



## TIMSR IPR POLICY

### 1.1 PREAMBLE

Thakur Institute of Management Studies and Research, Mumbai (hereafter referred to as 'TIMSR') is an academic Institute dedicated to excellence in teaching and research. Its activities, centered on faculty/students/project staff/ supporting staff/visitors are based on knowledge and intellectual exercise. In the era of technology domination, where values and perceptions change at brisk pace, TIMSR, in particular, have to preserve the fundamental spirit of academics on one hand and have to march ahead, on the other, accepting changing realities of business economy based on knowledge generated, protected and disseminated under the intellectual property regime. In the evolving scenario of the world today, with increasing awareness of the 'knowledge asset', an Intellectual Property Rights (IPR) Policy is needed not only to preserve the interest of TIMSR but also to make TIMSR faculty/students /project staff/ supporting staff/ visitors aware of 'knowledge asset and its impact on the society'.

The present policy facilitates the protection of the right of the Inventor(s) of TIMSR i.e. faculty/students /project staff/ supporting staff /visitors of TIMSR through the option of Intellectual property protection on a novel work or to keep it in public domain as they may deem fit. In alignment with the Vision and Mission of TIMSR, the policy favours outreach of the novel technologies developed at TIMSR. At the same time, it motivates the faculty, students and researchers of TIMSR to initiate technology transfer using the intellectual property rights gained over a novel technology.

### 1.2 PURPOSE

The material put forward in this document relates to an IPR policy (and related administrative procedures) with the objective that:

- a. It enables TIMSR to discharge its primary responsibility of fostering, stimulating and encouraging creative activities in the area of management in the widest sense;
- b. It lays down the norms to protect the legitimate interest of faculty/students/ project staff/ supporting staff /visitors of TIMSR and the society in a rational manner consistent with the 'commitment' of TIMSR and 'role' assigned to it by the society.



- c. It provides a transparent administrative system for the ownership, control and transfer of the intellectual property created and owned by the Institute;
- d. It shares a global perception of practices related to intellectual property retaining the national identity and local constraints, avoiding as far as possible 'conflict' of opposing interests

### 1.3 TYPES OF IP

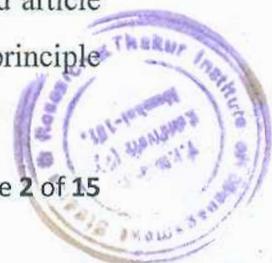
The intellectual properties can be broadly listed as:

- a. Patents
- b. Copyrights
- c. Trade/Service marks
- d. Industrial designs
- e. IC layout designs
- f. New plant variety and Biotechnology inventions
- g. Traditional knowledge and Geographical Indications

### 1.4 DEFINITIONS

These intellectual properties can be illustratively defined as:

- a. *A patent* is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something or offers a new technical solution to a problem.
- b. *Copyright-* is an exclusive right given to the author of the original literary, architectural, dramatic, musical and artistic works; cinematograph films; and sound recordings.
- c. *Trade/Service mark* means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging and combination of colors.
- d. *Industrial Design-* means only the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device.



- e. *Software program* – Refer to the codes developed by the institute, researchers, faculty or students that are not usable by others without permission.
- f. *Business Models* – Models for business strategy developed by the institute, researchers, faculty or students that are not usable by others without permission.
- g. *IC Layout Designs* - means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit.
- h. *New Plant Variety* - a plant variety that is novel, distinct and shows a uniform and stable characteristics.
- i. *Biotechnology Inventions*- include recombinant products such as vectors, nucleotide sequences, and micro-organisms.
- j. *Traditional Knowledge*- The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to agriculture, food, medicine etc. over a period of time and has been passed from one generation to another traditionally.
- k. *Geographical Indications*- means an indication which identify such goods as agricultural goods, natural goods as originating or manufactured in the territory of a country or manufactured in the territory of a country or a region or locality in that territory where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, regions or locality as the case may be.
- l. *First Party* – Thakur Institute of Management Studies and Research (TIMSR).
- m. *Second Party*- Faculty, Supporting staff, Project staff and Students of TIMSR.
- n. Faculty means a person professionally qualified to carry out teaching and research at TIMSR as a whole time employee, Emeritus fellow or Visiting professor appointed by TIMSR. (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 TIMSR Mumbai.)
- o. Supporting Staff means a person employed full-time or part-time by TIMSR to support the research, development, teaching and other supporting activities (including administrative activities) of TIMSR. Student means a person who has registered or

- enrolled as a full-time student, part-time student, casual student or an exchange student from other universities/colleges for certain courses at TIMSR.
- p. Project staff means a person employed temporarily on a contract under a research project, consultancy or any other activity carried out by TIMSR.
- q. Third Party- Any governmental or non-governmental organization with whom the First or the Second Party interacts for any activity with/without the exchange of consideration in cash or kind.
- r. Activity- Activities related to teaching, research, consultancy, generation and dissemination of information carried out by a person or an Institution independently, or collaboratively.
- s. Inventor(s) – A person or a group of persons responsible for creating an IP. In case, creation of IP is associated with more than one inventor, one of them, from TIMSR, would function as a **Lead Inventor**.
- t. Visitor- A person either from India or abroad visiting under a collaborative activity or associated work at TIMSR. It is expected that the visit has been approved by the competent authority of TIMSR.
- u. *Work for hire*- The work (or a product) originated from TIMSR and is meant for the specific purpose of TIMSR and produced by (a) an author during his/her employment at TIMSR or (b) non-employee under contracted work by TIMSR.
- v. *Work Commissioned/Outsourced* - work commissioned by TIMSR to a creator or group of creators either employed by TIMSR or invited from outside TIMSR with or without any consideration in cash or kind. Typical examples of TIMSR commissioned works are: Reports based on surveys and analysis.
- w. *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), etc
- x. *Non Disclosure Agreement (NDA)/Confidentiality Agreement* -The agreement intends to protect proprietary or confidential information among the parties involved in executing an NDA.



## **1.5 ADMINISTRATION OF IPR POLICY**

The powers and responsibilities to amend and implement IPR Policy by various entities are described below:

### **1.5.1 POWERS TO AMEND IPR POLICY**

TIMSR, through its Governing Council (referred to as GC), will have the full power to make changes to the IPR policy or bring out a new policy as and when it is felt necessary. This can happen in view of changes in government policies or other national and international developments including treaties and legal judgments. The changes or the new policy shall be applicable to all faculty/students//project staff/ supporting staff /visitors.

### **1.5.2 RESPONSIBILITY TO CREATE/AMEND PROCEDURES AND PROCESSES FOR IMPLEMENTATION OF IPR POLICY**

TIMSR, through its Director, will have full powers to create and amend administrative mechanism from time to time in view of the changing needs including creating administrative bodies and entrusting role and responsibilities to the various individual(s)/existing entities for evolving detailed procedures and to facilitate the implementation of the IPR policy of TIMSR.

### **1.5.3 APPEAL PROCEDURE**

In case of any conflict, grievance regarding ownership of IP, processing of IP proposals, procedures adopted for the implementation of IPR policy and interpretation of various clauses of IPR policy, any aggrieved person can appeal to the administrative body formed for the purpose to resolve the issue. In case the appellant is not satisfied with the decision of such a body, he/she can appeal to the Principal of TIMSR, whose decision shall be final.

### **1.5.4 IP INFRINGEMENT**

In case of violation/infringement of any intellectual property rights such as patent infringement by the TIMSR faculty /students/project staff/ supporting staff/visitors or any third party infringing upon the IPR of an TIMSR inventor, TIMSR would create an appropriate administrative body, which would first investigate the matter and make recommendations to the Principal for resolution of such violation/infringement. In case of any third party infringing upon IPR of TIMSR, the above administrative body would

investigate and make recommendations to the Principal including the need for any legal course of action.

## **Section 2**

### **OWNERSHIP OF INTELLECTUAL PROPERTY**

#### **2.1 INTRODUCTION**

Excellence in research and education, exchange and dissemination of knowledge are guiding principles of TIMSR. These activities may lead to the generation of new Intellectual Property (IP), which needs to be protected, developed, transferred and commercialized for the benefit of the society.

Also, the information on the newly created and protected IP should be disseminated at the earliest so that the scientific community is not deprived of its right to knowledge and carry out further research. This can be facilitated only if the Ownership of a newly created IP is clearly defined. Clarity on Ownership of IP protects the interest of both the inventor(s) and the society at large.

Like in case of other types of property where there is an owner who can sell, rent and gift the property, the same concept is applicable in respect of all IPs. An owner of an IP is the one who has the rights to enter into a transaction of IP such as licensing, selling, assigning of IPR or engaging in any other similar activity, to earn revenue or any consideration accruing from such an activity and retain, share and utilize the revenue so earned.

Owning an IP involves a process defined by law and has a cost associated with it. Each country has its own process and fee structure. An Owner needs to acquire ownership rights separately in each country by paying the necessary fee and associated expenses. Retaining the ownership involves payment of maintenance fee as per the prescribed schedule over the life of IP.

#### **2.2 TYPES OF ACTIVITIES LEADING TO GENERATION OF IP**

TIMSR has engaged itself in different types of Research and Development (R&D) activities including the following, which may generate intellectual property (ies):

- a. Research taken up by a faculty/student/project staff/supporting staff /visitor in the normal course of his/her appointment/engagement at TIMSR with funds coming from TIMSR (this would include research projects undertaken by students under the supervision of the faculty member);
- b. Research taken up by a faculty/student/project staff/supporting staff/visitor from funds coming from a sponsor such as Government of India, state governments, international agencies, or foreign governments, etc.;
- c. Collaborative research undertaken with other institutions including government departments and agencies, PSUs and private companies located in India;
- d. International collaborative research with institutions and companies located outside India;
- e. Research supported by companies and other private organizations through research projects or consultancy assignments; and
- f. Any combination(s) of the above

Ownership of IP in the above-mentioned situations may not be defined/ specified in the same way. The ownership definitions for different types of IP and other relevant aspects are described in

## **2.3 OWNERSHIP OF INTELLECTUAL PROPERTY (IP)**

### **2.3.1 Patent, Copyright on Software, Industrial design, IC layout design and New plant variety**

#### **(A) Intellectual property is owned wholly or exclusively by TIMSR if:**

- a. It has been developed either solely with the use of funds/facilities provided by TIMSR or with a mix of funds/facilities of TIMSR and external agencies but without any formal associated agreement
- b. It has been developed with the use of external funds/facilities, including, that of sponsored research and consultancy projects without any associated agreement.
- c. It has been developed under any contract arrangement including “work for hire”, work commissioned and/or outsourced by TIMSR.

- d. It has been developed pursuant to a written agreement where ownership has been transferred to TIMSR. Examples are work assigned to programmers, writers of TIMSR publications, etc.
- e. It is not assignable to an individual or a specific group of identifiable contributors, i.e. software or technology or process developed over a period of time with contribution from different individuals of / for TIMSR.

**(B) Intellectual property can be owned by Third party (ies) (exclusively or jointly with TIMSR) if:**

- a. It has been developed with external funding from Third party (ies) including sponsored research, consultancy projects and other collaborative activity (ies) with a formal associated agreement.
- b. It has been developed without external funding from third parties under collaborative project(s) or activity (ies) with Third party (ies) with the associated agreement(s).
- c. It has been developed out of the work carried out by TIMSR faculty/student/project staff/supporting staff during their visit to a Third party Institution/organization.

For sharing of IP in case of sponsored research and consultancy projects or any other collaborative activity, the following guidelines shall be followed:

- i. If the funding agency allows TIMSR to own the IP, then TIMSR may share its rights with another Third party (ies) subject to their respective contribution.
- ii. In case of funds provided by an agency of Government of India, the ownership shall be decided in compliance with the ownership clauses defined by the funding agency at the time of approval of the activity (ies).
- iii. In case of funds provided by a non-government agency - the ownership may be shared between TIMSR and funding agency. The sharing may take into consideration relative contributions of parties involved as well as any background IP with respective parties. Waiver of joint ownership can be considered by TIMSR on recommendation(s) of the involved Inventor(s) or Lead Inventor based on the adequacy of compensation provided to TIMSR.
- iv. For a multi-country/multi-institutional collaborative project, there must be an explicit agreement defining the ownership of IP generated.



Normally, IP will be shared among only those parties that contribute towards the creation of IP through direct involvement of their human/other resources.

**(C) The Intellectual property can be owned by the Inventor(s) if:**

None of the situations defined above for TIMSR or Third-party ownership applies, and the IP is unrelated to the inventor's engagement with TIMSR. For faculty and staff, the engagement implies responsibilities associated with employment. It is also expected that the person concerned would have pursued these activities outside of normal working hours of TIMSR.

**2.3.2 Copyright other than Software**

**(A) The copyright owned by the author(s):** The copyrights are owned by the authors for textbooks, research books, articles, monographs, teaching- learning resource materials and other scholarly publications unless restricted by an associated agreement. These may also include popular novels, poems, musical composition, other works of artistic imagination, etc. It is advisable to keep the TIMSR informed about such creations. Revenue generated, if any, from such activities, must be reported to TIMSR as per the prevailing rules of income from other professional activities/sources.

**(B) The copyright owned by TIMSR:** The copyright is owned by TIMSR if the work is created under any contract (same as described under Clause IA of Section 2.3).

**(C) The copyright reassignable to Authors:** Copyright works that are normally assignable to TIMSR may be reassigned to the author on request of the author provided it does not violate any agreement with the Third party and does not intervene/harm the interests of TIMSR.

**(D) Copyright owned by the student**

- i. Copyrights of a thesis, dissertations, term papers, laboratory records, and of other documents that are produced by a student during the course of his/her study will reside with the student unless restricted by an associated agreement and/or research carried out using facilities that have come to TIMSR with pre-imposed IP protection restrictions.
- ii. For claiming ownership of the copyright for thesis and dissertations, the student(s) has/have to declare that the thesis does not include any information that needs IP protection by TIMSR.

- iii. Further, any IP generated (other than copyright) out of the work carried out by the student would be covered as per Clause (A) and Clause (B) of Section 2.3.1.
- iv. If any such work could not be protected before submission of the thesis, concerned inventors should take steps to protect the IP within a period of one year of submission of the thesis. TIMSR would have a mechanism in place for processing such a thesis in order to protect the confidential information during this period.

### **2.3.5 WAIVER OF IP RIGHTS BY TIMSR**

Subject to any associated agreement and with appropriate approval from the sponsor, TIMSR may waive its rights to specified intellectual property in favour of the inventor so as to enable the inventor to seek funding or other support for the purpose of commercialization, or the Institute assessment doesn't favour IP protection. Such waiver of ownership in favour of the inventor(s) can be considered-

- a. if it is established that such ownership of the inventor would be essential to enable dissemination of benefits of the invention to the society, or
- b. if TIMSR decides not to pursue the protection of IP within a period of six months of complete disclosure by the inventor to TIMSR. The decision to pursue or not to pursue should be communicated to the inventor within a period of three months of complete disclosure by the inventor to TIMSR.

In all cases, unless explicitly agreed to, TIMSR shall normally retain a perpetual, royalty-free license to use the intellectual property and any corresponding IP for research and educational purposes.

### **2.3.7 COPYRIGHTS OWNED BY THIRD PARTIES**

#### **(a) Software**

TIMSR expects that its faculty/students/project staff/ supporting staff/visitors to understand the obligations made to the Third party related to software and databases. It is possible that TIMSR faculty/students/staff/project staff/visitors are engaged in developing software or other IP using the software, which are not in the public domain and are proprietary to certain suppliers. It is usual for TIMSR to procure such software for education and research purposes. Many such licenses may have restriction on IP creation and /or its commercial use.

It is important that, if there are any restrictions in the software employed for such IP creation, the same are settled with the owner/supplier of the software, before initiating IP protection. The software of general use shall be procured with a valid license.

**(b) Other copyrighted material**

TIMSR and its faculty, students, supporting staff, project staff and visitors

- i. will respect protection offered by Indian copyright law to all copyrighted material,
- ii. would use copyrighted materials for only personal use, teaching and research purposes as permitted by Indian law, and
- iii. would not use copyrighted material in their thesis, publications, reports and other professional documents without taking explicit prior permission of the copyright holder.

**Section 3**

**TRANSFER AND USE OF IP**

**3.1 INTRODUCTION**

The purpose of transfer and use of IP by TIMSR, which is a non-profit educational organization, is to meet one of its stated objectives of disseminating the fruits of research and development for the benefit of society. TIMSR recognizes that translation of created IP to products and services of benefit to society is a complex process that normally involves considerable risk-taking and expenses. The TIMSR policy on transfer and use of IP proposed here takes into account the above fact. Further, commercialization provides an incentive to the inventor(s) and provides 'technology push' to the invention and couples it to the 'market pull'. Commercialization of IP is generally carried out via licensing or assignment. A licensing agreement is a partnership between an intellectual property rights owner (licensor) and another who is authorized to use such rights (licensee) in exchange for an agreed payment (fee or royalty) whereas the assignment of IP involves the transfer of ownership irrevocably and permanently to the assignee by the assignor ([www.wipo.int](http://www.wipo.int)). Also, proprietary know-how generated by TIMSR is a known form of IP, and its transfer and use is covered by this policy.



### 3.4 POLICY FOR IP LICENSING AND ASSIGNMENT

Licensing intellectual property to a third party is the most common modality for technology transfer leading towards commercialization. There are various modes of licensing strategy including the following:

- i. Exclusive licensing: The licensor licenses the IP only to one licensee. In other words the licensee is the only one authorized by the licensor to use and exploit the IP. Even the licensor is excluded from using and exploiting the IP.
- ii. Sole licensing: In this case also, the licensor licenses to only one licensee. However, under this licensing, the licensor can also use and exploit the IP.
- iii. Non-exclusive licensing: In this type of licensing, the licensor is permitted to enter into agreements with more than one entity for use and exploitation of the IP. In other words, the same IP may be used by many licensees at the same time for the same purpose or for different purposes.
- iv. Sub-licensing: Sub-licensing is applicable when a licensee wishes to further license the IP to another party (ies).

Given the breadth of research and development taking place at TIMSR and diversity of the IP so created, each license agreement is somewhat unique to the technology being transferred. The following guidelines are applicable to license agreement with a Third party:

- a. generally, no entity shall be granted exclusive right for the development/commercialization of intellectual property owned by TIMSR.
- b. if an entity is granted exclusive rights with respect to a particular IP, the same should be for a limited period to obviate the possibility of misuse/no-use.
- c. sub-licensing must be specified whether it is permitted or not, and even if permitted, whether the consent of the licensor is required or not should be clearly stated in the license agreement.
- d. TIMSR and its inventors should be protected and indemnified from all liability arising from the development and commercialization of a particular intellectual property.
- e. wherever applicable, it should be ensured that the licensing process does not restrict the research/publication rights as well as the incorporation of necessary material in the thesis of the associated student inventor(s).

- f. will not place restriction(s) beyond the inventor(s) on TIMSR from entering into research and development in the same area independently or with other organization(s).

The license agreement may contain such other provisions as may be determined by TIMSR in the best interest of the society. Assignment of IP by TIMSR to another party may be carried out under the circumstances such as conditions by the government or its agencies, defence purposes or if the IP created distinctly accrues benefits to the society at large.

### **3.5 POLICY FOR IP LICENSING AND ASSIGNING FOR START-UP VENTURES WITH INVOLVEMENT OF INVENTOR(S) FROM TIMSR**

In order to encourage commercialization of IP registered and owned by TIMSR, inventor(s) of such IPs shall be encouraged to promote a start-up company (following the guidelines established by TIMSR) for developing a business proposition leveraging the IP under consideration. For this purpose, the start-up can also be accommodated at TIMSR, if so desired by the Inventor(s), after critical appraisal of the Business Plan as per applicable procedures of TIMSR.

The start-ups in the specified instances shall be licensed IPs owned by TIMSR on a limited exclusivity basis initially for a period of 3 years. The licensing fee may be decided depending on the nature of funding available for such a venture including the possibility of making the know-how/technology available even without any license fee. However, all such licensing should be accompanied by an appropriate agreement and a monitoring mechanism. During the limited exclusivity period, the start-up shall have 'no rights to sub-license' to any Third party.

Once the start-up venture establishes the commercial viability within the limited exclusivity period, the license agreement shall be re-visited and modified into exclusive over an extended period with a royalty consideration, the quantum of which shall be determined by TIMSR.

In case the start-up fails to achieve commercial breakthrough within the allotted period, the exclusivity of the license to the start-up shall be forfeited.

Further, as any entity set- is an independent commercial entity, TIMSR would not have any rights to IP/Know-how developed within the entity unless covered by an explicit agreement.

### **3.6 SHARING OF REVENUE BETWEEN TIMSR AND INVENTOR(S) – To Be Finalized in consultation with TIMSR Board and Managing Committee**

The sub-section refers to revenue generated from monetization of IP. Protection of IP among other things is meant to provide an incentive to all those associated with TIMSR with a potential for pursuing research leading to marketable product or processes and as a consequence generate revenue for TIMSR. Therefore, it is the policy of TIMSR to share the revenue from the monetization of IP among stakeholders. These stakeholders besides TIMSR will include inventors, associated academic entities of TIMSR and the administrative entities engaged in IP management and commercialization.

TIMSR reserves the right to determine the share of the different stakeholders involved in IP creation and dissemination from time to time.

Revenue share of the inventor(s) shall continue even after their association with TIMSR ends. The administering entity would evolve a procedure to enable this sharing.

### **3.7 POLICY RELATED TO THE USE OF NAME OF TIMSR AND TRADEMARKS OWNED BY TIMSR BY THIRD PARTIES**

TIMSR would allow the use of its name and trademarks owned by it to the Third party (ies) to whom IP has been licensed/assigned through a signed agreement on the following conditions:

1. IP is intended to be used for the benefit of society.
2. IP is licensed/assigned with an undertaking from the licensee/assignee that IP will be used-
  - 2.1. in a responsible manner to create a product/process conforming to environmental safety, and good manufacturing practices promoted by the Government of India and its regulatory bodies.
  - 2.2. in promoting truthful claims and information, i.e. not for misleading the society or users.
  - 2.3. without any liability to TIMSR in case of misuse of IP or accidental damage accruing due to the use of IP.
3. In no case, IP will be used against the interest of India.

In all such cases, the licensee/assignee must take prior approval of TIMSR about the manner in which the name of TIMSR and its trademarks are to be used in any media including print and electronic media.

### **3.8 NONCOMPLIANCE AND CONFLICT OF INTEREST**

All inventors are responsible for compliance with government rules and TIMSR's policies and ordinances related to the development and use of IP generated. In all activities arising out of implementation of IPR policy of the Institute, all faculty members/inventors are expected to avoid potential and mutual conflicts of interest.



**DR. PANKAJ NATU  
DIRECTOR**

