

香港理工大学
知识产权所有权政策
The Hong Kong Polytechnic University
Policy on Ownership of Intellectual Property
(“PIP”)

本指南如中英文译本有差异，应以英文译本为准。
If there is any discrepancy between the Chinese and English versions
of these Guidelines, the English version shall prevail.

1. 前言 Introduction

大学鼓励并积极支持其教职员和学生开展创新、发展新技术和发明新知识的活动。在大学任职或学习期间，员工和学生，无论是个人还是团体，将会产生大量的知识产权。

The University encourages and actively supports activities undertaken by its staff and students which will lead to the promotion of innovation, the development of new technology and the invention of new knowledge. All Staff Members and students of the University, individually or as groups, generate a substantial amount of Intellectual Property in the course of their employment with, or study in, the University.

本政策明确了知识产权的所有权、管理和商业开发的立场，确保所有教职员和学生都能充分了解如何保护知识产权，以及如何规范使用这些财产。

This Policy sets out the position on the ownership, management and commercial exploitation of the Intellectual Property, so that all Staff Members and students are properly informed on how Intellectual Property rights will be protected and how the use of such property will be regulated.

2. 生效 Effectiveness

本政策自 2015 年 6 月 26 日起生效，并取代 2012 年 6 月 26 日发布的 PIP 政策以及之前发布的所有相关政策和规定。

This Policy is effective as of 26 June 2015, and supersedes PIP issued on 26 June 2012 and all other policies and regulations on the same subject matter previously issued.

3. 定义 Definition

为本政策的目的：

For the purposes of this Policy:

“**知识产权**”是指任何发现、创造、发明、设计、外观、商标、诀窍或任何研究成果及其所有相关权利，无论是否可注册，包括专利、版权、商标、设计、实用新型或任何国家的其他此类权利。

"Intellectual Property" means any discovery, creation, invention, design, get-up, trade mark, know-how or any research effort and all rights pertaining thereto whether registrable or not including patents, copyright, trademarks, designs, utility models, or other such rights in any

country.

“发明人”是指创造知识产权的教职员工或学生。

"Inventor" means the Staff member or student who creates the Intellectual Property.

“材料”是指教职员工和学生创作的材料,包括但不限于文件、设计、图纸、照片、草图、计划、笔记、备忘录、记录和书面材料、会议演讲、雕塑、期刊文章及其副本。

"Materials" means the materials created by the Staff Members and students including but not limited to documents, designs, drawings, photographs, sketches, plans, notes, memoranda, records and writings, conference presentations, sculptures, journal articles and copies thereof.

“净收入”是指从知识产权的商业开发中获得的所有收益,包括但不限于任何提成费、费用和收入的总和,在扣除所有为获得保护(包括专利申请和维护)、市场营销以及与研究、开发和商品化相关的任何其他直接和间接成本后的金额。

"Net Revenue" means the sum of all the proceeds, including but not limited to any royalties, fees and incomes deriving from the commercial exploitation of an Intellectual Property after deducting all costs incurred for obtaining protection (including patent application and maintenance), marketing, and any other direct and indirect costs associated with research, development, and commercialization.

“政策”是指本知识产权所有权政策。

"Policy" means this Policy on Ownership of Intellectual Property.

“校长”是指大学的校长。

"President" means the President of the University.

“资助者”是指向大学提供捐赠、赞助、拨款或合同基金,以支持研究费用的政府部门、私人基金会或慈善组织、企业或公司或个人。

"Sponsor" means a government department, a private foundation or charitable organization, a business or corporation, or a private individual, who provides donation, sponsorship, grant or contract funds to the University as a contribution to the costs of research.

“教职员工”是指大学雇佣的员工或合同研究员。

"Staff Member" means any employee or contract researcher employed by the University.

“大学”是指香港理工大学。

"University" means The Hong Kong Polytechnic University.

4. 知识产权和材料的所有权 Ownership of Intellectual Property and Materials

4.1 除非本政策另有规定或经大学管理层批准的书面协议另有规定,所有大学教职员工在其任职期间所创造的知识产权和材料,以及在满足下文第 4.2 段规定的条件下,大学学生在注册为大学学生期间所创造的知识产权和材料,一旦产生即归大学独家所

有。即使相关发明人离开大学，知识产权和材料的所有权仍归大学所有。所有材料必须在大学要求时交还大学，除非大学另有同意，在其就业或学习终止时也应如此。Unless otherwise specified in this Policy or by written agreement approved by the Management of the University, all Intellectual Property and Materials made by the Staff Members during their employment with the University and, subject to the conditions stipulated in paragraph 4.2 below being met, those Intellectual Property and Materials made by students of the University when registered as a student of the University shall upon the coming into existence belong to and vest in the University and be owned exclusively by the University. Ownership of Intellectual Property rights and in the Materials shall continue to vest in the University even after the Inventor concerned has left the University. All Materials must be surrendered to the University on demand and unless otherwise agreed by the University, at the termination of his/her employment or study as the case may be.

4.2 学生在大学学习期间创造的知识产权和材料，在以下情况下应归大学所有，并在知识产权和材料创造时归大学所有：

Intellectual Property and Materials made and created by students during their study at the University shall be owned by the University and shall vest in the University upon the making and creation of the Intellectual Property and Materials in the following circumstances:

- (i) 学生因在大学进行研究或学习而从大学获得工资、薪金或津贴的经济支持；或
the student receives financial support from the University in the form of wages, salary or stipends for undertaking their study or research in the University; or
- (ii) 学生在其研究工作中大量使用大学资源；或
the student makes material use of the University's resources for his/her research work;
or
- (iii) 学生在其研究工作中获得大学教职员工的实质性指导和智力投入；或
the student receives material guidance and intellectual input from the University's staff for his/her research work; or
- (iv) 学生的研究工作由大学或因其在大学学习而获得的资助。
the student's research work is funded by a grant to the University or to him/her by virtue of his/her study with the University.

4.3 大学可自行决定同意与其他方共同拥有知识产权的所有权，前提是大学认为相关方有合法权利对相关知识产权的发明作出贡献而主张权益和所有权。贡献可以是知识、努力或资金的投入，而大学未直接或间接支付任何形式的补偿。相关教职员工或学生有责任在首次向大学管理层报告相关知识产权的发明时，向大学声明或通知任何

其他方可能对有关知识产权提出的任何所有权、利益和权利要求。

The University may at its sole discretion agree to share ownership of an Intellectual Property with other party or parties provided that it is satisfied that other party or parties concerned have a legitimate right to claim an interest and ownership as a result of contribution to the invention of the Intellectual Property concerned. Contribution could be in the form of input of knowledge, efforts or finance for which no compensation of any kind has been paid directly or indirectly by the University. It is the responsibility of the Staff Member or student concerned to declare to or notify the University of any possible claim for ownership, interest and right of the Intellectual Property concerned by any party or parties when the invention of such Intellectual Property is first reported to the Management of the University.

4.4 放弃所有权 Disclaiming Ownership

以下情况下，大学可能放弃对教职员工或学生创造的知识产权的所有权：

The University may disclaim ownership of an Intellectual Property made by a Staff Member or student in the following circumstances:

- (i) 该知识产权的创造完全由外部方委托并通过与大学的协议委托和资助；或
the making of the Intellectual Property is commissioned and funded entirely by an external party through an agreement with the University, or
- (ii) 该知识产权完全是在发明人未受雇于大学或未注册为大学学生时完成；或
the Intellectual Property is completed entirely with efforts made when the Inventor is not employed by the University or registered as a student in the University, or
- (iii) 发明人未使用其受雇于大学的专业知识或技能，且未显著使用大学的任何资源来支持或贡献于相关知识产权的创造。资源在本政策中包括实验室设施、计算机设施和软件、大学图书馆以及秘书或行政支持等。

the Inventor has not made use of the professional knowledge or skill for which the Staff Member concerned is employed by the University and that there has been no significant use of the resources of the University of any kind to support or contribute to the creation of the Intellectual Property concerned. Resources in this Policy shall include laboratory facilities, computer facilities and software, university library, and secretarial or administrative support, etc.

上述情况的举证责任在于相关发明人。

The burden of proof of the above-mentioned situations shall rest with the Inventor concerned.

大学可以在以下情况下将其知识产权的权利转让给另一方或教职员工或学生，这由

大学自行决定：

The University may transfer and assign its rights in Intellectual Property to another party or the Staff Member or student in the abovementioned circumstances when, as determined by the University and solely at the discretion of the University:

- (i) 对资助者或其他第三方没有凌驾性或特殊义务；
there are no overriding or special obligations to a Sponsor or other third party;
- (ii) 这样做符合大学的最佳利益。
the best interests of the University would so be served.

在上述(i)和(ii)情况下对教职员工或学生的权利转让和分配，应在发明人同意不再使用大学资源对该发明进行工作的努力或开发，并且大学被授予一项不可撤销、无条件、非独占、全球范围内免费使用和复制工作的许可，包括但不限于教学、学术研究和开发活动。

Any transfer and assign of rights to the Staff Members or student in (i) and (ii) above shall be made on condition that the Inventor(s) agree that no further effort on, or development of, the work will be made using University resources and that the University is granted an irrevocable, unconditional, non-exclusive, worldwide and free-of-cost licence to use and reproduce the work as the University thinks fit including but not limited to teaching, academic research and development activities.

4.5 版权 Copyright

教职员工和学生创作的任何材料的版权在材料创作时立即归大学所有。

The copyright of any Material created by the Staff Members and students belongs to the University immediately upon the creation of the Material.

在以下情况下，大学不会主张材料的版权，并准备将版权转让给相关教职员工或学生：

In the following circumstances, the University will not claim ownership in the copyright in the Material and is prepared to transfer and assign the copyright back to the Staff Members or students concerned:

- (i) 大学不会主张教职员工创作的正常学术和新闻出版物（包括书籍、文章和教学材料或其他类似作品）的版权，除非这些作品（i）作为特定的非审稿任务而由出版商出版；或（ii）由资助者、大学或政府资助委托创作；或（iii）因显著使用大学资源而创作。

The University will not claim ownership of copyright in normal academic and journalistic forms of publication including books, articles and teaching materials or other similar work generated by the Staff Members, unless those works (i) are produced as a specific non-refereed assignment that will be published by a publisher; or (ii) have been commissioned by a Sponsor or by the University or by government funding; or (iii) are created as a result of making significant use of University

resources.

- (ii) 如果学生未: (i) 接受大学或政府的经济支持; (ii) 显著使用大学资源; (iii) 接受大学教职员工的指导或投入, 则作品的版权归学生所有。

The copyright of the works of students is vested in them if the students are not: (i) receiving financial support from the University or government; (ii) using University resources significantly; and (iii) receiving University staff guidance nor input.

- 4.6 知识产权(包括版权)的所有权转让或分配, 无论是部分还是其他, 只有在获得大学管理层授权的书面协议后才能生效。

The transfer or assignment of ownership of Intellectual Property including copyright, either partial or otherwise, can only be effected upon written agreement with authorization of the Management of the University.

- 4.7 尽管有上述规定, 大学同意并承认教职员可以为教学目的使用和复制材料。

Notwithstanding the above, the University agrees and acknowledges that the Staff Members can use and reproduce the Materials for the purpose of teaching.

- 4.8 教职员工和学生应确保其创作的所有材料均为原创材料, 不构成对第三方拥有的任何知识产权的侵犯。

The Staff Members and students shall ensure that all Materials created by them shall be original materials and shall not constitute infringement of any Intellectual Property rights owned by a third party.

5. 知识产权的保护 Protection of Intellectual Property

- 5.1 大学可自行决定是否以申请专利或其他注册方式为其拥有的任何知识产权申请法律保护, 费用由大学承担。保护的方法和范围应由大学管理层在与相关发明人和其他相关专家协商后确定。大学有权作出最终决定。

The University may at its sole discretion decide to apply for legal protection at its expenses for any Intellectual Property it owns by way of applying for patent or other registration. The methods and extent of protection shall be determined by the Management of the University upon consultation with the Inventor concerned and other relevant experts. The University shall have the right to make the final decision.

- 5.2 如果大学选择不自行承担费用为教职员工或学生发明的任何知识产权申请法律保护, 则相关发明人可以选择自费申请法律保护。在这种情况下, 保护的方法和范围应由发明人在与大学管理层协商后确定。然而, 相关知识产权(包括任何专利)的所有权仍归大学所有, 大学应被列为相关专利的所有者或其他注册的所有者。如果大学希望就相关知识产权进行任何许可安排, 发明人应享有优先拒绝权。

Should the University choose not to apply for legal protection at its expenses for any Intellectual Property invented by a Staff Member or student, the Inventor concerned may choose to apply for legal protection at his/her own expenses. In such case, the methods and extent of protection shall be determined by the Inventor upon consultation with the

Management of the University. However, the ownership of the Intellectual Property concerned including any patent remains vested with the University and the University shall be named as the owner of the patent or other registration for the Intellectual Property concerned. The Inventor shall have the first right of refusal should the University wish to enter into any licensing arrangement in respect of the Intellectual Property concerned.

- 5.3 知识产权的发明人将被授予非独占权利，以在进一步的研究、教学或研究出版物中使用相关知识产权。然而，除非大学已决定不为相关知识产权申请专利保护，且发明人也选择不为其开发或发明的知识产权申请专利保护和商品化，否则发明人应负责保持与该知识产权相关的任何重要信息的保密性，任何这些信息的披露可能危及相关知识产权的专利性或商业价值。

The Inventor of an Intellectual Property will be granted the non-exclusive right to use the Intellectual Property concerned in further research, teaching, or research publications. However, he/she shall be responsible for maintaining the confidentiality of any important information relating to the Intellectual Property concerned the disclosure of which may jeopardize the patentability or commercial value of the Intellectual Property concerned, unless the University has decided not to obtain patent protection for the Intellectual Property concerned and the Inventor also elects not to seek patent protection for and commercialization of the Intellectual Property he/she develops or invents.

- 5.4 如果需要向任何外部方披露知识产权以考虑可能的合作、许可或合资企业，则应要求这些外部方签署保密协议，以对外部方施加保密义务，并在向其披露任何信息之前明确大学和各方的责任和义务。

In the event that disclosure of Intellectual Properties to any external parties is necessary for the consideration of possible collaboration, licensing or joint ventures, these outside parties shall be requested to sign a Non-Disclosure Agreement to impose an obligation on the external parties to keep the Intellectual Property confidential and to clarify the responsibilities and liabilities of the University and the parties before any information is disclosed to them.

6. 报告责任 Reporting Responsibility

- 6.1 教职员工或学生有责任在知识产权已经或即将产生时向大学管理层报告。及时报告将允许大学采取适当行动保护该知识产权。

It is the responsibility of a Staff Member or student to report to the Management of the University when an Intellectual Property is or is about to be made. Timely report will allow the University to take appropriate action to protect such Intellectual Property.

- 6.2 教职员工或学生有责任向大学管理层报告任何第三方对相关知识产权的创造所作的贡献，特别是如果该方可能对相关知识产权的所有权或其他权利提出主张。如果教职员工或学生未履行此责任，他/她将独自负责任何第三方可能提出的索赔以及因此产生的任何损害、法律和财务责任。

It is the responsibility of a Staff Member or student to report to the Management of the University on the contribution of any third party to the creation of the Intellectual Property

concerned, particularly if such party may have a claim in the ownership or other rights to the Intellectual Property concerned. If the Staff Member or student fails to do so, he/she shall be solely responsible for any claims of any nature whatsoever that may be made by such third party or parties and any damage, legal and financial liabilities arising as a result of such failure.

7. 知识产权的商品化和使用 Commercialization and Use of Intellectual Property

- 7.1 大学是唯一主体有权授权其教职员和学生所创造的知识产权作商品化、利用或开发的用途，包括将知识产权免费转让给社会。大学可自行决定将此权力委托给其认为合适的第三方，并以大学管理层认为适当和恰当的方式进行委托。

The University is the only party who may authorize the commercialization, utilization or exploitation of the Intellectual Property created by its Staff Member and student, including the transfer of the Intellectual Property to society gratis. The University may at its sole discretion delegate such authority to a third party it will so appoint in manner deemed fit and proper by the Management of the University.

- 7.2 如果大学教职员或学生创造的知识产权经大学授权进行商品化，则因该商品化产生的净收入（如有）的一部分将合理地分配给该知识产权的发明人及其所属的部门或运营单位。分配的方法和范围将由大学管理层不时确定。

If an Intellectual Property created by a Staff Member or student of the University is commercialized upon the authorization of the University, a reasonable share of Net Revenue, if any, generated from such commercialization shall be given to the Inventor of such Intellectual Property and the department or operating unit the Inventor concerned belongs to. Methods and extent of sharing shall be determined by the Management of the University from time to time.

- 7.3 任何第三方未经大学正式授权使用或商品化大学教职员或学生创造的知识产权，均被视为严重的利益冲突。如果大学的教职员或学生允许并促成第三方未经大学明确授权使用或开发大学教职员或学生创造的任何知识产权，他/她将被视为犯有严重的不当行为，并根据大学的适用规则 and 规定受到处罚。

Use or commercialization of any Intellectual Property created by the University's Staff Member or student by a third party without the formal authorization of the University is considered to be a serious conflict of the University's interest. If a Staff Member or student of the University allows and facilitates the commercial use or exploitation of any Intellectual Property created by the University's Staff Member or student by a third party without the expressed authorization of the University, he/she will be considered to have committed a serious misconduct punishable in accordance with applicable rules and regulations of the University.

- 7.4 虽然大学鼓励知识产权的商业开发或使用，但大学也认为自己有责任将某些知识产权免费供给社会公众，无论这些知识产权是否受到专利保护。大学将确保这种安排对所有相关方的利益是透明和平衡。

While the University encourages commercial exploitation or the use of the Intellectual

Property, the University also considers herself having a responsibility to make available certain Intellectual Property gratis for the benefit of the society at large, no matter the Intellectual Property is protected with patents or not. The University will ensure that such arrangement is transparent and balanced for the interests of all parties concerned.

8. 补充规定 Supplementary Regulations

管理层在校长授权下应制定补充规定和程序，以实施本政策。

Supplementary regulations and procedures governing the implementation of this Policy shall be established by the Management upon the authorization of the President.

9. 实施和管理 Implementation and Management

本政策的实施和大学知识产权的管理应由校长不时任命的指定高级执行官（DSE）负责。

The implementation of this Policy and the management of Intellectual Properties of the University shall be the responsibility of the Designated Senior Executive (DSE) so appointed by the President from time to time.

10. 改订和替换 Revision and Substitution

本政策可后续修改或替代，但任何修改后的版本均需经校董会基于大学管理层建议批准。

This Policy may be revised or substituted upon approval of the Council of the University upon recommendation of the Management of the University.

2025 年 1 月 15 日

15 January 2025