

**INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)**

Date Policy Introduced	2011
Date of Review	2013
Contact Office	Office of the Deputy Vice-Chancellor (Research and Innovation)
Related legislation and policies	<p><i>Trade Marks Act 1976</i>  <i>Copyright Act 1987</i>  <i>Patents Act 1983</i>  <i>Protection of New Plant Varieties Act 2004</i>  <i>Geographical Indication Act 2000</i>  <i>Industrial Design Act 1996</i>  <i>IC Layout Design Act 2000</i></p> <p>UKM Intellectual Property Policy  UKM Student Intellectual Property Policy (Supplementary)  UKM Associate Intellectual Property Policy (Supplementary)  Intellectual Property Commercialisation Policy For Research &amp; Development (R&amp;D) Projects Funded By The Government of Malaysia (June 2009)  National Intellectual Property Policy (2007)  Agensi Inovasi Act 2010</p> <p>Government of Malaysia General Order and related Circulars from JPA:</p> <p><b>a. Pekeliling Perkhidmatan Bil 3 Tahun 2002:</b> <i>Pemilikan dan Perisytiharan Harta oleh Pegawai Awam</i>  <b>b. Pekeliling Perkhidmatan Bil 2 Tahun 1993:</b> <i>Bayaran (Fees), Elaun-elaun dan pampasan yang boleh disimpan oleh pegawai-pegawai kerajaan yang dilantik menjadi Pengerusi / Ahli-ahli Lembaga Pengarah Badan-Badan Berkanun / Kuasa-kuasa Tempatan/ Badan-badan Perniagaan yang kerajaan mempunyai kepentingan)</i>  <b>c. Pekeliling Perkhidmatan Bil. 7 Tahun 1982:</b> <i>Penglibatan Kakitangan Kerajaan Dalam Lembaga Pengarah Syarikat Perdagangan / Perusahaan Persendirian Atau Syarikat Perdagangan /Perusahaan Di Mana Koperasi / Tabung / Kesatuan Sekerja Kakitangan Awam Mempunyai Kepentingan Dari Segi Pelaburan Modal Dan / Atau Ekuiti</i></p>
Supporting documents and forms	<p>Invention Disclosure Form  Confidentiality Agreement  Intellectual Property Income Distribution Form</p>

## INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)

### 1. PURPOSE OF THE POLICY

- 1.1 This Policy sets forth the University's policies in relation to Intellectual Property commercialisation and distribution of income derived therefrom. This Policy is applicable to all University's Employees, Students and others (by agreement).
- 1.2 This Policy, along with UKM Intellectual Property Policy, UKM Student Intellectual Property Policy (Supplementary) and UKM Associate Intellectual Property Policy (Supplementary), forms part of the framework of UKM Intellectual Property Policy.

### 2. DEFINITIONS

For the purpose of this Policy, the following definitions are used:

- 2.1 "Commercialise" or "Commercialisation" means to sell, manufacture, assign, license, franchise, market or otherwise use the Intellectual Property for the purpose of generating income or other financial returns.
- 2.2 "Commercialisation Costs" means all necessary and/or reasonable costs incurred during commercialisation of Intellectual Property, including but not limited to: (a) Intellectual Property registration and prosecution; (b) legal; (c) other professionals giving rise to Commercialisation revenue; (d) related travel and accommodation by UKM Employee/s and/or others involved; (e) incurred taxes and (f) UKM Technology Sdn. Bhd. management fee.
- 2.3 "Commercialisation Revenue" means (a) royalty upon sale by licensee; (b) royalty from sub-license fees received from a licensee; (c) lump sum license fee; (d) proceeds of sale of the Intellectual Property; (e) signing fee; (f) milestone payments; (g) minimum annual payments; (h) reimbursement of Intellectual Property registration and prosecution; (i) dividends upon shares owned by UKM in a start-up company to which it grants a license where researchers do not own any equity in the start-up company; (j) proceeds of sale of shares owned by UKM in a start-up company to which it grants a license where researchers do not own any equity in the start-up company; and (k) damages from any infringement proceeding.

The above list is not exhaustive, and does not include the overhead component of research funds paid pursuant to a research agreement.

- 2.4 "CCI" means Centre for Collaborative Innovation, UKM.

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- 2.5 “Employee” means any person employed by UKM part-time or full time, contractual or permanent and includes both academic and non-academic staff.
- 2.6 “Faculty” means any division or department within UKM comprising one subject area or a number of related subject areas.
- 2.7 “Invention” means an idea which permits in practice a technical solution to a specific problem in technology and may relate to, a product or process.
- 2.8 “Originator” means Originator, creator or author of Intellectual Property.
- 2.9 “Contributor” means person who makes a material contribution to the creation or demonstration of Intellectual Property.
- 2.10 “Intellectual Property” (IP) means all forms of intellectual property protected under the laws of Malaysia or other legislations on Intellectual Property including copyright, patents, industrial design, trademarks, geographical indication, Integrated Circuit layout designs, new plant varieties, know-how and confidential information.
- 2.11 “Net Commercialisation Revenue” means Gross Commercialisation Revenue less Commercialisation Costs.
- 2.12 “Student” means a registered student of UKM.
- 2.13 “UKM” means Universiti Kebangsaan Malaysia.
- 2.14 “UKM Technology Sdn. Bhd.” is the technology transfer company of UKM.

### 3. COMMERCIALISATION PROCESS

- 3.1 Standard Operating Procedures for IP Commercialisation is illustrated in Appendix 1.
- 3.2 CCI and UKM Technology Sdn. Bhd. will carry out selection of technology to be commercialised.
- 3.3 Selection of technology will be subject to a due diligence process in accordance with the guideline illustrated in Appendix 2.
- 3.4 **Assignment of IPs from UKM to UKM Technology Sdn. Bhd.**

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The assignment of technology from UKM to UKM Technology Sdn. Bhd. will be effective through a Assignment of IP Agreement as in Appendix 6 once the mode of commercialisation has been determined.

In the case of Licensing, UKM Technology Sdn. Bhd. will act as Licensor on behalf of UKM. In the case of a University Start-Up or joint venture company, UKM Technology Sdn. Bhd. will be the proxy of UKM as shareholder in the Start-Up company or joint venture company.

- 3.5 UKM Technology Sdn. Bhd. will select the mode of Commercialisation including but not limited to the followings:
- (a) IP assignment or outright sale;
  - (b) Licensing to a third party company;
  - (c) Licensing to a University Start-Up company;
  - (d) Formation of a University Start-Up company;
  - (e) Incorporated Joint Venture Company; or
  - (f) Strategic Alliance (unincorporated joint venture).
- 3.6 Where licensing is involved, UKM Technology Sdn. Bhd. will select the licensing path including, but not limited to the followings:
- (a) Licensing to established companies;
  - (b) Licensing to start-up companies;
  - (c) Develop through “ripening” mechanisms (Product Development);
  - (d) Out-source to private licensing organisations.
- 3.7 In the event the University decides not to file or not to continue to prosecute a patent, the University may assign the IP back to the Originator.

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**4. DISTRIBUTION OF INCOME**

4.1 Income derived from commercialisation will be categorised as follows:

**(a) Net Commercialisation Revenue**

Commercialisation Revenue less Commercialisation Costs as defined in Appendix 3.

**(b) Profits from a Start-up company**

This is Revenue derived from the operation of a start-up or joint-venture company which include sales Revenue from products and services.

**4.2 Distribution of Net Commercialisation Revenue**

Upon deduction of these reasonable expenses, Net Commercialisation Revenues defined in Section 4.1 (a) (Net Commercialisation Revenues) above shall distribute the Net Commercialisation Revenue on the closing of the financial year in which the income is derived and may be distributed between Originator, UKM and UKM Technology Sdn. Bhd. using the following formula:

<b>Net Commercialisation Revenue</b>	<b>Originators</b>	<b>UKM</b>	<b>UKM Technology Sdn. Bhd.</b>
First RM 250,000.00	100%	NIL	NIL
Next RM250,001.00 to RM1,000,000.00	80%	5%	15%
Next RM1,000,001.00 to RM2,500,000.00	60%	10%	30%
Next RM2,500,001.00 to RM5,000,000.00	50%	20%	30%
RM5,000,001.00 and above	40%	30%	30%

Table 1: Distribution of Net Commercialisation Revenue

**4.3 Distribution of Profits from Start-Up and Joint Venture Company**

Profit from business operation of a start-up or joint-venture company may be distributed to shareholders in the form of dividends according to the Resolutions of the Board of Directors of the company.

**5. EQUITY IN A UNIVERSITY START-UP COMPANY**

5.1 Equity in a University Start-Up Company will normally start at 95:5 (UKM: Researchers) due to Government guidelines. UKM intends to share the returns of the company fairly with the Originators, subject to future review of Government guidelines.

The following factors will be considered in the equity structure:

- (a) The value of IP;
- (b) The length of service of Researcher at UKM;
- (c) Degree of business potential derived from the IP and his / her knowledge and Innovations;
- (d) The degree of involvement in the start-up.

5.2 UKM Employees as government servants, will adhere to Section 23 of “*Pekeliling Perkhidmatan Bil. 3 Tahun 2002: Pemilikan dan Perisytiharan Harta oleh Pegawai Awam*” which states that “*seorang pegawai boleh membeli saham tertakluk kepada syarat-syarat seperti berikut: (i) tidak boleh melebihi 5% daripada modal dibayar atau RM 100,000 pada nilai semasa, yang mana lebih rendah dalam tiap-tiap satu syarikat yang diperbadankan di Malaysia*”. Therefore, a UKM Employee is only allowed to hold a maximum of 5% of the paid up capital or RM100,000 worth of shares at current value, whichever is lower, in a company incorporated in Malaysia.

**5.3 Start-up Capital**

The objective of a University Start-Up Company is to bring the technology up to a certain level enough to attract investors for further capital rising. The sources of fund and capital for a start-up are illustrated in Table 2 below:

Stage	Source of Fund
Preliminary	University Pre-Seed Fund, Government Grants and Commercialisation Grants
Formation of Start-up	University Pre-Seed Fund and Commercialisation Grants
Early-stage	University Pre-Seed Fund, Founder, Angel Investors and Commercialisation Grants
Growth (market)	Venture Capitals, Angel Investors, Suppliers and Customers

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established)	
Market expansion	Venture Capitals, Banks and Initial Public Offering (IPO)

Table 2: Sources of Funding for University Start-Up company

- 5.4 Where the IP is created by more than one Originator, the proportion of income distribution among the Originators shall be agreed between the Originators and such agreement will have to be endorsed by UKM Technology Sdn. Bhd. (Appendix 5: IP Income Distribution Form).
- 5.5 Equity in a start-up company will be considered on a case-by-case basis. Originators will need to consider the taxation impact, if any, upon them of holding equity. The detailed terms and conditions of share equity are to be stipulated in the shareholders' agreement.
- 5.6 Originators may hold shares on a personal capacity with written permission from the UKM.
- 5.7 The above Sections 5.5 and 5.6 will adhere to the Government Order in ***“Pekeliling Perkhidmatan Bil. 3 Tahun 2002: Pemilikan & Perisytiharan Harta oleh Pegawai Awam”***.
- 5.8 The management of the start-up company may be offered share options in a start-up company, to be considered on a case-by-case basis.
- 5.9 **Exit Strategy**

The table below illustrates some of possible exit routes:

Exit Route	Outcome and Expected Return
Trade Sale	Sale of the assets and business of the company. All assets converted to cash when the company winds-up and capital gain or profit returned to shareholders. In the case of sale off all shares in the company to a single buyer, shareholders will receive proceeds of sales of the shares.
Merger	Merging with another company. Shares in the company are exchanged for shares in the other company.
Redemption of Shares	Shares are redeemed by the company. Shares returned and cancelled and the company pays agreed purchase price.
Initial Public Offering	IPO results in raising capital from the public therefore listing with a stock exchange. Stock exchange listing provides a liquid and accessible market for a Venture Capital / Investor to sell its shares for profit.
Winding-up	In the event of the company needs to be wound up, it shall be subjected to winding-up rules and procedures.

Table 3: Exit Strategy for a University Start-Up

## **6. TERMS OF ENGAGEMENT IN A UNIVERSITY START-UP**

The categories of engagement in commercialisation via licensing or start-up company will be determined by the Board of Directors of the start-up company and prior written permission from the university. The rules and procedures shall depend on the type of engagement below:

### **(a) Part-time (Consultant)**

Time commitment: An equivalent of two (2) days per week on the business engagement in the start-up company.

Form of Remuneration or Payment (Allowance): Follows UKM Technology Sdn. Bhd. Policy, subject to the approval of the Board of Directors of UKM Technology Sdn. Bhd.

### **(b) Full-time Academic Leave**

Time commitment: An equivalent of two (2) years.

Form of Remuneration or Payment (Allowance): Follows UKM Technology Sdn. Bhd. Policy, subject to the approval of the Board of Directors of UKM Technology Sdn. Bhd.

During this period, the UKM Employee may not be receiving salary from UKM, but will receive his or her salary from the start-up company.

### **(c) Full-time Secondment**

The appointment under full-time secondment shall refer to UKM Technology Sdn. Bhd. Policy.

Time commitment: Full-time up to two (2) years. During this period the Originator is required to be committed full time to the success of the start-up company and will not be engaged in teaching or have any administrative duties from UKM.

Form of Remuneration or Payment (Allowance): Comply with UKM Technology Sdn. Bhd. Remuneration Policy, subject to the approval of the Board of Director of UKM Technology Sdn. Bhd. and is subject to the Government policy.

During this period, the UKM Employee will continue receiving a Basic Salary from UKM and receive an Allowance from the start-up company.



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### (d) Directors

Government servants who become Directors are subject to the Government Policy in the Government Circular: ***Pekeliling Bil. 2 Tahun 1993: Bayaran (Fees), Elaun-elaun dan pampasan yang boleh disimpan oleh pegawai-pegawai kerajaan yang dilantik menjadi Pengerusi / Ahli-ahli Lembaga Pengarah Badan-badan Berkanun / Kuasa-kuasa Tempatan / Badan-badan Perniagaan yang kerajaan mempunyai kepentingan***

Time commitment: For Non-Executive Directors, time commitment is only when attending Board Meetings. For Executive Directors who are also involved in the Management of the start-up company, Section 6 above refers.

Form of Remuneration or Payment (Allowance): Directors Fees as stated in UKM Technology Sdn. Bhd. Policy.

### 7. DURATION OF BENEFITS

Originators will receive the benefit of the Originators' share for as long as Commercialisation Revenue is received and upon decease, such benefits will be paid to the Originators' beneficiaries.

### 8. CONFLICT OF INTEREST AND COMMITMENT IN COMMERCIALISATION

8.1 UKM is committed to basic values of transparency, integrity and independence as it pursues its mission to create, preserve and disseminate knowledge through teaching, research, technology transfer, and public service. Accordingly, UKM allows and encourages faculty and staff to engage in outside activities and relationships that enhance the mission of UKM. All faculty and staff members are to act with honesty, integrity and in the best interest of UKM when performing their duties and to abide by the highest standards of research, educational, professional and fiscal conduct.

8.2 Given that UKM allows and encourages outside activities and relationships that enhance the mission of UKM, potential conflict of interest and commitment are inevitable. Outside activities which include sponsored or collaborative research and IP commercialisation, should not, however, interfere with an individual's obligations to UKM. Originators and Employees must not use their official UKM positions or influence to further gain or advancement for themselves, parents, siblings, spouse or partner, children, dependent relatives or other personal associates.

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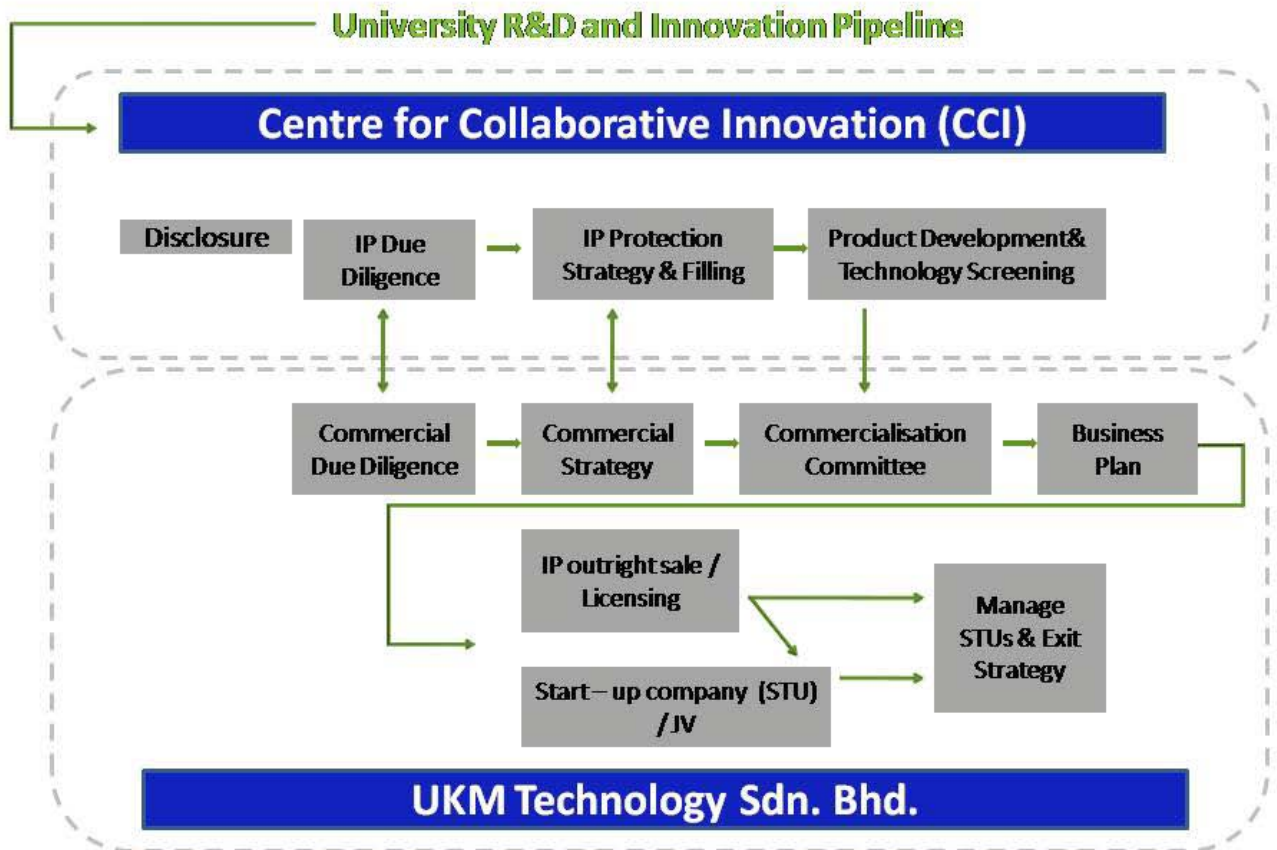
- 8.3 There are various conflict of interest that can emerge in relation to Originators receiving Commercialisation Revenue. These include potential conflict associated with:
- (a) the conduct and reporting of research;
  - (b) the Originator's involvement in decision making on grants, sponsorship, recruitment, practices and resource allocation; and
  - (c) the Originator's involvement in expert, advisory or regulatory capacities, both within and outside their course of employment at UKM or engagement in commercialisation activities through UKM Technology Sdn. Bhd.
- 8.4 Originators and other UKM Employees involved in commercialisation activities shall observe Conflict of Interest and Commitment Guideline in Appendix 4. All actual and potential conflict of interest or commitment must be disclosed to CCI or UKM Technology Sdn. Bhd. to be evaluated. If such conflict are found to be significant, they will be eliminated or managed as described in Conflict of Interest and Commitment Guideline.

## 9. COMMUNICATION OF POLICY

It is the responsibility of CCI and UKM Technology Sdn. Bhd. to develop and review the communication strategy for this Policy.

APPENDIX 1

UKM IP COMMERCIALISATION PROCESS



## APPENDIX 2

### IP COMMERCIALISATION DUE DILIGENCE GUIDELINES

#### 1. CRITERIA IN IP COMMERCIALISATION

1.1 CCI and UKM Technology Sdn. Bhd. will take the following six components into consideration in its due diligence process prior to commercialisation:

**(a) Revenue Potential**

- (i) Are commercial applications identified?
- (ii) Market value: is it a big / small market? Is it a growing shrinking market?
- (iii) What is the competition?
- (iv) Potential licensees.
- (v) Who will derive the value?
- (vi) Is the patent / license enforceable?

**(b) Probability of Success**

- (i) What is the stage of development process?
- (ii) Is it close to market or does it have substantial development hurdles?
- (iii) Track record of inventor.
- (iv) Does it build on previous successes?
- (v) Any existing relationship with industry?

**(c) Patent**

- (i) Is it a broad or narrow patent?
- (ii) Is it a strong or weak patent?

**(d) Support**

- (i) Is there synergy with other UKM patents?

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- (ii) Is there continuing work on the patent?
- (iii) Is the Originator able to support commercialisation?
- (iv) Any potential for a spin-out company?

**(e) Societal Well-being**

Does it contribute to societal well-being?

**(f) Cost**

- (i) Administration, Management and Patenting Costs.
- (ii) Proof of Concept.
- (iii) Licensing.
- (iv) Enforcement.

## APPENDIX 3

### EXPLANATORY NOTES ON IP COMMERCIALISATION REVENUE

#### 1. IP COMMERCIALISATION REVENUE

##### 1.1 Net Commercialisation Revenue

Only Net Commercialisation Revenue is subject to distribution. Commercialisation Costs should be recovered by UKM before any distribution is made.

Commercialisation Costs include:

- (a) IP registration and prosecutions costs;
- (b) legal costs incurred on the project;
- (c) other external professionals costs incurred on the project such as:
  - (i) accountant's expenses for financial modeling;
  - (ii) valuer's expenses;
  - (iii) management fees of UKM Technology Sdn Bhd;
  - (iv) other consultant's expenses (Commercialisation consultants, negotiators and other consultants, if any);
- (d) travel and accommodation costs during commercialisation activities; and
- (e) taxes in relation to the commercialisation.

#### 2. ADMINISTRATION COSTS

Not all administrative costs will be deducted from Commercialisation Revenue to arrive at the "Net". Except for the expenses directly connected with the Commercialisation activities, the following fixed overhead cost shall not be deducted to arrive at the "Net":

- (a) Fixed salary of UKM employees;
- (b) Rental on building, cost of computers, cost of plant and equipment etc.

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### 3. RESEARCH COST

It is not customary to deduct research expenses to arrive at the “Net”.

### 4. IP REGISTRATION AND PROSECUTION COSTS

IP registration and prosecution costs will be deducted from Commercialisation Revenue to arrive at the “Net”.

### 5. LITIGATION COST

Any litigation cost, whether incurred during IP registration, infringement or defending an action of infringement, will be deducted from Commercialisation Revenue to arrive at the “Net”.

### 6. OTHER COSTS

Other expenses may be incurred which should properly be deducted to arrive at the “Net”. The determination of whether or not a particular expense should be deducted from Commercialisation Revenue to arrive at the “Net” will be made by the Deputy Vice-Chancellor (Research and Innovation).

### 7. COMMERCIALISATION REVENUE

7.1 Commercialisation Revenue, with the exception of company business transactions which include profit generated from operations of a start-up company are all financial revenue received by UKM from commercialisation. These may include:

- (a) sales royalty by licensee;
- (b) sales royalty from sub-license fees received from a licensee;
- (c) lump sum up-front licensee fees;
- (d) proceeds of sale of the IP (where an outright sale or assignment occurs);
- (e) signing fees;
- (f) collaboration fees;

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- (g) milestone payments;
- (h) minimum annual payments;
- (i) reimbursement of IP registration and prosecution costs;
- (j) dividends on shares owned by UKM in a University start-up company to which it grants a license;
- (k) proceeds of sale of shares owned by UKM in a University start-up company to which it grants a license; and/or
- (l) damages from infringement proceedings.

7.2 Company profit from any business transaction shall be retained by the company or distributed to the shareholders in the form of dividends proportionate to the equity structure. However, this list is not exhaustive, as there may be other types of Commercialisation Revenue which are not included in this list. The determination of whether a particular item is a revenue that is subject to distribution will be made by the Deputy Vice-Chancellor (Research and Innovation).

### 7.3 **Signing Fees**

Signing fees, when they can be secured and where sufficient, are often used to reimburse the expenses incurred in procuring a license or other commercialisation transaction. Such expenses may include costs of legal, IP registration and prosecution, financial advisory, other consultants, travel expenses etc. For convenience, the signing fee is often:

- (a) counted as a revenue; and
- (b) less the afore specified costs to arrive at the "Net".

### 7.4 **Lump Sum License Fees**

A lump licensee fee is revenue that is available for distribution.



### **7.5 Shares received by UKM issued for grant of IP**

The benefits received by UKM from shares issued to it in return for IP received directly for an assignment or license or IP is a disposable Commercialisation Revenue available for distribution. These benefits include dividends and proceeds of sale. However, shares received in return for supplying the following services to a company:

- (a) the use of its laboratories or other premises; or
- (b) the use of its facilities;

belong in a different category and dividends on or the proceeds of sale of these shares are not Commercialisation Revenue.

Likewise, where UKM receives monetary consideration for these services and uses those funds to purchase shares, these shares are in a different category. Dividends and the proceeds of sale of these shares are not Commercialisation Revenue.

### **7.6 Reimbursement of IP Registration and Prosecution Costs**

IP registration and prosecution costs will be deducted from Commercialisation Revenue to arrive at the "Net". However, UKM would normally have these costs be reimbursed by licensee. Where such costs are deducted from Commercialisation Revenue and later reimbursed by a licensee, the cost to the extent of the reimbursement will be added to Commercialisation Revenue and be available for distribution as such cost has already been deducted to arrive at the "Net".

### **7.7 Damages**

If damages are received by UKM in relation to any infringement, they are received as compensation for Commercialisation Revenue that would otherwise have been expected, and so should properly be included as a Commercialisation Revenue available for distribution.

If infringement litigation is undertaken by UKM instead of by a licensee, the legal cost incurred would be deducted from Commercialisation Revenue available for distribution.

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### 7.8 **Research funded by Private Entity, Corporate and Industry sponsors**

Research funds received from any private entity, corporate body or from an industry sponsor are not Commercialisation Revenue.

### 7.9 **Ongoing Administration Cost**

In the course of administering a license for its full term, such as the possible twenty (20) year term of a patent, UKM will incur expenses relating to the use of its staff. The fixed overhead expenses will not be deducted from Commercialisation Revenue available for distribution. However, there may be a need to incur out of pocket expenses in administering a contract, such as, travelling, negotiation cost, legal fees etc. These out of pocket expenses will be deducted from Commercialisation Revenue available for distribution.

## APPENDIX 4

### CONFLICT OF INTEREST AND COMMITMENT GUIDELINES

#### 1. GENERAL

- 1.1 UKM is committed to basic values of transparency, integrity of scholarship and independence as it pursues its mission to create, preserve and disseminate knowledge through teaching, research and public service. Accordingly, UKM allows and encourages faculty and staff to engage in outside activities and relationship that enhance such mission. All Employees are to act with honesty, integrity and in the best interest of UKM when performing their duties and to abide by the highest standards of research, educational, professional and fiscal conduct.
- 1.2 Given that UKM allows and encourages outside activities and relationship that enhance the mission of UKM, potential conflict of interest and commitment are inevitable. Outside activities should not, however, interfere with an individual's obligations to UKM. Employees must not use their official UKM positions or influence to further gain or advancement for themselves, parents, siblings, spouse or partner, children, dependent relatives or other personal associates.
- 1.3 Employees who are under contract or full-time employment scheme owe their primary professional commitment to UKM. Accordingly, a commensurate commitment of time and intellectual energy should be used to support and enhance UKM's mission. Other part-time Employees owe time and effort commitments to UKM to commensurate with their appointments.
- 1.4 All actual and potential conflict of interest or commitment must be disclosed to CCI and UKM Technology Sdn. Bhd. for evaluation. If found to be significant, such conflict would have to be managed as described in Section 2.1 below. This Policy is consistent with the relevant federal and state laws and other UKM Policies. Academic or administrative units may require further disclosure and conflict management than mandated by these guidelines as may be deemed appropriate by the unit and its supervising administrator.
- 1.5 There are various conflict of interest that can emerge in relation to Originators receiving Commercialisation Revenue. These include potential conflict associated with:

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- (a) the conduct and reporting of research;
- (b) the Originator's involvement in decision making about grants, scholarship, recruitment, practices and resource allocation; and
- (c) the Originator's involvement in expert, advisory or regulatory capacities, both within and outside their course of employment at UKM.

1.6 UKM's Conflict of Interest Policy provides a framework for resolving situations where conflict of interest exist or may be perceived to exist.

## 2. DEFINITIONS

2.1 **"Conflict of Interest"** means a potential conflict of interest exists where personal, professional, commercial or financial interests or activities outside of UKM have the possibility (either in actuality or in appearance) of:

- (a) Compromising Employee's judgment;
- (b) Biasing the nature or direction of scholarly research;
- (c) Influencing an Employee's decision or behavior with respect to teaching and student affairs, appointments and promotions, uses of UKM resources, interactions with human subjects or other matters of interest to UKM; or
- (d) Resulting in a personal or family member's gain or advancement at the expense of UKM. For purposes of subsection (4), family members include spouse, domestic partners, immediate family members, in-laws and dependents.

2.2 **"Conflict of Commitment"** means a potential conflict of commitment exists where Employee's external relationships or activities have the possibility (either in actuality or in appearance) of interfering or competing with UKM's educational, research or service missions or with that individual's ability or willingness to perform the full range of responsibilities associated with his or her position.

## 3. RULES AND PROCEDURES

Employees share the obligation to implement UKM policies and practices related to conflict of interest and conflict of commitment. In meeting this obligation, each of these groups has specific roles and responsibilities as described below;

### 3.1 Rights and Responsibilities of Faculty Members and Staff Members

- (a) **Right to Outside Interests:** Employees have the right to acquire and retain outside interests of a professional, personal or economic nature that do not conflict with UKM interests or with the individual Employee's commitment to UKM, to UKM Students, Associates or to other parties to whom UKM has a duty.

*“Pekeliling Perkhidmatan Bil. 3 Tahun 2002: Pemilikan dan Perisytiharan Harta oleh Pegawai Awam”* and other related Government Orders, shall apply.

- (b) **Professional Commitments:** Employees must meet the specific responsibilities and professional activities that constitute their appropriate commitments to their respective schools, colleges, academic departments/programs and other administrative units.
- (c) **Requirement to Disclose:** Employees must disclose all actual or potential conflict of interest or conflict of commitment to his or her appropriate dean, director or supervisor (or his or her designate) as potential conflict arise or are identified. An Employee must disclose all actual or potential conflict of interest or conflict of commitment to his or her supervisor or to the designated officer in his or her unit. In addition, when sponsored research or commercialisation is involved, an Employee must disclose actual or potential conflict of interest or conflict of commitment to the appropriate conflict of interest committee. An Employee must also provide additional relevant information concerning disclosed or undisclosed matters as may be requested by his or her supervising authority for the purpose of evaluating actual or potential conflict of commitment or interest. All disclosures must be made promptly.
- (d) **Requirement to abide by Plans to Resolve Conflict:** When an Employee has disclosed a potential conflict of interest or conflict of commitment and the appropriate dean, director, supervisor or conflict of interest committee has determined that a conflict exists, the appropriately designated UKM official or body will also determine whether further management or elimination of the conflict is required. If required, that official or body will develop a plan in consultation with the faculty or staff member and the Employee must abide by the terms of the plan.

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- (e) **Prohibition against using position or influence for personal gain or advancement:** It is not acceptable for any Employee to use his or her official position or influence to further his or her personal, family members or personal associates' gain or advancement.
- (f) **Use of University Resources: Except as authorized by the appropriate UKM official:** Employees may make only incidental use of UKM resources for purposes unrelated to the education, research, scholarship and public service missions of UKM. Such resources include but are not limited to facilities, personnel, students, equipment and confidential information.
- (g) **Knowledge of Policies and Procedures:** Employees must know and abide by applicable UKM policies and procedures.

### 3.2 Responsibilities of Vice-Chancellors

Consistent with this Policy and all other relevant UKM Policies, the Vice-Chancellor will:

- (a) Ensure the development of implementation policies for conflict of interest and conflict of commitment for all Employees who hold appointments in his or her area of responsibility; and
- (b) Approve and monitor the relevant implementation policies.

### 3.3 Rights and Responsibilities of Faculties, Colleges and Administrative Units

Consistent with this Policy and all other relevant UKM Policies, the dean of each faculty, in consultation with the faculty as set forth in procedures developed in conjunction with this Guidelines, the director of each administrative unit (or his or her designate) must articulate and disseminate implementation policies that apply to Employee within that unit including:

- (a) Procedures that Employees in the academic unit or administrative unit must follow to disclose potential or actual conflict of interest and conflict of commitment that arise in their units. At a minimum, all Employees must promptly disclose matters as they arise or are identified. The procedures shall also require further additional relevant disclosures when the

## INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)

evaluator at the academic or administrative unit determines that such information is required for disclosed or undisclosed matters that may be actual or potential conflict. Schools, colleges and administrative units may add additional disclosure requirements and procedures, as appropriate to their circumstances;

- (b) A conflict of interest and conflict of commitment implementation policy at the unit level (i.e. school, college or administrative unit) that addresses the expectations and responsibilities that the school, college or administrative unit associates with professional appointments and other job classifications within the unit;
- (c) Procedures for evaluating disclosures and managing conflict of interest and conflict of commitment;
- (d) Standards and procedures for governing Employees' actions with regard to soliciting and accepting gifts;
- (e) Procedures for responding to alleged violations of this Policy (refer to Section 4: Violations below); and
- (f) Procedures to follow when Employee wishes to dispute or appeal any action or decision related to a conflict of interest or conflict of commitment (refer to Section 5: Disputes and Appeals below).

### 4. VIOLATIONS

Violations of this Policy as determined by the appropriate dean, director, supervisor or conflict of interest committee are considered misconduct on the part of Employee and may be subject to institutional sanctions up to and including termination of appointment in accordance with applicable disciplinary procedures.

Violations include but are not limited to situations in which:

- (a) An Employee knows of a situation that places him or her in a potential or actual conflict of interest or conflict of commitment but fails to disclose it fully, according to the policies of his or her unit; and
- (b) An Employee discloses a potential or actual conflict of interest or commitment but fails to abide fully by the required plan for avoiding or managing the conflict.

## **5. DISPUTES AND APPEALS**

When Employee disputes any action or decision related to a potential conflict of interest or conflict of commitment, existing UKM Policies for disputes of Employees will be used. Disputes with decisions or actions taken by an established conflict of interest committee for those projects for which the committee is responsible must be through the procedures established by the applicable committee. If a faculty, school college or administrative unit develops additional procedures for handling disputes or appeals regarding any action or decision taken with respect to Employee's conflict of interest or conflict of commitment, the additional procedures must coordinate with and may not substitute for existing UKM Policies for handling disputes.



**APPENDIX 5**

**UNIVERSITI KEBANGSAAN MALAYSIA IP INCOME DISTRIBUTION FORM**

Project Number: \_\_\_\_\_

1. This form should be completed by all Originators and Contributors of IP of UKM (Originators and Contributors include Employees, Students and Associates of UKM).
2. UKM requires Originators and Contributors of IP to agree among them the proportion of commercialisation income to which each will be entitled, from the net revenue payable to them under the University's revenue-sharing scheme.
3. Originators and Contributors are requested to state below the relative percentage share of each Originator's benefits due to each.
4. The percentage share will be used to assist negotiations of revenue-sharing agreements with external sponsors of research who supported the work which led to the creation of the IP in question (where such sponsors require a revenue share).
5. The percentage shares will also be used as the basis for revenue-sharing arrangements between UKM and other collaborating institutions if any, where one or more of the Originators and Contributors are employed by (or students of) another university.

Working Title of the IP:

\_\_\_\_\_

If there is a patent/ trademark/ industrial design application, please give the corresponding application number, title and classification details (if available):

\_\_\_\_\_

**Agreement by the Originators**

**INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)**

We, the undersigned, agree that our individual contributions to the IP named above were, at the time of signature, as follows:

Name	Percentage Contribution	Details of Contribution	Signature	Date
Total	100%			

**Note:** Originators must be according to the definition provided in the applicable IP law and legislation (please refer to CCI for guidance). Software Authors are those who write the codes and thereby create the copyright.

**Originators/ Contributors details**

Full Name : \_\_\_\_\_

Title (Professor / Dr / etc) : \_\_\_\_\_

NRIC / ID No. / Passport No. : \_\_\_\_\_

Permenant Address : \_\_\_\_\_  
\_\_\_\_\_

Tel No. and Mobile No. : \_\_\_\_\_

e-mail address : \_\_\_\_\_

Nationality : \_\_\_\_\_

Name of Dept / Faculty or Organisation : \_\_\_\_\_  
\_\_\_\_\_

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# ASSIGNMENT OF INTELLECTUAL PROPERTY AGREEMENT

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**Between**



**and**



**INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)**

This Agreement dated

is made

**BETWEEN:**

UNIVERSITI KEBANGSAAN MALAYSIA an institution of higher learning established and incorporated under the Universities and UKM Colleges Act 1971 and having its address at 43600 UKM Bangi, Selangor Darul Ehsan, Malaysia ("University"), of the one part

**AND**

UKM TECHNOLOGY SDN. BHD. (Company No. 858710-U) a company incorporated under the laws of Malaysia and having its office at Level 3, Bangunan Wawasan, Universiti Kebangsaan Malaysia, 43600 UKM Bangi, Selangor Darul Ehsan, Malaysia ("UKMTech"), of the other part.

**AGREEMENT:**

1. In consideration of the sum of RM1 now paid by UKMTech to the University (the receipt of which the University acknowledges), the University assigns to UKMTech all its rights and liabilities, title, interest in and to:
  - 1.1 the invention and the applications which are set out in the Schedule below (the "Subject Technology");
  - 1.2 such rights as the University may have to sue for and obtain injunctive relief, damages and other relief in respect of any infringement or misuse of the Subject Technology;
  - 1.3 all copyright, design right and other intellectual and industrial property rights in the Subject Technology to which the University is now entitled under the laws in force in any part of the world, whether vested, future, contingent and including, but not limited to, any extensions, renewals, reversions and accrued rights of action;
  - 1.4 the right to apply for patent or other similar protection in any territory or group of territories in respect of the Subject Technology and the right to claim priority under the International Convention for the Protection of Industrial Property and under any other relevant international convention or treaty for each country of the union constituted by the relevant convention in which application may be made by UKMTech.

**INTELLECTUAL PROPERTY COMMERCIALISATION POLICY (SUPPLEMENTARY)**

2. UKMTech grants to the University an irrevocable, royalty-free, non-exclusive license for the University and every employee, student, agent and appointee of the University to use the Subject Technology for academic and research purposes and for the purpose of clinical patient care. This license is not transferable, but it includes the right for the University to use the Subject Technology as enabling technology in research projects, including projects which benefit from external funding.
3. Notwithstanding the above, the University reserves the right to revoke this Agreement as it deems fit.
4. This Agreement is governed by Malaysian law and the Malaysian Courts have exclusive jurisdiction to deal with any dispute which may arise out of or in connection with this Agreement.

Schedule

(Clause 1.1 – the Subject Technology)

No.	Research	Product
1.		
2.		
3.		
4.		
5.		
6.		

AS WITNESS the hands of the parties or their authorised signatories on the date first mentioned above.

SIGNED for and behalf of  
**UNIVERSITI KEBANGSAAN MALAYSIA**

SIGNED for and on behalf of  
**UKM TECHNOLOGY SDN BHD**

Name:  
  
Director  
Centre for Collaborative Innovation  
Date:

Name:  
  
Chief Executive Officer  
Date: