

## Proposal to Define Royalty Sharing Schemes for Constituent Universities

### Rationale:

Section 2 Article 8 (“Common Provisions”) of the Revised Intellectual Property Rights (IPR) Policy of the University of the Philippines System states that the University shall:

- Assign 100% of the first two hundred thousand pesos (or less) of the royalties to the author(s), inventor(s), or creator(s).
- At least 40% of the royalties shall be given to the author(s), inventor(s), or creator(s).
- 25% of the remaining royalties shall go to the UP System. (15% of the total royalties)
- 75% of the remaining royalties shall go to the UP Constituent University (45% of the total royalties) *without prejudice to such policies or arrangement that the constituent university may have with respect to sharing its allocation of the net income with the department/s or unit/s from which the intellectual property originated.*

Section 18 of Republic Act 10055 or the Technology Transfer Act of 2009 also states the use of University royalties as income and revolving fund:

Section 18. Use of Income and Revolving Fund. - Public RDIs undertaking technology transfer shall be vested with the authority to use its share of the revenues derived from commercialization of IP generated from R&D funded by GFAs. All income generated from commercialization of IPs and/or IPRs from R&D funded by public funds shall be constituted as a revolving fund for use of the RDI undertaking technology transfer, deposited in an authorized government depository bank subject to accounting and auditing rules and regulations: Provided, That said income shall be used to defray intellectual property management costs and expenses and to fund R&D, science and technology capability building, and technology transfer activities, including operation of technology licensing offices: Provided, further, That no amount of said income shall be used for payment of salaries and other allowances.

The TTBDO hereby proposes this Intellectual Property (IP) Sharing Guidelines to create a fair and systematic way of distributing royalties, and to facilitate research collaborations. These shall cover the following:

- a) Internal Sharing Agreement within the Constituent University
- b) Sharing Agreement for Research Collaborations between and among Multiple Constituent Universities

## The Proposal:

The following royalty sharing scheme is hereby proposed to clarify the distribution of royalties to the various Institutions.

### A. Internal Sharing Agreement for Constituent Universities

The **Internal Sharing Agreement for CUs** was adapted from the “Royalty Sharing Policy of the UPLB” approved by the UPLB EXECOM on 26 February 2013 and the discussions of the Executive Committee during the meeting of the Constituent Universities’ Technology Transfer and Business Development Offices (CU-TTBDO) and the University of the Philippines System Technology Transfer and Business Development Office (UPS-TTBDO) held on 28 April 2016 at the University of the Philippines Mindanao.

The scheme is as follows:

1. The First Tranche of PhP 200,000.00 of the royalties will be sent to the Author(s), Inventor(s), or Creator(s) per Section 2 Article 8 of the UP System’s IP Policy.
2. The Second Tranche of PhP 200,000.00 will be sent to the CU-TTBDO that funded the registration of the Intellectual Property which produced the Royalties. This is to help the Constituent University “defray intellectual property management costs and expenses” in the soonest time possible.
3. Thereafter, the amount in excess of PhP400,000.00 shall be distributed to the rest of the beneficiaries in accordance with their respective share in the royalties.

The table below illustrates the sharing scheme.

	<b>1<sup>st</sup> Tranche PhP 200,000.00</b>	<b>2<sup>nd</sup> Tranche PhP 200,000.00</b>	<b>Excess of PhP 400,000.00</b>	<b>Intended Use</b>
Author(s), Inventor(s), or Creator(s)	100%		40%	Incentive for the inventors
UP System – Technology Transfer and Development Office (TTBDO)			15%	IP Management and Technology Transfer Cost
Constituent University Administration			5%	For the improvement/operations of laboratories and other common facilities
College of the author(s), inventor(s), or creator(s)			10%	IP Incentive, R&D funding and support services

Unit of the author(s), inventor(s), or creator(s)			15%	IP Incentive, R&D funding and support services
CU-TTBDO or UPS-TTBDO if they funded the IP involved was registered through the office		100%	15%	IP management cost and expenses; science and technology capacity building; technology transfer activities; operations of technology licensing office
Total	100%	100%	100%	

For example, if the royalties that will be received by the University is PhP 200,000.00/month for 10 months, the distribution of royalties will be as follows:

Tranches of Royalties	AIC	CU TTBD0	UPS-TTBDO	CU ADMIN	COLLEGE	UNIT
200,000.00	200,000.00	-	-	-	-	-
200,000.00	-	200,000.00	-	-	-	-
200,000.00	40,000.00	-	90,000.00	11,667.00	23,333.00	35,000.00
200,000.00	80,000.00	-	30,000.00	15,000.00	30,000.00	45,000.00
200,000.00	80,000.00	-	30,000.00	15,000.00	30,000.00	45,000.00
200,000.00	80,000.00	-	30,000.00	15,000.00	30,000.00	45,000.00
200,000.00	80,000.00	10,000.00	30,000.00	13,333.00	26,667.00	40,000.00
200,000.00	80,000.00	30,000.00	30,000.00	10,000.00	20,000.00	30,000.00
200,000.00	80,000.00	30,000.00	30,000.00	10,000.00	20,000.00	30,000.00
200,000.00	80,000.00	30,000.00	30,000.00	10,000.00	20,000.00	30,000.00
TOTAL (2,000,000.00)	800,000.00	300,000.00	300,000.00	100,000.00	200,000.00	300,000.00
PERCENTAGE TOTAL (100%)	40%	15%	15%	5%	10%	15%

The Technology Transfer and Business Development Offices shall share a template Excel file which can assist in computing the fees due to the various stakeholders in the royalty sharing scheme.

#### **B. Sharing Agreement for Research Collaborations between and among Multiple Constituent Universities**

The Sharing Agreement between Multiple Constituent Universities is intended as a response to the increasing frequency and necessity of multi-disciplinary research collaborations.

The following scheme was adapted from the Proposal by the University of the Philippines Manila Technology Transfer and Business Development Office.

	Royalty Share	Notes
Group I: Author(s),	40%	Composed of Author(s), Inventor(s), or Creator(s) from the various Constituent Universities involved in the Research

Inventor(s), or Creator(s)		Collaboration May develop various technologies/ creations within the same research collaboration
Group II: UP System – Technology Transfer and Development Office (TTBDO)	15%	Representative of the University of the Philippines System  Will provide the IP Chair for the Research Collaboration
Group III Constituent Universities	45%	The Constituent Universities shall equally share the royalties obtained from the commercialization of the Research Collaboration  Individual Constituent Universities shall then distribute their share using the “Internal Sharing Agreements for Constituent Universities” scheme
Total	100%	

The following guidelines shall be observed:

1. Group I shall make a decision regarding their royalty sharing scheme within fifteen (15) days from the submission of the Invention Disclosure Incentive Form to the CU-TTBDO of both Constituent Universities.
  - a. Prior the official submission of the Invention Disclosure Incentive Form, the proponents may request the Technology Transfer Officers of their respective Constituent University to conduct a Preliminary Prior Art Search Report. This report shall help the researchers assess the novelty of their creative contributions within the multi-constituent university collaboration.

2. The 15-day period in question shall be reckoned from the date of the latest submission. For instance, if the Invention Disclosure Incentive Form was filed in UP Manila on 01 July 2016, and in UP Los Baños on 05 July 2016, the 15-day period to make a decision regarding the royalty sharing scheme shall be reckoned from 05 July 2016.

3. The royalty sharing scheme decided upon between and among the Author(s), Inventor(s), or Creator(s) (Group I) shall likewise be the basis for the royalty sharing among the Constituent Universities (Group III). If there are no royalty sharing schemes developed or decided on within the set period, then the royalty shall be equally shared among the Constituent Universities, and their Author(s), Inventor(s), and/or Creator(s).

4. In cases of conflict, ambiguity, or any misunderstanding in the implementation of these rules, the University President shall decide how to resolve said conflict, ambiguity, or misunderstanding after consultation with the Office of the Vice President for Legal Affairs and the UPS-TTBDO.

### **C. Contractual Obligations Prior to Engagement in Research Collaborations**

Under a contract of agreement prior to engagement, CUs may allow inventors, departments and colleges to arrive at a different royalty sharing scheme within their CU.

#### **References:**

- Revised Intellectual Property Rights (IPR) Policy of the University of the Philippines System
- Minutes of the April 28, 2016 Technology Transfer and Business Development Executive Committee Meeting at the University of the Philippines Mindanao
- Marcelo, Alvin B. "Proposal for Multi-CU Projects." University of the Philippines Manila Technology Transfer and Business Development Office N.p., n.d. Web. 4 June 2015.
- "Royalty Sharing Policy of UPLB Approved by the UPLB EXECOM on February 26, 2013." University of the Philippines Los Baños, n.d. Web. 4 June 2015.