

UNIVERSITY FERNANDO PESSOA'S REGULATION OF INTELLECTUAL PROPERTY

Preamble

Given that UFP:

Is held by *Fundação Ensino e Cultura "Fernando Pessoa"*, its Establishing entity and responsible for the creation and assurance of the conditions necessary to its normal activity, ensuring its administrative, economical and financial management, as well as the approval of its regulations;

Wishes to stimulate cultural creation and the development of critical thinking and scientific spirit, as well as to promote fundamental and applied scientific research, and the dissemination of its results;

Wishes to assert itself as a partner of excellence with the main agents of regional and national development, seeking to allocate the resources and to promote the facilitating mechanisms of the creation and innovation processes, as well as sustained ways of transferring the knowledge and technology created in its community;

Considers important to ensure the internal framing of the complex reality of Intellectual Property, including Industrial Property Rights, Author's Rights and Related Rights, computer programmes and non-patented technical information, as well as the importance of the possible cooperation and participation of external entities.

In this context,

The present Regulation incorporates the process of regulating Intellectual Property initiated by UFP, and is divided in the following way:

Chapter I – General Scope

Chapter II – Industrial Property Rights

Chapter III – Author's Rights and Related Rights

Chapter IV – Final and transitional provisions

According to the above-mentioned, *Fundação Fernando Pessoa's* Administration Board, using the competence bestowed upon it, has ruled the approval of the present Regulation, at the meeting of _____.

Chapter I – General Scope

Article 1

(Objectives)

The objectives of the present Regulation are:

a) To provide and define the holding of Industrial Property Rights, Author's Rights and Related Rights, computer programmes and non-patented technical results, arising from research and creation activities performed at University Fernando Pessoa, henceforth referred to as UFP;

b) To provide and define the participation of UFP in regard to the management of results arising from creation and research activities performed within it.

c) To provide and define the participation of *Fundação Ensino e Cultura "Fernando Pessoa"*, on its own or through other entities indicated or contracted by it, henceforth referred to as *Fundação Fernando Pessoa*, especially in its condition of Establishing entity, regarding management of the results arising from creation and research activities performed within UFP;

d) To regulate the rights of all UFP's collaborators, namely teachers, researchers, students, alumni, grant holders and employees;

e) To stimulate an innovative environment that allows the creation of enterprises based on innovation and technology from results emanating from UFP;

f) To safeguard the moral right of the inventor or creator, in the sense that the personal dimension involved in creation, notably as a space of freedom, is irrevocable, under any reason.

Article 2

(General principles)

The general principles of this Regulation are composed of the following:

a) The holding of Industrial Property Rights by UFP, thus in accordance with most national and European institutions of education.

b) The holding of Author's Rights by the intellectual creator, according to the nature and specificities of the system laid down in the author's and related rights code.

c) The anticipation of special cases with computer programmes and databases, since its importance dictates a special provision in the scope of this regulation;

d) The protection of the role of the researcher, in the sense of recognition, when sharing the revenues arising out of valuation and utilization of the research's results, of the intellectual effort as being essential to the creative process.

e) The centralization of procedures and the professional monitoring regarding the guardianship of the Industrial Property Rights, of which the natural complexity of the regulated matters mandates a context of direct cooperation with the inventors and creators.

f) The unity in decisions concerning the relation of UFP with other entities, when the negotiation tending towards the management and valuation of research results and other creations must be directed in a centralized way, with the objective of ensuring maximum effectiveness, success and transparency of the endeavors that were made.

Article 3

(UFP's competences)

It is UFP's competence to:

- a) Implement this Regulation, while defining the additional procedures that, for this purpose, may prove to be necessary;
- b) Receive all information regarding results from research, final or partial, which may be subject to legal protection;
- c) Make decisions regarding procedures of registration requests for Industrial Property Rights or Author's Rights and Related Rights, or for other alternative ways of their valuation, with the cooperation of its inventors or creators;
- d) Manage Industrial Property Rights and to determine ways of valuing them, whenever it sees fit, together with *Fundação Fernando Pessoa*;
- e) Define any other principles in the scope of technology transfer activities;
- f) Share the results of utilization of its intellectual assets with its collaborators, and, whenever it sees fit, in association with *Fundação Fernando Pessoa* or any other entity designated by *Fundação Fernando Pessoa*.

Article 4

(Delegation of Competences)

1. With the objective of performing the provisions of this Regulation, UFP may mandate one or more entities to prepare and execute several actions, namely those necessary for the identification, protection, administration and utilization of Intellectual Property Rights.
2. In the scope of this Regulation, references to UFP shall be considered as extending to the entity to which it delegates competences.

Chapter II – Industrial Property Rights

Article 5

(Scope of application)

1. This regulation applies to all inventions and creations which may be subject to protection by Industrial Property Rights, such as patents of inventions, utility models, designs or models, vegetal varieties breeder's rights or topographies of semiconductor modules, its principles being also applicable to computer programmes possessing industrial application and able of providing a contribution towards resolving technical problems.
2. It also applies to non-patented technical information, and to distinctive signals that may be subject to registration, such as trademarks, logos and rewards, appellations or geographic indications.
3. It applies as well to new objects of Industrial Property Rights that may become subject of juridical guardianship.

Article 6

(Holding of rights)

1. It is determined by UFP as a basic principle the right to hold the Industrial Property Rights mentioned in the previous article and generated in the scope of any research or

creation activity performed within UFP by its teachers, researchers and other collaborators, regardless of the juridical type of working relation.

2. Without prejudice to any of the legal provisions that stipulate or may come to stipulate in any way, UFP also has the holding of Intellectual Property Rights over inventions and other intellectual creations conceived and performed by any individuals which are not specified in the previous number, including students of any cycle, who perform activities at UFP, or whose performance has included the use of UFP's premises, means and resources.

3. The participation of the individuals mentioned in the previous number in projects that may generate results which are subject to protection through Industrial Property Rights, shall be preceded by the signature of Annex A, in which it is recognized that UFP is given the holding of such results and Rights of Industrial Property, as well as their subjection to the rules which are part of this Regulation.

4. The General Framework of holding presented in the first number of this article also applies to researchers hired by UFP and who are covered by the Scientific Research Career Status.

5. The researchers mentioned in the previous number of this article may opt, through a petition address to the Rector of UFP, under the framework of joint ownership, according to the legal provisions of Decree-Law no. 124/99 of the 20th April, for the joint ownership framework, in which the inherent procedural and management costs of the legal protection for the economic utilization of those results are equally shared between *Fundação Fernando Pessoa* and the inventor.

Article 7

(Moral right of the inventor)

The rights which are provided in favor of UFP in this Regulation do not prejudice the right of the inventor or the creator of being designated as such in the request for protection of the invention or the industrial creation, and to claim its paternity and integrity, where applicable.

Article 8

(Research and Development Contracts)

1. All the contracts or agreements, entered by UFP and other entities, of any nature, in which the main or accessory objective implies a research and development activity, regardless of its funding sources, must provide for the regulation of the holding of Industrial Property Rights and the utilization of the achieved results.

2. When entering a contract, by agreement or understanding, the parties may stipulate a holder other than UFP for the inherent rights to the achieved results.

Article 9

(Proteccion)

1. *Fundação Fernando Pessoa* or an entity designated by *Fundação Fernando Pessoa*, will bear the total costs inherent to the solicitation, maintenance, defense and vigilance procedures of industrial rights requested on behalf of UFP and which are held by it.
2. It is the responsibility of UFP to determine the scope of the legal protection of any inventions or creations which it holds or comes to hold.
3. The inventor will not oppose the request and maintenance of juridical protection intended by UFP.
4. In the event that UFP, in use of the powers of administration of its Industrial Property Rights, decides to cease the maintenance of the required legal protection, it will give previous notice to the inventor or creator, and offer them the opportunity to bear the holding of the right in question.
5. The notice mentioned in the previous number shall be made at least ninety days before the deadline for the maintenance of the rights in force.
6. Should the inventor or creator manifest the intention of assuming the holding of the right, a contract for the transmission of that right must be entered.

Article 10

(Method of utilization)

1. UFP together with the inventor or creator and, whenever it sees fit, in agreement with *Fundação Fernando Pessoa*, shall decide on the method on how the invention or creation which it holds will be economically utilized.
2. The inventor or creator has the right to be informed by UFP of all the diligences made with regard to the utilization process, namely the exact terms of the contractual proposals.

Article 11

(Distribution of revenues)

1. The net revenues arising out the economical utilization of the Industrial Property Rights which UFP may come to hold, shall be distributed thusly,
 - 70% for the inventor or creator;
 - 30% for *Fundação Fernando Pessoa*, or another entity designated by *Fundação Fernando Pessoa* – unless an exceptional circumstance justifies a different distribution – which will be distributed in the following way:
 - i. 10% will be designated by *Fundação Fernando Pessoa* for promotion of R+D+I;
 - ii. 10% will be designated for the Organic Unit or Sub-Unit or any other entity where the work was developed, as long as it belongs to UFP's structure;
 - iii. 10% will be designated for administrative support.

2. In the event of several inventors or creators being included, an equal distribution shall be made, except if there is a written agreement between them that defines a different distribution and as long as they themselves notify UFP of that agreement.

Article 12
(Net revenues)

The revenues to be distributed between *Fundação Fernando Pessoa* and the inventor or creator refer to the amounts obtained in the process of valuation of the research results, by any mean, net of the fees and taxes to which they are due, as well as of the costs of formalities related to the request and other expenses, such as consulting, fees of the liberal professionals involved in the phase of protection and holding and also the expenses incurred during the phase of marketing and utilization of those results.

Chapter III – Author’s Rights and Related Rights

Article 13
(Object and scope of application)

1. In regard to the application of this Regulation, the following will be considered creations subject to protection of Author’s Rights or Related Rights: intellectual creations in the literary, scientific and artistic fields, whichever the type or way of expression, namely literary works, art works, audiovisual works, multimedia works or any other creation that may be seen as a work, including, in the provisions of the law, computer programmes by themselves (software).

2. The provisions of this Regulation shall be equally applied to new subjects of Author’s Rights or Related Rights that may become legally held.

Article 14
(General rule)

UFP recognizes and consecrates as a basic principal that the respective creator or author holds the rights to the works conceived and performed by researchers, teachers, students and other collaborators while executing their activities or arising out of the actions and services performed at UFP, except otherwise defined in a written agreement in the terms provided and admitted by the general law.

Article 15
(Special cases)

1. UFP, and whenever it sees fit in accordance with *Fundação Fernando Pessoa*, can assume holding of Author’s Rights and Related Rights, through a previous written agreement, with the author or creator when one of the following occurs:

a) The performed work arises out of a contract entered between UFP and another entity, specifically stipulating that the holding of Author's rights belongs to UFP;

b) The performance or completion of the work implies the use of UFP's means or resources;

2. The creator of the work shall keep the moral rights provided in the applicable law, under any circumstance.

Article 16

(Mention to UFP)

Whenever the performance or completion of the work implies the use of UFP's means or endowments from *Fundação Fernando Pessoa*, UFP shall mandatorily be mentioned in the work.

Article 17

(Computer programmes and databases)

1. It is determined by UFP as a general principle that computer programmes by themselves and databases are always included in the assumption provided in paragraph b) of number 1 in article 15.

2. The net revenues, arising out of works that UFP may come to be the holder of, shall be distributed between *Fundação Fernando Pessoa* and the creator according to the distribution criteria provided in Article 20.

Article 18

(Contracts)

1. The contracts entered between UFP or an individual or corporation designated by UFP and other entities in which the main or secondary objective implies directly or indirectly the creation of works, must contemplate the regulation of holding and utilization of the corresponding Author's Rights or Related Rights.

2. Contracts that fall under the previous number may stipulate, through negotiation or agreement between the parties, a holder of the inherent rights other than UFP, while this decision belongs to UFP itself.

3. The contracts mentioned in number 1 include, namely, the ones with regard to funding of the work performed by UFP.

Article 19

(Use of UFP's means)

1. Whenever the use of UFP's means and/or the use of funding from *Fundação Fernando Pessoa* in the making of a work or intellectual creation subject to protection by Author's Rights and Related Rights is expected, UFP's approval must be previously requested.

2. UFP's approval, by itself or with the intervention of *Fundação Fernando Pessoa* as well, is subordinated to the conclusion of an agreement with the author(s), in accordance with the formal legal requirements mandated by the general law, in which the rules for holding and utilizing the respective Author's Rights are provided.

Article 20

(Distribution of revenues)

1. The net revenues arising out the economical utilization of the Author's Rights and Related Rights which UFP may come to hold shall be distributed thusly:

70% for the inventor or creator;

30% for *Fundação Fernando Pessoa*, or another entity designated by *Fundação Fernando Pessoa* – unless an exceptional circumstance justifies a different distribution – which will be distributed in the following way:

i. 10% will be designated by *Fundação Fernando Pessoa* for promotion of R+D+i;

ii. 10% will be designated for the Organic Unit or Sub-Unit or for any other entity where the work was developed, as long as it belongs to UFP's structure;

iii. 10% will be designated for administrative support.

2. In the event of several inventors or creators being included, an equal distribution shall be made, except if there is a written agreement between them that defines a different distribution and as long as they themselves notify UFP of that agreement.

3. The net revenues mentioned in number 1 of this article refer to the amounts obtained, by any mean, net of the cost incurred in the making of the work, fees of the liberal professionals involved in the phase of protection and holding, as well as the fees and taxes to which they are due.

Article 21

(Protection costs)

Fundação Fernando Pessoa will bear the costs regarding procedures for legal protection of the rights of which UFP is the holder.

Chapter IV – Final and transitional provisions

Article 22

(Entry into force)

1. This Regulation of Intellectual Property will enter into force immediately after its approval by the *Fundação Fernando Pessoa's* Administration Board.

2. This Regulation is considered to be fully and publically disseminated through its addition to UFP's *Web – Intranet*.

Article 23**(Interpretation and omissions)**

The interpretation and integration of this Regulation, namely of omissions, shall be made accordingly to the general law, namely the Industrial Property Code, the Author's Rights and Related Rights Code and the general principles of Law.

Article 24**(Repeal of previous norms)**

This Regulation repeals and overrides any and all norms existing into force at UFP and its Organic or Sub-Organic Units in regard to rules concerning Intellectual Property Rights.