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## PREAMBLE <sup>1</sup>

The Fundació Institut d'Investigació Biomèdica de Girona Dr. Josep Trueta (hereinafter, the "IDIBGI") is a public foundation established on 3 February 1995 as a private legal entity, under the original name of Fundació Privada Doctor Josep Trueta. It was created with the aim of carrying out all those tasks aimed at fostering, promoting and encouraging scientific, technical and cultural activity and the training of research and teaching staff and professionals working in the field of health sciences, as well as coordinating and monitoring the scientific and cultural programme in the field of health sciences in Girona.


The Board of Trustees is composed with the majority participation of the Generalitat de Catalunya, the Department of Health and the Department of Research, and with the participation of the University of Girona and the Catalan Institute of Health.

According to Article 5 of its statutes, the purpose of the IDIBGI is to *"promote, develop, transfer, manage and disseminate research, scientific and technological knowledge, teaching and training in the field of life and health sciences"*. Furthermore, the same Article 5 establishes that the IDIBGI *"must promote and strengthen relations and the exchange of knowledge between researchers and research groups belonging to the various centres and entities in the biomedical field, mainly operating in the Girona area (...)"*.

The IDIBGI has become an important research centre in the area of biosanitary research and health sciences, developing research and teaching activities, either directly or through related entities, with the aim of generating knowledge and technologies of high added value that benefit society as a whole.

In addition to its own research activities, the IDIBGI is highly active in collaborative research projects. It currently has signed scientific collaboration agreements with the Catalan Health Institute (ICS), the Catalan Institute of Oncology (ICO), the Institute of Diagnostic Imaging (IDI), the University of Girona (UDG) and the Institute for Health Care Assistance (IAS). The IDIBGI is also open to collaboration with other public and/or private entities for the development of specific research projects.

The reform of the regulation of public research promoted by Law 17/2022, of 5 September, which modifies Law 14/2011, of 1 June, on Science, Technology and Innovation, has had an impact on Intellectual and Industrial Property, establishing the legal framework applicable to public research centres in this area.


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Likewise, with the approval of Law 7/2011, of 27 July, on fiscal and financial measures that establishes the legal regime of the Catalan Research Centres (CERCA), a legal framework applicable to these centres has been established that has allowed research to be promoted, development and innovation as key elements of the new model of economic transformation and cohesion, with the aim of consolidating Catalonia as a benchmark in the advancement of knowledge and giving these centres the power to approve the creation of companies.

Therefore, with the aim of making progress in the IDIBGI's promotion of research activities within its field, it is considered necessary to define a suitable legal framework for the performance of the IDIBGI's research activities, both in the generation phase and in the exploitation phase.

With this regulatory text, and in relation to the research staff of the Research Centres, who are included both in the list of duties and rights provided for in the aforementioned Law 17/2022, the aim is to achieve a twofold objective: on the one hand, to promote research activity, while seeking to increase the legal certainty necessary for the parties involved in the development of research activities; on the other hand, to involve IDIBGI staff in these activities, not only by acknowledging their participation in the development of new knowledge and technologies, but also by making them participants in the benefits that may be obtained from the commercial exploitation of the results of their research activity.

Consequently, the IDIBGI Board of Trustees has considered it appropriate to approve these Regulations, which incorporate the regulation of the results of the research carried out at IDIBGI, as well as the rules regarding their exploitation and the distribution of the benefits derived from them.

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## TITLE I. PURPOSE AND DEFINITIONS

### Article 1. Purpose and scope of application


The aim of these regulations is to establish a legal framework that regulates the following aspects:

- a) The ownership of the results derived from the research activity (hereinafter, "the Research") carried out within the IDIBGI.
- b) The procedures to be followed for the protection and exploitation of the aforementioned IDIBGI Research Results.
- c) The economic rights resulting from the exploitation of the aforementioned results.

### Article 2. Definitions

For the purposes of these regulations, the following definitions shall be taken into consideration:

- a) **Research Staff:** IDIBGI staff who, while being in possession of the qualification required in each case, carry out research activity, understood as creative work carried out systematically to increase the volume of knowledge, including that relating to human beings, culture and society, the use of this knowledge to create new applications, its transfer and dissemination.
- b) **Own Research Staff:** Staff contracted by the IDIBGI.
- c) **Seconded Research Staff:** Research Staff contracted by a third institution that performs their research tasks at the IDIBGI, regulated by the corresponding secondment agreement between both institutions.
- d) **Research Results:** all technology, knowledge, innovations or processes that have been generated within the framework of the research activities carried out at the IDIBGI.
- e) **Works:** Research results that may be protected by Intellectual Property rights, including, but not limited to, books, publications, multimedia works, databases and computer programs (software), expressly excluding any lectures, conferences and works derived from teaching activities.
- f) **Inventions:** Research results that can be protected by Industrial Property rights, including, but not limited to, patents, utility models, semiconductor topographies and industrial designs.

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## TITLE II. OWNERSHIP OF THE RESEARCH RESULTS, OF THE INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS DERIVING FROM THEM AND EXPLOITATION RIGHTS

### I. IDIBGI'S OWN RESEARCH AND INNOVATION

#### Article 3. Ownership of IDIBGI Research Results

The IDIBGI holds the ownership and exploitation rights of the Research Results developed by the Research Staff as a consequence of their Research activities.

#### Article 4. Ownership of industrial property rights

The IDIBGI is the owner, as well as the holder of the exploitation rights, of the Industrial Property rights over the Inventions derived from the Research Results described in the previous article.

#### Article 5. Ownership of intellectual property rights


##### 5.1. Ownership of Intellectual Property Rights

Research Staff are the authors of the Works created as a consequence of their Research activities at the IDIBGI, except in the cases expressly provided for in these regulations.

The exploitation rights over the Works carried out within the framework of the aforementioned functions shall correspond to the IDIBGI, under the terms and to the extent provided for in the legislation on intellectual property. Without prejudice to the foregoing, IDIBGI shall endeavour to reach agreement with Research Staff on the assignment to IDIBGI of any exploitation rights over the Works generated in IDIBGI Research activities that may eventually become the property of Research Staff.

##### 5.2. Ownership of Intellectual Property rights in specific cases

- a) Computer program (Software)

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In the event that the Work developed by any member of the Research Staff in the execution of their Research activities at the IDIBGI is software, ownership of the exploitation rights over the same will correspond to the IDIBGI.

In the event that the software developed collectively at the initiative and under the coordination of the IDIBGI, the authorship, as well as the ownership of the exploitation rights over the aforementioned work, shall correspond to the IDIBGI in the event that the latter publishes and disseminates it under its name, unless otherwise agreed.

#### b) Collective works

In the case of collective works, which are those created collectively at the initiative and under the coordination of the IDIBGI, the authorship, as well as the ownership of the exploitation rights over the said Work, shall correspond to the IDIBGI, in the event that this entity publishes and disseminates it under its own name, unless otherwise agreed.

#### c) Databases


Ownership of the exploitation rights over the databases that, due to their selection or disposition of their contents, constitute intellectual creations in accordance with the applicable regulations, and which are developed by Research Staff in the execution of Research activities at the IDIBGI, shall be held by the IDIBGI, unless the Intellectual Property Law establishes otherwise due to the nature of the same.

### Article 6. Moral rights of authorship of the Research Staff

Without prejudice to the provisions of Article 4 above, the IDIBGI will in all cases respect the right of Research Staff to be recognised as the inventor or author of the Inventions or Works they have developed, in accordance with the provisions of current legislation on Industrial and Intellectual Property.

### Article 7. Obligation to mention the IDIBGI

In any case, and unless the IDIBGI states otherwise, any Invention or Work in which the Research Staff participates, carried out in direct or indirect consequence of their Research activities in the IDIBGI, must refer to their relationship with the IDIBGI. In this sense, the following mention in Catalan or in the corresponding translation will be visibly stated in all Works owned by the IDIBGI: “© Girona Biomedical Research Institute - Dr. Josep Trueta Foundation, year (...). All rights reserved”.

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## CHAPTER II. RESEARCH PROJECTS JOINTLY DEVELOPED WITH OTHER ENTITIES


### Article 8. Research results obtained under research projects developed in collaboration with third parties

- 8.1. The completion of any commission or research project by the Research Staff, regardless of the branch of knowledge to which it refers, shall require the prior entry into the corresponding collaborative research contract.
- 8.2. The system of ownership of the rights to the Research Results that are obtained in the framework of the execution of a commission or research contract, as well as the distribution of the corresponding exploitation rights that arise, shall be provided in the aforementioned contract, notwithstanding the fact that this may postpone the determination of the distribution thereof.
- 8.3. In any case, the rights that may correspond to the IDIBGI under these regulations must be respected.
- 8.4. In the research activities carried out by the Research Staff sponsored by private entities, the public interest and transparency will prevail. In this sense, the necessary pacts will be agreed in order to protect the intellectual freedom of the Research Staff, avoid disproportionate confidentiality commitments or unjustified restrictions on the publication of the Research Results obtained.

## CHAPTER III. MANAGEMENT AND PROTECTION OF RESEARCH RESULTS

### Article 9. Communication and management of the protection of Research Results

- 9.1. In the event that the Research Staff develops a Research Result that may be susceptible to protection, it must be immediately transferred to the person in charge of the Innovation Department of the IDIBGI, directly or through the person responsible for the research group, attaching all information regarding the creation or invention developed, which allows the IDIBGI, if it deems it appropriate, to initiate the relevant procedures for its legal protection.

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This disclosure will be made through the Invention Sheet (ISO DOC XXX), which must be duly completed and signed by the Researcher who contributed to the invention.

As stipulated in article 21.3 of Law 24/2015 of 24 July on Patents, within 3 (three) months from the receipt of the Invention Sheet, the IDIBGI must communicate in writing to the authors their desire to maintain the rights to the invention, requesting the corresponding patent, or to consider it an industrial secret, reserving the right to use it exclusively. Research Results of an investigation susceptible to be protected may not be published before the end of this term or until the institution has submitted the request for legal protection.

IDIBGI reserves the right not to carry out the evaluation and/or protection procedures in the event that the deadlines and procedures stipulated by the institution are not respected.


9.2. Once the person responsible for the Innovation Dept. has evaluated the information related to the Research Result developed, it will be transferred to the Directorate of the IDIBGI, who will make a decision in relation to the convenience of protection and commercialisation of this Research Results and will notify the Research Staff.

9.3. In relation to Research Results derived from collaboration projects with other public and/or private entities, the protection, management and exploitation will be carried out in accordance with what is established in this respect in the agreements signed between the collaborating entities.

9.4. In the event that it is decided to protect the Research Results, the IDIBGI will collaborate with the Research Staff in the management of the procedures related to this protection, before the deadline established for the entry into national phases. The Research Staff undertakes to actively collaborate in initiatives to exploit, license or commercialise the Research Results within the stipulated terms. In the event that the Research Staff does not collaborate in these initiatives, IDIBGI reserves the right to waive the protection and payment for the maintenance of the protections and/or other Research Results.

IDIBGI will exclusively pay the costs of protecting the results before entering the protection in national phases with the aim of the Research Results being licensed, exploited or commercialised before this situation occurs. The costs of the protection of the Research Results will be deducted from the operating profits as stipulated in clause 14 in the event that profits are obtained in the future. IDIBGI reserves the right to waive the payment of the costs associated with the protections in national phases if licensing or commercialisation has not been achieved.



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## Article 10. Collaboration of Research Staff

10.1. The authors or inventors of the Research Result must collaborate with the IDIBGI in everything necessary to obtain adequate protection of intellectual and industrial property rights and, eventually, their transfer.

10.2. The obligation to collaborate will include, among others, the obligation to sign the necessary public or private documents before any national and foreign office competent in matters of industrial or intellectual property (by way of example, but not limited to Patent and Trademark Offices, Intellectual Property Registries, etc.), so that the IDIBGI records or becomes, as the case may be, the holder of the industrial and intellectual property rights on the Research Result, and can exercise the rights that correspond to it by virtue of its status as full owner.

## Article 11. Confidentiality and disclosure of Research Results


11.1. The Research Staff, as well as any other staff who participate in Research activities in the IDIBGI environment, must treat the information related to any research carried out in the IDIBGI environment confidentially, and carry out their best efforts to ensure this confidentiality, in order to preserve the rights of IDIBGI or of third parties who collaborate in Research activities.

11.2. Once the procedure to be followed for the protection of the Research Results has been defined, the Research Staff will respect the deadlines established by the IDIBGI regarding the disclosure of their research, and they will undertake not to carry out any act of disclosure until the date that is established so as not to endanger its legal protection.

11.3. In the case of joint development of research projects with other entities, the IDIBGI will try to include in the respective regulatory agreements its policies relating to the confidentiality of the Research Results developed.

## Article 12. Assignment of Industrial and Intellectual Property rights

12.1. The IDIBGI may require its Research Staff who participate in research activities to sign, prior to the start of their activities, a contract or similar document in which the transfer of rights is established for the exploitation of the intellectual and industrial property rights that are developed for the provision of services in the IDIBGI environment, or that use means, infrastructures or resources thereof, to the benefit of the IDIBGI.

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12.2. Even if no previous document is signed, this will not infer, in any case, that the IDIBGI has waived its rights that correspond to it provided for in these regulations, and therefore what is provided for in the same will be fully applicable. Therefore, even if no document is signed, the staff will not have the ownership of these rights that have been obtained as a result of the employment or contractual relationship, with the provisions of these regulations being applicable in any case.

12.3. In the said document, it will be agreed that this assignment will be made without temporary, territorial or material restrictions, according to the provisions of Title II.

### **Article 13. Waiver in favour of the Research Staff**


13.1. In the event that the IDIBGI is not interested in the ownership of any rights or international extension of any Industrial Property rights or decides to waive the application or the maintenance of these rights, it will notify its inventors. If they are interested, the IDIBGI may transfer these rights to them, as long as the applicable regulations allow it.

13.2. Notwithstanding the provisions of the previous point, in the event that the IDIBGI has entered into a contract with a third party that grants it a preferential right to assume ownership of the aforementioned Research Results in the event of waiver or abandonment by the IDIBGI, the regime provided for in the contract will be followed.

13.3. In the event that the IDIBGI has abandoned or waived its rights in favour of the inventor, it may commercially exploit the Research Results as long as the commercial activity is not contrary to the guiding principles of the IDIBGI.


13.4. For the waiver or abandonment of any Industrial and Intellectual Property rights, an express decision of the competent statutory body will be required.

13.5. The IDIBGI shall reserve a right to participate financially in the exploitation of the Research Results transferred to the inventors, according to the terms provided for in Title III of these regulations, both in the event of their exploitation and in the event of these are transferred to third parties. In addition, the IDIBGI shall in any case reserve the right to use the Results of the Research for non-commercial purposes through a non-exclusive, non-transferable and

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free license for use for research activities or, as the case may be, for assistance activities by the related entities.

13.6. In case of waiver in favour of the Research Staff, the IDIBGI may establish the mechanisms it deems appropriate to recover the expenses incurred by the management, drafting, processing or maintenance of the corresponding Industrial Property rights.

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### TITLE III. EXPLOITATION OF RESEARCH RESULTS

#### CHAPTER I. FORMULAS FOR EXPLOITATION OF RESEARCH RESULTS

##### Article 14. Formulas for exploitation of Research Results

The IDIBGI will be able to commercially exploit the Research Results in the way it deems most appropriate for the fulfilment of its purposes, seeking in any case the greatest possible access by society to new knowledge and technologies.

In any case, for the transfer of rights, the applicable rules will be followed for the disposition, alienation and encumbrance of IDIBGI assets.


#### CHAPTER II. DISTRIBUTION OF THE PROFITS FROM THE EXPLOITATION OF THE RESEARCH RESULTS

##### Article 15. Distribution of profits from commercial exploitation

15.1. The profits obtained by the IDIBGI derived from the commercial exploitation of the Research Results will be distributed according to the following ratio:

- a) A third for Research Staff who are considered authors or inventors;
- b) A third for the IDIBGI;
- c) A third intended for the promotion and development of R&D activities and the Research Groups to which the Research Staff belongs.

In the event that the author or inventor does not belong to any research group, or the work or invention has been developed in activities unrelated to any group or structure, the part corresponding to section c) above will accrue in favour of the IDIBGI.

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15.2. Notwithstanding the above, for the specific case of publications and articles, the profits obtained from their commercial exploitation will correspond entirely to their authors, as long as they do not exceed the amount of twenty thousand euros (€20,000), amount from which will apply the distribution established in the previous paragraphs. For any amount, the general indirect cost rate established by IDIBGI will be applied.

15.3. In the case of Associated Research Staff, the specific regulations agreed between both institutions will apply.


15.4. In the event there is more than one author or inventor, the IDIBGI will pay the amount corresponding to the benefits to each researcher, according to a document written by all stakeholders that establishes the contribution percentages of each inventor, or judicial or arbitrary resolution, where the participation of each is determined. Notwithstanding the above, in the case of the profits obtained from the exploitation of patents, this distribution will be made on a prorated basis among the inventors according to their share in the patent and, in lack thereof, in equal parts.

15.5. In the event the Research Staff has direct or indirect participation in the share capital or the economic rights of the company that commercially exploits the Research Results at the time of accrual of the profits, the percentage of participation that will correspond to them in the benefits obtained by the IDIBGI will be determined by a Commission set up for that purpose, and designated by the competent body, in accordance with the Regulation on support for the creation of companies (IDI-DOC-006).

15.6. For the purposes provided for in this article, "profits" will mean the result between the following concepts:

- The gross income obtained by the IDIBGI in the exploitation of the Research Results, including the payments received from the company that exploits them and the income derived from any eventual waiver by the co-owners of the Research Results;
- Less the expenses directly attributable to the protection, assessment and development of the Research Results and management costs (including, by way of example and not limited to, expenses for intermediary services, lawyers, patent agents, etc.).

15.7. The distribution of the profits obtained from the commercial exploitation of the Research Results developed in projects carried out jointly with other public and/or private entities or with external researchers in a personal capacity, will be contractually determined between the entities involved in the project, and failing this, it will be what the parties agree, respecting in any case the contribution of the parties in obtaining and protecting the Research Results.

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15.8. In any case, the distribution of the profits provided for in this article must respect any limitations established in the general regulations applicable to the IDIBGI and its staff.

#### TITLE IV. FINAL PROVISIONS

##### One. Entry into force

These regulations will enter into effect the day after they are approved by the Board of Trustees of the Girona Biomedical Research Institute - Dr. Josep Trueta Foundation.

##### Two. Transitional provision

The rights and duties contained in these regulations will apply from the entry into effect of the regulations regarding all Research activities carried out by the IDIBGI, both before and after its entry into effect, notwithstanding that the regulation of the distribution of the profits derived from the exploitation of the Research Results will only apply to those incomes obtained after these regulations enters into effect.

The IDIBGI will try, in the shortest possible time, to adapt all the contracts signed in the framework of its activities to the provisions established in this regulation, such as its contracts with staff and the agreements in force with other public and/or private entities.