

JKAUT RESEARCH GUIDELINES

ANNEX XI

INTELLECTUAL PROPERTY RIGHTS

1.0 PREAMBLE

1.1 The Kenya Government regulations require that discoveries from research conducted at the National Universities be reported promptly and appropriate patents applied for by the University. The JKUAT therefore has the obligation to protect intellectual property emerging from research funded from whatever sources by the prompt filing of appropriate patent applications.

Except as otherwise provided by the Senate approved policy or legal instruments, any discoveries or inventions which result from research carried on by, or under the direction of any employee of the University, or from funds under the control of, or administered by the University, or which come as a result of any employee's duties with the University, or which have been developed in whole or part by the utilization of University resources or facilities, shall belong to the University and shall be used and controlled in such a manner as to produce the greatest benefit to the University and the public.

1.2 For the purpose of this policy, the term "employee" shall include all staff and students (including post-doctoral appointees, graduate and under-graduate students) who engage in research conducted under the conditions defined above. Discoveries from a research associate shall be the joint property of the University and the appointee's mother institution unless otherwise agreed upon.

1.3 The administration of JKUAT patent policy matters, including technological know-how that may be licensable but may not be patentable, shall be the responsibility of the Vice-Chancellor. Patent matters include such activities as accounts, records and negotiations.

1.4 The Vice-Chancellor may delegate this authority to the Deputy Vice-Chancellor in charge of Research, Production and Extension.

2.0 PATENTING, LICENSING EXPENSES AND THE APPROPRIATION OF ROYALTIES

Patenting and licensing expenses for each patent will be recovered from its royalty earnings and distributions will be made from net royalties remaining. Net royalties from licensed invention will be distributed according to the following schedule: -

Inventor(s)	20%
Collaborator(s)	10%
Acknowledged Person(s)	5%
Originating Department	15%
University	50%

3.0 EMPLOYEE PATENT, RESEARCH AND PROPRIETARY RIGHTS AGREEMENT

I understand that my duties as an employee of Jomo Kenyatta University of Agriculture and Technology may include some form of research and access to proprietary data.

I agree that the facilities, equipment, funds, and/or stimulation provided to me by or through the University has greatly contributed to my effort and the conception and/or reduction to practice of discoveries, invention development of apparatus, or software and/or the creation of related documentation, data, reports (hereinafter referred to as proprietary information).

4.0 Consideration of my employment with and/or studies in the University; and in order to settle in advance any question regarding the ownership of any patent or copyright which may be granted to me, or the rights in any proprietary information which may be developed by me.

I agree that the University shall own any proprietary information that is conceived by me, either solely or jointly with others, during the course of my employment and/or through the use of facilities and/or equipment of the University, whether made during my usual working hours or otherwise, and the University also shall own any patents or copyrights relating to such proprietary information.

4.0 I further agree that I will promptly and fully disclose such proprietary information to the University Research Office.

4.1 I will co-operate with the University in making application for Kenya and foreign patents or copyright at the request of and at the expenses of the University should it determine, in its sole discretion, that an application is warranted. I will do all acts required to assist the university in obtaining, maintaining, and enforcing patents and copyrights or other protecting proprietary interests in programs and software systems and in otherwise protecting proprietary information in any and all countries, all to be done without further compensation to me other than reimbursement for direct expenses in providing such assistance.

4.2 Upon request of the University, I will assign to its Management Board all proprietary information and/or application for patents and/or copyrights issued on such proprietary information based on my disclosure, with full rights, powers and privileges of ownership.

4.3 The University may: -

- i) Determine in its sole discretion that the ownership of the proprietary information will not be retained by the University and it will notify me of the relinquishment of its rights to me.
- ii) Notify me that the proprietary information will be accepted on a provisional basis.

iii) Accept the proprietary information.

4.4 The Board of Management of the University may assign the ownership of the proprietary information and/or application, patent, or copyright on such proprietary information back to me should it determine, in its discretion, that further expenses for development is unwarranted.

5.0 APPOINTMENT INCASE OF SALE OF PATENT, COPYRIGHT OR LICENSING

4.1 If proprietary information, or patent or copyrights relating thereto are sold or licensed the University shall share royalties and/or other income received as follows: -

Inventor(s)	20%
Collaborator(s)	10%
Acknowledged Person(s)	5%
Originating Department	15%
University	50%

4.2 Payment will be made to me within sixty (60) days of the calendar year. If is proprietary information is the product of collaboration with others entitled to participate in the royalties, who have also entered into agreement with the University, payment will be made in appropriate shares as we (and the other collaborating with) may agree upon, the aggregate to all persons not to exceed the amount of percentage set forth in this agreement.

4.3 Progression to the sharing range of a paragraph (4.1) above shall occur on the basis of cumulative income received by the University over the life of any agreement.

4.4 Where the University incurs extraordinary expenses for example, either in further developing a concept in order that it be reduced o practice, or in enhancing the marketability for licensing by establishing a pilot plant project, or in enforcing its patents or other proprietary rights against infringers or others who may have misappropriated some or in defending some from attaché by others (for example, cost of land site, building, equipment and labour in connection with a pilot plant project or legal fees and other expenses related to litigation) before sharing any of the aforesaid income with me, the extraordinary expenses will be credited against any income with me, the extraordinary expenses will be credited against any income received by the University and general expenses incurred in a given calendar year will be credited against income received in that calendar year; however, if income does not cover all expenses in any given year, any remaining balance will be carried forward to succeeding years until credited in full "(but not back to prior years).

5.0 SPONSORED RESEARCH

5.1 In the event that I am engaged in sponsored research or other projects under a contract between the University and an outside agency during my employment by the University, I also agree that:

- i. The terms of the contract shall, in case of any conflict with this agreement supercede.
- ii. I will be bound by the contract as to any obligation, which extends beyond the terms of this agreement and I will execute any and all documents, which the University deems necessary in its sole discretion.
- iii. Any change in the terms of this agreement or obligation imposed by this paragraph (5.1 shall be effective for the term of the commitment governing the sponsored project.)

6.0 CONSULTANCIES

In the event I do undertake to perform consultancy for third parties, I agree that:

6.1 If the consulting agreement it to include the assignment of invention and/or patenting to the consultee, the university will be so advised before I complete the consulting arrangement and the consultee shall be advised of this agreement and the University's background patent and/or proprietary rights position in the area of the consultation.

Any consulting agreement shall provide that the consultee does not receive a license under the University's background patent and/or other proprietary rights unless the University and the consultee enter into a separate agreement concerning the same.

6.2 The University will be advised if such consulting services will involve the use of University equipment. Such equipment shall only be used with prior approval from the university and upon payment of a charge should the University, in its sole discretion, determine that such a charge should be imposed in return for the use of such equipment, and the university relinquishing the claim it would have on the results of consulting services because of the use of its equipment.

7.0 I understand paragraphs (3.2) and (3.3) in no way diminish my obligation to fully and promptly disclose to the university any discoveries or inventions I make in the course of my association with the University regardless of the source of funds for financial support.

7.1 I will not directly or indirectly during or after the term of my employment

- i. Give to any person, not authorized in writing by the University to receive it, any information classified for purposes of internal University security or specifically designated by the University as "Limited", "Private", or "Confidential", or

- ii. Give to any person not authorized in writing by the University to receive it, any of the University proprietary data or information relating to products, programs, softwares, systems, inventions, ideas, processes, research, and the like and including, without limitation, drawings, design, systems, sketches, layout, formulae, specifications, reports, and other written manufacturing, technical, or scientific information.

7.2 Any dispute arising between the employer and researcher in connection with these presents shall be submitted to two arbitrators with each party to the dispute appointing one arbitrator and in case of a deadlock to two arbitrators and an umpire for a decision.

7.3 This agreement supersedes any other agreement I may have with the University relating to patents and/or proprietary rights.

Employee's signature

Signed.....

Date.....

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Witness

Signed.....

Date.....

Date.....

Jomo Kenyatta University of
Agriculture & Technology