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Intellectual Property

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Policy for the Administration, Management and Compensation of Intellectual Property Creations

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Introduction

Nowadays, the most competitive and innovative countries in the world are those that base their economies on the generation of knowledge that has a high economic, political and social impact. The role played by universities in the design and evolution of economies is becoming increasingly evident through the new participation roles of universities within a country's economy, since they have incorporated into their strategies the so-called third mission. Apart from educating (first mission) and conducting research (second mission), universities now have a third mission of transcending through Knowledge Transfer, creating a global economic, political and social impact within their environments.

Over the past few years, knowledge-generating universities have reassessed their role within global knowledge-based economies, and created more entrepreneurial models and initiatives to support transfer, implementing policies that drive creativity and innovation, and provide more and better benefits to their creative community. They have also defined improved, less bureaucratic and more efficient institutional processes in order to generate a greater impact through the creation of better products, services and technology-based companies that benefit society in a differentiated manner.

The Global Innovation Index and competitiveness in different countries<sup>1</sup>, is measured with tangible results, such as revenue from intellectual property royalties, patents generated and licensed, generation of technology-based companies and products differentiated through high-tech exports versus imports, and also with tax and business incentive programs that drive these activities in such countries. According to these innovation indices, it has been observed that countries which manage to integrate the third or fourth helix into their strategies and programs with the active participation of the government, industry, university and society, achieve the best innovation indices.

This document provides the policy for the management, regulation and compensation of the Intellectual Property creations generated by Tecnológico de Monterrey and governs the activities subject to Intellectual Property Protection in which the Tecnológico de Monterrey's Academic and Administrative Communities and Students participate. The objective of this new policy is to create a better

environment for driving the third mission within Tecnológico de Monterrey, which is to transcend through knowledge transfer.

This Policy substitutes the Policy published in 2007 and complements the document Copyright Policies for Tecnológico de Monterrey, published in 2007, thus seeking with this policy to generate a greater impact in Mexico and the world.

1 [http://www.wipo.int/econ\\_stat/es/economics/gii/](http://www.wipo.int/econ_stat/es/economics/gii/)

Benefits and services of Tecnológico de Monterrey:

1. Provide the guidelines, operation and governance of Intellectual Property resulting from an intellectual work of the Institution's faculty, administrative staff and students. Art. 1.1 through 1.4.
2. Stipulate the existence and functions of an Intellectual Property Committee as a decision-making body which interprets, reviews and amends this document. Art. 1.5.
3. Operate the Network of Technology Transfer Offices on diverse campuses of Tecnológico de Monterrey Art. 1.6.
4. Provide, through the Network of Technology Transfer Offices, advisory, safeguarding, valuation and commercialization services related to Intellectual Property Protection. Art. 1.7 and 2.2 through 2.5.
5. Provide clarity regarding the ownership and possession of the Intellectual Property, resulting from an intellectual work of the faculty, employees, service providers and/or students associated with the Institution. Art. 2.3, 2.3a, 2.3d, 2.4, 2.6.
6. Make the payments derived from Intellectual Property protection and maintenance, and national and foreign legal and consulting services. Art 3.1.
7. Maintain close ties with members of the board, investors and employees in general in order to present the innovation portfolio with the aim of creating technology-based companies.
8. Provide the characteristics and creation process of Technology-Based Companies. Art 4.2, 4.3 al 4.6.
9. Provide the mechanisms for conduct and compliance with ethics for the different Intellectual Property protection, licensing and/or commercialization processes. Art. 4.5.

Benefits and obligations for faculty, researchers, employees, service providers and/or students of Tecnológico de Monterrey:

1. Provide the ownership rights and moral rights of the Intellectual property of faculty, employees, service providers and/or students associated with the Institution. Art. 2.4c.
2. Inventors must follow the processes stipulated for the notice, documentation registration and alienation of Intellectual Property, such as: Submit the Notice of Invention, sign the forms and agreements provided for registration and commercialization, sign the letter of acknowledgement of rights, and sign the alienation agreement. Art 2.1, Art 2.3 b and 2.3.c, 2.4d, 3.4b.
3. Provide the economic benefits resulting from the commercialization and licensing for inventors and/or authors, which is up to 50% of the net income from the commercialization and/or licensing of

the Intellectual Property. These economic benefits will be distributed once a year. Art. 2.7.5. and Art. 2.7.6.

4. Research professors can create a technology-based company following the processes and authorizations in place for this purpose. 6.4.

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## DEFINITIONS

1. Student: student enrolled at Tecnológico de Monterrey with a current student ID number.
2. Student who Holds a Scholarship/Remunerated Student: student who receives a scholarship for fees and maintenance through Tecnológico de Monterrey and/or participates in sponsored projects as an assistant collaborator, receiving some form of economic or in-kind remuneration.
3. Author: The individual who has created a technological, literary and/or artistic work.
4. Intellectual Property Committee: The function of the Intellectual Property Committee of Tecnológico de Monterrey is to review the intellectual property policy, decide on cases that are not foreseen in the Policy, and propose any amendments for approval.
5. Academic Community: Faculty and students of Tecnológico de Monterrey.
6. Administrative Community: Directors and employees of Tecnológico de Monterrey.
7. External Community: Society, individuals, businesses, companies that participate in academic and research activities with Tecnológico de Monterrey.
8. Joint Ownership of Intellectual Property: consists of sharing the property rights of Tecnológico de Monterrey with one or more third parties, which implies that the joint owners have the power to prevent any person from gaining access to or making use of their property without their consent, for which a respective joint-ownership agreement must be signed with the third party. Without the signature, the joint-ownership cannot be held.
9. Compensation: monetary or in-kind payment or consideration for services and/or support completed for Tecnológico de Monterrey; such compensation can be monetary or in kind, support in tuition and/or maintenance scholarships, among others.

10. Copyright: acknowledgement by the State in favor of all creators of literary and artistic works provided in Article 13 of the Federal Copyright Law, by virtue of which it grants protection so that the author will enjoy exclusive personal and property prerogatives and privileges. The former comprises the so-called moral right and the latter, the property right.

11. Moral rights: personal rights that are unified in an inalienable, imprescriptible, unwaivable and nonseizable, and are applicable to heirs, in conformity with the specifications in effect in the Federal Copyright Law.

12. Property rights: are related to the exploitation of the work to award licenses to use during a specific period of time, determining the amounts, procedures and terms for payment of remunerations.

13. Employees: Personnel who have a current employment contract with Tecnológico de Monterrey.

14. Industrial Property Law: Applicable law in effect that seeks to protect industrial property by means of the regulation and award of invention patents, registration of utility models, industrial designs, trademarks and commercial messages, publication of trade names, statement of protected designation of origin, and regulation of industrial secrets, as well as those indicated in Article 2 of the same Law (hereinafter "LPI").

15. Net Income: Total Income from Licensing or Sale of Licenses to third parties deducted from the costs of licensing that include, but are not limited to, the costs of operating and supporting the Office of Technology Transfer, the costs of obtaining the corresponding patent or property protection and the costs of licensing commercialization.

16. Invention: all human creations that enable the transformation of matter or energy existing in nature, for its use by humans and to satisfy their concrete needs, including the patent, utility model and industrial design.

17. Inventor: the person who develops a new process, composition, machinery or information as the product of a creative process, whose results are not evidently deducted from the status of the technique for a technician or specialist in the matter in question; and the person who develops new applications. In addition, individuals who claim to be inventors in the patent or registration application are considered as such. The inventor or inventors have the right to be mentioned in the corresponding title or to oppose such mention in accordance with Article 13 of the Industrial Property Law.

18. Federal Copyright Law (hereinafter "LFDA"): Applicable law in effect that seeks to safeguard and promote the cultural resources of the Nation; protection of copyrights, performing or executing artists, and of the editors, producers, and broadcasting organizations, in relation to their literary or artistic works in all their expressions, their performances or executions, editions, phonograms or video recordings, transmission, software developments, and of the other intellectual property rights.

19. Faculty: Personnel with a current employment contract with Tecnológico de Monterrey to conduct teaching and/or research activities.

20. Full-time Faculty: Personnel with an indefinite employment contract with Tecnológico de Monterrey to conduct full-time and exclusive teaching and/or research activities.

21. Entrepreneurial Faculty: Personnel with a current employment contract with Tecnológico de Monterrey to conduct teaching and/or research activities, and who with the results of their teaching and/or research activities decide to create companies in which they will participate as shareholders.

22. Intellectual Property: Refers to creations of the mind: inventions, literary and artistic works, symbols, names and images used in commerce, as indicated by the World Intellectual Property Organization.

23. Royalties: Specifications that the current Federal Tax Code considers when agreed upon between the parties. Article 15 B of the Federal Tax Code indicates that the following, among others, are considered royalties: payments of any kind for the temporary use or enjoyment of patents, invention certificates or improvements, brands, trade names, copyrights on literary, artistic or scientific works, including cinematographic films and recordings for radio and television, and drawings or models, plans, formulae or industrial, commercial or scientific procedures and equipment, and the amounts paid for technology or information transfer related to industrial, commercial or scientific experiences and other similar property rights.

24. Software (Called Computer Program by the LFDA): the original expression in any form, language or code of a set of instructions that, with a specific sequence, structure and organization, enable a computer or device to execute a specific task or function.

25. Spin-off: Companies created on the basis of the preexisting relationship of some of its members with Tecnológico de Monterrey, in which an intellectual property right was conceived, developed and materialized, including diverse confidential information, inventions and other solutions whose property belongs to the Institute, and which the academic and administrative community has an interest in continuing to develop within the framework of this type of instruments, for which students, faculty, employees and/or service providers who participate in this type of companies must adhere to this policy.

26. Intellectual Property Owner: Individual or company that has the power to prevent any person from accessing or making use of its property without its consent.

Signatures of acceptance of the policy for the administration, management and compensation of intellectual property creations for Tecnológico de Monterrey.

Position

Name

Date

Signature

Chancellor of Tecnológico de Monterrey

Salvador Alva Gómez

Rector of Tecnológico de Monterrey

David Noel Ramírez

Vice-Rector of Research, Graduate Studies and Continuing Education

Arturo Molina Gutiérrez

Vice-President of Administration and Finance

Bruno Zepeda Blouin

Vice-President of Talent and Culture

Hernán García González

POLICY FOR THE ADMINISTRATION, MANAGEMENT AND COMPENSATION OF INTELLECTUAL PROPERTY CREATIONS FOR TECNOLÓGICO DE MONTERREY (FINAL PROPOSAL)

1. General information

1.1. The purpose of this Policy is to provide the rights, obligations and benefits of Tecnológico de Monterrey and of the Community, related to the results of research and technological development activities completed within its facilities, with the full or partial participation of a member of its Academic and Administrative Community (Faculty, Students and/or Employees) and of the External Community.

1.2. The results of research and technological development activities are the inventions, innovations and intellectual property creations generated or developed in the Tecnológico de Monterrey facilities or any other institution, with the explicit participation of a member of the academic, administrative and/or external community of Tecnológico de Monterrey or any other institution related to the activities developed that are the object of the explicit or implicit mandate of the activities carried out with Tecnológico de Monterrey.

1.3. The policy will be effective as of the day following its publication, and can be subject to review and update at any time in order to adapt it to the academic and research regulations, changes in the organizational structure, and the legal provisions applicable to Tecnológico de Monterrey. Such authorizations will be published on the research portal of Tecnológico de Monterrey and will become operational through the processes defined and documented in annexes 1 through 6 included herein. Therefore, it must be taken into consideration that this policy can be modified at any time that Tecnológico de Monterrey deems pertinent.

1.4. The Policy applies to inventors and/or authors who belong to the Academic, Administrative or Students Community of Tecnológico de Monterrey who generate an intellectual creation, and to sponsors and/or the External Community.

1.5. The Intellectual Property Committee of Tecnológico de Monterrey (hereinafter Committee) was created to support this policy. Its function is to review the intellectual property policy and make decisions on cases not foreseen herein, and to propose any amendments for approval.

a. The Committee will be presided over by the Vice-Rector for Research, Graduate Studies and Continuing Education, and will be comprised of a representative from: the Administration and Finance Vice-Presidency, the Talent and Culture Vice-Presidency, the Office of the Vice-Rector for Undergraduate Studies, the Office of the Vice-Rector for Academic Regulations and Student Affairs, and the Campus Vice-Presidency.

b. The Committee will have at least six members, who will serve a three-year term. The members are designated by the Chancellor of Tecnológico de Monterrey, the Rector of Tecnológico de Monterrey and the Vice-Rector of Research, Graduate Studies and Continuing Education.

c. The responsibilities of the Committee are:

i. Oversee compliance with the Intellectual Property Policy.

ii. Review and agree upon the cases not foreseen in the Policy and, where appropriate, propose any amendments to the same.

iii. Review and update the criteria and strategies of the Policy.

iv. Assure that the decisions continue to be made following and observing our Code of Ethics.

v. Resolve controversies regarding administrative procedures.

d. The Committee will meet once every academic semester period and extraordinarily when convened.

e. The Committee will hold its meeting with the presence of at least 4 of its members and the decisions will be made by consensus. In the event that an agreement is not reached, the intervention of the President and/or Rector of Tecnológico de Monterrey can be requested.

f. The Committee can meet face-to-face, by telephone conference or video conference. It will be convened by the Committee Chairman, sending in advance the time and place and confirming the medium in which the meeting will be held, if necessary.

g. In addition, prior to the meeting, the agenda and documentation of the topics to be addressed will be sent out. They will be displayed by the Offices of Technology Transfer Department.

1.6. The operation, follow-up and execution of the Policy will be performed by the Office of Technology Transfer of Tecnológico de Monterrey (hereinafter OTT). The OTT, which consists of a Network and operates at the national level, is made up of:

a. A central office belonging to the Office of Financial Resource Transfer and Management of the Office of the Vice-Rector of Research, Graduate Studies and Continuing Education (VIPEC).

b. Regional offices located on the campuses. The list of existing offices will be available through the official page of Tecnológico de Monterrey<sup>2</sup>.

1.7. The OTT is responsible for the commercialization, managing, safekeeping and maintenance of the portfolio of inventions and innovations of Tecnológico de Monterrey, and for executing the processes for invention assessment, registration and commercialization of the intellectual property of which Tecnológico de Monterrey is the owner and/or joint owner. The processes to be followed are described in detail in Annex 1.

2 and on the OTT website <http://ott.mty.itesm.mx>



## GENERAL PROCESSES FOR THE REGISTRATION AND COMMERCIALIZATION OF INTELLECTUAL PROPERTY.

- a. The inventor and/or author notifies the OTT that it has an invention or software creation<sup>3</sup>.
- b. The OTT:
  - i. Assesses the commercialization potential and the state-of-the-art of the new technologies, creations and/or discoveries.
  - ii. Identifies and safeguards the results of the investigation and the technological package of the invention or software creation of all known notifications.
  - iii. Generates the technological commercialization strategies of the inventions and software creations.
  - iv. Intellectual property protection, except for the stipulations set forth in number point 7.1 herein.
  - v. Generates business cases for the commercialization of the technologies through licensing and/or the creation of spin-off technology-based companies on the basis of inventions and creations of Tecnológico de Monterrey.
  - vi. Completes valuations of the intangible assets.
  - vii. Negotiates licensing and/or sale of inventions and software creations, coordinating all legal and administrative authorizations and procedures with the different departments involved within the institution.

### 2. Intellectual Property Creations.

2.1. Students, faculty, employees and the external community that participate as service providers hired to conduct research and that participate as inventors or creators of software and belong to the Academic and/or Administrative Community of Tecnológico de Monterrey, and those external to the institution, must notify the OTT by means of the document "Notice of Invention" (Annex 2), of any innovation in which they participate, which they deem to be innovative, which could be useful industrially and/or can support the consolidation of research and the strategic focus areas defined by Tecnológico de Monterrey.

2.2. The OTT is responsible for establishing and making known the protection and commercialization processes of the creations generated within Tecnológico de Monterrey and in conjunction with institutional agreements.

2.3. All inventions and works protected by copyright, that are the product of projects funded, sponsored or commissioned by Tecnológico de Monterrey, created by its faculty, employees, service providers and/or students who receive remuneration as a reward or payment for their work or service, will be owned by Tecnológico de Monterrey and will be the property of the Institute, regarding the remuneration awarded to them by the latter.

3 through the portal:

([https://itesm.techtracssaas.net/UREF10100128113577774/WD1\\_Login/A111113577774](https://itesm.techtracssaas.net/UREF10100128113577774/WD1_Login/A111113577774))

Based on the provision of point 2.3, no faculty, employee, service provider and/or scholarship-holder/remunerated students who receive retribution from Tecnológico de Monterrey can claim in any

way to be the owner or joint owner of any invention, copyrighted-works, creation or distinctive mark, that is the outcome of projects funded, sponsored or commissioned by the Institute, under penalty of the sanctions stipulated in these Policies and all other regulations that govern Tecnológico de Monterrey, for which all inventors/authors will follow the institutional processes, signing with Tecnológico de Monterrey the corresponding forms and contracts for the registration and commercialization of their invention/work. At first, the inventors/authors will sign the letter of acknowledgement of rights, which records their moral rights and percentage of contribution within the invention/work, and will also sign an alienation agreement which symbolically specifies the value of the alienation between Tecnológico de Monterrey and the inventor/author, initial value provided in Annex 7, plus a complementary retribution paid by Tecnológico de Monterrey conditional on the net income obtained from the licensing and/or sale of the invention/work, in conformity with the percentage stipulated herein. The inventor/author cannot cede, transfer, transmit or inherit this remuneration to a third party or third parties. Such retribution will be effective for the term of the duration of the patent, utility model, industrial design, mask work or, where applicable, the application for registration of the industrial property figure applicable to the creation generated or, in the case of works protected by copyright, for the term of 20 years. Contracts with inventors/authors will be provided by the Legal Department and processed through the OTT, in the case of artistic and literary works contracts will be processed by the department responsible for the work; revenue and expenditures associated to such contracts will be subject to compliance with the tax provisions established by the institute under the Income Tax Law and in accordance with the tax operation regulations of this policy, included as Annex 7.

a. Students, faculty and/or employees of Tecnológico de Monterrey, or service providers, who participate in projects funded and/or sponsored by Tecnológico de Monterrey whose collaboration could generate a document, concept and/or creation that could be legally protectable, should document it irrefutably through logs, prototypes, reports or any material means, that for legal purposes might be required to uphold the ownership of the innovation. This is a requirement for defining, when necessary, who is or are the inventor(s) or author(s), according to the corresponding rights.

b. In the case of inventions or software creations, such participation must be documented and likewise reported through the inventors and will be recognized through the notice of invention (Annex 2), by the leader of the project in question. Tecnológico de Monterrey, through the OTT, will complete the corresponding protection procedures and strategy. The documentation and notice of invention must be submitted for review to the Dean/Director of the School, Center or Department and/or Leader of the Focus Group and will be safeguarded by the central OTT.

c. In the case of other works protected by copyright, such participation must be documented and likewise reported and acknowledged by means of the processes stipulated for the registration of literary and artistic works through the Legal Department of Tecnológico de Monterrey, in accordance with the Copyright Policy (Annex 8). If a software work does not meet the requirements established by the OTT for its registration, the OTT will inform and send the documentation to the Legal Department for the evaluation of its registration. The necessary forms are included in Annex 3.

d. All inventions or works subject to copyright protection resulting from the academic activities of students, and that are not related to projects that are funded, sponsored or commissioned by Tecnológico de Monterrey, and in which none of the faculty, employees and/or service providers

participate, will be the property of the student inventors/authors; otherwise, they will belong to the institute.

2.4. Tecnológico de Monterrey will be the owner of all the creations it funds, in accordance with the employment and works-made-to-order agreements entered into, except for the cases in which external organizations fund the creations and, therefore, request ownership of the same, which will be formalized by means of the legal instrument applicable to each case, in which the following elements will be specified:

- a. They must stipulate that the ownership of the creations belongs to the external applicant organization.
- b. They must notify the project participants that the owner of the creations will be a third party who will own the resulting rights.
- c. They must observe the authorship or inventor rights of the participant(s), according to the corresponding right, and they must appear as the inventors and/or authors, as applicable, in the registration application of the intellectual property figure applicable to the creation generated.
- d. The letters of acknowledgement of ownership and/or transfer of rights must be signed by each of the inventors and/or authors participating in the project and submitted to the external organization once the project has been concluded, and/or the results of the creation are obtained, as long as it has been paid in its entirety by the external organization.
- e. The necessary intellectual property contracts and/or agreements must be requested from the Legal Department.

2.5 Tecnológico de Monterrey will develop commercialization strategies to transfer inventions, trademarks and/or creations protected by copyright to the productive sectors. Licensing, training and business incubation agreements will be drawn up for this purpose, focusing on the generation and transfer of value.

2.6 Intellectual property includes:

- a. Inventions: patents, utility models, industrial designs (industrial models and industrial drawings), CI layout designs and industrial secrets.
- b. Distinctive marks: trademarks, collective trademarks, tradenames, commercial messages and denominations of origin.
- c. Copyrights: those referred to in the LFDA regarding works from the following fields: Literature; Music, with or without lyrics; Drama; Dance; Drawings; Sculptures and plastic arts; Cartoons and comics; Architecture; Film and other audiovisual works; Radio and television programs; Computer programs; Photography; Applied art works that include graphic or textile design, and compilations, made up of collections of works, such as encyclopedias, anthologies, and works or other elements such as databases, as long as such collections, given their selection or the availability of their content or subject matters, constitute an intellectual creation.

2.7. The economic benefits obtained through commercialization and/or licensing will be used, firstly, to cover the costs of the commercialization and protection of intellectual property creations. The latter

costs consist of, including but not limited to: processing of patents and/or copyright registrations in Mexico and/or abroad, the payment of lawyers or specialized external advisors and, in general, costs associated to protection, among others.

2.7.1. The economic benefits resulting from the commercialization of the intellectual property of Tecnológico de Monterrey, will be managed, controlled and distributed by the central OTT. Such resources will be managed in a single account of Tecnológico de Monterrey.

2.7.2. Management of inventions and software creations for commercialization purposes will be the responsibility of the OTT; management of copyrights with academic purposes and institutional trademarks will be the responsibility of the Legal Department.

2.7.3. The campus or entity of Tecnológico de Monterrey that needs to legally protect and/or introduce into the market inventions or software creations must refer to the OTT for the execution of such procedures.

2.7.4. The campus or entity of Tecnológico de Monterrey that needs to protect literary or artistic works legally, must refer to the Legal Department for their dissemination and support in the commercialization process, in coordination with the department responsible for the work.

2.7.5. Tecnológico de Monterrey will manage, through the OTT, the income obtained from the transfer and commercialization of the inventions and software creations, where the institute is the sole owner distributing the net income once a year in compliance with the provisions of the alienation agreement signed between the inventors and/or authors and Tecnológico de Monterrey. The stipulated percentage is as follows:

#### Inventions and Software

- a. 50% for the inventors or software authors.
- b. 50% for Tecnológico de Monterrey.

2.7.6 In the case of literary and artistic works, the commercialization guidelines set forth in the Copyright Policy enclosed herein as Annex 8, the percentages are as follows:

#### Literary and Artistic Works

- a. Up to 50% for the authors.
- b. At least 50% for Tecnológico de Monterrey.
- c. For authored or artistic works developed under the calls for works by the Office of the Vice-Rector of Educational Innovation, the Office of the Vice-Rector of Academic Legislation and Student Affairs, and/or other departments of Tecnológico de Monterrey, the benefits for authors will be published in the respective invitations.

2.8. For the purposes of this policy, "Innovation Programs" are those programs that are sponsored or funded by Tecnológico de Monterrey, such as: Research Focus Groups, Incubation Cells, Doctoral Programs, Master's Programs, Business Clinics, Industrial Stays, Industrial Reconversion Programs, Practical Schools, CADIS, among other programs defined by Tecnológico de Monterrey at any time.

- a. Unless otherwise agreed, any innovation implemented within the framework of the “Innovation Programs” will be the property of Tecnológico de Monterrey, given the funding, sponsorship or commission of the latter.
- b. Participants in Innovation Programs must accept unconditionally the terms of these policies before initiating their participation by signing the document in which they indicate that they are aware of and accept this policy; the policy acknowledgement and acceptance form is include in Annex 3.
- c. Based on the provisions of point 2.8, the innovation resulting from a master’s and/or doctoral thesis that has the full or partial sponsorship of Tecnológico de Monterrey will be the property of Tecnológico de Monterrey, and, therefore, the Institute is responsible for protecting the derived innovation and works, according to the provisions of the Industrial Property Law and the Federal Copyright Law, for which master’s and doctoral students undertake to sign the letter of acknowledgement of ownership for Tecnológico de Monterrey (Annex 3).
- d. Any innovation implemented within the framework of the Entrepreneurship Program, such as the entrepreneurial modality, business incubator, business accelerator or family business modality, will be the property of the students that developed it, unless:
  - i. The innovation results from Innovation Programs or a project funded, sponsored or commissioned by or completed with funds, in full or in part, from Tecnológico de Monterrey, in which case the ownership of the intellectual property rights will be established in compliance with the contract or agreement signed for such purpose.
  - ii. The innovation results from a project funded, sponsored or commissioned by or completed with funds, in full or in part, from an external sponsor or public institution, in which case the intellectual property will follow the same guidelines as those set forth in the contract with the external sponsor or public institution.

2.9 All consulting projects that imply the use of methodologies developed by Tecnológico de Monterrey and that are its property, must so indicate in the respective service agreement, clarifying that Tecnológico de Monterrey undertakes to deliver the outcome of the application of the same, but not the methodologies for their subsequent use and/or commercialization by the external entity, unless they are licensed.

In the case of collaboration and technological development projects, the ownership of the results must be agreed upon before starting the collaboration with the external entity, where, depending on the type of project, the ownership can be negotiated for Tecnológico de Monterrey, a joint ownership with the external entity or even the total transfer of property rights. In the latter case, if the ownership of the property rights is going to be transferred to a third party, the corresponding negotiation should be documented and justified and validated by the OTT through the established institutional processes. In all cases in which the rights of inventions and software creations of Tecnológico de Monterrey are negotiated, the OTT must be notified in order to provide support in the negotiation process. For artistic and literary works, the department responsible for the work must be notified, in accordance with the provisions of the Copyright Policy (Annex 8).

2.10 All technological development projects completed by Tecnológico de Monterrey must adhere to the institutional code of ethics, and to the values set forth in the mission, always evaluating the cases in which participation is not allowed, such as the following:

- a. Those that harm the life of human beings or animals.
- b. Those that harm the environment.
- c. Those that harm the dignity of individuals or groups.
- d. Those that are illegal.
- e. Those in which a conflict of interest exists.
- f. Projects that, given their nature, could harm the reputation of Tecnológico de Monterrey.
- g. Cases that can be designated by the Vice-Rector of Research, Graduate Studies and Continuing Education, the executive team or the Board of Directors of Tecnológico de Monterrey.

2.11 The OTT is responsible for informing the Committee of the invention registration and/or commercialization indicators of Tecnológico de Monterrey.

### 3. Protection Strategies for Intellectual Property Creations

3.1. The OTT will formulate and present a half-yearly budget to the Office of Transfer and Management of Funds belonging to the Office of the Vice-Rector of Research, Graduate Studies and Continuing Education to offer the services of the protection and maintenance of the intellectual property managed by the OTT, asset valuation, commercialization and legal services for agreements and licensing to the Tecnológico de Monterrey community. The costs of the services can be covered by the budget assigned, if applicable, or by the departments or entities that have the funds to complete these services.

3.2. For new industrial property or software creation projects, the OTT will search for precedents and technological trends, in order to focus the research for protection and future exploitation purposes.

3.3. Publications resulting from research funded, sponsored, commissioned or completed with funds, fully or in part, from Tecnológico de Monterrey and that contain intellectual property components that need to be protected, should notify the OTT so that it can define the corresponding protection strategy, preferably before public disclosure.

3.4. The registration of any Industrial Property or software creation at Tecnológico de Monterrey must be carried out through the following process:

- a. The inventors/authors who have participated in any Industrial Property or software creation funded by Tecnológico de Monterrey must file the Notice of Invention through the formats specified by the OTT in Annex 2.
- b. The inventors/authors must sign the Notice of Invention, as well as all documents related to confidentiality, transfer of rights and, in general, any document required to register the invention.
- c. The OTT will analyze the invention or software creation to assess its commercialization potential, generate intellectual property strategies and start the active pursuit of the protection, registration and

licensing of the same. If a software creation does not meet the guidelines stipulated by the OTT for its registration, the OTT will inform and send the documentation to the Legal Department for its registration and protection evaluation.

3.5. The sole custodian of the original and official documents for patents, utility models, industrial designs and software for commercial purposes, will be the OTT, and of the backup, having to generate a digital file of each and every one of the documents, and the Legal Department will have a non-certified copy of the same. The sole custodian of the original and official documents for distinctive marks, such as trademark, commercial messages, tradenames, etc. and other copyrights, will be the Legal Department.

3.6. Based on the analyses, the OTT will define the registration process for each of the invention notices (see example<sup>4</sup>). The OTT will also decide on the industrial property rights maintenance strategy in keeping with the commercialization strategy.

3.7. The commercialization strategy must identify and have each and every one of the negotiation's supporting documents.

4. Technology transfer for the creation of new companies.

4.1. Tecnológico de Monterrey recognizes that, as part of its principles, its development is based on innovation, creativity, the use of technology and the entrepreneurial spirit of its members, promoting the creation and development of socially responsible companies, in the context of a market economy, respecting the intellectual property and, consequently, recognizing the moral property right of the authors, stimulating creative activity and fomenting the development of the knowledge-based economy.

4.2. In relation to this, it is in the interest of Tecnológico de Monterrey to sign agreements and/or contracts with its own academic and administrative community, in order to achieve the materialization and, where appropriate, the commercialization of its industrial property assets, generating spin-off companies, i.e. companies created on the basis of the preexisting relationship of some of its members with Tecnológico de Monterrey, in which an industrial property right was conceived developed and materialized, including diverse confidential information, inventions and other solutions whose property belongs to the Institute and in which its academic and administrative community have an interest in continuing to develop, within the framework of this type of instruments, for which students, faculty, employees and/or service providers who participate in a spin-off must adhere to and sign in acknowledgement and acceptance of the REGULATIONS FOR THE CREATION OF TECHNOLOGY-BASED COMPANIES RESULTING FROM RESEARCH OF TECNOLÓGICO DE MONTERREY, indicated in Annex 4 herein.

<sup>4</sup> Example: The registration of patents will first take place in Mexico and, within the period of one year, the OTT will assess the need to extend its registration under the Patent Cooperation Treaty (PCT), and to extend the protection to other countries.

4.3. The OTT will maintain the technology-based entrepreneurship ecosystem, placing at the disposal of the members of the board, investors and entrepreneurs the portfolio of innovations, and the attraction of funds for entrepreneurs, with the prior signing of the letter of confidentiality referred to herein.

4.4. The technology transfer process for Tecnológico de Monterrey's innovations through the creation of technology-based companies in which its academic community participates, will be regulated by the

REGULATIONS FOR THE CREATION OF TECHNOLOGY-BASED COMPANIES RESULTING FROM RESEARCH OF TECNOLÓGICO DE MONTERREY included as Annex 4 herein.

4.5. In relation to the creation of technology-based companies, product of the intellectual property creations of Tecnológico de Monterrey, any cases that compete unfairly with Tecnológico de Monterrey will not be accepted, nor will the following cases:

- a. Those that harm the life of human beings or animals.
- b. Those that harm the environment.
- c. Those that harm the dignity of individuals or groups.
- d. Those that are illegal.
- e. Projects which, given their nature could harm the reputation of Tecnológico de Monterrey.
- f. Those that are assigned by the Vice-Rector for Research, Graduate Studies and Continuing Education, the Executive Team or the Board of Directors of Tecnológico de Monterrey.

4.6. Technology transfer process for the creation of new companies:

- a. If the intellectual property rights belong to Tecnológico de Monterrey:
  - i. The new company must be legally incorporated; or
  - ii. Tecnológico de Monterrey faculty, students or alumni must be participating in the business incubator or any other entrepreneurial modality established by Tecnológico de Monterrey.
  - iii. Both cases require the written authorization of Tecnológico de Monterrey for the use and exploitation of the intellectual property.
- b. If the intellectual property rights belong partially to Tecnológico de Monterrey:
  - i. The same conditions set forth in points 4.4.a.i and 4.4.a.ii of this policy apply.
  - ii. The written authorization of the counterparty (counterparties) with whom the intellectual property rights are shared.

4.7. Tecnológico de Monterrey will have the right of use over the distinctive marks (trademarks, commercial messages, etc.) developed by these new companies that were supported through technology transfer, for promotion purposes in the media, brochures, reports, etc., and, therefore, the holders of the respective mark rights must undertake to provide the corresponding authorizations to this end by signing the respective license.

4.8. Any authorization for use or license for the exploitation of any intellectual property creation that belongs to Tecnológico de Monterrey will require the authorization of the legal representatives, which, in turn, will be authorized by the Committee and the Legal Department of Tecnológico de Monterrey.

## 5. Technology Transfer to Third Parties

5.1. The OTT is responsible for Licensing the Industrial Property and software creation portfolio of Tecnológico de Monterrey. Its responsibilities are to:



- a. Promote the patent portfolio in databases and technology fairs for their licensing.
- b. Support the technological valuation of the inventions, innovations and industrial property creations, and help to establish their value for licensing.
- c. Integrate the technology portfolio and classify it in compliance with the strategic areas of Tecnológico de Monterrey and the industrial sectors, and support its promotion, commercialization and negotiation with third parties.

5.2. All invention or software creation licensing must be authorized by a legal representative approved by the Committee prior to its formalization with third parties.

5.3. All personnel of the Academic Community that appear as inventors or authors of creations that are the property of Tecnológico de Monterrey must undertake to provide technical assistance for the purposes of technology transfer and licensing of their invention or work with a third party. Regarding inventions and software creations, the OTT will negotiate with the third party the expenses incurred in such technical assistance for this purpose and will create a specific agreement for this matter.

5.4. Licensing of inventions or software creations at Tecnológico de Monterrey must be formalized by means of a licensing agreement which will be reviewed and negotiated through the OTT, with the prior authorization of the Legal Department. The agreement forms are included in Annex 3 herein.

5.5. These agreements must be registered with the Mexican Industrial Property Institute (IMPI) in order to enforce the rights with third parties. The OTT will be responsible for their registration and for following up on licenses, their control and administration in accordance with Article 63 of the Industrial Property Law.

5.6. When Tecnológico de Monterrey licenses an intellectual property, Tecnológico de Monterrey will be in charge of completing the necessary procedures for obtaining the registration, award and recording of licenses and patent protection in Mexico or any other country. The implicit costs will be negotiated with the counterparty or counterparties.

5.7 In a licensing agreement, the benefits corresponding to the faculty and/or student must adhere to the policy in effect for administrating and managing intellectual property, and these benefits must not be disclosed, negotiated or included in the licensing agreements with third parties.

5.8. When Tecnológico de Monterrey hires a new faculty member, employee or researcher, and Tecnológico de Monterrey funds, sponsors or commissions from the same the development of research, the policies contained herein will apply.

6. Guidelines for faculty who undertake entrepreneurial activities with their research results.

6.1. This section applies to full-time faculty and full-time researchers who belong to the Academic Community of Tecnológico de Monterrey.

6.2. This section is subject to the labor considerations stipulated by the Vice Presidency for Talent and Culture of Tecnológico de Monterrey.

6.3. Four avenues of development are considered for faculty who undertake entrepreneurial activities with research results:

- a. Faculty who create their own company with technologies belonging to Tecnológico de Monterrey.
- b. Faculty who partner with students to create a new company with technologies belonging to Tecnológico de Monterrey.
- c. Faculty who invest in a newly created company that uses technologies belonging to Tecnológico de Monterrey.
- d. Faculty who create their own company with products or technologies that were not entrusted or sponsored by Tecnológico de Monterrey, but are the property of the latter.

6.4 When faculty wish to create a new company that uses technologies which are the intellectual property of Tecnológico de Monterrey, the latter must respect the procedures stipulated in Annex 6 and request written authorization through the OTT.

6.5 If the use of the technology described in point 6.4 is authorized, a technology licensing agreement will be formulated, stipulating the applicable conditions and royalties.

6.6 The creation of the company must not conflict with the faculty's working hours. If this were to occur, the faculty must ask the School Dean, and Division and Department Director for the reassignment of their work load, in accordance with the policies in effect, and also considering the provisions of annex 6.

6.7 If the operation of the company created by the faculty conflicts with the results for which they were hired by Tecnológico de Monterrey, the case will be reviewed in compliance with the stipulations of annex 6 and a change in the work plan can be requested, in accordance with the institutional policies in effect.

6.8 It is strictly forbidden to create companies that compete unfairly with the activities of Tecnológico de Monterrey and, likewise, that make use of its clients and/or confidential information or technological developments that are the property of Institute. The OTT that detects such cases must communicate them to the Vice-Rector of Research, Graduate Studies and Continuing Studies for the implementation of the pertinent measures, file a report through ETHOS, or the Office of the Comptroller of Tecnológico de Monterrey.

6.9 If faculty create a new technology-based company belonging to Tecnológico de Monterrey, the procedures provided in Annexes 4 and 6 must be taken into consideration.

6.10 The creation of this type of companies does not generate any labor obligation between Tecnológico de Monterrey and the students involved.

6.11 Under no circumstances can the creation of new companies be based on studies resulting from a project sponsored or entrusted by Tecnológico de Monterrey, unless a licensing covenant exists.

6.12 The results of the research conducted by master's or doctoral students who hold a scholarship from the Institute will become the property of Tecnológico de Monterrey as payment for the scholarship obtained. Therefore, under no circumstances can these results be used as the basis for the creation of a new company if they have not been licensed by Tecnológico de Monterrey.

6.13 Tecnológico de Monterrey invests in new technology-based companies with intellectual property of Tecnológico de Monterrey, as long as the policies and procedures provided in Annexes 4, 5 and 6 herein are observed.

6.14 Faculty participation in this type of companies does not create any legal or economic liability against Tecnológico de Monterrey for any economic losses that might be generated.

6.15 Faculty participation in this type of companies, as a member of the company's board of directors, will be governed by the provisions of Clause 6.9 herein.

6.16 Faculty who wish to participate in the creation of products or technologies that are not entrusted or sponsored by Tecnológico de Monterrey, according to the provisions of the Intellectual Property Policies, must have the authorization in writing of the School N to which they are attached and/or of the Vice-Rector of Research, Graduate Studies and Continuing Studies before initiating activities.

6.17 Faculty participation in this type of companies will be governed by the provisions of Clause 6.9 herein.

## 7. Responsibility of the Legal Department regarding Industrial Property and Copyrights.

7.1 The Legal Department is responsible for the management and processing with the corresponding authorities and legal protection of:

- a) Distinctive marks, such as trademarks, commercial messages and tradenames of Tecnológico de Monterrey, and
- b) Works subject to copyright protection, except for the stipulations of 2.3 subsection b).
- c) Exclusive use rights.

7.2 The Legal Department is responsible for providing legal advice in any project involving intellectual property of Tecnológico de Monterrey, and for determining that the relevant negotiations comply with the requirements specified by the competent law.

The review and approval, where appropriate, of the form and essential elements of a legal instrument will be the responsibility of the Legal Department. Operating and technical matters, and those resulting from the negotiations related to the industrial property or copyright of projects, and fulfillment of the obligations agreed upon in such instrument, are the direct responsibility of the department in charge of the project.

7.3 The Legal Department is in charge of formulating the legal instruments for Intellectual Property, included in Annex 8 herein, such as:

- Memorandum of understanding.
- General Collaboration Agreement.
- Specific Collaboration Agreement.
- Technology Development Agreement (National and International Funds).
- Joint-Ownership Agreement.

- Confidentiality Agreement/Letter.
- International Agreements.
- Service Provision Agreement.
- Works-to-order Agreement.
- Licensing Agreement.
- Technology Transfer Agreement.
- Transfer/Assignment of Rights Agreement
- Joint Publication Agreement.
- Publication Agreement.

## 8. Conflicts of interest in research and innovation projects of Tecnológico de Monterrey.

8.1 The aim of this legislation is to regulate the ethical, financial, legal or similar conflicts (hereinafter conflicts of interest) that might arise regarding the inventions, innovations and other intellectual property creations at Tecnológico de Monterrey of its Academic and Administrative Community (Faculty, Students, Employees and/or Service Providers), in their conceptualization, materialization, disclosure, implementation or commercialization.

8.2 Conflicts of interest occur when a member of the academic and administrative community of Tecnológico de Monterrey procures or accepts, without the prior, written authorization of this Institute, any type of sponsorship for the execution of innovation activities in which they participate within Tecnológico de Monterrey, while having an interest with whoever seeks to act as sponsor that could generate a conflict regarding the intellectual property rights of the Institute.

8.3 In addition, and for the purposes of this policy, the following are considered to be conflicts of interest:

- a. Faculty, Employees and/or Service Providers assign activities to Students in order to obtain directly or indirectly a personal benefit or a benefit for their company, to the detriment of the intellectual property rights of Tecnológico de Monterrey.
- b. Facilitating to third parties and/or using for personal benefit or the benefit of the third parties, confidential information of the Institute, including the product of research undertakings in projects and developments that involve the industrial property of the same.
- c. Claim to third parties to be the holders of intellectual property assets that legally correspond to Tecnológico de Monterrey.
- d. Faculty, Employees and/or Service Providers onerously purchase or acquire goods or services for Tecnológico de Monterrey, from any company or entity in which they themselves, any family member, partner or associate has any financial interest.

e. Research or transfer projects are executed in which the Project Leader on behalf of Tecnológico de Monterrey hires or subcontracts goods or services from any company or entity in which they themselves, any family member, partner or associate has any financial interest.

8.4 The Academic and Administrative Community of Tecnológico de Monterrey must not prioritize its personal, professional or financial interests to the detriment of the intellectual property rights of the Institute, either for their own benefit or that of third parties.

8.5 The conflicts of interest that the Academic and Administrative Community must avoid at all times are those that occur when any of its Faculty, Students, Employees and/or Service Providers have the possibility of obtaining any form of gain from compromising the intellectual property rights of Tecnológico de Monterrey, without the prior, written authorization of said Institute.

8.6 The Faculty, Employees and/or Service Providers of Tecnológico de Monterrey must acknowledge in writing, at least once per year, according to the form determined for this purpose by the OTT, the existence and understanding of these guidelines, and confirm under oath that they have no conflict of interest with the intellectual property rights of this Institution (Form A) of Annex 5.

8.7 If a member of the Academic and Administrative Community of Tecnológico de Monterrey has any doubts about whether or not a personal, professional or financial interest exists that might generate a conflict with the intellectual property rights of the Institute, they must consult with the Committee to review the concrete circumstances in detail and to be able to determine the corresponding result. If the Committee determines that a conflict of interest does exist with the Institute, the Student, Faculty Member, Employee or Service Provider in question must so declare in writing, (Form B) of Annex 5.

8.8 While they maintain their formal relationship with Tecnológico de Monterrey, none of its Faculty, Employees and/or Service Providers can invest, intervene or render services in any company or business that directly or indirectly involves the intellectual property rights of Institute, in which they have also participated; unless the specific case has been evaluated by the OTT and the Institute has given its prior, written authorization for this purpose.

8.9 In any case in which a member of the Academic and Administrative Community of Tecnológico de Monterrey becomes involved in any entity or company other than the Institute, they must consider that any item of intellectual property in which they participate with such third party, which is directly or indirectly related to any invention, innovation or other industrial property creations produced at Tecnológico de Monterrey, in which they have had any participation, will belong to the latter. Therefore, it is the responsibility of the member of the Academic and Administrative Community to safeguard and hold the Institute harmless from any controversy arising with said third party.

8.10 The members of the Academic and Administrative Community of Tecnológico de Monterrey must perform their activities within the Institute adhering at all times to the policies, legislation, guidelines and other regulations that govern their continuance as part of this Community, avoiding any conflict of interest that might arise as a result of their activities, and even responding favorably in any cases in which conflicts might be generated.

8.11 The Faculty, Employees and/or Service Providers of Tecnológico de Monterrey cannot have any responsibilities of leadership, administration, research, advising or sponsorship of any kind in external entities, regarding inventions, innovations and other industrial property creations that are directly or

indirectly related to those produced Tecnológico de Monterrey, unless the prior, written authorization of the latter exists.

8.12 The Academic and Administrative Community of Tecnológico de Monterrey must not use the Institute's resources (confidential information, personnel, equipment, facilities, or any other) for their own benefit or that of third parties, without the prior written authorization of such Institute. Anyone who detects these cases is under an obligation to report them to the OTT so the relevant measures can be taken, or through ETHOS or the Office of the Comptroller of Tecnológico de Monterrey.

8.13 Regarding the ownership of authored works (essays, articles, theses and related works), their form of expression recognized as the copyright, product of the academic activities of the Students, will correspond to the latter, who will be responsible for the form of expression of their ideas contained in these works. If such works are developed in collaboration with Tecnológico de Monterrey, by entrustment, funding and/or sponsorship of the same, the ownership of the property rights of such works will correspond to Tecnológico de Monterrey, recognizing the rights corresponding to each of the parties in accordance with the law. The above must comply with the Copyright Policy (Annex 8).

8.14 Regarding the conflicts of interest that might arise in relation to copyrights, the provisions of the Copyright Policy (Annex 8) will apply.

## 9. Sanctions applicable to this policy.

9.1 Students, Faculty, Employees and/or Service Providers who participate in any spin-off of Tecnológico de Monterrey, must inform the OTT of any circumstances that could produce a conflict of interest between their commitment of origin with the Institute and their participation in this type of company, in order to proceed in accordance with the law, otherwise this could result in the rescission of the agreement entered into with Tecnológico de Monterrey, withdrawing all types of support provided, without prejudice to other administrative sanctions, in compliance with the stipulations of the competent authority through the Mexican Industrial Property Institute, as well as the corresponding legal sanctions documented in (Form B) of Annex 5.

9.2 Any violation or omission of these provisions will be notified to the Students, Faculty, Employees and/or Service Providers through the OTT, in order to help them to remedy and avoid incurring in any conflict. Some cases might be reviewed by the Committee to have their recommendations and, where appropriate, channeled to the corresponding departments or authorities of Tecnológico de Monterrey for their assistance in resolving the conflict and reviewing the case in keeping with the procedures set forth in Annex 1.

9.3 Any reoccurrence of the violation or omission of these provisions could result in the rescission of the employment contract of the Faculty member or Administrative staff member; the rescission of the service provision agreement; or, if applicable, the dismissal of the Student, without prejudice to the applicable administrative, civil and/or criminal sanctions in accordance with the relevant Laws.

## 10. Situations not foreseen in the Policy.

10.1 Any situations not foreseen in this policy will be referred to the Committee for review and analysis, and the Committee will be responsible for issuing a decision according to law.