



# **THE RULES AND REGULATIONS OF MANAGING COPYRIGHTS AND RELATED RIGHTS, INDUSTRIAL PROPERTY RIGHTS AND THE PRINCIPLES OF COMMERCIALISATION OF THE RESULTS OF RESEARCH AND DEVELOPMENT WORKS OF THE UNIVERSITY OF GDANSK**

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## CHAPTER 1.

### § 1. General Provisions

1. The Rules and Regulations stipulate the principles of managing copyrights, related rights and industrial property rights as well as the principles of commercialisation with regard to the results of research or development works conducted within the University of Gdansk together with know-how related to these results.
2. The Rules and Regulation define, in particular:
  - 1) the rights and obligations of the University, its employees and scholarship holders, students and doctoral students in the scope of legal protection and exercising copyrights and related rights, as well as industrial property rights;
  - 2) principles of remunerating creators;
  - 3) principles and procedures of commercialisation;
  - 4) principles of using the University's property for commercialisation, as well as providing services in the scope of academic activity.

### § 2. The Subjective Scope

Provisions of the Rules and Regulations apply to the employees of the University of Gdansk, persons employed on grounds other than an employment relationship, as well as scholarship holders, students, including post-graduate students, and doctoral students.

### § 3. The Objective Scope

1. Provisions of these Rules and Regulations apply to the results of research constituting an invention, a utility model, an industrial design, integrated circuit topography (*pursuant to the Act of 30 June 2000 – the Law on Industrial Property, consolidated text of the Journal of Laws of 2017, item 776*), cultivated or discovered and developed plant variety (*pursuant to the Act of 26 June 2003 on the Legal Protection of Varieties of Plants, Journal of Laws of 2003, item 1300, as amended*), results of development works, know-how related to the results of research or development works, as well as works and objects of related rights (*pursuant to the Act of 4 February 1994 on Copyright and Related Rights, consolidated text of the Journal of Laws of 2019, item 1231*), with regard to which the University acquired relevant subjective rights or with regard to which such rights can be vested with the University statutorily or on the grounds of an agreement.
2. Provisions of these Rules and Regulations apply in particular to intangible goods referred to in subpar. 1, created within the tasks specified in the employment relationship, i.e. obtained during performance of duties resulting from the employment agreement, work regulations, the scope of activities assigned to the creator or from the order of the superior falling within the frameworks of the creator's employee obligations, in relation to the tasks of the unit in which the creator is employed, as well as to intangible goods created outside such obligations, if the agreement concluded between the creator and the University thus stipulates.

## **CHAPTER 2.**

### **§ 4. The Rights and Obligations of the Creator – General Provisions**

1. Adherence to the provisions of these Rules and Regulations constitutes the obligation of the University's employees.
2. The creator is obliged to inform the direct superior of the created work or object of related rights and hand over such intangible goods when the subjective rights thereto are vested or can be vested with the University statutorily or on the grounds of an agreement. In the case of results of research which may be an invention, a utility model, an industrial design, integrated circuit topography, cultivated or discovered and developed plant variety, results of development works, know-how related to the results of research or development works, the creator should also inform the Technology Transfer Office.
3. In the case of intangible goods referred to in par. 4 subpar. 2, the creator should not undertake any measures that would infringe the interests of the University.
4. Co-creators are jointly vested with the right to the results of research, the results of development works, know-how, as well as works and objects of related rights referred to in par. 4 subpar. 2. Shares in the joint right are determined on the grounds of the creative work inputs. In case of any doubts, it is assumed that the size of shares in the joint right are equal. Each co-creator can exercise the right to his or her creative input, provided that it has independent significance. Exercising rights to the entirety covered with the common property requires consent of all co-creators.
5. Material carriers on which the results of research that could be an invention, a utility model, an industrial design, integrated circuit topography, cultivated or discovered and developed plant variety, results of development works, know-how related to the results of research or development works, as well as the works and objects of related rights saved thereon, become the property of the University upon acquisition of relevant subjective rights to the enumerated intangible goods.

### **§ 5. The Copyrights and Related Rights**

1. The author's moral rights to the work are vested solely with the creator and cover, in particular, the right to:
  - 1) the authorship of the work,
  - 2) marking the work with own surname or pseudonym, or sharing the work anonymously,
  - 3) integrity of the contents and form of the work as well as its reliable use,
  - 4) deciding on the first presentation of the work to the public,
  - 5) supervision over using the work.
2. The author's economic rights to the work cover the right to:
  - 1) use the work,
  - 2) manage the work in all fields of exploitation,

3) remuneration for the use of the work.

If the work that does not have a scientific character has been created by the employee within the performance of obligations resulting from the employment relationship (employee work), the University is entitled upon the acceptance of the work to the author's economic rights within the frameworks resulting from the employment agreement and common intention of the parties. Upon the same moment the University acquires the property of the tangible object on which the work has been saved. If the employer does not notify the creator within six months as of delivering the work of its non-acceptance or conditioning acceptance thereof on introduction of specific changes within the timeframe specified for this purpose, the work is considered to be accepted without reservations. The parties can agree on other timeframe.

3. If the University, within two years as of the date of accepting the employee work, does not proceed to popularising the work intended for popularisation in the employment agreement, the creator can set a relevant period of time for the University in writing to popularise the work with the effect that upon its ineffective lapse, the rights acquired by the University with the property of the object on which the work has been saved, return to the creator, unless the agreement specifies otherwise. The parties can specify other period of time to start popularising the work.
4. The University has the priority right to publish the employee scientific work which has been created as a result of performing obligations under the employment relationship, unless otherwise specified in the employment agreement concluded with the creator. The creator is entitled to a separate remuneration due to the publication. The right of priority of publication expires if within six months as of delivering the work, no agreement is concluded with the creator on the publishing the work or, if the work is not published within two years as of the date of acceptance thereof.
- 4a. The priority right referred to in subpar. 4 is not exercised by the University on the condition of joint fulfilment of the following terms:
  - 1) planned publication concerns the scientific work constituting the result of basic research pursuant to the Act of 20 July 2018 – the Law on Higher Education and Science (Journal of Laws 2018.1668, as amended),
  - 2) the work constituting the object of publication includes the author's affiliation to the University,
  - 3) publication does not constitute any impediment to the commercialisation of intangible goods conducted hereunder or does not limit the University's author's economic rights resulting from such commercialisation in any manner,
  - 4) publication does not infringe other economic interests of the University,
  - 5) publication of the scientific work does not infringe the University's obligations resulting from agreements or decisions regarding implementation of projects co-financed or ordered research.
5. The University can, without a separate remuneration, use the scientific material included in the employee scientific work and share this work with third parties, if it results from the agreed intention of the work or has been agreed on in the agreement.

6. The University has the right of priority to publish a student's or a doctoral student's dissertation. If the University has not published the dissertation within six months as of defence thereof, the student or doctoral student who wrote it, can publish such a dissertation, unless it constitutes a part of a collective work.
7. If the work has been created by a person other than an employee, the University is vested with the author's economic rights to the work provided that it has been specified in the agreement concluded by such a person and the University and in the scope specified therein.
8. In the case of objects of related rights, the University acquires related rights to:
  - 1) phonograms and videograms – if it is the producer,
  - 2) broadcasts of programmes – if it broadcasts them in compliance with the rights of a radio or television organisation,
  - 3) first issues and scientific and critical issues – if executed within the statutory activity of the University.
9. Provisions on employee works apply to artistic performances respectively. In the remaining cases of related rights, the University can acquire such rights on the grounds of a separate agreement concluded with the initially entitled person.

#### **§ 6. Industrial Property Rights**

1. The right to acquire a patent for the invention or the protective right for the utility model, as well as the right to the registration of an industrial design, integrated circuit topography created by an employee are vested (in compliance with Article 11 subpar. 3 of the Act of 30 June 2000 – the Industrial Property Law) with the University, unless the parties agree otherwise in the agreement. The right to the cultivated or discovered and developed plant variety is vested with the University in compliance with the principles stipulated in the Act of 26 June 2003 on the Legal Protection of Varieties of Plants.
2. The right to acquire a patent for the invention or the protective right for the utility model, as well as the right to the registration of an industrial design, integrated circuit topography, the right to the cultivated or discovered and developed plant variety created by persons employed on other grounds than an employment relationship, including those created by students and doctoral students, are vested with the University on the grounds and in the scope regulated in the agreement concluded with the creators whom it concerns.
3. The University's employee or a person employed on grounds other than an employment relationship, a student, a scholarship holder and a doctoral student who is the creator or the co-creator of the result of scientific research or development works referred to in Article 153 of the Act of 20 July 2018 – the Law on Higher Education and Science (Journal of Laws of 2018, item 1668, as amended), is obliged, not longer than for a period the rights are vested with the public university, to:
  - 1) keep the results of research or development works and know-how related thereto in secret,
  - 2) provide the public university with all information he or she has, works with the property of carriers on which these works have been saved, and technical experiences necessary for commercialisation,
  - 3) refrain from conducting any activities aimed at the implementation of the results;

- 4) cooperate in the commercialisation process, including proceedings aimed at acquisition of exclusive rights.
4. In the case the results of research or development works are to be generated upon the order of the University or with its assistance, the University acquires full rights thereto, unless the agreement concluded with the creator stipulates otherwise.
5. Agreements concluded by the University regarding results of research or development works should provide for the confidentiality obligation, in particular, in the case the disclosure of the results of research or development works would hinder or prevent acquisition of legal protection and further commercialisation thereof.
6. In the case of funding research by entities outside the University (agreement with a funding entity), with the participation of the Technology Transfer Office (Article 148 par. 4 of the Act of 20 July 2018 – the Law on Higher Education and Science), an agreement should be concluded each time on the division of the rights to the results of research or development works or other agreement concerning these rights.
7. While concluding civil law contracts on conducting research the University is obliged to include in such a contract the issue of acquiring rights to the results of research or development works generated or that can be generated with regard to the performance thereof, by the University, in compliance with the principles stipulated herein. The Rector can decide on resigning from acquiring rights to the results of research or development works by the University only in duly justified cases. These provisions also apply in the case these results were generated due to the significant assistance of the University, in particular, as a result of using the University's property.
8. After receiving from the employee the information on the results of research or development works and about know-how related to the results referred to in Article 153 of the Act of 20 July 2018 – the Law on Higher Education and Science, the University and the employee can, in a manner different than stipulated in the Act, specify under an agreement the rights to these results or the manner and mode of commercialisation of these results.

### **CHAPTER 3.**

#### **§ 7. General Principles of Commercialisation**

1. In order to better use the intellectual and technical potential of the University and the transfer of the results of research or development works for management, the University establishes the Technology Transfer Office in a form of a general University unit which operates on the grounds of separate rules and regulations, and a special purpose vehicle.
2. The Technology Transfer Office performs the direct commercialisation.

3. The University can entrust the special purpose vehicle on the grounds of an agreement with the following:
  - 1) managing rights to the results of research or development works in the scope of direct commercialisation; the decision in the scope of managing rights to the results of research or development works in the scope of direct commercialisation and with regard to payment or non-payment of the subject agreement is taken by the Rector;
  - 2) managing research infrastructure of the University.
4. Indirect commercialisation is performed by the special purpose vehicle, in particular, by establishing spin-off companies.
5. The Director of the Technology Transfer Office directly supervises the commercialisation process.

### **§ 8. Commercialisation Procedure**

1. The creator or any co-creator is obliged to immediately report and disclose to the Technology Transfer Office the results of research or development works to which the University is vested or might be vested with the rights. Reporting, disclosure, procedure and mode of commercialisation is executed with the use of the Report to the TTO form constituting Appendix No. 1 hereto.
2. The creator can submit, within 14 days as of providing the University with the information on the results of research or development works and related know-how, in a written form, a statement on the interest in transferring rights to these results and related know-how with the use of the statement template constituting Appendix No. 2 hereto. If the Creator does not submit a statement on the interest in transferring the right to the results of research, development works or related know-how, the University automatically keeps the rights thereto.
3. In the case of submitting by the Creator the statement referred to in subpar. 2, within three months the University decides on the commercialisation of the reported results of research or development works and related know-how.
4. After reporting the results of research, development works or related know-how, the Technology Transfer Office, acting in cooperation with the University of Gdansk Patent Attorney and the creator, possibly after a legal consultation, proceeds to the stage of assessing the commercial and innovative potential of the disclosed results of research, development works or related know-how. If needed, upon the request of the Director of the University of Gdansk Technology Transfer office, the Vice-Rector for Innovation and Liaison with Business and the Community can appoint the Team for the assessment of the commercial and innovative potential of the disclosed results of research, development works or related know-how.
5. The Vice-Rector for Innovation and Liaison with Business and the Community, in cooperation with the Director of the University of Gdansk Technology Transfer Office, at the disposal of , if necessary, positions of the Team for the assessment decides on the commercialisation of the results of research, development works or related know-how. The decision is taken in agreement with the creator.



6. In the case of taking by the University the decision on the non-commercialisation or, after an ineffective lapse of time referred to in subpar. 3, the University is obliged to, within thirty days, make an offer to the employee to conclude an unconditional and paid agreement on the transfer of rights to the results of research or development works and related know-how, including the information, works together with the property of carriers on which these works have been saved and technical experiences necessary for commercialisation. The remuneration due to the University for transfer of rights cannot exceed 5% of an average monthly remuneration in the national economy in the previous year announced by the President of the Central Statistical Office pursuant to Article 20 point 1 letter a) of the Act of 17 December 1998 on Retirement and Social Security Pensions from the Social Insurance Fund. In the case of not accepting by the employee the offer of concluding an agreement, the rights to the results of research or development works and related know-how, together with the information, works and property of carriers, on which these works have been saved, and technical experiences forwarded in compliance with par. 6 subpar. 3 point 2, are vested with the University.
7. Provisions of subpar. 2 and 6 and par. 6 subpar. 8 do not apply to the cases when the research or development works were conducted:
  - 1) on the grounds of an agreement concluded with a party funding or co-funding the research or works, providing for the obligation to transfer rights to the results of research or development works to the benefit of this party or to the benefit of other entity than the party to the agreement (commissioned research or works);
  - 2) with the use of funds, which principles of granting or using specify different than in the act manner of managing the results of research or development works and know-how related to such results.

#### **CHAPTER 4.**

##### **§ 9. Principles of dividing funds due to commercialisation. Principles of remunerating creators**

1. Revenues due to the commercialisation generated by the University due to the direct commercialisation are divided according to the following principles:
  - 1) 50% of value of the generated revenues due to the commercialisation deducted by not more than 25% of costs directly related to this commercialisation, which have been incurred by the University or the special purpose vehicle – is vested with the creator;
  - 2) remaining part - vested with the University.
2. Revenues due to the commercialisation generated by the University due to the indirect commercialisation are divided according to the following principles:
  - 1) 50% of value of the generated revenues due to the commercialisation deducted by not more than 25% of costs directly related to this commercialisation, which have been incurred by the University or the special purpose vehicle – is vested with the creator;

2) remaining part - vested with the University.

The above provisions of the Rules and Regulations apply to the specification of the amount or remuneration due from the University to employees being members of the research team, respectively.

3. The part of revenues referred to in subpar. 1 point 2 and subpar. 2 point 2 vested with the University, remains at the disposal of the Rector.
4. Revenues due to the commercialisation generated by the University's employee in the case of commercialisation conducted by the employee (after so-called enfranchisement) are divided in accordance with the following principles:
  - 1) 25% of value of the generated revenues due to the commercialisation deducted by not more than 25% of costs directly related to this commercialisation, which have been incurred by the employee – is vested with the University;
  - 2) remaining part - vested with the employee.

The above provisions of the Rules and Regulations apply to the specification of the amount or remuneration due to the University from employees being members of the research team, respectively. The employee is liable for the aforementioned obligations towards the University to the amount of the share in the co-ownership of the results of research or development works and related know-how, vested with him or her.

The creator conducting the commercialisation is obliged to provide the University with the information on the part of revenues vested with the University due to the commercialisation through the agency of the Director of the Technology Transfer Office in the mode specified in the Guidelines of commercialisation constituting appendix hereto.

5. Costs directly related to the commercialisation mean external costs, in particular, costs of legal protection, expert's reports, evaluation of the object of commercialisation and administration fees. These costs do not include costs incurred before taking the decision on the commercialisation and remuneration referred to in par. 8 subpar. 4.

## **CHAPTER 5.**

### **§ 10. Principles of using the University's property for commercialisation, as well as providing services in the scope of academic activity**

Separate rules and regulations of using the research infrastructure approved by the Senate of the University of Gdansk stipulates in details:

- 1) the rights and obligations of the University and employees, doctoral students, students and holders of scholarship in the scope of using the research infrastructure in conducting research or development works,
- 2) principles of using the research infrastructure to conduct research or development works by entities other than the University's employees, doctoral students, students or holders of scholarships,
- 3) the amount of fees for using the research infrastructure by entities other than employees, doctoral students, students or holders of scholarships.

## **§ 11. Principles of using the name, emblem and trademarks of the University with regard to the commercialisation**

1. While concluding the agreement on the commercialisation of the results of research, development works or related know-how, as well as taking the decision on establishing a spin-off company, the University can grant to the other party to the agreement or such a company the right to use the name, emblem or trademarks of the University within the frameworks of the activity related to the commercialisation.
2. The condition to use the name, emblem or trademarks of the University must constitute information on the relation of the results of scientific research, development works or related know-how with the University.

## **CHAPTER 6.**

### **§ 12. Final Provisions**

1. In the scope concerning the University's business secret (know-how), the order of the Rector of the University of Gdansk regarding the Policy of Business Secret of the University of Gdansk applies respectively.
2. To all matters not settled herein the following provisions apply:
  - 1) the Act of 30 June 2000 – the Industrial Property Law (consolidated text of the Journal of Laws of 2017, item 776, as amended);
  - 2) the Act of 4 February 1994 on Copyright and Related Rights (consolidated text of the Journal of Laws of 2019, item 1231);
  - 3) the Act of 16 April 1993 on Combating Unfair Competition (consolidated text of the Journal of Laws of 2019, items 1010, 1649);
  - 4) the Act of 27 July 2001 on Protection of Databases (Journal of Laws No. 128, item 1402, as amended);
  - 5) the Act of 20 July 2018 - the Law on Higher Education and Science (Journal of Laws of 2018, item 1688, as amended);
  - 6) the Act of 23 April 1964 - the Civil Code (consolidated text of the Journal of Laws of 2019, item 1145);
  - 7) the Act of 26 June 1974 - the Labour Code (consolidated text of the Journal of Laws of 2019, item 1040);
  - 8) the Act of 26 June 2003 on Legal Protection of Plant Varieties (consolidated text of the Journal of Laws of 2018, item 432);
3. Resolution no. 30/17 of the Senate of the University of Gdansk of 25 May 2017 amending Resolution no. 22/15 of the Senate of the University of Gdansk on the Rules and Regulations of managing related rights, industrial property rights and the principles of commercialisation of the results of research and development works of the University of Gdansk.
4. The Rules and Regulations enter into force on 28 November 2019.

#### Appendices to the Rules and Regulations:

1. *Application form to the TTO*
2. *Template of the Creator's statement on the interest in acquiring rights to the results of*

*research and development works/know-how*