बौद्धिक सम्पदा अधिकार नीति

INTELLECTUAL PROPERTY RIGHTS POLICY

(2024-2025)

NATIONAL INSTITUTE OF AYURVEDA

Deemed to be University

Ministry of Ayush, Govt. of India

राज्य मंत्री (स्वतंत्र प्रभार)
आयुष मंत्रालय और
राज्य मंत्री
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
भारत सरकार

सत्यमेव जयते

Minister of State
(Independent Charge) of
Ministry of Ayush and
Minister of State in
Ministry of Health and Family Welfare
Government of India

प्रतापराव जाधव
PRATAPRAO JADHAV

संदेश

मुझे यह जानकर बहुत प्रसन्नता है कि राष्ट्रीय आयुर्वेद संस्थान, जयपुर के स्वर्ण जयंती समारोह के अवसर पर संस्थान की बहुप्रतीक्षित बौद्धिक संपदा अधिकार (आईपीआर) नीति का विमोचन हो रहा है। यह अवसर न केवल संस्थान के लिए अपितु संपूर्ण आयुष समुदाय के लिए भी ऐतिहासिक है। यह नीति बौद्धिक संपदा प्रबंधन, प्रौद्योगिकी हस्तांतरण और पारंपरिक चिकित्सा एवं आयुर्वेद के क्षेत्र में वाणिज्यीकरण को मजबूत करने की दिशा में एक महत्वपूर्ण दूरगामी कदम है।

भारत की समृद्ध आयुर्वेदिक विरासत सदियों से समग्र उपचार का स्रोत रही है। जैसे-जैसे हम नवाचार और वैश्विक विस्तार के युग की ओर बढ़ रहे हैं, बौद्धिक संपत्तियों की सुरक्षा और वाणिज्यीकरण भी अत्यंत आवश्यक हो गया है। आज के तेजी से बदलते समय में नवाचार और अनुसंधान प्रगति के मूल आधार हैं, विशेष रूप से पारंपरिक चिकित्सा के क्षेत्र में आयुष प्रणाली, अपनी समृद्ध परंपरा और समग्र दृष्टिकोण के साथ आधुनिक स्वास्थ्य चुनौतियों के समाधान में अपार क्षमता रखती है। इस क्षमता को साकार करने के लिए एक ऐसे मजबूत ढांचे की आवश्यकता है जो नवाचार को बढ़ावा दे, बौद्धिक संपदा की सुरक्षा करे और अनुसंधान को समाज के लिए मूर्त लाभ में परिवर्तित करने में सहायक हो।

भारत सरकार आयुष क्षेत्र के विकास और विस्तार के लिए पूर्ण रूप से प्रतिबद्ध है। हम अनुसंधान और नवाचार को बढ़ावा देने तथा आयुष उत्पादों और तकनीकों के वाणिज्यीकरण के लिए एक सक्षम वातावरण तैयार करने के लिए सक्रिय रूप से कार्य कर रहे हैं। संस्थान की बौद्धिक संपदा अधिकार नीति इसी दिशा में एक महत्वपूर्ण पहल है और मुझे पूर्ण विश्वास है कि यह नीति आयुर्वेद की पूर्ण क्षमता को साकार करने में सहायक सिद्ध होगी तथा आयुष क्षेत्र की सतत वृद्धि एवं विकास के लिए उत्प्रेरक की भूमिका निभाएगी।

आयुष मंत्रालय की ओर से मैं संस्थान के कुलपति, बौद्धिक संपदा अधिकार समिति के अध्यक्ष, संकाय सदस्यों और कर्मचारियों को इस दूरदर्शी नीति के निर्माण में उनके प्रयासों के लिए बधाई देता हूं और उनकी प्रतिबद्धता एवं समर्पण की सराहना करता हूं जो उन्होंने भारत की पारंपरिक औषधीय विरासत को संरक्षित और विकसित करने के लिए प्रदर्शित किया है।

आइए, हम सब मिलकर आयुर्वेद में भारत की अग्रणी भूमिका को बनाए रखने के लिए कार्य करें और एक स्वस्थ, समृद्ध एवं विकसित भारत के भविष्य के निर्माण में योगदान दें।

(प्रतापराव जाधव)

नई दिल्ली,
6 फरवरी, 2025

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वैद्य राजेश कोटेचा
सचिव
Vaidya Rajesh Kotecha
Secretary

सत्यमेव जयते

आज़ादी का अमृत महोत्सव

भारत सरकार
आयुष मंत्रालय
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FOREWORD

Ministry of Ayush propagates Ayush systems of healthcare and recognises the vital role of Intellectual Property Rights (IPR) in safeguarding and promoting the various practices, formulations and innovations in the Ayush system.

National Institute of Ayurveda, Deemed to be University (NAIDU), Jaipur, under the ambit of Ministry of Ayush, identifies the need of becoming IPR competitive to enable Ayush professionals to be familiar with the ownership and transfer of our IPR enabled technologies through commercial, cooperative and public routes.

The national developments on IPR and global improvements on TRIPS have opened new challenges before the research and education system in Ayurveda to become contemporary, compatible and competitive. Hence, it was felt need to elaborate upon the IPR policy framework for the management of technologies in NIADU's set up.

NIADU's IPR Policy shows the Ministry's commitment to protecting the valuable heritage of Ayurveda while encouraging innovation and inclusivity. It is a response to the growing importance of protecting traditional knowledge, prevent biopiracy, combating misappropriation and secure benefits for indigenous communities, and encouraging research and development in Ayush domains. This IPR policy underscores the balance between conservation and innovation, providing a roadmap for creating robust mechanisms to protect India's traditional knowledge while encouraging global engagement. It addresses critical areas of documentation in traditional knowledge, filing and enforcement of IPR.

I would like to acknowledge the valuable work of the IPR Cell and the IPMG Cell of NIADU for their efforts in creating this document. I am confident that this document would be relevant to begin with a new era of IPR regime in NIADU.

Let us move forward together to ensure that Ayush gets its rightful place in the global intellectual property and healthcare world.

(Rajesh Kotecha)

04th February, 2025

राष्ट्रीय आयुर्वेद संस्थान
मानद विश्वविद्यालय (डी–नोवो)
(आयुष मंत्रालय, भारत सरकार)
NATIONAL INSTITUTE OF AYURVEDA
Deemed to be University (de-novo)
(Ministry of AYUSH, Govt. of India)

PREFACE

India as a member of the World Trade Organisation (WTO) is obliged to comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement). This requires that Member Countries provide for IPRs in one form or the other in all fields of technology, including Ayurveda. National Institute of Ayurveda, Deemed to be University (NIADU), Jaipur recognizes that professionals conducting research in traditionally known medicines, such as Ayurveda, Yoga, Naturopathy, Unani, Siddha, Homeopathy, and Sowa-Rigpa will require the basic knowledge and skills needed to protect their innovations, traditional knowledge, and practices through appropriate IPR mechanisms.

Ayurveda is a treasure trove of Indian system of traditional medicines deeply rooted in our cultural heritage and biodiversity. It holds immense potential for contributing to global healthcare, wellness, and sustainable development. However, in an era where intellectual property plays a pivotal role in innovation, economic growth, and international competitiveness, safeguarding and leveraging the intellectual assets of the Ayush sector has become imperative.

The IPR Policy for the Ayurveda sector is a significant step towards preserving our traditional knowledge, encouraging innovation, and promoting sustainable commercialization. It seeks to protect Ayurveda-related intellectual property, to prevent misappropriation and biopiracy, and to establish a framework that fosters research and development while ensuring equitable sharing of benefits. It tries to bridge the gap between traditional Ayurvedic wisdom and modern IPR and legal frameworks.

This document outlines comprehensive guidelines aimed at creating an ecosystem conducive to IP generation, management, and enforcement in the Ayurveda sector. The policy aligns with the objectives of India's National IPR Policy and the global frameworks for intellectual property, ensuring that the Ayurveda sector achieves its rightful place in the global wellness landscape.

I endorse the hard work done by the Head, IPR Cell and his Team to materialise this herculean task.

We hope that this policy will serve as a guiding document for policymakers, researchers, practitioners, entrepreneurs, and other stakeholders in the Ayurveda and Ayush sector. By collectively implementing these guidelines, we can safeguard our invaluable heritage while driving innovation, fostering economic growth, and contributing to the global well-being.

(Prof. Sanjeev Sharma)
Vice Chancellor

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ACKNOWLEDGEMENT

National Institute of Ayurveda, Deemed University (NIADU) expresses its deepest gratitude to Vaidya Rajesh Kotecha, Secretary, Ministry of Ayush, for his visionary leadership and unwavering support in the development of this Intellectual Property Rights (IPR) Policy.

NIADU also extends its heartfelt thanks to the Vice-Chancellor Prof. Sanjeev Sharma, for his invaluable guidance, commitment, encouragement and steadfast support and to fostering a culture of innovation and research.

The contributions of DST-TIFAC and CSIR-TKDL scientists and government authorities from CIPAM, CGPDTM and DPIIT are duly acknowledged.

Heartfelt thanks to the IPR Cell Members; Prof. (Dr.) C. R. Yadav; Prof. (Dr.) Sudipt Rath; Dr. Sarvesh Agrawal; Dr. Gaurav Bilwal; Dr. Gaurav Garg; Dr. Neha Udaniya; Dr. Jyotsna Thakur and Member Secretary Dr. Reetesh Ramnani and Patent Attorney Mrs. Pallavi Kadam for their contributions and expertise. The dedication and collaborative efforts have ensured the formulation of a robust and comprehensive IPR Policy. The collective insights and guidance have been pivotal in addressing the complexities of intellectual property management and aligning the policy with national and international frameworks to ensure equitable benefit-sharing for the advancement of Ayurveda.

The administrative help and official support provided by administrative unit of the Institute is indeed appreciable. Invaluable support of all faculty Members and officials of Rasashastra and Bhaishajya Kalpana, stakeholders, including government agencies, industry partners and their associations, whose collaborative spirit and generous contributions have been instrumental in shaping this robust and comprehensive IPR policy draft.

At last but not the least, sincere thanks to all who have directly or indirectly contributed in formulating this crucial document.

(Prof. Anupam Srivastava)
Head
Dept. of Rasashastra & Bhaishajya Kalpana

Jaipur
7th February 2025

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Introduction

Intellectual Property (IP) refers to a property generated by a person using his/her mind and intellect. Intellectual Property Rights (IPRs) are the rights over IP given to the individual by the State. These include intellectual activities generated in fields such as industrial and literary and artistic works and they come in the form of inventions; designs; music; films and brand names and logos.

In order to achieve the rationale laid down under the national IPR regime, the IPR & Technology Transfer Cell at National Institute of Ayurveda, Deemed to be University (De-novo), Jaipur has been established on 12th August 2022. Now, it has taken its first few baby steps for the active implementation of IPR matters, building capacity in IPRs and fostering innovation and research capabilities within NIADU. As per the guidelines mentioned in Chapter 3 of the IPR policy, NIADU has constituted its own cell viz. Intellectual Property Rights Cell and Technology Transfer Cell which is to be abbreviated as **IPR Cell**.

Below are the details of the Existing IPR Cell:

Sr.No.	Name of the Expert	Designation
1)	Prof. (Dr.) Anupam Shrivastav, HOD, Rasa Shastra & Bhaishajya Kalpana	Chairperson
2)	Prof. (Dr.) C. R. Yadav, Dean Research	Member
3)	Prof. (Dr.) Sudipt Rath, Dravya Guna	Member
4)	Dr. Sarvesh Agrawal, Asso. Prof., Swasthvrita	Member
5)	Dr. Gaurav Bilwal, Pharmacologist	Member
6)	Dr. Gaurav Garg, Asst. Prof., Kaya Chikitsa	Member
7)	Dr. Neha Udaniya, Asst. Prof., Sharir Rachana	Member
8)	Dr. Jyotsna Thakur, Asst. Prof., Prasuti Tantra	Member
9)	Dr. Reetesh Ramnani, Asst. Prof., Rasa Shastra & Bhaishajya Kalpana	Member Secretary

The IPR Cell oversees and manages the lifecycle of IP within NIADU; ensures effective protection, utilization, and commercialization of IP assets, facilitating technology transfer and fostering innovation.

The Vice Chancellor, NIADU is the overall custodian of IPR Cell and reserves all the rights to revise the policy. He/she shall be the signing authority for filing all types of IPRs and leads the IPR Cell and provide strategic direction & oversees the formulation of IP policies.

Chairman/Chairperson: The Chairman functions as the main focal point for IPR facilitation and is assisted, if the need arises, by legal expert and finance team associated/assigned by NIADU from time to time.

Following are the functions of the Chairman:

1) To act as the operational head for all the coordinating activities among group members and ensure compliance with legal and institutional frameworks,
2) To ensure smooth communication between researchers, inventors, and external stakeholders,
3) To seek additional help from any of the team members from IPR Cell &
4) To report to the head of Institute i.e. Vice Chancellor NIADU.

Member: Below duties are to be performed by the Member(s).

1) To evaluate the technical merit and innovation potential of inventions,
2) To assist in identifying technologies suitable for IP protection and commercialization.

Member Secretary: The necessary roles to be performed by him/her are:

1) To evaluate the technical merit and innovation potential of inventions,
2) To assist in identifying technologies suitable for IP protection and commercialization &
3) To assist Chairman for IPR matters as and when required.

The IPR Cell works efficiently to ensure the efficient management of intellectual property assets, with a special focus on technology transfer to industry and society. The entire IPR Cell functioning is to be reviewed periodically from time to time. It shall remain flexible and dynamic, adapting to modifications in the IPR policy, evolving legal and regulatory frameworks and changing legal, technological, and regulatory landscapes.

PREAMBLE

National Institute of Ayurveda, Deemed to be University, (NIA De-novo) Jaipur, is an apex autonomous Institute under the Ministry of Ayush, Government of India for promoting the growth and development of Ayurveda as a model Institute, for evolving high standards of teaching, training, research and patient care and also to invoke scientific outlook to the knowledge of Ayurvedic system of Healthcare. National Institute of Ayurveda (NIA) was established on 7th February 1976 by the Ministry of Health and Family Welfare, Government of India and has attained the status of Deemed to be University (De novo Category) in the year 2020. It is to be referred as NIADU hereinafter this document.

At present NIADU has 14 Specialties for Post-Graduate Education as well as Regular Fellowship Program leading to Ph.D. The Institute is also conducting Graduation program (BAMS), M.Sc. in interdisciplinary subjects, Diploma in Ayush Nursing & Pharmacy and various other certificate courses. The Institute has comprehensive facilities for teaching, research and patient care. NIADU aspires to be a center of excellence in Medical education, and Patient care at the International level by promoting innovations and research.

With Ayurveda getting its due recognition as a rationale system of medicine worldwide especially in the post pandemic era, it attracts many individuals and organizations to explore possibilities of commercial benefit with Ayurveda knowledge. NIADU encourages such innovations and their translation in to patient care for the larger benefit of humanity as well as to preserve the fundamental spirit of academic research in Traditional Medical Sciences and be a part of growth towards India becoming a knowledge economy.

IPR is basically exclusive right provided to innovative people for the creation of their mental creativity. These are provided for certain time period after which the rights cease to exist. The rights are for the creator and for his/her parent organization. NIADU under the Ministry of Ayush is committed to promoting innovation, research, and the sustainable use of traditional knowledge in Ayurveda. This draft of IPR Policy aims to safeguard intellectual property (IP) generated within the Institute and ensure its optimal utilization for public benefit while adhering to national and international laws. The policy is expected not only to protect the creator's invention but also incentivize his/her creation. This will also create an avenue for various mechanisms such as secrecy, know-how, show-how, etc. The present policy also facilitates establishment of IPR & Technology Transfer Cells in order to cater NIADU's IPR filings, capacity building programmes and technology transfer, etc.

Contents

Chapter 1

Policy Framework for Intellectual Property Management & Technology Transfer

1.1 Applicability of Policy:

This Policy shall be applicable to all Institute Personnel, serving or retired, students, researchers, contractual staff and alumni associated or engaged with NIADU and/or making substantial use of its resource. It is also applicable to other organizations and personnel through a formal agreement executed with NIADU as set out in the IPR Policy.

1.2 Objectives:

The objectives for proposed IPR Policy would fall under multipronged approach:

1) To encourage NIADU's activities for technological innovation and research in Ayurveda.
2) To create legal, para-legal and IPR frameworks for abovementioned activities in compliance to the vision and mission of NIADU.
3) To prevent the unauthorized use of the Institute's IP.
4) To protect the IP assets of NIADU, including traditional knowledge, inventions, publications, and other intangible creations.
5) To ensure compliance of IPR rules with national and international IPR laws and treaties.
6) To develop single window system regarding IPR at NIADU level for protecting, promoting, facilitating and also legitimizing rights, interests and obligations in IPR not limited to inventors but also of institute and sponsors too.
7) To design and define the mechanism of technology transfer including legitimate revenue share among the concerned Parties.
8) To promote the commercialization of IP for public benefit while ensuring equitable sharing of benefits.

9) To protect/nurture traditional knowledge of indigenous and local health traditions by deriving innovative products, processes and other related IP for protection such as but not limited to copyright works, patents, industrial designs, trademarks.

1.3 Confidentiality:

All IP-related information must be treated as confidential until protection measures are in place. Publications arising from research must not disclose IP details without prior clearance from the IPR Cell.

Chapter 2

Definitions

2.1 Introduction:

This chapter describes the various terms and their definitions used for the purpose of these guidelines.

2.2 Definitions:

Below are the terms used hereinafter in the Policy refers to their precise Definitions.

Academic freedom: The freedom of the academic staff of the Institute to conduct their own academic activities including teaching, training, basic and clinical research, and development. They should be free to choose their own research field, pursue self-initiated research, and collaborate with others to achieve excellence in research and maintain high standards thereof.

Activity: Activities related to teaching, research, consultancy, generation and dissemination of information carried out by a faculty/researcher or an Institution independently, or collaboratively. Activity shall also include all the official duties, responsibilities and obligations assigned by Institution and the respective heads and authorities of IPR Cell.

Associated Agreement: A document created with mutual consent of involved parties defining the rights, roles and responsibilities of each of the parties, for example, Memorandum of Understanding (MoU), Memorandum of Association (MoA), Research Agreement, Consultancy Agreement, Non-Disclosure Agreement (NDA), Material Transfer Agreements (MTAs), Collaborative Research Agreements (CRA), Deed of Recordable, Research Contract, Technology Transfer Agreements, Grant Award Letter, etc. If required all these Agreements shall be converted into valid legal documents in order to make them legally enforceable in the form of legal Contracts as defined under the Indian Contracts Act, 1872.

Benefit of Sharing (BS) as per BDA, 2002: Benefit sharing for the patented technology as per the Biological Diversity Act, 2002 enumerates in detail about the BS mechanism. It shall comply with the access and benefit-sharing (ABS) provisions of the Act for product or process patent arising from the use of biological resources or associated traditional knowledge; a portion of the revenue generated from commercialization shall be shared with

local communities or knowledge holders contributing to the development of the patented product/process and include monetary compensation, royalty payments, technology transfer, capacity building, or joint ownership arrangements, as determined by agreements and relevant national frameworks. The IPR Cell shall collaborate with the National Biodiversity Authority (NBA) and State Biodiversity Boards to ensure compliance and equitable benefit distribution.

Collaborator: Collaborator refers to any Government, quasi-government, public enterprise, non-government, natural person(s), private and legally authorised entities either residing or having place of their respective businesses in national or international jurisdiction. These collaborators are involved with NIADU and its employees in the conduct of the research. The collaborator may or may not fund or part fund the study.

Creator(s): A person or a group of persons responsible for creating an intellectual property (IP).

Faculty: Any person professionally qualified to carry out patient care, teaching, training, and/or research employed at NIADU either as a whole-time employee or part-time (Note this definition of faculty is meant only for the purposes of this document and is not intended to replace the definition of faculty in the statutes or other documents of NIADU).

Institute/National Institute of Ayurveda, Deemed University/NIADU: An independent Ayurvedic College established in August 1946 by the Government of Rajasthan and which was merged on 7th February 1976 to form National Institute of Ayurveda (NIA). It refers to National Institute of Ayurveda, Deemed to be University (De novo), an apex autonomous Institute under the aegis of Ministry of Ayush, Government of India. NIA was conferred the Deemed to be University status under De novo category on 13th November 2020. It is the first Central Government funded Institute to be declared as Deemed to be University in the field of Ayush. It shall also include its other campus premises to be established under the umbrella of NIADU. It, unless repugnant, also include all its assigns, heirs, and legal representatives.

Intellectual Property Rights/IPRs: These are many types of rights related to intangible property, including patent, copyrights, trade mark, design, semiconductor layout design, geographical indications and plant variety as defined under the specific and respective Acts and the Rules made there for India and other countries where NIADU seeks IP protection. Wherever necessary protection of undisclosed information i.e. trade secrets shall be

safeguarded using common civil law procedures. Such protection shall be through entering into suitable confidentiality agreements on case-to-case basis.

Intellectual Property Rights & Technology Transfer Management Group: IPMG: Wherever necessary, it shall be established to foster innovation, design IPR course curriculums. It ensures the efficient management of intellectual property and facilitates the technology transfer of Ayurveda research smoothly via various knowledge sharing mechanisms such as know-how, show-how, licensing and commercialization of IPRs.

Intellectual Property Rights & Technology Transfer Cell: It has been established at NIADU on 12th August 2022 having one Head faculty with eight NIADU faculties as its members and one faculty as member coordinator. IPR Cell has been created to bring awareness about IPRs and related matters among NIADU Faculty/researcher. It is established to foster innovation and design IPR course curricula. It also ensures the efficient management of intellectual property and facilitates the technology transfer of Ayurveda research smoothly via various mechanisms such as sharing know-how, show-how, licensing and commercialization of IPRs.

Inventor(s): A natural person or a group of persons responsible for conducting research for carving out new technologies, creating technical functionalities, improvements or technically advanced features of a product or process.

Know-how: It means a step in the use of an IP that have strategic or commercial value. It may be protected as undisclosed information (a form of IPR) by suitable agreements.

Licence: It means the document embodying legal permission from NIADU to other party/parties to use its technologies/ IP/ Knowledge for commercial or other purposes under the terms and conditions and limitations, including a licence fee and/or royalty, as negotiated and specified in the licence.

Material Transfer Agreement (MTA): A Material Transfer Agreement (MTA) is a contract that governs the transfer of tangible research materials between NIADU and collaborators, when the recipient intends to use it for research purposes only.

Non-Disclosure Agreement (NDA)/Confidentiality Agreement: The Agreement intends to protect proprietary or confidential information among the parties involved in executing a NDA.

Non-Exclusive Licence of an IPR enabled technology: It relates to a licence conferred upon the licensee the right to commercially use that technology whereas, at the same time, the same right could also be made available to other licensee(s) on same, similar or different terms.

Partnership by NIADU in research: Often it is a partnership with other research organization/establishments means undertaking research in togetherness, by agreement. Deemed agreement of partnership is set out in the project document which covers details of objectives, work plan, activities by each partner, respective rights and obligations of each party, other terms, conditions and limitations, if any. Partners would also share the ownership of research results as per the mutually agreed terms. They also owe each other the responsibility of good faith and shall be jointly and severally (separately, singly or respectively) liable for the debts of the partnership, whether or not they were concerned in incurring them. NIADU partnerships with State Ayurveda Universities are based on broad Memorandum of Understanding rather than separate agreements for each research project.

Patentee: Patentee is a natural person/legal entity or any organization that has been granted a patent as applicant/assignee. For time being the person/organization is the grantee or proprietor of the patent in the records of respective patent office.

Principal Investigator (PI): He/she is the lead faculty involved in and responsible for a collaborative research project carried out in NIADU. This term finds its relevance in cases especially when the patent eligible subject matter to be protected has been carved out due to the involvement of more than one NIADU departments out of the existing fourteen departments.

Project staff: It means a person employed temporarily on a contract under a research project having intellectual skills in a defined capacity to support/carry out part of the research activity or any other activity at NIADU for a defined period of time. Project staff includes persons capable in the state of the art and excludes persons defined in **Support staff**.

Revenue: For the purposes of this Policy, Revenue means the amount derived from the technology transfer and commercialization of IP (by the inventor if commercialized by the inventor or by the institute if commercialized by NIADU), net of taxes, expenses (which may be carried forward from year to year to offset gross revenue) incurred in the IP protection, maintenance and commercialization, and includes, without limitation, proceeds from royalties, profit-sharing, lump sum payments, and sale of rights as applicable.

Show-how: In the context of intellectual work, show-how will refer to the demonstration or practical presentation of a skill, process, or method, typically in a hands-on or visual manner by NIADU faculty/researcher. Unlike know-how, show-how involves a more interactive or demonstrative approach, where the focus is on visually or physically illustrating how something is done.

Sponsor: Sponsor will refer to Natural Person, Government, quasi-government, non-government or private or legal entity whether national or international which funds the research or study or survey conducted at or by NIADU and its faculty.

Student: A person who has registered or enrolled as a full-time student, part-time student, casual student or exchange student from other universities/colleges for academic activities, professional and research training.

Support Staff: A person, employed full-time or part-time devoid of intellectual skills and technical contribution in a research project under defined capacity to support or carry out part of the research activity or other ancillary activities.

Traditional Knowledge: The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to traditional practice, food, medicine, etc. over a period of time and has been passed from one generation to another traditionally. It may include tradition based literary, artistic, or scientific works, performances, inventions, scientific discoveries, designs, marks, names and symbols, undisclosed information and all other tradition-based innovations and creations resulting from intellectual, scientific, literary or artistic fields.

The Indian Patents Act and some other IPR Acts require a disclosure of traditional knowledge used in the invention/innovation. Accordingly, NIADU shall also disclose the traditional

knowledge related to the innovations made in its set up in all its patent/IPR application to the best of its knowledge and information.

Visitor: A person either from India or abroad visiting under a collaborative activity or associated work at NIADU. It is expected that the visit has been approved by competent authority of the Institute.

Work Commissioned/Outsourced: Work commissioned by NIADU to a consultant/author or group of consultants/authors either employed by NIADU or invited from outside NIADU with or without any consideration in cash or kind. Typical examples of NIADU commissioned works are: a. Design work, b. Artistic Work, c. Medical/ Engineering/ Architectural Models, d. Computer Software e. Reports based on surveys and analysis and f. Video works.

Work for hire: The work (or a product) originated from NIADU and is meant for the specific purpose of NIADU and produced by (a) a consultant/author during his/her employment at NIADU or non-employee under contracted work by NIADU.

2.3 Scope

This policy applies to all faculty members, researchers, students, visiting scholars, collaborators, and staff associated with NIADU. It covers all forms of intangible assets and IPs, including but not limited to Patents, Copyrights, Trademarks, Trade secrets, Geographical indications, Designs, and documentation related to Traditional knowledge.

Chapter 3

Guidelines for Setting up of Intellectual Property and Technology Transfer Cell

3.1 Introduction

India as a member of the World Trade Organization (WTO) is obliged to comply with TRIPS Agreement which requires since 1st day of January 1995 that member countries provide for IPRs in one form or the other in all fields of technology, including Ayurveda. NIADU recognizes importance of revival, modernization and integration of Indian traditional herbal medicine in clinical practice and understands to overcome the underlying challenges. The futuristic approach of NIADU will require IP protection through patents, geographical indications and other appropriate forms of IPR. Public-private partnerships will play an increasing role in the advancement of Ayurveda research under the IPR regime. The transfer of IPR enabled Ayurveda technologies through commercial route will gain greater importance. In response to the changing scenario of technology generation and dissemination, NIADU has developed a policy framework that will guide the management of IP created by its faculties/researchers at its institutions or elsewhere, and that developed with its support.

This policy comprises the IPR policy framework of NIADU and the guidelines for IP management and technology transfer/commercialization. The management approach as described in this policy will conform to the national IPR laws and policies in force in the country. It will be in line with the legal framework required as per TRIPS Agreement. The provisions of the Convention on Biological Diversity Act (CBD) will also be recognized. Review/ reassessment, revision and/or harmonization of the guidelines with the related national laws and international agreements/ conventions/ treaties/ undertakings/ protocols will be undertaken from time to time so that the system remains contemporary and up-to-date.

The policy is inherently dynamic and subject to periodic review, modification, or amendment to align with evolving legal, regulatory, and operational requirements. Inclusion or deletion of provisions shall be made as deemed appropriate in accordance with applicable regulatory frameworks, national and international laws.

3.2 Need for IPR and Technology Transfer Cell at NIADU

Research activities take place regularly during various academic levels at NIADU such as MD & PhD alone or in joint collaboration with other academic institutions, private organisations, etc. The prevailing ethos was to place technologies in the public domain for access by all in the benefit of common man. Protecting or patenting research output in Ayurveda was not common in India and other developing countries prior to the establishment of WTO in 1995. The TRIPS Agreement has led to the evolution of IPR regimes in WTO member countries. The Indian IPR laws are also made TRIPS compliant. NIADU recognizes that TRIPS compatible IPR laws in India are important for management of Ayurvedic research results. Hence, there was a special need by NIADU to safeguard research results and outcomes by way of appropriate IPR tools and further translate the IPR protected technologies into commercially viable options.

Additionally, the developments at national and international levels have also opened new challenges before the public research and the education system in Ayurveda and Ayush areas to become contemporary, compatible and competitive. In order to cater the growing needs underlying the commercialization of Ayurveda based products and services, NIADU shall constitute a specific cell to address technology transfer and related aspects. This Cell shall foster innovation, protect IPRs, and facilitate the commercialization of Ayurveda research. It shall look after the management of IP with respect to NIADU's technology transfer and shall elaborate upon the IPR policy framework and working guidelines for the management of technologies in NIADU's set up. The IPR Cell will have the responsibility for execution of IPR Policy of the Institute.

Once protected, these IPR enabled NIADU technologies could be transferred by way of licensing to end users through private, cooperative, non-governmental and public channels. Licensing could be for commercial use or for research or both. Applications of incentives and benefit sharing with faculties/researchers and human resource development in NIADU would improve the overall research environment and provide impetus for greater creativity and knowledge generation.

3.3 Constitution of IPR and Technology Transfer Cell at NIADU

In order to cater the needs discussed above, NIADU shall establish the Intellectual Property Rights and Technology Transfer Cell to be abbreviated as IPR Cell. This IPR Cell shall foster innovation, protect IPRs, and facilitate the commercialization of Ayurvedic research. It further elaborates upon the IPR policy framework and working guidelines for the management of technologies in NIADU's set up. The IPR Cell will have the responsibility for execution of IPR filings on behalf of the Institute. The cell will send its recommendation to the Head of the Institute.

Below is an outline of the key reasons and benefits of IPR Cell:

1. Educating Faculty/Researcher for searching prior arts: Search methodologies are relevant with reference to survey the patent literature (PL) and non-patent literature (NPL) to keep away from reinventing the wheel.

2. Encouraging Innovation and Research: Promote a culture of innovation among researchers, faculty, and students & provide guidance on identifying potential intellectual property generated through Ayurvedic research & encourage development of novel Ayurvedic formulations, treatment methodologies, and technologies.

3. Protection of Traditional Knowledge: Safeguard traditional Ayurvedic knowledge from misappropriation by documenting and filing patents for new applications & prevent biopiracy by ensuring compliance with international treaties such as the CBD and Nagoya Protocol.

4. Promoting IPR Filings: Facilitate the filing of patents, copyrights, trademarks, and designs for innovative products or technologies.

5. Licensing: Assist in the transfer and licensing of patented technologies to the industry for commercial production & generate revenue through licensing agreements, enabling self-sustainability.

6. Technology Transfer and Commercialization: Bridge the gap between research and industry by transferring research outcomes to the market & support collaborations with neutraceutical companies, start-ups, and other stakeholders in the Ayurvedic and herbal sector.

7. Capacity Building and Awareness: Organize workshops and training programs on IPRs for students, faculty, and researchers & build awareness about the significance of protecting innovations and the processes involved.

8. Boosting Entrepreneurship: Support the establishment of start-ups in the Ayurvedic sector by providing IP support and technology commercialization guidance & encourage entrepreneurship among students and researchers, contributing to the Make in India and Start-up India initiatives.

9. Global Recognition and Collaboration: Strengthen the NIADU's position as a leading research and educational institute in Ayurveda globally & facilitate collaborations with international organizations for research, development, and technology exchange.

10. Legal and Ethical Compliance: Ensure compliance with national and international IP laws, regulations, and ethical standards in research & protect the institute from legal disputes related to IP and technology.

11. IP Management: Facilitate IP filing, management, and protection.

3.4 The functions of IPR Cell shall be the following:

1. To promote, and facilitate the filing of IP by Inventors/Researchers of NIADU.
2. To obtain/provide legal support through IP/patent attorneys in filing IPR.
3. To seek timely permissions and clearances as required under the appropriate IPR laws and relevant amendments thereof.
4. To create mechanism for appropriate, timely generation of data and record keeping in the Institute.
5. To process cases for protecting IP in other countries for deserving cases only and to create and implement mechanism for same.
6. To evaluate the disclosure for its potential for protection and commercialization.
7. To offer advisory services on patent searches, drafting, and filing.
8. To co-opt domain expert as needed on case to case bases.
9. To conduct awareness programs about IPR for orientation of faculty/scholars of NIADU.

10. To redress any conflict, grievance regarding ownership of IP, processing of IP proposals, procedures adopted for implementation of IPR Policy and interpretation of various clauses of IPR Policy.

11. To accomplish any other task assigned by the Chairman/Vice Chancellor from time to time.

12. To arrange regular workshops, training programs and seminars on IPR.

13. To collaborate with national and international IPR organizations for capacity building.

14. To finalise guidelines and draft procedures to implement IPR Policy of NIADU effectively.

15. To draft and finalize appropriate Agreement on deem fit to NIADU for the protection and commercialization of IPR.

16. To conduct awareness programs about IPR and technology transfer for orientation of faculty/scholars of NIADU.

17. To conduct awareness programs about IPR and technology transfer for orientation of faculty/scholars of NIADU.

18. To conduct awareness programs about IPR and technology transfer for orientation of faculty/scholars of NIADU.

19. To liaise between the institute and industry for collaborative research projects.

20. To take active part in formulating IP and technology transfer policies for the institute.

To conclude, establishing an IPR and Technology Transfer Cell at NIADU would strengthen the institute's ability to protect and commercialize its innovations, contributing to the growth of the Ayurveda sector. It would also position NIADU as a hub for intellectual property in traditional medicine, ensuring the sustainability and global competitiveness of Ayurveda.

Chapter 4

IP generated in NIADU

4.1 Introduction

This chapter describes the IP generated at NIADU based on the type of support received in conducting research and different forms of IP.

4.2 Exclusive Ownership of IP

NIADU will be the sole owner of IP generated from research work conducted in NIADU in the following cases:

4.2.1. Using funds received from Central Government through various funding allotments via budgetary process.

4.2.2. Using external funds, public or private where NIADU has been assigned sole ownership by the funding agency or where such prior agreement with the funding agency does not exist, e.g. (i) Funds received from sponsoring agencies under grants, (ii) Funds received as donation/ endowment, (iii) Funds received from scholarships, and (iv) Funds received under specific funding arrangement.

4.3 Types of Support for Research:

The ownership of IPRs could be different and would be based on resources and funding utilized in the research. IP generated could be as below.

4.3.1 The research undertaken by a student with NIADU, using substantial support from the Institute (including research projects/ dissertations/ innovations/ scheme designs, theses undertaken by students under the supervision of a faculty member).

4.3.2 The research undertaken by a student in the normal course of his/her appointment/engagement with NIADU, using incidental support from the Institute.

4.3.3 The research undertaken by candidate with substantial support from an external partner/Source.

4.4 Ownership and Allocation of IP

4.4.1 Ownership of IP generated from research conducted with Substantial support from the Institute:

4.4.1a IP subsisting in the form of Patents for technological features, Trademarks for brand names and logos, Industrial Designs for aesthetic features, generated with substantial support from Institute shall ordinarily be vested with NIADU.

4.4.1b Copyright in scholarly and academic works generated with substantial support from the Institute, including books, student projects/dissertations, articles, theses, lecture notes, shall ordinarily be vested with the creator. In this case, NIADU shall have a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes.

Researcher shall not disclose, including publishing, any outcome of their research work before intimating it to IPR Cell with regard to the work having potential to be protected by patents and other IP where novelty is the prerequisite. Then, the faculty/researcher shall proceed with the further course of actions as given in Chapters 5 and 6, as the case may be. The final decision of filing of IP application with appropriate IP Office shall be decided by the IPR Cell.

4.4.1c Copyright in films, plays, and musical works, which are created by the researchers with substantial support from the Institute, shall vest with NIADU. When being commercialized the result of these outputs the revenue shall be shared with the creator proportionally as detailed in lines with the IPR Policy of NIADU.

4.4.1d Copyright in films, plays, and musical works shall vest with the NIADU entirely at the same time the Researcher shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use such works for teaching and research purposes of him/her.

4.4.1e Copyright shall vest with the NIADU in any institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/reports specifically commissioned by NIADU.

4.4.1f The ownership rights over any other form of IP generated with substantial support from the NIADU including but not limited to software, patentable and non-patentable inventions, know-how, show-how, designs, plant varieties, and integrated circuits shall vest

with the NIADU. However, at the time of commercialization of such IP, NIADU may engage in benefit sharing as per its IPR Policy and applicable laws.

4.5 Joint Ownership of IP

4.5.1. IP generated from research conducted with incidental support from the Institute

4.5.1a The ownership rights shall vest jointly with NIADU and the engaging agency over all forms of IP generated with incidental support from the Institute, including software, patentable and non-patentable inventions, know-how, show-how, designs, plant varieties, and integrated circuits.

4.5.1b Copyright in any institutional materials including course syllabus, curriculum, and exam question papers, and papers/reports specifically prepared by NIADU shall vest with the Institute.

4.5.1c Copyright in scholarly, academic and artistic works generated by the researcher with only incidental support from the Institute including Open Science-Open Innovation, audio or visual aids, articles, books, lecture notes, for giving lectures, films, plays, and musical works shall vest with the researchers.

Researcher shall not disclose, including publishing, any outcome of their research work with regard to the work having potential to be protected by patents and other IP where novelty is the prerequisite. In such cases, the Researcher shall intimate to IPR Cell with regard to the work having potential to be protected by patents and other IP where novelty is the prerequisite. Then, the faculty/researcher shall proceed with the further course of actions as given in Chapters 5, 6 and 7, as the case may be. The final decision of filing of IP application with appropriate IP Office shall be decided by the IPR Cell.

4.5.2. IP generated from research conducted with substantial support from external partners:

4.5.2a In case the research is conducted with substantial support from external partners, ownership of IP shall be determined as per the provisions of the agreement signed between the concerned parties. If there is no specific clause available then the issue of copyright would be resolved in favour of researcher. However, the researcher shall grant the NIADU and the funding agency, as the case may be, a non-exclusive, royalty-free, irrevocable, and

worldwide license to the NIADU Institute and funding agency to use the work for any purpose including, sharing it through open access repositories.

4.5.2b In case there is no specific agreement between the NIADU and the external partner who is providing substantial support for research, copyright in films, which are created by the researchers with substantial support from the external partner NIADU and external partner shall resolve the issue of joint ownership of copyright for sharing the benefits in the proportion of their relative contribution, i.e. the NIADU and external partner. Further at the time of commercialization of these research outputs, the revenue shall be shared with the researcher/external partner as per the IPR Policy of NIADU.

4.5.2c Institute shall ensure through specific agreement with external partner that the copyright in any institutional materials including, course syllabus, curricula, and papers/reports prepared under the specific instructions of the Institute shall vest with NIA.

4.6 Event of Conflict of Interest

In the event of any conflict of right or interest relates to sharing of IP, it will be resolved as per mutually agreed terms set out in the agreement signed between NIADU and the other party. To arrive at a settlement; ;use will be made of mediation, reconciliation or arbitration. In such cases, the Arbitrator will be appointed by Chairman of IPR Cell. Arbitration clause may be incorporated in the agreement.

4.7 Forms of IP to be Generated In NIADU

4.7.1 The research output: The results of research obtained at NIADU may be patentable, protectable in any other form of IP or not protectable under the law. Further, issues such as know-how, show-how and traditional knowledge may be important in the context of IP.

4.7.2 Patentable IP: Research results in any field of technology, whether processes or products, which are novel, inventive (non-obvious) and useful (industrially applicable), and are patentable under the Patents Act, constitute the patentable subject matter invented at NIADU. The following laboratory results generated in NIADU will constitute the patentable activiteis:

1) Various herbal based formulations and the processes for their synthesis.
2) Novel Ayurveda products, by-products and processes for their manufacture.

3) Plant-based novel entities and various formulations.
4) Diagnostic kits.
5) Machinery, implements and laboratory equipments used in Ayurveda methods.
6) High value compounds.
7) Patentable part of know-how and show-how for scaling up of research results or manufacture of prototypes/commercial products, etc.

4.7.3 Collective mark/Trademark: NIADU emblem is distinct/distinguishable and well known for a long time. It will be used/registered as the collective mark of NIADU. For future purposes, other marks with other institutes CCRAS, NCISM, etc. if used in good faith by NIADU which may be well known for a long time, may be used/shall be registered and used as their respective trademarks along with the collective NIADU mark.

4.7.4 Copyright: NIADU's copyright exists in all its institutional published or un- published creations/works, viz. publications, literary, artistic, dramatic, musical, cinematography works, computer programmes, audio-visuals, designs, computer programmes, etc. whether unregistered or registered. Faculties and other staff of NIADU will, however, have copyright over their individual, literary and scientific creations/ works.

4.7.5 Designs: Design registration having any commercial value developed in NIADU may be protected as registered designs under the Designs Act if the articles having aesthetic look or visual appeals are subject matter or under the Copyright Act for literary, artistic, dramatic, musical, cinematography works, computer programmes as per the subject matter eligibility.

4.7.6 Any other IPR Form: On a case-to-case basis, any research result of NIADU, which is protectable as IPR in any other form under the appropriate Indian IPR law, shall be protected and maintained for its IPR enabled transfer and use.

4.7.7 Know-How: A know-how available with NIADU, which could lead to development of prototype/commercial product from an IP generated by its faculties/research scholars, constitutes an important, potentially useful property, irrespective of whether it is patentable or not. Such know-how may be utilized for strategic commercial use in the technology production chain. NIADU may protect such know-how as trade secrets using civil procedures. Therefore a confidentiality agreement with the other party shall be entered into before any demonstration of the technology or its validation or scaling up is undertaken.

4.7.8 Traditional Knowledge: The Indian Patents Act and some other IPR Acts require a disclosure of traditional knowledge used in the invention/innovation. Accordingly, NIADU shall also disclose the TK related to the innovations made in its set up in all its patent/ IPR applications to the best of its knowledge and information.

Chapter 5

General Procedures for Intellectual Property Rights & Technology Transfer Cell

5.1 Introduction

This chapter describes the general procedures for management of the IPR portfolio of NIADU. Procedures which are specific to patents, protection of traditional knowledge, trademarks, copyrights, etc. have been discussed in subsequent chapters.

5.2 Claims of IP Ownership

5.2.1 NIADU: All claims of IP ownership, as applicable, will be made only in the name of the legal entity NIADU (National Institute of Ayurveda, Deemed University) even though the research is conducted by faculties/researchers working in other institutions.

5.2.2 Faculties/Researchers/Scholars: NIADU Faculties/Researchers/Scholars shall assign the IPRs in the research results obtained by them to their employer i.e. NIADU. While they will not be entitled to claim ownership of the IP generated by them, they shall be recognized as "True and First Inventor(s)/Innovator(s)" of that IP. However, they will have their own copyright over the publications authored by them as per these guidelines.

5.3 Preliminary steps: The following steps will be taken to seek IP protection in NIADU:

1) All inventors/innovators shall assign the IP rights in their research results to NIADU.
2) All applications shall be made in the name of NIADU.
3) Patent applications will be signed by the Authorized Signatory/Vice Chancellor.
4) Processing of all patents/copyrights/other IPR applications and maintenance of IPR titles will be undertaken as per the respective IPR laws.

5.4 Procedures for IP Management

5.4.1 Delegation of Powers/Authorised Signatories: NIADU will delegate its powers as per rules for the protection/ maintenance/ commercialization/ licensing of IP to its institutions. Vice Chancellor shall appropriately act as the Authorised Signatories of NIADU.

5.4.2 Disclosure of IP Contemplated: NIADU faculty/innovators shall appropriately/ confidentially disclose the IP contemplated from their research results for IPR protection under these guidelines.

5.4.3 IP Protection and maintenance: All action pertaining to the filing of IPR applications and their follow up under the law including the maintenance of IPR, and the further management of IP, will be initiated/undertaken by the HODs of various departments, where IP is generated in the course of research work.

5.4.4 IP generated in more than one department: Where IP is generated as a result of research in more than one departments of NIADU, the IP will normally be secured by the institution where Principal Investigator of the project was posted. In any other situation, the IP protection will be taken in mutual consideration and consent of the concerned departments. NIADU will be informed accordingly. In case of any difference of opinion, the concerned department where Principal Investigator of the project was posted will refer the matter to VC, NIADU for guidance.

5.4.5 IP generated in a coordinated project located outside NIADU: Where IP is generated under collaborative project of Ayush/any other affiliated institute whose coordinating unit is not located in NIADU, the IP protection will be secured by the Head of that Institute where the unit is geographically located. The Project Coordinator of that unit where the IP is generated will inform the Head of its host institute of the IP which needs protection. The respective unit will then initiate action for securing/maintenance of IPR as per guidelines of respective IPR law and the provisions described in Chapters 5, 6 and 7.

5.4.6 IP generated in collaboration with a foreign partner: Protection of IP will be undertaken by NIADU. Application shall be filed in India to secure the priority date. The IP ownership and further course of action will be decided on the basis of policy framework for IP management and mutually agreed terms with the foreign partner.

5.4.7 IP generated in all other cases: In all other cases of IP contemplated, the IPR protection will be undertaken as appropriate by NIADU in consultation with Chairman, IPR Cell and with the approval of the competent authority at NIADU.

5.5 Procedure of shared IP:

5.5.1 IP shared between NIADU and other collaborator(s)/partner(s): These cases will be processed for protection and maintained by NIADU as per mutually agreed terms.

5.5.2 Joint ownership of IP: In case a joint owner is not interested in IP it can be assigned back exclusively to NIADU. In that case the protection and maintenance of IP shall be taken up by the concerned NIADU with assistance from the respective co-owner.

5.6 Procedure of shared IP in special cases such as Benefit Sharing as defined under Biological Diversity Act, 2002:

5.6.1 Any product or process patent arising from the use of biological resources or associated traditional knowledge shall comply with the access and benefit-sharing (ABS) provisions of the Act.

5.6.2 A portion of the revenue generated from commercialization shall be shared with local communities or knowledge holders contributing to the development of the patented product/process.

5.6.3 Benefit-sharing mechanisms may include monetary compensation, royalty payments, technology transfer, capacity building, or joint ownership arrangements, as determined by agreements and relevant national frameworks.

5.6.4 The IPR Cell shall collaborate with the National Biodiversity Authority (NBA) and State Biodiversity Boards to ensure compliance and equitable benefit distribution.

5.7 Decision Making Bodies: The Intellectual Property Management Group shall serve as the decision making body for addressing the matters related to IP management and technology transfer/commercialization, including monitoring. Thus in Chapters 5, 6 and 7 the committees will remain the same. For exceptional cases, the technical experts will be drawn from different areas, if required.

5.8 Confidentiality Agreement: All concerned faculties/researchers and innovators and other employees of NIADU shall enter into appropriate confidentiality agreement before divulging any undisclosed information/ research results/ know-how/ show-how even if it is to

be disclosed for a short term. Confidentiality of the technological aspects/IP of NIADU must be ensured.

5.9 Progress Reports: Concerned departments shall maintain proper and authenticated records/database with respect to the IP generated and disclosed/reported by the faculties/researchers/innovators securing/maintenance of IPR protection, commercialization and incentives, and sharing of commercial benefits with the concerned staff. They shall periodically submit progress report to IPR Cell and NIADU.

5.10 Monitoring & IP/Market Watch: NIADU in consultation with the departments will monitor the IP and technology management activities.

Chapter 6
Procedures for Management of Patents

6.1 Introduction

This chapter describes the procedures for seeking patents and their maintenance with some general issues relating to patenting.

6.2 Procedure for Patent Protection

If all outputs of research carried out in NIADU are patent eligible subject matter and have scope for technology transfer or for advancement of basic and strategic research, such results will be taken up for patent protection as per these guidelines.

The interested NIADU faculty shall write on a note sheet to the HOD of his/her department who consider that they are in possession of a patentable IP from their research results, or that such a result is likely to emerge soon from their research, whether individually or jointly with other faculties/researchers.

The HOD of the concerned department will arrange meeting with the outside institute if the technical output is emerged out of joint research project or collaborative work to consider the patent filing proposal. They may also invite IPR Cell, NIADU under a confidentiality agreement with empanelled Patent Attorney/IPR expert.

In both the above mentioned cases, the faculty/researcher shall initiate the process and take necessary actions to seek the prior approval of the Chairman, IPR Cell on the note sheet via the routine NIADU approval procedures through his/her HOD and it shall proceed to take steps as per the relevant guidelines of this policy.

After receipt of the note sheet (signed/approved by VC), Chairman of IPR Cell shall look into the further course of action. The Patent Expert of IPR Cell will arrange meeting of the concerned faculty/researcher and HOD of the department to consider or recommend the patent proposal in presence of the Chairman. The Patent Expert will duly record the reasons for acceptance or rejection of each patent proposal in the proceedings of their meetings and such information will be communicated.

6.3 Preparatory Work

6.3.1 Initial Action by Innovators: The interested faculty/researcher may approach IPR Chairman through their respective HOD of NIADU and indicate his/her interest in making a confidential disclosure on a note sheet of the patentable IP generated/likely to be generated soon by him/her.

6.3.2 Initial Patent Search: Each note sheet by the faculty/researcher for seeking patent on an invention shall be accompanied with an initial patent and/ non-patent search report and the declaration as to the novelty of invention.

6.3.3 Early Action by HODs of NIADU: The concerned HOD will fix a confidential meeting at a convenient date and time for discussion, and the matter shall be pursued as follows:

In case research results are known to the faculty/researcher and he/she believes that the IP generation can qualify for IPR protection, he/she shall not publish or divulge any information on the results till before the confidential meeting. Subsequently, he/she should act as per the outcome of the meeting.

The Patent Expert will arrange a confidential meeting of the Faculty/Researcher with Chairman, IPR Cell with or without team members. Before initiating discussion in relation to the contemplated IP, all attendees of the meeting shall sign an undertaking to maintain confidentiality of the information to be received by the Faculty/Researcher.

Based on the recommendations of IPR Cell, Faculty/Researcher will pursue the matter for further action.

If it is required to file a patent application outside India, Faculty/Researcher will approach VC, NIADU and assign the IP. Similarly, all Indian patent applications on which it is decided to claim priority date to convert them into PCT applications will be assigned to IPR Cell for further necessary action.

6.3.4 Submission of Particulars by Faculty/Researcher: The PI shall furnish particulars for making the application (specification, claims and other particulars excluding the know-how) with due signatures of all Inventors/Innovators together with the following to IPR Cell:

An undertaking in the prescribed format provided by IPR Cell covering the bona fides of the deemed IP, including Title; Novelty, Non-obviousness/inventiveness, industrial applicability/commercial usefulness aspect; project activity under which the IP was generated; dates/duration of the project/activity, etc. shall be submitted to IPR Cell by the faculty/researcher.

A certificate in the prescribed format provided by IPR Cell mentioning that there is no lawful ground for objection to the grant of patent on the innovation/work.

An affirmation in the prescribed format provided by IPR Cell to keep NIADU informed about any further developments in relation to the deemed IP.

An Assignment of the innovation/work to NIADU in the prescribed format provided by IPR Cell shall be supplied with signatures, names and addresses of two witnesses.

6.3.5 Information to Central Database: IPR Cell will document a copy of the forwarding letter of the information provided by the PI/Inventor, including the title of invention, name(s) of true and first inventor(s) and date, in NIADU's central database for information and record.

6.3.6 Disclosure Requirements: It is necessary that the concerned PI/Faculty/Researcher make sufficient disclosures that fully defines the invention, its feasibility and application so that patent can be granted on that disclosure without any objection. They will also make sure that the source and geographical origin of the biological material used in research or mentioned in the complete specification and also any traditional knowledge of India, which may be the basis of the invention is disclosed in the application as per the requirements of the Patents Act.

6.4 Record Keeping: All NIADU Faculties/Innovators/Researchers shall maintain appropriate and adequate work records and duly authenticated/ counter signed lab books while conducting research leading to patentable invention. It should be possible to re-construct on time scale from those records as to when the work related to the invention was conceived and actually started, when the inventive step was taken and when the result was first successfully demonstrated in the laboratory.

Data may be assembled, organized and analyzed, if necessary, and the results worked out as usual on the research/experiment elucidating the steps/dates in the inventive process. Drawings may also be made and photographs taken, wherever necessary/appropriate, to effectively document the dates and claims of invention.

A copy of the representative information set of the data maintained in the concerned laboratories will be documented at the NIADU's central database.

6.5 Screening/scrutiny of Cases by the Institution: IPR Cell will scrutinize and process the cases brought before it for filing of patent applications. The following points must be ascertained in the scrutiny:

1) The application is made in the Prescribed Form/ Performa/ Format.
2) The application named in the application is "National Institute of Ayurveda, Deemed to be University (NIADU)".
3) The innovation is assigned to "National Institute of Ayurveda, Deemed to be University (NIADU)".
4) Names of all "True and First Inventors" are duly mentioned in the application.
5) Address for Service is mentioned in the application. (Note: This will constitute Postal Address of the Head of Institution/VC who will sign the application as Authorized Signatory of NIADU).
6) Other particular details/information is in conformity with the requirements of the patent law/these guidelines/other specific instructions as may be issued by NIADU from time to time.

6.6 Drafting a Patent Specification: The primary information collected as above shall be collated to prepare the patent application for filing in the patent office. The Patent Attorney of IPR Cell shall prepare the specifications.

All patent applications will be filed as Form 1 and Form 2 along with other mandatory or optional forms. The applicable fee for NIADU for patents will be paid as per the recent amendments in the First Schedule of the Patents Act under the category "For Other Than Natural Person(s)". The application fee needs to be paid at the time of e-filing of the application in the e-filing portal. The application will be accompanied by the following based on the type of application to be filed:

A. PROVISIONAL SPECIFICATION

1) Application for grant of patent (Form 1),
2) Provisional Specification (Form 2),
3) Power of Authorization (Form 26) and
4) Drawings (if any).

B. COMPLETE SPECIFICATION

1) Application for grant of patent (Form 1),
2) Complete Specification (Form 2),
3) Statement And Undertaking Under Section 8 (Form 3)
4) Declaration As To Inventorship (Form 5) (e.g. in cases of convention applications, complete applications following the earlier filed provisional applications, etc.),
5) Proof of right: The declaration signed by the inventor(s) and two witnesses in annexure to Form 1 assigning the invention to NIADU will be the proof of right to file the patent application by NIADU, which must be complied with,
6) Power of Authorization (Form 26) and
7) Drawings (if any).

6.7 Strengths of a Patent Document The patent application should be drafted in such a manner that it can stand successful scrutiny and examination in the patent office. The following questions may be appropriately addressed in the patent document:

1) Whether the information being given is sufficient for the patent examiner to understand the invention?
2) Whether "patentability of the subject matter" is discernible? Are the provisions of non-patentable subject matter" (section 3 & 4 of the Patents Act, 1970) clearly ruled out?
3) Whether the specification meets the criteria of "sufficiency of disclosure"? Where a biological material (e.g. a herbal plant part) is used in the invention, is the referral sample of the same deposited in the international depository authority (IDA)?
4) Whether the claims clearly reflect "unity of invention"? Are the principal claim (First Claim) and subordinate claims (Subsequent Claims) properly worded and hierarchical?

5) Whether the appraisal of Industrial Applicability of the invention clearly made? (Industrial applicability includes commercial or non-commercial utility but it has nothing to do with commercial success).
6) Whether the Classification of the invention is made clear? This would be important from the viewpoint of prior art search. In case of ambiguity, expert opinion on non patent classification should be obtained.
7) Whether the result of the novelty search carried out has been mentioned/elaborated if necessary?
8) Whether the disclosure made (in the PS/CS) is appropriate in the determination of the inventive step?
9) Whether the validity of claims is discernible?

6.8 Filing a Patent Application

6.8.1 Filing a Provisional Specification: A Provisional Specification will be filed by IPR Cell to secure the Priority Date for the invention. This will be done at the earliest, with minimum loss of time after the meeting of IPR Cell and HOD of the department where the True and First inventor(s) belong to. The Delhi Patent Office is the appropriate jurisdictional office for e-filing of NIADU's patent applications.

6.8.2 Filing a Complete Specification in India: Patent applications in the form of direct Complete Specifications will also be filed on the recommendations of IPR Cell either directly or after the Provisional Specifications have been filed. IPR Cell shall scrutinize the application.

6.8.3 Filing a Patent Application Abroad: If a patent application is to be filed outside India, the concerned HOD will approach IPR Cell & VC assign the IP for further necessary action. VC shall take necessary action for approval of the same and guide IPR Cell to take further steps to file a PCT application or to directly file the application in a foreign country.

6.9 Types of Patent Applications (under the Patents Act, 1970)

6.9.1 Ordinary Application: It is the most common type of application filed for obtaining patents without making any reference to another application to claim priority. It may be made with provisional (PS) or complete specification (CS).

6.9.2 PCT International Application: India is a member of the PCT. Under this treaty, there is an international e-filing system for patents. It is a simple and economical procedure for seeking protection for the inventions in many countries. In this system, the applicant gains an international filing date in all the designated countries, and can confer late entry (up to 31 months) to the national offices without affecting the priority date. Indian Patent Office is a Receiving office (RO) for international applications under PCT route by nationals or residents of India. A PCT international application may be electronically filed in India as per law, either in English or in Hindi. However, a PCT international application can also be electronically filed in the International Bureau (IB) of WIPO in Geneva.

6.9.3 PCT National Phase Application: It is not applicable for the PCT international applications filed by NIADU in India. However, for entering the national phase in other designating countries, separate applications will have to be made within 31 months from the date of filing of international application to claim the priority date in these countries under their respective patent laws. It is not mandatory for the applicant to submit all the documents while entering the national phase of individual countries as it is obligatory on the part of WIPO to send the published application along with search report, etc. to the designated offices. However, copies of original documents should be submitted for the sake of convenience and faster processing. Services of foreign Patent Attorneys and legal translators should be availed as per the need of the prosecution of the international patent application in its national phase.

6.9.4 Application for Patent of Addition: When NIADU is in possession of another invention, which is a slight modification on an invention for which patent application is already made or patent is already granted in India, the concerned department may file an application for patent of addition. There is a benefit of seeking a patent of addition because there is no separate renewal fee for this patent during the term of the main patent. It can be made independent according to the provisions in the patent law during the term of the main patent; otherwise, it will expire along with the main patent. A specific reference to the main patent or the application for the patent will have to be made in complete specification of the application for patent of addition. Also, a definite statement must be provided in Form 1 that the invention comprises an improvement in, or a modification of the invention claimed in the specification of the main patent granted or applied for.

6.9.5 Divisional Application: When it is observed that a patent application made by NIADU claims more than one invention, IPR Cell shall ask the concerned department to file divisional application so that separate applications are ultimately filed for separate inventions in the original application. The priority date for all the divisional applications from a single application will be claimed by the original application. This is also called *Ante Dating*. The complete specification of the divisional application should not include any matter which has not been substantively disclosed in the complete specification of the first application. Also, the reference of parent application should be made in the body of specification.

6.9.6 Convention Application: This is an application claiming priority under the Paris Convention from an application filed in another convention country after obtaining permission under Section 39 of the Indian Patents Act. Normally, this type of patent application will not be applicable for NIADU but it is also not ruled out of these guidelines. This can be useful in exceptional cases for non-patentable or difficult to patent subject matter in India, but which is patentable in other jurisdiction.

6.10 Patent Applications under PCT

6.10.1 The concerned departments of NIADU will assign the patentable inventions, which have scope for patenting/commercialization abroad to NIADU which shall be forwarded to IPR Cell as per the procedure given in 6.2. IPR Cell will take necessary follow up action and file the PCT and subsequent national phase patent applications.

6.10.2 The concerned departments of NIADU may normally assign the prospective patentable inventions to NIADU for filing the PCT/national phase patent applications, after the filing of Indian application in their respective jurisdictions. Nevertheless, the assignment may be made in the very first place for specific cases, with the approval of the competent authority.

6.11 Direct Filing in a Foreign Country with the Priority date of an Indian Application

If it is considered appropriate to directly file a patent application in a foreign country, the invention should be assigned to NIADU or action should be taken at the level of IPR Cell with the approval of the competent authority. All action for filing of patent application abroad should be taken up with suitable legal expertise.

6.12 Maintenance of Patents

The concerned department will maintain the patents obtained by them by paying the requisite renewal fees at the Delhi Patent Office. Initially, they will pay the renewal fees over a period of five years and depending upon some headway in the process of technology transfer/commercialization they may renew the patent for any further period.

Maintenance of unlicensed patents by the concerned departments in the IPR portfolio beyond a period of five years will be done on case-to-case basis, in consultation with IPR Cell. However, IPR Cell will be consulted before any decision in NIADU to discontinue the maintenance of NIADU patent.

6.13 Patent watch

IPR Cell will process the entire mechanism of monitoring of Patents filed, granted and renewed. It shall keenly look into NIADU's patents that require to be protected or defended when challenged by way of oppositions by the third parties. This will be done primarily with IPR Cell in-house Patent Attorney and in special circumstances through outsourcing.

6.14 Patentability of Biological Inventions:

Whereas all patent cases will be addressed only as per the patent law, the following provisions of the Indian Patents Act should be clearly understood:

6.14.1 According to section 3(i) of the Patents Act, "any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human being or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products" cannot be patented. In this context, prophylactic treatment such as vaccination, inoculation (prophylactic immuno-therapy) in animals is to be regarded as therapy, which includes treatment, and is not patentable. Patent may, however, be obtained for surgical therapeutic or diagnostic instruments or apparatus.

6.14.2 According to section 3(j) of the Patents Act, "plants and animals in whole or any part thereof other than microorganisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals, for example, clones and plant varieties" are not patentable. However, processes leading to the development of Genetically Modified Organisms (GMO) can constitute patentable subject matter.

6.14.3 Any clarification on the patentability of biotechnological inventions may be seen from the Manual of Patent Practice and Procedure 2005 of the Indian Patent Office (https://ipindia.gov.in/manual-patents.htm). The guiding points for the examination of patent applications by the patent examiners given in this manual could be helpful in a pre-judgment on the patentability of inventions in NIADU, before a patent application is to be filed.

6.15 Discovery Vs Invention: According to Section 3(c) of the Indian Patents Act "the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature" is not patentable. In this context, the difference between discovery and invention as interpreted in the Manual of Patent practices and Procedure published by Indian Patent Office in 2005 is that a "discovery" adds to the amount of human knowledge by disclosing something, which has not been seen before whereas an "invention" adds to the human knowledge by suggesting an act, to be done. Only the latter is patentable.

6.16 Traditional Knowledge (TK) based technologies: According to Section 3(p) of the Indian Patents Act "an invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components". This provision ensures the protection of TK from misappropriation and prevents granting of patents for inventions that lack novelty, inventive step, or are based merely on publicly known traditional knowledge.

Implications for Traditional Knowledge-Based Patent Applications

Acceptable Applications: A patent application based on traditional knowledge must involve a novel improvement or a technical advancement beyond what is traditionally known. For example, developing a new drug delivery system using a traditional Ayurvedic formulation could be patentable if it meets all patentability criteria.

Non-Patentable Applications: Direct reproduction of a traditional formulation or process described in ancient texts or public knowledge databases. Simple aggregation of traditional ingredients or processes without demonstrating a synergistic or innovative effect is not patentable as per the Indian patents Act.

Section 3(p) ensures a fair balance between protecting traditional knowledge and promoting genuine innovation. It safeguards the heritage of traditional practices while encouraging meaningful advancements in technology and research.

6.17 Monitoring: The monitoring and follow up activities on patenting/patents in NIADU will be undertaken on a regular basis. A monitoring system will be linked to the central database, if any.

Chapter 7

Procedures for Management of Traditional Knowledge

7.1 Introduction

The key aspects of Section 3(p) includes the non-patentable inventions to ensure the protection of TK from misappropriation and to prevent granting of patents for inventions that lack novelty, inventive step, or are based merely on publicly known traditional knowledge.

The word "protection" means the use of IP laws, values and principles to prevent unauthorized or inappropriate uses of TK by third parties. The objective of IP protection is to make sure that the intellectual innovation and creativity embodied in TK are not wrongly used.

Section 3(p) also prevents exploitation of India's rich heritage of traditional knowledge, particularly in areas like Ayurveda, Siddha, and Unani systems of medicine and protects indigenous practices and remedies from being patented by individuals or companies without substantial innovation or value addition.

7.2 Procedures for Management of Technologies at NIADU Falling Under the Scope of TK:

Section 3(p) ensures a fair balance between protecting TK and promoting genuine innovation, safeguards the heritage of traditional practices while encouraging meaningful advancements in technology and research. The effective management of innovative works related to TK at NIADU involves protecting, preserving, and utilizing these resources responsibly while ensuring compliance with legal frameworks and promoting equitable benefit-sharing. NIADU shall safeguard against biopiracy, where TK is used without authorization or fair benefit-sharing. NIADU shall ensure that these guidelines are in compliance with international treaties like the Convention on Biological Diversity (CBD) and India's Biological Diversity Act, 2002.

Below are key procedures that NIADU is going to follow:

7.2.1. Documentation and Registration: India has established the TKDL, which documents traditional knowledge in various fields (e.g., medicinal plants, formulations, and agricultural

practices) in searchable formats. Patent examiners worldwide can use the TKDL to assess the novelty of patent applications, avoiding wrongful grants of patents on traditional knowledge. Likewise, NIADU shall take necessary efforts to document and register the IP by:

Documentation of TK: NIADU shall collect and document TK systematically, ensuring proper representation of the source community or custodians & use databases like the TKDL to record existing TK.

Registration: If applicable, NIADU shall register TK with local or national bodies to establish ownership and prevent unauthorized use.

7.2.2. Assessment of Innovation: TK which is publicly known or documented lacks novelty and cannot qualify as an invention under patent law. Even merely combining or duplicating known traditional components or processes without substantial technical advancement or innovation does not qualify as patentable. Hence, IPR Cell Team shall draft the patent application in such a techno-legal manner that it must demonstrate novelty and inventive step distinguishing it from the publicly known or documented TK.

Novelty Evaluation: NIADU assesses whether the innovative work adds substantial value or demonstrates a significant technical advancement over existing TK & confirm that the work meets patentability criteria, such as novelty, inventive step, and industrial applicability.

Non-Patentable Aspects: NIADU identifies elements that fall within the scope of Section 3(p) of the Indian Patents Act to exclude them from patent applications.

7.2.3. Legal Compliance

Access and Benefit Sharing (ABS): NIADU shall engage with NBA and seek its approval for complying with the Biological Diversity Act, 2002, to access permissions and benefit-sharing agreements for the use of biological resources and TK.

IPR: NIADU shall always ensure whether IP protection is aligning with laws governing TK, such as the Indian Patents Act and international frameworks like the Convention on Biological Diversity (CBD).

7.2.4. Involvement of Source Communities

Prior Informed Consent (PIC): NIADU shall obtain consent from the custodians of TK before using it for commercial or innovative purposes to be carried out at NIADU.

Equitable Benefit Sharing: NIADU shall share benefits arising from the commercialization of TK-based innovations with source communities, as per ABS agreements.

7.2.5. Protection Mechanisms: For the reasons mentioned above, NIADU follows specific procedures for TK related technologies accordingly. Such form of IP protection can take two forms; positive protection and defensive protection.

Defensive Protection: It grants IP rights in the subject matter of TK. It helps communities prevent third parties from gaining illegitimate access to TK or from using them for commercial gain without equitably sharing benefits and enable active exploitation of TK by the originating community itself. NIADU shall prevent misuse or unauthorized patenting of TK by maintaining comprehensive records in publicly accessible databases such as TKDL.

Positive Protection: This type of protection includes the use of documented TK to preclude or oppose patent rights on claimed inventions that make direct use of TK. Henceforth, NIADU shall secure IP rights (e.g., patents, geographical indications) for innovative applications of TK.

7.2.6. Capacity Building and Awareness

Training Programs: NIADU shall train researchers, inventors, and local communities on IP laws, ABS mechanisms, and TK protection strategies via sensitization programmes.

Community Engagement: NIADU shall educate source communities about their ownership rights and benefits available under IP and biodiversity laws.

7.2.7. Technology Transfer and Commercialization

Collaborations: NIADU shall partner with industries, research institutions, or government bodies to develop and commercialize TK-based innovations.

Licensing: NIADU shall avail all such opportunities where it can use equitable licensing models to share the benefits of commercialization with source communities.

7.2.8. Monitoring and Dispute Resolution

Monitoring of Use for TK based IP: NIADU shall establish a system to track the use and commercialization of TK-based innovations.

Conflict Resolution: NIADU shall form committees to resolve disputes related to ownership, benefit-sharing, or misuse of TK.

7.2.9. Periodic Review

Policy Updates: NIADU shall regularly review and update TK management policies to address emerging challenges and ensure alignment with global standards.

Community Feedback: NIADU shall incorporate feedback from TK custodians and stakeholders to improve management practices.

To conclude, NIADU shall take all precautionary measures with a balanced approach for the management of innovative works related to TK that respects the cultural heritage of source communities, ensure legal compliance, and promote equitable sharing of benefits. By following these procedures, stakeholders can responsibly protect and utilize TK for societal advancement.

Chapter 8

Procedure for Management of Other Forms of IP

8.1 Introduction

This chapter describes procedures for securing IPRs in forms other than patents. NIADU shall follow specific procedures with respect to copyrights, trademarks, geographical indications, industrial designs and other forms of IPRs. It also establishes guidelines for the management, ownership, protection, and utilization of IP other than patents, including trademarks, copyrights, trade secrets, and other relevant forms of IP.

8.2 Scope

This policy applies to all faculty members, researchers, students, staff, and collaborators engaged in activities related to the creation and management of IP at NIA. It covers: Trademarks, Copyrights (including research publications, study materials, and digital content), Trade secrets and confidential information, Geographical Indications (GIs) and Traditional Knowledge (TK) documentation and other forms of non-patent IP.

8.3 Ownership of Intellectual Property

IP created by faculty, researchers, and students using NIADU resources shall be owned by NIADU unless otherwise agreed upon in a formal contract.

In case of collaborative projects, ownership shall be determined based on agreements between NIADU and external parties.

Traditional Knowledge documentation and related research shall be managed in accordance with national laws and international agreements to ensure benefit-sharing with indigenous communities as described in Chapter 7.

8.4 Management and Protection of IP

8.4.1 Trademarks: NIADU shall register and manage trademarks for its name, logo, and other distinguishing marks to protect institutional identity.

8.4.2 Copyrights: Copyright protection will be sought in NIADU under the Copyright Act/copyright law. Publications, educational materials, and digital content developed at NIADU shall be copyrighted in the name of NIADU unless individual ownership is specified.

8.4.2.1 Recognition of Copyright: Irrespective of whether the copyright has been registered under the copyright law or not, it subsists in any original literary work, including scientific publications, popular articles, and other published material; computer programme software database; audio, video and multimedia products, websites, material on a CD-ROM, etc., of NIADU as well as individual works of all its faculties/researchers and other staff. Nevertheless, registration of copyright work under the Copyright Act will be its prima facie proof.

A breach of copyright would occur if the written description or any of its substantial part has been copied by someone without the permission of the author/institution.

Copyright also subsists in translations, abridgements or compilations of other works. All these are also considered to be literary works. The author of a translation, abridgement or compilation of copyright works will have separate copyright in his translated, abridged or compiled work provided that the consent of the original copyright holder had been obtained. Right for adapting or performing the copyright work also subsists in the adaptation or performance, which is called "Related Right".

8.4.2.2 Expression of Copyright: Ownership of copyright on a publication or any other _ copyright work as explained above may be expressed by merely putting the symbol "©". It is more appropriate to use the word copyright along with its symbol "©", the year of publication and the name of the author. It may also be made by using such statements on body of the work as "All Rights Reserved", "Permission granted to reproduce for academic use only", "For reproduction of this document or any part thereof permission of National Institute of Ayurveda, Deemed to be University (De-novo) (NIADU), Jaipur must be obtained", etc.

8.4.2.3 Ownership and Claim of Copyright: NIADU/institutions or its scientists/staff will hold the copyright as per the following illustrations:

1. NIADU will own copyright over its regular publications and registered copyright works.

2. In cases of commissioned work, in the absence of any agreement to the contrary, the NIADU and/or the sponsoring agency/organization will jointly own the copyright.

3. NIADU faculties/ researchers/ other staff can claim their individual copyright, whether registered or not, over their creations/work published by them as per rules.

8.4.2.4 While using Other Party's Copyright Work in NIADU: Faculties/ researchers/ other staff using a copyright material will obtain permission of the owner(s) before using that work

or its substantial part in their own work. Petty use of a copyright work is allowed without permission but it is better to acknowledge such use in the NIADU publications.

A civil and criminal action may be instituted for injunction, actual damages (including infringer's profits) or statutory damages for infringement, etc. The Copyright Act (section 63B) has provision of awarding heavy punishment as fine and/or jail for the copyright infringers.

8.4.3 Trade Secrets: Confidential data, formulations, and proprietary methodologies shall be protected through confidentiality agreements and restricted access.

8.4.4 Traditional Knowledge & GIs: Documentation and management of traditional medicinal knowledge shall comply with the Biological Diversity Act, 2002, and other relevant regulations.

8.4.5 Registration and Use of Designs in NIADU: NIADU may seek Design protection for technologies involving considerations of shape (like shape of medicine container), configuration (like hitched implements, mounted devices) and pattern (like straight type clamps or triangular forceps) under the Designs Act.

A design covers only features of shape, configuration, pattern, ornamentation or composition of lines or colors applied or applicable to an article by any industrial process. The features of the design in the complete article should appeal to and are judged solely by the eye. Thus, design protection is primarily of an aesthetic nature (showcase value) and it does not protect any technical or functional features of the article to which it is applied.

Any new farm machine or any process equipment in prototype stage can also be registered as design if considered suitable. Its further refinements shall be updated for the same design.

In order to be eligible for registration, a design must be new or original and not previously published in India or elsewhere before the date of application for registration. The word 'new or original' involves the idea of novelty either in the pattern, shape or ornament itself or in the way in which an old pattern, shape or ornament is to be applied to some special subject matter. Original in relation to a design, means originating from the author of such design, and includes the cases which though old in themselves are yet new in their application.

Design can also be protected in certain cases under the copyright law. For example, under section 13(5) of the Copyright Act, design of a work of architecture (but not its method of

construction) can be protected as copyright. Agricultural structures can be covered in this category.

8.5 Commercialization and Benefit Sharing

NIADU shall encourage commercialization of IP through licensing, assignments, or partnerships. Revenue generated from IP shall be shared among inventors, the institution, and other stakeholders as per institutional guidelines. Any commercialization of traditional knowledge shall ensure fair benefit-sharing in accordance with applicable laws.

8.6 Dispute Resolution

Disputes related to IP ownership, usage, or benefit-sharing shall be resolved through NIA's internal committee, with the option of arbitration if necessary.

8.7 Implementation and Review

NIADU shall establish an IP management committee to oversee policy implementation. This policy shall be reviewed periodically to align with evolving legal and institutional requirements.

8.8 Compliance and Ethical Considerations

All stakeholders must comply with national and international IP laws and ensure ethical use of traditional knowledge and research outcomes.

8.9 Monitoring and IP Watch:

For addressing any specific matters related to IP in any other form than those not described in these guidelines will take case-specific decisions, and proceed as per the delegation of powers to NIADU and the relevant IPR law, if appropriate. In case any further guidance, assistance, clarification, etc. is required, they will consult the IPR Cell, NIADU on a case-to-case basis. NIADU will evolve a system of IP monitoring and watch as per the guidelines. Whereas initial/preventive action may be taken at the level of institutions; litigation for IPR infringement cases, if required, will be initiated after necessary approval of the competent authority. This policy aims to foster a culture of innovation while safeguarding NIADU's intellectual assets and ensuring equitable benefit-sharing from knowledge and research contributions.

Chapter 9

Technology Transfer: Commercialization of IP/Technologies

9.1 Introduction

This chapter describes the procedures for technology transfer through commercialization. It also establishes guidelines for the effective transfer and commercialization of IP and technologies developed at NIADU to benefit society, promote industry collaboration, and enhance economic opportunities. The first part explains the instruments and procedures of technology transfer/commercialization; second part covers costs and pricing of technology, and the last part deals with various aspects of technology licensing.

9.2 Scope

This policy applies to all faculty members, researchers, students, and collaborators associated with NIADU who contribute to the development of IP and technology. It covers aspects of Licensing and Assignment of IP rights; Industry Partnerships and Collaborative Ventures; Start-Ups and Spin-Offs; Revenue-Sharing Models And Compliance With Legal And Ethical Considerations.

9.3 Procedures for Technology Transfer/Commercialization

NIADU shall facilitate technology transfer by undergoing through:

Licensing Agreements: Non-exclusive, exclusive or limited-term licenses for commercial and research use.

Memoranda of Understanding (MoUs): Partnerships with industries, research institutions, and government bodies.

Start-ups and Incubation Support: Encouragement and support for faculty and students to establish start-ups based on NIADU's research.

Joint Ventures and Collaborations: Encouraging co-development of products and solutions with external entities.

9.4 Constitution of IPMG: Wherever necessary, as prescribed under SPRIHA and related schemes, a small group may be constituted under the Chairmanship of IPR Chair comprising of financial and legal expert to address the specific issues underlying in the parlance of patents and technology transfer. Thus formed IPMG shall foster innovation and ensure the efficient management of intellectual property and facilitates the technology transfer of Ayurveda research.

9.5 Commercialization Strategies

NIADU shall actively promote the commercialization of its technologies through outreach, exhibitions, and collaborations. Preference shall be given to ethical and sustainable commercialization models that align with the principles and practices followed in Ayurveda. The institution shall support product development and standardization to ensure market readiness.

9.6 Use of NIADU knowledge/IP by Indian Clients

This policy governs the use of intellectual property (IP) and knowledge developed by NIADU by Indian clients, ensuring compliance with applicable laws and agreements. Indian clients may access and utilize NIADU's IP strictly for authorized purposes, subject to licensing terms, confidentiality obligations, and adherence to national IP regulations. NIADU retains full ownership of its IP. Usage rights granted to Indian clients do not imply transfer of ownership unless explicitly agreed upon in writing. Indian Clients must obtain prior written approval from NIADU for any modification, adaptation, or commercialization of its IP. Unauthorized use may result in legal action. Indian clients must comply with all applicable IP laws and contractual obligations.

9.7 Use of NIADU knowledge/IP by Foreign Clients

In cases of use of NIADU knowledge base by foreign clients for research and/or commercial purposes, all issues relating to contracting, target domain, pricing, payment and ownership of intellectual property will be pre-determined in a Memorandum of Agreement (MOA) signed by NIADU and the foreign client. The terms and conditions, and limitations of the Agreement with prospective foreign client will be set, negotiated by IPR Cell and VC, NIADU. As per the need of the case, Technology Managers, Licence Managers or IP Consultants may be engaged. Approval of the competent authority/VC in the NIADU shall be 'essential to proceed for any agreement with foreign clients for commercialization.

Commercialization in foreign countries shall be undertaken by the IPR Cell in consultation with the Vice Chancellor, NIADU.

9.8 Cost and Pricing of Technology

Broadly, the worth of an IPR enabled technology will be derived from the likely benefits that may accrue to its end-users. The worth can be best determined on the judgment of technical experts, producers of technology and business managers. There is no standard method or formula for assessing the worth of a technology. Costs and pricing in NIADU will be determined on a case-to-case basis.

NIADU will determine the licence fee and royalty and/or sale price of its IPR enabled technologies either on a fixed basis, through negotiations with the licensee, or through an open bidding process as appropriate. Expert opinion and judgment viewpoint together with the following points will be considered in determining the price/licence fee:

1. Cost of IPR protection and maintenance.
2. Cost of production and handling.
3. Other institutional costs as appropriate.

NIADU may determine the licence fee and/or sale price of the technology at the institute level if it has the necessary in-house expertise and experience on case to case basis. It may, in exceptional cases, seek assistance in the matter or may refer it to the Finance team to undertake commercialization.

As no standard formulae are available or can be provided for all NIADU technologies and situations, the departmental heads at the institute level will determine the licence fee and/or royalty taking into account the considerations of "what the market can bear", cost factors and public interest issues, if any. The decision of the IPR Cell, based on holistic assessment and judgement will be final.

The life of an IPR enabled technology in the market will vary and so will its popularity and sales. The recurring royalties will be mainly based on these factors. Therefore, the modes of payment (licence fee and/or royalty) will be on mutually agreed terms with the licensee, and flexible/determined on a case-to-case basis rather than rigid. The terms of commercialization may also be revised over time.

9.9 Licensing of IP

Licensing of IPR enabled NIADU technologies will encompass out-licensing. The framework for licensing will be developed/ refined/ evolved by IPR Cell. Licences will be case-specific non-exclusive or exclusive licences. Appropriate joint commercialization agreements would also be entered into.

Normally, non-exclusive licences will be executed for technologies such as inputs (e.g. herbo-minerals or herbal-cosmetic) so that these can lead to their wider adoption and thereby maximize research benefits to Ayurveda professional and other end users. For non-exclusive licences there will be flexibility in fixing the licence fee.

Joint commercialization of lPR enabled NIADU technologies will be undertaken on mutually agreed terms with another commercial enterprise when a close scientific supervision of scaling up or product development is required or in any other appropriate situation.

Implementation of Licences: Transfer of IPR enabled technology by IPR Cell and payments by the licensees will be in accordance with the terms and conditions, including the time limits recorded in the licensing contracts and the agreements. If required, the concerned faculties/researchers will demonstrate the technology on lab scale to the licensee under a confidentiality agreement.

9.10 Revenue Sharing and Benefit Distribution

Revenue generated from technology transfer and commercialization shall be shared among inventors, NIADU, and other stakeholders as per institutional guidelines. In case of Traditional Knowledge utilization, equitable benefit-sharing mechanisms shall be followed, ensuring compliance with applicable laws. The revenue distribution structure shall be periodically reviewed to ensure fairness and transparency. Upper and lower limits can vary on case-to-case basis.

9.11 Intellectual Property Protection

NIADU shall take necessary steps to protect its IP; including patents, Geographical Indications (GIs), trademarks and copyrights. The institution shall provide legal and administrative support to faculty and researchers for IP filings and protection. Confidentiality agreements and Non-Disclosure Agreements (NDAs) shall be implemented as needed.

9.12 Dispute Resolution

Any disputes related to technology transfer, commercialization, or revenue sharing shall be addressed by an internal committee constituted by NIADU. In case of unresolved matters, arbitration and legal recourse shall be pursued as per prevailing laws.

Any disputes arising under this policy for Indian Clients shall be resolved as per the governing law and dispute resolution mechanisms agreed upon.

Any disputes arising under this policy for Foreign Clients shall be resolved as per the governing foreign laws and dispute resolution mechanisms agreed upon by NIADU and said Client.

9.13 Implementation and Review

NIADU shall establish, if required, a dedicated IPMG or Technology Transfer Office (TTO) to oversee policy implementation.

This policy shall be reviewed periodically to incorporate changes in legal frameworks and industry best practices, if required. NIADU reserves the right to update this policy periodically in alignment with evolving legal and technological landscapes.

9.14 Ethical Considerations and Compliance

All commercialization activities must adhere to national and international laws related to Ayurveda, IP, and benefit-sharing. Ethical considerations shall be paramount in the use and dissemination of Traditional Knowledge and research outputs.

9.15 Monitoring and IP & Market Watch

A mechanism of monitoring the licensing/commercialization activities in NIADU will be developed. This mechanism will include IP and market watch with a view to safeguard NIADU interests and to bring further refinement in their approach to commercialization.

9.16 Socio-Economic Impact

This policy aims to create a robust framework for the transfer and commercialization of IP and technologies developed at NIADU, fostering innovation while ensuring societal and economic benefits. The IPR Cell will assign case-specific studies to assess socio-economic impact of the commercialized IPR enabled NIADU technologies and any other know-how.

Chapter 10

Miscellaneous

10.1 Capacity Building

NIADU shall conduct IPR Awareness sessions for all the stakeholders and design sensitization programmes in collaboration with national organisations such as NIPAM, MHRD, DPIIT, etc. and international organisations such as WIPO.

10.2 Publications

1. Each of the NIADU partners shall have the right to publish the results emanating from the project/programme. However, before any such publication(s) of the results of the project programme, the partners shall ensure in consultation amongst themselves that no rights are compromised.

2. The publications resulting from the programme shall bear the names of all the authors unless any author explicitly declines to be named.

3. Due acknowledgement shall be given in all such publications to the support extended by Grantor/Sponsor Funding Agency and Parent Organizations in carrying out the project/programme resulting in such publications.

10.3 Confidentiality

The confidentiality clause has been defined in Chapter 2 and applies to all disclosures in order to protect proprietary or confidential information generated in NIADU.

10.4 Infringement

1. NIADU shall not be liable to the consequences of any infringement of the IPR.

2. Any expenditure and/or damages, on account of such infringement shall be borne by the partners.

10.5 Dispute Resolution

Disputes related to IP ownership, benefit-sharing, or commercialization shall be resolved through an internal committee constituted by the Head of the Institute. Unresolved disputes may be referred to arbitration as per the Arbitration and Conciliation Act, 1996.

10.6 Amendments to the Policy

This policy shall be reviewed periodically, and amendments may be made with the approval of the competent authority to address emerging challenges and align with evolving IPR frameworks.

10.7 Effective Date

This policy shall come into effect on 8th February 2025.

10.8 Contact Details

The Chairman, IPR & Technology Transfer Cell,

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https://copyright.gov.in/

ACRONYMS

Below are the acronyms used hereinafter in the Policy refers to

Ayush	Ayurveda, Yoga, Unani, Siddha, Sowa-Rigpa and Homeopathy
CBD	Convention on Biodiversity
CS	Complete Specification
IPR CELL	Intellectual Property Rights & Technology Transfer Cell
IPR	Intellectual Property Rights
IPR Cell	Intellectual Property Rights Cell
MHRD	Ministry of Human Resource Development
MTA	Material Transfer Agreement
NBA	National Biodiversity Authority
NDA	Non-Disclosure Agreement
NIADU	National Institute of Ayurveda, Deemed to be University
PCT	Patent Cooperation Treaty
PI	Principal Investigator
PS	Provisional Specification
SPRIHA	Scheme for Pedagogy & Research in IPRs for Holistic Education and Academia
TKDL	Traditional Knowledge Digital Library
TRIPS	Trade Related Aspects of Intellectual Property Rights
WIPO	World Intellectual Property Organization