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# **INTELLECTUAL PROPERTY POLICY**

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**REVISED**

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**FOREWORD**

It is recognized that human intellect is the driver for development. The mind can generate ideas, designs and a variety of products with potential market value. The researcher and research institutions may often times not possess the capital or time to convert ideas or designs into market place products; and therefore depend on other agencies for that eventuality.

This Intellectual Property Policy contributes to the overall strategy for the development of the community and the country through proper management of ideas and products generated by members and associates with the goal of generating products for the market. It is my conviction that the Policy will contribute to enhancing conversion of research products and other ideas and designs, among others into commercial outputs.

**Signature:** .....

**Date:** .....

**DR. RACHAEL MASAKE**

**CHAIRPERSON OF COUNCIL**

## **PREFACE**

Rongo University Intellectual Property Policy provides a framework for unlocking the available University resource potential and mobilizing it towards creation of knowledge based enterprises. The policy is part of the overall strategy to contribute to the development of the community and the country.

In developing the policy, it was recognized that Rongo University is endowed with human and physical resources which can be harnessed to generate new knowledge through research and development. The policy is expected to govern the generation of new knowledge, processes and products and take care of the interest of all the stakeholders.

**Signature:** ..... **Date:** .....

**PROF. SAMUEL GUDU**

**VICE-CHANCELLOR**

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## **DEFINITIONS OF TERMS**

**Access to Innovation Agreement** means a **documented arrangement** that stipulates how one party can access innovation(s) that is (are) owned by another.

**Benefit sharing Agreement** means a **documented arrangement** stipulates how co-inventors, innovators and indigenous communities, licensors and licensees, employers and employees and indigenous owners of inventions can share benefits arising from the commercialization of an intellectual property.

**Confidentiality (Non-Disclosure) Agreement** means a documented arrangement stipulating how one party may discuss co-owned confidential information, including the work and ideas with other parties who are not party to the initial arrangement.

**Copyright** means rights legally granted for literary and artistic works, including software, literary novels, poems, plays, reference works, computer programs, databases, films, musical compositions and choreography, painting, drawing, photographs, and sculpture: architecture; maps, multimedia creations and technical drawings.

**Genetic Resources** means **inheritable** biological entities inherent in living forms that are the building blocks of life for humans and other forms of live,

**Indigenous Knowledge** means established old-age traditions and practices of a regional, indigenous, or local communities, encompassing the wisdom, knowledge and teachings of these communities.

**Industrial Design** means ornamental or aesthetic aspect of an article, including shape, patterns, lines or colour of an article that make an article attractive and appealing.

**Intellectual Property** means intangible creations of the human mind including copyright patents, breeder's rights, and innovations among others.

**Innovation** means modification, change or of pre-existing technology or solutions for improved application

**Invention** means original creation of method, item, process or composition.

**Invention Disclosure** means a formal description of an invention that is confidentially made by the inventor to Rongo University for purposes of legal protection of the invention.

**Inventor** means creator or creators, breeder or breeders and is understood to mean the person or persons who actually devises an invention or creates a work or breeds a plant as defined by the Industrial Property Act 2001, Copyright Act 2002 or Seeds and Plants Varieties Act Cap 326 respectively.

**Jua Kali** means micro-industrial processes which not only employ appropriate technologies but also informal strategic and developmental matrices.

**Rongo University** means the University as defined by the Rongo University Charter 2017.

**Know-how** means the actual human technical skills derived from experience in working on a certain technology, and may include trade secret.

**Licensing Agreement** means a written contract to third parties to put to use intellectual property developed by another party. Such licensing can be inclusive or exclusive.

**Material Transfer Agreement** means a contract that governs the transfer of one or more material important for biological, engineering, chemical, physical science applications with defined properties, from owner (or authorized licensee). To

a third party who wishes to use the material for research purposes.

**Patent** means 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 innovative and useful technical solution to a problem in industry.

**Patent Protection** means legal prohibition of use, distribution, sale of an invention without the patent owner's consent.

**Premature disclosure** means release of information concerning an invention or innovation to the public before an application legal for protection is filed, and may include abstracts, poster sessions, shelved theses or even general discussions describing an invention to an open audience

**Project Funding Agreement** means written funding commitments that stipulates roles, conditions processes and responsibilities under which the funds will be released and used; and management of the products that are generated;

**Research Collaborative Agreements** means a written commitment that governs nature, level and manner of interaction between two or more persons or institutions in a study or product development endeavour

**Support Staff** means all the non-teaching staff and students who assist the inventor(s)

**Trademark** means a distinctive sign, which identifies goods or services as those produced or provided by a specific person or enterprise..

**Trade Secrets means** confidential scientific, technical, business, commercial financial or such other information or knowledge or skill that is not publicly known, but is available to the to specific owners in their business, commercial or industrial practice.

**Utility Model** means a legally protected invention or unique product which does not meet all the requirements of patentability but has an industrial use..

**Publications** mean literary writings that are available in journal, proceedings, books, book chapters, modules and technical reports, among such media.



## **ACRONYMS AND ABBREVIATIONS**

<b>CA</b>	Confidentiality Agreement
<b>CDA</b>	Confidential Disclosure Agreement
<b>IP</b>	Intellectual Property
<b>IPR(s)</b>	Intellectual Property Rights(s)
<b>LAB</b>	Laboratory
<b>MTA</b>	Material Transfer Agreement
<b>RUIPP</b>	Rongo University Intellectual Property Policy
<b>PA</b>	Participation Agreement
<b>TTO</b>	Technology Transfer Office
<b>R &amp; D</b>	Research and Development
<b>RU</b>	Rongo University
<b>ATC</b>	Agricultural Training Centre

# **1. BACKGROUND OF THE UNIVERSITY**

## **1.1 Vision**

A world class technology driven University in learning and practice

## **1.2 Mission**

To provide quality and innovative higher education through teaching, research and community service

## **1.3 Core Values**

1. Integrity
2. Professionalism
3. Innovation
4. Equity
5. Social responsibility

## **1.4 Mandate of the University**

The University derives its mandate from the Rongo University Charter of 7<sup>th</sup> October, 2016, which stipulates the objects and functions of the University as follows:

- a) Provide directly, or in collaboration with other institutions of higher learning, facilities for technological, professional, and scientific education;
- b) advance knowledge and its practical application by research and other means;
- c) disseminate the outcomes of research by various means and commercially exploit the results of such research;
- d) participate in scientific and technological innovation as well as in the generation, discovery, transmission and enhancement of knowledge and to stimulate the intellectual life in the economic, social, cultural, scientific, and technological development;
- e) contribute to scientific, technological and industrial development of society in collaboration with industry and other organizations;
- f) make proposals for new academic programmes culminating in degrees, diplomas and certificates;

- g) make proposals for the establishment of colleges, campuses, faculties, schools, institutes, directorates, departments, centres and other resource and administrative units as may be appropriate;
- h) inculcate a culture of innovation in technology, engineering and science amongst staff, students, and society;
- i) promote education in social dynamics, science and technology within the institution and society;
- j) develop an institution of excellence in teaching, training, scholarship, entrepreneurship, research, consultancy, community service, among other educational services and products;
- k) provide a multi-level system of education and training that is relevant to the needs of the local, national and global community covering a wide range of fields and levels with provision for recognition of prior learning and flexibility of transition between educational levels;
- l) play a leading role in the development and expansion of opportunities for socio-cultural, technological and vocational education and training;
- m) provide high quality educational, research, residential, commercial, cultural, social, recreational, sporting, and other facilities;
- n) facilitate student mobility between programmes of study at different accredited technical training institutions, polytechnics, and universities;
- o) promote critical enquiry, independence and creativity in education, training and research within the institution;
- p) participate in commercial ventures and activities that promote the objectives of the institution;
- q) foster the general welfare of students and staff;
- r) provide equal opportunity for development and further training for staff of the institution;
- s) develop and provide educational, cultural, professional, technical and vocational services to the community and, in particular, the fostering of corporate social responsibility;
- t) provide programmes, products, and services in ways that reflect the principles of equity and social justice;

- u) conduct examinations for, and grant such, academic awards as may be provided for in the Statutes, and to syndicate examinations for awards at other institutions as may be approved by the Senate;
- v) generally, facilitate the development and provision of appropriate and accessible academic and other programmes.

## **2. JUSTIFICATION**

There is need for an Intellectual Property Right (IPR) policy that covers all areas of research such as: intellectual property policy, ownership of an intellectual property, disclosure of an intellectual property, marketing, commercialization and licensing of intellectual property rights, distribution of income, rights and obligation of Rongo University, financial sponsors and investors, contract research, individuals consulting/outside activities and collaborative research and development. Thus an IPP is imperative because:

- 2.1.1 The University is endowed with human and physical resources which are essential for the generation of new knowledge and inventions that could spur its growth and development.
- 2.1.2 Intellectual Property Rights Policy is required to govern the innovative activities of staff and students that can lead to inventions of commercial value.
- 2.1.3 The policy safeguards the interests of the creator/inventor, the University, Financial Sponsor other than the University, and how to deal with licenses and licensors.
- 2.1.4 The Intellectual Property Rights Policy is a tool for enhancing staff and corporate research ventures and could lead to enhanced private Sector involvement in funding research activities of the University.
- 2.1.5 The Intellectual Property Rights Policy is the epitome of research activities in an institution and is part of Performance Contract signed annually between the Government and the University.

## **2.2 Technology Transfer Office**

There is need to create a Technology Transfer Office (TTO) in the University which will be run and funded under the office of the DVC (for the time being, in charge of research) whose main functions include:

- 2.2.1 To advise the University Council, staff and Students through the DVC (for the time being, in charge of research), involved in research on how to benefit from any innovation that they can develop for their own and University's benefit.
- 2.2.2 To scout, identify the potential and/or commercial value, and initiate commercialization of intellectual property right that emanates from innovative research initiatives of staff and students of the University.
- 2.2.3 Sensitizing stakeholders (staff, students and Council) on intellectual property management and obtain appropriate IPR protection and identify suitable commercial development partners that can work on innovations from the University
- 2.2.4 Developing mechanisms within the University for negotiating, licensing and management of Intellectual Property Rights.
- 2.2.5 Helping the researchers identify industrial problems solvable through research and assisting Heads of Departments to ensure proper signing of the Participation Agreement, Material Transfer Agreement, Confidentiality Disclosure Agreement, among others with other institutions.
- 2.2.6 Building and enhancing the capacity and documentation needed to perform technology searches, formulation of IPR applications and providing such services to the public at a fee paid to the University.
- 2.2.7 Facilitating the refining of Jua Kali technology and Indigenous Knowledge through standardization of process and products by University researchers for marketing.

### **3. THE OBJECTIVES OF THE INTELLECTUAL PROPERTY POLICY**

This policy provides a framework for harmonizing competing interests of all the stakeholders in the generation and commercialization of intellectual property.

Therefore, the objectives of the intellectual property policy include:

- 3.1.1. To uphold IP rights as embedded in Article 40 of the Constitution of Kenya, 2010;
- 3.1.2. To govern and ensure that discoveries, inventions and creations generated by the staff and students of Rongo University or jointly with collaborating researchers from other institutions are utilized in ways most likely to benefit the public and motivate further research and development;
- 3.1.3. To create an enabling environment that encourages creativity, innovation and application of the new knowledge to produce commercializable inventions for the benefit of all stakeholders;
- 3.1.4. To protect the rights of scholars and the Institution to benefit from the products of research and intellect and ensure a fair distribution of income accruing from such ventures;
- 3.1.5. To promote, preserve and encourage research by rewarding staff who innovate, invent and create intellectual properties;
- 3.1.6. To establish standards for determining the rights and obligations of Rongo University, Inventors(s) and other stakeholders with respect to inventions, discoveries and works created at the University;
- 3.1.7. To ensure compliance with the relevant national laws, and enforce ethics and standards for technology growth and development;
- 3.1.8. To sensitize students, staff and private sector on IP and tap creativity among the youth and general public.

## **4. SCOPE OF THE POLICY**

The policy covers all forms of IP and affects all the members of the University and associates as well as other stakeholders who may contribute to IP or whose IP members of the University may exploit. The ultimate intention is to facilitate protection of the IPs, and conferring intellectual property rights (IPRs) and related issues. Specifically it provides guidelines on handling patents, utility models, industrials designs, copyright in literary work and geographical indication, trade and service marks, plant variety protection, trade secrets and know-how, contract research, research collaboration and indigenous knowledge.

### **4.1 Patent**

This policy recognizes a patent to be an exclusive right granted for an invention, which is a product of/or a process that provides a new way of doing something, or offers a new innovative and useful technical solution to a problem in industry. In Kenya, a patent provides protection for the invention to the owner of the patent for a period of 20 years, after which the invention becomes available for commercial exploitation by others free of charge. During the protection period, the invention cannot be commercially made, used, distributed or sold without the patent owner's consent. These patent rights are usually enforced in a court, which holds the authority to stop patent infringement.

A patent owner has the right to decide who may or may not use the patented invention for the period of which the invention is protected. The patent owner may give permission to/or license other parties to use the invention on mutually agreed terms. The owner may also sell the rights to the invention to someone, who will then become the new owner of the patent.

It is imperative that all staff and students of Rongo University involved in research are aware of the provisions of the patent law in order to benefit from their inventions.

### **4.2 Industrial design**

This policy recognizes an industrial design to be the ornamental or aesthetic aspect of an article. It makes an article attractive and appealing; hence add to the commercial value of a product and increase its marketability. The design may be the shape, the patterns, lines or color of an article.

Industrial designs are applied to a wide variety of products of industry such as handcraft, and technical, medical/ house wares, electrical and those that are architectural in nature.

Industrial designs are protected under the Kenyan laws (Industrial Property Act 2001) protection gives the owner exclusive rights against unauthorized copying or imitation of the design by third parties. The duration of protection is generally five years, renewable twice for further periods of five years each.

### **4.3 Trade Mark**

This policy recognizes a trademark to be a detective sign, which identifies certain goods or services as those produced by a specific person or enterprise. It helps consumers identify and purchase a production or service because its nature and quality, indicated by its unique trademark, meet their needs. In Kenya, the *Trademarks Act Cap 506* protects trademarks.

A trademark provides protection to the owner of the mark by ensuring the exclusive rights to use it to identify goods or services, or to authorize another to use it in return for payment. Trade mark protection is enforced by the courts, which have the authority to block trademark infringement. Trademark protection also hinders the efforts of unfair competitors, such as counterfeiters, to use similar distinctive signs to market inferior or different products or services.

For Rongo University, a trade mark will be important as the university strengthens its income generating enterprises, including sale of goods and services.

### **4.4 Utility Model**

A utility model is an invention which does not meet all the requirements of patenting but has an industrial use. They may also be looked at as industrial designs that have been developed on a miniature scale that are used to develop full scale products. In Kenya, the *Industrial Property Act 2001* protects utility models. Rongo University will put emphasis on utility models with the primary objective of encouraging the rapidly evolving, indigenous innovativeness, particularly in small and medium scale enterprises as well as the informal sector (Jua Kali).

### **4.5 Copyright**

A copyright is a legal term describing a right given to the creator for his/her literary and artistic works. From Rongo University's points of view, the works covered by copyrights include



literary novels, poem, plays; reference works, computer programs, databases, teaching modules, films, musical composition and choreography, artistic work such as painting, drawing, photographs, sculpture, architecture, maps, multimedia and technical drawing.

In Kenya, copyright is protected by the Copyright Act, 2002. The creator of copyrights holds the exclusive work and thus can prohibit or authorize:

- i. Its reproduction in various forms, such as printed publication or sound recording.
- ii. Its public performance, as in a play or musical work.
- iii. Its recordings, for example, in the form of compact discs, cassettes, or videotapes.
- iv. Its broadcasting, by radio, cable, or satellite.
- v. Its translation into other languages, or its adaptation, such as novel into a screen play.
- vi. Its availability for access such as through a website.

Many creative works, protected by copyright, require some distribution, communication, and financial investment for their dissemination (for example, publications and computer programs). Therefore, Rongo University may need to sell or license the rights to individuals or companies best able to market the works for payment in return.

Copyright protection also includes moral rights, which involve the right to claim authorship of a work, and the right to oppose changes to it that could harm the University's reputation. Rongo University may wish to oppose the user of copyright in circumstances that the university would not wish, as an upright citizen, to be associated with (e.g. to promote a racist agenda or immorality).

## **4.6 Trade Secrets and Know-How**

### **4.6.1 Trade Secrets**

Trade Secrets comprise confidential data or information used in research, business, commerce or industry. They include confidential scientific and technical business, commercial and financial information not publicly known, which makes an organization's enterprises have a competitive edge over others.

Trade Secret information may be disclosed or shared under the terms of a Confidentiality Agreement, which may be created in sponsored research projects. In this case, the sponsor may require the university to preserve the secrecy of the information.

#### **4.6.2 Know-How**

Know-how refers to the actual human technical skills derived from experience in working a certain technology. It may or may not be part of trade secret. Licensing of most new technologies work best when accompanied by transfer of know-how either through; training, manuals or secondment of personnel to the licensor until the licensor's personnel are able to optimally utilize the invention.

#### **4.7 Plant Varieties Protection**

As one of the institutions of higher learning, Rongo University will be involved in research for the development of new plant varieties. In Kenya, new plant varieties are currently protected under the *Seed and Plant Varieties Act Cap326* of the Laws of Kenya by giving the breeder limited monopoly rights over the varieties they have created by way of registering plant **varieties**. This is often referred to as Plant Breeders' Rights.

#### **4.8 Indigenous Knowledge**

Based on the Rongo University Charter and Statutes, the institution may engage in research that involves tapping from the existing indigenous knowledge. The institution therefore being aware of the need for protection of such rights from undue exploitation by unauthorized third parties, shall ensure that adequate contracts that control access and benefit-sharing with the source community are put in place.

Subject to other provisions herein, protection of intellectual property emanating from such indigenous knowledge shall acknowledge the contribution of such parties and if such registrations are as a result of collaborative research with international institutions or persons, then the community shall be considered a joint owner. Under such circumstances, should there be royalties accruing from the commercialization of such intellectual properties, then commensurate benefits will be given to the community.

## **4.9 Genetic Resources**

Genetic Resources refer to the inherited bio-property inherent in diverse living forms which ensures that the web of life continues for eternity to serve future generations. They could be endowed with socio-economic value which makes the very fabrics of the natural environments. The more diverse the genetic resources are the better. Rongo University staff may engage in research that involves tapping from genetic diversity and therefore should:

- i. Be sentient to the fact that by using genetic material, new crop varieties can be continuously developed to better resist pests and diseases and adapt to changing environmental conditions.
- ii. Be aware of the great value the genetic material and the associated indigenous knowledge have been used by traditional healers among communities from nearly every country around the world. They provide tremendous and indispensable source of materials for research in the most modern laboratories and may be used by the University from time to time.
- iii. Know that genetic resources have been used to produce cancer-fighting drugs, dietary supplements, chemicals for clothing, manufacturing and perfumes, among other things hence the profound link with the University's vision and mission and national development goals.
- iv. Be sentient to the fact that by securing potential royalty or direct revenue streams, genetic resources open new avenues for resources, which must be shared equitably and the rights of the indigenous communities who have created this knowledge must also be protected.

## **5. AGREEMENTS AND OTHER RELATED CONTRACTS**

It is imperative for Rongo University to formulate appropriate agreement, documents and other related contracts for the management of Intellectual Property Rights. The required agreements and contracts that allow inter or multi-institutional collaboration in research include:

- i. Collaborative Research Agreement
- ii. Participation Agreement
- iii. Material Transfer Agreement (MTA)

- iv. Confidentiality (Non-Disclosure) Agreement
- v. Licensing agreements
- vi. Project Funding Agreement
- vii. Access to innovation and Benefit Sharing Agreement

In general, each participant in a research collaboration project shall be required to sign a Participation Agreement that confirms acceptance of the provisions of **RUIPP** as provided for in the Rongo University Research Policy. Each Head of Department must confirm that a valid “Participation Agreement” is on file before any University’s resources are made available for the students and other researchers from outside of the University

There shall be Material Transfer Agreements, which will govern the transfer of proprietary tangible property, often biological materials to or from Rongo University during collaborative project with other institutions and industries. Each Head of Department shall ensure that appropriate Materials Transfer Agreement is developed with the collaborating institution and signed by the authorized officer of the University.

There shall also be a Confidentiality (Non-Disclosure) Agreements, Licensing Agreements, Access to Innovation Agreements, and Benefit Sharing Agreements, to govern research, ideas and information between Rongo University and other Institutions.

## **6. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS**

The policy highlights conditions under which the IPRs shall be owned by the university, sponsor or staff. The RUIPP will be used to handle issues related to publications, theses and dissertations as well as ownership of equipment purchased through contract and sponsored research.

### **6.1 Ownership of Intellectual Property Rights by Rongo University**

- i. Rongo University is a stakeholder in the protected and/or commercialized intellectual property policies and shall own any Intellectual Property that is made, conceptualized, discovered or created by a member of staff, students, visiting researchers etc, in the course of their employment and responsibilities or any person who makes significant use of the institution’s resource in connection with the development of such Intellectual Property.

- ii. The tangible resources that can be provided by the University to the inventors include office, lab and studio space and equipment, computer hardware, software and support, secretarial services, research, teaching and laboratory assistants, supplies and utilities, funding for research, and University time.
- iii. The use of library facilities, and other facilities available to the general public, shall not be considered by Rongo University as “significant use” of institution’s facilities and equipment for the purposes of ownership of an invention.
- iv. In summary, Rongo University shall own any Intellectual Property that is made, discovered, or created by anybody that is specifically hired or commissioned by the University for that purpose, unless otherwise provided by prior written agreement between such individual and the University.

## **6.2 Ownership by a Financial Sponsor**

- i. Rongo University shall own all Intellectual Property Rights made, discovered, or created in the course of research funded by a Sponsor, unless otherwise provided by prior written agreement between Rongo University and the Sponsor.
- ii. Where a Sponsor specified a technical problem to be solved by the research at the University but however, stumbles on a totally different and unrelated invention in addition to solving the Sponsor’s problem then the “accidental” invention shall belong to the University
- iii. However, where Rongo University is involved in collaborative research with another institution(s) or business entity, the Intellectual Property Right shall be co-owned and the distribution of royalties will be governed by contractual agreement between the parties. Both institutions shall contribute equally towards expenses related to acquiring IP Rights and Licensing.

## **6.3 Ownership by Individual Staff**

The staff inventor will be a major stakeholder in the process of commercializing of intellectual property rights due to his/her intellectual input, conceptualization of idea and investment in terms of time and capital.

- i. Inventions for which individuals can prove that they did not use University resources and time shall belong to the inventor. If an inventor makes, creates, or discovers Intellectual Property and claims that he/she did not make “significant” use of Rongo University's resources, but the Intellectual Property closely resembles a specific research project that the inventor has conducted at Rongo University it shall be argued that the Intellectual Property was developed with the use of Rongo University resources. Under such condition, the inventor shall be required to provide documentary evidence supporting the claim that he did not use University resources.
- ii. Rongo University will not take any responsibility for IP information disclosed or used at the University by a former employee of another institution or by an employee of an institution in collaborative (or like relation) research with Rongo University without the consent of the other institution.
- iii. If within a period of one year, an otherwise member of the University who ceases to be a member of the University comes up with an invention, such invention shall be deemed to belong to the University unless there is clear proof that the invention was fully carried out without utilization of University resources and time while the person was a member. The burden of proof shall be on the person.
- iv. If Rongo University does not exploit an invention within five years after the grant of Intellectual Property Right, the University may reassign ownership to the inventor upon request.
- v. Should Rongo University not express an interest to pursue patent protection (due to perceived low commercial potential, ethics and morality issues etc) the University will, in writing, assign to the inventors the right to the invention.
- vi. In the event of any dispute between the University and property owner the parties may mediate the issue on the first instance through arbitration; provided that if this fails, then the parties may have the issues settled through court of justice process;
- vii. Intellectual property that has been protected as property of the University shall have asset value of the cost of the certificate of protection if such property has not been exploited through sale or other forms of commercialization.

#### **6.4 Publications, Theses and Dissertations**

- i. Students' theses and dissertations are considered "Exempted Scholarly Works" therefore the students will own copyright subject to a royalty-free license to Rongo University to reproduce and publish for the purpose of training and research at Rongo University. Students shall normally not be allowed to publish their theses and dissertations until the office of Deputy Vice Chancellor (A&SA) confirms that there are no Intellectual Property Rights issues to be compromised by such publications.
- ii. Rongo University shall protect the right of faculty, students and other employees to publish the results of their work, by ensuring that where applicable, preliminary application of Intellectual Property Right is undertaken. However, where Intellectual Property Right issue is involved, the delays should not be beyond six (6) months.
- iii. For a publication arising from contract research, the University shall not be allowed to publish unless otherwise stated in the contract.

#### **6.5 Where the Inventor Opts to Commercially Exploit an IPR**

Where Rongo University allows the Inventor(s) to commercially exploit his/her invention the University will retain ownership of the invention, but shall give license to the inventor(s) who will then pay royalties to the University. Such offers shall be subjected to competitive bidding.

#### **6.6 Ownership of Equipment and Vehicles**

Equipment and vehicles purchased on externally funded research contract shall remain property of Rongo University upon completion of the contract. The equipment and vehicles will be under the custody of the department involved in the research. Where more than one department is involved, the office of the Deputy Vice Chancellor (A&SA) shall determine the distribution of the equipment and vehicles and their use.

### **7. DISCLOSURE OF INVENTIONS**

The policy addresses issues related to handling of disclosure of inventions and creations, premature disclosure, obligation of the university and inventors during and after disclosure of inventions, as well as the management of confidential disclosure agreements.

## **7.1 Disclosure to Technology Transfer Office**

A disclosure of an invention shall be understood as a formal description of an invention that is confidentially made by the inventor to Rongo University through the TTO for the purpose of protection.

1. The University is sentient to the fact that Invention Disclosure to a competent office is important for keeping records, processing protection and commercialization, or making available Intellectual Property to the general public.
2. On the creation of Intellectual Property the Inventor(s) will complete and submit to the Technology Transfer Office an Invention Disclosure.
3. All researchers in Rongo University shall be obliged to disclose all potentially protectable creations and inventions conceived in the course of their responsibilities
4. The TTO shall develop and administer Invention Disclosure Forms to assist inventors. The key information required on the Disclosure form shall include:
  - i. Invention or innovation title.
  - ii. Names of all inventors and the degree of their contributions to the invention.  
All the inventors through their signatures must confirm this statement.
  - iii. Descriptions of the invention.
  - iv. Sponsorship, (if any).
  - v. Dates of conception and realization of invention.
  - vi. Material Transfer Agreement (if any).
  - vii. Any other information that will be relevant.
  - viii. Any other agreement entered into, that is relevant to the invention.
5. Rongo University researchers shall be sensitized on the importance to record invention as early as possible and as complete and accurate as possible. The description shall be written to allow another person reading it to comprehend and reproduce the invention.



The description shall be written preferably in a bound notebook with numbered pages in ink.

6. Submitting a disclosure is the first formal step in obtaining proper intellectual property protection. Inventors are strongly encouraged to submit invention disclosures early in their invention development process to avoid any potential ownership dispute.

## **7.2 Premature Disclosure**

Premature disclosure is the release of information concerning an invention to the public before an IP application is filed. Premature disclosure includes abstracts, poster sessions, shelved theses or even certain talks describing an invention to an open audience. Such premature disclosure may disqualify an invention for protection. Technology Transfer

Office should adequately advise researchers against premature disclosure.

## **7.3 Obligations of Rongo University during and after Disclosure**

- i. In all cases, an intellectual property that a member of staff discloses for possible commercialization, Rongo University shall be obliged to determine its commercial potential.
- ii. Intellectual property Disclosures to TTO shall be considered confidential by Rongo University. Thus all members of the Technology Transfer Office shall sign an agreement to this effect and shall be liable to being sued for breach of confidentiality.
- iii. Rongo University shall encourage industry (ies) to development its inventions and technology and seek to facilitate the transfer for such technology for the use and benefit of the University and the public.
- iv. Rongo University shall provide a process for resolution of disputes that may arise between the University and other institutions, sponsors and inventors regarding Intellectual Property Rights. In all cases the Kenyan law shall prevail.

## **7.4 Obligations of the Inventor during and after Disclosure**

- i. Rongo University personnel are obliged to disclose in details and timely manner all inventions, discoveries and other works. Therefore, the inventor(s) shall provide such

assistance to Technology Transfer Office as may be necessary throughout the technology transfer process to protect and license the intellectual property.

- ii. The inventor(s) shall be responsible for the retention of all records and documents that are necessary for the protection of the interest of Rongo University in the intellectual property. A copy of these records shall be deposited with the Technology Transfer Office.
- iii. The inventor(s) shall abide by all commitments made in license, contract research and other agreements related to privately funded research. The inventor(s) shall promptly disclose all potential conflicts of interest (e.g. research with multiple sponsors) to the University.
- iv. The inventor(s) shall be expected to apply reasonable judgment as to whether an invention has commercial potential and without delay make formal disclosure of the same to the Technology Transfer Office.
- v. The inventor(s) shall be obliged to disclose his/her invention as soon as possible and to delay Public disclosure until the evaluation process is completed and IP application is filed.

#### **7.5 Confidential (Non-Disclosure) Agreement (CDA)**

- i. During the evaluation period, an invention may be safely disclosed outside of Rongo University under the protection of a Confidentiality (Non-Disclosure) Agreement (CDA). Disclosures made under an appropriate CDA are not considered public disclosures.
- ii. A Rongo University researcher may receive confidential information from other organizations in relation to research he/she performs at Rongo University. The collaborating institution may impose serious non-disclosure and non-use obligations on the confidential information and may claim an ownership interest in inventions that may arise in the course of research performed with such confidential information.
- iii. The person for the time being responsible for the Technology Transfer Office shall together with the University Legal Office prepare a CDA for signification by an authorized university officer.

- iv. When Rongo University staff, in the course of contract research, receives confidential information, the treatment of such confidential information will be governed by the terms of the agreement applicable to the contract research.

## **8. COMMERCIALIZATION, MARKETING AND LICENSING**

The policy covers issues relating to commercialization marketing and licensing. The RUIPP proposes the development of a manual to assist in the evaluation of the commercial potential of the intellectual property rights (IRPs) developed by the university personnel and its collaborators. The RUIPP also proposes the development of guidelines with a checklist of terms, which must be considered when discussing a licensing agreement.

### **8.1 The Role of Technology Transfer Office**

- i. The TTO and the inventor(s) will evaluate the commercial potential of invention(s) in the university. All commercialization of the intellectual property developed in the University shall take place in accordance with the terms of Rongo University Research Policy, Rongo University Intellectual Property Policy, Rongo University Extension and Outreach Policy, and in accordance with the principle of ‘Benefit to Kenya’.
- ii. Maximum benefit would be derived from the creation of high-quality jobs in Kenya and short term economic benefits (e.g. licensing to the highest bidder regardless of whether in the country or not) will be subordinate to the long term benefits to companies with operations in Kenya and strengthening Kenya’s economic base and capacity to invent. The university may license the right to commercialize its intellectual property and will strive to get the best deal for both the university and the inventor.

### **8.2 The Distribution of Income to Stakeholders**

The policy proposes that the revenue generated through commercialization of intellectual property from Rongo University should benefit the University, inventor, the inventor’s research and research group, University’s Intellectual Property Fund and University -wide research projects. The proportions distributed to each are subjected to review from time to time by the TTO.

1. Gross income shall be understood as funds commercialization of an intellectual property. Net income shall be understood as gross income less expenses incurred by the University for intellectual property rights processing, protection, maintenance and licensing.
2. Where an invention made by an employee of the University is commercialized, the net income shall be distributed to the following:
  - i. Inventor(s)
  - ii. IP fund of Rongo University Inventor's research
  - iii. Inventor departmental infrastructure
  - iv. School infrastructure
  - v. University -wide bonus
  - vi. Technology Transfer Office
  - vii. University - wide research project
3. The proportion to be distributed to each of the above interest will be determined by the Rongo University Senate and approved by the University Council from time to time.
4. In the absence of a written agreement to the contrary, multiple inventors shall receive equal portions of the inventor's share of net revenue. When multiple inventors are located on different departments, schools and campuses, the same shall also apply to the units.
5. It should be understood that the inventor shall continue to receive his/her shares even after leaving employment of the University. In the event of death of the inventor, the legal next of kin shall receive the benefits.

### **8.3 Equity Shares**

- i. Rongo University may opt to negotiate for partnership or a joint venture with any other entity that has obtained a license to the University' technology in exchange for royalty.
- ii. Rongo University may also opt to negotiate for equity interests in lieu for or in addition to monetary considerations a part of an agreement between it and an external entity relating to applicable intellectual property.
- iii. Where the University has taken the equity option, investors(s) shall be allowed to make decisions whether to take the equity or royalty option. Where Rongo University owns

equity interests, the monetary proceed generated by the sale of such equity interest, shall be distributed according to contracts for revenue distribution.

## **9. IMPLEMENTATION**

For implementation, the University will create a unit called Technology Transfer Office (TTO), under the office of the Deputy Vice Chancellor, (A&SA) to help implement the IPP. The implementation of appropriate intellectual property policy can enable Rongo University generate significant income through;

- i. Royalty and fees from licensed intellectual property creations from innovation and inventions,
- ii. Consultancy
- iii. Research contracts
- iv. University owned companies and joint ventures
- v. Utilization of R &D findings

In order to reap adequately from the planned endeavour, Rongo University recognizes the need to take care of the interest of all the stakeholders who contribute in one way or the other in the process of commercializing of innovation, invention and research findings.

These include;

- i. Inventors
- ii. Support staff and students
- iii. The university
- iv. Inventors Department
- v. Visiting scholars,
- vi. Sponsors – industry donors
- vii. Technology transfer office
- viii. Licensee/licensor and
- ix. Collaborating institution

## **10. EFFECTIVE DATE**

This Policy shall become effective on the date it is approved by Council.

## **11. AMENDMENTS**

This Policy may be amended from time to time by Council as need may arise.