

# **INTELLECTUAL PROPERTY POLICY**

**Instituto Gulbenkian de Ciência of Fundação Calouste Gulbenkian**

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1. **Policy overview and scope**
- 1.1. Instituto Gulbenkian de Ciência commitment. Fundação Calouste Gulbenkian (hereinafter referred to as “FCG”), a perpetual foundation with charitable, artistic, educational and scientific statutory aims, develops activities of scientific nature through the Instituto Gulbenkian Ciência (hereinafter referred to as “IGC”). IGC is a research institute devoted to biological and biomedical research, innovative training and transforming society through science, in a cross-disciplinary, inclusive and collaborative environment. IGC does frontier research, aiming to identify and solve the scientific challenges of tomorrow and to impact positively in the society. As part of its commitment to research with societal and global impact, IGC acknowledges the role of scientific Personnel (“Personnel” is defined in the glossary at section 7) in decisions relating to the publication of research, and also encourages the identification, protection and application of Intellectual Property (hereinafter referred to as “IP” and defined in the glossary at section 7) created and/or generated by its Personnel. IGC seeks to maximise the value of this IP for the benefit of the public, its Personnel and the IGC.
- 1.2. Purpose and scope of this Policy. This policy deals with the ownership, use, management and commercialization of IP created and/or generated across IGC. It aims to define clear rules and processes for the management of IP issues among the IGC. It recognises the principles of IP ownership generally, and the ownership of specific categories of IP. Personnel are requested by IGC to give effect to this Policy by signing a declaration of compromise (Annex 1).
- 1.3. Key terms. A glossary of key terms used in this policy and their meaning is provided at section 7.
- 1.4. Scope of policy. This Policy applies to staff, investigators, students, consultants, contractors and visitors to IGC (i.e. “Personnel” as defined in the glossary at section 7). Where a member of IGC personnel is not legally recognised as an employee, he/she shall still be subject to, and expected to comply with, this policy (unless otherwise agreed in writing by IGC) and shall sign a Declaration (Annex 1) as requested by IGC to give effect to this policy.
- 1.5. Responsibility of Personnel. Personnel are required to manage IP issues with due care and attention, which shall include maintaining confidentiality and avoiding disclosing of their results when they believe they may be subject to IP protection. Personnel shall acknowledge FCG’s IP ownership or, if needed, shall execute, in a timely manner, all documents required to effectively recognize the ownership of IP to FCG, as established in section 2.
- 1.6. IGC and IP management. Overall responsibility for this policy and its implementation at IGC lies with the IGC Board of Directors, supported by the FCG Legal Office in relation to copyright issues. Commercialisation of IP and the resolution of disputes at first instance (where possible, as set out in clause 5) is handled via IGC’s Innovation Unit.
- 1.7. Revenue Sharing. IGC has a policy in place in relation to revenue sharing in circumstances where IGC exploits IP created and/or generated by its Personnel (Annex 2 which forms an integral part of this Policy). Further details of this can be found at section 5.

- 1.8. Guidance. IGC's Innovation Unit and FCG's Legal Office shall be responsible for maintaining guidance in respect of the policy for the benefit of Personnel.
- 1.9. Status. This Policy forms part of the terms and conditions of any teaching, research and development activities performed at IGC by the Personnel, who shall all be subject to, and expected to comply with, this policy (unless otherwise agreed in writing by IGC) and shall sign Annex 1 as requested by IGC to give effect to this Policy. For the avoidance of doubt, this Policy shall form an integral part of any agreement or contract to which the IGC is a party or beneficiary, unless otherwise agreed or determined by law. This policy forms part of the terms and conditions of teaching, research and development activities performed and/or developed at IGC, unless otherwise agreed or determined by law.
- 1.10. Variations. This Policy may be subject to amendment by FCG in the future, for example to reflect developments in relevant legislation or related policy/operational changes within FCG or IGC. Any changes or updates will be notified to Personnel after its approval by the FGC and the changes or updates made shall be implemented by the date indicated by FCG, including in the cases where this Policy is an integral part of any agreement or contract already in force at the time of the changes or updates.

All contracts and agreements signed by FCG involving IGC must contain provisions regarding IP, taking into consideration the provisions laid down in this Policy, whenever such activities results may be protected. In such contracts and agreements, the following elements must be defined, whenever applicable:

- (a) The ownership of resulting IP, if exceptionally agreed otherwise from what is set out in section 2.1. and 2.2.;
- (b) The responsibility for costs involved in the process of filing, maintenance, protection, promotion and commercialization of the IP;
- (c) The process of decision for the definition or alteration of the form of IP protection, namely the territorial scope;
- (d) The commercial exploitation of the IP and the distribution of the revenues;
- (e) The safeguard of IGC's and IGC's Personnel or creators rights, namely in case the rights are licensed or transferred;
- (f) The confidentiality and the conditions for disclosure and publication of the results achieved.

## **2. Ownership**

### **2.1. Ownership: General**

With the exception of the matters covered in section 2.3, FCG asserts ownership to all IP that may or is likely to be protected by industrial, copyright and related rights, as well as any property right, that is generated, in whole or in part:

- (a) By Personnel during the course and framework of any teaching, research or development activities performed and/or developed at IGC or with relation to, their service provision to FCG|IGC; or
- (b) Using IGC|FCG resources; and/or

- (c) Under a Project sponsored/funded to IGC; and/or
- (d) Incorporating FCG Intellectual Property; and/or
- (e) Ordered or commissioned by IGC or on behalf of IGC.

except when this general principle is contrary to obligations imposed by law, a contract, agreement, or any other similar collaboration instrument, signed by IGC | FCG.

In any case, where applicable, such rights are (i) assigned to FCG, in respect of proprietary rights; and (ii) unconditionally and irrevocably waived in favour of FCG, its licensees and assignees, in respect of other rights.

## 2.2. Ownership: specific categories of IP

2.2.1. Patents. Without prejudice of clause 2.1, FCG shall own all IP that may or is likely to be protected by Patents that is generated by Personnel in the course and framework of any teaching, research or development activities performed and/or developed at IGC.

2.2.2. Database right. In case of databases protected by copyright and by database right, where a Personnel member creates or contributes to the creation of a protected database in the course of their duties, FCG shall be deemed to be the creator or co-creator of the database and the owner of any database right arising.

2.2.3. Copyright and related rights. FCG shall own all IP that may or is likely to be protected by Copyright and related rights that is created, in whole or in part by Personnel.

2.2.4. Confidential information and trade secrets. Confidential information and/or trade secrets generated by Personnel in the course of their duties shall constitute the confidential information and/or trade secrets (as the case may be) of FCG and must be treated accordingly.

2.2.5. Materials. Any materials, models, data, prototypes, compounds samples or physical items or objects discovered or generated by Personnel in the course of their duties shall be owned by FCG.

## 2.3. Ownership: specificity

2.3.1. Additional IGC Support. Specifically, where, according to the law, IP ownership does not vest in FCG automatically and additional IGC Support has contributed to the development of such IP, even if generated by Personnel within the performance of activities outside the course of their teaching research and development duties at IGC, Personnel shall assign these rights to FCG upon request. In this case, Personnel shall execute, in a timely manner, all documents required to effectively transfer the ownership of IP to FCG or to acknowledge FGC's ownership.

For these purposes “additional IGC support” means at least support from IGC which is more than incidental, and which is over and above that normally provided to the Personnel for activities outside the course of duties, and could include (but is not limited to):

- (a) Provision of funding;
- (b) Use of IT resources;

- (c) Use of premises, facilities, equipment and/or capabilities; and/or
- (d) Use of IP, including use of name and/or branding.

FCG's ownership of IP referred to in the aforementioned paragraph can result from the transfer, to FCG, of the part or the totality of the IP owned by the Personnel, in exchange of the revenue sharing as provided in section 4.

2.3.2. Copyright of scholarly and teaching materials. Copyright in scholarly materials and teaching materials will remain with their authors.

The Personnel shall consult with the Head of Innovation Unit about the opportunity to publish such materials vis-à-vis this Policy.

Notwithstanding, FCG retains a license to use scholarly and teaching materials, as set out in section 2.4.

The terms "scholarly materials" and "teaching materials" are defined in the glossary at section 7.

FCG's waiver of copyright in favour of Personnel, shall not apply to:

- (a) Institutional materials, meaning works generated by Personnel for IGC's administrative and/or operational purposes which include but are not limited to reports, syllabuses, curricula, timetables, regulations, examination papers and all other materials specifically prepared in connection with student assessment (rather than for teaching purposes generally), handbooks, promotional and marketing materials, artistic works relating to the IGC brand or other brands/logos used in connection with IGC activity;
- (b) Computer programs, which includes but is not limited to any software, source code, object code, preparatory design materials and any supporting documents generated by Personnel in the course of their duties;
- (c) Technical specifications, technical designs or other works generated by Personnel in the course of duties which may be of assistance to FCG in protecting or supporting the commercialization of rights in patentable inventions, trade secrets, technical know-how, commercially exploitable products or other innovations;
- (d) Works created and generated in the course of sponsored/funded research or work at IGC by an external third party. The provisions of this Policy may no longer apply either to the application of external rules (e.g., state or European funded projects) or to the application of provisions under a separate agreement between FCG and the Sponsor/external party and the relevant members of Personnel. These situations are dealt on a case-by-case basis;
- (e) Work ordered or commissioned by IGC or on behalf of IGC if the works created or generated incorporates previous existing intellectual property belonging to FCG. An arrangement is required for FCG to assign (or to own and license) copyright in such works to a third party;
- (f) Teaching materials which are specifically commissioned by IGC or a third party, for example for the purposes of inclusion in a teaching

program developed for a third party, an executive education program or other education venture, a MOOC or other online program delivery;

- (g) Databases generated by Personnel in the course of their duties;
- (h) Sound recordings, films and broadcasts generated for the purpose of teaching, where IGC has made the necessary arrangements for the making of the sound recording, film or broadcast (as the case may be).

#### 2.4. Licenses: scholarly and teaching materials

2.4.1. Use and reproduction. IGC may use and reproduce any scholarly materials and/or teaching materials generated by Personnel described in section 2.3.2. and 2.5. and without prejudice to section 2.3.2, for the following purposes:

- (a) Academic and research purposes;
- (b) Commercial purposes under the terms of 2.4.6.; and/or
- (c) Any other purpose relating to FGC's charitable activities.

2.4.2. Authorization. These rights granted to FCG shall, for the avoidance of doubt:

- (a) Permit use and reproduction of the relevant works (or part of the works) worldwide, any manner and in all formats (now known or yet to be devised) and format available, including through reproduction, distribution, communication and making available to the Personnel and within other educational and research institutions;
- (b) Be royalty-free (except in cases where the agreed revenue sharing arrangements under the IGC Revenue Sharing Policy apply);
- (c) Be non-exclusive; and
- (d) Not be limited in time.

2.4.3. Sublicensing. FCG is entitled to sub-license the rights granted to it under section.

2.4.4. Institutional materials. IGC recognizes that IGC's institutional materials (as described in section 2.3.2(a)) may from time to time incorporate certain scholarly and/or teaching materials originating from a Personnel member. In those circumstances (and provided always that none of the other exceptions in section 2.3.2 apply), FCG grants a license to the Personnel member to use and reproduce any such institutional materials for their own academic and research purposes (on the terms set out in section 2.3.2 (b) – (d) above).

2.4.5. Procedures. For the purpose of this clause:

- (a) The member of the Personnel shall lodge a copy of the scholarly materials and/or teaching materials;
- (b) The member of the Personnel shall guarantee that, in case of assignment of its Intellectual Property rights over such scholarly materials and/or teaching materials, the assignor abides by this Policy.

- 2.4.6. Commercialization. If IGC wishes to reproduce the scholarly materials and/or teaching materials for any commercial purpose, such reproduction shall be subject to an individual license on fair and reasonable terms to be negotiated and agreed with the Personnel.
- 2.5. Teaching materials
- 2.5.1. Acknowledgment. FCG acknowledges and respects the rights of Personnel to ownership of copyright in teaching materials in accordance with this policy.
- 2.5.2. Use and sublicensing. Where FCG utilizes (or sub-licenses) teaching materials under the license granted to it in section 2.4.1. above, FCG will typically acknowledge the contribution of the original author who generated such materials (where it is reasonably practicable and appropriate to do so). However, given the range of potential circumstances, for policy purposes FCG retains an absolute discretion as to whether or not to acknowledge such contribution.
- 2.5.3. Commercialization. If Personnel intend to commercialize (or allow others to commercialize) teaching materials that they have generated in the course of IGC duties, they shall only do so with IGC's written consent (which should not be unreasonably withheld). This restriction and requirement for IGC's consent shall continue to apply after the Personnel member has left IGC. Nothing in this section precludes the use and reproduction of such teaching materials by the individual academic in the normal course of his or her teaching activity, where the individual employment moves to another charitable higher education institution.
- 2.5.4. Modifications and adaptations. IGC shall have the right to modify or adapt any teaching materials (without restriction or recourse to the Personnel member). If teaching materials are modified or adapted, the Personnel member who created the original teaching materials shall be entitled to request that his/her name is acknowledged on such materials (where it is reasonably practicable and appropriate for IGC to do so).
- 2.5.5. Unpublished research findings. IGC recognizes that, on occasion, teaching materials may incorporate certain unpublished research findings of Personnel. IGC acknowledges that its rights under sections 2.4 and 2.5 in relation to teaching materials are not intended to interfere with Personnel members rights to deal in those findings, including by their subsequent publication. If any member of Personnel has any concerns regarding IGC's use of teaching materials containing their unpublished research findings, they are encouraged to raise these concerns with the IGC's Board of Directors in the first instance (and thereafter pursuant to section 2.6 below).
- 2.6. Scholarly materials
- 2.6.1. Publication. Members of Personnel are entitled to publish their scholarly materials and engage with third parties (e.g.: publishers) accordingly. However, in dealing with third parties, members of Personnel should have regard to FCG's rights to use, reproduce (and to allow others to reproduce) such materials, as set out under section 2.4.1. above. All rights to any patentable IP or confidential information referred to in the scholarly materials must also be respected.



Both IGC and Personnel have an obligation to guarantee that potentially protectable IP is protected. Because premature disclosure may detrimentally impact the ability to protect and commercialize IP, FCG, the Personnel and any third party authorised by any of them shall:

- (a) Keep confidential and not hold any discussions with any person that is not bound by this Policy or by a confidentiality agreement with FCG concerning potentially protectable IP or any work which may result in IP being generated;
- (b) Not disclose, publish or otherwise disseminate or communicate potentially protectable Intellectual Property, by any formats or means, including without limitation at a conference, Scholarly Material and/or teaching materials.

### **3. Disclosure**

#### **3.1. Information, cooperation and confidentiality duties**

- (a) The IGC encourages and supports the right of its Personnel to decide if and when to publish their Research results.
- (b) Personnel are required to disclose to IGC the existence of an invention or creation (including all materials, items or others related), in which conception or development they have participated, before any actions related to public disclosure, investment negotiation, commercialization or monetization are initiated; the infringement of this obligation may be subject to liability and or penalties imposed by the FCG/IGC.
- (c) Submission of the disclosure shall be made to the Innovation Unit by means of completing the disclosure form provided by IGC (Annex 3), including the reference to all the individuals involved in the conception and development of the inventor or creation. If IGC consider the disclosure insufficient, it can request further information.

#### **3.2. Review**

- (a) The Innovation Unit of IGC with support from the Legal Office of FCG will analyse the disclosure form and assess if the invention or creation is to be protected in accordance with this IP Policy.
- (b) IGC will issue a review report upon the conclusion of the review outlining its main conclusions and assessments. This report will assess the interest in pursuing IP protection, and, if applicable, determine the models of protection of the IP as well as the routes for commercialization.

#### **3.3. Determination of ownership**

- (a) Upon the review, IGC will, in its review report, assess FCG' s ownership over the IP.
- (b) FCG may choose not to claim ownership under the condition that FCG is granted a non-exclusive, royalty free and non-transferable license and/or FCG benefit from the revenue sharing as provided in Annex 3 or under other conditions to be requested by FCG. If the

member(s) of Personnel is/are deemed to be the owner(s) of the IP then he/she/they is/are free to further develop such IP with no reliance on IGC resources, and to choose any eventual path for protection and routes for commercialization.

- (c) If IGC claims ownership, FCG is the exclusive owner of the IP, any further development by the Personnel shall be subject to permission and licensing from FCG, and FCG shall have the right to determine the models of protection of the IP as well as the routes for commercialization.

#### 3.4. Decision and notification

- (a) IGC shall notify, usually within 60 business days, the relevant members of Personnel of its decision with relation to pursue the protection of IP in writing, together with the review report.
- (b) IGC shall further notify the relevant members of Personnel of its intends to commercialize such IP. Meanwhile, the inventor(s) cannot undertake any commercialization efforts without the permission of, or coordination with, the IGC.

### 4. Protection of IP

#### 4.1. IP not owned

FCG reserves the right not to protect or Commercialize IP that it owns if after consultation with the Creators:

- (a) There is no reasonable prospect of commercial success;
- (b) It is not deemed to be in the best interest of FCG; or
- (c) It is not deemed to be in the public interest.

4.1.1. Transfer of Ownership. In the event the FCG decides not to pursue IP protection and/or Commercialization, it will return said IP rights to the Personnel, contingent on any other superseding contract rights of external party(ies)/sponsor(s).

4.1.2. Assignment. If the Creator elects to take assignment of the IP, FCG shall ensure that a deed of assignment is executed without delay.

4.1.3. Terms and conditions. If FCG assigns IP rights to the Personnel, the assignment may be subject to one or more of the following terms and conditions:

- (a) That upon Commercialization, FCG be compensated for any expenditure it may have incurred in connection with the protection and/or Commercialization of such IP;
- (b) That FCG be granted a non-exclusive, royalty-free license to use the IP for Research and teaching purposes.

4.1.4. Responsibility. For IP not owned by FCG, it shall be their owners responsibility to undertake all measures required for their protection.

#### 4.2. IP owned

For IP owned by FCG:

- (a) IGC will undertake a rigorous assessment process to determine the best protection models for the IP.
- (b) IGC reserves the right to weight the cost of protection with the potential commercial return of the IP and thus only choose to protect the IP that has strong prospects to generate commercial income.
- (c) IGC shall have the right to determine the models of protection of the IP as well as the routes for commercialization.
- (d) For the avoidance of doubt, protection, prosecution, maintenance and enforcement of FCG IP are at the sole discretion of FCG. To the extent FCG chooses to protect, prosecute, maintain and enforce FCG IP, then the costs of protection, maintenance and enforcement of the IP are borne by FCG, unless otherwise agreed with the members of Personnel that generated it or with the individuals or entities pursuing their commercialization.

#### 4.3. Confidentiality and Trade Secret

Both FCG and the Personnel shall keep the inventions or creations potentially subject to IP confidential during the process of identification, disclosure and protection and, if so specially requested by FCG, a non-disclosure agreement shall be signed.

#### 4.4. Dissemination and publication of IP

Both IGC and Personnel have an obligation to guarantee that potentially protectable IP is protected. Because premature disclosure may detrimentally impact the ability to protect and commercialize IP, IGC, the Personnel and any third party authorized by any of them shall:

- (a) Keep confidential and not hold any discussions with any person that is not bound by this IP Policy or by a confidentiality agreement with FCG concerning potentially protectable IP or any work which may result in IP being generated;
- (b) Not disclose, publish or otherwise disseminate or communicate potentially protectable IP, by any formats or means, including without limitation at a conference, Scholarly Material or Course Material, unless:
  - i. Prior written consent of IGC is obtained;
  - ii. Disclosure is required by law or by a competent authority, in which case:
    - The party under the obligation to disclose shall promptly inform the other relevant parties so that they are given an opportunity to object to or challenge such disclosure, and to obtain protective relief or any other appropriate remedy; and
    - The party under the obligation to disclose may only disclose proceed with the disclosure to the extent required by law or the competent authority.
  - iii. Disclosure is required by the mandatory rules of an external party that intervened or funded the IP, to the extent that such rules were notified and FCG agreed with them.

- iv. Disclosure is made to legal, technical and accounting advisors on a need-to-know basis and provided they themselves are subject to confidentiality obligations.

#### 4.5. Public access

Notwithstanding the above, IGC encourages the Personnel to publish research results if public access will promote its widespread use, advance IGC's mission and such action does not violate this IP Policy or any of IGC's or Personnel's obligations towards third parties.

### 5. Revenue Sharing – Personnel

#### 5.1. Benefits

As a general principle, the Personnel that created and/or generated the IP are eligible to share the benefits arising from their exploitation, in accordance with the terms of IGC's Revenue Sharing Policy (see Annex 2). The signature of the Declaration referred to in section 1.4 determines the acknowledgement, by the signatory, that no other amount or economic benefit, in addition to the benefits defined in the present article, is owed to the signatory for FCG's ownership of IP and/or for the transfer of IP to FCG.

#### 5.2. Spin-off

In case of exploitation of the IP through a spin-off company, revenue sharing may be made by means of ownership of shares by FCG and the relevant Personnel.

### 6. Applicable law and disputes

6.1. Applicable law. This Policy is subject to Portuguese law.

6.2. Dispute written notice. In the event of a disagreement concerning any of the matters contained in this policy which cannot be resolved by the Innovation Unit (see section 1.6), the dispute shall be referred for determination as follows:

- (a) Written notice by the Innovation Unit to the IGC Board of Directors, outlining the facts of the dispute, with copy to other parties to the dispute, if applicable;
- (b) The other parties, if applicable, will then have the opportunity to submit comments to the submission;
- (c) The appeal will be analysed by the IGC Board of Directors and a decision will be issued within 15 business days.

6.3. Appeal. Any party has the right to appeal the decision of the IGC Board of Directors. In such a case, the appeal shall be lodged within the FCG's Trustee in charge of the IGC and shall:

- (a) Appoint an independent arbitrator to investigate and decide the matters of the dispute;

- (b) Guarantee that the independent arbitrator is reasonably acceptable to all parties involved and has appropriate expertise to arbitrate on the matter;
  - (c) Communicate to the arbitrator the procedures to be followed, which shall include (i) the obligation of the arbitrator to hear all parties involved; and (ii) the obligation of the arbitrator to issue a decision in due time, which cannot be more than 30 business days from the date of his/her appointment.
- 6.4. Confidentiality. All matters associated with any dispute and its resolution shall be kept confidential, unless as required by law or for purposes of pursuing legal court or administrative proceedings.
- 6.5. Judicial. Nothing in this section prevents FCG or any member of the Personnel from resorting to a Portuguese court in Lisbon.

## 7. Glossary

The following terms have the following meaning, where used in this policy:

**Confidential information** means information generated in a confidential setting or disclosed under a duty of confidence, or any other private information, which by its nature, should be treated as confidential, including technical know-how and trade secrets.

**Consultant / contractor** means an individual or entity providing services or products to IGC, to members of Personnel and/or under a Project.

**Copyright** means it has the meaning indicated in the applicable law. For purposes of this IP Policy, copyright shall include the protection of databases as well.

**Innovation Unit** means the unit providing support to the Personnel in matters regarding innovation, technology transfer and commercialization, IP protection and partnerships with industry and other stakeholders.

**Intellectual property** or **IP** means patents, utility models, rights to inventions, copyright, performers and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including technical know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; together with all intellectual creation capable of being protected by the foregoing. For purposes of this IP Policy, all materials generated by Personnel are considered as potentially generating Intellectual Property.

**Investigator** means individuals that perform teaching, research or development, or other activities at IGC regardless of the contractual conditions and whenever at least additional IGC support has contributed to the development of IP even if generated by them within the performance of activities.

**Personnel** means staff, investigators, students, consultants, contractors, trainees, fellows, users and/or technicians of facilities and equipment and visitors at IGC (i.e. “visitor” as defined in the glossary at section 7).

**Patent** means a patent or application for a patent. For purposes of this IP Policy, patent shall be understood as including all forms of protection by industrial property, including utility models, designs (register or unregistered) and semi-conductor products.

**Project** means a program of work undertaken by a member of Personnel and/or resorting to IGC’s Resources.

**Resources** includes but it is not limited to physical infrastructure, facilities, apparatus, equipment, technical and administrative support, financial, human and legal resources, as well as FCG IP.

**Staff** means employees or workers of IGC appointed under labour or service provision contracts, including without limitation academic, professional, technical or administrative.

**Scholarly materials** means scholarly works (and preparatory materials related to such works), despite its format, generated by an academic Personnel member in the course of research or study including: academic articles, theses and dissertations, research papers and other written works intended principally for the purpose of peer review and/or scholarly publication, papers summarizing the results of research, conference papers and presentations, online classes and workshops, films and sound recordings (in the case of Personnel members involved in the study of dramatic arts only), works of art (in the case of Personnel involved in the study of fine art only), and other works embodying the outputs of an individual's scholarly endeavour.

**Student** means any student that collaborate in research, teaching or other activities within or for IGC whether, in connection with or outside the course of the student’s studies.

**Technical know-how** means unpatented technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is secret, substantial (that is, significant and useful for the production, interpretation or use of the results) and identified.

**Teaching materials** means materials generated for the purpose of teaching, including lecture notes, lecture or lesson scripts and plans, slide presentations, audio-visual materials and/or sound recordings used as part of teaching delivery, and study and teaching guides.

**Trade secret** means information which meets all of the following requirements: (i) it is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; (ii) it has commercial value because it is secret; and (iii) it has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

**Visitor** means individual who is a member of another educational or research institution and is engaged in research, teaching or other activities within or for IGC.

**Annex 1 – Declaration**

I, *[name of the Personnel]*, owner of the *[ID card]* n.º *[●]*, valid until *[●]*, fiscal number n.º *[●]*, with address at *[●]*, recognize that I have read, understood and agreed on the terms and conditions of the Intellectual Property Policy of Instituto Gulbenkian de Ciência published on *[●]*.

I also acknowledge that this Policy supersedes and replaces all prior agreements and understandings, oral or written, made with the Instituto Gulbenkian de Ciência or the Calouste Gulbenkian Foundation regarding Intellectual Property now to be regulated within the scope of this Policy.

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(Date)



## **Annex 2 - Revenue Sharing Policy**

### **1. Principles, Purpose and Effect**

- 1.1. This Policy is supplemental to and should be read in conjunction with IGC's Intellectual Property Policy (IPP).
- 1.2. The IPP sets out the circumstances in which the Personnel are entitled to a share of revenue derived from commercialization of Applicable IP by or on behalf of FCG.
- 1.3. This Policy sets out the arrangements that apply to the distribution of revenue derived from the commercialization of the Personnel's Applicable IP, where the right to a revenue share arises under the IPP, with effect from 1<sup>st</sup> January 2022.
- 1.4. In the event of any conflict or inconsistency between this Policy and the IPP, the terms of the IPP shall prevail to the extent necessary to resolve the inconsistency.

### **2. Application**

- 2.1. For the purposes of this Policy, in the case of any IP which is, at the sole discretion of FCG, potentially or effectively subject to commercialization:
  - 2.1.1. The Inventors will be determined by their creative or inventive contribution as set out in the relevant law governing the subject IP; and
  - 2.1.2. In the case of patentable inventions, only pending patent applications shall be considered for the purposes of determining the Personnel that are eligible for revenue sharing and:
    - (a) only the individuals who have made an inventive contribution identified in a pending patent application(s) or issued patent(s) shall be considered eligible; and
    - (b) an individual who was previously identified as an inventor on a pending patent application but is no longer so identified because a change in the claims of the patent application necessitated a change in the named Personnel on such application, may still be recognized and entitled to a share of revenue under this Policy, provided that all named Personnel on such pending patent application agreeing to such an inclusion in writing.

### **3. Revenue Distribution**

- 3.1. Revenue Calculation. Calculation of Gross IP Revenue, IP Expenses, and Net IP Revenue shall be in accordance with the following rules:
  - (a) Calculation of Gross IP Revenue. Gross IP Revenue are all revenue received by FCG for Commercialization of FCG's IP before any cost recovery or deductions for IP Expenses and includes, but is not limited to, outright sale of IP, option payments received, license fees received, evaluation fees received, upfront and milestone payments received, royalty payments received, share of profits received, dividends received,

commissions, income through disposal of equity, and direct sale of products or services;

- (b) IP Expenses. IP Expenses are all expenses incurred by the FCG in the management of IP for which Gross IP Revenue has been received and includes, but is not limited to, those expenses that relate to FCG expenses incurred by payment to external entities for securing, maintaining and enforcing IP protection, such as patenting and litigation expenses; costs of licensing/assignment of IP, including marketing costs, contract negotiation and drafting costs; but not including staff time or general administrative costs;
- (c) Calculation of Net IP Revenue. IGC shall maintain accurate and transparent documentation of IP Expenses incurred for a particular IP and shall be entitled to cover all IP Expenses it has incurred. The Net IP Revenue is calculated as the Gross IP Revenue less IP Expenses.

3.2. Revenue share. The aggregate total Net Revenue received by FCG from commercialization of applicable IP will be disbursed in accordance with the table below:

Net Revenue (€)	Personnel (%)	FCG (%)	IGC (%)
For Net Revenue up to €100 000	80%	10%	10%
For the part of the Net Revenue that exceeds €100 000 up to €1M	50%	25%	25%
For the part of the Net Revenue that exceeds €1M	30%	35%	35%

For the avoidance of doubt, the percentage share applies to each band of Net Revenue generated, such that:

- (a) For Net Revenue up to €[100 000], the share is [80]:[10]:[10];
- (b) For the part of the Net Revenue that exceeds €[100 000] up to €[1 M], the share is [50]:[25]:[25]; and
- (c) For the part of the Net Revenue that exceeds €[1] M, the share is [30]:[35]:[35].

3.3. It is acknowledged by Personnel by entering into any revenue sharing agreement with FCG that in relation to revenue sharing provided for in the IPP and this Policy in relation to IP or any equity holding in a company in addition to or in lieu of all or part of their revenue share pursuant to paragraph 7 that:

- (a) revenue is not guaranteed;
- (b) FCG is complying with its obligations to share revenue under the IPP and this Policy; and
- (c) the share is just and fair and in compliance with any legal provision.

3.4. Personnel who enter into a separate agreement in writing to give effect to this Policy and any arrangement made in respect of payment of the Personnel revenue shares will take precedence over this Policy.

#### **4. Payment and allocation of the Personnel share**

4.1. Payment of the Personnel share of Net Revenue will be made by FCG in accordance with the terms of any revenue sharing agreement signed with each eligible Personnel.

4.2. Subject to FCG's authorization, the Personnel are free to:

(a) request in writing to FCG pay their revenue share, in whole or in part, on a case by case or ongoing basis to another person; and/or

(b) withdraw any previous instruction given to FCG pursuant to this paragraph 4.2; provided that any such requests may (at FCG's option) require the execution of additional documents to give effect to the request and any instructions will only apply to subsequent payments to be made by FCG after the later of the date of those instructions and execution of those documents.

4.3. Any payment made by FCG to Personnel or any other person nominated pursuant to paragraph 4.2. (ii) shall constitute a full and adequate discharge of FCG's obligation to make such payment.

4.4. The Inventor that leaves the collaboration with IGC (or completes his/her period of scholarship) shall continue to be entitled to his/her revenue share.

4.5. FCG may, if so, obliged by tax laws, make any applicable tax deductions before making payments to the Personnel.

4.6. The onus is upon each Personnel to ensure that FCG has their current banking details for the purpose of revenue sharing. If FCG pays an amount into an incorrect account as a result of information supplied to it being outdated or incorrect, FCG will not have any further obligation or liability in respect of such payment, which will be deemed to have been duly and properly made.

4.7. As a default position, FCG will refrain from accepting non-monetary benefits for the Commercialization of its IP or from offering incentives other than revenue sharing, unless they are in addition to the revenue sharing as per paragraph 3.2, as appropriate. FCG will thus give consideration, on a case-by-case basis, to the provision of other incentives, where monetary benefits (revenues) are not available or where the Personnel elects to choose other benefits in lieu of revenue sharing, which may only be realized in due course.

#### **5. Multiple Personnel**

5.1. The share of Net Revenue allocated to Personnel as identified in the table in paragraph 3.2 above represents the total proportion payable by FCG in respect of all eligible Personnel.

5.2. Where there is more than one inventor entitled to a share of Net Revenue arising from exploitation of applicable IP, the percentage of Net Revenue identified in the above table will be divided among all the Personnel. This division will be based upon the relative contributions of all the Personnel as defined in the invention disclosure form (Annex 3).

- 5.3. An agreement to revenue share allocation:
- (a) will be documented in a written revenue sharing agreement signed by all eligible Personnel and, unless FCG agrees otherwise in writing;
  - (b) may include an individual who has contributed to the Intellectual Property but is not an inventor, for the purpose of revenue distribution under this Policy, provided that the named Personnel sacrificing a portion of their revenue share in favour of the individual agree to such an inclusion in writing.
- 5.4. FCG accepts no responsibility for any payment in accordance with this Policy where paragraphs 5.3 have not been complied with.

## **6. Share of Equity**

- 6.1. IGC supports the formation of spin-offs by Personnel for the exploitation of its IP.
- 6.2. In the case where Personnel is/are granted equity in a Commercialization Entity that licenses the FCG IP, which the Personnel has created, such Personnel's portion in the standard revenue sharing formula in paragraph 3.2, will be adjusted accordingly, taking into account the shares held in the company by the Personnel. All other Personnel that do not have equity shares will be rewarded in accordance with the formula in paragraph 3.2.
- 6.3. Where FCG receives shares in a licensee company, which company may be a Commercialization Entity, as consideration for an IP license, FCG will hold all the shares until liquidation, at which time the income will be considered Gross IP Revenue and the Personnel will receive their share according to the revenue sharing formula in paragraph 3.2..
- 6.4. Contributions of new Intellectual Property and funding beyond formation are matters for individual negotiation and agreement thereafter.
- 6.5. Where FCG receives an interest in a company other than in return for the licensing of rights in Intellectual Property to the new company, including without limitation by way of investment of its own funds or in consideration for access to facilities, the Personnel shall not be entitled to share income generated from such an interest.

### **Annex 3 - Projects Invention Disclosure Form**

We are keen to hear about your invention and explore how we can support you in valorisation of your research results.

We want to assure this form is fully confidential and will be used only for assessing the potential for protecting and commercializing the invention. Please fill this in as complete and accurately as possible, so that we collect the needed information to be able to help.

When filled, please send to [innovationunit@igc.gulbenkian.pt](mailto:innovationunit@igc.gulbenkian.pt), with any extra information in attachment.

SECTION 1: INVENTION SUMMARY	
Title of Invention	
Date of disclosure to Innovation Office	<i>DD-MM-YYYY</i>
Period of Invention <i>when did it start?</i>	
Description of Invention	
<i>Please give a short description, outlining the problem it solves, how it works and its advantages and improvements over existing methods devices or materials.</i>	
Status of Invention	
<i>Describe the current status of the invention (at which stage of development is it? You can use TRL</i>	
<i><a href="https://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-g-trl_en.pdf">https://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-g-trl_en.pdf</a>).</i>	
What work do you think needs to be done in order to get the invention to market?	
<i>Describe the technology/ end product/service you are seeking to contribute to develop and whether or not it could be used for other diseases/applications beyond this specific one.</i>	
If a patent application were to be filed, what work would you do on it in the next 12 months to support the application and development on the commercial product?	

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**SECTION 2: INVENTORSHIP TABLE**

*(Duplicate table if there are more inventors)*

	Inventor 1	Inventor 2	Inventor 3	Inventor 4
Name				
Position				
Group/Facility				
Institution <i>(if not IGC, please make it clear)</i>				
% contribution to the invention				
Email				
Phone				
Home address				
Nationality <i>(For International Patent Filings)</i>				

**Joint Invention** *(yes/no)*

If this invention involves an Inventor who is not employed by IGC, where was the work performed?

*If the work was performed in more than one site, please briefly describe which part of the research was developed and where.*

**SECTION 3: PRIOR ART BY OTHERS**

*Please provide details of any publications/patents known to you which are highly relevant to this invention. Attach results of any literature or patent searches which you have performed.*

Reference	Comments

**SECTION 4: OWN DISCLOSURE / PUBLICATION OF (PARTS) OF INVENTION**

*Accurate information is essential as prior disclosures may affect the possibility of obtaining patent rights.*

*Please provide details of any disclosures which you have made or plan to make, having relevance to this invention. Please attach a copy of what has been or will be publicly disclosed.*

*Disclosure types: published and submitted papers, including biorxiv, posters, conference abstracts, web articles, oral presentations, discussions with non-FCG employees.*

**PART A: Past Disclosures (if any)**

Disclosure Type	Disclosure date	References & details of disclosure
	DD-MM-YYYY	
	DD-MM-YYYY	
	DD-MM-YYYY	

**PART B: Planned/Future disclosures (in any)**

Disclosure Type	Planned date	References & details of disclosure
	DD-MM-YYYY	
	DD-MM-YYYY	
	DD-MM-YYYY	

**SECTION 5: EXTERNAL FUNDING**

*Please list all sources of external funding which have been used to achieve this invention (e.g. FCT, European Commission, NIH, Charity, Company, etc)*

Funding body	Project title	Grant reference	Start-end date	Consortium (yes/no), if yes, list partners

**SECTION 6: EXTERNAL COLLABORATIONS AND DUE DILIGENCE**

*Was this invention developed in collaboration with any external organisations e.g. for receiving a research material **and/or** subject to contracts such as Collaboration Agreements and Material Transfer Agreements (MTAs)? Please attach a copy of the relevant contract such as MTAs.*

Nature of collaboration	Contract (yes/no) if yes, it's title	Organization's name

**SECTION 7: MARKET INFORMATION**

*Please complete this section to the best of your knowledge – the information provided will be used to assess the commercial potential of the invention – Innovation Unit staff can help you fill this*

What are the advantages/disadvantages of this technology compared to alternatives

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What are the competing solutions and their development status?

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What is the commercial application for this invention? How would it be sold?

Please give details of any companies who may have an interest in this technology (include competitors), indicating whether you have direct contacts in those companies.

**SECTION 8: INNOVATION UNIT RECOMMENDATION**

*Innovation unit use only*