

**BIOLOGICAL RESEARCH CENTER  
OF THE  
HUNGARIAN ACADEMY OF SCIENCES**

**POLICY ON INTELLECTUAL PROPERTY  
PROTECTION AND MANAGEMENT**

**APPROVED BY THE BOARD OF DIRECTORS  
OF THE BIOLOGICAL RESEARCH CENTER**

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**Biological Research Center of the  
Hungarian Academy of Sciences**

**POLICY ON INTELLECTUAL PROPERTY  
PROTECTION AND MANAGEMENT**

**I. Purpose of the Policy**

**Article 1**

In line with the Deed of Foundation of the Biological Research Center of the Hungarian Academy of Sciences (hereafter: “BRC”), the purposes of this Policy on Intellectual Property Protection and Management (hereafter: „Policy”) are to facilitate the efficient evaluation of the intellectual properties created by the researchers of BRC and any other persons covered by this Policy as a result of their research activities, to provide legal protection for such properties, to utilise these intellectual creations for the benefit of BRC, its researchers and the whole society at large and to encourage the establishment of spin-off companies tightly associated with BRC. This Policy regulates, in accordance with the relating items of legislation and the Rules of Organisation and Operation of BRC, the protection of intellectual creations, the acquisition and transfer of related rights and the sharing of revenues with researchers of the upfront fees, royalties and other revenue types coming from the utilisation of the intellectual creations of such researchers.

**II. Definitions**

**Article 2 As applied in this Policy:**

**Invention:** an intellectual creation in the field of scientific research or technical development which is the result of a creative activity, qualifies as internationally new and is a useful but not evident solution in the given field. The following do not qualify as inventions: discoveries, scientific theories, mathematical methods, aesthetic creations, plans, rules and procedures for intellectual activities, games and business management, computer programs (items of software) and forms of information display. However, the patenting of these is impossible only if and to the extent that a patent is requested for them exclusively in the said quality, in the said categories.

**Patentable invention:** any and all new inventions based on inventor activities and applicable industrially.

**Patentable biotechnological invention:** an invention that covers a product comprised of or containing a biological substance or a process whose end result is the production, processing or application of any biological substance. The term “biological substance” means any material that contains genetic information and is capable of reproducing itself or can be reproduced in a

biological system. Biological substances isolated from their natural environment or produced in a technical process may also qualify as inventions if they formerly existed in nature. The human body may not be the subject of a patentable invention in any phase of its forming and development. Similarly, the mere discovery of any part of the human body, including the discovery of any gene sequence or sequence section may neither be the subject of a patentable invention. Any part of isolated from the human body or otherwise produced through a technical process – including gene sequences and sequence sections – may be the subject of patentable inventions even if the structure of such part is identical with the structure of any part existing in nature.

**Patent:** an exclusive right with a time limit that provides protection for an invention, granted by the competent authorities as a result of a patent licensing process, for a fixed period of time (usually for 20 years from the day of patent application).

**Utility model:** a solution relating to the configuration or construction of an object or for the arrangement of parts thereof, if such solution is based upon a new invention and is applicable in industry. No protection is available, especially, for the creation of a product's external appearance or any plant varieties.

**Design:** the outer appearance of a product, resulting from the external characteristics of the product and/or its decoration, with special respect, though not limited, to its curves, profile, shape, surface and the materials used in its making. This outer appearance may be legally protected if it is new and unique.

**Intellectual creation:** creations and technical solutions which are suitable to be the subjects of industrial property protection (patent, utility model protection, plant variety protection, industrial design protection) can be obtained or which are under copyright protection by law, including the cases when the confidential handling of these solutions is more suitable than the obtaining of the appropriate legal protection, based on the actual purposes and possibilities of utilisation. Furthermore, the term “intellectual creation” also contains know-how, which is under legal protection as intellectual creation (please refer to the Hungarian Civil Code /Act 4 of 1959/).

**Plant variety protection:** plant variety protection may be granted for a variety that can be distinguished from any other plant variety and is uniform, stable and new and has been given an appropriate variety name.

**Creations under copyright protection:** individual and original literary, scientific or artistic creations. Such creations include – but are not limited to – scientific and literary works, cinematographic and audiovisual creations, artistic photographs, maps and map creations (maps and cartographic creations), the plans of technical facilities, applied art and industrial art creations, software and databases.

**Know-how:** intellectual creations which are not covered by separate items of legislation but can be used by the general public and have not yet become part of the public domain, as well as any knowledge and experience of an economic, technical or organisational nature and having a financial value.

**Database:** a collection of independent creations, data or other content elements, arranged based on some system or method, whose elements can be accessed by an individual, using computer technology or other means.

**Licence:** based on some industrial property protection or copyright, the full or partial transfer of the utilisation or usage of an intellectual creation, with a temporal and/or geographical limitation.

**Compulsory intellectual creations of employees:** the intellectual creations of people who, by reason of their employment as civil servants, public servants or under any other type of contract of employment, are under the obligation to develop solutions qualifying as intellectual creations.

**Non-compulsory intellectual creations of employees:** the intellectual creations of people who, without being under the obligation by reason of their employment (as civil servants, public servants or under any other type of contract of employment) to do so, develop an intellectual creation, whose utilisation falls within the field of business of their employer.

**Inventor:** the person who created the invention; if the invention has been created by several inventors, their authorship – unless expressly otherwise specified – shall be considered equal.

**Utilisation:** based on the relating provisions of the act on the patent protection of inventions (hereafter: “Patents Act” or “PA” for short) – to be applied for utility models and topography –, “utilisation” shall mean the production, use, distribution or offer for distribution of products being the subject of an invention, the keeping of such products on stock or their import for the said purposes; the use and offer for use of a process being the subject of an invention, the use, distribution or offer for distribution of products directly produced through such processes and their keeping on stock or importing for the said purposes (see Section (2) of Article 19 of the “PA”). Based on the relating provisions of the Protection of Designs Act (hereafter: “DA”), “utilisation” shall include – but not limited to – the production, use, distribution or offer for distribution of products with the given design, their import, export and the keeping of such products on stock for the said purposes (see Section (3) of Article 16 of the “DA”). The term “utilisation” shall also mean – besides the above – the creation or preservation of a market situation favourable for the given utilisation, the assignment of utilisation to a third party, as well as the partial or full transfer of the rights related to the intellectual creation and the production of the product being the subject of the invention by a subcontractor. For creations under copyright protection, the term “utilisation” shall mean the use of the given work under a licence (reproduction, distribution, public presentation, publication by broadcasting or otherwise, retransmission of the work to the public with the involvement of another organisation, adaptation and exhibition), as well as the partial or full transfer of pecuniary rights.

**Business entity:** For the purposes of this Policy, the term “business entity” shall mean private entrepreneurs, business companies, cooperatives, foundations, charitable enterprises, non-profit organisations and registered societies.

**Consortium:** cooperation between the parties (members) sharing activities in line with their civil law contract, for the purpose of joint research-development and/or technological innovation activities or the joint implementation of a research-development and/or technological innovation project (Section 5 of Article 4 of the Innovations Act).

**Utilising (spin-off, spin-out) enterprise:** a business organisation established by or operating with the participation or in the partial ownership of a state-owned or non-profit research site (for the purposes hereof, including the Hungarian Academy of Sciences) for the purpose of utilising an intellectual creation of the given research site and operating at the premises of such research site (see Section 6.b of Article 4 of the Innovations Act). For the purposes of this Policy, a spin-off enterprise also means any and all other business entities established by the researchers of BRC for the utilisation of BRC's intellectual creations.

**Public funding:** funding from any of the subsystems of public finances (including EU funds, as regulated in the Public Finances Act), as well as funds under the disposal of regional development councils and foreign funding received under international treaties concluded by the state or municipal governments (see Section 7 of Article 4 of the Innovations Act).

**Upfront:** a one-off licence fee paid by the licensee to BRC for the transfer of the right to utilise an invention.

**Royalty:** a commission-type licence fee paid to BRC, calculated as a certain percentage of the turnover or profit of the licensee after the utilisation of an invention. Royalties are paid subsequently, not in advance.

**BRC Innovation Fund:** a revolving fund established by BRC, through which BRC intends to provide any and all procedural fees and other costs incurred in connection with the obtaining of patents, as well as any and all patent maintenance expenses.

**Domain:** A database of Internet addresses, which assigns a unique name to every IP address in the set.

**Trademark:** All graphically represented signs suitable for distinguishing a product or service from other products or services. Signs that can be registered as trademarks include particularly: words, word combinations including personal names and slogans; letters, numerals; figures, pictures; two-dimensional or three-dimensional forms, including the shape of products or their packaging; colours, colour compositions, light signals, holograms; voices; and combinations of the above.

### **III. Legislation**

#### **Article 3**

In the application of this Policy, the provisions of the following items of legislation must be observed:

**Act 4 of 1959:** the Hungarian Civil Code;

**Act 4 of 1978:** the Hungarian Criminal Code;

**Act 38 of 1991:** Protection of the Utility Model Act;

**Act 39 of 1991:** Protection the Topography of Microelectronic Semiconductor Products Act;

**Act 23 of 1992:** the Hungarian Labour Code;

**Act 33 of 1992:** the Legal Status of Public Employees Act;

**Act 38 of 1992:** Public Finances Act;  
**Act 40 of 1994:** Hungarian Academy of Sciences Act;  
**Act 33 of 1995:** Patent Protection of Inventions Act;  
**Act 76 of 1999:** Copyright Act;  
**Act 100 of 2000:** Accounting Act;  
**Act 48 of 2001:** Protection of Designs Act;  
**Act 50 of 2002:** Act on the Promulgation of the Munich Convention of 5 October 1973 on the Granting of European Patents (European Patent Convention);  
**Act 51 of 2002:** Act on the Promulgation of the New Text of the International Convention on the Protection of Plant Varieties (Geneva, 19 March 1991);  
**Act 90 of 2003:** Research and Technological Innovations Fund Act;  
**Act 49 of 2004:** Act on the Promulgation of the WIPO's Copyright Treaty (Signed in Geneva) and its Performances and Phonograms Treaty;  
**Act 90 of 2004:** Act on the Promulgation of the Amended Text of the Hague Agreement on the International Deposit of Industrial Designs;  
**Act 134 of 2004:** Research and Development and Technological Innovations Act (Innovations Act);  
**Act 106 of 2007:** State Property Act;  
**Act 130 of 2007:** Act on the Promulgation of the Amended Text of the European Patents Convention Revised in 2000;  
**Order in Council no. 18/1970:** on the Promulgation of the Amended Text of the EU Conventions on the Protection of Industrial Patents (Revised and Compiled in Stockholm on 14 July 1967);  
**Order in Council no. 13 of 1979** on International Private Law;  
**Order in Council no. 14 of 1980** on the Promulgation of the Patent Cooperation Treaty; **Order in Council no. 1 of 1981** on the Promulgation of the Budapest Treaty on the International Recognition of Deposits of Micro-organisms for the Purpose of Patenting;  
Government Decree 292/2009 (19 December): About the Rules of Operation for Public Finance Management;  
**Government Decree 249/2000 (24 December):** About the Specific Features of Reporting and Accounting Obligations of Organisations Responsible for Public Finance Management;  
**Government Decree 26/2004 (26 February):** About the Rules Necessary for the Implementation of Community Regulations on the Supplementary Protection of Certain Products;  
**Government Decree 61/2006 (23 March):** on the Depositing and Handling of Biological Substances for Patenting Proceedings;  
**Government Decree 147/2007 (26 June):** on the Detailed Rules for the Electronic Submission of Certain Applications for Industrial Property Protection;  
**Decree 19/2005 (12 April) of the Ministry of Economy and Transport:** about the Administration Fees of Industrial Property Protection Procedures Conducted Before the Hungarian Patent Office;  
**Decree 19/1991 (28 December) of the Minister of Justice:** About the Detailed Rules for the Formalities of Applications for the Protection of the Topography of Microelectronic Semiconductor Products;  
**Decree 20/2002 (XII.12.) of the Minister of Justice:** on the Detailed Formal Requirements for the Filing of Patent Applications, European and International Patent Applications and European Patents and the Plant Variety Protection Applications;

**Decree 16/2004 (27 April) of the Minister of Justice:** on the Formal Requirements for Trademark Applications and for Geographical Product Indications;

**Decree 18/2004 (IV. 28) of the Minister of Justice:** on the Detailed Formal Requirements for Utility Model Protection Applications.

## **IV. Coverage of the Policy**

### **Article 4**

This Policy shall apply to the following persons:

- a) All persons employed by BRC as public servants or under any other type of contract of employment and persons participating in scientific research and education projects implemented in or with the participation of BRC, as well as any other persons participating in the implementation of any other tasks of BRC;
- b) All students of BRC and students of Szeged University but on field practice in BRC who sign a declaration of acceptance of this Policy.
- c) BRC as a research institute;
- d) As laid down in separate agreements: Business organizations operating within the premises of BRC and participating in scientific research.

### **Article 5**

This Policy shall cover the following activities and areas:

- a. Any and all of the following, created as a result of activities (usually scientific research activities) carried out by any person to whom this Policy applies:
  1. intellectual creations for which industrial property protection (especially: patent, utility model protection, plant variety protection, microelectronic semiconductor product topography protection, industrial design protection) can be obtained and
  2. creations under copyright protection granted by law,
  3. know-how,
  4. creations for which the “compulsory” or “non-compulsory” nature can be established or – in the case of creations under copyright protection – whose creation is the obligation of any person covered by this Policy, under his/her contract of employment.
- b. Trademarks and other product markings which are directly related to the intellectual creations described in Section 1 above.
- c. The use of the name of BRC and of markings and trademarks referring to BRC.
- d. Any and all other intellectual creations which are ordered to be covered by this Policy in any agreement made between BRC and any third persons (i.e. the rights related to intellectual creations created elsewhere than at the research site are obtained by BRC free of charge or against payment of a fee).
- e. Intellectual creations in connection with which the BRD is the beneficiary of the related rights at the time of the entering into force of this Policy, provided, however, that the beneficiary of the given intellectual creation consented to the coverage of the given creation by this Policy.

## **V. Rights Related To Intellectual Creations**

### **Article 6**

Unless expressly otherwise ordered by law, any and all rights related to the intellectual creations created as a result of the research activities carried out in BRC shall be the rights of BRC. If the intellectual creation is the result of any research/development activity which BRC undertook based on a contract made with an external expert, the rights related to such intellectual creation shall be regulated in the provisions of the agreement between BRC and such external expert or, if no such provisions exist, by this Policy.

### **Article 7**

If an intellectual creation is created in cooperation with another university, institute or business entity, the rights related to the given intellectual creation shall be shared between the cooperating parties in a proportion that reflects their respective contributions to the creation of the given intellectual creation. This proportion shall be specified in a separate contract made by the cooperating parties (all relating provisions of this Policy applying). If the cooperating parties do not make a preliminary agreement to this effect, BRC will reserve its claim to all the rights related to the given intellectual creation.

### **Article 8**

Any and all persons acting on behalf of BRC shall act with all due care and diligence in the making of contracts and signing declarations which may potentially affect the acquisition of rights related to intellectual creations by BRC or its right to manage the same.

### **Article 9**

Any and all persons acting on behalf of BRC shall ensure – if necessary, using the assistance of an external expert – that, prior to the commencement of research projects jointly with any third person, the conditions of cooperation are recorded in a research contract, which shall define – among others – the management of the rights related to any resulting intellectual creations, as well as the fees due and payable to BRC under the same. BRC shall endeavour to agree on the collection of fees in the said contract which suffice at least to cover the direct and indirect costs incurred by BRC in connection with the given research project.

### **Article 10**

BRC shall have the right to waive any rights related to intellectual creations pertaining to it under this Policy or offered to it otherwise or to refuse such offers.

## **VI. Procedure Relating To Intellectual Creations for Which Industrial Property Protection Can Be Obtained**

### **Article 11**

The procedural rules described below shall cover intellectual creations which may potentially be protected as industrial properties – including but not limited to creations whose confidential handling is useful instead of the acquisition of the appropriate protection, due to the purposes and

possibilities of utilisation – as well as know-how and other related trademarks and other product markings.

#### **Article 12**

Researchers shall have the obligation to immediately inform the General Director of BRC, through the Director of the Institute, about their intellectual creations created as a result of their work, using the form serving for this purpose, attached as Annex I to this Policy. The information so provided shall be sufficiently detailed to enable the making of a decision on whether BRC should reasonably claim the rights related to the given “compulsory” intellectual creation of its employee(s) or, in the case of “non-compulsory” intellectual creations, whether BRC wishes to exercise the right of utilisation. This information obligation of researchers shall include – among others – the presentation of any publications planned to be published, at least 1 month prior to the said publication. Besides, researchers shall also cooperate with BRC to ensure that the given intellectual creation is properly evaluated and utilised.

#### **Article 13**

Intellectual creations covered by this Policy may also be offered to BRC if legal protection has previously been requested for them and are thus under temporary or final legal protection, provided that such intellectual creations are of the “non-compulsory” nature and that BRC has no rights or titles to them under any other legal grounds. If law or this Policy identify BRC as the beneficiary of any rights related to the said intellectual creations and legal protection has been obtained for them without preliminary notice (offer) to BRC, then BRC shall be entitled to any and all rights and titles to such intellectual creations. In such cases, BRC shall have the right, besides the right to apply the sanctions set out in the Legal Status of Public Employees Act and in the Labour Code, to make appropriate civil law claims.

#### **Article 14**

Intellectual creations not covered by this Policy may also be offered to BRC, whether or not they are under legal protection. In this case, BRC shall have the right to decide about the acceptance or rejection of the given intellectual creation.

#### **Article 15**

The beneficiary of the patent for a “compulsory” invention shall be BRC, being the successor of the inventor. The beneficiary of the patent for a “non-compulsory” invention shall be the inventor. However, BRC shall have the right to the utilisation of the invention. BRC’s utilisation right shall not be exclusive and BRC shall not have the right to issue any licences. In case BRC should be terminated or if its affected organisational unit secedes, the utilisation right shall pass on to the successor; otherwise, this right may not be assigned or transferred to anyone.

#### **Article 16**

A decision must be made about the legal status of the intellectual creation offered (“compulsory” or “non-compulsory” type, etc.) and the acceptance or refusal of the rights related to the intellectual creation, within 30 days of the day of offering. During the same period of time, BRC shall also declare if it claims title to the whole the “compulsory” invention or if it wishes to utilise the “non-compulsory” invention. The decision shall be made by the General Director, with the assistance of the directors of the institutes and – if and as required – of the Patent Committee

or external experts, and he/she shall see to the examination of the intellectual creation offered and to the exploration of its possible utilization.

#### **Article 17**

The researcher shall have the right to dispose over “compulsory” inventions if BRC consents to the same or if BRC fails to issue a legal declaration before the expiry of the deadline specified in Article 36. The patent for non-compulsory inventions shall belong to the researcher, without BRC having the right of utilisation if BRC consents to the same or fails to issue a legal declaration before the expiry of the deadline specified in Article 36.

#### **Article 18**

If BRC decides to obtain the rights and the same is required by the nature of the given intellectual creation (patent, utility model, topography of microelectronic semiconductor products, industrial design), BRC shall take the measures necessary to obtain legal protection within 90 days. BRC may decide not to file an application for legal protection or may withdraw the application if it keeps the intellectual creation in secret and uses it as a solution that qualifies as a business secret. BRC shall inform the researcher about such decisions.

#### **Article 19**

Procedural fees and costs (if any) connected to the acquisition of protection for “compulsory” intellectual creations and/or for any other intellectual creations obtained by BRC in acceptance of an offer of the same, as well as maintenance fees for the term of protection shall be provided by BRC, from a fund established for this purpose. As a default scenario, any fees and expenses incurred shall be paid from the Fund before the end of the international phase of the patenting process (PCT). Through the Patent Committee, BRC shall annually review the patent applications and patents in the light of return and utilisation possibilities, evaluate them and decide about the continuation or termination of financing. The Patent Committee is a body comprised of five members delegated by different units of BRC and established to make proposals.

#### **Article 20**

Following or at the time of the taking of measures for the evaluation of intellectual creations and the acquisition of the required protections, BRC and the affected researchers shall make all reasonable endeavours for the utilisation of the intellectual creation.

#### **Article 21**

BRC shall decide about utilisation on a case-by-case basis, taking all circumstances into account – with special respect to the transfer of intellectual property into a company formed for its utilisation, the assignment of utilisation to any third party or the transfer of pecuniary rights relating to the intellectual property.

#### **Article 22**

BRC shall act with due diligence when defining the fees (upfront fee, royalties) set out in the licence or invention/patent transfer contract; specifically, it shall endeavour to define a fee, based on actual market circumstances, that is sufficient to cover not only the costs of the creation of the intellectual creation but also a sufficient interest for both BRC and the researchers, thus inciting them to create further intellectual creations, improve the level of detail of elaboration, take the measures for practical utilisation and encourage the researchers’ entrepreneurial spirit.

### **Article 23**

BRC may also decide to use the given intellectual creation internally, i.e. to use it in or for its own activities. BRC may exercise its right to the utilisation of employee inventions without infringing the right of the researcher to publish the invention. The fee payable to the researcher as the price for internal utilisation shall be defined in accordance with the provisions of this Policy on upfront fees and royalties (see in **Article 63**).

### **Article 24**

If BRC waives its rights to the intellectual creation in any phase of the procedure, the researcher shall become entitled to such rights free of charge. However, BRC may claim a part of the net profit made from further utilisation – this part, though, may not be more than the expenses incurred by BRC until the time of such waiver plus the fee defined in a separate agreement.

## **VII. Procedure Relating to Creations under Copyright Protection**

### **Article 25**

For creations under copyright protection, the procedural rules for creations under industrial property protection shall apply, with the deviations described in this Section (see below).

### **Article 26**

Researchers shall have the obligation to immediately inform the Director of the Institute about their intellectual creations created as a result of their work as employees. The Director shall forthwith forward such information to the General Director of BRC.

### **Article 27**

As regards works covered by this Policy, BRC obtains copyrights through the handover of the given work. Within 30 days of the presentation of the work, BRC shall decide whether it wishes to arrange for utilisation or back transfers the rights, obtained by the said handover, to the researcher, as a result of which the author becomes entitled to decide about the utilisation of the given intellectual creation. If a creation under copyright protection is accepted, BRC shall have the right to decide about the transfer of rights with a pecuniary value and the licensing of the utilisation of the given creation.

## **VIII. Registration of Intellectual Assets**

### **Article 28**

In line with the relating accounting rules, BRC shall arrange for the registration of intellectual creations in the appropriate form and in sufficient detail.

## **IX. Spin-off Enterprises**

### **Article 29**

Taking into account all relevant circumstances, on a case-by-case basis, focusing on its own interests and assessing the expected results of utilisation, BRC shall decide about the transfer of

and intellectual creations in its ownership to a spin-off enterprise (as the same is defined in Article 20 of this Policy).

## **IX/A. Spin-off Enterprises Established with the Participation of BRC**

### **Article 30**

If BRC is the beneficiary of the copyright to the given intellectual creation, it shall have the right to transfer the intellectual creation to the asset portfolio of a spin-off enterprise as non-pecuniary contribution. The Board of Directors of BRC shall have the right to decide about the foundation of and participation in the operation of spin-off enterprises.

### **Article 31**

If BRC decides to found or participate in the operation of a spin-off enterprise, it shall request the consent of the General Secretary of the Hungary Academy of Sciences (HAS) to the founding of the spin-off enterprise, and it shall implement the regulations in the Bylaws of the General Secretary of the HAS 3/2009 (A.É. 4) MTA-F entitled “Participation of HAS as owner in business associations”, as the Academy manages the assets of its associated organisations in one asset fund. The Hungarian Academy of Sciences shall have the owner’s rights in any spin-off enterprise founded by BRC. The owner’s rights are exercised by the President of HAS.

### **Article 32**

The costs of acquisition of the Academy’s ownership shall be paid from the revenues of BRC, unless the Academy and BRC otherwise agree.

### **Article 33**

In accordance with Article 66 (18) of its Articles of Association, the Hungarian Academy of Sciences shall have the right to authorise, via authorization by the Presidium, the incumbent General Director of BRC to act on behalf of the owner. Such authorisation entitles the authorised person to sign the enterprise’s Articles of Association and Deed of Foundation and their amendments, to issue any statements on behalf of the enterprise and to represent the Hungarian Academy of Sciences at meetings of the enterprise’s chief management bodies (members’ meetings, general meetings). BRC shall be entitled to collect and use the dividends paid from the profits of the spin-off enterprise. BRC shall cooperate with the Investment and Asset Management Department of the Secretariat of the Hungarian Academy of Sciences in the representation of the owner and in the supply of periodic management reports.

### **Article 34**

Employees of BRC employed as public servants may be members or leading officers of the spin-off enterprise or may enter into other types of contracts of employment with the spin-off enterprise. However, their employer’s prior written consent is required for the same.

## **IX/B. Business Entities Operating at the Premises of BRC but Not Founded by BRC or the Hungarian Academy of Sciences**

### **Article 35**

Business entities with their registered office, business sites or other offices operating at the premises of BRC may use the offices of BRC and the tools and equipment belonging to them under rental agreements made with BRC.

### **Article 36**

BRC and such business entities must enter a written agreement which shall record the terms and conditions of their cooperation in any joint research projects. Such agreements shall also stipulate – among other aspects – the management of the rights related to any intellectual creations to be created, as well as the joint publication of any new scientific results achieved as a result of their cooperation.

## **X. Fees Collected From Utilisation and Their Use**

### **Article 37**

If the intellectual creation is directly utilised and/or sold, the researcher qualifying as the inventor or author, as well as any other person(s) participating in the creation of the intellectual creation shall be entitled to an appropriate upfront fee or royalty, as defined in relating legislation in force.

### **Article 38**

For the purposes of this Policy, the upfront fee/royalty collected from utilisation and/or sale shall be calculated from the following base:

- a. if a company is formed for direct utilisation: depending on the actual circumstances, BRC and the researcher shall agree upon a specific amount, which, however, may not be more than BRC's share of the net after-tax profit made from utilisation;
- b. if a licence contract is made: as the price of the right of utilisation, the upfront fee payable under the licence agreement by the licensee to BRC, any payment made by the licensee to BRC (royalties) and other pecuniary benefits, including shares issued by and business quotas established by the licensee but excluding any assets, services or rights provided by the licensee for BRC under any research or other contract;
- c. if an invention/patent transfer contract is made: as the price of transfer, the fee payable by the buyer to BRC (as defined in the transfer contract), any payment made by the buyer to BRC and other pecuniary benefits, including shares issued by and business quotas established by the buyer but excluding any assets, services or rights provided by the buyer for BRC under any research or other contract.

### **Article 39**

When calculating the basis of the upfront fee/royalty, the following amount shall be deducted from the amount set out in Article 61 above: the costs related to the evaluation of the given intellectual creation and those related to the process of the obtainment and the utilisation and/or

sale of legal protection of the creation. These costs include any remunerations paid to legal representatives acting before patent offices, to technology managers and other external experts, as well as any expenses incurred by BRC in connection with the process.

#### **Article 40**

The amount calculated as per the above shall be shared by and between the researchers participating in the creation of the given intellectual creation, the Fund and the participating institute of BRC. As the default solution, sharing shall take place in a zonal method as follows:

For copyright protected creations, for intellectual creations for which industrial property protection can be obtained and for trademarks directly related to these:

1. In the case of income up to ten million forints:
  - o remuneration payable to the researcher(s): 60%,
  - o BRC: 40% (50% of which must be paid to the Fund).
2. Income exceeding ten million forints but less than fifty million forints:
  - o remuneration payable to the researcher(s): 50%,
  - o BRC: 50% (50% of which must be paid to the Fund).
3. In the case of income exceeding fifty million forints:
  - o remuneration payable to the researcher(s): 40%,
  - o BRC: 60% (50% of which must be paid to the Fund).

#### **Article 41**

If the utilisation of the intellectual creation does not bring revenues to BRC or if BRC utilises the intellectual creation in or for its own internal activities, the Board of Directors of BRC will decide, taking into account all relevant circumstances, about the conclusion of a contract on upfront fees and royalties to provide remuneration for the researcher.

## **XI. Special Rules for Certain Types of Intellectual Creations**

#### **Article 42**

##### **Innovations**

1. The provisions of this Policy shall be applied for new technical and organisational solutions elaborated by civil servants or other employees of BRC and their co-authors if the quality of the creation is not high enough to qualify as intellectual creations that can be separately protected.
2. Innovation rights against BRC may be enforced within six months of the commencement of utilisation or the transfer of the innovation, through the submission of an innovation proposal.
3. Innovations elaborated as a task for a civil servant or other employee of BRC may be utilised by BRC, which shall also have the right to transfer the given innovation to a third party for utilisation. BRC shall have the right to utilise but may not transfer the utilisation rights related to innovations made not as an employee duty.

4. BRC shall declare, within 30 days of receipt of the application, if it wishes to exercise its rights related to the innovation.
5. If BRC fails to issue a declaration, its rights related to the innovation will be transferred to the innovator.
6. If the innovation is utilised or transferred, the innovator will be entitled to the fee specified in Articles 38, 39 and 40, unless a different agreement is made between the innovator and BRC.

## **XII. Breaches of the Policy**

### **Article 43**

If any researcher covered by this Policy should fail to report any intellectual creation being the subject of this Policy to the Director of the Institute in the manner defined herein, should fail to offer the same to BRC or breaches the provisions of this Policy in any other manner, BRC shall have the right – besides the right to apply other sanctions, with special respect to those under labour law – to claim title to the rights related to the given intellectual creation and to claim damages, if it can prove that the intellectual creation has been utilised with the evasion of BRC.

### **Article 44**

If, in the course of the process recorded in the Policy, a researcher should consider any decision made by any organ or person acting on behalf of BRC prejudicial, s/he may request a revision of such decision by the General Director (justification required). Exceptions shall be decisions made by a contracted external company under a civil law agreement made for the management of the utilisation and/or sale of the intellectual creation; such decisions shall be governed by the general provisions of the Civil Code. Otherwise, any disputes related to this Policy and/or its implementation shall be governed by the relating items of legislation.

## **XIII. Closing Provisions**

### **Article 45**

The provisions of this Policy shall also apply to matters in progress, as well as to matters starting after the entering into effect of this Policy. As regards contracts for upfront fees and royalties already made and effective, the provisions hereof shall apply after the effective date hereof.

### **Article 46**

Civil servants and other employees of BRC may propose to cooperate with third parties, external institutes or any other business entities with an eye to creating intellectual products only as defined in this Policy, giving priority to the interests of BRC, under a contract preliminarily made to this effect.

### **Article 47**

The person who exercises the employer's rights or the person or organ authorised to sign contracts on behalf of BRC shall arrange for the inclusion of a relevant provision in any civil law contract and contracts of employment made with any persons covered by Article 26 above

(whether they be public servants or other people working for BRC) to the effect that this Policy applies to them. After the entering into effect hereof, the said person/organ shall arrange for the appropriate modification of already existing contracts of the nature described in the previous sentence and that students covered hereby sign a declaration of acceptance of this Policy. In the course of their next revision, job descriptions shall be amended to reflect the changes appearing in this new Policy.

**Article 48**

This Policy has been approved by the Board of Directors. It enters into effect on 15 January 2010 and abrogates the previous Policy on Intellectual Property Protection and Management.

Szeged, 13 January 2010

Dr. Ormos, Pál  
General Director

ANNEX I

OFFER OF INTELLECTUAL PROPERTY

Name of BRC researcher	
Research group	
Institute	
Title of intellectual property	
Brief description of the intellectual property	
Name(s) of BRC researcher(s) participating in the development of the intellectual property and the proportion of contribution	
Name(s) of other researcher(s) or organization(s) participating in the development of the intellectual property and the proportion of contribution	
Prospects of utilisation	
Specification of expenditures in the course of the development of the intellectual property; designation of external resources utilized, if any	
Specification of materials and/or equipment originating from external person(s) or organisation(s) used for the development of the intellectual property, if any	
Does any contract or other engagement exist, which may affect the rights to the intellectual property?	
If the intellectual property has already been	

placed under temporary or final legal protection: specification (i) of the documents verifying such protection, and (ii) whether a declaration exists on the conveyance of protection rights or a part thereof to BRC, with the exception of the case of service invention.	
Specification of the data or information related to the intellectual property, published by the inventor up to the date of disclosure	
Is it justified to license the intellectual property outside of Hungary?	

I fulfill the obligation of information specified in Article 12 of the Policy on Intellectual Property Protection and Management of BRC HAS by the present declaration.

.....  
researcher

Szeged, .....

Undersigned I take notice of the offer of intellectual property specified above.

.....  
Director of the Institute

Szeged, .....