

UNIVERSITY OF JYVÄSKYLÄ AGREEMENT POLICY FOR RESEARCH AND DEVELOPMENT PROJECTS

(Approved by the University Board on 14 October 2009)

The mission of universities is to promote free research and academic and artistic education, to provide higher education based on research, and to educate students to serve their country and humanity. In carrying out their mission, universities must promote lifelong learning, interact with the surrounding society and promote the impact of their research findings and artistic activities on society.

Research carried out at the University must be related to the University's scope of activity and promote the scientific goals of the University and researchers.

The University of Jyväskylä is committed to following the guidelines for responsible conduct of research provided by the Finnish Advisory Board on Research Ethics. In agreements, the University considers the ethical issues related to the research. In addition, it provides assistance in making research contracts.

The following are matters that need to be considered when making cooperation agreements in the name of the University of Jyväskylä:

1. Parties to the agreement

The contracting party of project agreements is the University of Jyväskylä. The operating units of the University are not independent legal persons. Nevertheless, the units responsible for the realisation of the agreement must always be specified in the contract. Employees of the University cannot conclude agreements in their own name if the work specified in the agreement is carried out using the premises and equipment of the University.

2. Project pricing and monetary transactions

The terms of the agreement and project pricing must correspond to each other. Agreements must also be scaled to cover the time and costs of reporting.

The operating unit realising the project must ensure that sufficient compensation is received for the task. Special attention must be paid to payment schedules, and payments must be made in a front-loaded manner. The handling of value added tax must be taken into account already in the project preparation phase. The monetary transactions under all agreements made in the name of the University must be processed through the University's accounting.

3. Publishing the research results

As a rule, research results are public. Agreements always aim at securing the publication rights of researchers. In those cases for which the non-disclosure of research results is necessary (e.g. due to trade secrets or in order to apply for protection of intellectual property rights), non-disclosure is only temporary and disclosure should take place as soon as possible.

Theses are public. Trade or business secrets are not included in the actual evaluated theses but are instead presented in the background material (letter from the Ministry of Education and Culture to universities and polytechnics on 28 January 2004).

4. Agreements on transfer of rights

The Act on the Right in Inventions Made at Higher Education Institutions (369/2006), effective as of 1 January 2007, is applied to inventions that are protectable with a patent in Finland and created by persons who have a valid employment relationship with a Finnish higher education institution or a research position with the Academy of Finland in a Finnish higher education institution. The Act states that universities can claim the rights to inventions created during research when the preconditions denoted by the Act prevail.

To comply with the Copyright Act (404/1961), copyright belongs to the person who has created the work.

In projects realised with the support of external funding, financiers usually have claims to material resulting from research. A transfer of rights agreement that, to a sufficient extent, transfers intellectual property rights from a researcher to the University must be made for all co-financed projects and fee-based service projects in which the project agreement or the financier requires the transfer of intellectual property rights. In this case, the leader responsible for a project is responsible for ensuring that all participants of the project transfer their rights to the University before the signing of the project agreement or, at the latest, before the work defined in the agreement begins.

Researchers or teachers may, if they so wish, transfer their rights to the University in other circumstances as well. In such cases, a supplementary agreement on the exploitation of rights may be negotiated.

Intellectual property rights transferred to the University may, at times, be commercially exploitable. The protection and/or commercialisation always create expenses, but successful activity may also result in profit which can be shared after reducing costs. If net income is earned for the University, profit is primarily divided as follows:

- 50% of net income is paid to the researchers whose actions have originated the intellectual property rights
- 25% of net income is paid to the departments in question
- 25% of net income is paid to the common assets of the University

In addition, the University of Jyväskylä Regulations Regarding Inventions are observed in invention activity.

5. Rights to research results and intellectual property rights related to research

Rights to research results must be considered on a case-by-case basis, taking into account the nature of the project. To secure the rights of researchers and the University, the result and background materials must be defined and separated from each other in the agreements.

Within co-financed projects, the ownership of the results produced generally belongs to the party who has created, invented or generated the results. The other parties may also be given access rights to the results to the extent that corresponds to their financial and other contributions in the project, as well as the right to negotiate for obtaining rights to the results before others. The funding shares of involved companies or other beneficiaries provide only limited rights to research results because funding shares are targeted at project realisation only.

In commissioned studies, the intellectual property rights of results are usually given to the client. However, the University must always retain permanent and cost-free parallel rights to use the results for research and teaching purposes. In cases where the client obtains the rights to inventions resulting from the research, the agreement must include a negotiated condition regarding the client's obligation to pay separate compensation to the University, unless the transfer of inventions has already been acknowledged in project pricing.

6. Liability for damages

The aim is to exclude the University from liability for damages.

In agreements, special attention must be paid to any conditions related to liability for damages.

It is not allowed to approve any conditions that transfer liability to the University or, without a specific reason, limit liability to the advantage of any other parties to the agreement.

The liability for consequential damages is considered to be part of the client's commercial risk. Therefore, agreements must include a statement limiting liability exclusively to direct damages. Exceptions to this rule include intentional damages or damages due to gross negligence, as well as other liabilities that are based on mandatory legislation and cannot be limited with agreements. In addition to this, the liability should be limited to a predefined sum of money, which usually corresponds to the sum invested in the project by the client.

For breaches of non-disclosure, it is possible to approve liability for indirect damages for justified reasons when having a maximum liability limit in euros (e.g. if the background material is valuable or if the University's interest is emphasised because of the protection of inventions).

7. Conflicts of interests

Before participating in a project, researchers and other staff must determine if conflicts of interest may arise in the project. Significant connections to participating companies are not allowed. When assessing a conflict of interest, the decisive factor is not only who has signed the project agreements. It is also important who actually uses decision-making power in the project. Each person is primarily responsible for not taking part in the handling of a matter if disqualified.

In case of conflict of interests, the person must refrain from decision-making and related influencing in the matter. If the leader responsible for the project is disqualified, another person must be elected to replace him/her. Conflicts of interest should be reckoned with already when applying for project funding.

8. Settlement of disputes

The agreements must provide that disputes are primarily resolved through negotiations. The University prefers that Finnish law is applied and that the district court is the acting judicial body.

Additional materials: Valid guidelines, regulations and agreement templates, such as agreements on transfer of rights, the general agreement terms and conditions for research financed by a client and the University of Jyväskylä Regulations Regarding Inventions are available at

<https://www.jyu.fi/hallinto/tutkimuspalvelut/sopimuspalvelut>