



THE ALLIANCE FOR A GREEN REVOLUTION IN AFRICA

(AGRA)

POLICY ON THE MANAGEMENT OF INTELLECTUAL PROPERTY ASSETS

AGRA POLICY ON THE MANAGEMENT OF INTELLECTUAL PROPERTY ASSETS (IP POLICY)

1. BACKGROUND, SCOPE AND OBJECTIVE

1.1 Purpose:

- 1.1.1 The purpose of this policy is to provide a framework governing the management of AGRA's intellectual property assets arising from the creation, production, acquisition, licensing and protection of innovations and technology produced by AGRA in all its projects and development activities with third parties including any persons or entities from whom AGRA receives material, personnel, advice and/or funds from (Donors), and recipients of any monetary funds, contribution or any other value in kind from AGRA (Grantees).
- 1.1.2 It is intended that the management of these intellectual property assets is consistent with enshrining AGRA's Global Access Strategy and its objective of ensuring that all intellectual property assets are managed and used with the overriding objective of promoting charitable activities in the world that touch on AGRA's key vision that ensures Africa can feed itself and the world.
- 1.1.3 As such, AGRA is committed in ensuring that all intellectual property assets derived from its projects should be used, developed and dealt with in a sustainable manner that would ensure global accessibility to all persons in need in the developing world as enshrined in AGRA's Global Access Strategy and thus enable AGRA's vision for Africa's agriculture by which AGRA seeks to use these intellectual property assets to create meaningful and lasting change in African agriculture so as to assure food security and lift millions of needy people in the African continent out of poverty.
- 1.1.4 It is also intended that the application and implementation of AGRA's IP policy and Global Access Strategy will be aligned with and adhere to all international treaties safeguarding and promoting the protection of intellectual property.

2. **INTELLECTUAL PROPERTY ASSETS MANAGEMENT PRINCIPLES**

2.1 The phrase “Intellectual Property Assets” as used in this IP Policy means any and all rights in patents, rights to inventions or innovations, copyright, moral rights, trade marks, goodwill, processes, biological organism varieties, data, database rights, software, know-how, trade secrets, confidential information, whether or not registered or unregistered, and all similar rights which subsist or will subsist now or in the future, in any part of the world.

2.2 AGRA has adopted the following 4 principles to guide it in its day to day management and dealings arising from intellectual property assets:

2.2.1 **Protection and enforcement of Intellectual property rights**

AGRA is committed to efficient, strategic and effective methods of securing intellectual property assets. It will carefully analyse and isolate all intellectual property assets arising from any projects it undertakes whether directly or indirectly and whether solely or with partners and identify those which should benefit from protection. AGRA will also determine the most suitable mechanisms of protection to use and the most suitable jurisdictions within which protection should be obtained bearing in mind those that are most aligned to AGRA’s vision. The protection and enforcement of the intellectual property assets is necessary to enable effective value creation and transmission of rights to third parties who can develop sustainable products, technologies and processes that would further develop African agriculture. AGRA will ensure that any limitations to use any third party proprietary materials set by Donors will be respected.

2.2.2 **Third party intellectual property assets**

AGRA may enter, on a case by case basis, into agreements with Interested Parties (Donors, Grantees and AGRA Contractors - these being individuals or entities engaged by AGRA as contractors or consultants) to acquire or licence intellectual property assets for the purpose of accessing intellectual property assets that would be aligned with its strategic objectives. AGRA will ensure that any such agreements are aligned with its overall need to ensure global accessibility to all persons in need and enable AGRA’s vision for Africa. AGRA is further committed to ensuring that all Interested Parties intellectual property assets that will be used in any Funded Projects (including any

research, innovation or development project involving Third Parties and which receives funding or any other monetary contribution (including value in kind) from AGRA) will be cleared for use and that their use will be in line with the overall principles of AGRA governing global access. In as far as it is necessary to do so, AGRA will ensure the relevant disclosures and clearances are obtained from the Interested Parties.

2.2.3 **Global Access**

2.2.4 It is intended that all AGRA intellectual property assets will be utilized and managed in such a manner as to ensure global accessibility to those in need as aligned with AGRA's Global Access Strategy and vision contained under Annex 1 of this Policy. This will mean that any data and results arising from funded projects will be promptly released and disseminated subject to any non-disclosure/confidentiality obligations and related waivers/carve outs or a need to delay to ensure protection of the underlying intellectual property assets in the respective jurisdictions where the protection will be sought. AGRA will also ensure that limited exclusivity licences will be granted in circumstances where commercialization of its intellectual property assets with third parties will be needed to enable further improvement of those intellectual property assets for the benefit of its long term projects geared towards achieving maximum impact on beneficiaries of its funded projects provided that those intellectual property assets remain available in all countries where they are needed as part of its Global Access Strategy and to ensure their accessibility by third party public sector organizations, including non-governmental organizations and multilateral agricultural agencies for non-commercial projects .

2.2.5 **Open Access**

AGRA is committed to ensuring that all research publications arising from the research projects it funds are covered under an open creative commons (CC) copyright licence for all AGRA publications (books, research papers, memoranda, press releases, electronic recordings, websites and related domain names, presentations, audio visual recordings, files, videos, software databases and related media) and under which AGRA will retain the copyright in the publications but allow users of the publications, including faculty in academic institutions, the freedom/right to make copies, reproduce , distribute, display or transmit any parts of the publications without a need for its permission as long as the future works published by the users attribute such works to AGRA provided that such

publications are not used for commercial purposes. AGRA will ensure that any resulting work must be disseminated under a similar share alike licence.

3. **SCOPE AND PURPOSE OF THE IP POLICY**

- 3.1 This policy is applicable to all persons or entities with whom AGRA has any interaction or relationship with, including but not limited to the Interested Parties discussed above.
- 3.2 This policy is in conformity with, is part of and has been developed in accordance with AGRA's Global Access Strategy. AGRA's Global Access Strategy sets out AGRA's commitment to global accessibility of its projects giving AGRA's philosophy and mission to ensure the availability, accessibility and affordability of new technologies and ideas to persons in developing countries. The Strategy is annexed to this policy.
- 3.3 In addition, AGRA has developed Forms that would support the disclosure, identification and recording of Intellectual Property Assets, These Forms are all annexed to this policy.

4. **AGRA STAFF (EMPLOYEES) AND OTHER RELATED PERSONNEL**

- 4.1 AGRA is committed in ensuring that all AGRA staff, independent contractors, scientists, third party researchers, research fellows, university postgraduate students operating on behalf of AGRA on Funded Projects will be required in their contractual engagements to adhere to the terms and spirit of this Policy. All intellectual property assets generated by Agra staff and other related personnel will be the property of AGRA as long as these assets are created during the course of their employment or engagement.

This policy is effective and remains in force and may be amended or revised only with the approval of AGRA management.

Established and approved in July 2017

AGRA GLOBAL ACCESS STRATEGY (“STRATEGY”)

1. INTRODUCTION

- 1.1 This document sets out AGRA’s commitment to global accessibility of any developments arising from funded projects. AGRA’s philosophy and mission is to ensure the availability, accessibility, and affordability for people who need access to new technologies and ideas in developing countries.
- 1.2 **“Global Access”** requires that: (i) the knowledge gained from a project funded by AGRA will be promptly and broadly disseminated; and, (ii) any and all products, services, processes, technologies, materials, software, data or other innovations resulting from the funded Project (**“Funded Developments”**) are made available and accessible at reasonable cost to people most in need within developing countries.
- 1.3 This Strategy outlines AGRA’s Global Access approach and in particular the importance of proper management of intellectual property (“IP”) assets generated by AGRA and its partners to ensure Global Access. By using IP assets efficiently to maximise the impact of funded projects, AGRA ensures that it and its partners can maximise the benefits made available to those that are most in need. For the purposes of this Strategy, **“IP”** means any and all rights in patents, rights to inventions or innovations, copyright, moral rights, trade marks, processes, goodwill, plant and seed varieties, data, database rights, software, know-how, trade secrets, confidential information, whether or not registered or unregistered, and all similar rights which subsist or will subsist now or in the future in any part of the world.

2. AGRA’S GLOBAL ACCESS STRATEGY

2.1 Understanding Global Access

- 2.1.1 Global access is a concept initially promoted by the Bill & Melinda Gates Foundation and it is a concept that AGRA has subsequently adopted as part of its overall organisational mission statement and vision.
- 2.1.2 Our partners and grantees are required to comprehensively understand and adhere to this Strategy if they take part in a Funded Project. A **“Funded Project”** means any research, innovation or development project or program conducted or carried out by a

third party which receives funding or any other monetary contribution (including value in kind) from AGRA. Information about any **“New IP”**, which is all IP derived and created from Funded Developments should be disclosed by all grantees and Participants to AGRA. Grantees and Participants must ensure that all Background IP can be used in connection with the Funded Project and that it can be used in line with this Strategy. **“Background IP”** includes all technologies, products, services, materials, software, data, processes or formulations, or other innovations and intellectual property rights created by you (grantee) or a third party prior to or outside of any Funded Project, but which is used as part of such Funded Project.

2.2 Identification and Access to Background IP

2.2.1 Where Participants in a Funded Project, have their own Background IP that they will contribute to the Funded Project, they will be required to identify and ensure access to such Background IP in accordance with this Strategy A **“Participant”** includes any party other than a grantee taking part in a Funded Project including consultants and any other individuals or entities engaged by AGRA.

2.2.1.1 The Participants must identify the Background IP prior to the commencement of any Funded Project.

2.2.1.2 Background IP owned by a grantee: all grantees are required to complete the ‘Project Inventions, Innovations/Technology’ section of AGRA’s Funded Project Concept Note. Where any grantees are invited to participate in the second stage of proposal development, the grantee will be requested to complete AGRA’s IP Reporting Form which will be included as part of the Proposal Submission Guidelines and allows a grantee to provide more detailed information. (These forms are also included as part of AGRA’s IP Policy).

2.2.1.3 Background IP owned by a Participant in a Funded Project: all Participants in a Funded Project are required to provide AGRA with information relating to inventions, innovations and technology in a form prescribed by AGRA. This is an initial screening process and to the extent that any additional details are required, the Participant shall be required to complete AGRA’s IP Reporting Form.

- 2.2.2 To the extent that any Background IP involves or otherwise relies upon any IP rights belonging to a third party, the discloser (be they a grantee or a Participant) is required to confirm by way of a written confirmation, as part of their agreement with AGRA that it has the third party's consent to use their IP rights as part of the Background IP and to use and license these rights in connection with a Funded Project (if applicable). If third party consent cannot be obtained and if the discloser is unable to guarantee that continued use of the identified third party rights will not impede the fulfilment of this Strategy then the discloser will identify alternative methods by which the Funded Project will be implemented in the absence of the restricted third party IP rights.
- 2.2.3 Where Background IP is used, providers of any Background IP will not be prevented from using or transferring the Background IP outside of the Funded Project, as long as it does not have a limiting effect on the Funded Project or to the continued access or use of the Background IP, for example by imposing royalty payments.
- 2.2.4 As part of the IP Reporting described in this section, Participants and grantees are required to outline the steps that they will take to ensure that the Background IP and any New IP will be used in line with this Strategy and in particular to achieve Global Access. This applies to all forms of Technology that may be designed, developed or created and which may form part of the Funded Development. **"Technology"** means an innovation, design, invention, method, technique, process or subject matter for which intellectual property protection can exist.

3. **MANAGEMENT OF IP FOR GLOBAL ACCESS**

3.1 **Collaboration under the Funded Project**

- 3.1.1 All and grantees Participants are required to ensure continued access to any New IP which arises from a Funded Project in line with this Strategy and AGRA's IP Policy. In order to maximise any potential collaboration between AGRA, AGRA's partners, Participants, grantees and third party collaborators participating in a Funded Project, AGRA requires all collaborating parties to share and/or enter into the following agreements:

- 3.1.1.1 IP license agreements for any Technology that is used as part of the Funded Project to ensure continued access to such Technology in accordance with the intention of this Strategy; and
- 3.1.1.2 collaboration agreements with Third Party Collaborators to a Funded Project to ensure all collaborators comply with and are made aware of the Strategy. These agreements will extend the obligations to comply with this Strategy to third party collaborators that are involved in or otherwise benefit from the Funded Project. **“Third Party Collaborators”** include sub-contractors, partners, agents, affiliates or other parties who provide input to a Funded Project and are not directly engaged by AGRA;
- 3.1.2 All entities partnering with AGRA must be made aware that all information and materials shared prior to, during or after the Funded Project will, unless expressed to be significantly confidential, be made publically available.
- 3.1.3 Ownership of any New IP under any Funded Project shall be determined in accordance with AGRA’s IP Policy, this Strategy and the individual agreements entered into between AGRA and the Participants.

3.2 **Ongoing IP Reporting**

- 3.2.1 Participants, grantees and other collaborating third parties, where applicable, will be required to make periodic reports to AGRA of any New IP developed by them throughout the course of any Funded Project and for a timeframe specified by AGRA after expiry of the Funded Project. All parties will be issued with a reporting schedule which will indicate dates for delivery of various progress, interim and final reports. The reporting requirement will apply at all stages of a Funded Project and therefore where there is no New IP, a grantee or Participant will be required to provide a certification confirming the non-existence of New IP.
- 3.2.2 AGRA has in place an ongoing reporting mechanism which requires any and all Funded Developments to be reported to AGRA on a regular basis.

3.3 **Management of IP Rights under Funded Projects**

AGRA’s grantees and Participants are committed to ensuring that they:

- 3.3.1 notify AGRA of any plans to commercialize any New IP, that is created or otherwise developed as a result of a Funded Project on an ongoing basis;
- 3.3.2 at the time of second stage of the proposal development or upon AGRA's request, provide AGRA with sustainability plans for the New IP;
- 3.3.3 detail how the New IP will be made publically available for the benefit of the public good;
- 3.3.4 negotiate access to other useful intellectual property and technologies for the benefit of AGRA's Funded Projects and the attainment of Global Access;
- 3.3.5 ensure that any data is generated as an international public good and based on open access content;
- 3.3.6 request limited exclusivity for commercialization of the New IP only if it is necessary for the further improvement of the existing IP and products derived from ongoing Funded Projects or enhance maximum impact of the project on target beneficiaries which are as limited as possible in duration, territory and field of use as long as the limited exclusivity agreements provide that the New IP will remain available in all countries for non-commercial research conducted by public sector organisations on a research exemption basis and in the event of a national or regional food security emergency, for the duration of the emergency on an emergency exemption basis; and
- 3.3.7 notify AGRA of any agreements entered into or outline any projects which make use of the New IP, whether on for profit or non-profit basis; and

4. **KNOWLEDGE MANAGEMENT FOR GLOBAL ACCESS**

4.1 **Data repository**

- 4.1.1 All grantees and Participants will ensure that all information and data generated from its Funded Projects is stored securely.

4.2 **Publication and dissemination of data and results**

- 4.2.1 All grantees are required to expeditiously publish data and results relating to any Funded Project within 60 days subject to an agreement between AGRA and the respective grantee or Participant as to whether the data is patentable subject matter. If the data

will be patentable subject matter, such disclosures should only be published after the filing of provisional patent applications by the grantee in relevant jurisdictions unless this option is waived by the grantee. In instances where a grantee elects to file provisional patent applications, final patent specifications will be filed within 12 months of first disclosure.

4.3 **Open Access**

4.3.1 Where any software is used as part of the Funded Project, AGRA requires all such software to be made available on an open source basis.

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Established and approved on July 2017