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PREFACE

The Girona Biomedical Research Institute - Dr. Josep Trueta Foundation (hereinafter, the "IDIBGI") is a public foundation established on 3 February 1995 as its own legal entity, originally under the name of Fundació Privada Doctor Josep Trueta. It was created with the purpose of implementing the tasks to promote and foster scientific, technical and cultural activity and the training of research staff, teachers and professionals who work in the field of health science, under the coordination and monitoring of the Girona Scientific and Cultural Programme in the Field of Health Sciences and the Catalan Health Institute.


The Board of Trustees is mostly made up of member from the Generalitat de Catalunya, through the Department of Health and the department competent for research, with the participation of the University of Girona.

Article 5 of its by-laws constitutes that 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 sciences and health. Additionally, the same article 5 establishes that the IDIBGI shall 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, which mainly operate in the Girona area (...)"*.

On the basis of this purpose, article 17 of the by-laws includes the specific regime regarding the *"Creation and participation in businesses and companies"*, providing that the IDIBGI will be able to *"set up companies and participate in them without the need for prior authorisation under the terms approved by the Board of Trustees and permitted by current legislation"*.

The IDIBGI has become an important research centre in the area of bio-health 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, which allow not only to improve the care services of the centre, but also to promote new advances that favour society as a whole.

In order to fulfil its objectives, the IDIBGI aims to encourage the creation of spin-offs arising from the initiative of its research staff and based on the exploitation of technology and knowledge developed through the scientific research activities of the researchers of the IDIBGI themselves.


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The reform of the regulation of public research promoted on the occasion of the approval of Law 17/2022, of 5 September, which amends Law 14/2011 of 1 June, on Science, Technology and Innovation has affected the creation of companies in the area of centres of research and investigation, specifically articles 17 and 18 of this Law, establishing mechanisms that favour the mobility of researchers.

Likewise, with the approval of Law 7/2011 of 27 July on fiscal and financial measures that establishes the legal regime for Catalan Research Centres (CERCA), a legal framework applicable to these centres has been established which fosters research, 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 granting these Centres powers to approve the creation of companies.

Therefore, with the aim of advancing the promotion by the IDIBGI of research activities in its field, it is considered necessary to define an appropriate legal framework for the creation of companies in the area of the IDIBGI.

Taking into account this new legal framework, the IDIBGI has considered it appropriate to establish a regulation to govern the procedures for creating companies in the IDIBGI environment promoted by IDIBGI staff, as well as the applicable requirements for participation of this staff and of IDIBGI itself in these companies. All this with the aim of achieving a framework that promotes and supports the creation of this type of company as well as the transfer of research results through them to the productive and social fabric.

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TITLE I. INTRODUCTION

CHAPTER I. OBJECT, SCOPE AND DEFINITIONS


Article 1. Object and scope of application of the Regulation

The purpose of this Regulation is to establish the legal regime applicable to business projects arising from the IDIBGI environment, as well as the establishment of the formulas for participation by both the IDIBGI itself and the IDIBGI research staff in these business projects, and the relationship framework with them.

Article 2. Definitions

For the purposes of this regulation, the following definitions will be taken into account:

- a) **Spin-off:** a company participated by IDIBGI research staff whose object is the exploitation of IDIBGI research results.
- b) **Research Staff:** IDIBGI staff who, being in possession of the qualifications required in each case, carry out a research activity, understood as the creative work carried out systematically to increase the volume of knowledge, including those relating to the humans, culture and society, the use of this knowledge to create new applications, its transfer and dissemination.
- c) **Own Research Staff:** Staff hired by IDIBGI.
- d) **Attached Research Staff:** Research staff hired by a third-party institution that carries out its research tasks at IDIBGI, regulated by the corresponding affiliation agreement between both institutions.
- e) **Research Results:** all that technology, knowledge or processes that have been developed within the framework of the assistance and research activities developed at the IDIBGI.

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TITLE II. LEGAL FRAMEWORK FOR THE SPIN-OFFS

CHAPTER II. IDIBGI SPIN-OFF CREATION PROCEDURE AND PARTICIPATION IN SPIN-OFFS ALREADY CREATED

Article 3. Authorisation request

3.1. IDIBGI Research Staff who are interested in: (i) the creation of a Spin-off for the commercial exploitation of IDIBGI's Research Results, or (ii) the taking of a stake by IDIBGI in an already established company whose object is the commercial exploitation of IDIBGI Research Results, it must submit the corresponding Application, which must include the following information:

- a) Presentation of the partners/entrepreneurial team, with an indication of their affiliation with the IDIBGI, and the statement that the business project will not incur in breach of the incompatibilities regulations.
- b) Requests for authorisation of compatibility for the provision of services in society, leave of absence and/or non-application of the regulations on incompatibilities, made by those members of the entrepreneurial team who are IDIBGI Research Staff and wish to participate in the Spin-off.
- c) Draft Business Plan that includes the following aspects:
 - Economic-financial feasibility study where the economic potential of the project is evaluated, potential and viable financing alternatives, forecast of the necessary investments and the expected sales, expenses and cash flow in the first few years, with an expression of the rate of expected profitability.
 - Strategic feasibility study, where the competitive advantages of the proposed project are collected in order to successfully implement it in its intended market.
- d) In the event that the Spin-off is already constituted, additionally:
 - The company's Articles of Association and Shareholders' Agreements signed between the company's partners;
 - Certificates issued by the Tax Agency and the General Treasury of Social Security certifying that the company is aware of its obligations to both Administrations.

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- Annual Accounts and Report of the last four financial years, if any.

e) Descriptive report of the IDIBGI Research Results intended to be exploited as part of the development of the Spin-off project, or a copy of the Research Results transfer contract previously signed with the IDIBGI, as the case may be.

3.2. For the preparation of the documentation mentioned above, applicants can count on the advisement of the head of the Innovation area at the IDIBGI.

3.3. If the members of the entrepreneurial team are Attached Research Personnel, their participation will be subject to the granting of authorisation by the entity to which they are linked, in accordance with the regulations and procedures in force in that entity, and in accordance with the framework agreement between IDIBGI and the linking entity.

Article 4. Analysis of the Spin-off project by the IDIBGI


4.1. Once the Application has been submitted, the IDIBGI will proceed with the analysis of the viability of the business project, in particular the technological, market and financial aspects, and, where appropriate, will issue a report that must include the following aspects:

- a) Research results intended to be exploited and the activity to be developed by the company.
- b) IDIBGI participation proposal, if applicable.
- c) The consideration deemed most appropriate.

4.2. In order to carry out this analysis, the IDIBGI may request the additional information it requires from the applicants.

4.3. Subsequently, the Application, together with the IDIBGI report, will be forwarded to the Board of Trustees of the IDIBGI. ¹

¹Acts of company creation, in accordance with article 24.3 of the IDIBGI Statutes and with article 332-1 of the Civil Code of Catalonia, is a non-delegable power of the Board of Trustees.


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Article 5. Spin-off authorisation procedure

- 5.1. The Board of Trustees, in the light of the documentation received, will decide on the request for the creation of the Spin-off and the legal regime that will govern its creation, as well as the applicable considerations.
- 5.2. The Board of Trustees of the IDIBGI will convey its decision to both the applicants and the Management, in order for them to develop all the formal aspects necessary for the implementation of the agreement adopted for these purposes.
- 5.3. Management or Administration will be in charge of signing the documents in which the agreement is materialised, and in particular the contract for the transfer of the Research Results and, where appropriate, the contract between partners, in accordance with what is established in Article 8 and Article 9 of this Regulation.
- 5.4. In the event that the Board of Trustees of the IDIBGI does not approve its participation in the capital of the Spin-off, it will communicate this to Management, so that it can proceed, if necessary, to the eventual signing of the corresponding contract for the transfer of the Research Results between the IDIBGI and the Spin-off, subject in any case to the applicable asset regulations.

Article 6. IDIBGI's participation in the share capital of the Spin-off

- 6.1. The authorisation of the Board of Trustees for the participation of IDIBGI in the share capital of the Spin-off will establish the terms and conditions under which the acquisition of the participation will take place.
- 6.2. IDIBGI's contribution for the assumption of its participation in the capital of the Spin-off may consist of:
 - a) Direct monetary contributions.
 - b) Contribution of goods and/or rights, such as IDIBGI Research Results necessary for the development of the Spin-off's activity, based on their market value.
- 6.3. Companies participating in the IDIBGI must send their accounts, as well as a management report, and any other legally determined documentation, to the person in charge of the IDIBGI's Knowledge Management area.

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Article 7. IDIBGI participation in the governing body

- 7.1. The participation of the IDIBGI in the share capital of the Spin-off may entail the presence of representatives of the IDIBGI on its administrative body.
- 7.2. The IDIBGI will hold the power to appoint and, where appropriate, replace and/or dismiss representatives of the IDIBGI on the Spin-off's administrative body. In accordance with the stipulations of current regulations, the aforementioned appointment will mean the authorisation of compatibility.

Article 8. Contract between Partners


- 8.1. All partners in the Spin-off participated by the IDIBGI must sign, prior to or simultaneously with its creation, a contract between partners, in which the rules of the Spin-off's administration and governance, among others, will be determined in accordance with the stipulations of these Regulations and in the authorisation agreement of the Board of Trustees. The membership contract will establish the obligation of adherence to it by the new members, unless the IDIBGI expressly accepts otherwise.

Article 9. Research Results Transfer Contract

- 9.1. The transfer of the rights of use and commercial exploitation of the IDIBGI Research Results will be carried out in accordance with the applicable procedure in accordance with current regulations.
- 9.2. In any case, the aforementioned transfer will entail the formalisation of a contract for the transfer of the Research Results, which will regulate the terms in which the transfer will take place in favour of the Spin-off, as well as the rights of the IDIBGI to the corresponding consideration, in accordance with the conditions established by the latter.
- 9.3. The contents of the Research Results Transfer Contract will follow the applicable regulations and good practices in the defence of the public interest common to this type of contract.

TITLE III. PARTICIPATION OF IDIBGI'S OWN RESEARCH STAFF IN THE SPIN-OFF


Article 10. Request for leave for the development of activities in the Spin-off

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- 10.1. Permanent Work Research Personnel who wish to join the activities of a Spin-off may apply to the IDIBGI to be declared on temporary leave of absence according to HR regulations. .
- 10.2. Such leave must be requested to carry out any of the activities contemplated in article 17.4 of Law 17/2022 of 5 September, which amends Law 14/2011 on Science, Technology and Innovation, which must be carried out in any case under a work contract regime.
- 10.3. The granting of the leave will be subordinated to the needs of the service and the interest that the IDIBGI has in carrying out the activities to be developed in the Spin-off. In any case, a favourable report from the research group to which the applicant is attached will be required, in which these points are contemplated.
- 10.4. The maximum duration of the temporary leave of absence will be five years, without it being possible, once this period has expired, to request a new temporary leave of absence for the same reason until at least two years have passed since re-entering the active service or joining the workplace from the previous leave.
- 10.5. During the leave period, no remuneration will be received for the place of origin.

Article 11. Authorisation for the provision of services in the Spin-off

- 11.1. The IDIBGI Research Staff may request authorisation for the provision of services in an IDIBGI Spin-off, through a part-time and fixed-term employment contract, as established in article 18 of Law 17/2022 of 5 September, which amends Law 14/2011 of 1 June on Science, Technology and Innovation.
- 11.2. The application must be accompanied by a report justifying the applicant's participation in an action related to the scientific and technical priorities established in the Spanish Strategy for Science and Technology or in the Spanish Strategy for Innovation.
- 11.3. The recognition of the compatibility granted, where applicable, cannot modify the working day or the working hours, and will automatically become void in the event of a change of position in the public sector.

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Article 12. Regime for the participation of IDIBGI Research Staff in the Spin-off

12.1. The participation of the IDIBGI Research Staff in the share capital and the administration of the Spin-off will conform to what is established in the regulations on incompatibilities of staff in the service of the Public Administration.


12.2. Research Staff who participate in a Spin-off established or participated in accordance with the regime provided for in these Regulations may request that articles 12.1.b) and d) of Law 53/1984 on incompatibilities of personnel in the service of Public Administrations not apply to them, as established in article 18 of Law 17/2022 of 5 September, which amends Law 14/2011 of 1 June of Science, Technology and Innovation.

Article 13. Protection of Research Results of the IDIBGI

13.1. IDIBGI Research Staff who participate in a Spin-off, including those who take advantage of any of the possibilities provided for in this Title, must protect the Research Results of the IDIBGI and its research teams in accordance with the general intellectual and industrial property regulations of the IDIBGI and the agreements and conventions signed by this entity.

13.2. The IDIBGI will establish the necessary measures to protect its position in the event of a conflict of interest.

13.3. In relation to IDIBGI Research Staff who are covered by the regime provided for in Article 11, it will be assumed that the Research Results developed by them during the compatibility period will be applicable under the regime of creations or inventions developed under a working relationship with the IDIBGI, unless otherwise agreed or proven. In this sense, the necessary measures will be contractually established for the purposes described in this clause. Thus, the corresponding Transfer and Membership Agreements will be signed which oblige the Research Staff to report on the research activities carried out. Similarly, the Researcher is asked that, in accordance with the provisions of the Patents Law, he/she is obliged to communicate the development of any invention made within the framework of his/her relationship with the IDIBGI.

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TITLE IV. SUPPORT SERVICES FOR THE SPIN-OFFS

Article 14. Business incubator

- 14.1. The IDIBGI will be able to create, on its own initiative or in collaboration with entities in its environment, a business incubator, a space intended to welcome companies so that they can set up and develop their activities during the first years of their activity.
- 14.2. If they are created, the spin-offs may apply for admission to the business incubator, in accordance with the requirements and procedures that the IDIBGI or the business incubator management entity have regulated, and for the activities that are authorised. In case of conformity, the signing of a contract will be required in which the conditions and terms of use of the spaces and the applicable compensation will be regulated.

Article 15. Use of IDIBGI facilities and services

- 15.1. The Spin-offs may have access to IDIBGI's own facilities, such as laboratories, for the development of their activities, subject to prior authorisation and subscription of the corresponding contract, where applicable, and whenever possible to be used by entities other than IDIBGI. The authorisation will be conditional on the use of the facilities by the Spin-off not harming or interrupting the development of IDIBGI's own activities or those of other entities in the environment.
- 15.2. Likewise, the Spin-offs may contract with IDIBGI for the provision of services in the area of research that fall within the competences and activities of this centre.
- 15.3. The use of IDIBGI's own resources, services and facilities must, in any case, conform to the internal rules of use approved by this institution, and must be remunerated according to the rates that IDIBGI has established for its use by third parties.
 The Spin-off and its staff will be obliged to comply with all current work, occupational risk prevention and safety regulations that IDIBGI has approved for the use of its facilities.
 The IDIBGI will not be responsible in any case, neither jointly nor subsidiarily, for any work matter that could be claimed by the staff hired by the Spin-off as a result of the employment relationship with this entity. For these purposes, the Spin-off will guarantee that it complies with the employment and social security regulations provided for according to Spanish labour law and will ensure their correct compliance, being solely liable for all purposes.
- 15.4. IDIBGI shall not be held liable for the activity of the Spin-off, beyond that which may correspond to it by virtue of the agreement or any other agreement it has signed with the

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Spin-off. The Spin-off must hold IDIBGI harmless from any contingency and liability that may arise from the development of its activity.

Article 16. IDIBGI training and aid programme

- 16.1. The IDIBGI, in order to favour the creation of a Spin-off, will develop as far as possible a policy to promote entrepreneurship, which may include both support programmes for the realisation of entrepreneurial projects and the promotion of aid to these companies.
- 16.2. These support services will be coordinated by the head of Innovation at IDIBGI.
- 16.3. The IDIBGI may create with its budgets or with agreements with other public or private entities a seed capital fund that facilitates the creation and financing of companies.

Article 17. Collaboration agreements

- 17.1. The IDIBGI and the Spin-offs may sign collaboration agreements with other entities respecting, in any case, the founding principles contained in the IDIBGI Statutes.
- 17.2. In the preparation of these agreements, the appropriate mechanisms will be established to avoid potential situations of conflicts of interest, as well as the obligation of the Spin-offs to establish the necessary procedures so that the personnel involved in their activities do not divulge the industrial secrets and intellectual property of those who have become aware of them due to their membership in the IDIBGI or these companies, not only during the time of stay, but also after the termination of their contractual relationship.

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TITLE V. MISCELLANEOUS

Article 18. Registry of the IDIBGI spin-off

18.1. The IDIBGI Innovation Office will be in charge of the Registry of the IDIBGI Spin-off, in which the following aspects will be entered:


- a) Those applications to create an IDIBGI Spin-off that have been submitted.
- b) The participation of the IDIBGI in its share capital and in the administrative body, in its case.
- c) The acquisitions and transmissions of shares in these companies by the IDIBGI.
- d) The IDIBGI Research Results over which the company has rights, as the case may be, for their use and commercial exploitation.
- e) The registered office of the Spin-off.

18.2. IDIBGI Spin-offs, or where applicable the IDIBGI, must report to the Spin-off Registry of any changes that occur in relation to the aspects described above for their update.

18.3. The Registry will keep the Spin-off information updated as long as IDIBGI maintains a shareholder or contractual relationship, as the case may be, with the aforementioned company.

Article 19. Corporate image of the Spin-offs of the IDIBGI

19.1. IDIBGI will grant IDIBGI Spin-offs established or recognised in accordance with the regime provided for in this Regulation, a non-exclusive, non-sub-licensable and non-transferable license to use the corporate image and name, "IDIBGI spin-off", for the exclusive purposes of using them in order to identify itself as such in the market.

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19.2. IDIBGI Spin-offs must use the corporate image and name referred to, in association with their own corporate image.

19.3. The use of the indicated corporate image and name will not in any case represent that the companies act on behalf of the IDIBGI, nor that it endorses their business activities.

19.4. The IDIBGI may at any time require the cessation of the use of the name and corporate image indicated in this article. In this case, the company must cease its use with immediate effect.

Article 20. Preferential hiring of students from the University of Girona

20.1. The IDIBGI Spin-offs, in the course of their activity, will seek to preferentially hire students who have studied at the University of Girona, facilitating their insertion in the job market.

20.2. The IDIBGI Spin-offs will seek to use, preferentially, the job board of the IDIBGI and the University of Girona to find the professionals they require for the development of their activities.


Article 21. Reference to the bodies provided for in this Regulation

21.1. In the event that any of the bodies referred to in these Regulations ceases to have any of the responsibilities or attributions provided for therein, their position within these Regulations will be assumed by the entity designated by the IDIBGI to carry them out.

TITLE VI. FINAL PROVISIONS

FIRST ADDITIONAL PROVISION. COMPLIANCE WITH APPLICABLE REGULATIONS

The IDIBGI will try, in the shortest possible time, to adapt the provisions established in these regulations to any eventual amendment to applicable legal regulations, in particular, those relating to incompatibilities and the creation of companies.

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SECOND ADDITIONAL PROVISION. APPLICATION TO SPIN-OFFS PREVIOUSLY CREATED OR PARTICIPATED IN

The Research Personnel who participate in Spin-offs created and participated in by IDIBGI prior to the entry into force of this Regulation must adapt their participation to the mechanisms provided for in Title III.

Spin-offs created and participated by IDIBGI prior to the entry into force of this Regulation may access the accompanying measures and services that are regulated, under the same conditions as Spin-offs created or participated from this Regulation. IDIBGI will try to adapt the agreements with these Spin-offs in order to incorporate the stipulations of this Regulation.

THIRD ADDITIONAL PROVISION. ENTRY INTO FORCE

This Regulation will enter into force the day after its approval by the Board of Trustees of the Girona Biomedical Research Institute - Dr. Josep Trueta Foundation.