

# Regulations on Handling of Works of the University of Electro-Communications

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## Chapter 1: General Provisions

### Article 1. Objectives

These regulations, applying to the handling of works created by professors, associate professors, lecturers, assistant professors, research associates, and other employees working in the University of Electro-Communications (hereinafter, “the University”), or persons in an employment relationship with the University, who are or were engaged in research and development in the University (hereinafter, “employees, etc.”), have the objectives, based on the Intellectual Property Policies of the University of Electro-Communications (hereinafter, “Intellectual Property Policies”), of stipulating the handling of those works, encouraging the creation of works by employees, etc., guaranteeing their rights, and promoting the reasonable management and use of the works.

### Article 2. Definitions of Terms

As used in these regulations, the terms listed below are defined as follows.

- (1) “Work” shall mean the “work” defined in the Copyright Act (Act No. 48 of 1970) and shall include digital content, that is, video, still images, sound, text, etc. created using digital technology.
- (2) “Software work” shall mean the “computer program” defined in Article 2 (1) x-2 of the Copyright Act or the “database” defined in x-3, other than digital contents, as well as the design documents, specifications, flowcharts, and documents explaining the handling of the program or database.
- (3) “Moral rights of author” shall mean the rights prescribed in Articles 18 to 20 of the Copyright Act (including rights in foreign countries equivalent to these rights).
- (4) “Copyright” shall mean the right to use a work and the rights prescribed in Articles 21 to 28 of the Copyright Act (including rights in foreign countries equivalent to these rights).
- (5) “Use” of a work shall mean the actions permitted based on each of the rights prescribed in the preceding item.
- (6) “Work for hire” shall mean a work made by employees, etc. in the course of their duties, on the initiative and following the specific instructions of the University, of which the works other than computer programs are planned to be made public under the name of the University as author.

- (7) “Research contract work” shall mean a software work that is the final research output created by employees, etc. based on a joint research contract, commissioned research contract, or other research contract between the University and a third party.
- (8) “Job-related work” shall mean a software work, other than work for hire, created by employees, etc. in research and education activities performed in the course of their duties, such as in research conducted with public funds or with financial or other support by the University or research conducted using facilities and equipment managed by the University. In such a case, a research contract work shall be included in job-related works unless otherwise prescribed in the research contract.
- (9) “Person affiliated with the University” shall mean employees, etc., students, or persons accepted by the University for the purpose of education, training, or research, etc.
- (10) “Outside entity” shall mean a corporation, institution, or individual third party other than a personal affiliated with the University.

### Article 3. Ownership of Works for Hire

The author of a work for hire created by employees, etc. shall be the University, and the University shall possess the moral rights of author and copyright to the work.

### Article 4. Right of Employees, etc. to Use Works Copyrighted by the University

1. The University shall determine who may use a work for hire and the extent of that use, in light of the purpose for which the work was created, etc.
2. In the case of a job-related work of which the University is the copyright holder as per the provisions of Article 12, a person affiliated with the University shall be able to use that work for research and education (including, in the case of employees, etc. who created that job-related work, use after leaving the University, personal use, and use in a university or other non-profit organization), except in cases where otherwise prescribed such as in a license agreement for the job-related work.
3. The provision of the preceding clause shall apply mutatis mutandis to other works whose copyright was assigned to the University as per the provisions of Article 16.

### Article 5. Job-Related Work Ownership and Use by the University

1. In the case of a job-related work created by an employee, etc., provided the employee observes the conditions listed below, and notwithstanding the provisions of Article 15 of the Copyright Act, the University shall be able to recognize the employee creating that work as the author of the work and to permit that employee to possess the moral rights of author and the copyright to the work.
  - (1) Not placing any restriction on the right of the University to use the job-related work prescribed in the following clause.
  - (2) Not exercising the moral rights of author and rights as original author prescribed in clause 3 of this Article.
  - (3) Performing the registration prescribed in Article 10 when the causes prescribed in that Article arise regarding the job-related work.
  - (4) When the University decides to succeed the copyright as per the provisions of Article 12, transferring the copyright to the job-related work to the University.

(5) When intending to transfer the copyright to the job-related work to a third party free of charge, taking measures to secure the right of the University to use the job-related work as per the provisions of Article 20. However, in the case of a research contract work, transfer for free to a third party cannot be done unless it is after the University has decided not to succeed the copyright as per the provisions of Article 11.

2. The University (here and hereinafter to include persons affiliated with the University) shall have the right to use a job-related work free of charge for the purpose of research or education (hereinafter, “right of free use”). This right of use by the University is inseparable from the stipulation in the preceding clause making the employee, etc. who created the work the author of a job-related work, and the employee, etc. who created the work shall not be able to place any restriction on the right of use by the University; accordingly, with regard to the copyright to the work, it shall not be possible to grant to a third party an exclusive use right that would limit the right of use by the University. The right of free use in this case shall continue in existence even after the employee, etc. leaves the University.
3. In case a person affiliated with the University conducts research based on a job-related work, or the University conducts joint research with an outside entity, commissioned research, or other research under a research contract based on the work, the employee, etc. who created the work shall not be able to exercise the moral rights of author with respect to modifications made to the work in the course of such research and shall not exercise the rights of original author with respect to a work created by modifying the work.

#### Article 6. Management of Job-Related Works

An employee, etc. who creates a job-related work shall manage that work properly until it becomes a work managed by the University through the determination and decision prescribed in Article 11 and the transfer acceptance procedure prescribed in Article 12.

#### Article 7. Other Works

In the case of works other than works for hire and job-related works, the employee, etc. who created the work shall be the author and shall possess the moral rights of author and copyright to that work.

#### Article 8. Treatment after Retirement

These regulations shall continue to apply to works completed during employment even after the employee, etc. leaves the University.

### Chapter 2: Copyright Procedures and Compensation

#### Article 9. Handling of Copyrights, etc.

The handling by the University of the copyrights prescribed in these regulations shall be as decided by the Intellectual Property Office of the Center for Industrial and Governmental Relations (hereinafter, “Intellectual Property Office”) in accordance with the Intellectual Property Policies of the University.

#### Article 10. Registration of Job-Related Works

1. When any of the following items applies to a job-related work, the employee, etc. as author of that work shall promptly register the work with the Intellectual Property Office by means of the separately prescribed form.

(1) When intending to transfer or loan to an outside entity for a fee, or allow use of for a fee (including agreement on use between joint owners) the copyright to a job-related work or the job-related work itself or a copy thereof.

(2) When intending to transfer or loan to an outside entity for free, or allow use of for free (including agreement on use between joint owners) the copyright to a research contract work or the research contract work itself or a copy thereof (including cases when the other party to a research contract wishes to use for free the research contract work for research purposes).

(3) When the research contract, etc. stipulates that the copyright to the research contract work will belong to the University or to a third party, and the research product work was created as the final research output.

2. An employee, etc. registering a job-related work as per the provision of the preceding clause shall make clear all authors of the work, and shall append information concerning the use of third-party copyrighted works in the job-related work if any. The same shall apply to other intellectual property (inventions, trademarks, etc.) relating to the work.

#### Article 11. Determination of Job-Related Work, Decision to Receive Transfer, and Notification

1. When registration is made as per the provisions of the preceding article, the Intellectual Property Office shall determine whether the registered work is a job-related work or not.

2. In case the Intellectual Property Office determines that it is a job-related work, it shall decide whether or not the University should receive transfer of the copyright to the work.

3. The University shall make written notification of the results of the determination and decision in clauses 1 and 2 to the author of the work, in a format prescribed separately.

#### Article 12. Procedure for Transfer of Job-Related Works

1. When the University has decided to accept transfer of the work as per the provisions of the preceding article, the employee, etc. shall transfer to the University the copyright to the job-related work and shall submit to the Intellectual Property Office a transfer of rights form in a format prescribed separately.

2. The employee, etc. shall submit to the Intellectual Property Office a copy of the work subject to the decision in the preceding clause, as requested by the Intellectual Property Office.

3. The employee as author of the job-related work of which the copyright was transferred to the University as per the provisions of the preceding two clauses shall not exercise the moral rights of author with respect to the work.

#### Article 13. Cooperation with Copyright Registration

In case the University intends to register a copyright for a work transferred to the University as per the provisions of the preceding article, the employee, etc. who created the work shall cooperate with the University in the registration process.

#### Article 14. Objection to a Determination or Decision

1. In case the employee, etc. as author objects to the determination or decision made as per the provisions of Article 11, an objection may be filed with the University President within two weeks from receipt of notification.
2. When an objection is filed, the University President shall solicit the views of the Intellectual Property Office and decide whether to accept or reject the objection.

#### Article 15. Payment of Compensation

1. In case the University gains profit from a work for which transfer of copyright was received as per the provisions of Article 12, the University shall pay compensation to the author of that work.
2. In case there are multiple authors eligible to receive the compensation in the preceding clause, the compensation shall be divided among each of the authors according to their contribution.
3. The handling of compensation to authors shall be prescribed separately.
4. When the research contract, etc. stipulates that the copyright to research contract work will belong to the University or to a third party, notwithstanding the provision of the preceding clause 3, whether or not to pay compensation and the handling of thereof shall be as prescribed in that research contract, etc.

#### Article 16. Transfer of Other Works

1. Even when a work is not covered by the provisions of Article 11 on receipt of transfer by the University, if the employee, etc. as author of the work wishes to transfer the copyright to the University, the University shall be able to accept the transfer. In this case the University shall be able to pay compensation to the author in accordance with the provisions of Article 15.
2. The employee as author of the work transferred to the University as per the provisions of the preceding clause shall not exercise the moral rights of author with respect to the work.

#### Article 17. Protection of Rights and Technology Transfer

1. The Intellectual Property Office shall properly protect the copyrights held by the University, and if deemed necessary for promoting their use, shall appropriately conduct technology transfer.
2. The Intellectual Property Office shall be able to take legal proceedings when deemed necessary for protection of rights as per the preceding clause.

### Chapter 3: Miscellaneous Provisions

#### Article 18. Handling of Joint Authorship with Students

1. In case an employee, etc. intends to transfer to the University, as per the provisions of Article 12 and Article 16, a job-related work jointly authored with a student (here and hereinafter to include with multiple students), the student joint author shall also submit to the Intellectual Property Office a transfer of rights form in a format prescribed separately.
2. In case an employee, etc. intends to create a job-related work jointly with a student, or may do so in the future, the employee, etc. may have the student submit in advance to the Intellectual Property Office a separately prescribed consent form indicating consent to the matters listed in

the following items.

- (1) In case the University decides to receive the transfer of the copyright to a job-related work created jointly with the student as per the provisions of Article 12, the student's share of the work shall be transferred to the University without obtaining consent from the student.
- (2) The student shall give consent to the matters prescribed in Article 5 Clause 1 (1) and (2) and in Article 5 Clauses 2 and 3 with regard to the copyrights they hold as co-author.
3. In case an employee, etc. intends to create a research contract work jointly with a student, or may do so in the future, the employee, etc. shall have the student submit in advance to the Intellectual Property Office a separately prescribed consent form indicating agreement to transfer to the University the student's portion of the research contract work.
4. In case a copyright is transferred from a student to the University as per the provisions of the preceding three clauses, the University shall, depending on the type of work for which the copyright is transferred, treat the student as author as per the provisions of Article 15 or Article 16, and shall be able to pay compensation to the student.

#### Article 19. Conclusion of Contracts with Other Institutions, etc.

1. When joint research is conducted with another institution, etc., the University shall be able to share with the other institution the copyrights to research contract works created jointly by employees, etc. and persons affiliated with the other institution, etc.
2. When the University concludes a research contract with another institution, etc., the employees, etc. engaged in the research under that contract shall, prior to conclusion of the research contract, submit to the Intellectual Property Office a separately prescribed research engagement consent form.

#### Article 20. Free Transfer of Job-Related Works and Securing of the University's Rights

1. When employees, etc. intend to transfer to a third party free of charge the copyright to a job-related work to which they hold the copyright, they shall make notification in advance to the Intellectual Property Office in a format prescribed separately.
2. In the case of a research contract work, transfer for free to a third party cannot be made unless it is after the University has decided not to receive the transfer of the copyright as per the provisions of Article 11.
3. When transferring a work for free as per the provision of clause 1, and the University asks that the third-party recipient be made to grant right of free use of the job-related work for research or education purposes to the University (here and hereinafter to include persons affiliated with the University) as per the provision of Article 5 Clause 2, the employee, etc. shall comply by adopting suitable measures to ensure the third party permits right of free use.

#### Article 21. Miscellaneous Provisions

In addition to the matters prescribed in these regulations, necessary matters concerning the handling of works for hire and job-related works shall be prescribed separately.

#### Supplementary Provisions

1. These regulations are effective as of April 1, 2012.
2. Of works created before these regulations took effect, those that would be deemed job-related works under these regulations shall, notwithstanding the provisions of Article 15 of the Copyright Act, be treated as job-related works from the effective date of these regulations. In this case, when the author wishes, notwithstanding the provisions of Article 15 of the Copyright Act, the University shall be able to treat the work as a job-related work and the University shall not hold the copyright.

#### Supplementary Provisions

These regulations are effective as of February 26, 2014 and are applicable from February 1, 2014.