

# **INTELLECTUAL PROPERTY EXPLOITATION AT THE UNIVERSITY OF HRADEC KRÁLOVÉ**

## **Section I Introductory Provisions**

### **Article 1 Subject Matter**

1. This Decree is issued in order to secure a unified procedure for application and protection of creative as well as non-creative rights to industrial property, in particular patent and innovation right, design right, trademark right, as well as other rights relating to intellectual activity in the industrial and scientific spheres carried out at the University of Hradec Králové (hereinafter, the “UHK” or the “Employer”) so as to best protect the legitimate interests of the UHK and its employees and thus provide support to application of the creative potential of the UHK and its employees.
2. The subject matter of this Decree is (a) definition of the term intellectual property at the University of Hradec Králové (hereinafter, the “UHK”), (b) definition of rights and obligations related to the creation, announcement, recording, protection, use and commercial application of rights to objects of intellectual property, and (c) definition of exploitation of research and development results at the UHK.
3. Intellectual property refers to results of activity that the originator/author has produced when performing tasks following from their employment or another analogous work relationship with the UHK or as part of performing their study obligations. These may include:
  - a. industrial property,
  - b. copyright works,
  - c. other objects of intellectual property not classified under (a) and (b).

## **Article 2**

### **Definition of Terms**

1. The following terms are used for the purposes hereof:

**Industrial property:** results of intellectual activities that are new and industrially (economically) exploitable. They include inventions, patents, technical solutions protected by a utility model, registered designs, topography of semiconductor products, innovation proposals, plant varieties, biotechnological inventions, trademarks.

**Protection of objects of industrial property:** established by awarding (and maintenance) of patents or registration (and prolongation) of utility models, registered designs and trademarks by the relevant authority in the CR or elsewhere in the world.

**Invention<sup>1</sup>:** a technical solution that is new, is the result of inventor activity, industrially exploitable and capable of being protected by a patent or utility model.

**Company invention:** an invention that was made by its originator when performing tasks following from their employment or another analogous work relationship with the UHK.

**Patent:** a protection document awarded for the purpose of invention protection. The owner of a patent has the exclusive right to use the protected invention, grant consent for use to other persons (e.g., by way of a licence) and the right to transfer the patent to another person.

**Utility model<sup>2</sup>:** a form of protection for technical solutions that are new, go beyond mere professional skill and are industrially exploitable. A utility model is a lower degree of protection than a patent.

**Registered design<sup>3</sup>:** the appearance of a product or its part, consisting primarily in attributes of lines, colours, shapes, structure or material of the product or its decoration.

**Trademark<sup>4</sup>:** any labelling than can be graphically depicted, particularly words, including personal names, colours, sketches, letters, digits or product

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<sup>1</sup> Act No. 527/1990 Sb., on Inventions and Innovation Proposals, as amended.

<sup>2</sup> Act No. 478/1992 Sb., on Utility Models, as amended.

<sup>3</sup> Act No. 207/2000 Sb., on Protection of Registered Designs, and on amending Act No. 527/1990 Sb., on Inventions, Registered Designs and Innovation Proposals, as amended.

<sup>4</sup> Act No. 441/2003 Sb., on Trademarks (Trademark Act), as amended.

or packaging shapes, if such labelling can be used to distinguish someone's products or services from someone else's.

**Innovation proposal<sup>5</sup>:** a technical, production or operational improvement or solution of problems relating to occupational safety and health protection or environmental protection, which the innovator is entitled to exploit.

**Biotechnology invention<sup>6</sup>:** an invention related to (1) biological material that is isolated from its natural environment or manufactured using a technical procedure even if it has occurred in nature; (2) plants or animals, unless the technical feasibility of the invention is limited to a certain plant variety or animal breed; or (3) microbiological or other technical procedure and product other than a plant variety or animal breed obtained in this way.

**Originator:** any natural person in an employment or another analogous work relationship with the UHK that is involved in producing an object of industrial property (i.e., a UHK employee – academic or non-academic, as well as, e.g., visiting professors, visiting assistant professor or another person working temporarily or doing research at the UHK). This Decree also applies the term originator to an entire group of co-originators of a research and development result.

**Co-originator:** any natural person in an employment or another analogous work relationship with the UHK that is involved in producing an object of industrial property at a determined proportion, i.e., in case the object of industrial property is produced by multiple persons or even multiple organisations.

**Acquirer:** the entity (natural person or legal entity) that acquires the right to the UHK's intellectual property based on a contract made with the UHK.

**Intellectual property protected by the Civil Code<sup>7</sup>:** intellectual property that cannot be protected by registration in a relevant register and is not a copyright work, includes unregistered identifications, trade secrets, confidential information or know-how.

**Copyright<sup>8</sup>:** includes rights to literary works, other works of art or scientific works.

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<sup>5</sup> Act No. 527/1990 Sb., on Inventions and Innovation Proposals, as amended (Sections 72-74).

<sup>6</sup> Act No. 206/2000 Sb., on Protection of Biotechnology Inventions, as amended.

<sup>7</sup> Act No. 89/2012 Sb., the Civil Code, as amended.

<sup>8</sup> Act No. 121/2000 Sb., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act), as amended.

**Author:** a natural person who has created the work; for collected works as a whole, a natural person who has selected or organised them in a creative way.

**Copyright work (work):** a literary work, another work of art or scientific work which is a unique result of the author's creative activity and is expressed in any objectively perceptible form, including electronic, permanent or temporary, regardless of its extent, purpose or importance. This typically includes literary, photographic, audiovisual, cinematographic and cartographic works. Databases and software are copyright works as well.

**Employee work:** any work created by the author to meet their obligations arising from their employment relationship with the UHK. Employee works also include collective works, i.e., works in the creation of which several authors participate, which is created at the instigation and under the management of the UHK and which is presented in public under such person's name, whereas individual contributions included in such work cannot be used separately.

**School work:** a work that a UHK student has made to meet their study obligations. Analogously, school work include works made by lifelong education participant.

**Know-how:** a set of knowledge, skills, experience and proficiencies of a production, technical, operational, business, scientific, research or other nature that are not generally known or available, are material, describable (i.e., they exist in an objectively perceptible form) and commercially exploitable.

**Trade secret<sup>9</sup>:** comprises competition-important, definable and valuable facts commonly unavailable in relevant business circles that are related to the University. Trade secret includes, in particular, projects and results of research, development, technical development, business plans, commercial or production plans, business or advertising strategies or other plans; pricing principles, including price calculations and budgeting; licence policy principles relating to industrial or other intellectual property, as well as other contractual policy principles; safety policy principles regarding protection of property and persons, as well as personal data; applications for registration of objects of industrial property in relevant public registers, including any annexes and supporting documents, as well as any related documentation or other information; this also applies to time before submission of such applications; design, process or other technical production documentation, such as design drawings, bills of materials, part specifications, work procedures, recipes, etc.;

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<sup>9</sup> Section 504 of Act No. 89/2012 Sb., the Civil Code, as amended.

scientific research, project, engineering, analytical or consultation documentation; strength and process calculations of machine parts or instruments; prototypes, three-dimensional models, samples or demonstrations or tests of services; product manufacturing or service provision instructions; technical masters or product drawings or service breakdowns; technical reports on products, services, instruments, scientific, research or development results, including laboratory reports and results of standardising activity; company inventions or other company solutions, employee (company) registered designs or other such objects of industrial property regardless of its fitness for registration; innovation proposals, employee computer programs, photographs or databases or other objects of copyright or rights related to copyright, including problem analysis, program analysis or any other documentation and source text of employee computer programs.

**Knowledge transfer**<sup>10</sup>: any process which has the aim of acquiring, collecting and sharing explicit and tacit knowledge, including skills and competence in both economic and non-economic activities such as research collaborations, consultancy, licensing, spin-off creation, publication and mobility of researchers and other personnel involved in those activities.

**Log**: a log book for UHK innovation proposals, inventions, utility models, registered designs and trademarks as well as other knowledge, kept by a designated UHK employee in a written or electronic form; in particular, announcements of knowledge produced at the UHK are registered in the log continuously under serial numbers.

**Licence**: a permit or authorisation for exercising the right to use a work for all or only some listed uses, to an extent either limited or unlimited.

**Startup**: typically a business plan at least in the stage of an idea, which has a potential for commercialisation and tries to treat a market situation or business problem in an innovative way. A startup may be any newly established company, primarily with a technological focus, that tries to solve problems locally and in an time-innovative way.

**Spinoff**: a legal entity established (with or without property interest of the UHK) in order to commercialise a result or results or UHK research and development, or a legal entity with endeavour for commercialisation of such results as one of its primary objectives.

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<sup>10</sup> Communication from the European Commission “Framework for State aid for research, development and innovation” (2014/C 198/01).

**Proof of concept activities:** activities done with results of UHK research and development that lead to at least partial practical verification of benefits and practical functioning of the research and development results or lead to improving quality, thus value of information about the research and development results. Typically, this involves manufacturing of a functional sample or its partial development, verification of some production principles and manufacturing possibility, performance of certified and independent measurements and tests, testing of functional samples in practice or in simulated operation.

**TTU** – technology transfer unit, providing protection of intellectual property and performance of all designated activities necessary for the commercialisation process.<sup>11</sup>

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<sup>11</sup> For the purposes of this Decree, the technology transfer unit is (a) **UHK Department of Creative Activities and Transfer of Knowledge** for matters relating to GAMA 2 project; (b) **Centre for Transfer of Biomedical Technologies** for other technology transfer areas. The jurisdiction and activities of both units are defined in a separate Rector's Decree.

## **Section II UHK Intellectual Property**

### **Article 3 Industrial Property Exploitation**

1. The UHK exploits research and development results using the procedure described below. Every employee who invents a new technical solution or improves an existing one, discovers new facts, innovates, improves a work procedure, instrument or tool or contributes to such a result in connection with their work performance and their valid job description has to follow the procedure described in Article 4 and is considered an originator. The powers and obligations of participants in the research and development result exploitation process are specified in Annex 3 hereto.
2. The UHK exploits research and development results towards third parties (notably clients of public contracts in research and development, businesses and collaborating organisations) in accordance with European<sup>12,13</sup> and national legislation; the main principles are specified in Annex 5 hereto.

### **Article 4 Industrial Property Exploitation Process**

1. The originator is required to notify an authorised UHK employee as well as the TTU about a research and development result in writing; at the same time, they inform their immediate superior about it. Moreover, the originator has to complete, within five days of the first notification of the research and development result, the form Notification of Research and Development Results (hereinafter, the “Notification”; Annex 1 hereto) completely, concisely and comprehensibly, assisted by the TTU, and submit it to an authorised UHK employee.
2. The authorised UHK employee performs a formal check of the Notification, helps the originator eliminate shortcomings as necessary, confirms the Notification receipt, and registers it in the Intellectual Property Offer Log (hereinafter, the “Log”), allocating a reference number to it and transferring

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<sup>12</sup> European Commission Regulation No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty (General block exemption Regulation - GBER).

<sup>13</sup> Communication from the European Commission “Framework for State aid for research, development and innovation” (2014/C 198/01).

the Notification to the TTU.

3. If any additions to the Notification are needed, the originator is required to cooperate with the TTU and the authorised UHK employee in a timely manner.
4. The TTU proposes to the Vice-rector for Creative Activity the summoning and composition of an Intellectual Property Assessment Committee (hereinafter, a “Committee”). If approved, the Vice-Rector for Creative Activities summons the Committee. The TTU prepares documents for the Committee meeting.
5. The Committee assesses the qualities of the notified result and recommends exercising or dismissing of rights to the result. If it recommends exercising of rights, it also proposes a suitable form of intellectual property protection and amount of reward for the originator for the exercising of the rights. The Committee then submits its recommendations and proposal to the UHK Rector for a final decision.
6. The UHK Rector decides whether the UHK will exercise its rights to the result and about the suitable form of intellectual property protection. If the rights are exercised, the UHK Rector charges the UHK Vice-Rector for Creative Activities with commencing preparation and implementation of the commercialisation. In the case of innovation proposals, the originator is informed about the UHK Rector’s decision by an authorised UHK employee within 2 months; in other cases, within three months from the first notification of the result as per Para. 1 of this Article. The authorised UHK employee then makes an entry in the Log about the UHK Rector’s decision.
7. If the UHK does not exercise its rights to the knowledge towards the originator within 3 months of the Notification receipt, the rights pass back to the originator. Both the originator and the EHK as the employer are required to maintain confidentiality about the knowledge offered towards third parties for this period. The UHK is required to maintain confidentiality about the knowledge for 1 more month after the rights to the knowledge have passed back to the originator.
8. If the UHK does not exercise its rights to the knowledge within 3 month of the Notification receipt, it is entitled to use the knowledge exclusively based on a written contract with the originator.
9. The TTU summons the Council for Commercialisation (hereinafter, the “Council”). The TTU prepares information for the Council, typically in the form of a commercialisation project.
10. The TTU develops the commercialisation project typically within 2 months of



the Rector's affirmative decision on exercising the rights to the result pursuant to Para. 6 of this Article.

11. The commercialisation project proposal typically has to contain the following information:
  - identification of research result (technology, invention, innovation proposal, computer program, database, etc.);
  - selected methods of legal protection of the result or alternative methods of legal protection and the planned commercial application;
  - planned steps of a technical, market, business nature for planned increase in value of the scientific result for commercial application (e.g., proof of concept activities, checking demand on target markets);
  - time and financing plan, including coverage of resources for the above steps;
  - factual schedule (and timetable as the case may be) for further steps, containing "STOP/GO" decision-making points;
  - information about co-ownerships structure, previously used and planned financing sources and conditions;
  - overview of existing contractual relationships and planned contracts;
  - cooperation conditions, expected advantages and their implications on contractual conditions in the case of plans to set up a spinoff company.
12. In the case of plans to set up a spinoff company, a business plan is a mandatory annex to the commercialisation project; its requisites are specified in Annex 6 hereto.
13. In the case of relevant grant chapters, the commercialisation project is superseded by documentation kept for special projects for the grant chapter in question.
14. The commercialisation project is approved by the Council, and it also sets the procedure and other parameters for preparation and implementation of the commercialisation with professional support from the TTU, and manages the commercialisation within its powers.
15. The commercialisation project is updated based on materials from the TTU and suggestions of the Council for Commercialisation; material changes have to be re-approved by the Council. A material change refers to increasing the overall budget for the commercialisation project by more than 15%, project period extension by more than 30% or change in the market target or parameters of

the planned product or service by more than 30%.

16. Specific terms and conditions of the licensing agreement as part of the commercialisation are not subject to Council approval and are mandatorily commented on only by the TTU and approved by the UHK Rector. The Rector may only sign a licensing agreement or any other contract related to commercialisation of the notified result if the requirements set by the governing act defining contract circulation at the UHK are met. The Vice-Rector for Creative Activities is informed about the intention to make such a contract before its making, confirming it by his signature on the dispatch note for the contract. At the same time, his signature confirms verification of meeting of the steps of the UHK industrial Property Exploitation Process described above.
17. The UHK Rector decides continuously, based on Council recommendations, about essential steps and financing of commercialisation activities or their halting as the case may be. In the case of halting commercialisation activities, the UHK Rector charges the TTU with negotiating terms and conditions and developing a price quotation for transfer and sale of intellectual property to originators, if they show interest in such transfer.

## **Article 5 Copyright Work**

1. The University of Hradec Králové uses for its educational activities primarily literary works and scientific, photographic, audiovisual, cinematographic and cartographic works; computer programs are also considered works pursuant to the Copyright Act. Collected works are, for example, collections, journals, exhibitions, databases, computer programs, etc.
2. Copyright works are treated pursuant to general provisions of Act No. 121/2000 Sb., on the Copyright, on Rights Related to the Copyright and on Amendment of Certain Acts (the Copyright Act), as amended (hereinafter referred to as the "Copyright Act").

## **Article 5a Employee Work**

1. Unless agreed otherwise, the UHK as the employer exercises in its own name and at its own account authors' rights to works created by the authors as part of performance of their obligations under their employment or similar relationship with the employer. The employer is allowed to transfer the right to exercise pursuant to this paragraph to a third party only with the author's consent.

2. Exercising of proprietary rights to employee work consists in the following:
  - The UHK may publish the work, modify it, process it, including translation, connect it to other works, include it in collective works and publicise it under the UHK's name.
  - The UHK may grant a licence with or without the right of sublicensing to other entities.
  - The UHK may also complete an unfinished employee work in case the author is in default, even after a written invitation to additional performance, in making/finishing the employee work or if the author's commitment to complete the work expires due to impossibility of performance or death.
  - The author of an employee work is entitled to adequate additional reward from the UHK if the wage or other reward becomes evidently disproportionate to the profits from exercising rights to the employee work.
  - The relationships between the employer and an employee pursuant to Paragraphs 1 to 3 of this Article can be defined differently in a contract, e.g., so that the employer-author may publish the work independently or the employer grants a licence to the employer-author with the right of sublicensing, etc.
  - If the UHK does not exercise proprietary rights to an employee work at all or if it exercises them insufficiently, the author has the right to ask the employer to grant the author a licence under normal terms and conditions, unless the employer has a material reason to refuse it.
3. The author's personal rights to the employee work remain unaffected.
4. The rights and obligations of the UHK as the employer in relation to an employee work remain unaffected as of the termination of the employee's employment or analogous relationship.

## **Article 5b School Work**

1. A school work is any work enjoying Copyright Act protection produced by a student in order to meet their study obligations deriving from their legal relationship with the UHK. They comprise, in particular, Master's, Bachelor's and doctoral theses, seminar and similar papers, computer programs, etc.
2. Proprietary rights to the UHK are not transferred directly by law, with the exception of rights deriving from special legal regulations (Section 47b of Act No. 111/1998 Sb. on Higher Education Institutions and on Amendments and Supplements to some other Acts).<sup>14</sup>
3. The UHK has the right by law to use a school work in a non-profit way for its internal purposes.
4. The UHK has the right to make a licence agreement on use of a school work under normal terms and conditions.
5. If the student-author refuses to grant permission (licence) for use of the work without a material reason, the UHK may claim it at court, the ruling of which may substitute for the author's missing manifestation of will.
6. Unless the UHK and the student-author make a different agreement, the student-author may use their work or grant a licence to someone else. However, it must not contradict the UHK's legitimate interests.
7. If the student-author generates any income from using their school work or granting a licence for it, the UHK is entitled to demand an adequate contribution for the payment of costs it incurred in creating the work.

## **Article 6 Valuation of Intellectual Property**

1. The three following necessary actions are a precondition for including intellectual property in accounting records: (a) putting the property in a state fit for use; (b) a decision by the UHK Rector that the property is designated for trading; and (c) its valuation.
2. The TTU shall arrange the valuation of intellectual property in cooperation with the UHK Economic Unit; it may request an opinion from the Council for

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<sup>14</sup> see also Rules for Bachelor's , Master's, Advanced Master's, Doctoral and Habilitation Theses Handling at the UHK (Rector's Decree No. 13/2017).

Commercialisation as necessary.

3. All intellectual property produced at the UHK that is designated for trading has to be included, based on the valuation, in the accounting records on the UHK intangible assets in accordance with applicable rules. For this purpose, the TTU shall arrange submission of all necessary information to the UHK Economic Unit.

## **Article 7**

### **Reward to Originators**

1. An originator to whose intellectual property the UHK exercises the right is entitled to adequate reward. The minimum amount of the reward is 10,000 CZK for a patented invention; the amount is between 1,000 CZK and 10,000 CZK in other cases of protected objects of industrial property, wherein the Rector decides the amount. The reward reflects the size of the ownership share and is divided among any co-originators according to the mental share of intellectual input by each of the co-originators.
2. The reward pursuant to Para. 1 does not apply to copyright work of art, literary and scientific nature without a commercial potential, typically scientific papers, papers for collections, conference posters, monographs or other publications. Such works are treated pursuant to provisions of Act No. 121/2000 Sb., on the Copyright, on Rights Related to the Copyright and on Amendment of Certain Acts (the Copyright Act), as amended.
3. The originator is entitled to additional reward based on a licence agreement or sale of intellectual property. The TTU informs the Vice-Rector for Creative Activities about the progress of commercialisation, if any.
4. Rewards based on a licence agreement or sale of intellectual property are paid to the originator without needless delay after payments are transferred from the business partner to the UHK account.
5. The table in Annex 2 hereto shows the calculation of the amount of reward from net revenues from a licence agreement or sale of intellectual property. The reward is divided among co-originators based on each co-originator's share of intellectual input.
6. For the purposes of this Decree, the net revenue is the UHK's income from the object of intellectual property modified by direct costs of commercialisation (provision of formal and contractual protection, legal services, business and marketing analyses and services, searches, management and implementation of commercialisation activities, etc.).

7. A part of the UHK's net revenue, i.e., the net revenue after subtraction of reward to originators pursuant to Paragraphs 5 and 6 of this Article, is set aside to cover expenditures on provision of appropriate patent protection, its maintenance and preparation and implementation of commercialisation activities for further research and development results. Unless the UHK Rector specifies otherwise, the UHK's net revenue is divided so that 15% goes to the faculty or independent department involved in the production of the result, and the rest is used for financing of oriented research and development or innovations, particularly for commercialisation of research and development results and innovations. Typically, at least 40% of the UHK's net revenue is set aside for targeted application of research results using technology transfer. The divided parts of the UHK's net revenue pursuant to this Paragraph have to be used only for the UHK's primary activity.

## **Article 8**

### **Protection of Information About Intellectual Property**

1. All information about intellectual property is considered trade secret and confidential. Announcements of research and development results, Committee and Council meeting minutes and recommendations and TTU opinions are considered trade secret and confidential.
2. Related information, whole documents or their parts may only be disclosed to third parties if their protection is arranged contractually.
3. By arrangement with the originator, the Committee may make a written report signed by Committee members and the originator to decide about a different way of handling said documents and information.
4. Employees involved in scientific work, research and development are instructed by their managers about obligations arising from the legal regulation on protection of intellectual property and UHK trade secrets in relation to the making of an invention or analogous innovative solution and potential consequences of violation of the employee's legal obligations. Instructed employees confirm with their signature having been informed about the most important applicable provisions of the Civil Code, the Invention and Innovation Proposals Act and the Labour Code. Such a signed Instruction to Employees Involved in Science and Research ("Instruction") is attached to their employment contract. Said Instruction is Annex 4 hereto.
5. UHK employees that get, for any reason, in contact with information or documentation regarding knowledge to which the UHK can exercise or has exercised the right are required to maintain confidentiality until an application

for intellectual property protection is filed or the priority retention for the UHK is otherwise managed.

## **Article 9 Final Provisions**

1. This Decree enters into force and effect on the date of its signing.
2. Rector's Decree No. 08/2018 is repealed.

Hradec Králové, 24 May 2019

Prof. Ing. Kamil Kuča, Ph.D.

### **Annexes**

- Annex 1: Notification of Research and Development Results
- Annex 2: Share in revenue from research and development
- Annex 3: Powers and obligations of participants in the research and development result exploitation process
- Annex 4: Instruction to Employees Involved in Science and Research
- Annex 5: Handling of research and development results towards third parties
- Annex 6: Business Plan Outline



<b>NOTIFICATION OF RESEARCH AND DEVELOPMENT RESULTS</b>		
	To be completed by the originator	TTU comments
<b>1. Result name</b>		
<b>2. Result discipline</b>		
<b>3. Originator and co-originators, each co-originator's share in intellectual input</b>		
<b>4. Contact person authorised to act for co-originators</b>		
<b>5. Result description</b>		
<b>6. Description of scientific and research work done on the result, including information about place and time of result</b>		
<b>7. Advantages of result compared to state of the art</b>		
<b>8. Disadvantages of result compared to state of the art</b>		
<b>9. Potential applications (areas, interested entities, demand)</b>		
<b>10. Result publication method and time</b>		
<b>11. Demonstration of novelty</b>		
<b>12. Readiness for use (steps necessary for practical application, description of follow-up research and</b>		

<b>development)</b>		
<b>13. Proposed protection method or contractual application and attributes of novel solution to be protected or applied</b>		
<b>14. Related project (if grant or support provided)</b>		
<b>15. Support materials attached (text, sketches, charts, drawings, performance data, reports, agreement among co-origimators)</b>		
<b>16. Result documentation storage form and location</b>		

Name and signature of the person handing over:

Name and signature of the person accepting:

Committee consultation date:

Rector's statement date:

Rector's statement:        **Exercise/Do not exercise** rights to intellectual property.

<b>SHARE IN REVENUE FROM RESEARCH AND DEVELOPMENT</b>		
	<b>UHK</b>	<b>Originator</b>
<b>Share in net revenue*</b>	10%	90%**
<p>* <b>Net revenue</b> (for the purposes of this Decree) is the UHK's income from the object of intellectual property modified by direct costs of commercialisation (provision of formal and contractual protection, legal services, business and marketing analyses and services, searches, management and implementation of commercialisation activities, etc.).</p> <p>** This share belongs to the originator unless the UHK Rector chooses differently upon agreement with the originator.</p>		

## **POWERS AND OBLIGATIONS OF PARTICIPANTS IN THE RESEARCH AND DEVELOPMENT RESULT EXPLOITATION PROCESS**

### **Vice-Rector for Creative Activities**

1. Activities associated with intellectual property protection at the UHK belong to the powers of the Vice-Rector for Creative Activities, without prejudice to other persons' obligations pursuant to legal regulations.
2. The Vice-Rector for Creative Activities appoints the Intellectual Property Assessment Committee (hereinafter, the "Committee").

### **Technology Transfer Units**

3. Technology transfer units (also referred to as "TTU") provide protection of intellectual property and performance of all designated activities necessary for the commercialisation process. Its form and area of responsibilities are defined in detail by the Rector's governing act.
4. In particular, the TTU records information about intellectual property, receives, analyses and assesses intellectual property and makes recommendations for appropriate protection methods for the Committee. In addition, the TTU produces specific analyses, plans, recommendations, designs appropriate methods of commercialisation of research and development results, sets the financial plan, dates and main milestones of target activities and compiles commercialisation reports for the Council. The TTU proposes and recommends to the Committee, the Council and the UHK Rector suitable sources for covering and financing of intellectual property protection and commercialisation activities. Afterwards – based on authorisation from the Council and the Committee – it performs the set tasks leading to intellectual property protection and commercial application, their management and monitoring. The TTU cooperates with the authorised UHK employee. The TTU continuously informs the Vice-Rector for Creative Activities.

### **Authorised UHK employees – administrative records**

5. Authorised UHK employees ensure internal records on objects of intellectual property at the UHK. They run the Intellectual Property Offer Log (the "Log") and assigns a reference number to each Notification submitted (see Article above). They cooperate with the TTU on protection and commercialisation of

research and development results. Authorised UHK employees hand over information about Notified Results to the head of the UHK Economic Unit and ensure administrative work in cooperation with the originator, head of the unit and the Committee, run central records on objects of industrial property, ensure administrative work related with inventor and innovation activity at the University, ensure in cooperation with the TTU the UHK proceedings on objects of industrial property by filing applications for registration in applicable registers, and ensure in cooperation with the TTU protection and exploitation of objects of industrial property towards third parties.

6. All authorised and involved UHK employees have to sign an Agreement on Confidentiality, Information Protection and Prohibition of Misuse.
7. Authorised UHK employees communicate the Rector's decisions to originators.

### **Intellectual Property Assessment Committee**

8. The Committee assesses research and development results in terms of their importance for the UHK and proposes suitable form of protection of intellectual property, or recommends not exercising rights to a result or making a decision about exercising of rights and processing and developing the result without legal protection (trade secret, know-how, etc.). In addition, the Committee proposes the amount of reward for originators for exercising of rights to results. The Committee is required to make a proposal within 70 days of the submission of a completed Notification of Research and Development Results. The Committee submits the proposal to the UHK Rector via the TTU.
9. The Committee has the following standing members: UHK Vice-Rector for Creative Activities, UHK Faculty Vice-Deans charged with management of scientific activity, and the Head of the TTU. Additional members are appointed by the Vice-Rector for Creative Activities; typically, they include the Head of the Department where the related research work takes place, the guarantor of the discipline, designated TTU specialist and other experts in the area.
10. All Committee members have to sign an Agreement on Confidentiality, Information Protection and Prohibition of Misuse.

### **Council for Commercialisation**

11. The Council defines and recommends acceptance, continuation and termination of commercialisation and approves use of funds for specified activities.
12. The Council composition and its meeting rules are specified by the Council Rules of Order.

13. All Council members have to sign an Agreement on Confidentiality, Information Protection and Prohibition of Misuse.
14. When given information about a specific research result discussed or at any later time, each Council member shall consider dutifully whether they can act as an independent and impartial committee member. In case any of the members is partial to a research result, they have to inform the other Council members thereof immediately and, from the moment the member feels partial, may only provide additional information for the specific result but must not participate in decision-making and voting about the result in question.
15. The Council is summoned ad hoc to assess new research results, decide about key actions done by the TTU and, once a year, to assess the maintenance or cessation of maintenance of awarded patents, utility models, registered designs, trademarks, etc. with a view to commercial exploitation and acquisition of funds. The ad hoc meetings are held preferentially in the form of electronic communication.

### **UHK Rector**

16. The UHK Rector approves appropriate form of intellectual property protection based on Committee proposals. The UHK Rector is required to provide a statement to a proposal in writing within 3 months of confirmed receipt of a complete Notification of Research and Development Results. In case the UHK Rector decides to exercise rights to a research and development result and decides to arrange any form of legal protection, the property is designated for trading from the moment of the exercising of rights, for the purposes of valuation and further exploitation of intellectual property.
17. The UHK Rector approves commencement, termination, procedures, budgets and other parameters of the commercialisation process based on Council proposals.
18. The UHK Rector defines sources for covering of expenditures associated with the legal actions for intellectual property protection, application filing and subsequent administrative and maintenance fees for assuring the chosen intellectual property protection.
19. The UHK Rector defines sources for covering expenditures on commercialisation activities and preparation (including activities in the stages of verification and increasing the commercial potential of research results).
20. The UHK Rector appoints the Council in accordance with the Council Rules of Order.

### **Originator, author**

21. Originators are required to make a notification, immediately and in writing, of the results of their research, development or innovation work that they deem to have a potential for commercial application and meet legal requirements for an intellectual property protection type (invention, utility model, registered design, biotechnology invention, trade secret; a brief description is made in Article 2, Definition of Terms) to the TTU. The notification is made in writing. If they do not make the notification using the template form (Annex 1 hereto), they have to submit the template form to an authorised UHK employee within five days of the initial notification of the result.
22. The originator has to strictly maintain the confidentiality principles defined in Article 9 hereof. The research and development result is considered a part of the UHK trade secret and a classified fact. Until the Rector's decision on further steps (or until the filing of an application for a patent or similar legal protection for the result), the originator or any other person informed about the result is not allowed to publish any related information or disclose it to any third person not bound by confidentiality in the matter. To a limited extent (after consultation with the TTU), the originator may inform about framework benefits of the result, but not about its technical parameters, composition, manufacturing procedures, etc., without the TTU's explicit consent.
23. Notifications and documents have to contain, in particular, the name of industrial property object, its description, the discipline it pertains to, an explanation of its essence, advantages or disadvantages compared to the state of the art, examples of implementation, demonstration of its novelty and applicability, the essence of the employee's activity resulting in the industrial property object, and potential proposals for contractual exploitation of the results.
24. Upon request by the TTU or the Vice-Rector for Creative Activities, the originator is required to actively and efficiently cooperate with the Centre employees during analysis of the result, during arrangements for industrial property protection and exploitation of the protected intellectual property object.
25. In case the originator's unit or the originator explicitly requests cooperation with an external patent representative beyond the TTU's recommendations, the unit or the originator share the costs of the patent representative at 80% of the total costs invoiced by the patent representative.

### **UHK Lawyer**

26. Upon request, the UHK Lawyer provides a more detailed interpretation of the

Copyright Act, laws relating to industrial rights, the Civil Code and, as necessary, prepares licensing agreements or contract for work to order or other related agreements and contracts.

### **UHK Managing Employees**

27. All UHK managing employees are required to ensure, under employment contracts, agreements to perform work, agreement to perform a job or otherwise (e.g., job descriptions, written instructions or task assignments), the Employer's ability to demonstrate and prove that any works and intellectual property objects produced are employee works or company inventions, i.e., works created to meet obligations arising from an employment relationship, and that the employee has carried out such creative tasks.
28. For employees who do not have a job description and whose employment contracts do not define creative activity explicitly, the Employer's rights to works created by them can only be exercised in case they are assigned such tasks by a written instruction of their superior. In the case of doubts whether such a task can be assigned by a superior, the decision may be made by an employee authorised to make employment contracts (Rector, Dean, Bursar). Managing employees are required to consult such situations with employees authorised to make employment contracts.
29. Managing employees are required to monitor production of employee works at UHK units that they manage, and take care that proprietary rights to them are exercised properly. If the UHK does not exercise proprietary rights to an employee work at all or if it exercises them insufficiently, the author has the right to ask the employer to grant the author a licence under normal terms and conditions, unless the employer has a material reason to refuse it.
30. Managers of employees involved in scientific work and research is required to instruct them about obligations arising from the legal regulation on protection of intellectual property and UHK trade secrets in relation to the making of an invention or analogous innovative solution and potential consequences of violation of the employee worker; employee's legal obligations. Managers make sure that instructed employees sign a written Instruction (Annex 4 hereto) and make sure that the Instruction is included in the employee's dossier along with their employment contract at the HR Department.



## INSTRUCTION TO EMPLOYEES INVOLVED IN SCIENCE AND RESEARCH

The employee [name, surname, degrees], resident at [permanent residence address], has been familiarised with the contents of the instruction and understands the following provisions of the legal definition of employees' obligations in relation to intellectual property of the University of Hradec Králové (the "UHK"), protection of trade secrets of the UHK and its contractual partners, and with relevant consequences of any violation of the legal provisions listed below:

Act No. 89/2012 Sb., Civil Code,

1. Section 504 defines the term trade secret:

**"A trade secret consists of information that is competitively significant, identifiable, valuable and not usually available in the respective business circles, which relates to a factory, and whose owner ensures its confidentiality in the respective manner in the owner's own interest."**

2. in addition, Section 2985 specifies what is considered a trade secret violation:

**"Violation of trade secrets is an act by which any person acting unlawfully communicates, makes available, for himself or for another a trade secret, which can be used in the competition and which he learned**

- a) **by being entrusted with the secret or the said secret becoming accessible to them under their employment with the tenderer, or under any other relation they may have with them, or under their pursuit of a position they were appointed to fill by resolution of a court or another body, or**
- b) **by their own or somebody else's action in violation of the law."**

Act No. 527/1990 Sb., on Inventions and Innovation Proposals,

3. Section 9 defines originators' obligations towards employers:

**"(1)If the originator has created an invention to meet a task under their employment relationship, membership or another similar work relationship (hereinafter, employment relationship) with the employer, the right to the patent is transferred to the employer, unless a contract specifies otherwise. The right to originatorship is not affected by this.**

**(2) The originator of an invention in employment relation shall immediately notify the employer and provide it with resource documentation for the assessment of the invention upon request."**

A similar obligation applies to registered designs and utility models pursuant to Acts No. 478/1992 and 207/2000 Sb.

Act No. 262/2006 Sb., the Labour Code,

4. Section 55, Paragraph 1, item (b), defines the employer's ability to cancel the employment relationship immediately:

**“if the employee grossly violated an obligation stipulated by legal regulations relating to the work carried out by them.”**

5. in line with provisions of Section 250, Para 1:

**“The employee is liable to the employer for any damage caused to the employer by intentional violation of obligations in the course of or in direct connection with performance of the working tasks.”**

6. in line with provisions of Section 257:

**“The amount of requested compensation for loss caused by negligence cannot exceed the amount that is equal to four and a half times average monthly income of the employee in question before his breach of obligation that caused the loss. The foregoing shall not apply if the damage was caused intentionally.”**

Hradec Králové, [date]

I confirm with my signature that I have been familiarised with the contents of the Instruction and understand it.

.....  
[Manager's name]  
Instructed employee's manager

.....  
[Instructed employee's name]  
Instructed employee

## **HANDLING OF RESEARCH AND DEVELOPMENT RESULTS TOWARDS THIRD PARTIES**

### **Public contracts in research and development**

1. If it is the result of a public contract **that cannot be protected** by the laws governing copyright protection results, or similar inventive or creative activities<sup>1</sup>, if the owner of the results is the provider and their publication and use is possible only with the prior written consent of the provider by means of **teaching or public disclosure of research results on a non-exclusive and non-discriminatory basis**.
2. If it is the result of a public contract **that can be protected** under the laws governing the protection of copyright, inventive or similar creative activity (e.g. copyright work, invention), the UHK, unless otherwise specified by the Provider, must exercise the right to the results, ensure their legal protection and, after providing it, to **grant the Provider with unrestricted free access to the result and non-discriminatory access to third parties under market conditions**. In order to publish project results before the industrial protection application is submitted, a written consent of the Provider is necessary.

### **Other results in research and development**

3. Rights to results of research, development and innovation activity that is not a public contract belong to the UHK or are co-owned by the collaborating organisations that created the results together in collaboration with the UHK.
4. For the use of results, with the exception of the provisions referred to in Paragraphs 1 and 2, the following shall apply:
  - a. **if the UHK is the beneficiary of aid from public sources and if it has exclusive rights to a result fully funded from public resources, the results can only be exploited by way of teaching or public disclosure of research results on a non-exclusive and non-discriminatory basis or knowledge transfer,**
  - b. **if the beneficiary of the project support is a company along with UHK as a research organisation, then:**
    - i. **the results of such cooperation, which cannot be protected under the laws governing protection of the results of author's, creative, inventive or a similar creative activity, may be freely disseminated, and the rights to the results arising from the UHK activities belong entirely to those entities, or**

- ii. **any rights to project results as well as related access rights belong to all collaborating entities to an extent corresponding to the extent of their involvement in the project, or**

**the UHK receives from the collaborating entity a compensation corresponding to market prices of rights to the project results that arise as a consequence of its activity and are ceded to the collaborating entity, or to which the entity has acquired access rights. If it is the result of a public contract that cannot be protected by the laws governing copyright protection results, or similar inventive or creative activities, if the owner of the results is the provider and their publication and use is possible only with the prior written consent of the provider by means of teaching or public disclosure of research results on a non-exclusive and non-discriminatory basis.**

## **Business Plan Outline**

1. Name and surname/company name of applicant, permanent address/registered office/company office, company ID (if any).
2. Project title – project focus and expected outcome.
3. Legal form, line of business, brief description of company history (if any).
4. Main project intent – summary
  - mission, goals, product/service uniqueness and its protection, competitive advantage, target customer segments and their sizes, team, financial targets, amount of initial investment needed and potential profit.
5. Product/service description
  - brief description of products/service, description of advantages, customer needs for product/service that it meets, its uniqueness, innovativeness, added value for customers, how it will be priced.
6. Sales and marketing strategy
  - describe market scope, analysis and forecast of demand for product/service,
  - basic characteristics of customers,
  - demand-to-price and price-to-demand sensitivity,
  - your main competitors, competitive strength, what part of the market they occupy, advantages and drawbacks of competing products/services, how you will differ from the competitors,
  - method of product/service marketing, how you will distribute the product/service, what distribution channels you will use, what amounts of sales you intend to implement via each distribution channel,
  - how you will handle aftersales service,
  - method of promotion, how you will capture customers, how you will promote your products/services, how you will contact customers, how you will time activities and with what budget, what marketing communication channels you will use (what advertising and where, company documentation, company brands, logos, slogans, public relations, press releases, internet, etc.).

7. Staffing

- current composition of your team, their expertise, experience, motivation,
- shortcomings of your team – what experience, knowledge and skills your team lacks at the moment, how you propose to resolve the problem,
- project management method,
- qualifications and professional requirements for employees necessary for project implementation and estimate of their number, workforce recruitment method, degree of exploitation of local workforce,
- amount of personnel expenses.

8. Technical and spatial project provisions

- contractors (discipline, location),
- the manufacturing process, requisites for the manufacturing and its financial demands (if relevant),
- spatial location of the project (own premises, lease) and costs of premises,
- whether additional research and development will be required; if so, how time and money-demanding it will be,
- legal protection of your product/service.

9. Project implementation timetable

- project milestones, what goals are to be achieved in time and what it means in terms of finance, production, promotion, sales, recruitment,
- vision for the company for the next 3 years.

10. Project budget, financial demands and project security

- your costs before launching the project (mostly costs of machinery acquisition, preparatory works), costs during project functioning (operating costs fixed and variable); ideally developed as an itemised overview in a table,
- expected revenues (estimate of sales, structure of sales) for the first, second and third year,
- cash flow (income and expenditures, their inequality in time),
- break even point,

- financial project security (source of necessary funds).

11. Final summary – project SWOT analysis

- Project strengths (and how to exploit them).
- Project weaknesses (and how to resolve them).
- Opportunities (and how to exploit them).
- Threats (and how to tackle them).