shall not claim any share of proceeds earned through that IP in that country excepting for the costs already incurred by the institute.

5.15 IP Protection and Technology Transfer

5.15 (a) Procedure of IP Protection by filling of patent through Institute

All employees and student/scholars desirous of filing a patent application in connection with an innovative work done by them shall follow the procedure outlined below:

- Forward a proposal prepared by the concerned investigator to Dean (R) outlining their request to file a patent application. An Invention & Innovation Disclosure Form (IIDF) should accompany this proposal on the Intellectual property to be protected.
- The application will be processed by the office of Dean (R) as per the Intellectual Property Policy of the Institute.
- The ECIP will assess the application and consider feedback from the Institute's IPR consultant (latter: if and as necessary).
- A report/recommendation by the ECIP will be given to Dean (R) within 2-3 weeks following
 - i. a review of the write-up accompanying the application;
 - ii. a presentation by the applicant(s) and ensuing discussions; and
 - iii. the receipt of any additional data/inputs/clarifications the committee may

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seek.

If the work is recommended for patenting by the Institute, the applicant will be requested to have further discussion with the patent attorney for completing formalities for filing the application in India/abroad.

Other forms of intellectual property generated during the course of research and development, such as Copyrights, design registrations, trademarks, etc. will essentially follow the same procedure as above.

5.15 (b) Technology transfer

The Institute shall strive to market the IP and identify potential licensee(s) for the IP to which it has ownership. The creator(s) are expected to assist in this process.

The Institute may contract the IP to Technology Management Agencies (Government/Private), which manages the commercialisation of IP.

For the IP, for which exclusive rights have not been already assigned to a third party, the creator(s) may also contact potential licensee(s) on their initiative maintaining confidentiality and taking all necessary care so as not to affect the value of the IP through appropriate agreements such as Non-Disclosure Agreement (NDA) with the potential licensee(s) during technology marketing discussions.

If the Institute is not able to commercialise the IP in a reasonable time frame, then it may reassign the rights of the IP to the creator(s) of the IP. Alternatively, if the Institute has not been able to commercialise the creative work in a reasonable time frame, the creator(s) may approach the Dean (R) for the assignment of rights of the invention(s) to them.

NOTE: This policy should be read along with Guidelines and Procedures

ANNEXURE – I

DEFINITIONS:

1. **Academic Freedom:** The freedom of the academic staff and research scholars of the Institute to conduct their own academic activities including teaching, research and development, choose their own research field, pursue self-directed

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research, and collaborate and communicate with others regarding their scholarly efforts in keeping with the Institute's academic mission.

2. Intellectual Property: It refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programmes.

Intellectual property rights refer to :

- 2(a) the monopoly protection for creative works such as writing (copyright), inventions (patents), processes (trade secrets) and identifiers (trademarks). Also known as TRIPS, or trade-related intellectual property rights.
 - 2(b) the rights awarded by society to individuals or organizations over inventions, literary and artistic works; and symbols, names, images, and designs used in commerce, giving the titleholders the right to prevent others from making unauthorized use of their property for a limited period.
 - 2(c) all and any patents, patent applications, trademarks, service marks, trade names, domain names, registered designs, unregistered design rights, copyrights, know how, trade secrets and rights in confidential information, URLs and all and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.
3. Work for hire: work for hire is defined for the purposes of this policy as any work commissioned by the Institute from a creator as defined by this policy for a consideration or otherwise, or from an external agency. In all such cases the ownership of the resulting intellectual property shall be assigned to the Institute in a written contract between the concerned parties.
 4. Fair use: This is the amount of copying allowed by law so that copyright shall not be a stranglehold on the progress of human knowledge. Limited portions of a work can be copied without the rights holder(s) permission for academic and non-commercial uses, although the exact permissible percentage may have to be determined by the courts. In general, use of a small part of a 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 decide 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 multimedia

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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, which may be quoted or reproduced in the package.

The possibility of fair use exists only in the case of copyright and does not apply to patents.

5. Commercialise-able intellectual property: Commercialise-able intellectual property is that intellectual property which can be transferred to a commercial organization through patent licensing or confidentiality agreements for the purpose of exploitation in the market. Such property is to be safeguarded either under patent laws or by secrecy as is relevant and practicable.
6. Staff: Staff are the employees engaged by the Institute for carrying out its purposes or those engaged for carrying out specific tasks like projects, consultancy, education, extension etc.
7. Personnel: Institute personnel include the staff, students, trainees or similar personnel involved or associated with the creation of IP. Non- Institute personnel are those from outside the Institute but involved or engaged with the creation of a specific IP.
8. Creator: Creator refers to an individual or a group of individuals at the Institute, who make, conceive, reduce to practice, author, or otherwise make a substantial intellectual contribution to the creation of any intellectual property. Creator includes an inventor in the case of inventions under Patent Law, an author in the case of works falling under the Industrial Designs Law and/ or Copyright Law. In the case of intellectual property owned by the Institute as work-for-hire, the creator shall retain only the moral right to be identified as such, vide clause 3, Annexure-I. The special categories to be understood under the term creator are as follows:

8. (a) Permanent and temporary academic staff on Institute pay roll:

Academic staff may create intellectual property :

- as part of their normal Institute duties.
- through their own creative activity in the context of academic freedom.
- as work -for-hire.

These provisions will also apply to professors who hold Chairs and emeritus professors. The ownership of the intellectual property they generate will be governed by section 4 of the Policy.

8. (b) Adjunct professors, short-term visiting academic staff and researchers other than those covered by clause 8(a), Annexure-I: Adjunct professors are not eligible for usual Institute resources and therefore all resources used by them are Institute- supported resources. They shall therefore provide an undertaking at the time of joining the Institute whereby all

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intellectual property generated by them using any Institute will be assigned wholly to the Institute and / or co-workers among Institute staff and students, unencumbered by any other co-share.

8. (c) All staff other than academic staff on Institute payroll: Such staff may participate in the generation of intellectual property:

- in the course of their normal duties.
- as work for hire.

For such staff employed in projects, the handling of intellectual property rights generated will be guided by the terms of the contract with the sponsor of the project.

8. (d) Students/scholars: The term student/scholar applies to all those registered for courses leading to a degree at the Institute and scholars enrolled in doctoral programmes. Rights in intellectual property produced by a student, whether in fulfilment of the requirements for an academic degree or not, shall belong to the student concerned (jointly with the supervisor), except where the conditions of section 5.13 are required to be fulfilled.

8. (e) Externally funded project staff: This category includes staff appointed for externally funded project work. The handling of the rights in the intellectual property generated during the course of the project will be governed by the terms of the contract between the sponsor of the project and the Institute.

8. (f) Institute project staff: Intellectual property generated through Institute projects will be governed by the terms of the agreement between the Institute and the project staff.

9. Usual Institute Resources: Usual Institute resources mean facilities such as office space, standard laboratory facilities, library, normal access to software, computers and networks, standard secretarial services, salary and perquisites.

10. Institute-Supported Resources: Institute-supported resources mean special facilities and equipment, specific funding, intellectual property already owned by the Institute, requisitioning the time and labour of students and staff through Institute administrative channels, or at the Institute's instance and expense, and remission by the Institute of any or all of the normal duties of staff or students to provide time or resources for the purpose of generating intellectual property. In particular, the following Institute resources will constitute Institute supported resources as contemplated by this policy.

Financial Resources

10. (a) Financial support provided by the Institute over and above the regular salary perks as per employment, enrolment/sponsorship contract or over and above the scholarship, provided to scientists/ scholars/ students/research assistants.

Exception: Honour fellowships, awards, prizes, grants, assistantships and scholarships, and facilities built up with such funds, will not constitute



Institute-supported resources. Use of infrastructure developed by creators using their own funds, like their own earnings through consultancy, royalty proceeds, etc., will not constitute use of Institute-supported resources.

10. (b) Funds provided by the Institute to secure, maintain and enforce right in intellectual property.
10. (c) Funds specifically provided by the Institute to the creators to scale up or reduce to practice a particular patent-able intellectual property.
10. (d) Funds provided to commercialise and/or exploit intellectual property;
10. (e) Sponsored research grants or contracts as per the terms of the contract;
10. (f) Substantial funding by the Institute for the printing of books to be decided by the IIPC on a case-by-case basis.
10. (g) Exemption from fees normally charged by the Institute for any specialized facility or equipment.

Intellectual Property Resources

10. (h) Pre-existing intellectual property owned by the Institute.
10. (i) Explicit use of the name, insignia, logo, or trademark of the Institute in the creation and vending of intellectual property. However, statement of affiliation by academic staff constitutes legitimate self-representation and shall be regarded as use of usual Institute resources.
11. **Institute Confidential Information:** Institute confidential information means trade secrets, technical know-how, confidential data and related information about intellectual property owned by the Institute.
12. **Trademarks and service marks:** Trademarks and service marks mean distinctive words or graphic symbols or logos or a combination thereof, identifying the Institute as associated with, or as a source of, a product; or as a producer and/or distributor of goods or service. The use regulated by this policy refers to the identification, statement, or display of the Institute name, insignia, logo in any way that can reasonably be interpreted as implying endorsement, approval or sponsorship by the Institute or its officials.
13. **Sponsored research:** For the purposes of this policy, sponsored research shall be taken to mean a specific research project funded by an outside agency, whether non-profit or for profit, governmental or private, national or international. The term sponsored research will not apply to funds awarded by an external agency to a student, scholar, fellow or trainee for the support of education or research.
14. **Individual scholarships, fellowships and grants:** No individual scholarship, fellowship or training grant tenable at the Institute will 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 section 5.13.



15. Materials Transfer Agreement (MTA): MTAs are legally binding contracts and as such it is vital that an authorised signatory of the INSTITUTE executes the agreement properly. MTA is a contract that REGULATES the transfer of one or more materials from the owner (or authorised licensee) to a third party for internal research purposes only. MTA's can also be applicable for the transfer of materials in engineering/physical science applications.

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ANNEXURE – II

GLOSSARY:

“Author” means faculty, students, staff or visiting faculty who has/have written or created a creative work.

“Collaborative Activity” is the research undertaken by Institute personnel in cooperation with industry and/or other researcher(s) who are not Institute personnel.

“Confidential Information” Information not in the public domain and declared confidential by parties as such in a MOU/Agreement that has been signed by the parties.

“Conflict of Interest” or a “Potential Conflict of Interest” exists when an inventor/author is or may be in a position to use either creative work or influence for unmerited personal or family gain.

“Copyright” means the exclusive right granted by law for a certain period of time to an author to reproduce, print, publish and sell copies of his or her creative work.

“Copyrightable Work” is a creative work that is protect-able under copyright laws. Copyright protection is available for most literary, musical, dramatic, and other types of creative work, including software, teaching materials, multimedia works, proposals, and research reports.

“Creators” are persons who have produced any original work.

“Cumulative Earnings” from a patent/patent application are the total earnings to date obtained from the commercialisation of the patent/patent application.

“Design Registration” Registration of the novel non-functional features such as shape, or ornamentation of a product.

“Institute personnel” includes but is not limited to the faculty, students, staff or visiting faculty, researchers and scientists at the Institute.

“Intellectual Contribution” means original technical or artistic contributions.

“Intellectual Property” includes but is not limited to copyrights and copyrightable materials, patented and patent-able inventions, tangible research results, trademarks, service marks and trade secrets.

“Invention” includes but is not limited to any new and useful process, formula or machine conceived or first reduced to practice in whole or in part, defined within the purview of the Patent Act. Inventor(s) are person(s) who produce an invention.

“Licensing” is the practice of renting the intellectual property to a third party.

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“Net Earnings”: Earnings resulting from the licensing or commercialisation of the IP, reduced by the outstanding actual expenses incurred in obtaining and commercialisation of the IP.

“Patent” means the exclusive right granted by law for making, using or selling an invention.

“PCT Application” A PCT is a system of filing a patent application in several countries through a single application keeping the priority of the first filing in any of the countries within the PCT system. This is administered by the World Intellectual Property Organisation (WIPO) in Geneva. It is not a patent granting system.

“Royalty” is the payment made to an inventor/author or an institution usually for legal use of a patented invention or any Intellectual Property when licensed.

“Significant Use of Institute Resources” is any usage of Institute’s resources in the creation of the invention(s), excess of the routine use of office facilities, computers, library resources and resources available to the general public.

“Software / Apps” means anything executable in a computer or a mobile.

“Teaching material” means any material that aids the process of teaching.

“Trade Mark / Service Mark” is a distinctive word, symbol or picture or a combination of these, which is used by a business entity to discriminate its products and services from those of other business entities.

“Trade Secret” Usually some information such as know-how of commercial or strategic value that is not disclosed to all and is used in a restricted manner.

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Intellectual Property Rights Policy Guidelines and Procedures

School of Planning and Architecture Bhopal

1. Record Keeping Procedures

It shall be the responsibility of the Heads of the Departments/Centres or persons authorized by the Institute Intellectual Property Cell (IIPC) to ascertain the facilities / resources have been used for the purpose of generation of intellectual property by a creator in a given Department/ centre. All data and details generated by a creator in the course of creation of intellectual property should be systematically recorded in the concerned department as outlined below:

- i. All laboratory experiment/ simulation/ field study records shall be either maintained in hard copy or digitally as PRIVATE & CONFIDENTIAL with all pages serially and permanently numbered, without mutilations or insertions.
- ii. Precise descriptions of all actions and experiments carried out should be provided. Ideas or suggestions should be headlines as such, so as to clearly differentiate them from work actually performed.
- iii. No abbreviations or terms, except where their use is standard practice in that particular discipline, should be used, unless clearly explained in a table at the front or back of the book.
- iv. Crucial data or descriptions or experiments, which relate to valuable inventions or discoveries should be signed and dated by the creator, supervisor, or coordinator of the project.
- v. Modifications, if any, should be made by drawing a line through the deleted matter and writing cancelled beside it. The corrected data (clearly marked as such) should be entered immediately below, authenticated by the creator with his / her initials and date.
- vi. Samples of new products or of products produced by a new method should be preserved, if possible, and photographed for the record. All photographs should be dated and signed by the creator on the reverse.

2. Revenue Sharing

Any revenue generated by the exploitation of IPR (commercialization), will be shared between the creator/inventor(s), Institute and a service account. This shall be after deduction of agreed taxes and other costs borne by the Institute on the prescribed terms and conditions.

The guideline for sharing the net earnings generated from the commercialization of Institute-owned intellectual property will be as follows:

Particular(s)	Share (%)		
	Inventor(s)	Institute	Service Account
Net earnings	70	20	10

Service Account Share may be used for the promotion and up-gradation of the invention. Unused funds from the service account will be used for promotion or commercialization, IP protection costs and any other related activities.

Co-creators of IP shall sign at the time of disclosure, a distribution of IP Earnings' Agreement, which shall specify the percentage distribution of earnings from IP to each co-inventor. The inventors may at any time by mutual consent revise the distribution of IP Earnings Agreement.

When the Institute reassigns the rights of the IP to its creator(s) for any country, the creator(s) shall reimburse the costs incurred by the Institute for the protection, maintenance and marketing and other associated costs from the cumulative earnings from successful commercialisation in that country as under:

Case	Cumulative earnings	Inventor(s)' share	Institute's share
A	Up to twice the cost incurred by Institute for protection, marketing and other associated costs.	50%	50%
B	Beyond A	100%	0%

Co-creators of IP shall sign at the time of disclosure, a Distribution of IP Earnings Agreement, which shall specify the percentage distribution of earnings from IP to each

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co-inventor. The inventors may at any time by mutual consent revise the Distribution of IP Earnings Agreement.

The creator's share will continue to be paid to the person or his/her nominee irrespective of whether the creator/inventor continues in the employment of the Institute or is deceased. The Institute will also honour any commitment to make payments to a member of the Institute staff as a creator/inventor who had left the employment of the Institute prior to the exploitation of IPR.

In case there is a third party (i.e. funding agency), the respective shares of the Institute and creators will be calculated on the net receipts after deducting the third party's share. The creator may opt for his/her personal share (partly or wholly) to be retained by the Institute e.g. to support his/her research, in which case the facilities so generated will be treated as under the exception to clause 8. (a), Annexure-I. The creator's share will continue to be paid irrespective of whether the individual continues as an employee/student/scholar of the Institute.

3. Infringements, Damages, Liability, And Indemnity Insurance

As a matter of policy, the Institute shall, in any contract between the licensee and the Institute, seek indemnity from any legal proceedings including without limitation manufacturing defects, production problems, design guarantee, up-gradation and debugging obligation.

The Institute shall also ensure that the Institute personnel have an indemnity clause built-into the agreements with licensee(s) while transferring technology or copyrighted material to licensees. The Institute shall retain the right to engage or not in any litigation concerning patents and license infringements.

4. Conflict Of Interest

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) and/or their immediate family have a stake in a licensee or potential licensee company then they are required to disclose the stake they and/or their immediate family have in the company.

A license or an assignment of rights for a patent to a company in which the inventors have a stake shall be subject to the approval of the Director, SPAB taking into consideration this fact.

5. Dispute Resolution

In case of any disputes between the Institute and the inventors regarding the

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implementation of the IPR policy, the aggrieved party may appeal to the Director of the Institute. Efforts shall be made to address the concerns of the aggrieved party. The Director's decision in this regard would be final and binding.

6. APPLICATION OF POLICY

This policy shall be deemed a part of the conditions of employment for every employee of the Institute and a part of the conditions of enrolment and attendance of students at the Institute, students on enrolment, and to all existing staff and students.

Further, the Institute reserves the right to amend the IPR Policy as and when such need arises/ deemed fit.

All potential creators who participate in a sponsored research project and/ or make use of Institute-sponsored resources shall abide by this policy and shall accept the principles of ownership of intellectual property as stated in this policy unless an exception is approved in writing by the Institute.

All creators of intellectual property shall execute appropriate documents required to set forth effectively the ownership and rights as specified in this policy.

7. RIGHT TO REGULATE POLICY

The Institute Intellectual Property Cell shall have the responsibility for interpreting the policy, resolving disputes, the application of the policy and recommending changes to the policy from time to time to the Senate. The Senate shall consider such changes / recommendations and take such decision thereon as it deems fit. The IPR Policy may be reviewed after three years or earlier, if a major change in the same takes place at the National Level.

8. LEGAL JURISDICTION

As a policy, all agreements signed by the Institute and dispute(s) arising there from, will be subject to the legal jurisdiction of the High Court of Judicature of M.P. only and shall be governed by the appropriate laws of India.



ANNEXURE – I

DEFINITIONS:

1. **Academic Freedom:** The freedom of the academic staff of the Institute to conduct their own academic activities including teaching, research and development, choose their own research field, pursue self-directed research, and collaborate and communicate with others regarding their scholarly efforts in keeping with the Institute's academic mission.
2. **Intellectual Property:** It refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programmes.

Intellectual property rights refers to:
 - 2(a) the monopoly protection for creative works such as writing (copyright), inventions (patents), processes (trade secrets) and identifiers (trademarks). Also known as TRIPS, or trade-related intellectual property rights.
 - 2(b) the rights awarded by society to individuals or organizations over inventions, literary and artistic works; and symbols, names, images, and designs used in commerce, giving the titleholders the right to prevent others from making unauthorized use of their property for a limited period.
 - 2(c) all and any patents, patent applications, trade marks, service marks, trade names, domain names, registered designs, unregistered design rights, copyrights, know how, trade secrets and rights in confidential information, URLs and all and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.
3. **Work for hire :** work for hire is defined for the purposes of this policy as any

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work commissioned by the Institute from a creator as defined by this policy for a consideration or otherwise, or from an external agency. In all such cases the ownership of the resulting intellectual property shall be assigned to the Institute in a written contract between the concerned parties.

4. **Fair use :** This is the amount of copying allowed by law so that copyright shall not be a stranglehold on the progress of human knowledge. Limited portions of a work can be copied without the rights holder(s) permission for academic and non-commercial uses, although the exact permissible percentage may have to be determined by the courts. In general, use of a small part of a work, which does not hurt the present or potential market for that work is allowed under fair use, but there are many gray 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 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, which may be quoted or reproduced in the package.

The possibility of fair use exists only in the case of copyright and does not apply to patents.

5. **Commercialise-able intellectual property:** Commercialise-able intellectual property is that intellectual property which can be transferred to a commercial organization through patent licensing or confidentiality agreements for the purpose of exploitation in the market. Such property is to be safeguarded either under patent laws or by secrecy as is relevant and practicable.
6. **Staff :** Staff are the employees engaged by the Institute for carrying out its purposes or those engaged for carrying out specific tasks like projects, consultancy, education, extension etc.
7. **Personnel :** Institute personnel includes the staff, students, trainees or similar personnel involved or associated with the creation of IP. Non- Institute personnel are those from outside the Institute but involved or engaged with the creation of a specific IP.
8. **Creator :** Creator refers to an individual or a group of individuals at the Institute, who make, conceive, reduce to practice, author, or otherwise make a substantial intellectual contribution to the creation of any intellectual property. Creator

includes an inventor in the case of inventions under Patent Law, an author in the case of works falling under the Industrial Designs Law and/ or Copyright Law. In the case of intellectual property owned by the Institute as work-for-hire, the creator shall retain only the moral right to be identified as such, vide clause 3, Annexure-I. The special categories to be understood under the term creator are as follows:

8. (a) Permanent and temporary academic staff on Institute pay roll :

Academic staff may create intellectual property:

- as part of their normal Institute duties.
- through their own creative activity in the context of academic freedom.
- as work -for-hire.

These provisions will also apply to professors who hold Chairs and emeritus professors. The ownership of the intellectual property they generate will be governed by section 4.3 (c).

8. (b) Adjunct professors, short-term visiting academic staff and researchers other than those covered by clause 8(a), Annexure-I : Adjunct professors are not eligible for usual Institute resources and therefore all resources used by them are Institute- supported resources. They shall therefore provide an undertaking at the time of joining the Institute whereby all intellectual property generated by them using any Institute will be assigned wholly to the Institute and / or co-workers among Institute staff and students, unencumbered by any other co-share.

8. (c) All staff other than academic staff on Institute payroll : Such staff may participate in the generation of intellectual property :

- in the course of their normal duties.
- as work for hire.

For such staff employed in projects, the handling of intellectual property rights so generated will be guided by the terms of the contract with the sponsor of the project.



8. (d) **Students:** The term student applies to all those registered for courses leading to a degree at the Institute and scholars enrolled in doctoral programmes. Rights in intellectual property produced by a student, whether in fulfilment of the requirements for an academic degree or not, shall belong to the student concerned, except where the conditions of section 5.13 are fulfilled.
8. (e) **Externally funded project staff :** This category includes staff appointed for externally funded project work. The handling of the rights in the intellectual property generated during the course of the project will be governed by the terms of the contract between the sponsor of the project and the Institute.
8. (f) **Institute project staff :** Intellectual property generated through Institute projects will be governed by the terms of the agreement between the Institute and the project staff.
9. **Usual Institute Resources :** Usual Institute resources mean facilities such as office space, standard laboratory facilities, library, normal access to software, computers and networks, standard secretarial services, salary and perquisites.
10. **Institute-Supported Resources:** Institute-supported resources mean special facilities and equipment, specific funding, intellectual property already owned by the Institute, requisitioning the time and labour of students and staff through Institute administrative channels, or at the Institute's instance and expense, and remission by the Institute of any or all of the normal duties of staff or students to provide time or resources for the purpose of generating intellectual property. In particular the following Institute resources will constitute Institute supported resources as contemplated by this policy.

• **Financial Resources**

10. (a) Financial support provided by the Institute over and above the regular salary perks as per employment enrolment/sponsorship contract or over and above the scholarship provided to scientists/ scholars/ students/research assistants.

Exception: Honour fellowships, awards, prizes, grants, assistantships and scholarships, and facilities built up with such funds, will not constitute Institute-supported resources. Use of infrastructure developed by creators using their own funds, like their own earnings through consultancy,

royalty proceeds, etc will not constitute use of Institute-supported resources.

- 10. (b) Funds provided by the Institute to secure, maintain and enforce right in intellectual property.
- 10. (c) Funds specifically provided by the Institute to the creators to scale up or reduce to practice a particular patent-able intellectual property.
- 10. (d) Funds provided to commercialise and/ or exploit intellectual property;
- 10. (e) Sponsored research grants or contracts as per the terms of the contract;
- 10. (f) Substantial funding by the Institute for the printing of books to be decided by the IPR Committee on a case-by-case basis.
- 10. (g) Exemption from fees normally charged by the Institute for any specialized facility or equipment.

- **Intellectual Property Resources**

- 10. (h) Pre-existing intellectual property owned by the Institute.
 - 10. (i) Explicit use of the name, insignia, logo, or trademark of the Institute in the creation and vending of intellectual property. However, statement of affiliation by academic staff constitutes legitimate self- representation and shall be regarded as use of usual Institute resources.
- 11. **Institute Confidential Information:** Institute confidential information means trade secrets, technical know-how, confidential data and related information about intellectual property owned by the Institute.
 - 12. **Trademarks and service marks:** Trademarks and service marks mean distinctive words or graphic symbols or logos or a combination thereof, identifying the Institute as associated with, or as a source of, a product ; or as a producer and/ or distributor of goods or service. The use regulated by this policy refers to the identification, statement, or display of the Institute name, insignia, logo in any way that can reasonably be interpreted as implying endorsement, approval or sponsorship by the Institute or its officials.
 - 13. **Sponsored research:** For the purposes of this policy, sponsored research shall be taken to mean a specific research project funded by an outside agency, whether

non-profit or for profit, governmental or private, national or international. The term sponsored research will not apply to funds awarded by, an external agency to a student, scholar, fellow or trainee for the support of education or research.

14. **Individual scholarships, fellowships and grants:** No individual scholarship, fellowship or training grant tenable at the Institute will 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 **section 4.13**.
15. **Materials Transfer Agreement (MTA):** MTAs are legally binding contracts and as such it is vital that an authorised signatory of the INSTITUTE executes the agreement properly. MTA is a contract that **REGULATES** the transfer of one or more materials from the owner (or authorised licensee) to a third party for internal research purposes only. Materials may include cultures, cell lines, plasmids, nucleotides, proteins, bacteria, transgenic animals, pharmaceuticals and other chemicals. MTA's can also be applicable for the transfer of materials in engineering/physical science applications.

ANNEXURE – II

GLOSSARY:

“Author” means faculty, students, staff or visiting faculty who has/have written or created a creative work.

“Collaborative Activity” is the research undertaken by Institute personnel in cooperation with industry and/or another researcher(s) who are not Institute personnel.

“Confidential Information” Information not in the public domain and declared confidential by parties as such in a MOU/Agreement that has been signed by the parties.

“Conflict of Interest” or a “Potential Conflict of Interest” exists when an inventor/author is or may be in a position to use either creative work or influence for unmerited personal or family gain.

“Copyright” means the exclusive right granted by law for a certain period of time to an author to reproduce, print, publish and sell copies of his or her creative work.

“Copyrightable Work” is a creative work that is protect-able under copyright laws. Copyright protection is available for most literary, musical, dramatic, and other types of creative work, including software, teaching materials, multimedia works, proposals, and research reports.

“Creators” are persons who have produced any original work.

“Cumulative Earnings” from a patent/patent application are the total earnings to date obtained from the commercialisation of the patent/patent application.

“Design Registration” Registration of the novel non-functional features such as shape, or ornamentation of a product.

“Institute personnel” includes but is not limited to the faculty, students, staff or visiting faculty, researchers and scientists at the Institute.

“Intellectual Contribution” means original technical or artistic contributions.

“Intellectual Property” includes but is not limited to copyrights and copyrightable materials, patented and patent-able inventions, tangible research results, trademarks, service marks and trade secrets.

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“IP Assessment Committee (IPAC)” is a committee formed by the Dean, SRIC, as Chairperson, decides on the issues of ownership and patentability among others consisting of Coordinator, IPR Cell, one professional IPR consultant and at least three additional faculty members of relevant field in assessment of IP.

“Invention” includes but is not limited to any new and useful process, formula or machine conceived or first reduced to practice in whole or in part, defined within the purview of the Patent Act. Inventor(s) are person(s) who produce an invention.

“Licensing” is the practice of renting the intellectual property to a third party.

“Net Earnings” Earnings resulting from the licensing or commercialisation of the IP, reduced by the outstanding actual expenses incurred in obtaining and commercialisation of the IP.

“Patent” means the exclusive right granted by law for making, using or selling an invention.

“PCT Application” A PCT is a system of filing a patent application in several countries through a single application keeping the priority of the first filing in any of the countries within the PCT system. This is administered by the World Intellectual Property Organisation (WIPO) in Geneva. It is not a patent granting system.

“Protection of Layout of Integrated Circuits” Layout scheme of Integrated circuits that are functionally important.

“Royalty” is the payment made to an inventor/author or an institution usually for legal use of a patented invention or any Intellectual Property when licensed.

“Significant Use of Institute Resources” is any usage of Institute’s resources in the creation of the invention(s), excess of the routine use of office facilities, computers, library resources and resources available to the general public.

“Software” means anything executable in a computer.

“Teaching material” means any material that aids the process of teaching.

“Trademark / Service Mark” is a distinctive word, symbol or picture or a combination of these, which is used by a business entity to discriminate its products and services from those of other business entities.

“Trade Secret” Usually some information such as know-how of commercial or strategic value that is not disclosed to all and is used in a restricted manner.

LIST OF IPR RELATED FORMS

The following sets of forms are prescribed for general administrative process of IPR protection.

S. No.	Title	Form Code	Remarks
1	Intellectual Property Agreement with all academic staff of SPA Bhopal	SPAB/ IPR/1	Obligations for all faculty / researchers / students / visitors to sign the document at the time of employment. Action: All employees (Faculty / Research Staff / Laboratory Staff).
2	Invention and Innovation Disclosure	SPAB/ IPR/2	Request for IPR protection and inventor's notice to Institute about invention. Action: Inventor
3	Confidentiality Agreement	SPAB//IPR/3	Between SPAB and outside party related to release of unpublished/ proprietary information. Initiator: Faculty through IPR Cell.
4	Patent Application Assessment	SPAB/ IPR/4	For use of the ECIP on Patents. Action: ECIP, based on document supplied.
5	Authorization Certificates for IPR Protection	SPAB/ IPR/5	All invention disclosures to give the authorization to the Institute for processing IPR formalities. It is requirement of IPR related offices of the Government. Action: Inventor /Faculty /Research Staff / Laboratory Staff.
6	Application for Copyright Registration of Non-software TRP	SPAB/ IPR/6A	Required by the IPR Cell on Copyright.
7	Evaluation of Technical / Intellectual for Copyright Registration	SPAB/ IPR/6B	Evaluation of copyrightable work / document Action: ECIP
8	Application for Enlisting of Software/ Mobile Application	SPAB/ IPR/7	Required by IPR Cell for assessment of quality for enlisting. Action: Author(s)

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S. No.	Title	Form Code	Remarks
9	Authorisation to Institute by Authors for Copyright Registration	SPAB/ IPR/8	For use in Copyright office to be sent by IPR Office Action: Author(s) to initiate
10	Application for Registration of Copyright	SPAB/ IPR/9	Required to be sent to Copyright office along with SPAB/ IPR/8 Action: Author(s)
11	Software/ Mobile Application Licence Agreement (Research/ Educational)	SPAB/IPR/10	To be signed by the receiving institution before software is released. Action: IPR Cell
12	SPAB Ownership Right Waiver Application	SPAB//IPR/11	Request of Inventor for Institute to waive ownership. Action: Inventor(s)
13	Copyright Agreement Contract for Commissioned Work	SPAB/ IPR/12	SPAB copyright ownership form for contracted work Action: IPR Cell
14	Software/ Mobile Application Ownership Control Agreement (Students)	SPAB/ IPR/13	All students are required to sign agreement Action: Student
15	Non-commercial Material Transfer Agreement (MTA)	SPAB/IPR/14	Undertaking of receiving institution for IIT MTA use. Action: IPR Cell
16	Provisional Patent Application form	SPAB/IPR/15A	To be filled in by inventor and submitted to Patent Office directly with information to IPR Cell
17	Specifications for Provisional Patent	SPAB/IPR/15B	To be submitted to Patent Office along with application form (15A) Action: Inventor(s)
18	Work for Hire Agreement	SPAB/IPR/16	To be filled by any Work for Hire person
19	Handling and Archiving of Theses and Dissertations	SPAB/IPR/17	To be filled by student / research scholar
20	Mutual Secrecy Agreement	SPAB/IPR/18	Action: IPR Cell, researcher (SPAB), provider researcher/ scientists from other organizations
21	Agreement for Development of Education Course Material in Electronic Form	SPAB/IPR/19	Concerned to any person producing or associated with the production of Instructional Material (IM)

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