

# **INTELLECTUAL PROPERTY RIGHT POLICY**



**NATIONAL INSTITUTE OF AYURVEDA**

**Deemed To be University (De Novo), Jaipur.  
Ministry of Ayush, Govt. of India**

## INDEX

<b>Sl. no</b>	<b>Contents</b>	<b>Page no.</b>
1.	<b>Preamble</b>	<b>2-2</b>
2.	<b>Objectives</b>	<b>3-3</b>
3.	<b>Definitions</b>	<b>3-6</b>
4.	<b>Intellectual Property Rights Cell</b>	<b>6-7</b>
5.	<b>Ownership of IP &amp; Allocation of IP Rights</b>	<b>7-9</b>
6.	<b>Commercialization and Benefit Sharing</b>	<b>9-12</b>
7.	<b>Sharing of Costs with regard to IP Protection</b>	<b>13-13</b>
8.	<b>Technology transfer</b>	<b>13-13</b>
9.	<b>Conflict of Interest</b>	<b>13-13</b>
10.	<b>Liability, Damages, Indemnity and Infringements</b>	<b>14-14</b>
11.	<b>Resolution of Dispute</b>	<b>14-14</b>
12.	<b>Jurisdiction</b>	<b>14-14</b>
13.	<b>Amendments in Policy</b>	<b>14-14</b>

## **1. PREAMBLE**

National Institute of Ayurveda, Deemed to be University, (De-novo) Jaipur, is an apex autonomous Institute under the Ministry of AYUSH, Government of India for promoting the growth and development of Ayurveda as a model Institute, for evolving high standards of Teaching, Training, Research and Patient care and also to invoke scientific outlook to the knowledge of Ayurvedic system of Health care. National Institute of Ayurveda (NIA) was established on 7th February 1976 by the Ministry of Health and Family Welfare, Government of India and has attained the status of Deemed to be Institute (De novo Category) in the year 2020. At present Institute has 14 Specialties for Post-Graduate Education as well as Regular Fellowship Program leading to Ph.D. The Institute is also conducting Graduation Course, M.sc in interdisciplinary subjects, Diploma in AYUSH Nursing & Pharmacy and various certificate courses. The Institute has comprehensive facilities for teaching, research and patient care.

National Institute of Ayurveda Deemed to be University aspires to be a center of excellence in Medical education, and Patient care at the International level by promoting innovations and research. With Ayurveda getting its due recognition as a rationale system of medicine worldwide especially in the post pandemic era, it attracts many individuals and organizations to explore possibilities of commercial benefit with Ayurvedic knowledge. NIA encourages such innovations and their translation in to patient care for the larger benefit of humanity as well as to preserve the fundamental spirit of academic research in Traditional Medical Sciences and be a part of growth towards India becoming a knowledge economy.

IPR is basically exclusive rights provided to people for the creation of their mind or mental creativity. These are provided for certain time period after which the rights are vacated. The rights are for the patentor & for his/her parent organization. The policy is expected not only to protect the creators invention but also incentivize his/her creation. This will also pave path for his creation for steps such technology transfer etc.

The present policy also facilitates technology transfer.

## **2. OBJECTIVES**

The Policy comprises the following objectives:

- a. To inspire and promote innovative activities in compliance to the vision and mission of National Institute of Ayurveda Deemed to be University.
- b. To develop single window system regarding IPR at NIA level protecting , Promoting , Facilitating and also legitimating rights , interest & obligation in IPR not limited to inventors but also of Institute and sponsors too.
- c. Designing and defining the mechanism of Technology transfer including legitimate revenue share among the concerned parties.
- d. Protecting/Nurturing traditional knowledge of Indigenous health traditions by deriving new products, process and other related IP for protection.

## **3. DEFINITIONS :**

**Academic freedom:** The freedom of the academic staff of the Institute to conduct their own academic activities including teaching, training, basic and clinical research, and development. They should be free to choose their own research field, pursue self initiated research, and collaborate with others to achieve excellence in and maintain high standards of research.

**Activity:** Activities related to teaching, research, consultancy, generation and dissemination of information carried out by a person or an Institution independently, or collaboratively.

**Associated Agreement:** A document created with mutual consent of involved parties defining the rights, roles and responsibilities of each of the parties, for example, Memorandum of Understanding (MoU), Memorandum of Association (MoA), Research Agreement, Consultancy Agreement, Non Disclosure Agreement (NDA), Material Transfer Agreements (MTAs), Collaborative Research Agreements (CREDA), Deed of Recordable, Research Contract, Technology Transfer Agreements, Grant Award Letter etc.

**Biotechnology Inventions:** Include recombinant products such as vectors, nucleotide sequences, micro-organisms.

**Collaborator:** Collaborator refers to any Government, quasi-government, public enterprise, non-government or private entities which are involved with NIADU and its employees in the conduct of the research .The collaborator may or may not fund or part fund the study. The collaborator may be national or international

**Faculty:** Any person professionally qualified to carry out patient care, teaching, training, and/or research employed at NIADU either as a whole time employee or Part Time (Note this definition of faculty is meant only for the purposes of this document and is not intended to replace the definition of faculty in the statutes or other documents of NIADU).

**Intellectual property:** means any right to intangible property, including trade secret, copyrights, trade mark, patent, design, semiconductor layout design, geographical indications and plant variety as defined under their respective laws and rules in force in India and other countries where NIA seeks IP protection.

**Inventor(s):** A person or a group of persons responsible for creating an intellectual property (IP).

**Material Transfer Agreement (MTA):** A Material Transfer Agreement (MTA) is a contract that governs the transfer of tangible research materials between NIADU and collaborators, when the recipient intends to use it for research purposes only.

**Non-Disclosure Agreement (NDA)/Confidentiality Agreement:** the agreement intends to protect proprietary or confidential information among the parties involved in executing a NDA.

**Patentee:** Patentee is a person/organization who has been granted a patent as a applicant/assignee.

**Project staff:** means a person employed temporarily on a contract under a research project in a defined capacity to support/carry out part of the research activity or any other activity at NIADU for a defined period of time.

**Revenue:** means the amount derived from the technology transfer and commercialization of IP (by the inventor if commercialized by the inventor or by the

institute if commercialized by NIADU), net of taxes, expenses (which may be carried forward from year to year to offset gross revenue) incurred in the IP protection, maintenance and commercialization, and includes, without limitation, proceeds from royalties, profit-sharing, lump sum payments, and sale of rights as applicable.

**Sponsor:** Sponsor will refer to Government, quasi-government, nongovernment or private entity whether national or international which funds the research/study/survey conducted at or by NIADU and its faculty.

**Student:** A person who has registered or enrolled as a full-time student, part-time student, casual student or exchange student from other universities/colleges for professional and research training.

**Supporting Staff:** A person, employed full-time or part-time in a research project under defined capacity to support/carry out part of the research activity or other ancillary activities.

**Traditional knowledge:** The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to traditional practice, food, medicine etc. over a period of time and has been passed from one generation to another traditionally.

**Visitor:** A person either from India or abroad visiting under a collaborative activity or associated work at NIADU Jaipur It is expected that the visit has been approved by competent authority of the Institute.

**Work Commissioned /Outsourced:** Work commissioned by NIADU to an consultant/author or group of consultants/authors either employed by NIADU or invited from outside NIADU with or without any consideration in cash or kind. Typical examples of NIADU commissioned works are: a. Design work, b. Artistic Work, c. Medical/Engineering/Architectural Models, d. Computer Software e. Reports based on surveys and analysis, f. Video works.

**Work for hire-** the work (or a product) originated from NIADU and is meant for the specific purpose of NIADU and produced by (a) an consultant/author during his/her employment at NIADU or non-employee under contracted work by NIADU.

#### **4. INTELLECTUAL PROPERTY RIGHTS CELL:**

The IPR Cell will have the responsibility for execution of IPR policy of the Institute. It will also look after the management of IP with respect to Institute and technology transfer. The cell will send its recommendation to the Vice chancellor.

S. N.	Designation	Expert
1	Chairperson	To be nominated by the Vice Chancellor NIA (DU) at least at the rank of Professor.
2	Member co-coordinator	To be nominated by Vice Chancellor / Chairperson
3	Members	At least one faculty member each from Dravya Guna, Rasa Shastra & Bhaishajya Kalpana, Kaya Chikitsa, Prasuti Tantra & StriRoga, Sharir Rachana ,Swasthvrita and Pharmacology.
4	One IP experts as members	One IP expert (In case of non-availability, members with relevant IP expertise may be appointed as IP experts.)

#### **The function of IPR Cell shall be the following:**

1. Finalization of Guidelines and draft procedures to implement IPR policy of NIADU effectively.
2. To design agreement on deem fit to NIADU for the protection of IPR.
3. To Promote, facilitate in the filing of IP by Inventors /Researchers of Institute.
4. Recommendation to VC of Institute for financial assistance as required in filing IPR.
5. To obtain/provide legal support through IP/patent attorneys in filing IPR.
6. Seek timely permissions and clearances as required such as NBA etc.
7. Will create mechanism to appropriately, timely generation of experimental data and record keeping in the University.
8. Process cases for protecting IP in other countries in deserving cases. Create and implement mechanism for same.

9. To co-opt domain expert as needed / case to case bases.
10. To conduct awareness programs about IPR and technology transfer for orientation of faculty /Teachers of NIADU.
11. To redress any conflict, grievance regarding ownership of IP, processing of IP proposals, procedures adopted for implementation of IPR policy and interpretation of various clauses of IPR policy.
12. Any other task assigned by the Chairman time to time.

## **5. OWNERSHIP OF IP & Allocation of IP Rights:**

### **A. Types of Support for Research:**

The ownership of IP rights could be different & would be based on Resources & funding utilized in the Research. IP generated could be as below.

1. The Research undertaken by a candidate with NIADU, using substantial support from the Institute (this includes research projects/ dissertations/ theses undertaken by students under the supervision of a faculty member)
2. The Research undertaken by candidate in the normal course of his/her appointment/engagement with NIADU, using incidental support from the Institute.
3. The Research undertaken by candidate with substantial support from an external partner/ Source.

### **B. Ownership and Allocation of IP:**

#### **1. IP generated from research conducted with Substantial support from the Institute**

- I. Copyright in scholarly and academic works generated with substantial support from the Institute, including books, student projects/dissertations, articles, theses, lecture notes, shall ordinarily be vested with the candidate. In the case the Institute shall have a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes. Researcher shall not disclose any outcome of their research work before filing of IP application with appropriate IP Office with regard to the work having potential to be protected by patents and other IP where novelty is the prerequisite.

II. Copyright in films, plays, and musical works, which are created by the researchers with substantial support from the Institute, shall vest with the Institute. When being commercialized the result of these outputs the revenue shall be shared with the candidate proportionally as detailed in the lines with IPR policy of NIADU

III. Copyright shall vest with the Institute entirely at the same time the Researcher shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use such works for teaching and research purposes him/her.

IV. Copyright shall vest with the Institute in any institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the Institute.

V. The ownership rights over any other form of IP generated with substantial support from the Institute including but not limited to software, patentable and non-patentable inventions, know-how, designs, plant varieties, and integrated circuits shall vest with the Institute. However, at the same time of commercialization of such IP, the Institute may engage in benefit sharing as per IPR Policy.

## **2. IP generated from research conducted with incidental support from the Institute:**

I. Copyright in scholarly, academic and artistic works generated by the researcher with only incidental support from the Institute including Open Science -Open Innovation audio or visual aids, articles books, lecture notes, for giving lectures, films, plays, and musical works shall vest with the researchers. Candidate shall not disclose any outcome of their research work, particularly in the fields of science and technology, before filing of IP application with appropriate IP Office with regard to the work having potential to be protected by patents and other IP where novelty is the prerequisite.

II. Copyright in any institutional materials including course syllabus, curriculum, and Exam question Papers, and papers/ reports specifically Prepared by the Institute shall vest with the Institute.

III. The ownership rights shall also vest with the Institute over any other form of IP generated with incidental support from the Institute , including software, patentable and non-patentable inventions, know-how, designs, plant varieties, and integrated circuits.

**3. IP generated from research conducted with substantial support from external partners:**

I. In case the research is conducted with substantial support from external partners, ownership of IP shall be determined as per the provisions of the agreement signed between the concerned parties. If there is no specific clause available then the issue of copy right would be resolved in favour of researcher However, the researcher shall grant the institute and the funding agency, as the case may be, a non-exclusive, royalty-free, irrevocable, and worldwide license shall be granted by researcher to the Institute & funding agency to use the work for any purpose including, sharing it through open access repositories.

II. In case there is no specific agreement between the Institute and the external partner who is providing substantial support for research, copyright in films, which are created by the researchers with substantial support from the external partner Institute and external partner shall resolve the issue of joint ownership of copyright for sharing the benefits in the proportion of their relative contribution, i.e. the Institute and external partner. Further at the time of commercialization of these research outputs, the revenue shall be shared with the researcher/ external partner as per the IPR Policy of NIADU.

III. Institute shall ensure through specific agreement with external partner that the copyright in any institutional materials including, course syllabus, curriculum, and papers/ reports prepared under the specific instructions of the Institute shall vest with the Institute.

**6. Commercialization and Benefit Sharing:**

**A. Types of IP Licensing and Assignment:**

The most prevalent means of IP transfer that can lead to IP commercialization are licensing and assigning IPRs to a third party. While both licensing and assignment

include transferring certain rights to another party, the major difference is that assignment involves the transfer of ownership, whereas licensing is confined to allowing particular uses.

In general, universities and researchers should aim to employ just licensing mode so that ownership rights over IP can be kept without jeopardizing commercialization possibilities. In rare instances, the mechanism of assignment will be determined by the Vice Chancellor on the suggestion of the IPR Cell. There are several types of licensing, which include

### **1. Exclusive Licensing:**

The licensor licenses the IP to only one licensee. In other words, the licensee will be the sole person authorized by the licensor to utilize and exploit the IP in question. It is normally in the Institute's best interests to refrain from granting exclusive licenses or intellectual property rights other than copyright. In extraordinary instances, the Vice Chancellor will make the decision based on the IPR Cell's advice.

### **2. Non-exclusive Licensing:**

The licensor may enter into agreements with many entities for the use and exploitation of the IP. In other words, the same IP may be utilized by many licensees simultaneously for the same or different reasons. The preferred mode of IP licensing will be non-exclusive.

### **3. Sub-licensing:**

This is used when a licensee wants to license the IP to another party or parties. Permissions for sub-licensing must be specifically stated in the agreement between the universities/researchers and licensee(s). On case to case basis on recommendation of IPR Cell VC may allow sublicensing.

## **B. Promoting Entrepreneurship and Start-ups**

For three years, the researcher may be immune from any upfront fees and royalties. On any Institute-owned IP where they are recognized as inventors, for the purpose of

establishing firms/start-ups. If there is more than one researcher, all researchers can avail of this benefit collectively, rather than individually or in subgroups, without the approval of the other researchers in the IP being used for the purpose

### **C. Licensing and Revenue Sharing Arrangements:**

#### **1. Research Outputs Produced as a Result of Incidental Institute Support:**

The income split on any IP developed by using incidental support will be 20:80 between the Institute and the candidate. It will apply to IP owned by the Institute that was generated with incidental support from the Institute.

#### **2. Research Outputs Produced as a Result of Substantial Institute Support:**

- i. On the advice of the IPR Cell, universities are free to enter into revenue-sharing agreements with researchers in cases of commercialization of ideas. The specifics of revenue sharing can be determined based on the type of IP and the method of commercialization. Revenue will be split 60:40 (It can be 40:60 also to encourage researcher NIA Du may take call in that case for first five years that can be 30:70 or 20:80) between the Institute and the researcher. To encourage early commercialization and urge researchers to take active initiative in this regard, the Institute and researchers shall split income sharing 40:60 for the first five years following the submission of a specific IP application.
- ii. If the Institute did not bear the costs of IP filing, the researcher would first be paid for the costs of filing applications and maintaining such IP from any money derived from commercial exploitation of the IP. This is especially important since inventors may be required to file provisional patent applications prior to any publication of the idea, as well as in the event of a refusal of financial support for filing and maintaining IP. Only earnings over such expenditures must be shared with the Institute.
- iii. The researcher's part may be paid indefinitely, regardless of whether the individual remains a researcher at the Institute.
- iv. If more than one researcher is involved in the generation of IP, all of the researchers who qualify for benefit sharing in that IP may sign an agreement outlining the proposed

distribution of any IP related earnings based on their contribution at the time of filing the application (for example, at the time of filing a patent application). The agreement should state the proportional percentage or division of IP earnings to each researcher. The researcher(s) may alter the sharing of IP earnings agreement at any moment by mutual agreement. Consequently, subject to the IPR Cell's guidance, the Institute may approve the revised agreement.

In terms of the Institute's IP-related revenues, 50% of the revenue may be used to establish the Institute's IP management fund. This fund may be used for any activity related to the commercialization and maintenance of intellectual property rights (IPRs) or the acquisition of IPRs in any other country, as well as capacity building in the area of IP protection. Furthermore, 10% of the share may be given to the Institute as administrative charges, with the remaining 40% made available to the department concerned for the purchase of equipment or supplies, or for any other academic/research activity, including science and innovation promotion.

#### **Research Outputs Produced as a Result of Substantial External Partner Support:**

- i. The revenue sharing on any IP developed by collaboration between the Institute and an external partner may be based on an agreement executed between the Institute and the external partner at the start of such partnerships. In the absence of a prior agreement on revenue sharing, the Institute and the External Partner shall hold a conversation and address the revenue-sharing issue in accordance with the proportional contribution in developing and protecting IP, ownership of IP, and distribution of rights as specified in clause VI.
- ii. If the assignee or licensee has not taken necessary steps to commercialize Institute-owned intellectual property, the Institute should consider revoking the license and assigning it to another party. It would be preferable to include an appropriate clause addressing technology transfer and/or commercialization in the first license agreement between the Institute and the licensee.

#### **D. Liability limitations:**

All commercialization agreements must expressly state that the institute and its researchers are protected and indemnified against any and all liability deriving from the development and commercialization of the IP.

## **7. Cost Sharing for Intellectual Property Protection:**

Regarding the costs of intellectual property protection, the following is recommended:

**A.** Depending on who owns the IP, the costs of getting and maintaining IP protection may be divided amongst the parties. If the Institute is the sole owner of IP, the Institute must bear the costs of IP protection. If the institute declines to invest in IP protection, the inventor will be permitted to submit IP applications in the name of the Institute or in the joint name of the researcher and the Institute at their own expense. In such cases, IP filing fees may be recouped by researcher from revenue receipt and sharing in accordance with the requirements relating to benefit sharing in clause 6 (C).

**B.** If IP ownership is shared with third-party partners, the expenses of IP protection may be borne by both parties, depending on the terms and conditions of the agreement. In the absence of any prior arrangement, costs will be shared proportionally to the distribution of rights and benefits.

**C.** Any costs associated with the transfer of rights/ownership of Institute-owned IP will be borne solely by the licensee, assignee, or entity obtaining such rights.

## **8. TECHNOLOGY TRANSFER:**

- i. Intellectual property (IP) is in the name of NIADU or may be jointly marked or commercialized with written consent.
- ii. Priority may be given to industry; industry is the collaborating partner, based on written agreement; nonetheless, technological commercialization is to be done on mutual agreement.
- iii. If the collaborating partner is a non-commercial entity, the right to revenue shall be retained by NIA unless there are predefined conditions in the agreement.

## **9. CONFLICT OF INTEREST**

Mutual conflict of Interest must be avoided and to be disclosed if any to the Cell.

## **10. LIABILITY, DAMAGES, INDEMNITY AND INFRINGEMENTS:**

NIADU shall seek indemnity from any legal Issue arising from framing, operation alyzing, maintaining IPR Cell and its function.

## **11. RESOLUTION OF DISPUTE:**

If any disputes arise between NIADU & the Inventor on IPR Issue or technology transfer, the matter is to be brought to the knowledge of IPR cell immediately. The Decision of the Chairman (consulting with the members) will be finalized.

## **12. JURISDICTION:**

All the matter, agreement signed by NIADU Jaipur shall fall under the jurisdiction of Jaipur, Rajasthan court

## **13. AMENDMENTS IN POLICY:**

The policy could be amended with the recommendation of majority of the members as needful time to time with the approval of head of the Institute.