



Bayero
University
Kano

INTELLECTUAL PROPERTY POLICY

Directorate of Research, Innovation and Partnership (DRIP)

BAYERO UNIVERSITY, KANO

(Office of the Vice-Chancellor)

2018



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PREFACE

Intellectual Property (IP), as contained in this Policy, means any proprietary right, which arises under, or is capable of being obtained under legislation relating to copyright, patents, designs, circuit layouts or plant varieties, or which otherwise exist in law, including trade secrets, know-how and other confidential information and unregistered trademarks and trade names. With research being one of the central functions of the university, so it is an added responsibility of the authority to provide a framework for the protection of Intellectual Property Rights (IPRs) of scholars and students as it relates to their discoveries and innovations. Ownership of scholarly or artistic works, created in the course of their research and learning process, for example, theses, dissertations, papers, and articles, shall remain with the creator unless the work is commissioned by the University, or makes significant use of university resources and personnel.

This IP Policy, therefore, sets forth the rules and regulations to harmonise the conflicting interests of stakeholders relating to ownership of Intellectual Property, distribution of income, marketing, commercialisation and licensing of intellectual property developed by Bayero University staff or students. The aim of this Policy is to provide a framework, within which Bayero University IP is developed, managed and effectively harnessed for the benefit of the University, the inventor/innovator/creator, author and the general public. Thus, in order to harmonise the various interests of partners and achieve broad-based objectives, this Intellectual Property policy addresses, amongst others, the following issues: coverage of intellectual property policy; ownership of intellectual property; rights and obligations of Bayero University and the innovator/inventor/creator/author; disclosure of intellectual property; commercialisation of IP and; distribution of income. This Intellectual Property policy is established in accordance with the Guidelines on Developing Intellectual Property Policy for Universities and Research Institutions and the Model Intellectual Property Policy for Universities and Research Institutions produced by the World Intellectual Property Organization (WIPO).

I wish to acknowledge the contributions of Prof. Sagir Adamu Abbas (the pioneer Director, DRIP) for setting a solid foundation in the Directorate. The DRIP success story will not be complete without Prof. Murtala Sabo Sagagi and Prof. Abdulrazak Habib who participated in the preparation of the first draft of the IP Policy. I, also, appreciate the contributions of Prof. Abdullahi Sule-Kano (current Director), Dr. Umar Ibrahim Gaya (former Deputy Director, Research), Prof. Rabiun Sani Shatsari (Deputy Director, Partnerships), Prof. Abdullahi Hassan Kawo (Deputy Director, Innovation) and Prof. Ibrahim Ahmad Rufai (current Deputy Director, Research) for revising and editing the document to its present form.

***Professor Muhammad Yahuza Bello FNMS
Vice-Chancellor, Bayero University, Kano.***

1. INTRODUCTION

1.1 Preamble

The vision of Bayero University, Kano (BUK) is to lead in research and education in Africa. The mission is to address African development challenges through cutting-edge research, knowledge transfer and training of high-quality graduates. In carrying out its primary responsibilities of research, teaching, and community service, Bayero University adopts for itself the following intellectual property policy:

- i. to promote scientific investigation and research;
- ii. to ensure timely and efficient protection and management of IP generated in the University;
- iii. to facilitate the maintenance of records on IP and commercialization;
- iv. to enhance collaboration with third parties;
- v. to enhance the reputation of both the University and its researchers;
- vi. to safeguard the interests of all stakeholders in IP generation and commercialization;
- vii. to facilitate creation of businesses from the research output of the University.

Bayero University IP Policy is in accordance with the Guidelines on Developing Intellectual Property Policy for Universities and Research Institutions and the Model Intellectual Property Policy for Universities and Research Institutions both produced by the World Intellectual Property Organization (WIPO).

1.2 Goals and Objectives of the Policy

Bayero University IP policy goals are:

- a) to provide a mechanism for protection and management of the intellectual property generated in the University;
- b) to promote research in all fields and disciplines in the University; and
- c) to ensure that intellectual property generated in the University are utilised for public good.

Bayero University IP policy objectives include:

- a) to create an environment where the knowledge generated by researchers in the University is used in the best interest of the researchers, the University and the public;
- b) to provide guidelines on identification, ownership, protection and commercialization of intellectual property generated in the University;
- c) to provide guidelines on timely protection and management of intellectual property generated by the staff and students of the University;

- d) to provide legal instrument for the regulation of the relationship between researchers and third parties;
- e) to provide a mechanism for recording, monitoring and evaluation of the University's intellectual property portfolio;
- f) to provide guidelines on fair distribution or sharing of the benefits and royalties, arising from the commercialization of intellectual property, among statutory co-owners; and
- g) to promote the reputation of both the University and researchers as contributors to the progress of the nation.

1.3 Stakeholders in the Process of Commercialization of Intellectual Property

The stakeholders in the process of commercialization of innovations, inventions and discoveries generated in Bayero University include:

- i. Bayero University, Kano;
- ii. Creators of intellectual property;
- iii. Creators' departments/centres/faculties/schools/institutes/colleges;
- iv. Research collaborators;
- v. Undergraduate and Postgraduate Students;
- vi. Postdoctoral fellows;
- vii. Visiting researchers;
- viii. Research sponsors;
- ix. Directorate of Research, Innovation and Partnership (DRIP);
- x. National Office for Technology Acquisition and Promotion (NOTAP);
- xi. Federal Ministry of Industry, Trade and Investment;
- xii. Nigerian Copyright Commission; and
- xiii. The public.

1.4 Scope of the Policy

The Policy shall apply to persons who are legally related with Bayero University. Such a legal relationship may arise pursuant to the provision of law, collective agreement or individual agreement. The issues covered in this policy include:

- a) Coverage of intellectual property policy;
- b) Ownership of intellectual property;
- c) Rights and obligations of Bayero University,
- d) Rights and Obligations of the creator of IP;
- e) Disclosure of intellectual property;
- f) Commercialisation of IP;
- g) Distribution of income; and
- h) Other pertinent issues.

1.5 Directorate of Research, Innovation and Partnership (DRIP)

Directorate of Research, Innovation and Partnership (DRIP) is charged with the responsibility of managing all issues related to research and its output. DRIP is

governed by the Board of Research, Innovation and Partnership (BRIP). The Directorate is headed by a Director and has three divisions; each is headed by a Deputy Director, as follows:

- a) Division of Research and Publications;
- b) Division of Innovations and Technology Incubation; and
- c) Division of Partnerships.

1.5.1 The functions of DRIP are:

- a) Defining the research focus of the University in different disciplines;
- b) Initiating and supporting degree and non-degree research endeavours;
- c) Sourcing and management of research funds;
- d) Providing guidelines and facilities for researchers;
- e) Patenting and keeping of copyrights; and
- f) Commercialisation/marketing of research output.

1.5.2 The Functions of the Division of Innovation and Technology Incubation are:

- a) To identify researches and projects across the University that demonstrate clear commercial or social value;
- b) To stimulate technology incubation of new inventions;
- c) To identify potential users (inventors, industry, government and entrepreneurs) of University's research outputs with the aim of knowledge transfer/sharing;
- d) To facilitate the creation of new techniques, technologies, products, new businesses and generating licenses and consultancy emanating from the University's original research projects;
- e) To provide technical and logistic support in the thematic and non-thematic research areas to generate Intellectual Property (IP);
- f) To provide incentives and challenge the faculties, departments and centres to generate IP from their original research works and showcase all the IPs generated locally and internationally;
- g) To develop the capacity of researchers/research groups in IP generating researches;
- h) To create a stock of commercially viable knowledge-based product for the University;
- i) To attract contract research between the University and corporations, governments and others; and
- j) To organise, periodically, an exhibition of Research output from the University.

1.5.3 DRIP is responsible for the implementation of Bayero University IP Policy through the following activities:

- a) Processing and safeguarding patent and copyright agreements;
- b) Determining the patentability or copyrightability (including handling of invention/innovation/software disclosures, undertaking patent search and completing applications for patents and copyrights) of research output;
- c) Evaluating the commercial potential of inventions/innovations;
- d) Obtaining appropriate patent protection;
- e) Locating suitable commercial development partners or licensees;
- f) Negotiating and managing licenses;
- g) Sharing of revenues/royalties among stakeholders.

1.5.4 The Board of Research, Innovation and Partnership (BRIP):

The Board of Research Innovation and Partnership shall be the governing body of the directorate and is responsible to the Vice-Chancellor and Senate for the regulation of research activities in the University. The Board shall provide guidelines relating to research work, innovation and collaboration. BRIP is a policy making organ and its functions shall include following:

- a) To advise the Vice-Chancellor/Senate on research activities, innovation and partnership in the University;
- b) To recommend to the senate, revised University policy or guidelines on the conduct of research, innovation and partnership from time to time.
- c) To oversee the implementation of the University Research, Innovation and Partnership Policies and submit an annual report to the Vice-Chancellor.

1.5.5 The Board has established the following committees:

- a) Standing Committee on Research and Publication;
- b) Standing Committee on Innovation and Technology Incubation; and
- c) Standing Committee on Partnership.

1.6 Awareness Campaign on Intellectual Property

Bayero University shall:

- a) Ensure that the awareness campaign on intellectual property issues is set and is carried out at all levels through seminars, workshops and lectures;
- b) Ensure that DRIP produces flyers and brochures, which address issues of IP for circulation to all faculties, departments, and staff members of Bayero University.

2. COVERAGE OF INTELLECTUAL PROPERTY POLICY

2.1 Intellectual Property Rights

Intellectual property (IP) refers to creations of the mind such as inventions, innovations, literary and artistic works, symbols, as well as names and images used in commerce and all other such materials which are recognized in law as property. This Policy, in accordance with Nigerian law, covers the following distinctive types of IP: Patent; Trademark; Industrial Design; Copyright; and New Plant Varieties. These forms of IP are briefly described below.

2.2 Patents

A patent is the right granted by the State to an inventor to exclude others from commercially exploiting the invention for a limited period, in return for the disclosure of the invention, so that others may gain the benefit of the invention.

2.2.1 Patent protection: Patent protection means that the invention cannot be made, used, distributed or sold on a commercial scale without the patent owner's consent.

2.2.2 Patent rights: Patent rights are usually enforced in a court, which in most systems holds the authority to stop patent infringement.

2.2.3 Patent owner: A patent owner has the right to decide who may or may not use the patented invention throughout the period during which the invention is protected. The owner may also sell the right to the invention to someone, who then becomes the new owner of the patent. The rights conferred by a patent continue to be active and enjoyable by the patentee during the duration of the patent so granted. The period of protection is 20 years. Once a patent expires, the protection ends, and the invention becomes part of the public domain and the owner no longer holds exclusive rights in it.

2.2.4 Patentable invention: The Patents and Designs Act, Chapter P2 Laws of the Federation of Nigeria 2004 (the 'Patents and Designs Act') governs the registration and practice of patents in Nigeria.

An invention is patentable in Nigeria if:

- a) it is new; results from inventive activity; and is capable of industrial application; or
- b) it constitutes an improvement upon a patented invention; it is new; and results from inventive activity and is capable of industrial application.

2.3 Trademarks

A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. A trademark affords protection to the

owner of the trademark by ensuring his exclusive right to use it to identify goods or services. The period of protection is 7 years, but a trademark can be renewed indefinitely.

2.3.1 Trademark protection: Trademark protection is enforced by the courts, which has the authority to block trademark infringement. Trademark may be in the form of: signs, words, letters, numbers; drawings, pictures, emblem; colours or combination of colours; shape of goods; graphic representation or packaging or any combination of the above as applied to an article or a product. Trademarks may be one or more words, letters or numerals or a combination of all three. They may consist of drawings, symbols, three-dimensional shapes such as the outward form and packaging of goods, audible signs such as music or oral distinguishing features or smells.

2.4 Industrial Designs

An industrial design is the ornamental or aesthetic appearance of an article. The design may consist of three-dimensional features of the article, such as its shape or surface, or of two-dimensional features such as patterns, lines or colours. Industrial designs are embodied in a wide variety of products of industry and handicraft.

2.4.1 Industrial design protection: When an industrial design is protected, the owner is assured of an exclusive right against unauthorized copying or imitation of the design by third parties. In Nigeria, industrial designs are protected under the Patent and Designs Act Cap P2 of the Laws of the Federation 2004 and the Design rules. Registration of an industrial design is effective for the first 5 years, renewable for a further period of 5 years.

2.5 Utility Models

A utility model is an invention/innovation that does not meet all the requirements of patentability but has an industrial application. The inclusion of utility models into the intellectual property system is aimed at nurturing the rapid evolution of indigenous innovativeness, particularly in small and medium-scale enterprises (SMEs).

2.6 Copyright

Copyright is the right given to creators for their literary and artistic works. According to this policy, the following works shall be eligible for copyright:

- a) Literary works;
- b) Musical works;
- c) Artistic works;
- d) Architectural designs;
- e) Cinematograph films;

- f) Sound recordings;
- g) Computer software; and
- h) Broadcasts.

2.6.1 Copyright protection: The creators of original works protected by copyright, and their heirs, have certain basic rights. They have the exclusive right to use or authorize others to use the work on agreed terms. Holders of copyright can prohibit or authorize:

- a) its reproduction in various forms;
- b) its public performance, as in the case of a play or musical work;
- c) its recording, for example on compact disc, cassette, or videotape;
- d) its broadcasting, whether by radio, cable or satellite;
- e) its translation into other languages, or its adaptation, such as that of a novel into a screenplay.

2.6.2 Copyright law: In Nigeria, Copyright law and practice is governed by the Copyright Act Cap. C28 Laws of the Federation of Nigeria, 2004.

2.7 Neighbouring Rights

These are rights granted by law to communicators of works, such as performers and broadcasting organizations, to the public. A performer, in relation to his performance, shall have the exclusive right to control the following acts:

- (a) Performing;
- (b) Recording;
- (c) Broadcasting live;
- (d) Reproducing in any material form; and
- (e) adaptation of the performance.

According to the Copyright Law in Nigeria, “performance” includes: (a) a dramatic performance (which includes dance and mime); (b) a musical performance; and (c) a reading or recitation of literary act or any live performance given by one or more individuals.

2.7.1 Folklore: Neighbouring rights are also used to protect expressions of folklore. As per this policy, “folklore” means a group-oriented and tradition-based creation of groups or individuals reflecting the expectation of a given community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation. Expressions of folklore are protected against: (a) reproduction; (b) communication to the public by performance or broadcasting; (c) adaptations, translations and other transformations.

2.8 Duration of Copyright

For literary, musical or artistic works other than photographs – shall last 70 years after the end of the year in which the author dies; in the case of government or a body corporate – 70 years after the end of the year in which the work was first published; and for cinematographic films, photographs, sound recordings, and broadcasts – shall last only 50 years after creation.

2.9 New Plant Varieties

Under the International Convention for the Protection of New Varieties of Plants (“UPOV Convention”), an intellectual property right, namely “Plant Breeder’s Right”, can be granted to a breeder, if the breeder-obtained variety is considered to be new, distinct, uniform, stable, and has a suitable denomination.

2.10 Trade Related IP Rights

Under the Trade Related Aspects of Intellectual Property Rights (TRIPS), developing countries such as Nigeria may adopt one or a combination of the following:

- a) UPOV style legislation based on the 1991 Convention;
- b) Another form of *sui generis system*; and
- c) Patents on plant varieties. With the adoption of the TRIPS Agreement, developing countries are obliged to adopt protection of plant varieties. The scope and length of protection has been extended to a minimum of 20 years.

2.11 New Plant Varieties and Livestock Breeds

In Nigeria, protection of New Plant Varieties and Livestock Breeds is ensured by National Crop Varieties and Livestock Breeds (Registration, etc.) Act (Amendment) 2016. The Act provides a register for the certification, registration and release of national crop varieties and livestock breeds and other matters related thereto. The register operates under the Genetic Resources Unit of the Department of Agricultural Science of the Federal Ministry of Science and Technology and shall be charged with the general responsibility for crop varieties and livestock breed validation, registration, naming and release in Nigeria..

2.12 Persons Covered by the Policy

- a) Academic staff: All teaching and research staff, sabbatical and visiting scholars employed by the university permanently or temporarily.
- b) Undergraduate, postgraduate and visiting students: Full-time or part time undergraduate/postgraduate students registered in Bayero University. Where students are employees of outside organisations, they are responsible for resolving any conflicts between this policy and provisions of agreements with their employers prior to committing themselves to any undertaking at Bayero University that may involve the creation of intellectual property;

- c) Post-doctoral researchers: For the purpose of this policy postdoctoral researchers are considered to be in the same category as post-doctoral fellows/trainees because their work is considered to be part of their training;
- d) Former employees, students and other staff: 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.
- e) Contractor/Consultant: Any person hired by the University on a limited basis, for a limited purpose as specified in a contract, is considered as a 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 the terms of the contract between the University and the contractor/Consultant.
- f) Others: Any person not covered in the list above involved in university-administered research is considered staff based on the terms of engagement. Where a student is also an employee of Bayero University, he/she is considered staff with regard to intellectual property as a result of his/her employment. A full time non-academic employee who is also taking one or more courses or undertaking a research is considered to be staff for the purpose of intellectual property.

2.13 Intellectual Property Assets and Rights Covered

Subject to the laws governing Intellectual Property in Nigeria, this policy covers the following intellectual property assets: Patents, trademarks, utility models, industrial designs, copyrights and related/neighbouring rights, geographical indications, new plant varieties, trade secrets (confidential data, information or compilation used in research and business), traditional knowledge; and any other intellectual property-related assets that may be created by persons covered under this policy.

2.14 Bayero University's Rights in Incidental Innovation/Inventions

Innovator(s), inventor(s) or creators of IP shall grant to Bayero University an irrevocable, perpetual, non-exclusive, royalty free world-wide right to use their IP in the University's non- profit educational and research activities.

3.1 Status of Researchers

- a) The Registrar of Bayero University shall ensure that the employment contract or other agreement establishing any type of employment relationship between the University and the Researcher contains a provision that places the Researcher under the scope of the Policy;
- b) Students of Bayero University shall be required to sign an agreement to be bound by this Policy before commencing any research activity;
- c) Postgraduate students enrolling in research programmes shall be required to sign an agreement to be bound by this Policy upon registration;
- d) The Registrar of Bayero University shall ensure that Researchers not employed by the University, shall sign an agreement to be bound by this Policy and an assignment agreement in respect of ownership of IP created by them in the course of their activities that arise from their association with the University before commencing any research activity at the University;
- e) Special arrangements may be needed to meet prior obligations of Visiting Researchers. Any such requested special arrangements shall be assessed and decisions shall be taken on a case-by-case basis by DRIP;
- f) Special arrangements may, also, be needed for research activities pursued by a Researcher employed by Bayero University, but working in another university/institution as a visiting researcher. In such cases the Researcher may be required by a third party to sign any document which might affect the Bayero University's IP Rights. In such cases, the Researcher is not permitted to sign any such documents without the written approval of DRIP. The approval shall not be denied if Bayero University IP Rights are not affected. However, if such a document affects Bayero University's IP Rights, DRIP shall initiate negotiations to enter into an agreement with the third party, as described in Section 3,2.
- g) Rights and obligations under this Policy shall survive any termination of studentship or employment in Bayero University, Kano.

3.2 External Sponsorship and Research Collaboration with Third Parties:

- a) A researcher shall ensure, that prior to commencing any research activity in collaboration with any third party, the terms and conditions of the partnership be set in a written agreement (Research Agreement) or a Memorandum of Action (MOA);
- b) No researcher shall enter into a Research Agreement with third parties on behalf of Bayero University unless he/she is authorized to do so;
- c) Persons acting for, and on behalf of, Bayero University shall exercise all due diligence when negotiating agreements and signing contracts/agreements that may affect the University's IP Rights;

- d) Depending on the relative contributions of the Bayero University and the third party to the conception of the IP, it may be appropriate for either party to obtain certain IP Rights and share in the revenue generated from its commercialization;
- e) In the absence of a Research Agreement, Bayero University IP Policy applies and the IP Rights shall be distributed among the cooperating parties in the proportion that reflects the proportions of the contributions to the creation of the Intellectual Property;
- f) To prevent subsequent disputes in establishing such proportions defined above, it is advisable that the collaborating parties maintain well-documented records of the research activities;
- g) The Research Agreement referred to above shall include, provisions with respect to the following:
 - a. IP and associated rights already existing in Bayero University prior to entering into the agreement (Background IP);
 - b. IP and associated IP Rights arising from research activities set out in the agreement, after entering it (Foreground IP);
 - c. Confidentiality Requirements;
 - d. Terms of Public Disclosure;
 - e. Other relevant provisions;
- h) Confidentiality provision of a Research Agreement aiming at the delay of public disclosure for protection should not have effect for longer than 12 months from the time the concerned party is notified of the intent to publish;
- i) Before signing, the full copy of the proposed Research Agreement and other legal statements concerning Bayero University's IP Rights shall be submitted to DRIP for advice and approval.

4. OWNERSHIP OF INTELLECTUAL PROPERTY

4.1 Employees of Bayero University:

- a) All rights in Intellectual Property created by an employee of Bayero University during his/her duties and activities of employment shall automatically belong to the University;
- b) If an employee of Bayero University creates Intellectual Property outside the normal course of his/her duties of employment, with the significant use of University Resources he/she will be deemed to have agreed to transfer the IP Rights in such Intellectual Property to the University;
- c) Intellectual Property created during, or pursuant to a sponsored research or other type of agreement with a third party, shall initially belong to Bayero University and then ownership shall be determined according to the terms of such agreements/MOA;
- d) Intellectual Property created by students who are, also, employees of Bayero University shall belong to the University.

4.2 Employees Pursuing Research Activities at other University:

Rights related to Intellectual Property that is created during an academic visit by the employee of Bayero University to another university shall be governed by an agreement between the universities. However, if Bayero University's IP Rights are not affected, the IP created during the visit shall belong to the other university unless otherwise provided in an agreement.

4.3. Non-employees of Bayero University:

For the purposes of this Policy visiting researchers/lecturers will be treated as if they were University employees. Visiting Researchers/Lecturers are, therefore, required to transfer to Bayero University any Intellectual Property they create in the course of their activities arising from their association with the University.

4.4 Students of Bayero University:

- a) Students who are not employees of Bayero University shall own all Intellectual Property and associated IP Rights they create in the normal course of their studies. However, the following exceptions shall apply:
 - If a student is sponsored by a third party under a separate agreement, in which the third party has a claim on Intellectual Property arising from the studentship, the student must agree that the Intellectual Property shall initially belong to Bayero University and ownership will then be determined in accordance with the terms of the agreement/sponsorship concluded with the third party;
 - Intellectual Property created by students in the course of a sponsored

research or other agreement with a third party shall initially belong to Bayero University and ownership will then be determined in accordance with the terms of the agreement concluded with the third party;

- If a student creates Intellectual Property with the significant use of Bayero University Resources in connection with his or her research activity, he or she will be deemed to have agreed to transfer the IP Rights in such Intellectual Property to the University
- b) Students have the option to assign IP Rights to Bayero University and shall then be granted the same rights as any employee Inventor. In such cases students are advised to follow the procedures set out in this Policy;
- c) Dissertations and Theses: The texts of all students dissertations and theses as well as works derived from them, are considered 'exempted scholarly works'. Consequently, the students will own copyright in the scholarly work subject to a royalty-free license to the institution to reproduce and publish.

4.5 Rights in Copyrighted Works

All rights in Copyrighted Works are owned by their creators regardless of the use of University Resources. If the IP was created from works commissioned by Bayero University or in the course of a sponsored research or other third party agreement, they shall constitute an exception and the provisions of the agreements shall be taken into account, notwithstanding the provision in section 4.1 of this policy.

4.6 Decision not to exploit Intellectual Property

If Bayero University decides not to, exploit any Intellectual Property to which it lays claim, it shall immediately notify the Inventor(s). In such cases the Inventor(s) shall have the option to acquire related IP Rights. However, Bayero University may claim for a perpetual non-exclusive royalty-free license for research purposes. While Bayero University shall not withhold or delay an assignment of the IP Rights to the Inventor(s), it reserves the right to delay exploitation where it is in its interests to do so.

4.7 Transfer of Rights

The requests for any transfer of rights from the University to the Inventors(s) or any other third party should be made to DRIP.

5. CONFLICT OF INTEREST AND CONFIDENTIALITY

In the case of conflict of interest and confidentiality problems:

5.1 An employee of Bayero University is expected to dedicate his/her time and intellectual contributions to teaching, research and community service.

5.2 A researcher shall ensure that his/her agreements with third parties do not conflict with this Policy as well as his/her obligations to the University. Therefore, when agreeing on private consultancy and other research service agreements, the researcher should make his obligations to the University very clear to those with whom such agreements may be made. Such third parties shall be served with a copy of this Policy.

5.4 Researchers have the responsibility to maintain the confidentiality of the University's business secret. As far as this Policy is concerned, every fact, information, solution or data related to the research carried out in Bayero University, whose public disclosure to unauthorized persons could endanger the University's interests shall qualify as business secret. When communicating with third parties, Researchers have the responsibility to exercise due diligence regarding confidentiality provisions.

5.5 In case of any doubt concerning conflict of interest or confidentiality issues Researchers are advised to consult with the DRIP.

5.6 Researchers are advised to, immediately; report all potential and existing conflict of interest to DRIP, to find a solution in the interest of the parties involved.

6.1 Disclosure of Intellectual Property:

- a) Bayero University encourages its Researchers to identify research output that have potential for commercialization and which may enhance the reputation of both the researchers and the University through bringing them to public use;
- b) The DRIP, in consultation with the inventors/innovators, is responsible for the protection and commercialization of the University's Intellectual Property.
- c) In order to prevent premature disclosure, Researchers shall be required to present in writing the draft publications containing scientific results to their Heads of Department before publishing them, and shall state in writing that, the works do not contain any results with potential for commercialization;
- d) Researchers are obliged to disclose all Intellectual Property to DRIP through their Heads of Department;
- e) Copyrighted Works shall be excluded from the disclosing obligation except for software and those works which were developed in the performance of a sponsored research or other third party agreement;
- f) Researchers are required to disclose all potentially exploitable Intellectual Property as soon as they generated. The disclosure must be made in writing by completing the appropriate Intellectual Property Disclosure Forms (Invention/Innovation/Software Disclosure Forms) available in DRIP;
- g) Inventors/Innovators shall fully disclose all research activities and results relevant to the Intellectual Property and provide information about themselves, their percentage contribution to the creation of the Intellectual Property and the circumstances under which it was created;
- h) If the disclosure is incomplete, the form shall be sent back to the Inventor(s)/Innovator(s) for additional information. The date of disclosure shall be the day on which DRIP receives the full disclosure signed by all Inventors/Innovators;
- I) In case an Inventor/Innovator is in doubt whether an Intellectual Property is potentially commercially exploitable, then he/she should submit a disclosure to DRIP for consideration prior to making public disclosure of the Intellectual Property;
- j) Researchers should note that premature disclosure may compromise the protection and commercialization of Intellectual Property. Therefore, Researchers are advised to make reasonable efforts to

identify Intellectual Property early and consider the consequent impacts of premature disclosure;

- k) After full disclosure of all relevant information DRIP shall record the Intellectual Property in its register;
- l) DRIP shall determine whether any agreements provide for the sharing of IP Rights or other obligations overriding Bayero University IP Policy. Provisions of related Research Agreements may require the assignment of certain IP rights in full or in part. In such cases, the procedure for protection and commercialization shall be governed by a separate agreement concluded between the Bayero University and other concerned parties. In all other cases the procedure set out in this Policy shall apply;
- m) DRIP shall notify the relevant Head of Department about all disclosures. The notification involves a short abstract of the Intellectual Property and the name of the Inventor(s).
- n) After the date of disclosure, DRIP shall immediately commence the evaluation of the Intellectual Property. As a first step, a pre-evaluation shall be carried out to identify any major obstacles, which could hinder the protection and commercialization of the Intellectual Property. Based on the results of the pre-evaluation a recommendation on whether to protect and exploit the Intellectual Property shall be made. The final decision shall be taken within 60 days from the date of disclosure;
- o) The Inventor(s)/Innovator(s) shall be informed of the decision within 30 days from the date of decision in writing;
- p) DRIP shall carry out a complete evaluation of the Intellectual Property with particular attention on possible methods of the protection of the Intellectual Property and its business opportunities;
- q) The Inventor(s)/Innovators shall closely cooperate with DRIP, the patent attorney or any other professional experts involved by the University. Inventor(s)/Innovator(s) are required to by providing information, attending meetings and advising on further development, where necessary;
- r) DRIP shall, within reasonable time, commence the process for acquiring legal protection, if needed, and shall proceed with all due diligence to obtain protection. It is worthy of note that public disclosure of research results before obtaining the right of priority concerning a specific Intellectual Property application, highly jeopardizes the proper protection of the related IP Rights. Therefore, public disclosure of research results prior to filing such applications is discouraged.

6.2 Handling Disclosure of IP in BUK:

- a) DRIP disclosure forms to assist researchers to appropriately disclose their inventions, innovations or software;
- b) The key information on the disclosure forms include:
 - a. Invention/software title;
 - b. Names of the inventors;
 - c. Description of the invention/software;
 - d. Sponsorship, if any;
 - e. Design date and date put into practice;
 - f. Publication dates, existing or projected, if any.
- c) It is important to record an invention as early as possible. The record should include a complete written description to allow another person reading it to comprehend and reproduce the invention. The disclosure should be understood, witnessed and signed by a non-inventor so as to substantiate the fact that the invention was made on a particular date.
- d) Submitting a disclosure is the first formal step towards obtaining proper intellectual property protection through the University. The disclosure should be submitted with a written description of the invention (explanatory drawing, data, abstracts and summaries may be sufficient). The description should be brief about the size of a manuscript prepared for publication. At the same time, the description must be in sufficient detail to permit a searcher or patent professional to comprehend the invention and to assess its patentability. Sketches or diagrams are helpful.

6.3 Obligations of Bayero University during and After Invention Disclosure:

- a) Intellectual Property disclosed by researchers for possible commercialization, shall be assessed to ascertain its commercial potential;
- b) Intellectual Property disclosures are normally considered confidential, therefore, all members of the DRIP, BRIP or assessors including all outside experts must be aware that the information contained in the disclosures is confidential, and that there should be no breach of confidentiality. DRIP shall endeavour to obtain written acknowledgement of such obligations from these individuals;
- c) Bayero University recognizes that, whereas its research, teaching and community service missions take precedence, development by industry of inventions and technology resulting from the University's research for the use and benefit of the public is highly encouraged;
- d) In view of the above, Bayero University shall:

- a) educate its staff in IP generation and management;
 - b) provide support as deemed necessary;
 - c) obtain legal protection for the intellectual property generated by its researchers;
 - d) facilitate the transfer of intellectual property for public use; and
 - e) develop mechanism for the licensing of IP Rights in the University.
- e) Bayero University shall provide legal support, necessary and desirable, to defend and protect its interests and of its researchers against third-party claims or unauthorized use;
- f) Bayero University shall promptly report to research sponsors any intellectual property arising from collaborative research activities, as required by research and licensing agreements, and applicable laws and regulations;
- g) Bayero University shall:
- in a timely manner, return the ownership of intellectual property to its creator where it cannot, or decides not to, patent and/or license;
 - provide a process for resolution of any disputes that might arise between and among the institution, sponsors and creators of IP assets;
 - find a partner for technology development, or a sponsor;
 - endeavour to negotiate and manage agreements to the best advantage of the creator and the University;
 - ensure that such agreements are consistent with this IP Policy.

6.4 Assessment and Evaluation of Disclosure

Any patentable invention/innovation shall be assessed for its industrial relevance and commercial potential following their disclosure as stated in 6.1(vi). The assessment shall be made using appropriate forms developed by DRIP. In evaluating the commercialization potential of an invention/innovation/software, the questions that might be answered include:

- a) Does the technology offer a cheaper and/or a better way of accomplishing something?
- b) Are there competing technologies available and if so how much better is the invention?
- c) Does the invention provide a technological answer to an existing problem?
- d) Does it have the potential for creating a new market?
- e) How much investment, in both time and money, will be required to bring the invention to the marketplace?
- f) Will the inventors continue to work on the invention?

- g) What will be the potential pay-off for making an investment in the development of the invention?

6.5 Commercialization of Intellectual Property

- a) DRIP and the Inventor(s)/Innovator(s) shall jointly determine an appropriate commercialization strategy as part of the evaluation process within 6 months from the date of University's decision. The strategy should outline the tasks of each party in the commercialization process with deadlines for the specific actions.
- b) DRIP shall be responsible to carry out the commercialization plan and it shall submit specific proposals, such as draft agreements or business plans, to BRIP;
- c) Commercial decisions, such as the ones concerning the terms of an assignment/licensing agreement or establishment of a spin-off enterprise, shall be taken on a case-by-case basis by BRIP;
- d) If the University deems it more appropriate, for the purpose of commercialization, to treat the Intellectual Property as a confidential know-how (Trade Secret), then it shall not apply for registered industrial property protection or withdraw any unpublished application. In such cases Researchers shall be requested in writing to refrain from any public disclosure of the Intellectual Property. In choosing this option, the University shall take the Researchers' freedom to publish as well as public interest into account;
- e) Intellectual Property not falling within the scope of Section 4 may also be disclosed to the University by Researchers under the terms of this Policy. In such cases Bayero University shall decide, within 30 days from the full disclosure of all relevant information, whether to exploit the Intellectual Property. If the University decides to undertake the protection and commercialization of the Intellectual Property, the rules set out in this Policy shall apply;
- f) During the evaluation and commercialization period the full description of the Intellectual Property shall be disclosed to third parties under a confidentiality agreement;
- g) Expenses in connection with the protection and commercialization of Intellectual Property shall be borne by Bayero University.

6.6 Licensing Agreement

A license is a contract which awards to a third party the right to make, use, sell or import products or services based on the owner's intellectual property. Licenses may be awarded on an exclusive or non-exclusive basis. The protection of proprietary rights in the form of a patent or copyright is often necessary to encourage a company to risk the investment of its human, material and financial resources to develop the invention. The following factors shall be considered when discussing a licensing agreement:

- a) Particulars of the parties: names of parties; clarifying the licensee: if it is a division of a large company, if registered, addresses of the main parties;
- b) Definition of territory; scope and patents to be licensed;
- c) Obligations of the parties;
- d) Nature of agreement;
- e) Nature of property;
- f) Property to be licensed or assigned, or subject of the agreement;
- g) Ownership of property;
- h) Nature and extent of rights being granted;
- I) Payments and royalties;
- j) Provision for the licensee to respect the validity of industrial property rights covered by the agreement;
- k) Exclusion of licensor's certification that the licensed property is valid;
- l) Provision for certificates of renewal of industrial property;
- m) Provision for the licensee to endeavor to create a market for and sell derived articles;
- n) Provision for the licensee to take such action as may be necessary to avoid the grant of a compulsory license in respect of the industrial property;
- o) Confidentiality.

7.1 Recording and Maintenance of University's IP Portfolio

- a) DRIP shall maintain records of the University's Intellectual Property in an appropriate form and in sufficient detail. It shall monitor the deadlines for the payment obligations related to the maintenance of protected Intellectual Property, and shall, within reasonable time, inform the Vice-Chancellor through BRIP;
- b) DRIP shall maintain accounting records on each Intellectual Property and ensure that the Intellectual Property be recorded in the accounting records, that any costs incurred be paid in due course and that the revenues from exploitation be distributed;

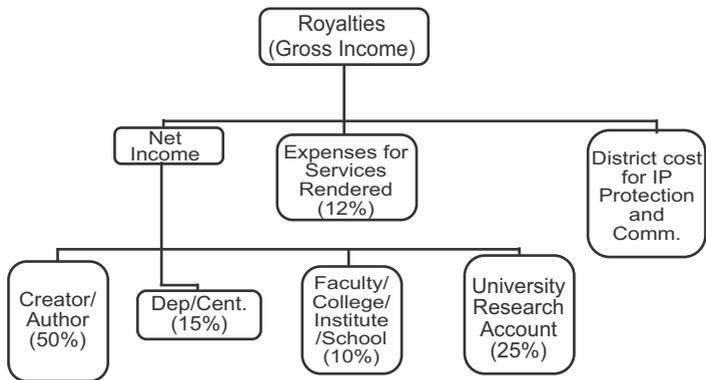
7.2 Distribution of Revenues

- a) Gross income is total funds obtained from the commercialization of technology under a license agreement, including license fees, milestone payments, minimum annual royalties, earned or running royalties, equity, equipment or reimbursement of patent expenses and fees.
- b) The University provides an incentive to holders of IPRs by distributing revenue generated from the commercialization of the Intellectual Property;
- c) The expression 'Net income' shall mean all license fees, royalties and any other monies received by the University, arising from the commercialization of Intellectual Property less all the expenses incurred in connection with the protection and commercialization of the Intellectual Property;
- d) Where an invention/innovation or software made by a researcher of Bayero University (using university resources) is patented or copyrighted and commercialized, the income generated is shared among the rights holders;
- e) 100% of the revenue goes to the University until all expenses associated with protection and exploitation of the patent or copyright have been reimbursed;
- f) The expenses that may be reimbursed include fees associated with patent filing and copyright registration, costs associated with licensing and other commercialization of the intellectual property;
- g) The share of revenues from Net income, derived from commercialization of IP in Bayero University, shall be as shown in the Figure below:
- h) In cases where there is more than one Inventor, the Creator/Author share is divided between the Inventors/Innovators in a proportion which reflects their respective contributions as specified in the submitted Invention Disclosure Form;

- i) Bayero University reserves the right to negotiate special terms concerning revenue distribution, in particular when income is generated through sale of shares or payment of the dividend of shares that have been allocated to the University in an entity to which the Intellectual Property is licensed;
- j) In case of establishing a spin-off enterprise, an individual agreement between the University and the Inventor(s)/Innovator(s) shall be applicable regarding the share of equity. The conditions of the agreement shall be negotiated on a case-by-case basis having due regard to the contribution of the Inventors in terms of further development and funding, the University or any third parties acquiring a share of equity in the new enterprise. The decision concerning the conditions of a spin-off establishment shall be taken by BRIP;
- k) In case of exploitation of trademarks and other indicators, the Inventor(s), taking into consideration the proportion of their contribution to the exploitation, may benefit from the revenue as set forth in an individual agreement. BRIP shall decide on such issues on a case-by-case basis.

7.3 Revenue Sharing Formula in IPR Commercialization

The principle of sharing revenues as defined by Bayero University shall be as follows:



7.4 Equity Shares

7.4.1 Equity interests shall be handled as follows:

- a) BUK may negotiate for equity interests in lieu of or in addition to monetary consideration under an agreement between the University and an external entity relating to applicable intellectual property;
- b) Inventors decide on the distribution of their share of equity interests or the proceeds from their sale, resulting from the transfer or commercialization of applicable intellectual property, unless legal requirements or contractual agreements dictate otherwise;

- c) If and when monetary proceeds are generated by the sale of equity interests, the proceeds are distributed according to revenue sharing formula presented above;
- d) Bayero University may require a portion of the equity interests to be set aside, that is equal in value to the direct expenses incurred by the University in obtaining protection for the intellectual property in question;
- e) Where distribution of equity interests is impossible or impractical, the Vice-Chancellor specifies the sharing formula.

8. OTHER RELEVANT ISSUES

8.1 Consultancy

8.1.1 Consultancy on behalf of the University: Consultancy undertaken by staff on behalf of Bayero University shall be subject to agreements or contracts with clients, with fee income shared as appropriate among one or more members of staff, their department(s) and the University.

8.1.2 Private consultancy: Private consultancy shall be managed by the Bayero Consultancy Services. Bayero University Consultancy is to ensure that:

- a) correct notification to clients that consultancy undertaken privately by any staff of Bayero University does not involve the University;
- b) appropriate contract wording and insurance cover for consultancy contracts are provided; and
- c) proceeds of consultancy services are shared in the best interests of the parties involved.

8.2 Sponsored Research

Researchers should know that the money for sponsored research should not be regarded as free and without conditions; the benefits for both the sponsor and the University ought to be recognized in the contract.

8.3 Ownership of Equipment

Equipment purchased under a funded research contract or donated by the collaborating company remains the property of Bayero University on completion of the contract. It is therefore recommended that there should be a clause in all contracts defining the ownership of equipment during the project completion.

8.4 Contract Obligations:

- a) BUK shall include in contract documents a clear title for the program of work, and in an appendix a fuller description detailing work packages, milestones and reporting intervals;
- b) The milestones or review points included in the contract must represent events or activities that relate to the research, and not to specific outcomes that cannot be guaranteed;
- c) Reports shall be submitted as “report in format reasonably 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 has agreed to undertake rather than a mechanism for withholding payment if the results do not match the sponsor's aspirations;

- d) BUK shall assert that amendment of the original contract will not occur without the sponsor's and the University's prior written agreement, in order to protect the University from financial loss and to ensure that the work remains relevant to the sponsor's objectives and of interest to all parties.

8.5 Confidentiality, Publication and Theses:

- a) BUK shall agree to sponsors seeing any publication prior to its issue, and having the right to delay it for a specified period not exceeding 6-12 months;
- b) The sponsor shall be allowed, in exceptional circumstances, to negotiate a longer delay period with the University, but only on submission of a compelling case and with the agreement of the researcher involved;
- c) BUK shall not, under any circumstances, allow the sponsor the right to delay publication for an unrestricted period of time;
- d) In exceptional cases, and only where it is agreed that there will be no delay in the submission or assessment of a thesis, BUK may agree, with the full consent of the student, to public access to a thesis being restricted for a specified period (not more than 6-12 months), to enable the student, University and/or sponsor to benefit commercially from the results of a sponsored research project.

8.6 Breach of the Rules of this Policy

Breach of the provisions of this Policy shall be dealt with in accordance with the relevant provisions of law of Bayero University.

8.7 Dispute and Appeals

In the first instance, disputes shall be dealt with by the Vice-Chancellor of Bayero University. A decision shall be taken within 30 days from the submission of the concern. Over and beyond the above, with respect to any legal dispute arising in connection with the rules of this Policy, the relevant provisions of law shall be applicable.

8.7.1 Arbitration: In the event that any dispute arising under this policy is not resolved in accordance with clause 8.7, the dispute shall be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act, Cap A18 Laws of the Federation of Nigeria, 2004 which is deemed to be incorporated by reference into the clause. Such dispute shall be determined by the appointment of a single arbitrator to be agreed between the parties or failing agreement within fourteen (14) days, either party may apply to the Chief Judge, Kano State for the appointment of an arbitrator. The seat of arbitration shall be in Kano State, Nigeria.

8.8 Entry into Force of the Policy

All agreements concluded by Bayero University and the Researcher(s) at an earlier time shall be governed by the provisions of the Policy in effect at the time of the signing of such contracts.

