

* The Japanese version is the authoritative version, and this English translation is intended for reference purposes only. Should any discrepancies or doubts arise between the two versions, the Japanese version will prevail.

The University of Tokyo Rules for the Treatment of Works

(September 30, 2004, University of Tokyo Rules No. 236)

CHAPTER 1 PURPOSE

1 Purpose

The purpose of the University of Tokyo Rules for the Treatment of Works (these “**Rules**”) is to provide for the treatment of Works (as defined in Article 2) created by Faculty Members (as defined in Article 2) of the University of Tokyo (the “**University**”), to protect the rights of Authors (as defined in Article 2), to promote the creation and use of Works, and to contribute to the development of academic scholarship.

CHAPTER 2 DEFINITIONS

2 Definitions

In these Rules, the following terms shall have the meanings set out below.

(1) “**Work(s)**” has the meaning provided in the Copyright Law (Law No. 48 of 1970), and includes the items listed below:

- (a) novels, dramas, articles, lectures and other literary works;
- (b) musical works;
- (c) choreographic works and pantomimes;
- (d) paintings, engravings, sculptures and other artistic works;
- (e) architectural works;
- (f) maps as well as figurative works of a scientific nature such as plans, charts and models;
- (g) cinematographic works;
- (h) photographic works;
- (i) computer program works;
- (j) databases that, by reason of the selection or systematic construction of information contained, constitute intellectual creations; and,
- (k) compilations (excluding databases) that, by reason of the selection or arrangement of their contents, constitute intellectual creations.

(2) “**Author(s)**” means a person who creates a Work.

(3) “**Software Work(s)**” means computer program works provided in Article 10.(1) (ix) of the Copyright Law, databases provided in Article 12-2 of the Copyright Law, and any Works that are graphical or pictorial images generated by digital data. Also, for semiconductor integrated circuits, any data that describes the electronic circuit blocks, data that expresses the arrangement patterns of circuit elements, conductors, and the like, and documents that explain the treatment thereof.

(4) “**Moral Right(s)**” means the rights of an Author provided in Articles 18.1, 19.1 and 20.1 of the Copyright Law (including equivalent rights outside Japan) as follows:

- (a) the right to offer and make available to the public a Work that has not yet been made public;
- (b) the right to determine whether or not the Author's true name or pseudonym should be indicated as the Author on the original Work; and
- (c) the right to preserve the integrity of a Work against any distortion, mutilation or other modification against the Author's will.

(5) "**Copyright**" means the rights provided in Articles 21 through 28 of the Copyright Law (including equivalent rights outside Japan) as follows:

- (a) the right to reproduce a Work;
- (b) the right to perform a Work for the purpose of having it seen or heard directly by the public;
- (c) the right to present publicly a Work;
- (d) the right to publicly transmit a Work;
- (e) the right to publicly recite a literary Work;
- (f) the right to publicly exhibit the original of an artistic Work or an unpublished photographic Work;
- (g) the right to distribute copies of a cinematographic Work;
- (h) the right to offer the original or copies of a Work to the public by way of transfer of ownership;
- (i) the right to offer a Work to the public by lending copies thereof;
- (j) the right to translate, arrange musically or transform, or dramatize, cinematize, or otherwise adapt a Work; and,
- (k) the rights of the original Author in relation to the exploitation of a derivative work that derives from an existing Work.

(6) "**Employment Work(s)**" means (i) Works (excluding computer program works but including databases) that are created by Faculty Members in the capacity of their employment and on the initiative of the University, and published under the name of the University, and (ii) computer program works and, for semiconductor integrated circuits, data that describes the electronic circuit blocks and data that expresses the arrangement patterns of circuit elements, conductors and the like, which are created by Faculty Members in the capacity of their employment and on the initiative of the University.

(7) "**Employment-related Work(s)**" means Software Works not defined as Employment Works that are created by Faculty Members through work carried out with public research funds, money or other support from the University, or work carried out using facilities controlled by the University, except for academic papers, personal publications, speeches, and charts and diagrams showing experimental data associated with such publications.

(8) "**Faculty Member(s)**" means any of the following persons:

- (a) officers, full-time faculty members, contract-based faculty members, reemployed faculty members, contract-based part-time staff and contract-based part-time faculty members of the University;
- (b) other personnel who have entered into agreements with the University relating to an Employment-related Work.

(9) "**Other Researcher(s)**" means personnel, other than Faculty Members, who are taken on by the University for the purposes of education, training and researching.

(10) "Faculty" or "Faculties" means University library system, University-wide centers, research institutes established under the University of Tokyo Institutes for Advanced Studies, University Academic Organizations, attached school and attached hospitals provided in Articles 20 through 21-2 and Chapter 4 of The University of Tokyo Rules on Basic Organizations, and offices provided in Articles 13 and Articles 18 The University of Tokyo Rules on Basic Organizations.

CHAPTER 3 OWNERSHIP OF RIGHTS

3 Ownership of Employment Works

3.1 The University shall be the Author of Employment Works created by Faculty Members, and the University shall own the Moral Rights and the Copyright in connection with those Employment Works.

3.2 If there is any doubt with respect to the Employment Work, the Faculty shall make a determination in accordance with Article 11. However, if the Faculty (excluding the Office of Intellectual Property of Division of University Corporate Relations (the "**Office of Intellectual Property**") cannot make the determination, the **Office of Intellectual Property** shall make the determination. An objection under Article 13 may be filed against the determination.

3-2 Administration of Employment Works

The Faculty shall properly control the Employment Work on its own responsibility. If two or more Faculties involve in the creation of the Employment Work, the Faculty which controls the Employment Work shall be determined by discussion.

4 Ownership of Employment-Related Works

4.1 A Faculty Member who creates an Employment-related Work shall be the Author thereof and has the Moral Rights and Copyright thereof.

4.2 If it becomes necessary to supply or license an Employment-related Work to a party other than a Faculty Member or Other Researcher (the "**Third Party**" or "**Third Parties**") for consideration, including supplying it together with the license of the intellectual property rights for inventions, etc, or if it becomes necessary to assign the Copyright in such an Employment-related Work for consideration, the Faculty Member concerned shall notify the University. If the University decides to succeed the Copyright in accordance with Article 12, the Faculty Member concerned shall assign all rights to the Work to the University.

4.3 Even in cases to which Article 4.2 does not apply, Articles 11 to 16 shall apply to Employment-related Works if a Faculty Member wishes to assign Copyright in an Employment-related Work to the University.

4.4 A Faculty Member who is the Author of an Employment-related Work assigned to the University under Article 4.2 or 4.3 above shall not exercise their Moral Rights with respect to that Employment-related Work.

5 Management of Employment-related Works

Faculty Members shall appropriately manage Employment-related Works at their own responsibility.

6 Other Works

6.1 A Faculty Member who creates a Work that is not an Employment Work or an Employment-related Work shall be the Author thereof, and that Faculty Member shall own the Moral Rights and the Copyright of that Work.

6.2 If a Faculty Member wishes to assign Copyright in a Work provided in Article 6.1 to the University, Articles 11 through 16 shall apply to such Work.

6.3 A Faculty Member who is the Author of a Work assigned to the University under Article 6.2 above shall not exercise their Moral Rights with respect to that Work.

6.4 Article 5 shall apply to any Works to which Copyright was assigned to the University under Article 6.2.

6-2 Receipt of Other Works on the Faculty's initiative

6-2 Notwithstanding the provision of Article 6-2, The University may receive the Other Works created by Faculty member on the Faculty's initiative if deemed necessary by the Faculty with agreement of the Faculty member.

6-2-2 Compensation for assignment and other Condition of assignment shall be determined by discussion between the Faculty concerned and the Faculty Member concerned.

6-2-3 The Faculty concerned shall bear the compensation for assignment and other expenses for assignment.

7 Works of Other Researchers

7.1 The University may require, by such means as rules or contracts, that Other Researchers give notification of Software Works to the University.

7.2 If an Other Researcher subject to Article 7.1 creates any of the following Software Works, and if the Other Researcher wishes to handle that Software Work in accordance with Article 4.2, Articles 11 through 16 shall apply correspondingly:

- (a) Software Works created in collaboration with a Faculty Member;
- (b) Software Works involving Other Researcher's research results at the University; and
- (c) Software Works relating to the research of a research laboratory to which they currently belong, or have belonged to in the past.

7.3 Article 7.2 shall apply to Software Works created by Other Researchers subject to Article 7.1 during their period of affiliation.

7.4 If an Other Researcher subject to Article 7.1 wishes to assign to the University Copyright in a Work that does not fall under Article 7.2 or 7.3, Articles 11 through 16 shall apply correspondingly.

7.5 An Other Researcher who is the Author of a Work assigned to the University under this Article 7 shall not exercise their Moral Rights with respect to that Work.

7.6 An Other Researcher shall make efforts to appropriately manage any Works assigned to the University under Article 7 at his or her own responsibility.

8 Works Created by Third Parties

If the University or a Faculty Member commissions the creation of a Work to a Third Party, the University shall take necessary measures to make it available when executing the relevant commission contract.

8-2 Treatment of Rights When Supplying Lectures to Third Parties

8-2.1 The University shall take necessary measures regarding the Copyright of lectures in its curriculum to make them available when it records such lectures for the purpose of supplying them to a Third Party. The same applies when the University transmits the lectures publicly (including making them transmittable in the case of interactive transmission).

8-2.2 A Faculty Member who is the Author of literary Works contained in a lecture, including materials used for the lecture, shall not exercise his or her Copyrights or Moral Right with respect to those Works against use by the University.

9 Treatment After Resignation

These Rules shall govern the treatment of Employment-related Works and other works created during the period of a Faculty Member's employment, even if the Faculty Member concerned has resigned from the University.

CHAPTER 4 HANDLING PROCEDURES

10 Handling by Office of Intellectual Property

The Office of Intellectual Property, The Division of University Corporate Relations (DUCR) shall oversee the handling of Works under these Rules.

11 Identification of Employment-Related Works

11 .1 If it becomes necessary for a Faculty Member to notify the University in accordance with Article 4.2, that Faculty Member shall immediately notify the Faculty to which they belong using a separately prescribed form.

11.2 The same as Article 11.1 shall apply to the cases where a new reason for the notification provided in the provision of Article 4.2 arise for Employment-related Works which Copyright was not assigned to the University in accordance with the provision Article 12-1, or where a reason for the notification provided in the provision of Article 4.2 arise for a new creation added derivative works of the Employment-related Works which Copyright was assigned to the University in accordance with the provision Article 12-1.

11 .3 In addition to identifying all of the Authors of the above Work, if such Work uses other

Works created by a Third Party, the Faculty Member must also attach information relating to such Works to the above notification. The same shall apply to the case where there are other intellectual properties (e.g. inventions and trademarks) relating to the above Works.

11.4 If notice is given under Article 11.1, the Faculty shall determine whether or not the Work is an Employment-related work based on that information, and shall inform the Faculty Member concerned.

11.5 After making the determination under Article 11.3, the Faculty shall refer the Works determined to be Employment-related Works to the Office of Intellectual Property.

11.6 If the Faculty (excluding the Office of Intellectual Property) cannot make the determination provided in Article 4, it shall send the case to the Office of Intellectual Property, noting that it defers the determination of the case to the Office of Intellectual Property.

11.7 Upon receipt of the case under Article 11.6, the Office of Intellectual Property shall inform the Faculty Member concerned that it has received the case, as well as determine whether or not the Work is an Employment-related Works.

11.8 After making the determination provided in Article 11.7, the Office of Intellectual Property shall immediately notify the Faculty and the Faculty Member concerned.

11.9 If the Faculty established the organizations such as an intellectual property office provided in Articles 14.2 of The University of Tokyo Rules for the Treatment of Inventions, the organizations such as an intellectual property office concerned can make the determination provided in Articles 11.4.

12 Determination of Assignment

12.1 The Office of Intellectual Property shall determine whether or not the University will succeed the Copyright in Employment-related Works with respect to which referrals have been made under Article 11.5 or determined as Employment-related Works in accordance with Article 11.7, and shall inform the Faculty Member concerned.

12.2 If the University decides to succeed the Copyright, the Faculty Member shall submit a rights assignment form, in a form to be separately prescribed, to the Office of Intellectual Property.

12.3 Upon a request from the Office of Intellectual Property, Faculty Members shall submit a copy of any Employment-related Work that the University has decided to succeed under Article 12.2.

13 Objections

If a Faculty Member objects to a determination made under Article 11.4, 11.7 or 12.1, the Faculty Member may file an objection within two (2) weeks of the date of receipt of the notice of the determination. Objections shall be handled in accordance with Articles 18 and 19 of The University of Tokyo Rules for the Treatment of Inventions.

14 Compensation for Assignment

14.1 If the University succeeds Copyright under Article 12, it shall pay the Faculty

Member who created the Employment-related Work concerned a separately prescribed amount of compensation.

14 .2 In order to promote the technology transfer of Works of the University, the University may, where considered necessary by the Office of Intellectual Property, acquire Works from parties other than Faculty Members and Other Researchers subject to Article 7.1, or any organizations other than the University, and may pay compensation in accordance with Articles 14.1 and 16.

15 Protection of Rights and Technology Transfer

15 .1 The Office of Intellectual Property shall properly protect Copyrights owned by the University, and may appropriately transfer technology when it considers it necessary in order to promote the usage of Employment-related Works and other works.

15 .2 The technology transfer under Article 15.1 includes the licensing of Works and assignment of Copyright.

15 .3 The Office of Intellectual Property may take legal measures to protect the Copyrights of the Employment-related Works and other works provided in Article 15.1.

15.4 The Office of Intellectual Property may delegate all or a part of the tasks provided in Article 15.1 to a third party, such as a technology licensing organization.

16 Compensation resulting from Profit and Income

16 .1 If the University gains profit or income from a Work which Copyright was assigned to the University (excluding Employment Works), it shall allocate such profit or income in accordance with the treatment prescribed in Articles 24 through 27 of the University of Tokyo Rules for the Treatment of Inventions.

16 .2 The University may allocate 70% (seventy percent) of the profit or income from Employment Works to a Faculty if that Faculty's contribution to the planning or creation of that Employment Work is considered significant.

CHAPTER 5 MISCELLANEOUS PROVISIONS

17 Amendment or Abolition of Rules

Amendment or abolition of these rules shall be conducted through the deliberation of the Research and Education Council.

18 Agreements with Other Organizations

18 .1 If entering into a contract or agreement relating to research with another organization, the University shall explain the content of these Rules to the other organization, and shall make an effort to ensure that the content of that contract or agreement protects the rights of the University and the Faculty Members provided by these Rules.

18 .2 Article 18.1 notwithstanding, if the University enters contracts or agreements with other organizations that have content that conflicts with these Rules, Faculty Members must comply

with the content of such contracts or agreements.

19 Existing Contracts

If an agreement has already been made between the University and Faculty Members, Other Researchers or other third parties as to the treatment of Works by way of a contract entered into prior to these Rules taking effect, the parties concerned shall comply with the terms of that contract.

20 Existing Employment-Related Works

The Author of any Work (excluding Employment Works) created prior to the enforcement of these Rules may determine the treatment of that Work, provided that if that Work is an Employment-related Work and a situation arises that falls under Article 4.2 immediately after the commencement of enforcement of these Rules, or if that Work is subject to substantial change after the commencement of enforcement of these Rules, that Work shall be treated as if it were an Employment-related Work created after the enforcement of these Rules.

SUPPLEMENTARY PROVISIONS

These Rules are effective as of September 30, 2004.

SUPPLEMENTARY PROVISIONS

These Rules are effective as of April 1, 2005.

SUPPLEMENTARY PROVISIONS

These Rules are effective as of January 1, 2006.

SUPPLEMENTARY PROVISIONS

These Rules are effective as of March 22, 2007.

SUPPLEMENTARY PROVISIONS

These Rules are effective as of April 1, 2013.