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GUIDELINE 8.1 OF 2021 INTELLECTUAL PROPERTY POLICY: AN EASY GUIDE

SUMMARY

Guideline 8.1 of 2021, *Intellectual Property Policy: An Easy Guide* is published by the National Intellectual Property Management Office (NIPMO) to assist institutions in drafting intellectual property (IP) policies that are consistent with the Intellectual Property Rights from Publicly Financed Research and Development Act (Act 51 of 2008), the IPR Act and other relevant legislation.

The IPR Act provides that institutions' IP policy should be submitted to NIPMO for approval to ensure that it is compliant with the IPR Act¹. Numerous institutional IP policies have been approved by NIPMO. However, NIPMO periodically receives requests from existing and new institutions as well as non-institutions for further guidance on how to draft IP policies. Although non-institutions do not need not submit their IP policies for NIPMO approval, this guideline may provide some useful directions for non-institutions to consider.

To Note: This Guideline draws on and therefore acknowledges the World Intellectual Property Organization (WIPO) IP policy template² and contextualises it to South Africa's legislation. WIPO developed an IP Policy Toolkit that comprises: a) IP Policy Template for Academic and Research Institutions; b) Guidelines for Customization of the IP Policy Template, and c) IP Policy Writer's Checklist and are available for public use (https://www.wipo.int/about-ip/en/universities_research/ip_policies/).

This Guideline is issued in terms of Regulation 3 of the IPR Act Regulations (dated 2 August 2010).

Please do not hesitate to contact NIPMO (Jetane Charsley; Jetane.Charsley@nipmo.org.za; 012 844 0228) should you have any questions with regards to any matter in this Guideline.

Acting Head: NIPMO
Date: 29 March 2021

¹ Regulations 9(3) and 9(4) of the IPR Act: Each institution must within 12 months of the coming into effect of these regulations, develop policy provisions for NIPMO's approval, to regulate benefit sharing of non-monetary benefits with intellectual property creators as contemplated in section 1 and section 10(1) of the Act. (4) NIPMO will approve the policy provisions contemplated in sub-regulation (3). Regulations 11(7) and 11(8) of the IPR Act: The recipient must develop and implement policy provisions to give effect to the following preferences in respect of the commercialisation of the intellectual property – (a) BBBEE compliant entities and small enterprises; (b) parties that seek to use the intellectual property in ways that provide optimal benefits to the Republic; and (c) parties that made material contribution to the research and development giving rise to the intellectual property. (8) NIPMO must approve the policy provisions referred to in sub-regulation (7) in respect of their compliance with the spirit of the Act.

² WIPO Intellectual Property Policy Template for Universities and Research Institutions, January 29, 2019. https://www.wipo.int/about-ip/en/universities_research/ip_policies/

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Batho Pele - putting people first

BACKGROUND

An IP policy is a **formal** document that provides a framework for how IP is managed by the institution or organisation. An IP policy provides legal certainty and transparency for all staff, students and other stakeholders to know upfront how the IP that will be created is managed. Other benefits are that the IP policy can create an environment to encourage innovation and commercialisation of IP; set out the rules of engagement for public-private partnerships to support economic development; addresses potentially conflicting interests of the different stakeholders and ensures compliance with South African legislation, particularly the IPR Act and Regulations.

All should be reminded that an IP Policy is just that – a policy. As such, a policy is not 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 (such as an employment contract).

An IP policy typically covers IP ownership, IP protection and management, cooperation with third parties, etc. The IPR Act specifies two (2) **mandatory policy provisions** to be included in the IP Policy of publicly funded research institutions and approved by NIPMO. These are 1) **benefit sharing** with IP creators³ and 2) **commercialisation preferences** for (a) BBBEE compliant entities and small enterprises; (b) parties that seek to use the IP in ways that provide optimal benefits to the Republic; and (c) parties that made material contribution to the research and development (R&D) giving rise to the IP⁴.

When NIPMO reviews institutional IP policies, adherence to the mandatory provisions is essential. However, the IP Policy should be broader than just the IPR Act provisions and consider other relevant legislation.

A typical IP policy will deal with these following concepts (non-exhaustive list):

1. General introduction/ Purpose of the IP Policy
2. Definitions
3. Scope of the policy
4. IP ownership
5. Commercialisation
6. Benefit sharing and distribution of revenues
7. Governance and operation
8. Disputes and Conflict of interest etc.

These concepts or headings will be dealt with a more details below.

³ Regulation 9(3) and (4) of the IPR Act

⁴ Regulation 11(7) of the IPR Act

DRAFTING AN IP POLICY

The following serves as a guide for what should be included when drafting an IP policy:

1. Introduction / Purpose of the IP Policy

The introduction should provide the context, purpose of the policy, and what is unique to the institution, including what the organisation/institution goals/objectives are for the IP policy.

For instance, the IP policy may aim to promote IP utilisation by encouraging staff and students to become IP creators and to identify IP with potential commercial value, the policy may set out an IP management framework to take forward IP arising from research products, services and processes, etc.

Other objectives of an IP policy may include to⁵:

- ✓ reward the creativity of the staff, researchers, students etc.;
- ✓ facilitate the transfer of knowledge and technology to society;
- ✓ facilitate the practical application and economic use of IP arising from the results of research and other creative work carried out at the Institution to produce benefits for society;
- ✓ promote linkages with industries;
- ✓ encourage research, scholarship and a spirit of inquiry, thereby generating new knowledge;
- ✓ create an innovative culture which fosters the creation of IP and provides a framework for considering its commercial potential;
- ✓ ensure that the commercial results, financial or other benefits are distributed in a fair and equitable manner that incentivises and recognises the contributions of the inventors and the Institution as well other stakeholders;
- ✓ ensure that both IP and other products of research are made available to the public through an efficient and timely process of technology transfer;
- ✓ promote, preserve, encourage and aid scientific investigation and research;
- ✓ provide a clear understanding of the rights and responsibilities of the Institution, and its staff members, students and visitors.

Thus, an IP policy seeks to ensure the legal protection, where applicable; effective management and commercialisation of the Institution's IP and should provide clear rules and procedures for the management and commercialisation of such IP generated at the Institution.

2. Definitions

Good definitions are valuable assets to any document and are typically included at the beginning of a document (although it may also be part of an appendix/annexure). A definition has the potential to provide clarity and ensures that the reader, which is often not familiar with the concept of IP, interprets a term or concept as intended by the author.

Definitions should be in line with the provisions of the IPR Act and any other applicable legislation. All major terms used in the policy that are not self-explanatory and/or open to

⁵ https://www.wipo.int/about-ip/en/universities_research/ip_policies

different interpretations should be included. Also, often acronyms are used in the policy and these too need to be clarified. *Appendix A* provides some examples of definitions and *Appendix B* acronyms to consider and include in an IP policy.

3. Scope of the policy

Scope of the policy may include the groups (Staff members, Students and Visitors) to which the policy applies, the types of IP covered etc.

3.1 To whom the IP policy applies

An intuitional IP Policy will typically apply to all IP generated at the institution by staff members, students (under- and/or post graduates) and visitors who participate in research or produce scholarly works. Careful consideration must be given to each category of persons associated with the institution, whether the IP policy provision will be applicable to that category of person and what the potential implications could be if a category is excluded.

3.2 Types of IP covered by the policy

The scope of the IP policy should make provision for *"any creation of the mind capable of being protected by law from use by any other person whether in terms of South African law or foreign intellectual proper law and includes any rights in such creation"*⁶. In other words, unless expressly provided for the definition of IP should be broad enough to include all forms of IP.

The following non-exhaustive list of legislations could have relevance to the IP policy

Issue	Legislation
Copyright	Copyright Act (Act No. 98 of 1978)
Designs	Designs Act, (Act No. 195 of 1993)
Genetic Resources	National Environmental Management: Biodiversity Act (Act No. 10 of 2004)
Indigenous knowledge	Protection, Promotion, Development and Management of Indigenous Knowledge Act (Act No. 6 of 2019)
Patents	Patents Act (Act No. 57 of 1978)
Plant breeders' rights	Plant Breeders' Rights Act, (Act No. 15 of 1976)
Trade marks	Trade Marks Act, (Act No. 194 of 1993)

3.3 Exclusions

In terms of the IPR Act, copyrighted works such as thesis, dissertation, article, handbook or any other publication which in the ordinary course of business is associated with conventional academic work is excluded from the provisions of the IPR Act. In other words, institutions are not required to report to NIPMO the copyright associated with each thesis, institutions are however required to, if applicable, report the invention (and potential patent) that is described in the thesis.

⁶ Section 1 of the IPR Act

In order to provide certainty to readers, NIPMO recommends that the IP associated with conventional academic work be covered in the institutional IP policy and potentially not excluded from the definition of IP.

Background IP in its simplest forms means any IP that existed before a staff member, student and/or visitor commenced employment, enrolment or appointment at an institution. If deemed appropriate an institution may make provision in its policy for staff members, students and/or visitors to declare any existing IP they wish to exclude from the application of policy due to its creation prior to their association with the institution.

4. IP ownership

IP ownership is an important aspect to cover in an IP policy. Institutions must analyse all applicable legislation for staff members and/or students' inventions and creative outputs. Where the legislation is absent or silent, appropriate provisions may be crafted in the institutional IP Policy⁷.

The IPR Act provides for three possible IP ownership options namely the (a) the "default" position of ownership by an institution (or recipient), (b) the co-ownership provision, and (c) the full cost arrangement in which IP ownership may be negotiated. Please refer to NIPMO Guideline 4 and NIPMO Interpretation Note 5 for a comprehensive discussion of IP ownership in terms of the IPR Act.

It is advisable that the following scenarios be set out in an institutional IP policy:

- 4.1 IP developed by staff and students: In terms of the applicable legislation, the institution will typically own all IP created by staff members and/or students created in the course and scope of their employment or studies. It's important to stipulate that staff members and/or students assign their IP to the institution. This is normally provided for in the employment/enrolment contract.
- 4.2 IP developed by visiting scholars: If the research is conducted at the hosting institution and the requirements of co-ownership are not met, the IP developed will be owed by the hosting institution. If all the requirements of co-ownership are met, the IP will be owned jointly by the institution and the host institution. For jointly owned IP, an agreement is required to set out how to deal with IP management, commercialisation and benefit sharing.
- 4.3 Copyright in scholarly works: As stated above the provision of the IPR Act does not apply to copyrighted works which in the ordinary course of business is associated with conventional academic work. The institution may deal with the IP ownership associated with this copyrighted works as it deems fit. It is advised that if the institution decides not to own copyright in these works, that the institution retains a royalty-free, non-exclusive use of such materials indefinitely.

⁷ Refer to Guidelines for Customization of the WIPO Intellectual Property Policy Template for Universities and Research Institutions https://www.wipo.int/about-ip/en/universities_research/ip_policies

- 4.4 IP developed on a full cost basis: Full cost is the sum of the direct⁸ plus indirect⁹ costs and is the expense incurred by the institution for conducting the R&D. Section 15(4)(a) of the IPR Act states that any R&D funded by a private entity or organisation on a full cost basis (i.e. all direct and indirect cost) shall not be deemed to be publicly financed R&D and the provisions of the IPR Act shall not apply. IP ownership does not automatically belong to the full cost funder (i.e. private entity or organisation). As the IPR Act does not apply, IP ownership will be determined in terms of applicable IP statutes and contractual arrangements. Generally, the IP belongs to the institution (via an employment agreement or institutional policy/ies). The institution has the discretion to make the IP available by assigning or licensing the IP, at no further cost, to the private entity or organisation. Alternatively, the parties may negotiate a further margin for the transfer of (assignment) or access to (licence) the IP. Please refer to Guideline 5 and NIPMO Interpretation Note 13 for a comprehensive discussion on full cost funding.
- 4.5 All outputs, not developed on a full cost basis: Outputs that have commercial potential (e.g. software, datasets, trademarks etc) are normally owned by the institution, where the institution elects not to own IP it should be offered to NIPMO, the sponsor and then the inventor. The institution must in all cases retain an irrevocable, non-transferable, royalty free license to use the IP for research, development and educational purposes.
- 4.6 Bursaries/scholarships. Generally, the institution will own the IP created from the research project as bursaries or scholarships do not cover the full cost associated with R&D. However, if the institution elects/wishes to assign the IP to the organisation that granted a bursary or scholarship to a student, it may do so subject to NIPMO approval.

5. Dissemination of IP, publication and confidentiality

An IP policy must clearly guide the readers and what they are allowed to do with the IP they created.

- 5.1 Confidentiality. Staff, students and visitors are required to keep the research results confidential, until the IP is protected (where appropriate). If it is deemed that the IP must be protected by trade secrets, it must be confidential in perpetuity.
- 5.2 Publication. The Institution must recognise and endorse the rights of staff, students and visitors to publish their scholarly works, provided that any scholarly work which may

⁸ NIPMO interpretation note 13: **Direct research costs** typically include: All costs (including direct staff and labour costs) directly attributable to, or incurred as a result of, the goods or services produced, or to be produced, as part of the R&D project, or in fulfilling a contract; including all direct capital R&D cost and direct recurrent R&D cost. This includes, but not limited to, any expenditure incurred specifically for a R&D activity, project or contract, and includes direct staff and labour costs, bursary costs, consumable costs, the costs of equipment purchased for the specific project, rental costs or depreciation costs for other equipment used, import and export related costs, direct research support costs (if applicable), the costs of sub-contractors, travel, reporting costs, and any direct administration costs.

⁹ NIPMO interpretation note 13: **Indirect research costs** are the sum of all indirect costs attributable to R&D carried out at an institution, or in a research project. These include, but not limited to, health and safety compliance and management, utilities such as water and electricity, human resource management, financial management, information technology infrastructure and services, libraries and library collections, operation and maintenance of buildings and laboratories (e.g. building upkeep, campus security, ground care and custodial services), departmental administration of grant/ contract preparation and expenditure tracking, central administrative granting/contracting costs, disposal of hazardous waste, regulatory certification requirements, and support services for research, including central research and financial service.

disclose any possible Institutional IP shall first be cleared by the Office of Technology Transfer (OTT) after having an opportunity to protect such Institutional IP.

5.3 Public Domain. Institutional IP **may** form part of the public domain if a research contract provides that the research results be placed into the public domain; or if the staff /student/visitor made use of open education resources (OERs) or resources licensed through Open Source or Creative Commons Licences and the licensing conditions require release of derivatives into the public domain. The institution may release IP into the public domain, however, NIPMO approval may be required and the motivation for the approval may include the following: (a) it is deemed to be in the public interest; (b) if the IP has low commercial or other development potential and low prospects for the development of new products or services; or (c) if deemed necessary by the institution.

6. Commercialisation

Commercialisation, in terms of the IPR Act, can be summarised as the process by which any IP is adapted or used to the benefit of the society or for commercial use on reasonable terms. Commercialisation is therefore, in this context, not limited to financial return only.

An IP policy must ensure that it provides for preferential access to IP to:

- a. BBEE (broad-based black economic empowerment) compliant entities and small enterprises;
- b. parties that seek to use the IP in ways that provide optimal benefits to the Republic; and
- c. parties that made material contribution to the R&D giving rise to the IP.

Furthermore, institutions should be reminded that all IP commercialisation transactions (that fall within the scope of the IPR Act) must provide the State with an irrevocable and royalty-free licence authorising the use for health, security and emergency needs of the country¹⁰.

Commercialisation routes may include:

- license, either exclusive or non-exclusive, according to the IPR Act preference must be given to non-exclusive licensing;
- assignment (sale);
- formation of a commercialisation entity to which the IP is licensed or assigned;
- non-profit use or donation;
- joint ventures;
- royalty free access on humanitarian or other grounds; or
- various combinations of the above.

Regardless of the route of IP commercialisation, the transaction will be executed in a contract which:

- protects the interests of the institution, its staff members, students and visitors;
- retains rights for the institution to use the IP for educational and research purposes;
- assures that the IP will be utilised in a manner which will serve the public good; and

¹⁰ Section 11(1) of the IPR Act

- assures that the IP will be developed and brought to the marketplace as useful goods and services.

7. Benefit sharing and distribution of revenue

If an institution commercialises IP developed from publicly funded research, the revenue to be shared with IP creators are specified in the IPR Act. In addition, nonmonetary benefits must be specified.

Section 10 of the IPR Act prescribes that IP creators at an institution and their heirs are granted a specific right to a portion of the revenues that accrue to the institution from their IP.

IP creators at an institution and their heirs are entitled to:

- at least 20 per cent of the revenues accruing to the institution from such IP for the first one million rand of revenues, or such higher amount as the Minister may prescribe; and thereafter,
- at least 30 per cent of the nett revenues accruing to the institution from such IP.

To note:

- The above percentages are minimum requirements and the institution can decide to benefit share IP creators more than what the IPR Act provided.
- The IPR Act does not provide the benefit sharing for IP enablers, however institutions can also provide the benefit sharing with IP enablers in their IP policy, if they wish to do so.

The institution's IP policy may specify the manner in which Net revenues will be distributed. For instance, the institution's share of Net IP Revenue is distributed internally as follows:

[number]% for further Research;
 [number]% to OTT;
 [number]% for further IP prosecution and maintenance costs; and
 [number]% to institutional overheads.

Although the above benefit-sharing provisions are only applicable to IP emanating from publicly funded R&D which were created after 2 August 2010 it is advisable for institutions to provide incentives (in the form of benefit sharing) even for IP not publicly funded (i.e. IP falling outside the scope of the IPR Act).

8. Governance and operation

8.1 Responsibilities of OTT

The IPR Act obliges each institution to have an OTT or designate persons or an existing structure within the institution to undertake the responsibilities of the OTT, this office can be called various names such as OTT, technology transfer office (TTO), innovation office etc.

An OTT has the following obligations –

- develop and implement, on behalf of the institution, policies for disclosure, IP identification, protection, development, commercialisation and benefit-sharing arrangements;
- receive disclosures of potential IP emanating from publicly financed R&D;
- analyse the disclosures for any commercial potential, the likely success of such commercialisation, the existence and form of the IP rights, the stage of development thereof and the appropriate form for protecting those rights;
- attend to all aspects of statutory protection of the IP;
- refer disclosures to NIPMO on behalf of an institution;
- attend to all aspects of IP transactions and the commercialisation of the IP;
- conduct evaluations on the scope of statutory protection of the IP in all geographic territories subject to commercialisation potential of the IP;
- liaise with NIPMO as provided for in this Act;
- Outreach/awareness to IP Creators/Staff/Students/Visitors/Stakeholders;
- Relationship management with IP Creators/Staff/Students/Visitors/Stakeholders;
- Technology marketing and IP contract negotiation;
- IP contract management;
- IP costs and revenue distribution; and
- SO MUCH MORE!!!!

The OTT must keep disclosures received from researchers confidential and keep the IP creator informed of the IP and/or commercialisation process.

8.2 Responsibilities of staff

All staff must disclose IP created to the relevant OTT or designated person.

Key to the successful protection and commercialisation of IP is the cooperation of the IP creators, it is therefore not only essential that they are part of the IP prosecution and commercialisation process but also important for the IP creators to maintain proper research records, as these may serve as evidence in the instance of a dispute around the date of creation of the IP and for purposes of responding to an official action, for example, during prosecution of the IP.

Unless provided for otherwise, the staff are generally not allowed to protect and/or commercialise the IP without permission from the designated individual at the institution.

8.3 Responsibilities of an IP committee

Institutions may elect to have an IP committee that assist OTTs in making certain decisions (IP filings and commercialisation) or that acts in an advisory role and provide guidance.

It is advisable that the IP policy provides clarity on which authority (OTT/ IP committee etc) is empowered to make what decision for example, patent filings, licensing, establishing spin-out companies, taking or selling equity, directors in spin out companies, joint ventures, benefit-sharing and IP creator involvement in commercialisation.

9. Delegated authority and Agreements

The right on who should sign agreements should be specified i.e. who has the delegated authority to sign certain policies, company documents etc.

The IP Policy should indicate the requirement to use confidentiality agreements to protect confidentiality under defined circumstances.

Furthermore, where relevant, the need for a material transfer agreement (MTA) to protect materials should be stipulated. Furthermore, staff should be educated about the need to adhere to contractual obligations set out in the MTA.

10. Conflicts of interest

The manner in which conflicts of interest will be managed, should be specified.

11. Dispute resolution

Despite the best of efforts, IP disputes unfortunately can and do arise. Such disputes can include infringements of your IP rights by third parties or third parties alleging that you have infringed upon their IP rights. Both cases can potentially result in legal proceedings, demands to cease using the IP asset and/or compensation payments.

The types of disputes for which provision is made, how each dispute should be settled and decision-making should be set out in the policy. For example

- Any internal disputes or questions of interpretation arising under the IP Policy must in the first instance be referred to the OTT for consideration and secondly (if needed) for mediation by the IP Committee.
- If the matter cannot be resolved by the IP Committee within as specified period, then the dispute or question of interpretation must be referred to the Senior Responsible Officer.
- The Senior Responsible Officer may at their sole discretion refer the matter to institution's Executive Committee and/or an independent committee for arbitration as final arbiter of any disputed issues or for final determination.

It should always be kept in mind to make provision for an appeal process so that the aggrieved party can appeal. Individuals covered by this Policy shall have the right to appeal the application of any aspect of this Policy to the IP Committee.

12. Implementation

The responsible department/individuals in the implementation of this policy should be included and the date of application.

Appendix A

Typical terms that are defined in South African institutional IP policies include:

Term	Possible definition
Commercialisation	The process by which any intellectual property emanating from publicly financed research and development is or may be adapted or used for any purpose that may provide any benefit to society or commercial use on reasonable terms, and "commercialise" shall have a corresponding meaning ¹¹
Creator / Intellectual property creator <i>(Note: Could consider defining Inventor/ Author/ Breeder and/or Enabler)</i>	The person involved in the conception of intellectual property and identifiable as such for the purposes of obtaining statutory protection and enforcement of intellectual property rights, where applicable ¹² <i>Alternative wording could include:</i> A person or persons which made an intellectual contribution to the creation of Intellectual Property, typically a person who meets the definition of 'inventor' in terms of the Patent Acts, "author" in terms of the copyright or Design Acts or a "breeder" in terms of the Plant Breeders' Rights Act.
Full cost	The sum of all direct costs plus indirect costs associated with developing particular IP,
Intellectual property (IP) <i>(Note: Could consider defining Background IP/ Pre-Existing IP and/or Foreground IP)</i>	All intellectual property of whatever nature and their associated rights, including, but not limited to the following: discoveries; designs; research; works of authorship; chemical structures; biological or chemical information; manufacturing techniques and designs; production methods; trade secrets; undisclosed inventions; and financial and marketing information; as well as registered or unregistered intellectual property in the form of patents; trade marks; designs and plant breeders' rights (whether granted/registered or applied for); copyright in any works, including literary works or computer software programs; confidential and proprietary knowledge and information; business goodwill and reputation and rights protecting same; and all intellectual property rights and forms of protection of a similar nature to any of the foregoing or having an equivalent effect anywhere in the world. To note: In terms of the IPR Act, the definition of IP exclude "excludes copyrighted works such as a thesis, dissertation, article, handbook or any other publication which, in the ordinary course of business, is associated with conventional academic work" – Although it is advisable for institutions to include copyrighted works as stipulated above in its IP policy, it may be excluded where institutional practice and policy allows for the student or researcher to be the owner of the copyright which subsist in a these or academic handbook.
IPR Act	The Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (Act No. 51 of 2008)
IP Disclosure Form/Invention disclosure Form	The form to be completed by IP Creators and submitted to OTT to document their creation

¹¹ Section 1 of the IPR Act

¹² Section 1 of the IPR Act

IP transaction	any agreement in respect of intellectual property emanating from publicly financed research and development, and includes licensing, assignment and any arrangement in which the intellectual property rights governed by this Act are transferred to a third party;
Public domain	Anything that is published and therefore available to the public (for example, when published, news and information in books are in the public domain, however, they may also be copyright protected); or may refer to exclusive intellectual property rights that have expired, lapsed, or been expressly waived.
Publicly financed research and development/ Research and Development	Research and development undertaken using any funds allocated by a funding agency but excludes funds allocated for scholarships and bursaries;
Research and development (R&D)	Generally defined as being the sum of three exhaustive and mutually exclusive activities; namely basic research, applied research and experimental development. Basic research is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view. Applied research is original investigation undertaken in order to acquire new knowledge. It is, however, directed primarily towards a specific practical aim or objective. Experimental development is systematic work, drawing on knowledge gained from research and practical experience and producing additional knowledge, which is directed to producing new products or processes, or to improving existing products or processes.
Research contract <i>(Note: Could consider defining Contract research/ Research project and/or consultation work)</i>	Any type of agreement between the institution and an external party or research sponsor, concerning Research, which could result in IP being created at the institution. This shall include, but is not limited to, all sponsorships, donorships and collaborations with the external party or research sponsor.
Revenue <i>(Note: Could consider defining Nett revenue/ Gross Revenue/ IP transaction/ benefit)</i>	All income and benefits, including non-monetary benefits, emanating from intellectual property transactions, and includes all actual, non-refundable royalties, other grant of rights and other payments made to the institution or any other entity owned wholly or in part by an institution as a consideration in respect of an intellectual property transaction, but excludes a donation and "gross revenues" shall have a corresponding meaning ¹³

¹³ Section 1 of the IPR Act

Appendix B

It is further advisable to have list of acronyms which the reader can quickly reference. Acronyms to consider for inclusion:

Acronym	
Institution	[Name] of institution
IP	Intellectual Property
IPR	Intellectual Property Right
IPR Act / IPR-PFRD Act	Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (Act 51 of 2008).
OTT/TTO	Office of technology transfer or technology transfer office. Established in terms of Section 6 of the IPR Act to manage the IP generated at this institution.
R&D	Research and Development
Policy	This [Title of the Intellectual Property Policy of the Institution].
IK/TK	Indigenous Knowledge/Traditional Knowledge

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