

MBEYA UNIVERSITY OF SCIENCE AND TECHNOLOGY



INTELLECTUAL PROPERTY POLICY

February 2023

FOREWORD

Mbeya University of Science and Technology (MUST), like any other university, seeks to conduct research in order to address societal challenges and needs. The large pool of resources available through MUST organs and units in terms of research and projects represents a huge opportunity for forging links with the private sector in a way that will guide Tanzania's economic and social development. However, without a well-defined institutional policy and regulatory framework that establishes fair and equitable methods and means of rewarding the efforts of various stakeholders, this goal will be difficult to achieve.

MUST research findings and innovation ideas necessitate collaborative arrangements and patent protection in order to effectively achieve a significant competitive advantage in the marketplace. The commercialization of such research, innovations, projects and other entrepreneurial outputs to industries and communities boosts universities' revenues in both developed and emerging economies. Mbeya University of Science and Technology's Intellectual Property Policy is designed to address all relevant issues in accordance with national and international intellectual property regulatory frameworks. The primary goal of reviewing the MUST Intellectual Property Policy 2014 is to incorporate changes resulting from the MUST transformation including issues of innovation and technology transfer at the University. It is hoped that the Policy will be a useful tool in providing guidance on matters related to intellectual property rights at MUST.

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LIST OF ABBREVIATIONS AND ACRONYMS

ARIPO	African Regional Intellectual Property Organization
BRELA	Business Registration and Licensing Agency
CDTT	Centre for Development and Transfer of Technology
CIPR	Commission on Intellectual Property Rights
CISAC	International Confederation of Societies of Authors and Composers
CITT	Centre for Innovation and Technology Transfer
COSOTA	Copyright Society of Tanzania
COSTECH	Commission for Science and Technology
CSP	Corporate Strategic Plan
DEBM	Department of Entrepreneurship and Business Management
DII	Department of Innovation and Technology Transfer
DPSRP	Directorate of Postgraduate Studies, Research and Publications
DVC-ARC	Deputy Vice Chancellor (Academic, Research and Consultancy)
DVC-PFA	Deputy Vice Chancellor (Planning, Finance and Administration)
FYRSP	Five Year Rolling Strategic Plan
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
HLI	Higher Learning Institutions
ICU	Internationalization and Convocation Unit
IP	Intellectual Property
IPMO	Intellectual Property Management Office
IPR	Intellectual Property Right
ITK	Indigenous Traditional Knowledge
ITP	Institutional Transformation Programme
MUST	Mbeya University of Science and Technology
R&D	Research and Development
RTP	Rural Technology Park
TK	Traditional Knowledge

TKH	Traditional Knowledge Holder
ToR	Terms of Reference
TRIPRA	Trade Related Intellectual Property Rights Agreements
WIPO	World Intellectual Property Organization

DEFINITION OF KEY TERMS AND CONCEPTS

Unless otherwise stated in this Policy the following terms shall have the following meanings assigned to them:

- (a) **Assignment** is a total transfer of rights in IP asset(s).
- (b) **Background IP** sometimes called Pre-Existing IP refers to (i) IP licensed or owned by any party to the Research Project prior to the beginning of the Project or (ii) IP generated independently of the particular project by that party and which is brought into or used as part of the Research Project.
- (c) **Commercialization** involves exclusive or non-exclusive licensing, assignment of the IP, formation of a start-up company, the use of patent-management companies or government agencies, non-profit use or joint ventures.
- (d) **Commercial venture** is a start-up company, partnership, joint venture, corporation or any other enterprise entity that has obtained a license for University technology in exchange for equity in the enterprise entity.
- (e) **Commissioned work** is a work prepared by an employee within the scope of his or her employment; or a work specially ordered or commissioned in certain specified circumstances.
- (f) **Copyright** refers to property right in an original work of authorship (such as a literary, musical, artistic, photographic, or film work) fixed in any tangible medium of expression, giving the holder the exclusive right to produce, adapt, distribute, perform and display such works.
- (g) **Course materials** means all materials produced in the course of or for use in teaching in any form (including digital, print, video and visual) and all Intellectual Property in such materials and will include lectures, lecture notes and materials, syllabi, study guides,

assessment materials, images, multi-media presentations, web content and course software.

- (h) **Creator** means any staff, student or visitor who creates IP at the University. The Creator can be an inventor/innovator, author, artist, designer, developer and other similar designations as defined by law and used in practice.
- (i) **Derivative work** is a work based on another copyrighted work and is portrayed in a different style/format/media, such that it has acquired the minimum threshold required for copyright protection.
- (j) **Enabler** means those who made indirect contributions to generating IP.
- (k) **Equity or equity shares** are shares of common or preferred stock, warrants, options, convertible instruments, units of a limited partnership, or any other instrument conveying ownership interest in a commercial venture.
- (l) **Industrial design** is an applied art whereby the aesthetics, overall shape of object and usability of products are improved, hence giving rise to intellectual property rights with regard to such design.
- (m) **Industrial property** is a subset of intellectual property referring to those types of IP that have an industrial application. Specifically, it refers to the following types of intellectual property: patent, trade and service marks, industrial designs, trade secret and geographical indications.
- (n) **Infringement** means an unauthorized exercise of any of the exclusive rights solely granted to the owner of a respective intellectual property.
- (o) **Integrated circuit** refers to a small electronic device made out of a semiconductor material for uses in among others microprocessors, audio and video equipment and automobiles;

- (p) **Intellectual property assets** are those parts of the intangible assets that relate specifically to knowledge, such as patents, trademark, copyrights, trade secrets, and knowhow and best practices.
- (q) **Intellectual property** means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, copyright, trademarks, designs, patents, plant breeder's rights, circuit layouts know-how, trade secrets, and geographical indications. It also includes all other rights as defined by the respective pieces of legislation and international conventions governing intellectual property.
- (r) **Invention disclosure** is an act of providing information by inventor(s) on the invention, circumstances leading to the invention and facts concerning subsequent activities.
- (s) **Invention** in the context of this Policy, means an idea of an inventor, which permits in practice the solution to a specific problem in the field of technology.
- (t) **Inventor** is the person who creates or develops a new method, form, device or other useful means that becomes known as an invention.
- (u) **IP Disclosure Form** sometimes called Invention/Innovation Disclosure Form, or Invention Disclosure Report is a confidential document that should be completed by the lead inventor/author and submitted to the respective organ, when something new has been conceived or developed that has possible commercial application.
- (v) **Knowledge Transfer** is a collective term for the transferring of new inventions, creations, discoveries, innovations, processes, knowledge, ideas and experiences, which result from research conducted at the Institution, to a commercial environment for use.

- (w) **License**" is a permission to use an IP right within a defined time, context, market line or territory. It may be exclusive or non-exclusive.
- (x) **March-in-right** is the right to the Government or any funding agency which funded the research that led to the creation of an intellectual property asset to have access and make non-commercial use of the said IP asset within the scope of its ordinary activities.
- (y) **Patent** is a document issued by a government office (or a regional office acting for several countries) upon application, which evidences exclusive rights to the holder with regard to the invention in respect to certain rights stipulated under the law;
- (z) **Public Disclosure** in the field of copyright, "disclosure" may mean making a work accessible to the public for the first time.
- (aa) **Public domain** means an IP asset that is no longer under protection whose use does not require permission of the holder. Public Domain in relation to patent law consists of knowledge, ideas and innovations over which no person or organization has any proprietary rights. Knowledge, ideas and innovations are in the Public Domain if there are no legal restrictions of use.
- (bb) **Respective Organ** means the particular organ responsible for IP at the University.
- (cc) **Royalties** are payments made for the use of IP assets.
- (dd) **Scholarly and creative work exception** refers to work done by students, postdoctoral fellows and associates in training.
- (ee) **Trade and service mark** refers to the distinctive mark of authenticity, through which the products of particular manufacturers or the vendible commodities of particular merchants may be distinguished from those of others.
- (ff) **Trade secret** is any information which has actual or potential value, and which is not generally known publicly and which offers

competitive advantages to the owner of the said information against the other competitors.

- (gg) **Traditional knowledge** refers to the content or substance of knowledge resulting from intellectual activity in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems and knowledge embodying traditional lifestyles of indigenous and local communities, or contained in codified knowledge systems passed between generations. It is not limited to any specific technical field and may include agricultural, environmental and medicinal knowledge, and knowledge associated with genetic resources.
- (hh) **MUST Resources** means resources provided by the Mbeya University of Science and Technology to creators which, for the avoidance of doubt, includes facilities, funds, services, equipment, paid leave, office computers hardware, software, secretarial services, funding for research, staff time and support staff in excess of those normally used or available to staff for producing course materials. They do not include salary, insurance or pension schemes contribution paid for the creator.
- (ii) **Visitor** refers to visiting researcher, affiliate, or similar terms. Visitors also include secondments and sabbaticals.

CHAPTER ONE

BACKGROUND INFORMATION

1.1 Background Information

The history of Mbeya University of Science and Technology (MUST) dates back from 1986 when Mbeya Technical College (MTC) was established for the purpose of training Full Technicians at Certificate Level (FTC) under the Russian-Tanzania Training Support. The College started with four Academic Departments namely; Department of Civil Engineering, Department of Mechanical Engineering, Department of Electrical Engineering and Department of General Studies. Due to market demands of technicians in Architecture field, the Department of Architecture was started in 1992. Others like Computer Department, Continuing Education Department, Research, Consultancy and Publications Department were established later. The provision of Higher Technical Education was consolidated in 2002 when Advanced Diploma in Engineering (ADE) programmes were introduced in some of its Departments. In July 2005, MTC was transformed into a comprehensive multi-disciplinary Mbeya Institute of Science and Technology (MIST) by exploiting the relevant provision of the National Council for Technical Education (NACTE), Act 9 of 1997.

Mbeya Institute of Science and Technology (MIST) was a Government institution fully accredited by NACTE to offer Ordinary Diploma and Bachelor degree programmes. The Bachelor programmes were established in the academic year 2008/2009 following the cessation of offering Advanced Diploma programmes. Though there are enough efforts to introduce more degree programmes, the University will continue to ensure that enough number of technicians in different fields is produced yearly to cater for the emerging needs of labour market. MIST was transformed into Mbeya University of Science and

Technology (MUST) on 29th March 2012 by Act of Parliament No. 7 of 2005 as a public academic institution with expertise in different areas of science and technology. In 2019 MUST went through a transformation phase in which five Colleges with new Departments and new Directorate were introduced.

1.2 MUST Vision

The Vision of Mbeya University of Science and Technology is to become the leading centre of excellence for knowledge, skills and applied education in science and technology.

1.3 MUST Mission

The Mission of Mbeya University of Science and Technology is to develop academically, technologically and socially competent students, staff and other stakeholders who will be responsive to the broader needs and challenges of the society specifically by:

- (a) Facilitating appropriate tuition, practical training and support according to the needs of Students and other customers;
- (b) Encouraging staff commitment to quality education and services including research, consultancy and innovation;
- (c) Fostering lifelong learning, honesty and responsibility;
- (d) Promoting an environment conducive to human development; and
- (e) Promoting effective entrepreneurship and usage of appropriate technology that meet national and international needs; and standards through skills and practical oriented training, research and consultancy.

The core functions of MUST are, among others, to carry out teaching, research and public service.

In the course of implementing its functions, enormous intellectual property assets are created that have both academic and commercial value. These intellectual property assets need a defined system of management in order for

the University to derive maximum advantages out of them and for the betterment of both MUST and the society at large.

The initiatives to put in place the institutional intellectual property (IP) policy at MUST began in May 2010. The initiative was borne out of one of the set objectives of the first MUST Five Year Rolling Strategic Plan (FYRSP) (2010/11 - 2014/15) which is the improvement of quality and quantity of research and publications. This objective has two targets; (i) to increase the number of patents and/or copyrights applied for and awarded, and (ii) to establish Intellectual Property Unit at MUST.

One of the key strategies under this objective is to strengthen commercialization of MUST research and development (R&D) results through, among other things, acquisition of patents, copyrights and trademarks. This strategy determined that by December 2014 the MUST policy on Intellectual Property Ownership (IPO) would be in place and approved by the relevant MUST organs. Hence, this policy is the implementation of the strategy set out in the Five Year Rolling Strategic Plan (FYRSP) of (2010/11-2014/15).

MUST developed this Policy with the full understanding that in today's globalized world, there is a great need to develop and implement a protective mechanism for intellectual property assets falling within the University framework. Indeed, in an era of increasingly knowledge-based economies, digital societies, and globalization, intellectual property policy is critical as a tool for not only protecting IP but also facilitating optimal utilization of intellectual knowledge generated by centres of excellence both within and outside the country.

1.4 Situational Analysis

MUST has a couple of units working on research, innovation, technology, projects, entrepreneurship and industrial linkage matters. However, all these are not well coordinated. Ideas and academic outputs from various University

units remain shelved due to lack of appropriate systems to manage and turn them into implementable projects for the benefit of the wider community. The existing MUST Intellectual Property Policy 2014 has been in use for about eight years without a major review to incorporate recent transformation made in the University's organizational structure. As a matter of fact, MUST lacks appropriate supporting documents to facilitate the market transfer of research findings and innovation outputs such as technologies, products, services and ideas.

MUST is facing the following challenges as a result of its ineffectiveness in research and technology commercialization:

- (a) Inadequate funding for research and innovation;
- (b) Difficulties in facilitating outreach and academic consultancy services; and
- (c) Difficulties in establishing strong links with research and innovation stakeholders both within and outside the country.

Consequently, the direct impact of MUST on addressing problems with national development is undermined.

1.5 Rationale for MUST IP Policy Review

As a result of MUST transformations of 2019, the Center for Innovation and Technology Transfer (CITT) was established with two departments, namely the Department of Innovation and Incubation (DII) and the Department of Entrepreneurship and Business Management (DEBM) and Rural Technology Park with the vision of becoming the leading centre for innovation and technology transfer in the world of science and technology by facilitating, supervising, and commercializing the development of innovation, research results, and business models. The expansion of the University's research and innovation activities, such as the provision of services to foster innovative ideas in order to obtain innovative products, technologies, ideas, services, and so on, was anticipated to occur simultaneously with this transformation.

Furthermore, a full directorate comprising several departments is now dedicated to the research activities. Graduate and doctoral degree programmes are becoming increasingly commonplace now. In spite of this, MUST has set up a directorate for internationalization whose duties include, among others, improving MUST's outreach and academic consultancy services. Therefore, it will not take long before MUST sees a dramatic uptick in research results and projects with significant commercial potential. In order for these results to be useful to MUST and the community at large, an effective IP Policy is required. The current MUST IP Policy needs to be updated in light of these developments.

1.6 Justification for the IP Policy Review

Must has a chance to promote, develop, and commercialize the innovations and research outputs from researchers and innovators (both students, staff and other stakeholders) if it has a well-written, correct and time to time reviewed, Intellectual Property Policy because of the following:

- (a) There will be guidance from MUST to researchers and innovators on how ownership of research results and innovations will be regulated. Innovations by students and faculty, as well as research findings and business ideas, will be directed to other entities;
- (b) Other institutions may find it easy to enter into collaborative research and innovation arrangements with MUST in the presence of a clear and concise obligation (reflected in an IP Policy) on the part of MUST to honour the IP rights arising from such collaborative research and innovation endeavours;
- (c) There will be ease of identifying and evaluating the appropriate outputs for commercialization as per IP Policy and guidelines;
- (d) Increased enrollment will be promoted by proven efficiency in research, innovation, and technology, which could attract more students; and
- (e) There is a potential that the MUST's national reputation as a science and technology university will be optimized.

CHAPTER TWO

INTRODUCTION TO INTELLECTUAL PROPERTY POLICY

2.1 Introduction

The IP Policy supports MUST research, innovation and technology transfer ecosystem. The Policy intends to position MUST academia (students and staff), researchers and innovators inside and outside MUST in a sustainable and collaborative advantage of the national innovation ecosystem. The Policy also intends to facilitate both vertical and horizontal performance of MUST in research, innovation and technology transfer.

2.2 Policy Vision

MUST to become the leading centre of excellence in research and innovation, management of IPs and technology transfer using knowledge, skills and applied education in science and technology.

2.3 Policy Mission

To produce students, staff and other stakeholders who will be solving community challenges by providing conducive environment for research and innovation.

2.4 Objectives of the Policy

The objective of this Policy is to establish settings within which University intellectual property can be created, managed, and applied to the greatest possible advantage for the University, the inventor/author, the partner organization, and the public at large. The Policy's explicit goals are to:

- (a) Facilitate the practical application and economic use of IP arising from the results of research and other creative work carried out at MUST to produce benefits for society;

- (b) Encourage research, scholarship and a spirit of inquiry, thereby generating new knowledge;
- (c) Create an innovative culture which fosters the creation of IP and provides a framework for considering its commercial potential;
- (d) Promote, preserve, encourage and aid scientific investigation and research;
- (e) Provide guidelines on identification, documentation and effective protection of potential IP;
- (f) Provide a clear understanding of the rights and responsibilities of MUST, its staff members, students and other stakeholders involved;
- (g) Provide guidelines on commercialization and technology transfer procedures related to IP's;
- (h) Reward the creativity of the researchers or innovators i.e. staff; students and other stakeholders;
- (i) Facilitate the transfer of knowledge and technology to society;
- (j) Promote linkages with industries;
- (k) Harmonize the MUST IP Policy with the applicable legal framework and regulations governing IP's locally as well as internationally;
- (l) Ensure that the commercial results, financial or other benefits are distributed in a fair and equitable manner that incentivizes and recognizes the contributions of the inventors and the Institution as well other stakeholders;
- (m) Ensure that both IP and other products of research are made available to the public through an efficient and timely process of technology transfer; and

- (n) Prepare baseline for monitoring and evaluation of the commercialized IPs.

2.5 Principles

2.5.1 Protection and commercialization of IP entails the following aspects:

- (a) Protects the rights of MUST and stakeholders as described in this policy;
- (b) Fosters research, innovative and entrepreneurial culture which the creation of IP is valued and rewarded;
- (c) Enables use and exploitation of MUST IP by industry, Government and community for local, national and global benefit; and
- (d) Facilitates timely transfer of research, innovations and technologies to industry, Government and community.

2.5.2 MUST asserts ownership of IP as follows:

- (a) IP created by an employee of MUST in or during their employment is the property of MUST where it involves the use of University resources;
- (b) IP created by an affiliate of MUST is the property of MUST where it involves the use of University resources, IP or funding or is generated by a team including MUST staff;
- (c) IP developed by students who are also staff where the IP has been developed as a direct result of their employment is the property of MUST; and
- (d) Where students agree to be involved in research, innovation, projects, training and consultancy activities that could lead to the development of IP over which MUST, or a third-party may claim ownership or other rights.

2.5.3 MUST recognizes the moral rights of the creators of IP in accordance with the Copyright Acts

MUST recognizes the significance of Indigenous Traditional Knowledge (ITK). The heritage of indigenous people is a living one and includes items that may be created in the future, based on that heritage. Consistent with University's recognition of the significance of ITK, MUST will:

- (a) Not commercialize IP developed using indigenous cultural and traditional knowledge without the approval and involvement of the holders of such indigenous cultural and traditional knowledge;
- (b) Ensure the equitable sharing of benefits arising from indigenous traditional knowledge; and
- (c) Acknowledge the source of the traditional knowledge from which such IP is derived.

2.5.4 In protecting and commercializing any IP over which it asserts legal and beneficial ownership, MUST may assign or license such IP to third-parties, with the right to sub-license, unless otherwise agreed in writing under the following conditions:

- (a) MUST will endeavour to make decisions about the protection and commercialization of IP in consultation with creators; and
- (b) Commercialization of IP will ensure due reward to members of the MUST who created the IP.

2.6 Policy Scope

2.6.1 General Conditions

The Policy applies to all staff, students and affiliates, including all approved stakeholders and visiting appointments of the University and its controlled entities. The IP types includes patents; utility models; industrial designs;

copyright in literary works; online contents; geographical indications; trade and service marks; new plant varieties and trade secrets.

2.6.2 Intellectual Property Coverage

Subject to the definition ascribed under this Policy and the laws governing the same in Tanzania, and without limiting the generality of the term IP, this Policy envisages the following intellectual properties: Patents, trade and service marks, MUST logo, industrial designs, copyright in literary and artistic works, new plant varieties, trade secrets, technology-based material in online courses and distance learning, research proposals, traditional knowledge and any other intellectual property-related assets that may be created by persons covered under this Policy. The IP Policy also covers the following stakeholders:

- (a) **Academic staff:** Includes all academicians and visiting scholars, innovators or researchers employed by the University permanently or temporarily;
- (b) **Students:** Includes all student innovators or researchers registered or administered at MUST or MRCC full time or part time or visiting students who attend short courses;
- (c) **Any person employed by the University who does not fit any other category:** Where a student is also an employee, she/he is considered staff with regard to intellectual property as a result of his/her employment and as a student with regard to other intellectual property created as a result of his/her student work. A full-time non-academic employee who is also taking one or more courses is considered to be staff for the purpose of intellectual property;
- (d) **Undergraduate, postgraduate and visiting students:** Any full-time or part time student regardless of whether s/he receives financial aid from the University or from external sources is considered as MUST student. It is the responsibility of students

who are also employees of outside organizations to resolve any conflicts between this policy and provisions of agreements with their employers prior to committing themselves to any undertaking at the University that may involve the development or creation of intellectual property;

- (e) **Post-doctoral researchers:** For the purpose of this Policy, although postdoctoral associates may be hired as staff, they are considered to be in the same category as post-doctoral fellows/trainees because their work is considered to be part of their training;
- (f) **Former employees, students, staff and all others listed in paragraphs (a-d) above:** In the absence of any written agreement to the contrary, intellectual property generated while employed by the University shall be subject to ongoing rights and obligations as though the person is still employed by the University;
- (g) **Independent/External contractors or consultants, innovator or researchers:** Persons hired by the University on a limited basis, for a limited purpose as specified in a contract, are considered staff with respect to any intellectual property arising from any use of University resources. The rights and obligations of the parties shall be determined by contract between the University and the contractor innovator or researcher;
- (h) **Traditional Knowledge Holders:** The term “traditional knowledge” refers to the content or substance of knowledge resulting from intellectual activity in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems and knowledge embodying traditional lifestyles of indigenous and local communities, or contained in codified knowledge systems passed between

generations. It is not limited to any specific technical field and may include agricultural, environmental and medicinal knowledge, and knowledge associated with genetic resources; and

- (i) **Visitors:** Refers to visiting researcher, affiliate, or similar terms. Visitors also include secondments and sabbaticals.

2.6.3 Applicability

This Policy includes the University staff or employees, students, visitors and others participating in the research, innovation and entrepreneurship programmes of MUST.

2.6.4 Background IP

It is recommended to have prospective staff members, students and visitors clearly identify in writing. A Background IP in which they have an ownership interest in prior to the commencement of their employment or enrolment should be documented. This can be done with the use of a template Notification Form of Background IP. The respective organ will then usually assess the nature of that IP and will provide a report. The University will decide and will notify the staff member, student or visitor of the outcome. The respective organ shall maintain a confidential register of Background IP which will be taken into consideration when new IP is developed by the staff member/student/visitor concerned in the course of their employment, enrolment or appointment at the Institution.

2.6.5 Binding effect of the Policy

A policy is not a law, but a proposed course of action. It can therefore not be assumed that an IP Policy is legally binding. Something more is needed for that to be the case. To be legally enforceable or binding, an IP Policy must either have legislative force, or form part of a legally binding contract.

2.6.6 Special issues in relation to students

The University shall ensure that students participating in a research project/innovation sign an agreement. The starting point is that students own any IP they generate. There are, however, considerations which can justify a claim for institutional ownership. These include situations where students are funded by industry or work on University research projects/innovation. In these circumstances, it is reasonable for the University to require the student to enter into a binding agreement with the University, under which the student agrees to assign to the University any IP that he/she generates in the context of such research project/Innovation, so that the University can commercialize the complete package of IP arising from the research/innovation programme. In return, the University may agree to treat the student as an employee for the purposes of the University's revenue sharing policy for academic inventors. Before commencing the project/innovation, the University needs to have this binding agreement in place prior to the student generating any IP, so that the University can in turn enter into binding agreements with sponsors and licensees for the commercialization of the IP package.

2.6.7 Special Issues in relation to Visitors

A visitor or visiting scientist is an individual employed by one institution, who visits and carries out research at another institution. IP Policies often state that a host institution will own the IP created by a visitor.

- (a) If the visitor at the host Institution continues research on a project that originates from the visitor's employer institution, the employer Institution will not want the IP from its project being owned by the host Institution. This causes fragmentation of ownership which may possibly impede commercialization.
- (b) Similarly, if the visitor at the host institution undertakes research on a project that originates from the host institution, the host

institution will not want IP from its project being owned by the employer institution.

The institution shall ensure that visitors sign an appointment agreement before commencing any activity at the Institution. To address the above issues, it is important to clearly manage the ownership of IP which will be created by a visitor by way of an appropriate agreement. The institution needs to have this agreement in place prior to any work being undertaken. The agreement shall place the visitor under the scope of the IP Policy, but is subject to arrangements agreed on a case by case basis.

2.6.8 Special issues in relation to staff

The University should ensure that in the employment contract they include a provision placing MUST staff under the scope of this Policy after identification of the group of employees whom the IP Policy is applied. The University should provide the IP Policy not less than one day to the new employee to read and understand before signing of the employment contract. Institutional IP policies are typically included “by reference” in employment contract.

CHAPTER THREE

POLICY ISSUES, STATEMENTS AND STRATEGIES

3.1 Introduction

This Section provides the declarations designed to ensure that intangible property resulting from creativity, research and execution are securely understood, utilized and protected in order to reinforce intellects activities, systems and processes.

3.2 Policy Issue: Awareness Raising of Intellectual Property

Intellectual property is a relatively new concept in most higher learning institutions of developing countries, including MUST. It is also an evolving concept whose principles and rules are continuously changing and adapting to new trends and developments in science, arts and technology. It therefore requires a defined approach geared at a massive awareness raising campaign, continuous training and involvement of different IP partners round to keep abreast with new developments.

3.2.1 Policy Statement

To this end, MUST shall:

- (a) Establish and run the awareness-raising programme on intellectual property issues;
- (b) Propose strategies to ensure that MUST units are aware of the IP Policy; and
- (c) Collaborate with research, innovation and entrepreneurship stakeholders in facilitating the performance of the IP Policy.

3.2.2 Policy Strategies

To ensure the IP awareness is raised among students and staff, the University shall:

- (a) Provide seminars, workshop and training to students and staff;
- (b) Build capacity to Heads of Departments and curriculum development team to ensure that IP content are included or introduced in their curriculum.

3.3 Policy Issue: Disclosure of Intellectual Property

Effective management of IP at MUST requires mutual and supportive relationship between MUST and all stakeholders covered under this Policy. As such, it is incumbent that the stakeholders covered under this Policy disclose to the University any information which could potentially lead to commercialization.

3.3.1 Policy Statement

Therefore, MUST shall:

- (a) Set the mechanism that will oblige stakeholders covered under this policy to disclose any information with IP potentials which is acquired, developed or accessed while dealing or using MUST resources.
- (b) Formulate tools and procedures necessary for disclosure agreements
- (c) Ensure, through the respective organ, that IP Disclosure Forms are designed and circulated to all Colleges/Department;
- (d) Ensure that the information disclosed is kept confidential by signing a separate undertaking which bind them not to disclose the said information to third parties unless authorized in writing

by the respective party in consultation with the researcher or innovator; and

- (e) Make sure that the registered new students and new employees disclose their background IP and keep record.

3.3.2 Policy Strategies

In order to ensure that, the University shall:

- (a) Make the disclosure agreement a mandatory step in commercialization process;
- (b) Provide a form which binds those dealing with IP disclosed information to sign not to disclose the said information to ensure confidentiality;
- (c) Educate all researchers/innovators concerning the importance of thorough and timely IP disclosures;
- (d) Make IP Disclosure Forms easily available and accessible in the MUST website;
- (e) Make simple standard operating procedures (SOPs) and clear the process to follow in order to make a disclosure;
- (f) Set timelines so that the researcher is informed on how long the process will take and what steps will be involved;
- (g) Make it clear that in the case of the IP disclosure resulting from student's research or innovation, it is the supervisor's duty to report the potentiality to the respective organ; and
- (h) Design a mechanism where new students and new employees can be able to disclose the Background IP and fill the disclosure form during the registration for a student and the signing of contract for an employee.

3.4 Policy Issue: Ownership of Intellectual Property (IP)

One of the issues that present and sometimes generate many disputes between institutions and those employed or dealing with it is intellectual property ownership. MUST is aware that the issue relating to ownership of IP requires balanced approach between the genuine interests of the two sides/parties involved.

3.4.1 Policy Statements

The following are the statements with regard to ownership:

3.4.1.1 *Ownership by MUST*

In connection with the above, MUST shall:

- (a) Own all intellectual property that is made, designed, discovered or created by a member of staff, students, innovators or guest researchers who, in the course of their employment or undertaking of the research or innovation, use MUST resources (including but not limited to funds administered or funded time by MUST, supervision, facilities or equipment) in connection with its development;
- (b) Develop tests to assist in determination of whether IP is created within the course and scope of employment;
- (c) Ensure that MUST staff members, innovators, research students and visiting scholars are made aware of their duty to assign and actually assign to MUST all inventions/innovations, creative or artistic works of any intellectual property assets developed in the course of their research while at MUST or anywhere using MUST's resources; and
- (d) Ensure that equitable IP rights between the parties are guided without affecting the core missions of the University in serving the society.

3.4.1.2 *Ownership by Staff*

When staff is an employee of MUST and create an IP, he/she may own the IP only when:

- (a) IP created by an employee falls outside the course of employment duties and with no substantial use of University resources or facilities vests with the employee;
- (b) The IP created by Staff has no value to seek for statutory IP protection where a poor techno-economic feasibility analysis report is produced; and
- (c) MUST respective organ recommend so.

3.4.1.3 *Ownership under Externally Sponsored Works*

In case where the research or innovation undertaking was partly or solely funded by the Government or its department, sponsor or external funding agency, the ownership of IP shall be governed by:

- (a) The terms of the grant or agreement as approved by MUST and in so far as such agreements are not in conflict with the provisions of this policy;
- (b) The terms of that undertaking and in whatever case the Government shall reserve to itself the "march-in-rights";
- (c) Memorandum of understanding between the sponsors of the works; and
- (d) MUST respective organ recommendations.

3.4.1.4 *Ownership by Students*

Unless otherwise stated in this Policy, students whose works have resulted into an IP asset to which MUST has opted to pursue ownership shall be entitled to be named as a researcher/inventor/author or innovator as the case may be. In that case:

- (a) All Postgraduate, Undergraduates or Diploma students who are registered with MUST whether on short term or long-term basis shall have the duty to assign to MUST all IP assets arising from their research, innovation, assignment, tasks, exercise, projects or any academic and non-academic activities while at or outside MUST Campus, or while being supervised by a MUST staff member;
- (b) Students may be required to assign the IP to MUST. The respective organ may assist a student with the commercialization of IP owned by the Student. This may involve the student assigning the IP to the University and then the University drives commercialization with financial or non-financial incentives being provided to the student;
- (c) Alternatively, various options can be explored where the student retains the ownership of the IP and the respective organ assists the student on a “services” type basis for a fee or as otherwise agreed;
- (d) In case when students develop IP and there are situations in which the University should own such student’s IP, the University shall:
 - (i) Decide on the need to have a special agreement for student IP;
 - (ii) Decide on the suitable contractual documents; and
 - (iii) Decide on the suitable procedures to ensure that the documents are signed.

3.4.1.5 *Ownership by Visitor*

MUST shall ensure that:

- (a) Rights of ownership related to intellectual property that is created during an academic visit by the student/staff of MUST to another university shall be governed by an agreement between the MUST

and such other University. If the MUST's IP Rights are not affected, the IP created during the visit shall belong to the other university unless otherwise provided in an agreement;

- (b) In cases where MUST opts not to pursue IP protection with regard to specific research results/innovations or unreasonable delays the process leading to the protection of the said IP, the researcher/innovator shall have the right to claim ownership;
- (c) In dealing with the preceding provision, the inventor/author or innovator shall be obligated to make a written request to MUST and his/her rights shall only be granted upon MUST approval of such request in writing; and
- (d) In all the cases above, MUST shall retain the right to a non-exclusive, non-transferable, irrevocable royalty free, worldwide license on the said IP asset for research and educational purposes.

3.4.1.6 *Traditional Knowledge Holder (TK Holder)/ Citizen*

MUST shall ensure that:

- (a) Rights of ownership related to intellectual property that is created by the Tanzanian Traditional Knowledge (TK) holder shall be governed by an agreement between MUST and such an innovator. If the MUST's IP rights are not affected, the IP created shall belong to the TK holder unless otherwise provided in an agreement;
- (b) In cases where MUST opts not to pursue IP protection with regard to specific research results/innovations or unreasonably delays the process leading to the protection of the said IP, the TK holder shall have the right to claim ownership;
- (c) In dealing with the preceding provision, the TK holder shall be obligated to make a written request to MUST and his/her rights

shall only be granted upon MUST approval of such request in writing; and

- (d) In all the cases above, MUST shall retain the right to a non-exclusive, non-transferable, irrevocable royalty free, worldwide license on the said IP asset for research, innovation and educational purposes.

3.4.1.7 *Non-Resident Innovator*

MUST shall ensure that:

- (a) Only the applicable rights are exercised in accordance with the Tanzania laws;
- (b) Rights of ownership related to intellectual property that is created by the Tanzanian Non-Resident Innovator shall be governed by an agreement between the MUST and such an Innovator. If the Tanzania and MUST's IP Rights are not affected, the IP created shall belong to the TK holder unless otherwise provided in an agreement;
- (c) In cases where MUST opts not to pursue IP protection with regard to specific research results/ innovations or unreasonably delays the process leading to the protection of the said IP, the TK holder shall have the right to claim ownership, provided the claim complies with Tanzania laws;
- (d) In dealing with the preceding provision, the TK holder shall be obligated to make a written request to MUST and his/her rights shall be honoured only upon MUST approval of such request in writing; and
- (e) In all the cases above, MUST shall retain the right to a non-exclusive, non-transferable, irrevocable royalty free, worldwide

license on the said IP asset for research, innovation and educational purposes.

3.4.1.8 *Ownership of IP created by Staff under Research Contract*

For the case an IP created by staff during the research contract, the ownership of IP created in the course of a research project will depend on the mutually agreed terms of a Research Contract made.

3.4.2 Policy Strategies

The University shall:

- (a) Establish a respective organ to deal with IP issues;
- (b) Provide training to build capacity to all parties dealing with IPs;
- (c) Provide IP seminars/training/workshop to students and staff;
- (d) Formulate a team to assess the IPs and identify the ownership;
and
- (e) Provide all information regarding IP and IP activities to stakeholders.

3.5 Policy Issue: Research and Innovation Collaboration

A holistic, cross-disciplinary and multidisciplinary approach to research and innovation is a trend in most of the research and innovation undertakings. Similarly, MUST researchers and innovators are drawn into carrying out research and innovations with partners from different colleges or institutions. Such research and innovation collaboration arrangement may take the form of individual collaboration or institutional collaboration. Determination of IP rights becomes crucial in dealing with research and innovation collaborations.

3.5.1 Policy Statement

Cognizant of the above, MUST shall:

- (a) Ensure that the terms under which the contract is entered consider the intellectual property interests of MUST, innovator/inventor/researcher and sponsor;
- (b) Coordinate management of sponsored research and innovation activities across the various academic units involved with a view to guarding against any contravention of the provisions of this policy; and
- (c) Organize in case where MUST researchers or innovators decide to share part of the cost, taking account of the relative benefits to the institution and to the sponsor. The details of such a sharing arrangement shall be explicitly stated and shall be mutually agreed to by all parties concerned in writings.

3.5.2 Policy Strategies

The University shall:

- (a) Collaborate with established organs (DIC, PSRP, PRGSC and CITT)
- (b) Design a Special Disclosure Form to be filed by parties in collaboration with MUST which involve background IP and new IP development during the course of implementation of the collaboration.

3.6 Policy Issue: Intellectual Property Documentation, Monitoring and Evaluation

It is important to frequently review the Institution's IP portfolio to determine if individual IP continues to serve MUST's interests and strategies, if they are not licensed. The University recognizes the importance of a well reorganized procedure where all the research activities and innovations are documented.

3.6.1 Policy Statements

University shall:

- (a) Manage related IP documents at MUST;
- (b) Report periodically on IP activities;
- (c) Develop and implement clear systems for monitoring and evaluation as they can strengthen effectiveness of management of IP and knowledge transfer;
- (d) Perform routine records of IP management measurement indicators in order to:
 - (i) Illustrate to external partners that MUST is managing IP effectively;
 - (ii) Identify problems and opportunities relating to IP management and to change budgets and strategies to reflect these changes;
 - (iii) Be effective in tracking and recording which can be a factor in retention and recruitment.
- (e) Design and collect appropriate indicators on annual basis; and
- (f) Prepare tools and procedures to facilitate IP documentations activities.

3.6.2 Policy Strategies

- (a) The University shall design a database where all the information about IPs are kept and updated; and
- (b) Provide accessible link on the IPs information database.

3.7 Policy Issue: IP Protection

For IP protection to be successful, disclosure and evaluation must be complete and received.

3.7.1 Policy Statement

The University shall:

- (a) Provide a mechanism to ensure that research, inventions, creations, innovations receive in-depth evaluation of their patentability and commercialization potential through the respective organ;
- (b) Establish the criteria for patentability, namely novelty, inventiveness and utility, the respective organ will provide the decision to protect/commercialize;
- (c) Assess the IP to reveal if it is too early to obtain patent protection and the IP should be developed further whilst maintaining confidentiality so as not to compromise the novelty requirement;
- (d) Identify if there is novelty and the invention is economically feasible and will have a market, then patent protection should be sought and file a patent application;
- (e) Provide guidelines to creators in case where the University will not seek to protect the IP and/or will not seek to commercialize the disclosed IP;
- (f) Communicate with creators or any external parties/sponsors with an opportunity to take ownership when the University decides not to pursue IP protection and/or commercialization. This will make the creators and/or external parties/sponsors to continue to protect the IP they will need to do so in their own name and hence the University must transfer their ownership rights, any on-going rights and/or benefits to the parties;
- (g) Ensure that if Indigenous Traditional Knowledge is involved in any proposed commercialization activities, the University may consult respective organs to ensure appropriate recognition and protection is given to its owners;

- (h) Ensure that staff, students and affiliates must complete all required documentation to allow MUST to protect, commercialize and exploit any IP;
- (i) Ensure that if a creator fails to complete any documentation or any other action necessary for the commercialization of IP owned by the University, the Vice Chancellor has the right to execute all such documents and do all such acts as their attorney. This power of attorney does not extend to instances where failure to complete documentation is a result of conflicts as to ownership of the IP, or where there is a dispute between the creators and MUST. In these instances, the section dealing with the resolution of disputes will apply;
- (j) Be responsible for administering all trademarks, domain names and business names relating to University activities. All trade mark applications must be made in the University's name;
- (k) Approve any use of the University's name or logo before any application is made; and
- (l) Handle and oversee the appropriate use of copyright materials and activities.

3.7.2 Policy Strategies

MUST shall:

- (a) Build the capacity of the parties involved in evaluation of IP and recommendation for protection; and
- (b) Provide a guideline on evaluation process.

3.8 Policy Issue: Commercialization and Technology Transfer of Intellectual Property

As a public institution, MUST is duty-bound to serve the public to the greatest extent possible through, among other things, research and innovation activities that give solutions to socio-economic development challenges confronting the Tanzanian society as a whole. Results or outcomes coming out of the research done by MUST will only make worthwhile contribution to society in Tanzania and elsewhere if concrete measures are in place to translate research results into applied knowledge. One of the widely used strategies to translate research results into applied knowledge and applied innovation products are through commercialization of intellectual property and transferring of technology to the society.

3.8.1 Policy Statement

Consequent from the above, MUST shall:

- (a) Provide strategies which reflect the encouragement of alternative commercialization pathways which allow for the commercialization of institution-developed technologies through Colleges and student-led start-ups. The strategies must require consideration or approval by the IP Committee;
- (b) Provide regular updates on the progress made in commercializing the particular IP to creators/innovators;
- (c) Be transparent, forthright and consistent about their strategic goals and priorities for technology transfer, resource allocation decisions and also be driven by strategic choices of the University. The University must choose among a variety of “outputs” to emphasize, including licensing, startups, sponsored research and other mechanisms of technology transfer that are focused more directly on stimulating economic and regional development, such as incubators and science parks;

- (d) Encourage transfer of intellectual property assets to the interested parties in a manner that preserves the interest of MUST, the transferee, the researcher/innovator and the general public;
- (e) Ensure that the technologies and other IP assets developed at MUST are effectively marketed/advertised to potential users in the industry and other sectors and set-up fair terms of licensing while giving special preference to local manufacturers;
- (f) Establish a system of quality control and monitoring mechanism to the licensee in order to make sure that such intellectual properties are used for the benefit of the majority Tanzanians as opposed to further private interests;
- (g) Ensure that commercial interests/benefits do not outweigh the public interests/good, thereby defeat the pursuit of research/innovation for curiosity purposes by providing support to those who pursue research/innovation for curiosity;
- (h) Enhance the capacity of respective organ in IP commercialization;
- (i) Ensure that all licensing or assignment agreement for transfer ownership of MUST's intellectual property comply to the following terms:
 - (i) Be subject to this Policy;
 - (ii) Include the terms necessary to fulfill the requirements and further this Policy;
 - (iii) Provided that the contracting entity bears the costs of obtaining protection for intellectual property; and
 - (iv) Money proceeds generated out of share interests be distributed according to agreed revenue distribution rules.

3.8.2 Policy Strategies

MUST shall:

- (a) Build the capacity of the parties involved in commercialization and transferring of technology to the community;
- (b) Establish clear procedures to follow when commercializing or transferring technology to the community; and
- (c) Prepare tools and guidelines necessary for fair income and costs sharing.

3.9 Policy Issue: Benefit or Revenue Sharing Modality

MUST acknowledges the contribution of researchers or innovators and therefore accepts the need to financially reward the researchers or innovators as a means of encouraging/motivating further creativeness and innovativeness. Institutional incentives play an important role in enhancing the effectiveness of knowledge transfer. A role in commercialization of research outputs/innovation remains an unfamiliar role for most researchers/innovators. An appropriate incentive structure and benefit sharing model are essential to drive and indeed encourage researchers/innovators to provide local solutions for local problems and increase their role in innovation activities.

3.9.1 Policy Statement

To achieve this, MUST shall devise a system of benefit-sharing which shall be guided by the following principles:

- (a) The respective organ shall develop the incentive programme covering the following issues:
 - (i) Publish a guideline that clearly explains modality of revenue sharing and equity-based commercialization income including provisions for sharing with creators and enablers;

- (ii) Incentives can include ‘sticks’ such as legal or administrative requirements for researchers to disclose inventions to the University that employs them, but also ‘carrots’ such as rewards;
 - (iii) Do not restrict your incentive structures to financial benefits only; consider also other types of benefits;
 - (iv) Set out the parameters of revenue sharing, as far as possible, by way of a standardized approach. Make sure that decisions on revenue sharing recognize specific terms and conditions in relevant funding contracts.
 - (v) Carefully choose the types of incentives; a particular incentive structure or royalty distribution formula to potentially enhance technology licensing to boost spin-offs;
- (b) MUST and the inventor/author or innovator shall have the option for a single upfront payment or running royalties from the licensing of IP;
 - (c) The net income shall be shared between MUST and the inventor/author/researcher or innovator in a manner which shall be devised and approved by the Council; and
 - (d) The respective organ shall determine the disbursement ratios among IP stakeholders.

3.9.2 Policy Strategies

The University shall develop an incentive and benefit sharing guidelines to attract more creations or innovations

CHAPTER FOUR

POLICY COMMUNICATION AND IMPLEMENTATION

4.1 Introduction

In implementation of the IP Policy, it is important to reduce bureaucracy by having two-tier structure (i.e. IP governance and an IP operation structure). These two spheres operate semi-independently but are also closely linked. The IP governance is the sphere of Policy creation/evolution and overarching strategic guidance. The IP operation is the domain of day-to-day management, and transactions.

4.2 Organizational Structure

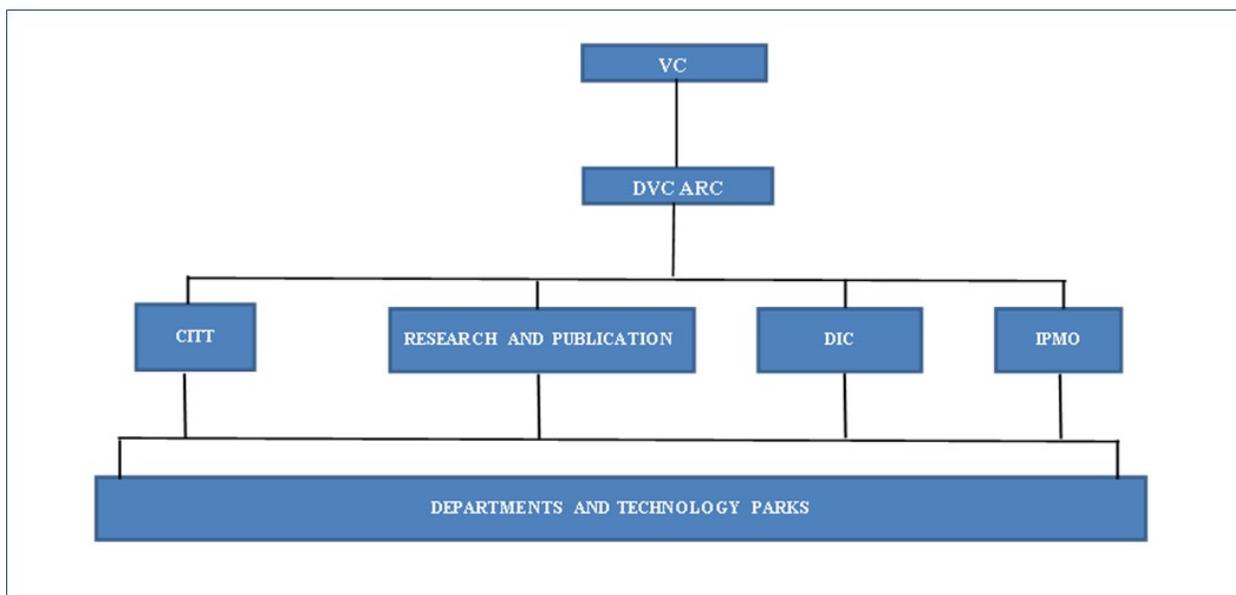


Figure 1: IP Policy implementation organizational structure

4.2.1 IP Committee

There shall be an IP Committee which consists of the following members who provide advice and support for IP commercialization efforts:

- (a) Deputy Vice-Chancellor - Academic, Research and Consultancy (Chairperson)
- (b) Head Intellectual Property Management Office (IPMO)/Corporate Council (Secretary)
- (c) Principals/Directors
- (d) Heads of Research and Innovations
- (e) Project Coordinators representing each College
- (f) Any person(s) with expertise in IP issues and technical background, external expert, or representation from specific stakeholders appointed by VC.

4.2.2 Responsibilities of the IP Committee

The Committee shall:

- (a) Advise the Senate on matters pertaining to IP activities at the University;
- (b) Formulate policy and oversees IP issues at MUST;
- (c) Oversee the implementation of the IP Policy;
- (d) Promote IP culture at the University;
- (e) Provide IP inputs to the University at all levels;
- (f) Monitor IP standards and practices;
- (g) Attend specific directives as required from time to time by the Council regarding IP issues;
- (h) Approve IP activities to be undertaken throughout the year;

- (i) Review continuously the policy of IP to be responsive to changes in the working environment;
- (j) Spearhead the preparation of IP proposals in the university to be forwarded to the Government and donor partners for support; and
- (k) Receive reports from IP respective organ.

4.3 Financial Matters

4.3.1 Financial disbursement

Success of the IP activities depends much on various actors from different places within MUST and the Community at large. The contribution of each participant will be considered accordingly. Financial disbursement depends on the nature of IP's and the players involved. The amount obtained shall be distributed in percentage after taking into consideration the implementation cost and shall be proposed and approved by the Council.

4.4 Revenue Distribution

4.4.1 Gross and Net Income

Gross income is funds obtained from the commercialization of research, innovations or technology under an agreement. Gross income may include license fees, milestone payments, minimum annual royalties, earned or running royalties, equity, equipment or reimbursement of patent expenses and fees.

Net income is gross income less non-reimbursed university expenses for patent prosecution and licensing expenses associated with a particular license agreement (e.g. travel made expressly to negotiate a particular license agreement).

4.4.2 General Principles of Income Sharing

Where an invention made by an employee of an institution (using the MUST resources) is patented and commercialized, the general principle is as shown hereunder:

- (a) 100 percent of the revenue goes to the institution until all out-of-pocket expenses associated with protection and exploitation of the patent or copyright have been reimbursed. Such expenses include fees associated with patent filing and copyright registration and any other continuing costs associated with licensing and other commercialization of the intellectual property.
- (b) Income distribution among stakeholders, the dividend formula, and other related procedures will be governed by the IP Policy's guidelines and operational procedures. MUST financial regulations may also apply.
- (c) MUST stakeholders with whom the institution's income may be shared includes the departments and sections within CITT (Director/CITT, HoD/DII, HoD/DEBM, RTP, Mentors Fund), and other units of the university including, colleges, department, MUST Support Organs, CITT Startups Fund.
- (d) In the absence of a written agreement to the contrary, groups of two or more creators will receive equal portions of the creator's share of net revenue. When the creators are located on different campuses, each campus will receive the same percentage of the total campus share of net revenue as the creators located on that campus receive of the total creator share of net revenue.

4.4.3 Equity Shares

Institutions may negotiate for equity interests in lieu of or in addition to monetary consideration under an agreement between the institution and an external entity relating to applicable intellectual property.

4.5 Other Related Issues

4.5.1 Material made available for use by the University

Material made available for use by a university is any invention, creation, innovation, discovery or improvement produced by a creator and enjoying intellectual property protection which the inventor voluntarily makes available for MUST use without expectation of further compensation. In such a case, MUST retains a non-exclusive, royalty-free license to use such material, provided that significant contributions by the inventor are acknowledged. That license does not include the right to exploit the work outside the institution for profit.

4.5.2 Treatment of licenses for non-commercial research, innovations and technologies within a University

Many staff and students experience high costs and practical inconvenience in obtaining permission to use material covered by intellectual property protection for research and teaching. Inventors are therefore encouraged to approach publishers and other persons to whom inventors assign rights in their intellectual property and request a non-exclusive, royalty-free license for their own non-commercial research and teaching, including where possible the right of anyone within MUST to use that intellectual property for non-commercial research and teaching.

4.5.3 Treatment of Assignment or Licensing of Relevant Intellectual Property by the Inventor

MUST will receive a share of all proceeds generated by commercialization of the intellectual property after the inventor has recovered documented out-of-pocket

costs for obtaining legal protection. The share will be negotiated on a case-by-case basis.

4.6 Other Relevant Issues

4.6.1 Consultancy

4.6.1.1 Consultancy on behalf of the University

Consultancy undertaken by staff as agents acting for or on behalf of MUST should be subject of agreements or contracts with clients, with fee income shared as appropriate among one or more members of staff, their department(s) and the institution.

4.6.1.2 University and Private consultancies

- (a) Since private consultancy may have implications in terms of use of resources, time spent, professional and product liability and potential loss of revenue for the institution. MUST is advised to take professional advice to ensure correct notification to clients that consultancy undertaken privately by MUST staff does not involve the university; and
- (b) Handling of MUST consultancies should ensure appropriate contract wording and insurance cover (for university consultancy contracts).

4.6.2 Sponsored research, innovation or project

It is recommended that:

- (a) Whereas the collaborating organizations will look for confidentiality and ownership of a piece of work in so far as they have paid for it, academic researchers will more probably consider it a research grant without constraints attached.
- (b) The benefits for both the sponsor and the university should be recognized in the contract.

- (c) MUST coordinate the management of the sponsored research activities across the various academic departments involved, to be consistent over time and to act in concert.
- (d) MUST establish a central office with responsibility for managing research and technology transfer interaction with external organizations, including any exploitation companies set up by the institution, and for ensuring that procedures are internally consented to and in keeping with agreements elsewhere in the R & D institution sector.

4.6.3 Contract Obligations

It is recommended that:

- (a) MUST include in contract documents a clear title for the programme of work, and in an appendix a fuller description detailing work packages, milestones and reporting intervals where appropriate;
- (b) Where milestones or review points are included in the contract, they must represent events or activities that relate to the research, and not to specific outcomes that cannot be guaranteed and would lead, in the case of failure, to the institution being obliged to continue experiments indefinitely without further financial support;
- (c) Reports be submitted as “report in format acceptable to sponsor,” not “report to the satisfaction of sponsor,” so that the sponsor is guaranteed a report of an acceptable size and nature, the contents of which reflect the work that the university or R&D institution has agreed to undertake rather than a mechanism for withholding payment if the results do not match the sponsor’s aspirations;
- (d) MUST assert that amendment of the original contract will not occur without the sponsor’s and the institution’s prior written

agreement, in order to protect the institution from financial loss and to ensure that the work remains relevant to the sponsor's objectives, academically appropriate and of interest to all parties.

4.6.4 Costing

It is recommended that:

- (a) MUST price externally-funded work in a way that recognizes the value of the work in the market;
- (b) MUST seek a price for commissioned research that ensures full recovery of costs and also takes account of opportunity costs where rights are assigned or constraints imposed. In cases where MUST decides to share part of the project cost, taking account of the relative benefits to the institution and to the sponsor, the details of such a sharing arrangement should be explicitly stated and should be understood and agreed to by all concerned.

4.6.5 Confidentiality, Publication and writings

It is recommended that:

- (a) MUST agree to sponsors seeing the publication prior to its issue, and having the right to delay it for a specified period not exceeding 6-12 months;
- (b) The sponsor be able allowed, in exceptional circumstances to negotiate a longer delay period with MUST, but only on submission of a compelling case and with the agreement of the research staff involved;
- (c) MUST should not, under any circumstances, allow the sponsor the right to delay publication for an unrestricted period of time;
- (d) MUST considers whether its rules on theses should provide for the student assigning all copyright to the institution, and whether it

provides adequately for the institution to meet its obligation to exploit the results of research undertaken by postgraduate students and research fellows;

- (e) In exceptional cases, and only where it is agreed that there will be no delay in the submission or assessment of a thesis, MUST may agree, with the full consent of the student and subject to annual review, to public access to a thesis being restricted for a specified, limited period (e.g. not more than 6-12 months), to enable the student, university and/or to benefit commercially from the results of a sponsored research project.

4.6.6 Ownership of Equipment

- (a) Equipment purchased under MUST/sponsor funded research, innovation, technology contract or donated by the collaborating entity shall remain the property of the university on completion of the contract.
- (b) It is therefore recommended that there should be a clause in all contracts defining the ownership of equipment during the project completion.

4.6.7 Professional and Product Liability

It is recommended that:

- (a) The matter of which party should bear the liability for work performed in relation to particular projects be addressed in all contracts. In particular, the terms should be such that MUST is absolved from liability, within the limits of the law and universities should not be expected to give indemnities;
- (b) Within those permitted limits, the contract should state that the MUST is not to be held responsible for any consequences of any inaccuracies or omissions (unless resulting from negligence), and

that no liability attaches to it for the effects of any product or process that may be produced or adopted by the sponsor, notwithstanding that the formulation of the product or process may be based on the findings of the projects;

- (c) Contracts entered into with parties in other countries should whenever possible be subject to national laws of countries where the institutions are located, and should also be made subject to the jurisdiction of those countries' courts, unless an acceptable arbitration clause is included;
- (d) MUST investigate the degree to which they may be exposed to liability as a result of private consultancy work undertaken by members of their staff, and they are advised to take steps to eliminate the risks by adopting positive methods of control.

4.7 Rights and Obligations of MUST and Author/Inventor/Innovator/ TK Holder

Intellectual property management involves continuous interaction and exchange of information which sometimes may not be easy to manage without having clear rules, rights and obligations of the parties concerned. Therefore, MUST stipulate the following rights and obligations:

4.7.1 Obligations of the Inventor/ Author/ Innovator/ TK Holder

Obligation of the inventor/author shall be to:

- (a) Report and disclose invention/ innovations or research activities as soon as possible to the departmental head, project supervisor or unit administrator who shall subsequently relay the report to the respective organ;
- (b) Offer effective cooperation with the respective organ in evaluation of the research, invention or innovation to assess its potential;
- (c) Disclose all potential conflicts of interest to MUST;

- (d) Abide by all commitments made in a license, sponsored research, invention/innovation and other agreements, laws relating to privately funded research/invention/innovation;
- (e) Arrange for the safe keeping of all records and documents that is necessary for the protection of MUST's interest in the intellectual property;
- (f) Provide such assistance as may be necessary throughout the technology transfer process; and
- (g) Take precautionary measures against public disclosure of the said innovation/invention or research results until the evaluation process is completed and a decision whether to pursue IP protection or not has been made.

4.7.2 Rights of the Inventor/ Author/ Innovator

- (a) In case the IP asset relates to a patent, the rights of the researcher or innovator shall be governed by section 17 (1) and (2) and 35 of the Patents Acts of 1987, Cap. 217 [R.E. 2002] of the Laws of Tanzania which is the right to be named as an inventor or innovator, the right to receive royalties/economic benefits arising from the exercise of any or all rights stipulated under section 35 of the Patent Act.
- (b) In cases where the intellectual property asset relates to copyright or neighboring right, the rights of the author shall be as provided under reviewed MUST Intellectual Property Policy 2023.

4.7.3 Obligations of MUST

MUST shall be to:

- (a) Exercise due diligence in handling all matters pertaining to the disclosure of research or innovation activities;

- (b) Raise awareness among staff and students on IP issues;
- (c) Provide support, where necessary, in terms of monetary consideration and infrastructural facilities in order to foster effective administration of IP;
- (d) Obtain legal protection for the IP for the interests of the institution and creator of the IP against unauthorized use by a third party or;
- (e) Advertise and commercialize the IP assets as deemed appropriate for the interest of MUST, researcher, innovator and the general public.
- (f) Assist the inventor/author/innovator where necessary, in finding an external partner or financial support;
- (g) Endeavor to negotiate and manage IP-related agreements to the best advantage of the author/inventor/innovator and the institution; and
- (h) Ensure that such agreements are consistent with IP policy and respective guidelines.

4.7.4 *Assignment of IP rights*

- (a) At the request of MUST, staff and students must assign to the University all IP in a timely manner and execute all such deeds of assignment and other documentation necessary to give effect to the IP ownership, protection, use, and commercialization provisions set out in this policy.
- (b) No staff member or student may act on behalf of MUST, or act in their own name, to assign, license, protect or otherwise deal with IP which is the property of MUST or over which MUST asserts rights under this policy, unless specifically delegated to do so in writing.

- (c) Where a student owns IP and there are no other staff or student creators, a student may in their own name, assign, license, protect or otherwise deal with that IP in accordance with the Process for disclosing and exploiting intellectual property.
- (d) Students are required to assign their IP rights to MUST where:
 - (i) The IP consists of course materials;
 - (ii) The IP has been assigned to MUST under a specific agreement;
 - (iii) The IP has been jointly developed with staff and the student is deemed to be a co-creator; and
 - (iv) The IP is the subject of an existing agreement between MUST and a third-party.
- (e) Students involved in research activities that could lead to the development of IP over which MUST or a third-party may claim ownership or other rights must formally assign, in advance, all IP to MUST before engaging in research, in return for the same IP benefits that a staff member would have under the policy, unless subject to a third-party agreement.
- (f) Supervisors electing to supervise a student in an area whose research activities are covered by third-party agreements must ensure a confidentiality and IP assignment agreement is completed between MUST and the student before the work is commenced.
- (g) Some projects may not be available to students who choose not to sign a confidentiality and/or IP assignment agreement.
- (h) Despite any contrary provision in this Policy, all existing legally binding contracts, deeds and agreements entered into by MUST at the effective date of this Policy, will remain in full force and effect.

Their terms will prevail in the event that a conflict arises with this Policy.

- (i) MUST may assign its rights, title and interests in IP owned by it to third-parties in accordance with this policy.

4.8 Policy Availability, Accessibility and Policy Awareness

For effective implementation of the Policy for better results, the Policy needs to be available, accessed and understood by all parties involved in its execution. In order to implement this, MUST shall do the following:

- (a) Make the Policy available at the University Website;
- (b) Identify all stakeholders involved in implementation of the IP policy; and
- (c) Provide awareness seminar about the IP policy to the identified stakeholders.

4.9 Dispute Resolution

The interactions between staff, students and other stakeholders may at times give rise to an actual, potential or perceived conflict of interest or conflict of commitment with their role and responsibilities at the University. MUST is encouraged to clearly and consistently enforce its IP Policy ensuring that conflicts of interest or conflicts of commitment are properly managed to reducing legal and reputational risk and demonstrating the integrity of individual participant and of the University. In order to ensure that, MUST shall:

- (a) Ensure that researchers, inventors and creators participate in the IP process;
- (b) Provide separate guideline to establish more detailed standards and requirements to protect the University's financial well-being, reputation, and legal obligations and to resolve any apparent or real conflicts;

- (c) Resolve all disputes related to IP amicably in the spirit of supporting and furthering the interest of the public;
- (d) Dispute resolution with regard to intellectual property shall be handled by the aggrieved parties in conjunction with MUST participatory organs; and
- (e) Where a party is not satisfied with the decision of the IP committee s/he may appeal to the Vice Chancellor who may be final and binding upon all the parties.

4.10 Ethical consideration and Code of Conduct

The MUST Community shall adhere to the ethics when dealing with issues arising from all stage of IP development, management and commercialization consistent with the prevailing ethical requirements of the relevant MUST and international policies and guidelines. The implementation of the MUST IP Policy shall abide by the institutional objectives and should not contradict with national or international laws and regulations

CHAPTER FIVE

MONITORING, EVALUATION AND REVIEW

5.1 Introduction

A well-functioning Policy with effective monitoring and evaluation system is a critical part in policy implementation. It ensures good management and accountability. Monitoring and evaluation plays a vital role in assessing the implementation of the strategies, goals and objectives of the policy. Mbeya University of Science and Technology will work together with other stakeholders in the monitoring and evaluation of the Policy in their respective Colleges/ Departments. The University and the Centre of Innovation and Technology Transfer in collaboration with the Directorate of Postgraduate Studies Research and Consultancy will provide monitoring and evaluation tools for monitoring and evaluation of the IP Policy. Monitoring and evaluation exercise will involve all parties involved in implementation of the Policy in their respective areas.

5.2 Period of Monitoring and Evaluation

Monitoring of the activities done during implementation of the Policy is a continuous process. It starts immediately when the Policy started to be implemented. The monitoring reports will be provided quarterly after collecting all the required information during implementation of the Policy by looking at the implementation plan. Evaluation will be done once in a year to know the progress of the Policy. The monitoring and evaluation will be done by CITT, DPSRP and MUST IP committee. Monitoring and evaluation reports help to measure the effectiveness of the IP Policy.

5.3 Evaluation Report

Parties involved in monitoring and evaluation will produce a report of Monitoring and Evaluation. The produced reports will be shared to all

stakeholders at all levels to get their opinion or views on the progress of the Policy.

5.4 Policy Amendments and Review

The evaluation report produced will determine the need for amendment or changes of the Policy in order to cope with the current needs. According to the University Charter, the amendment of the Policy will be allowed after one year of implementation. Therefore, the IP Policy will be subjected to amendment after three years. The process of amendment should follow the required procedures after identifying the needs. The review shall cater for changes or new development that may arise during implementation of the Policy.

5.5 Operationalization of the Policy

The policy will come into effect when it has been approved by the Council. Prior to the implementation of IP policy, everyone needs to be clear about the goals of the policy. The following are the strategies to ensure effective implementation of the policy:

- (a) The IP Policy and procedures will be made widely accessible to provide users with the tools needed to effectively move decision-making to more appropriate levels within the University/ College/ Directorate/ Centre, and provide a basis for individual and unit accountability.
- (b) Policy owners should communicate to all stakeholders/end users of the approvals to new policy or amendments using university website and other exiting platforms such as notice boards, newsletter, etc.
- (c) To increase the impact to students who are key stakeholders of the IP Policy, the document should be posted on Student Information Management System (SIMS) as an alert.
- (d) Training sessions shall be conducted to ensure that University personnel are fully informed and able to implement the policy.

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