WITS INTELLECTUAL PROPERTY (IP) POLICY SUMMARY

(Effective 01 October 2012, Note IPR Act applies from 2 August 2010)
1. **Ownership of IP**

Who owns IP?

<table>
<thead>
<tr>
<th>Type of University member</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>Wits - if in course and scope of employment</td>
</tr>
<tr>
<td>Employees visiting another institution/organisation</td>
<td>Partly Wits – % in proportion to Wits resource contribution</td>
</tr>
<tr>
<td>Independent contractors/people under service contracts</td>
<td>Wits</td>
</tr>
<tr>
<td>Visiting lecturers and fellows</td>
<td>Partly Wits – % in proportion to Wits resource contribution; not less than 25%</td>
</tr>
<tr>
<td>Honorary, clinical and others who do not receive remuneration</td>
<td>Subject to specific agreement – must take into account relative proportion of resources contributed by Wits and IPR Act provisions</td>
</tr>
<tr>
<td>Students</td>
<td>Wits – if in course of enrolment; including research under supervision of Wits employee and/or utilising any resources of Wits</td>
</tr>
</tbody>
</table>

**Ownership Exclusions**

- Wits may consider assigning or licensing IP where work is commissioned by outside entity.
- Copyright in books, plays, musical score, lyrics and artistic work.
- Student theses may be published for financial gain under certain circumstances, provided the underlying IP is first protected.

2. **Benefit sharing**

- Where Wits’ IP is utilised, Wits and IP originators (creators) will share income:
  - First R1 million gross income to Wits – originator(s) gets higher of
    - 70% of net income **OR**
    - 20% of gross income
  - Subsequent income to Wits – originator(s) get
    - 70% of net income.
- More than one originator - benefits shared according to relative contributions.
- Non-monetary benefits - Wits will agree with originators on benefit due on a case by case basis.

3. **Confidentiality**

- Wits’ IP may only be made available with permission from the Vice Chancellor (VC), Deputy VC Research, University registrar or Dean of Faculty. Must first be reviewed and protectable IP must be identified and protected.
- All research required to be published for degree purposes must be reviewed to identify any IP – where such IP must be kept confidential for a period student/supervisor must apply to Wits to keep confidential for a suitable period.
- All Wits’ members engaged in confidential research or with access to confidential information must sign confidentiality agreements.

*All University members must assist in identifying and protecting Wits IP. Contact Wits Enterprise for any assistance in this regard (contact details below).*
4. **Granting IP rights to other organisations**
   - Wits may enter agreements granting IP rights to
     - research sponsors
     - collaborators
     - parties wishing to utilise IP.
   - Agreements must comply with IPR Act and may require NIPMO approval.
   - Wits may assign or license IP to originator to utilise where Wits deems IP utilisation is not viable and/or appropriate.

   *Note: all such agreements may only be authorised and signed by the relevant designated authority being the Deputy VC Research, or her delegated authority (see also 5 below).*

5. **IP Utilisation**
   - Wits may establish companies to exploit Wits’ IP and cede/assign rights and obligations in respect of such IP to such companies on a case-by-case basis.
   - These Wits established companies may sign agreements providing for utilisation of Wits’ IP, subject to the IP Policy and the IPR Act.

6. **IP Management**
   - Wits Enterprise – mandated to
     - Manage and utilise IP
     - Manage benefit sharing, including disbursing royalties to originators
     - Liaise with NIPMO regarding publicly funded IP.
   - Deans of Faculties – responsible for
     - IP development
     - Regularly disclosing IP developed in their faculties to Wits Enterprise.
   - Deputy VC Research – responsible for
     - IP Policy review every 2 years
     - Establishing a governance framework for IP management and utilisation
     - Monitoring and ensuring Wits Enterprise’s mandate in respect of IP, particularly in terms of the IP Policy, is adequately carried out.

7. **Disputes**
   Disputes will be referred to the VC. If no agreement is reached, they are referred to chairperson of Council (or representative) for a final decision.