



## **NBRC Policy on Intellectual Property Rights**

*Note: This IP policy is formulated in the September, 2019. This policy shall be reviewed and revised, if necessary, as and when required. The policy is in compliance with the Department of Biotechnology OM No. BT/NBDB/13/01/2018 dated 29.10.2018.*

### **1. Background**

The National Brain Research Centre (NBRC) is engaged in fundamental research and technology development resulting in the creation of intellectual knowhow in areas of neurosciences and allied areas. Intellectual Property Cell (IP cell), which will function under the Registrar's office, NBRC, is entrusted with responsibility to serve the NBRC community towards intellectual property and technology transfer issues towards practical applications that benefit society.

This policy: [a] deals with the ownership, protection and commercialization of intellectual property and know-how created by employees and students of the NBRC as well as the interface with others who may fund or collaborate with NBRC in the creation of intellectual property and know-how, and [b] explains how the rewards from commercialization will be shared.

As intellectual property issues can be fairly complex and there cannot be rules to address every possible situation, this Intellectual Property Policy seeks to provide guidelines for those who create Disclosable Works. Disclosable works are those that can be legally protected such as inventions with utility and novelty, writings, designs, trademarks, data sets, know-how etc.

This policy will be periodically reviewed to determine whether or not it is functioning as intended to meet its objectives. Changes may be made by the Director with the approval of the Governing Council from time-to-time as considered necessary.

### **2. What Disclosable Work does this Policy apply to?**

It is not possible to list all kinds of Disclosable Works. Where there is any doubt as to whether this Policy may apply to any work that has been done, it is essential that this is notified to the IP cell urgently. However, the following is a non-exclusive list of examples of Disclosable Works:- inventions (whether or not patentable); methods, protocols, operating procedures and similar works; reports to sponsors and other works created specifically in the performance of projects supported by external sponsors; registered and unregistered designs, trademarks, plant varieties, and semiconductor topographies; databases, computer hardware, software, firmware

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*NBRC, Manesar acknowledges that this policy is largely based on and adapted from Bangalore Biocluster IP policy as downloaded in August 2019.*

and related material; works generated by computer hardware or software owned or operated by NBRC; films, videos, typographical arrangements, field and laboratory notebooks; multimedia works, any other works created with the aid of NBRC facilities, works commissioned by the NBRC and know-how and information associated with the material in this Section.

## **2.1 What is Intellectual property?**

Intellectual Property or IP as per the World Intellectual Property Organization (WIPO), pertains to “the rights relating to: literary, artistic and scientific works; the performance of performing artists, phonograms and broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks; service marks and commercial names and designations; and all other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.”

Intellectual property rights include but are not limited to patents (also any new and useful invention whether patentable or not), utility models, copyright including software, integrated circuit design, design rights, plant varieties, geographical indications, trade mark, know-how, trade secrets and data sets. The NBRC will own all Disclosable Works of their respective employees, students etc. but there may be exception in that under the terms of this Policy inventors may be eligible for a share in revenue obtained from the commercialization of the Disclosable Work. These exceptions would be handled on a case-by case basis.

### **2.1.1 Types of IP**

**Some relevant types of relevant IP include:**

#### **Patent**

A patent is an exclusive right granted for a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. A patent must be registered and annual fees must be paid. The protection is granted for up to 20 years (as stipulated in the TRIPS agreement). A patent allows the proprietor to prevent others using their product or process but it may be licensed or assigned to others. Patents are granted country by country and, once a patent expires, the protection ends, and the invention becomes part of the public domain becoming available for commercial exploitation, free of charge, by others.

#### **Industrial Design**

An industrial design relates to the shape or aesthetic appearance of an article and does not protect any technical features of the article. The design may consist of three-dimensional features, such as its shape or surface, or of two-dimensional features such as patterns, lines or color. Industrial designs are embodied in a wide variety of products of industry and handicraft, from technical and medical instruments to watches and jewelry. In most countries an industrial design must be registered which gives an exclusive right against unauthorized copying or imitation of the design by third parties. The duration of protection varies from country to country and may be as long as 25 years.

#### **Trademark**

A trademark is a distinctive sign, consisting of one or more words, letters, numerals or logos. A trademark identifies the source of goods or services. A trademark gives the owner of the

mark an exclusive right to use the sign to indicate that certain goods or services originate from them. A trademark must be registered for a fee and can be renewed indefinitely.

### **Utility Model**

A utility model is an invention that does not meet all the requirements of patentability but has an industrial use.

### **Copyright**

Copyright is the right given to an Inventor/s for a period of time to prevent others from copying their original work. It covers many things including literary works, such as novels, computer programs, databases and films, musical compositions, artistic works and works of architecture.

To obtain copyright protection the work must have been recorded in some form, physical, electronic or otherwise. Copyright protection also includes moral rights, including the right to claim authorship of a work, and the right to oppose changes to it that could harm the Inventor/s's reputation.

### **Trade Secret**

Trade secrets consist of important confidential data, information or compilations used in research or business which are not publicly known. The secrecy of the information must be maintained to conserve its trade secret status but may be disclosed under the terms of a confidentiality agreement. Confidential information may be created in sponsored research projects and the sponsor will generally require the secrecy of the information to be preserved.

Trade secrets in the form of know-how may be vital to the working of patented inventions and other innovations. Trade secret information may have considerable value by itself or in conjunction with other forms of intellectual property.

### **3. To whom does this intellectual property policy apply?**

This policy applies to all employees of NBRC (permanent, temporary and/or contract employees), all of its students (including project fellows), postdoctoral fellows, visiting scholars, and all others involved in activities in whole or part sponsored or funded by NBRC or by a Sponsor.

## **4. Disclosure protocol and Role of IP cell**

### **4.1 Process of invention disclosure**

For inventors from NBRC upon realisation that they have created a Disclosable Work it is essential that the inventor/s retain confidentiality and promptly notify the IP cell. Any statement, whether oral (in conferences, seminars etc.) or written (publications), which is/are made to another person with no obligation to keep the information confidential will invalidate the registration for a patent in many countries. As such, disclosure of inventions must be carried out by correctly completing the Disclosure Form [Annexure A]. This form asks for a description of the circumstances under which the Disclosable Work was created or invented, a description of any NBRC resources that were used in its creation and any financial or other

relationship with an External Party that might affect the NBRC's rights in the Disclosable Work.

It is highly recommended that before publishing results, the researcher that may have an interesting finding, shares this with the IP cell to evaluate any need for protection of the invention.

Once the Disclosure Form has been received by the IP cell they will set in motion a set of procedures to evaluate the invention in terms of patentability and commercial potential (see 4.2 for details).

It is the duty of the Inventor to keep full confidential records of creations and know-how and to assist the IP cell by providing sufficient information on their invention and later help in sourcing potential licenses or creating a spin-out company. Although the Inventor/s play a crucial role in exploiting the Disclosable Work, they must not attempt to give any rights to third parties without the prior permission of IP cell of NBRC.

#### **4.2 Function of the IP cell**

The IP cell will:

Create intellectual property awareness within the institute, manage intellectual property disclosure, filing and protection, registering rights where appropriate, ensuring confidentiality at all times. The IP cell may include an outside agency/consultants/person(s) hired to carry out all or part of the functions of IP cell.

Once an Invention Disclosure is received, the IP cell will conduct a Due Diligence search dealing with any third party rights that are involved and evaluate the patentability and commercial potential of the intellectual property and assess any competition which is then shared as a due diligence report with inventors for the required permission to proceed with patent filing.

In the due diligence report the IP cell will consider not only patentability but the commercial potential of the Disclosed Work and any obligations towards third parties or third-party rights that may exist. The decision to proceed with patenting or otherwise is to be made by Director and/or Registrar and would be based on due diligence report and consultation from the IP cell.

If the decision to proceed with patenting and subsequent commercialization has been taken, with the assistance of the Inventor/s, the IP cell will then embark on the patenting process, locate commercial partners, decide whether to collaborate, license or spin out, negotiate licenses and facilitate spin-out companies with market research, the creation of a business plan share division and the sourcing of appropriate management. From time to time, the IP cell may also engage the expert services of consulting/services firms as and when deemed necessary to evaluate patentability and commercial potential of inventions. At important time points of the patenting and commercialization process (e.g. PCT or National phase filing, licensing agreements/revenue sharing considerations, spin-out company formation), the IP cell will consult with the Director/Registrar for the approval to proceed on the discussed route for patenting or commercialization.

## **5. Ownership**

### **5.1 In-House Research projects:**

All rights in respect of investigations carried out at NBRC shall vest in and be the absolute property NBRC except in respect of the activities carried out jointly with other institutions or agencies or under a sponsorship by an agency, in which case the ownership will be decided and agreed upon mutually and on a case by case basis.

### **5.2 Sponsored Research projects:**

Intellectual Property (IP) arising out of research projects undertaken on behalf of the sponsoring agencies will belong to NBRC unless there is a prior agreement on ownership and sharing of the IP arising out of such research projects. Sponsoring agencies looking for part ownership of IP generated, the IP shall be taken jointly in the name of the NBRC and sponsoring agencies; when the sponsoring agencies bear the cost of filing and maintaining of the IP equally. If the sponsoring agencies are not forthcoming, NBRC at its discretion may file the application with absolute ownership and hence, meet the entire cost of filing and protection of the IP.

IP created in the course of or pursuant to a sponsored research or other agreement with an External Party where sponsoring agencies do not claim any generated IP rights, the IP will initially belong to NBRC and then ownership (if there is a collaboration involving external party/ies) will be determined according to the terms of such agreement and taking into account the contribution of each party on a case by case basis.

Where an agreement for research collaboration is to be negotiated with an External Party NBRC will seek to retain ownership of all work using external funding. In case of funding from Govt. funding agencies, IP cell will work with the agency to arrive at agreeable terms keeping the organization's interest in mind. Also, in the case where the sponsoring party is from Industry, any IP generated through the course of a sponsored project will be owned by NBRC. The Industry sponsor would be entitled to first-right-of-refusal for further licensing of the IP. All such negotiations MUST be conducted via the IP cell. Inventor/s must not enter into funded work until the terms have been negotiated by the IP cell.

### **5.3 Collaborative Research projects:**

It is advisable to conduct all possible collaboration with External Parties under a confidentiality agreement [see Annexure B]. These confidentiality agreements must be taken very seriously and breach could lead to compensation being paid and/ or the opportunity to file a patent being lost.

All intellectual property jointly created, authored, discovered, invented, conceived or reduced to practice during the course of collaborative research undertaken jointly by NBRC with Collaborating Institutions, shall be jointly owned; and the Collaborating Institutions will be requested to bear the cost of filing and maintenance of the IP. In case the Collaborating Institutions are not forthcoming to bear the full cost of filing and maintenance and if considered expedient by NBRC, NBRC will share the cost equitably with the Collaborating Institutions. Where the Collaborating Institutions are not forthcoming for filing joint IP application, NBRC at its discretion may file the application with absolute ownership and hence, meet the entire cost of filing and protection of the IP.

Collaborations would need to be negotiated differently depending on how developed the Disclosed Work is. Collaboration can lead to sole ownership of the intellectual property by NBRC, joint ownership by NBRC and the collaborator/s or sole ownership by the collaborator/s.

#### **5.4 Copyright ownership**

NBRC shall be the owner of copyright work. All original works or authorship subject to copyright under copyright laws whether or not published, authored or otherwise created by NBRC Employees during the course of employment or participation in research funded by NBRC or a sponsor shall be owned by NBRC including software created by NBRC personnel with significant use of NBRC resources.

If NBRC foresees a gainful return from copyrights, it may initiate steps to file and protect such copyrights and share the financial benefits with the inventor on terms and conditions of NBRC.

NBRC shall be the owner of copyright on all teaching material developed by employees and students as part of any of the academic programmes at the NBRC. The author shall have the right to use the non-funded technical material in his/her professional capacity.

If the technical material is prepared by the author on behalf of a funding agency and the funding agency requests a share of the IP, then the copyright will be equally shared between the institute and the funding agency. If the funding agency does not request a share of the IP then the IP will be owned by NBRC. See 5.2 for further details.

#### **5.5 Employees**

Unless specified by overriding conditions in sponsor agreements, collaborative agreements or national law, NBRC will automatically own all intellectual property created by their employees, including those on short-term or long-term contract, directly or indirectly employed by NBRC; in the course of their NBRC duties; when using a substantial amount of NBRC facilities; or in the course of duties falling outside their normal duties but specifically assigned to them.

However, inventor/s will be entitled to a share of any revenues resulting from exploitation of something they have created in accordance with NBRC Policy (see point 7).

#### **5.6 Sabbatical, Seconded, Visiting Academics and Others**

If members of NBRC staff have temporary appointments at other institutions or others visit NBRC, an agreement regarding the ownership of any intellectual property created during the course of the appointment must be in place before the appointment commences. Otherwise visiting staff are treated as if they were employees of NBRC and this policy will apply accordingly.

#### **5.7 Students and interns**

Intellectual property in any non-disclosable work created by students of NBRC in the course of their studies will be owned by NBRC and NBRC will have a nonexclusive, worldwide, irrevocable, royalty free license to use the work. Intellectual property created by interns working at NBRC will be owned by NBRC, unless there is a prior agreement with the sponsoring agency, if any.

### **5.7.1 Sponsored Students**

Where a Student is sponsored by an External Party, the Student must agree that any resulting intellectual property will belong to NBRC and will assign the intellectual property to NBRC (See Annexure C). Ownership will be dealt with NBRC in accordance with the sponsorship agreement. In case the student is co-guided for the research work by a sponsoring organization, a prior agreement for IP sharing is mandatory and should be in place.

### **5.7.2 Student Collaborative Work**

The Student will assign to NBRC any intellectual property created by them if, it is created jointly with:

- a) a NBRC employee or
- b) a postgraduate research student or
- c) the intellectual property is created with the substantial use of NBRC facilities; or the intellectual property is created as part of the research carried out by a postgraduate student registered for a course that has research as a component.

Students must keep secret any confidential information to which they have access. The NBRC IP cell will manage any commercialization and revenue sharing in the same way as if the Student were an employee of NBRC.

### **5.8 Non-employees contracted to NBRC**

Unless specifically accepted by written agreement or national laws, contractors will assign to NBRC to whom they are contractors, all intellectual property rights in any Disclosable Work which has been developed whilst that contractor has collaborated with NBRC employees, postgraduate research students or where any NBRC facilities have been used.

### **5.9 Leavers**

This policy will apply to all Disclosable Work created while the Inventor/s is present as an employee, student or any other category under 5.6, 5.7 or 5.8 above at NBRC or during the term of a contract. Confidentiality must be retained with regard to all trade secrets and all sensitive material must be deposited with NBRC at the termination of the relationship.

### **5.10 Joiners**

NBRC owns the intellectual property in all Disclosable Work created from the date on which their respective principal investigators, students, visiting scholars, contractors, staff and all other employees joined NBRC. The IP cell will negotiate a revenue sharing agreement if intellectual property was created in the course of employment at another institution.

### **5.11 Rights which NBRC will not claim**

#### **5.11.1 Scholarly works**

NBRC shall not claim ownership of copyright on books and publications authored by their respective employees. However, where the work is a Disclosable Work the employee will assign the intellectual property to NBRC. If the work contains research data arising from their research, then the employee's copyright will only extend to the form of expression of the data

in the work. Ownership of the intellectual property of the research data and the database itself remains with NBRC.

### **5.11.2 Student thesis / dissertation**

NBRC will not claim copyright in student's theses and/or dissertations. However, where the work is a Disclosable Work, the student will assign the intellectual property to NBRC. If the Student's thesis and/or dissertation contains research data arising from their research, then the Student's copyright will only extend to the form of expression of the data in the thesis. Ownership of the intellectual property of the research data and the database itself remains with NBRC.

Any thesis or dissertations submitted to NBRC for the award of a degree may be placed by NBRC in an institutional repository in electronic or other format. Work which has been created by the student in the course of research pursued at NBRC, would be licensed to the NBRC and the organization would have a perpetual, non-exclusive, royalty free license to use the work.

### **5.12 Return of intellectual property to Inventor/s**

If after receiving the Disclosure Form from the Inventor/s, NBRC decides that it does not wish to exploit the Disclosable work, the Inventor/s may ask IP cell to assign the intellectual property rights to them for Commercialization. NBRC has sole discretion in this matter. In such a case NBRC Entrepreneurship policy will apply. The Inventor/s will pay to NBRC any expenses already incurred by the organization in connection with the registration of the intellectual property out of revenue from the commercialization of the intellectual property. The Inventor/s will also pay a reasonable fixed percentage of royalty income (discussed on a case-by-case basis) to NBRC from any license agreement or assignment or a reasonable equity from the formation of a company to exploit the intellectual property. NBRC may require a license back for use in their legitimate purposes.

## **6. Commercialization**

The IP cell will in a timely manner evaluate the potential commercialization of the Disclosed Work and recommend action. It may be decided to register the Disclosed Work and if so, will inform the Inventor/s of its decision and be responsible for and meet all the costs and expenses of protecting, maintaining and managing the intellectual property rights.

The IP cell will identify, with the help and assistance of the Inventor/s and external consultants (if deemed necessary), all potential licensees and negotiate all agreements and assignments.

The Intellectual Property held either in the name of NBRC or jointly with other Institutions/Industry will be marketed for commercial exploitation under agreements through the IP cells. The IP cell shall identify potential licensee(s) for the IP for commercialization potential to which NBRC have ownership. In case of joint ownership, the Organization/Industry, which has sponsored the activity, will have the first right to commercially utilize and exploit Intellectual Products emanating from the collaboration activity, whether or not the same have been formally protected by patent(s). The licensing to commercially exploit would involve technology transfer fee and also royalty payment from the first date of such commercial exploitation for a period that will be as mutually agreed upon.



In the event of the other collaborating organization/industry not undertaking the commercial exploitation within a reasonable period of two years from the first date of development of the technology, NBRC reserves the right to transfer the said know-how to a Third Party for its commercial exploitation and use through IP cell. In such instance, however, NBRC shall share the net proceeds from such commercial assignments with the collaborating organization/industry in the ratio as laid out in the agreement signed before the collaboration. NBRC would endeavor to exploit the IP through the IP cell and thereby bring to a favorable light the IP produced by its Inventor(s). The Inventor(s) may seek NBRC to assign the rights to them after a certain holding period. See 5.12 for IP reassignment to inventor.

The timescale for commercialization will depend on market conditions and the state of development of the Disclosed intellectual property. The Inventor/s must inform the IP cell of any issues concerning the Disclosable Work which may have an adverse effect on the reputation of the NBRC as a whole if commercialization were to take place.

## **7. Sharing the benefits of commercialized inventions**

Revenue sharing is an incentive to Inventor/s where the NBRC has decided to exploit the Disclosable intellectual property and income has been generated. Directs costs including patent agent fees, filing, maintenance costs, legal fees and revenue due to sponsors shall be deducted and the net [or gross] revenues shall be shared, in the ratio as stated in NBRC Bye-laws or any other policy adopted by NBRC.

In case a collaborating organization is involved in commercialization, IP cell will negotiate the percentage share of revenues to be received by the organization, which can then be further divided as per the NBRC Bye-laws.

### **7.1 Apportionment amongst individuals**

Where there is more than one Inventor, the distribution of each share shall be determined between the Inventors.

### **7.2 Leaving employment of NBRC**

Under normal circumstances revenue shares shall continue to be paid to the Inventor/s or to their estate after the Inventor/s ceases to be employed by or enrolled as a student of the NBRC.

### **7.3 Equity**

If a Spin-out company has been created to exploit the intellectual property, shares or share options in the company shall be a matter of separate negotiation.

## **8. Infringements, Damages, Liability and Indemnity**

As a matter of policy, NBRC shall, in any contract between the licensee and NBRC, seek indemnity from any legal proceedings including this, but not limited to manufacturing defects, production problems, design guarantee, upgradation and debugging obligation. NBRC shall also ensure that their personnel have an indemnity clause built into the agreements with licensee(s) while transferring technology or copyrighted material to licensees.

NBRC shall retain the right to engage in or desist from or not in any litigation concerning patent and license infringements.

## **9. Conflict Of Interest**

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) and/or their immediate family have a stake in a licensee-company, then they are required to disclose the stake they and /or their immediate family have in the company, and license or an assignment of rights for a patent to the licensee - company in such circumstances, shall be subject to the approval of the Director and the Governing Council of NBRC.

## **10. Dispute Resolution**

In case of any disputes between NBRC and the Inventor(s) regarding the implementation of the IP policy, the inventor(s) may appeal to the Director of NBRC. Efforts shall be made to address the concerns of the inventor(s) by developing and instituting an arbitration mechanism and arrangement. The Director's decision in this regard would be final and binding on both, NBRC and the inventor.

## **11. Jurisdiction**

As a policy, all agreements to be signed by NBRC will have the jurisdiction of the courts in Delhi/National Capital Region or Honorable High Court of Punjab and Haryana, and shall be governed by appropriate laws in India.

**Annexure A – Invention Disclosure Form**

**INVENTION DISCLOSURE FORM**

Intellectual Property Cell, NBRC

For official use:

<b>Invention Id</b>	<b>Date</b>

Please list all inventors and nominate one person as the principal contact.

[PLEASE NOTE: A co-inventor is an individual without whose intellectual and creative input the invention could not have been made in its present form. They must have conceived or contributed an essential element of the invention either independently or jointly with others, during the evolution of the invention or its reduction to practice.]

<b>Inventors</b>	<b>Position</b>	<b>Email</b>

**\*If multiple institutions involved, please attach MoUs/Agreements**

**Please indicate whether you wish NBRC IP cell to support commercialization of your invention. You may wish to familiarize yourself with the NBRC's IP policy.**

## INVENTION DETAILS

**1. Title of the Invention:**

**2. Description of the Invention:**

**a) Explain how the invention is technically distinct from and superior to the state of the art:**

**b) What Competitive advantage(s) does the invention provide**

**c) How the invention is performed (methodology)**

**3. List**

**a. Possible applications of the invention.**

**b. Please tell us the end product that would be based on your invention.**

**4. Have the information been disclosed in public (talk / publication/seminar /web posting/ posters, etc). If so, please provide the details.**

**5. Please list research publications similar to your work. If you have done a patent search, please list the keywords you have used and the patents found.**

**6. List**

**a. Relevant Patents and Publications:**

**b. Your publications/ manuscripts\* under preparation on this invention that can facilitate in drafting of a patent**

**8. Funding source(s) used for your research in development of this invention:**

<b>Funding Source/Sponsor</b>	<b>Name(S) of the funding awardees (Principal Investigator[PI ]/Supervisor and/or Research fellow)</b>

**I hereby assign all right, title and interest, including but not limited to copyright and copyright rights, patent rights and property rights in the invention disclosed herein to the NBRC, Manesar, India**

<b>Organization</b>	<b>Inventor's Name</b>	<b>Nationality</b>	<b>Home address</b>	<b>Inventor's signature</b>	<b>Date</b>

**\*Please intimate us as and when the journal publication happens.**

## Annexure B – Confidentiality Agreement

### CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement is entered into on the \_\_\_\_\_, by:

National Brain Research Centre, having its registered office at NBRC, NH-8, Nainwal Road, Manesar, Gurgaon – 122052 (“NBRC”).

And

\_\_\_\_\_ with its registered office at \_\_\_\_\_

(NBRC and \_\_\_\_\_ are hereinafter individually referred to as a “Party” and collectively referred to as the “Parties”.)

#### Recitals

A. The Parties have been discussing and wish to further discuss certain mutual business opportunities (“Purpose”).

B. In connection with said Purpose, each Party (the “Discloser”) has disclosed or expects to disclose certain Confidential Information (as defined below) to the other Party (the “Recipient”) subject to the terms of this Agreement, and such Recipient has received and hereby agrees to receive and deal with such Confidential Information only in accordance with the provisions of this Agreement.

**Now therefore, the Parties agree as follows.**

1. For purposes of this Agreement, “Confidential Information” means any scientific, technical, trade, financial or business information or materials, that the Discloser may from time to time disclose or otherwise make available to the Recipient or which is observed by a Recipient while meeting with or visiting the Discloser’s facilities, and that are treated by the Discloser as confidential or proprietary, including, information and materials related to molecules, compounds, antibodies, products, targets, processes, methods, assay systems, formulae, tests, equipment, data, batch records, reports, knowhow, sources of supply, patent applications, claims, ideas, specifications, sketches, computer programs, pathways, relationships with customers, consultants and employees, business plans and business developments, and financial data, and other information concerning the existence, scope or activities of any research, design, development, manufacturing, marketing or other projects of the Discloser. Without prejudice to the generality of the foregoing, Confidential Information includes information marked, labelled, or otherwise identified as confidential or proprietary, and information or materials that would reasonably be identified or understood by the Recipient as being confidential or proprietary information of the Discloser, even if not so marked, labelled, or otherwise identified. Provided that Confidential Information shall not include information that:

1.1. at the time of disclosure, is known publicly or thereafter becomes known publicly through no fault attributable to the Recipient;

1.2. becomes available to the Recipient from a third party that is not legally prohibited from disclosing such information, provided such information was not acquired from the Discloser;

1.3. was developed by the Recipient independently of information obtained from the Discloser evidenced by records, however maintained;

1.4. was already known to the Recipient before receipt from the Discloser, as shown by the Recipient's prior written records;

1.5. is released with the prior written consent of the Discloser; or

1.6. is required to be disclosed by a legal requirement or by the order of a judicial or administrative authority or the rules of any stock exchange on which the securities of the Recipient are listed and publicly traded, provided that the Recipient, to the extent reasonably practicable, shall have previously sent to the Discloser reasonable notice of any such requirements in order to allow the Discloser sufficient time to oppose such process or to obtain protective or confidential treatment of any Confidential Information, and to the extent that a protective order or other legal protection is not obtained by the Discloser, the Recipient discloses only that portion of the information that is legally required to be disclosed.

2. Any disclosure of Confidential Information made by or on behalf of the Discloser, including by employees, agents or consultants of the Discloser and its affiliates and associates, as well as disclosure by any means (whether written or oral or through observation at the Discloser's facility or any other medium) shall be deemed to be a disclosure of Confidential Information by the Discloser for the purpose of this Agreement.

3. The Recipient hereby covenants to do each of the following during the Confidentiality Period (as defined in clause 9 below).

3.1. Keep all Confidential Information in strict confidence, with the same level of care as it applies to keeping its own proprietary information confidential, and in any event no less than reasonable care to prevent the unauthorized disclosure or use of any Confidential Information;

3.2. Not use, reverse engineer, decompile, disassemble, modify, change, enhance, create any derivative works from, or otherwise deal in any Confidential Information, except when the Recipient is required to do so in connection with the Purpose;

3.3. Not disclose any Confidential Information to any other persons or entities except authorized employees, consultants or advisors of the Recipient who need access to the Confidential Information in connection with the Purpose, and who are bound by equivalent obligations of confidentiality; and

3.4. Notify the Discloser in writing immediately upon discovery of any unauthorized use or disclosure of any Confidential Information and reasonably cooperate with the Discloser to prevent any unauthorized disclosure or use of the Confidential Information and to mitigate any losses arising from such unauthorized disclosure or use.

4. Except to the extent required by law or legal process or the rules of any stock exchange on which the securities of a Party are listed, neither Party shall disclose the existence of this Agreement or the Purpose.

5. Each Party shall be responsible and liable for a breach of this Agreement by any of its employees, officers, directors, representatives, agents and consultants, and each Party undertakes to take any and all necessary actions, at its own cost and expense, to prevent or remedy such breach.

6. The Confidential Information and any right, title and interest therein shall remain the exclusive property of the Discloser, its affiliates or partners, as the case may be, and nothing contained in this Agreement shall be construed as creating an express or implied license to practice or use the Confidential Information for the Recipient's or any third parties' benefit.

7. The Recipient acknowledges and agrees that the Discloser is not making and shall not be deemed to have made any representations or warranties regarding the accuracy or completeness of any Confidential Information or any other type of information furnished in accordance with this Agreement. Provided that the Discloser hereby represents and warrants to the Recipient that it is entitled to disclose to the Recipient any and Confidential Information disclosed in connection with the Purpose.

8. The Parties agree that, in addition to any other rights or remedies available, the Discloser shall be entitled to an injunction restraining any breach or any threatened breach of this Agreement attributable to the Recipient and to seek specific performance by the Recipient of any obligation under this Agreement.

9. This Agreement shall become effective on the date first above written and shall remain in effect until the expiry of the Confidentiality Period for all Confidential Information covered by this Agreement. With respect to any Confidential Information, the “**Confidentiality Period**” shall mean the period commencing on the date of disclosure of such Confidential Information and ending on the date on which such information ceases to be Confidential Information for reasons not attributable to the Recipient. Provided that the provisions of clauses 1, 9, 10, 11, 13, 14, 18, 19 and 20 shall survive any expiry or termination of this Agreement.

10. Upon expiration or termination of this Agreement or earlier upon receipt of a written request from the Discloser, the Recipient shall cease all use of the Confidential Information and promptly return to the Discloser all documents and materials of the Discloser that relate to or contain any Confidential Information without retaining copies or extracts thereof, except for one copy which may be made and retained by the Recipient in its confidential files for the purpose of assuring continued compliance with its obligations hereunder.

11. Any notice, direction or other instrument required or permitted to be given under this Agreement shall be in writing and given by sending it by registered mail (with receipt requested), or by recognized courier service with acknowledgement of receipt requested, or by facsimile or electronic mail to the address specified below or such other address as may be notified by each Party in accordance with the provisions of this Agreement.

**NBRC—Attention:** Registrar

**Address:** NBRC, NH-8, Nainwal Road, Manesar, Gurgaon - 122052

**Email:** [registrar@nbrc.ac.in](mailto:registrar@nbrc.ac.in)

\_\_\_\_\_—**Attention:**\_\_\_\_\_

Address:

Email:



Any such communication shall be deemed to have been validly and effectively given (i) if sent by registered mail with receipt requested, or by internationally recognized courier service with acknowledgement of receipt requested, then on the date of such delivery or receipt if such date is a business day or otherwise on the next business day, or (ii) if transmitted by facsimile or by electronic mail then on the business day following the date of transmission.

12. Neither Party may assign this Agreement or any of its rights and obligations hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld; provided, however, that either party may assign this Agreement without such consent to any person or entity which acquires all or substantially all of its business or assets (or of the business division or product line of such party to which the Confidential Information primarily relates). Provided that the provisions of this Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of each Party.

13. No failure or delay on the part of either Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or a future exercise thereof or the exercise of any other right or remedy granted under this Agreement or by law.

14. If any provision of this Agreement is held to be invalid or unenforceable for any reason, it shall stand altered so as to be valid and enforceable and so as to achieve the intent of the Parties to the fullest extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the fullest extent possible.

15. This Agreement constitutes the entire agreement and understanding between the Parties concerning the subject matter hereof and supersedes all prior discussions, agreements and negotiations between them as to the subject matter hereof.

16. Nothing in this Agreement shall be deemed to create any obligation on either Party to enter into any further agreement.

17. Except as specified in clause 14, no amendment of this Agreement shall be effective unless made in writing and signed by a duly authorized representative of each Party.

18. This Agreement shall be governed by, and construed and interpreted in accordance with the laws of India (without reference to conflicts of law's provisions).

19. Except as provided in clause 8 of this Agreement, any dispute arising out of or in relation to or otherwise in connection with this Agreement that the Parties cannot settle by mutual negotiations ("**Dispute**"), shall be resolved by binding arbitration in accordance with this clause 19.

19.1. Either Party may initiate the arbitration by serving upon the other Party a notice stating that the notifying Party desires to have a particular Dispute reviewed by a panel of arbitrators, and naming and providing the particulars of one individual whom such Party chooses to act as an arbitrator on such panel of arbitrators.

19.2. Within thirty (30) calendar days of receipt of such notice, the other Party shall either consent to such designation or designate a second individual to also act as an arbitrator and shall notify the Party requesting arbitration of such consent or of the name and particulars of the second individual so designated. If the Party upon whom a request for arbitration is served

fails to designate a second arbitrator within said period, the arbitrator designated by the Party requesting arbitration shall act as the sole arbitrator to arbitrate the Dispute.

19.3. If both Parties each designate an arbitrator in accordance with this Agreement, the two arbitrators so designated shall within fifteen (15) calendar days of the notification of the designation of the second arbitrator, jointly appoint a third arbitrator who shall also act as umpire.

19.4. No arbitrator chosen pursuant to this Agreement shall be employed by, related to, a shareholder in, or otherwise affiliated with either Party or any of their affiliates, employees, representatives or contractors.

19.5. The arbitration proceedings shall be conducted at Delhi/NCR, in English, and in accordance with and subject to the provisions of the Indian Arbitration and Conciliation Act, 1996 and the rules made there under. Any reference to such Act and rules shall be deemed to include a reference to such Act and rules as modified from time to time.

19.6. The decision and award of the arbitrator(s) shall be in writing and in English, and shall be final and binding on the Parties. Either Party may apply to any court having jurisdiction for an order confirming, or to enforce the arbitral decision and award.

19.7. Except as otherwise expressly provided in clause 8 of this Agreement, the Parties hereby waive any right to other judicial or court action on any matter subject to arbitration hereunder, except suit to confirm or enforce an arbitral decision and award.

19.8. A notice of or request for arbitration will not operate to stay, postpone or rescind the effectiveness of any demand for performance.

20. Subject to the provisions of clause 19, the courts in Delhi/NCR or Hon'ble High Court of Punjab and Haryana, India shall have exclusive jurisdiction over the Parties and the subject matter of this Agreement.

21. This Agreement may be executed in one or more counterparts, in English, and which together shall constitute one and the same instrument. Either Party may enter into this Agreement by executing a counterpart which could be delivered in the form of a facsimile or electronically to the other Party of a copy of any such executed counterpart shall be deemed to constitute delivery of the original counterpart.

22. The parties agree that this agreement shall remain in force for three (3) years from the date of entering into this agreement

**INTENDING TO BE BOUND**, the Parties have, by their duly authorized representatives, executed this agreement on the date first above written.

**For NBRC**

**For** \_\_\_\_\_

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\_\_\_\_\_

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\_\_\_\_\_

**Witnessed by:**

**Witnessed by:**

**Name:**

**Name:**



## Annexure C – Worldwide IP Assignment Agreement

### WORLDWIDE ASSIGNMENT AGREEMENT

This Worldwide Assignment Agreement (“Agreement”) is made and entered into on \_\_\_\_\_ (“Effective Date”)

BY AND BETWEEN

\_\_\_\_\_, who shall be (hereinafter referred to as “Assignor/s”) of the FIRST PART;

AND

National Brain Research Centre (NBRC), which shall be deemed to include its successors and assigns (hereinafter referred to as “Assignee”), of the SECOND PART;

(Assignee and Assignor shall be collectively referred to as “Parties” and severally as “Party”).

WHEREAS:

A. The Assignor is in possession of and the owner of the invention titled “\_\_\_\_\_” (the “Invention”).

B. We need to recite the background of this Assignment. This assignment agreement is with respect to the Invention with patent application nos. \_\_\_\_\_.

C. The Assignor has now agreed to duly, irrevocably and absolutely assign in perpetuity and the Assignee has agreed to take on assignment, all of Assignor’s worldwide rights, title and interest in the Invention and the associated technology knowhow.

D. The Parties have, therefore, entered into this Agreement to mutually record the terms and conditions of such assignment.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties hereby agree as follows:

## 1. ASSIGNMENT

1.1. It is hereby acknowledged by the Assignor, the Assignor hereby, irrevocably, absolutely and exclusively grants, sells, transfers and assigns to the Assignee, in perpetuity, the worldwide rights, title and interest in and to the Invention and all patents obtained or to be obtained thereto and all Convention and Treaty rights of all kinds, in all countries throughout the world and for the full term of the rights, title and interest in such Invention, including renewal or extension of any such term (referred to as the “Assigned Property”).

1.2. The Assignee may withhold from any amounts payable under the Agreement such central, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

1.3. The Assignee will promptly be provided, upon requesting the Assignor, with all pertinent facts and documents relating to the Assigned Property as may be known and accessible to the Assignor. The Assignor will testify as to the same in any interference, opposition or litigation related thereto and will promptly execute and deliver to the Assignee or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, secure, prosecute, maintain, enforce and protect the Assigned Property, to record the assignment contemplated under this Agreement, and to vest the Assignee with full right, title and interest to the Assigned Property.

1.4. Should the Assignee be unable to secure the signature on any document necessary for the purposes stated in Clause 1.3 above, due to any cause, the Assignor hereby irrevocably designates and appoints the Assignee and each of its duly authorized officers and agents as the Assignor’s agent to do all lawfully permitted acts for the purposes stated in Clause 1.3 above in respect of the Assigned Property, with the same force and effect as if executed and delivered by the Assignor.

## 2. REPRESENTATIONS AND WARRANTIES

2.1. The Assignor hereby represents, warrants and undertakes to Assignee that:

2.1.1. The Assignor has full right, power and authority to negotiate and sign this Agreement and grant the rights, sought to be granted under this Agreement, and is under no obligation or

disability, created by law contract or otherwise, which would in any manner or to any extent prevent or restrict it from entering into and fully performing this Agreement.

2.1.2. The Assignor has not assigned, licensed any rights to a third party nor in any manner encumbered, diminished or impaired any right relating to the Assigned Property.

2.1.3. The Assignor has not entered into and shall not enter into any agreement that may conflict with or violate this Agreement.

2.2. Assignee hereby represents, warrants and undertakes to the Assignor that it has full right, power and authority to negotiate and sign this Agreement, and is under no obligation or disability, created by law contract or otherwise, which would in any manner or to any extent prevent or restrict it from entering into and fully performing this Agreement.

### 3. ARBITRATION

3.1. Good Faith Discussions. The Parties to this Agreement hereby agree that they intend to discharge their obligations in utmost good faith. The Parties therefore agree that they shall, at all times, act in good faith, and make all attempts to resolve all differences howsoever arising out of or in connection with this Agreement by discussion failing which, by arbitration. The Parties agree that the discussions shall be held in the spirit of resolution of the issues that have arisen between them with the intention of resolving the issues amicably at the earliest. If the applicant is not satisfied with the outcome of the discussions, within fifteen (15) days from the receipt of the response, it shall resort to arbitration.

3.2. Arbitration. The Parties shall be bound to submit all disputes and differences, howsoever arising out of or in connection with this Agreement, to arbitration by three (3) arbitrators: one chosen by one Party, one chosen by the other Party and one chosen by the two (2) arbitrators so nominated by the Parties. The Parties agree that the outcome of arbitration shall be binding upon the Parties and judgment on the arbitrators' awarding be external in any court of competent jurisdiction. The arbitration shall in all respects be conducted in accordance with the Arbitration and Conciliation Act, 1996.

3.3. Qualifications. The arbitrators shall be persons of professional repute who are not directly or indirectly connected with any of the Parties to this Agreement. They shall have prior experience as arbitrators.

3.4. Place; Language. The place of arbitration shall be within the courts of Delhi/NCR. The language to be used in the arbitration proceedings shall be English.

#### 4. GOVERNING LAW AND JURISDICTION

4.1. This Agreement shall, in all respects, be governed by and construed in all respects in accordance with the Indian Laws, without regard to conflicts of law provisions.

4.2. In relation to any legal action or proceedings to enforce this Agreement, the Assignor irrevocably submits to the exclusive jurisdiction of any competent court and waives any objection to such proceedings on grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum.

#### 5. INJUNCTIVE RELIEF

5.1. Assignor acknowledges that the breach of the provisions of this Agreement shall result in grave and irreparable loss and injury to Assignee, for which the remedy at law for breach of its obligations and covenants under the Agreement may be inadequate. Accordingly, in the event of any breach or threatened breach by Assignor of the provisions of this Agreement, Assignee shall be entitled, in addition to all other remedies, to injunctive relief, whether ad-interim interlocutory or permanent, restraining any such breach. Such remedy shall be in addition of and not in lieu of the appropriate relief by way of monetary damages.

#### 6. MISCELLANEOUS

6.1. Save and except as expressly provided in this Agreement, no exercise, or failure to exercise, or delay in exercising any right, power or remedy vested in this Agreement shall constitute a waiver by that Party of that or any other right, remedy or power.

6.2. This Agreement constitutes the entire agreement between the Parties in relation to its subject matter and supersedes all prior agreements and understandings whether oral or written with respect to such subject matter and no variation of this Agreement shall be effective unless reduced into writing and signed by or on behalf of each Party.

6.3. If any term, condition or provision of this Agreement is held to be in violation of any applicable law, statute or regulation or if for any reason a court of competent jurisdiction finds any provision of this Agreement or portion thereof to be unenforceable, that provision shall be

enforced to the maximum extent permissible so as to effect the intent of this Agreement, and the remainder of this Agreement shall continue in full force and effect.

6.4. The Assignor shall not assign this Agreement or any rights hereunder without the prior written consent of the Assignee. The Assignee shall be entitled to assign this Agreement without restriction. Subject to this restriction, this Agreement shall benefit and bind the successors and assigns of the Parties.

6.5. The Assignor and the Assignee hereto shall dutifully perform all covenants of this Agreement in letter and spirit and shall otherwise act with due diligence and in good faith.

6.6. Any notice to be given by any Party to this Agreement shall be in writing and shall be deemed to be duly served if delivered by prepaid registered post or through a delivery service/courier, by hand delivery, by fax or by email to the following address:

To Assignor at:

(Name, Address and Contact details of Assignors)

To Assignee at:

(Name, Address and Contact details of Assignors)

Any notice given as provided by this Clause 6.6 shall be deemed received by the Party to whom it is addressed when:

6.6.1. in the case of any notice delivered by hand, when so delivered;

6.6.2. if sent by pre-paid post on the third business day after the date of posting;

6.6.3. in the case of any notice sent by facsimile, upon the confirmation of a facsimile transmission; or

6.6.4. if sent by e-mail, 24 hours after the mail is sent.



IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement.

ASSIGNORS (Inventors):

SIGNED and DELIVERED by,  
behalf of Assignor.

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ASSIGNEE (NBRC):

SIGNED and DELIVERED by,  
behalf of Assignee.

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_