

# Manual of "Good Practices " for the Protection and Development of Property

This manual is complementary to the document "POLICY OF ACTION IN THE FIELD OF INTELLECTUAL PROPERTY" and aims to serve as an action guide for persons who, within the framework of ELISAVA, participate in activities related to Intellectual and Industrial Property rights (hereinafter, "IP Rights"), both in their creation and in their use aspects.

ELISAVA has an Intellectual Property Manager in charge of centralizing all matters related to this area and offering advice to all those who request it, in relation to their creations. In turn, it has external legal advice from lawyers specialized in intellectual property and an Industrial Property Agency.

In the context of this Handbook, when we talk about IPR-protected outcomes (hereinafter referred to as "Results"), we refer, inter alia, to scientific and literary works, musical compositions, plays, choreographies and pantomimes, cinematographic and audiovisual works, sculptures, paintings, drawings, prints, lithographs, graphic comics, photographs and plastic works whether or not applied, projects, plans, models of architectural or engineering works, graphics, maps and designs relating to topography, geography or science, computer programs, databases, web pages and multimedia works, performances by artists, performers, phonographic, audiovisual and editorial productions, patents, utility models and industrial designs.

# Chapter one. Aspects to consider when carrying out an academic work, project, teaching material, etc.

In the realization of any work, project, teaching material, etc., respect for the IP Rights of third parties will be ensured. In works in which we are going to include works or fragments of other people's works, we must consider the following:

- a) For the use of a protected work, the authorization of its author will be necessary. However, there are certain cases in which the lawful use of other people's works is allowed without the consent of the author. These cases are:
- **Quote**. The use of the fragment of a work or an image as a quotation can be carried out whenever it is for analysis, comment or critical judgment and, in any case, the reproduction must be faithful and **the author and the source will be stated**.
  - **Public domain**. It may be that the work is in the public domain. In this case, it can be used freely, although **the name of the author will be expressly reflected**. For a work to enter the public domain, **seventy years** must have elapsed since the death of its author.
  - The teaching staff, and provided that it is **in the exercise of their teaching or scientific research activities and for illustrative and non-commercial purposes**, may also reproduce and show the works of others. This exception does not apply to university textbooks or textbooks.
- b) **Plagiarism**. Plagiarism is considered to exist when the substantial content of an existing work is reproduced, passing it off as its own content. It is important to be careful not to incur possible plagiarism. In the event that ELISAVA detects that plagiarism has occurred, it will take the measures it deems appropriate in application of the principles that govern its policy of action in the field of intellectual property and ELISAVA's Regulations.

- c) The author or inventor of a work shall record his name and ownership of the rights as follows:
- If the work/invention is owned by ELISAVA
    - Work: © **ELISAVA, Barcelona, year.**
    - Invention: ® **patent or utility model number, ELISAVA.**
  - If the work/invention is owned by the student, teacher or PAS:
    - Work: © **author's name, place (e.g. Barcelona), year.**
    - Invention: ® **patent or utility model number and holder.**
  - In the particular case of the teaching materials that teachers elaborate within the framework of their work functions within ELISAVA, they will belong to ELISAVA. Thus, the mention of reservation of rights (©), will appear as follows, accompanied by the name of the author:
    - **Name of the author, ELISAVA, Barcelona, © year.**

## Chapter two. Who owns a work created in ELISAVA?

The people who are part of ELISAVA, whether students, teachers or administrative staff, can be creators of Results and, as such, will be recognized as authors of them.

However, under certain circumstances, ownership of the IP Rights of the Results will correspond to ELISAVA. These situations are as follows:

- a) Works generated within the framework of the ELISAVA – Business relationships in which the student participates by virtue of express agreement, whether or not they have been developed within the activities of an ELISAVA academic program, or in which the teaching staff or administrative staff have participated;
- b) Results generated as a result of student/teacher agreements and ELISAVA, within the framework of activities outside the academic programs, in which the transfer of IP Rights is agreed, and for which prior written agreement will be required.

- c) Results developed by the teacher as a result of his research function in ELISAVA and that belong to the scope of his teaching and research functions. The teacher shall have the right to participate in the profits obtained by the School.
- d) Results generated by the administrative staff, within the framework of their work skills with ELISAVA.

## Chapter Three. Creation of a Result that will be owned by ELISAVA.

The people who are part of the ELISAVA community, whether students, teachers or administrative staff, will communicate to the Intellectual Property Manager any Result that they believe may be subject to IP Rights.

For those Student Results originated within an academic program, the following should be considered:

- a) The teacher in charge of teaching a subject in which work is developed, or the tutor who directs the development of a project, will be the person responsible for keeping a record of the participants, the contributions of each of them and the chronological development of the project.
- b) During the duration of the execution of the projects or academic works, the teacher will ensure confidentiality among his students, in order not to prejudice the possible patentability and / or commercial viability of the Results that can be obtained.
- c) In those projects in which Companies participate, ELISAVA will provide a form (see Annex I), through which the student will undertake to maintain confidentiality about all the information to which he has access about the Company and about the Results that may have been obtained in the development of the same.
- d) Once the work or project is completed, the teacher will transfer the information related to the Result to the Intellectual Property Manager,

who will proceed to register it in the internal databases of ELISAVA, as well as keep a copy of them for archiving and reference. For the evaluation of the students' projects by the teaching staff, ELISAVA may request the delivery of the original copy or prototype created for the student. Once evaluated, the teacher will inform the student in writing of the place and time in which he can pick up his project, warning him that, if he does not do so, ELISAVA will be entitled to destroy it once two (2) months have elapsed since the student was notified.

- e) The creator or inventor will have the right to receive a copy of his Result for inclusion in his portfolio and always for non-commercial purposes, except in those projects with companies in which ELISAVA and the company have expressly agreed otherwise. Likewise, you will have the right to receive the prototype of the Result or unique copy for exhibition or archive.
- f) In the event that ELISAVA is the owner of the IP Rights over a Result, the rights of the author/inventor/designer are included in the ELISAVA document "Policy for action on Intellectual Property".

## Chapter Four. Projects with companies through ELISAVA. Aspects to consider.

Any project proposal with companies that must be carried out within the scope of ELISAVA, must be immediately brought to the attention of the Head of Intellectual Property. It will be this who decides whether or not ELISAVA is obliged to execute it, as well as responsible for all negotiation and contracting, if it is finally decided to carry it out.

When ELISAVA is obliged to carry out projects with companies, the Intellectual Property Manager must carry out prior searches aimed at clarifying that the Results that can be obtained do not constitute an infringement of rights to third parties.

# Chapter five. Use of the internet through ELISAVA networks and computer equipment.

ELISAVA will not tolerate that its computer networks, computers and other computer equipment are misused to infringe IP rights on musical works, films, books or other protected works.

In this sense, ELISAVA will sanction students and staff of the School when it becomes aware that the following behaviors have been carried out:

- a) Creation, storage or making available to third parties of copies of protected material in ELISAVA's systems, equipment or storage media, unless they have obtained express written authorization from the corresponding rights holders.
- b) Post, store or make available to third parties unauthorized copies of protected material through ELISAVA's local network or the Internet, using ELISAVA's Systems, equipment or storage media, unless express written authorization has been obtained from the corresponding rights holders.
- c) Contribution or participation in any infringement of intellectual property rights by using or connecting to a file sharing network, or using a P2P index or server, with ELISAVA's systems or equipment.

The Intellectual Property Officer will observe compliance with these rules. Likewise, any doubt that may be raised to the people who are part of the ELISAVA community, about the use of protected materials contained on the Internet, should be addressed to it.

The only exception to the use of protected material on the Internet is its use by teachers for teaching purposes, always within the limits established by Intellectual Property regulations.

ELISAVA may open a disciplinary process to people who fail to comply with these rules in relation to the use of the Internet through networks and equipment of the School. The sanction for ELISAVA salaried workers will be that contemplated by the current Collective Agreement. For other members of the ELISAVA community, students or teachers, it will be the

one contemplated in the Coexistence Regulations. In any case, ELISAVA may freely decide to temporarily or permanently prohibit the use of ELISAVA computer equipment and networks, and if appropriate, the temporary or permanent connection of your IP address (and/or access point to the network).

## Final note.

Ensuring compliance with the provisions of this Manual and the Intellectual Property Policy will be the responsibility of the Intellectual Property Manager. Any doubt that may arise from the application of this manual, its interpretation or implementation should be addressed to the person responsible.

If it is necessary to make any changes to this Manual, the only body responsible for its approval will be the Management of ELISAVA.



# Annex I. Confidentiality Agreement.

## Confidentiality Agreement

ELISAVA and COMPANY have reached an agreement for the research, development and execution of the Project, work, workshop, etc. (hereinafter, the "Project") consisting of

The Student agrees that all information directly or indirectly related to the Project is secret and confidential in nature. Consequently, and by virtue of the agreement reached between COMPANY and ELISAVA, the STUDENT undertakes to keep absolute confidentiality at all times, and not to publicly disseminate or use for his own benefit or that of third parties, all the information he has or to which he has had access due to his participation in the Project with COMPANY, in particular on the characteristics and results of the works, designs, distinctive signs, inventions or business secrets (hereinafter, the "Results") and any information communicated by COMPANY to the STUDENT or developed within the framework of the research, development and execution of the Project (including, by way of example and without exhaustive spirit, projects, plans, designs, promotions, campaigns, spots, products, know-how, intermediaries, and any other relationships, as well as any information and / or data that COMPANY obtains in writing, electronically, visually or orally, as well as any results, reports, analysis, studies and / or other documents or data prepared by COMPANY, which contain, reflect and / or are based on said information), excluding information that:

- (i) belongs to the public domain or becomes information in the public domain, as it can be obtained from publicly available sources, or that it is information generally known to the public, provided that it has not been the result of any violation by the STUDENT of any of the terms and / or conditions of this agreement;
- (ii) is made available to the STUDENT on a confidential basis from a source other than the COMPANY, unless the STUDENT knows, or should have known, that such information would have been obtained in bad faith by that other source; or that
- (iii) has been acquired or developed independently of the COMPANY, without violating any other obligation foreseen by ELISAVA with COMPANY, and which will have been previously communicated by ELISAVA to the STUDENTS.

Likewise, the STUDENT must respect his duty of confidentiality on all the original elements and ideas that may be generated as a result of the collaboration between COMPANY and ELISAVA for the research, development and execution of the Project, in its final version or not (hereinafter "Confidential Information"), not being able to disclose, communicate or offer said Confidential Information to third natural or legal persons both during the duration of the collaboration between COMPANY and ELISAVA for the research, development and execution of the Project as after it is completed without time limit.

The STUDENT will be allowed to mention his participation in the Project agreed between ELISAVA and COMPANY, once the Results resulting therefrom have been disclosed to the public, and only as an appointment in his portfolio or professional curriculum, unless COMPANY and ELISAVA have expressly agreed otherwise.

The STUDENT undertakes and undertakes to securely guard all Confidential Information, as well as to return it and / or deliver it to COMPANY once the Project is finished, as well as at the request of COMPANY, and the STUDENT must return and / or deliver to COMPANY all Confidential Information, materials and / or documents of COMPANY, and all the Results, information and/or materials developed by the STUDENT during the term of the contract signed between COMPANY and ELISAVA, which are related to the Confidential Information. The STUDENT will not keep copies, extracts, summaries, or any other parts of the materials to be returned.

In the event that the STUDENT fails to comply with any of the commitments and obligations set forth herein, he will be liable for the damages caused by his breach to COMPANY and / or ELISAVA, being obliged to satisfy the penalties that COMPANY or ELISAVA could impose on him by reason of any disclosure, communication, use and / or offer of information with breach of the duty of confidentiality in accordance with the provisions of this document.

The obligations contained hereunder will survive for an additional period of five (5) years after the end of the contractual relationship between COMPANY and ELISAVA for the research, development and execution of the Project.

In Barcelona, at

**Signature: Signature:**

**(The student) (The company)**

# Annex II. Authorization for the reproduction of works

Authorization for the publication of the student's works in media owned by Elisava

**Student Name:**

**N.I.F. :**

1. By means of this document, the STUDENT authorizes ELISAVA to use the work / design / distinctive sign / invention (hereinafter, the Results) described below for reproduction and, where appropriate, public communication in the means indicated below:

Mark with an "X" the use to which the Work will be destined:

- ☐ In the institutional repository of ELISAVA
- ☐ On the ELISAVA website.
- ☐ In periodicals owned by ELISAVA.
- ☐ In specific publications (including those intended for promotional or advertising purposes of ELISAVA)

2. ELISAVA undertakes to make express reference to the mention of the name and surname of the STUDENT for each reproduction of the Works, accompanied by the international mention of intellectual property reservation.

3. This authorization is valid only for its reproduction and public communication in the boxes of the media that the STUDENT has marked, without exclusivity and with the commitment of ELISAVA not to use the reproduction of the Work for a reedition or for another publication without the express written authorization of the STUDENT.

4. The authorization is made free of charge, so that no amount will be accrued by ELISAVA in favor of the STUDENT in consideration for the use of the Results for the purposes indicated in this document.

5. Description of the Work:

**Signature:**

**(The student)**

# Annex III. Assignment of rights by the student

## Transfer of intellectual property rights of the student to Elisava

**Student Name:**

**N.I.F. :**

1. By means of this document, the STUDENT declares to know the policy on Intellectual Property of ELISAVA, contained in the Action Policy on this matter and that has been provided to the STUDENT by ELISAVA.
2. The STUDENT accepts this Policy and, consequently, and hereby, assigns to ELISAVA the Intellectual Property rights that may correspond to him on the works, designs, inventions and distinctive signs (hereinafter, "Works") that may be generated as a result of projects, works, etc. in the following cases:
  - 2.1. Works generated within the framework of the ELISAVA - Company relationships in which the student participates, whether or not they have been developed within the activities of an ELISAVA academic program.
  - 2.2. Works generated from projects or initiatives sponsored by ELISAVA, either autonomously or with public, private funds or with sponsorships of third parties within the framework of the activities developed within the academic programs of ELISAVA.
  - 2.3. Works generated from STUDENT-ELISAVA Agreements, according to which the student can receive help from ELISAVA such as use of materials or facilities, assistance for determination of patentability or registration of an invention or design and for its eventual application and concession, license to use the trademark "ELISAVA", etc.
3. ELISAVA reserves the ownership of the intellectual property rights over any derivations of the pieces created as a result of the projects and agreements described in point 2 of this document.
4. This Assignment of Intellectual Property Rights includes: (i) all Industrial Property Rights (such as patents, utility models, distinctive signs and designs) and (ii) all Copyrights of a patrimonial nature, without limitation, for their use in the widest possible way, on any means or support and for their exploitation in any modality whatsoever.
5. This assignment of rights also grants ELISAVA the right to register the Works, including their separable elements, such as trademark, patent, design or any type of intellectual or industrial property registration in the name of ELISAVA. The STUDENT undertakes not to request such registration in his own name or in that of any third party, and if he has done so, to transfer it to ELISAVA at first request, at no charge to it.
6. The assignment is made exclusively, in the broadest possible legal way, and covers the entire legal life of the intellectual property rights, whether author, design, distinctive sign, or patents or utility models, which correspond to ELISAVA, and which may be exercised by ELISAVA worldwide, without prejudice to the moral rights recognized to the creator (the STUDENT) by the applicable Spanish and international regulations.

7. ELISAVA may assign to third parties the rights assigned by virtue of this document, both in terms of copyright and industrial property rights, without prejudice to the rights that may correspond to the STUDENT over them.
8. ELISAVA is entitled to renounce the ownership of the Intellectual Property Rights that have been assigned by the STUDENT on the Work, in which case it will have a period of up to two (2) years from when the STUDENT communicated the Work to ELISAVA. The waiver must be communicated to the STUDENT in writing, so that they can be subrogated in the rights and acquire ownership.
9. In the event that ELISAVA has registered the Work of the STUDENT, and within two (2) years from the application for registration, no contract for the exploitation of the Work has been signed with any third party, ELISAVA may stop bearing the expenses derived from the protection. However, in this case, ELISAVA will previously inform the STUDENT of its intention not to continue to bear the costs of the protection, and offering to subrogate the rights, without such subrogation being able to derive costs for the STUDENT for the previous protection.
10. The STUDENT may not exercise the rights assigned to ELISAVA, either by himself or through third parties, without prejudice to his participation in the benefits of the exploitation of the WORKS as creator thereof.

In Barcelona, at

**Signature:**

**(The student)**