

Ministry of Knowledge Economy Public Notification No. 2008 - 238

「The Comprehensive Regulations on Collection, Use and Management of Royalties」 are hereby revised and proclaimed as follows pursuant to Article 15-(4) of 「The Enforcement Decree of the Industrial Technology Innovation Promotion Act」

January 1, 2009

Minister of Knowledge Economy

Comprehensive Regulations on Collection, Use and Management of Royalties

Chapter 1 General Provisions

Article 1 (Purpose) The purpose of this Regulations is to define detailed matters necessary for collection, exemption, use and management, etc. of royalties pursuant to Article 15-(4) of the Enforcement Decree of the Industrial Technology Innovation Promotion Act.

Article 2 (Applicable Scope) This Regulations shall apply to Knowledge Economy Technology Innovation Programs (hereinafter called “Technology Innovation Programs”) falling under each of the following subparagraphs among Technology Innovation Programs under Article 3 of the Common Operational Regulations for the Knowledge Economy Technology Innovation Programs(hereinafter called “Common Regulations”):

1. Industrial technology development programs under 「The Industrial Technology Innovation Promotion Act」 ;
2. Civil/Military Dual use technology development programs under 「The Act on the Promotion of Civil/Military Dual Use Technology Development Program」 ;
3. Regional industry promotion programs, provincial technology innovation programs, etc. under 「The Special Act on Balanced National Development」 ;

4. Regional strategic industry promotion programs under 「The Special Act on Balanced National Development」, 「The Industrial Development Act」, 「The Industrial Cluster Development and Factory Establishment Act」 and the Act;
5. Programs to enhance the competitiveness of industrial clusters under 「The Industrial Cluster Development and Factory Establishment Act」;
6. IT research and development programs under 「The Framework Act on Informatization Promotion」 and 「The Framework Act on Telecommunications」;
7. Parts & materials technology development programs under 「The Act on Special Measures to Foster Parts·Materials-Specialized Enterprises, etc.」;
8. Energy and resources recycling technology development & diffusion programs and clean technology development & expansion programs under 「The Act on the Promotion of the Conversion into Environmental Friendly Industrial Structure」 and 「The Framework Act on Energy」;
9. Technology transfer & commercialization promotion programs, etc. under 「The Act on the Transfer of Technology and Promotion of Commercialization」;
10. Aircraft parts technology development programs under 「The Aerospace Industry Development Promotion Act」;
11. Industrial design development programs under 「Industrial Design Promotion Act」;
12. Electric power industry-related research and development programs under 「The Electricity Business Act」;
13. Energy technology development programs under 「The Framework Act on Energy」;
14. Research and development programs regarding radioactive wastes under 「The Act on the Radioactive Wastes Control」;
15. New and renewable energy technology development programs under 「The Act on the Promotion of the Development, Use and Expansion of New and Renewable Energy」;
16. Programs to foster special research and development zones under 「The Special Act on the Fostering of Daedeok Special Research and Development Zone, etc.」; and
17. Other programs that the Minister deems as necessary for promotion of technology innovation in industry, energy and resources, IT areas.

Article 3 (Definitions) Terms used herein shall be deemed to be defined as follows:

1. “Government Contributions” refers to funds that are disbursed to a lead organization from the government budgets or funds for the purpose of achieving the objective of a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof.
2. “Practicing” refers to act of using (including production using the deliverables), assigning (including technology transfer), leasing or exporting the deliverables of a project.

3. "Royalties" refers to an amount that a licensee shall pay to the government (including the DO) or the owner of the deliverables of a Program in return for the Practice right to the deliverables of a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof (hereinafter called "License").
4. "Lead Organization (LO)" refers to an organization carries out a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof as a leading executor.
5. "Participating Company" refers to a company that participates in a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof and bears a part of the budget in cash and in-kind for such Program for the purpose of becoming a licensee or utilizing the deliverables thereof.
6. "Participating Organization" refers to an organization that participates in a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof to jointly carry out said Program with a Lead Organization.
7. "Licensee Company" refers to a company that had acquired the Practice right to the deliverables of a Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof.
8. "Royalty-Collecting Program" refers to programs in which part or all of required costs/budgets thereof is provided using Royalties. Royalty-Collecting Programs are classified into programs in which revenues thereof are to be re-invested in Technology Innovation Programs under each of the subparagraphs provided in Article 2 hereof (hereinafter called "Reinvestment Program") or technology innovation encouragement & promotion programs.
9. "Evaluation Committee" refers to an evaluation and deliberation body that is comprised of experts in related areas and operated for the purpose of evaluation and deliberation of Royalty-Collecting Project.
10. "Royalty Collecting Project Executor" refers to an organization or group or company that performs a Royalty-Collecting Project as a leading executor.
11. "Dedicated Organization (DO)" refers to an organization under each of the subparagraphs of Article 14 of the Enforcement Decree of Industrial Technology Innovation Promotion Act and the Minister of Knowledge Economy (hereinafter called "Minister") has appointed to have it carry out such tasks as collection and management of Royalties.
12. "Chief Dedicated Organization" refers to Korea Institute of Industrial Technology (ITEP) provided in Article 11-(3) of the Industrial Technology Innovation Promotion Act.
13. "Phase-based Agreement" refers to an agreement that is concluded at each phase by dividing up the total project period in a unit of one year or two years or longer.
14. "Investigation" refers to onsite inspection, corporate credit rating inquiry or property inquiry, inquiry of revenues generated from practicing the deliverables of a project (hereinafter called "Revenue Inquiry") that the head of the DO conducts to check the

management status of a company and if the developed technology had been commercialized.

Article 4 (Applicable Regulations) ① Matters regarding Royalty-Collecting Projects not defined herein shall be subject to the Common Regulations and its supplementary regulations and the Guideline for Evaluation of International Collaborative Research and Development Programs.

② Any Royalty-Collecting Program that had been evaluated in accordance with the Common Regulations and its supplementary regulations and the Implementation Plan for each Program may not be subject to Articles 18 through 27 hereof.

Article 5 (Royalty Collecting Method) ① The Minister shall choose a royalty collecting method between fixed rate royalty under Section 1 of Chapter 2 hereof and running-based royalty under Section 2 of Chapter 2 hereof and specify and announce it in the implementation plan of each program; provided, however, that if the LO is a non-profit organization or in the event of each of the following subparagraphs, running-based royalty shall be given priority when choosing a royalty collecting method:

1. Among the Programs under Subparagraph 1 of Article 2 hereof, industrial sophistication technology development programs and international industrial technology cooperation programs;
2. Among the Programs under Subparagraph 8 of Article 2 hereof, resources recycling & industrial energy technology development and diffusion programs; and
3. Among the Programs under Subparagraph 9 of Article 2 hereof, technology transfer & commercialization promotion programs

② Notwithstanding the foregoing Paragraph ①, in case where the LO of the Programs under each subparagraph of the foregoing Paragraph ① is a Licensee Company, either the fixed rate royalty under Section 1 of Chapter 2 hereof or the running-based royalty under Section 2 of Chapter 2 hereof may be selected at a time of conclusion of an agreement.

③ As for a Technology Innovation Program for which disclosure for public utilization is deemed necessary for the purpose of promoting the utilization of deliverables such as deliverables of basic research, etc., royalty thereon may not be collected pursuant to Article 2 of the implementation plan of each Technology Innovation Program.

Article 6 (Royalty Collecting Instruments) Royalties shall be collected in cash and in the case of payment in installments, payment guarantee thereof shall be one of the following subparagraphs:

1. bank's promissory note
2. Performance Bond (regarding payment obligation)
3. Notarized promissory note
4. Payment guarantee issued by a bank; or
5. Other guarantee instruments deemed appropriate by the Minister.

Chapter 2 Royalty Collection

Section 1 Fixed Rate Royalty

Article 7 (Collection and Payment of Royalties) ① As for a Royalty-Collecting Project which is classified as early completion or success ("outstanding" or "satisfactory") in annual, phase or final evaluation of the DO, the head of the DO shall have the LO collect royalties provided in the agreement from a Licensee Company.

- ② The head of the LO shall enter into a License Agreement with a representative of a Licensee Company within 30 days from the day it is notified of the evaluation result that it is selected as a Royalty-Collecting Project pursuant to the foregoing Paragraph ① and collect royalties from Licensee Companies and pay them to the head of the DO; provided, however, that in case where the LO is a Licensee Company, it shall submit a Royalty Payment Plan in due form to the head of the DO and pay royalties.
- ③ Apart from Royalties under Paragraph ① of Article 8 hereof, the LO or the DO may conclude an agreement on separate royalties arising from performance of the corresponding project in consultation with the Licensee Company.

Article 8 (Royalty Rate) ① Royalty rates under Paragraph ① of Article 7 hereof is 40/100 of the Government Contributions; provided, however, that if the LO is an SME, 50/100 may be deducted.

- ② As for companies other than SMEs with less than 1000 regular employees and less than KRW 500 billion in aggregate assets(refers to aggregate assets specified in the Balance Sheet as of the closing day of the preceding business year), 25/100 may be deducted; provided, however, that the same shall not apply to any company falling under an enterprise group subject to the limitations on

total investment amount as provided in Article 14-(1) of 「Monopoly Regulation and Fair Trade Act」 .

- ③ The head of the DO may deduct 50/100 of Royalties to be borne by a Participating Company that is an SME.
- ④ Notwithstanding the foregoing Paragraph ①, in case where a Phase-Based Agreement is concluded under the Implementation Plan for each Technology Innovation Program set forth in Article 2 hereof, the Minister may apply royalty rates varying from phase to phase.

Article 9 (Royalty Collection Period) Royalties shall be evenly collected in a unit of one year out of 5 years or shorter period starting from the day the head of the LO enters into a Licensee Agreement with a representative of a Licensee Company, in principle.

Article 10 (Deduction of Royalties) ① In case where the head of the LO pays royalties in a lump sum or earlier than due date, the head of the DO may deduct royalty rates as set forth in each of the following subparagraphs:

1. In case where the head of the LO pays the full amount of royalties in cash in a lump sum within 30 days from notification of the final evaluation(settlement) result from the head of the DO, 40/100 of the full amount of royalties may be deducted.
2. In case where the head of the LO pays the full amount of royalties in cash in a lump sum earlier than the due date of Year 1 Royalty collection, 30/100 of the full amount of royalties may be deducted.
3. In case where the head of the LO pays the full amount of royalties in cash in a lump sum earlier than the due date of Year 2 Royalty collection, 20/100 of the full amount of royalties may be deducted; provided, however, that the any amount of Year 1 royalties paid after the scheduled collection date of Year 1 royalties shall be outside the deductible scope.
4. In case where the head of the LO pays the full amount of royalties in cash in a lump sum earlier than the due date of Year 3 royalty collection, 10/100 of the full amount of royalties may be deducted; provided, however, that any amount of Year 1 and/or Year 2 royalties paid after the scheduled collection date of Year 1 and Year 2 Royalties, respectively, shall be outside the deductible scope.

② In case where there is any special provision in the implementation plan of each Technology Innovation Program under each of the subparagraphs provided in Article 2 hereof, the head of the DO may deduct part of Royalties receivable with respect to a project classified as “Outstanding” among those classified as early completion.

Article 11 (Extension of Royalty Collection Due Date & Exemption) ① In case where there is any delay in commercializing the deliverables of a project due to supplementation for such deliverables or insufficient environments such as absence of applicable law and regulations or where it is hard or impossible to pay Royalties as scheduled due to significantly deteriorating business conditions, or where there is need to extend the collection period, etc., the head of the LO or representative of a Licensee Company thereof may call for the DO to extend the collection period. In such case, the head of the DO may extend the collection period through an investigation thereof or deliberation by the Technical Committee pursuant to Article 29 hereof.

Section 2 Running-Based Royalties

Article 12 (Collection of Royalties) ① The head of the DO or the head of an LO shall enter into a License Agreement with a party that desires to practice the deliverables of the corresponding project pursuant to the terms and conditions of the agreement on project (provided, however, that if the LO is a Licensee Company, a Licensee Agreement may be substituted with an agreement on project) and collect Royalties.

② In case where the head of the DO or the head of the LO enters into a License Agreement pursuant to the foregoing Paragraph ①, he/she shall determine royalty amount and rate and due date, etc. through consultations with a License Company within the scope of each of the following subparagraphs:

1. The due date of royalty payment shall be no later than 10 years from conclusion of the License Agreement; provided, however, that if the LO is a Licensee Company, the due date of royalty payment shall be no later than 7 years from closing of the total project period specified in the agreement on project.
2. The basic commencement charges shall be within 10% of the Government Contributions, etc. except for direct costs, and in case where a company participating in a project is a Licensee Company, they may be deducted.
3. A Royalty rate shall be determined within 5% of the sales revenues of a Licensee Company generated from utilization of deliverables;
4. In case where the Licensee Company is SME, 50/100 of the conditions specified in the foregoing Subparagraph 2 and 3, respectively, may be deducted, and the basic commencement charges under the foregoing Subparagraph 2 may be paid in installments.
5. As for companies other than SMEs with less than 1000 regular employees and less than KRW 500 billion in aggregate assets (refers to aggregate assets specified in the Balance Sheet as of the closing day of the preceding business year), 50/100 of the royalty conditions specified in the foregoing Subparagraphs 2 and 3 may be deducted; provided, however, that

the same shall not apply to an enterprise group subject to the limitations on total investment amount as provided in Article 14-(1) of 「Monopoly Regulation and Fair Trade Act」 .

- ③ Notwithstanding the foregoing Paragraph ②, in case where a Phase-Based Agreement is concluded under the implementation plan for each Technology Innovation Program set forth in Article 2 hereof, the Minister may apply royalty rates varying from phase to phase.
- ④ In case where there is such reason as bankruptcy, business closure and default of the Licensee Company or any reasons corresponding to Appendix 1 hereof, the head of the DO or the LO may exempt part or all of the royalties receivable; provided, however, that the DO shall seek the due process of deliberation by the Technical Committee under Article 29 hereof.

Article 13 (Report of Licensee Agreement & Payment of Royalty) ①In case where the head of the LO enters into a License Agreement under Article 12 hereof, it shall report to the head of the DO on the License Agreement within 30 days from the conclusion of the Licensee Agreement using the due forms set forth in each of the following Items; provided, however, that if the LO is a Licensee Company, it shall pay royalties with evidentiary documents set forth in each Item below of Subparagraph 2 by the due date of each year provided in the agreement;

- 1. Required documents at a time of report on License Agreement
 - a. Notification Form of a Technology Transfer Agreement
 - b. Copy of a Technology Transfer Agreement
 - c. Copy of a Agreement on Project
- 2. Evidentiary documents of revenues
 - a. Financial Statements of the preceding year
 - b. G/L by revenue of the preceding year
 - c. Lists of products/goods/service, etc. and their specifications
 - d. Statement of sales revenues regarding royalties
 - e. A report on reasons for generation of no revenues
 - f. Other documents that evidence generation of other revenues

② The head of the DO may conduct onsite inspection or Revenue Inquiry to examine evidentiary documents regarding revenues set forth in the foregoing Paragraph ①, and the head of the LO shall faithfully respond to a request for submission of related documents or cooperation in relation to onsite inspection.

Chapter 3 Use of Royalty

Article 14 (Scope of Royalty Use) ① The Minister may use royalties paid to the DO under Paragraph ② of Article 7 and Article 13 hereof for Reinvestment Programs or R&D Encouragement & Promotion Programs or incorporate them into the principal of public funds related to technology development for utilization.

② Technology Development Encouragement and Promotion Programs under the forgoing Paragraph ① shall include programs set forth in each of the following subparagraphs:

1. Preliminary study or Planning in advance and follow-up evaluation of Technology Innovation Programs in each of the subparagraphs of Article 2 hereof;
2. Programs for rewarding those who has contributed to technology transfer and commercialization;
3. Programs for promotion of technology transfer and deliverable diffusions
4. Programs for establishment of industrial technology-related infrastructures including research facilities * equipments

Article 15 (Use of Royalty Paid by Non-Profit Lead Organization) ① The Minister shall use 50/100 or more of royalties collected by the head of a non-profit Lead Organization to pay bonus for researchers participating in the corresponding project, 5/100 or more thereof to pay bonus for persons who had contributed to technology transfer and commercialization.

② The head of a non-profit lead organization shall use Royalties except for the amount used under the foregoing Paragraph ① for the purposes set forth in each of the following subparagraphs:

1. Reinvestment in R&D: 50/100 or more of the royalties
2. Organization operating expenses
3. Costs of utilizing & managing the deliverables of research and development, such as application filing and management of intellectual property rights

③ In case where the head of an LO had used the Royalties in accordance with the foregoing Paragraphs ① through ②, he/she shall submit a report on the use of such royalties of the preceding year to the head of the DO within two months from the commencement of the corresponding fiscal year.

④ In case where the head of an LO had not used the Royalties in accordance with the foregoing Paragraphs ① through ②, the head of the DO may call for corrective measures, and in response the head of the LO shall faithfully perform such corrective measures.

⑤ The head of an LO shall retain documents and books that evidence the use of the Royalties in accordance with the in-house policy regarding document preservation of the corresponding

organization, and the head of the DO shall faithfully respond to the head of the DO's request for submission and public perusal thereof.

- ⑥ Notwithstanding the foregoing Paragraphs ① through ⑤, in case where the LO is a non-profit organization residing in a foreign country, it may determine matters regarding the use of the Royalties separately under the implementation plan of each Technology Innovation Program under Article 2 hereof.

Article 16 (Formulation of Royalty Use Plan) ① The Minister may establish a royalty use plan once or more per year.

- ② With respect to establishment of a royalty use plan under the foregoing Paragraph ①, the Minister may conduct a needs investigation or listen to the opinions of related experts.

Article 17 (Consultation and Determination of Royalty Use Plan) ① The Minister shall consult with the Minister of Strategy and Finance on the royalty use plan established pursuant to Article 16 hereof. The same shall apply to cases where the Minister intends to change important matters regarding the royalty use plan such as the main contents of a Royalty-Collecting Project, royalties, etc.

- ② In case where the Minister had finished consultation on the royalty use plan pursuant to the foregoing Paragraph ①, he/she shall incorporate the result thereof into the royalty use plan and finalize it and then notify it to the head of the Chief Dedicated Organization.

Article 18 (Submission and Deliberation of Proposal) ① A Royalty-Collecting Project Executor shall prepare a proposal for the Royalty-Collecting Project in due forms determined by the head of the Chief Dedicated Organization (hereinafter called "Proposal").

- ② The head of the DO shall have the proposals submitted under the foregoing Paragraph ① deliberated by the Evaluation Committee.

- ③ With respect to deliberation of proposals under the foregoing Paragraph ②, the Evaluation Committee shall take each of the following subparagraphs into full consideration, and in case where it is deemed necessary for efficient pursuit of Royalty-Collecting Projects, details of proposals may be changed or adjusted:

1. appropriateness of the goal/objective of a proposed project;

2. reasonableness of the details of a proposed project;
3. appropriateness of the operating structure of a proposed project; and
4. other matters necessary for deliberation

④ In case where the head of the DO had finished deliberation of the proposals by the Evaluation Committee under the foregoing Paragraph ②, he/she shall notify the deliberation result thereof to the Royalty-Collecting Project Executor and the head of the Chief Dedicated Organization.

Article 19 (Conclusion of Agreement) ① A Royalty-Collecting Project Executor shall prepare and submit two copies of an agreement document in due form determined by the Chief Dedicated Organization to the Minister within 30 days from the notification of deliberation results under Paragraph ④ of Article 18 hereof.

② In case where the Minister had received agreement documents under the foregoing Paragraph ①, it shall enter into an agreement on performance of a Royalty-Collecting Project with Royalty-Collecting Project Executors (hereinafter called “Agreement”); provided, however, that a Royalty-Collecting Project Executor is a national & public research institution, government-invested research institution or university or college, the Minister may enter into an Agreement with the head of an affiliate organization thereof that had assumed all rights and responsibilities in connection with performance of the corresponding Royalty-Collecting Project.

Article 20 (Amendment to Agreement) ① The Minister may amend the Agreement if requested by the Royalty-Collecting Project Executor or if necessary.

② In case where the Minister deems necessary deliberation with expertise with respect to an amendment to the Agreement under the foregoing Paragraph ①, he/she may have it deliberated at the Evaluation Committee.

Article 21 (Termination of Agreement) ① The Minister may terminate the Agreement in the event of each of the following cases:

1. where the Royalty-Collecting Project Executor intends to withdraw from the corresponding Royalty-Collecting Project;
2. where it is deemed hard to continue the Royalty-Collecting Project due to a material breach of the provisions of the Agreement by the Royalty-Collecting Project Executor;

3. where a Royalty-Collecting Project is in a stalemate so that it is deemed hard or virtually impossible to achieve the desired effect of the Royalty-Collecting Project or a Royalty-Collecting Project Executor is deemed incapable of completing said project;
4. where it is impossible to continue a Royalty-Collecting Project due to a grave reason on the part of the Royalty-Collecting Project Executor; or
5. where it is deemed unnecessary to continue a Royalty-Collecting Project due to a change in industrial technology policies, etc.

② In case where the Minister deems necessary deliberation with expertise with respect to termination of the Agreement under the foregoing Paragraph ①, he/she may have it deliberated at the Evaluation Committee.

Article 22 (Payment of Royalty) ① In case where an Agreement is concluded pursuant to Paragraph ② of Article 19 hereof, the Minister shall disburse the Royalties to the Royalty-Collecting Project Executors.

② Notwithstanding the Agreement, the Minister may disburse the Royalties either in a lump sum or installments or change the disbursement schedule depending on the audit and inspection of the Royalties.

Article 23 (Management & Use of Collected Royalty) ① A Royalty-Collecting Project Executor shall open a separate checking account to manage the Royalties received under Paragraph ① of Article 22 hereof separately from funds for other purposes; provided, however, that the Royalty-Collecting Project Executor is a non-profit organization such as national & public research institution, government-invested research institution, university or college and it performs and manages two or more Technology Innovation Programs under Article 2 hereof or Royalty-Collecting Projects simultaneously, it may integrate and manage them into one account.

② A Royalty-Collecting Project Executor shall use the Royalties as determined in the Agreement, and use them only in case where a disbursement-causing act had been performed within the total project period.

Article 24 (Performance Report) ① A Royalty-Collecting Project Executor may prepare and submit a report on the performance of the Royalty-Collecting Project (hereinafter called "Performance Report") in a due form determined by the head of the Chief Dedicated Organization within 60 days from the closing date of the total project period to the head of the DO.

② In case where the head of the DO deems it necessary to verify the performance of a Royalty-Collecting Project, he/she may conduct onsite inspection.

Article 25 (Evaluation of Performance Report) ① In case where the head of the DO received a Performance Report under Paragraph ① of Article 24 hereof, he/she shall have it evaluated at the Evaluation Committee (hereinafter called “Performance Evaluation”).

② With respect to the Performance Evaluation under the foregoing Paragraph ①, the Evaluation Committee shall take each of the following subparagraphs into full consideration:

1. degree of the goal achievement
2. appropriateness of implementation of the plan
3. level of performance
4. other matters deemed necessary for the Performance Evaluation

③ With respect to the Performance Evaluation under the foregoing Paragraph ①, the Evaluation Committee shall classify the Performance Report into three grades including “Outstanding”, “Satisfactory” or “Insufficient”.

④ In case where the head of the DO had finished the Performance Evaluation under the foregoing Paragraph ①, he/she shall notify the result thereof to the Royalty-Collecting Project executor and the head of the Chief Dedicated Organization.

Article 26 (Utilization of Performance Evaluation Result) The Minister may reflect the result of the Performance Evaluation provided in Article 25 hereof in establishment of a royalty use plan.

Article 27 (Report on Use of Collected Royalty and Settlement) ① A Royalty-Collecting Project Executor shall prepare a Budget Disbursement Report in a due form determined by the head of the Chief Dedicated Organization within 60 days from the closing date of the total project period and submit it to a subcontracted settlement agency appointed by the head of the DO, and any required costs thereof shall be borne by said Royalty-Collecting Project Executor.

② A subcontracted settlement agency as provided in the foregoing Paragraph ② shall conduct the cost settlement of the project budget within 2 months from receipt of a Budget Disbursement Report of the corresponding year and notify the result thereof to the head of the DO.

- ③ In case where the head of the DO had received the Budget Disbursement Report under the foregoing Paragraph ②, it shall settle the project costs, and in case where there is any balance of the Royalties, it shall recover such balance from the Royalty-Collecting Project Executors and pay to the head of the Chief Dedicated Organization.
- ④ The head of the DO shall report the settlement result of the Royalty-Collecting Project on a quarterly basis to the head of the Chief Dedicated Organization, which in turn shall report thereon to the Minister, and the due date and method, etc. of such report shall be determined separately by the head of the Chief Dedicated Organization.
- ⑤ A Royalty-Collecting Project Executor shall retain documents and books that evidence the use of the disbursed Royalties in accordance with the in-house policy regarding document preservation of the corresponding organization, and it shall faithfully respond to the head of the Chief Dedicated Organization or the head of the DO's request for submission and public perusal thereof.

Chapter 4 Sanctions & Restitution

Article 28 (Punitive Measures) In case where there is negligence of the obligation to pay Royalties, the head of the DO may have such case deliberated at the Technical Committee pursuant to Article 29 hereof and then take punitive measures including a restriction on participation in Technology Innovation Programs under each subparagraphs in Article 2 hereof, restitution of outstanding royalties, etc. against the head of the LO, Principal Investigator, a Participating Company and its representative, a Licensee Organization and its representative thereof in accordance with the criteria presented in Appendix 1 hereof.

Article 29 (Composition & Operation of Technical Committee) ① In case where any dispute occurs over royalty collection and the parties thereto calls for mediation, the Minister may respond to such call for mediation.

② The head of the DO may organize and operate the Technical Committee for extension of the royalty collection period and exemption of the Royalties under Articles 11 and 12 hereof, punitive measures under Article 28 hereof and deliberation & mediation of disputes under the foregoing Paragraph ①.

③ The Technical Committee shall be comprised of a designated officer of the Ministry of Knowledge Economy as an ex-officio member, and civilian experts in related fields as an appointed

officer, and particulars concerning composition and operation thereof shall be determined by the DO.

Chapter 5 Management of Royalty

Article 30 (Accounting Rule for Royalty) With respect to accounting for collection, use and management of Royalties, the head of the Chief Dedicated Organization and the head of the DO shall manage it separately.

Article 31 (Management of Royalty) The head of the DO shall submit a report on the current status of royalty collection in a due form determined by the head of the Chief Dedicated Organization on a quarterly basis to the head of the Chief Dedicated Organization, and deposit all cash out of the collected royalties to a bank account separately managed by the head of the Chief Dedicated Organization.

Article 32 (Setup and Operation of IT System) ① The head of the Chief Dedicated Organization shall set up and operate the IT system for efficient implementation of tasks concerning collection, use and management of Royalties.

② If deemed necessary for setup and operation of the IT system, the head of Chief Dedicated Organization may call for the head of the DO to submit related documents, and conduct investigation into the DO, the LO and Licensee Company, etc.

Article 33 (Report on the Current Status of Royalty Management) The head of the Chief Dedicated Organization shall report the current status of collection, use and management of Royalties to the Minister on a quarterly basis.

Supplementary Provisions

Article 34 (Enactment and Operation of Separate Regulations) The head of the Chief Dedicated Organization and the head of the DO may introduce and operate separate regulations after obtaining approval thereof from the Minister to efficiently perform tasks determined hereunder.

Article 35 (ICT Promotion Fund Contributor) In case where an ICT Promotion Fund Contributor intends to utilize the deliverables of ICT R&D Programs under Subparagraph 6 of Article 2 hereof for the purpose of serving self-interest or where it is deemed necessary for development of the ICT industry, the Minister may have the head of the DO or the head of the LO deduct or exempt royalty rates.

Article 36 (Use of Royalty Paid by Non-Profit Lead Organization) Collection of Royalties from a non-profit Participating Organization that had become the owner of the deliverables shall be subject to Articles 12 through 13 hereof, and use of Royalties shall be subject to Article 15 hereof.

Article 37 (Support for expenses of task performance) The Minister may provide financial support to the Chief Dedicated Organization or the DO to cover expenses incurred from performance of tasks regarding collection, use and management of Royalties.

Addendum

Article 1 (Effective Date) This Regulations shall enter into force from the day of public notification hereof; provided, however, that in case where the LO is an university or college, industrial college, junior college, technical college under Article 2 of 「The Higher Education Act」, exemption of Royalty payment to the DO under Paragraph ① of Article 15 hereof shall retroactively apply to the date of promulgation of a revised 「The Regulations on Management, etc. of Government Research and Development Programs」 (May 27, 2008).

Article 2 (Interim Measures) ① Matters handled prior to the Effective Date hereof pursuant to related regulations and guidelines, the regulations of the Chief Dedicated Organization and the DO approved by the Minister shall be deemed to have been handled in accordance with this Regulations.

- ② Matter pertaining to collection, use and management of Royalties in the Guideline for Evaluation and the implementation plan of projects under the Common Operational Regulations provided in Article 2 hereof shall be revised to meet the standards and procedures set forth hereunder within 30 days from the Effective Date hereof; provided, however, that the same may not apply to programs jointly performed with related central administrative agencies.

- ③ Among programs that commenced prior to enforcement of this Regulations, as for a project under Year-based Agreement, royalty rates determined under the initial agreement shall apply through the final year thereof.

<Appendix 1> The Criteria for Punitive Measures: Non-Payment of Royalties & Non-Submission of Royalty Payment Plan

□ Fixed Rate Royalties

Classification	Applicable case	Reason		Royalty	Restriction in participation	
					Period	Subject
Class 1	Non-payment of royalties	<ul style="list-style-type: none"> ◦ In the event of a delay in commercialization <ul style="list-style-type: none"> - supplementation of the project result, insufficient environment such as absence of applicable law and regulations, etc. ◦ Significantly deteriorating business condition <ul style="list-style-type: none"> -The corporate credit rating is low or inferior in the credit valuation 		Extension	-	-
	Non-payment of royalties / non-submission of Royalty Payment Plan	<ul style="list-style-type: none"> ◦ In the event of bankruptcy, business cessation or insolvency or any equivalent reason: <ul style="list-style-type: none"> - where there is no revenue generated in the preceding year or business site is closed or destroyed - where there is no benefit to gain due to such reasons as insolvency due to legal actions, and loss incurred after auction 		Exemption	1 yr.	
Class 2	Non-payment of royalties	◦ If the organization (corporation) concerned is currently in operation	① where its credit rating is low or inferior and it is determined in property investigation that there is no benefit to gain.	If the same result is found in credit rating re-inquiry after a 2-year grace period, royalties may be exempted.	2 yrs.	Accountable organization and its representative
			② where its credit rating is middle/average and it is determined in property investigation that there is a benefit to gain.			
	② where a Royalty Payment Plan is not submitted without a justifiable reason					
	Non-submission of Royalty Payment Plan					

□ **Running-Based Royalties**

Classification	Applicable case	Reason	Royalty	Restriction in participation	
				Period	Subject
Class 1	Non-payment of royalties	<ul style="list-style-type: none"> ◦ In the event of bankruptcy, business cessation or insolvency or any equivalent reason - where there is no revenue generated in the preceding year or business site is closed or destroyed 	Exemption	1 yr.	Accountable organization and its representative
Class 2	Failure to report revenue generation	◦ If the organization (corporation) concerned is currently in operation	Restitution	2 yrs.	
	Non-payment of royalties				
	False report on revenue				

※ The Minister may determine separate corporate credit rating guidelines for each program set forth in each subparagraphs of Article 2 hereof, if necessary.

※ As for Class 2, it shall apply to only cases not falling under the reasons for Class 1, in principle.

※ In case where it is impossible to conduct corporate credit valuation, such case may be handled in reference to property inquiry result and information of the corporate overview.

※ With respect to 「Fixed Rate Royalty」, restitution of royalties of a project on which the Agreement is concluded prior to the date of notification shall only apply to cases where the lead organization is a for-profit organization.

※ Class 2 of the criteria for 「Running-Based Royalty」 shall only apply to cases where the lead organization is a for-profit organization.

<Appendix 2> The Detailed Procedures & Criteria for Fixed Rate Royalty Collection (in connection with Article 7 hereof)

Classification	Where the lead organization (LO) is a for-profit organization	Where the lead organization (LO) is a non-profit organization						
<p>Collection procedures</p>	<p>① The DO shall notify the amount of fixed rate royalties to be collected and the date of collection thereof to the LO (projects classified as Early Completion or Success)</p> <p>② The LO shall submit “Royalty Payment Plan” that specifies the amount of royalties to be collected and the date of payment thereof to the DO within 30 days from the date the finally determined amount to be collected is notified and the following documents shall be attached thereto:</p> <p>(a) where the royalties are paid in a lump sum from the day the finally determined amount to be collected is notified:</p> <ul style="list-style-type: none"> - attach a Bank Receipt that specifies the amount of the paid royalties thereto * (1) Bank payment guarantee, (2) Payment Obligation Performance Bond, (3) Notarized Promissory Note, (4) Bank’s promissory note in favor of a third party endorsed by representative of a licensee company - With respect to the maturity date of a promissory note issued by the bank, the royalties shall be divided by equal amount and collected in a unit of one year within 5 years from the 30th day from the day the finally-determined royalty amount is notified. <table border="1" data-bbox="357 1099 863 1630"> <thead> <tr> <th data-bbox="357 1099 520 1211">Day of final determination</th> <th data-bbox="520 1099 716 1211">Date of conclusion of license agreement</th> <th data-bbox="716 1099 863 1211">Descriptions of Promissory note</th> </tr> </thead> <tbody> <tr> <td data-bbox="357 1211 520 1630">Jan.1, 2008</td> <td data-bbox="520 1211 716 1630">Jan. 31, 2008 (within 30 days from the day of final determination)</td> <td data-bbox="716 1211 863 1630"> <ul style="list-style-type: none"> ◦ matured as of Jan. 31, 2009 ◦ matured as of Jan. 31, 2010 ◦ matured as of Jan. 31, 2011 ◦ matured as of Jan. 31, 2012 ◦ matured as of Jan. 31, 2013 </td> </tr> </tbody> </table>	Day of final determination	Date of conclusion of license agreement	Descriptions of Promissory note	Jan.1, 2008	Jan. 31, 2008 (within 30 days from the day of final determination)	<ul style="list-style-type: none"> ◦ matured as of Jan. 31, 2009 ◦ matured as of Jan. 31, 2010 ◦ matured as of Jan. 31, 2011 ◦ matured as of Jan. 31, 2012 ◦ matured as of Jan. 31, 2013 	<p>① The DO shall notify the amount of fixed rate royalties to be collected and the date of collection thereof to the LO (projects classified as Early Completion or Success)</p> <p>② The head of the LO shall enter into a License Agreement (Agreement on Royalty) with representative of the licensee company within 30 days from the day the finally-determined amount to be collected is notified</p> <ul style="list-style-type: none"> - Provided, however, that if a participating organization does not conclude a license agreement within 30 days from the day the finally-determined amount to be collected is notified or it delays paying fixed rate royalties for 6 months or longer, the LO may conclude a license agreement with other organization after obtaining approval thereof from the DO or replace a licensee company. <p>③ The representative of the licensee company shall submit “Royalty Payment Plan” that specifies the amount of royalties to be collected and the date of payment thereof to the head of the LO.</p> <ul style="list-style-type: none"> - ④ The head of the LO shall compile “Royalty Payment Plans” submitted by licensee companies and submit it to the DO within 30 days from the day the finally-determined amount to be collected is notified - * As for documents to be attached to a Royalty Payment Plan and the due date of royalty payment, etc. after submission of the Royalty Payment Plan, the same criteria as those seen in the left column shall apply. - * The aforementioned procedures shall apply to cases where an agreement on project is concluded before 2008 among projects in which the LO thereof is a non-profit organization under Paragraph ① of Article 5 hereof.
Day of final determination	Date of conclusion of license agreement	Descriptions of Promissory note						
Jan.1, 2008	Jan. 31, 2008 (within 30 days from the day of final determination)	<ul style="list-style-type: none"> ◦ matured as of Jan. 31, 2009 ◦ matured as of Jan. 31, 2010 ◦ matured as of Jan. 31, 2011 ◦ matured as of Jan. 31, 2012 ◦ matured as of Jan. 31, 2013 						
<p>Criteria for exceptional application</p>	<ul style="list-style-type: none"> ◦ In case where there are two or more participating companies in a project and some of them are incapable of paying royalties due to bankruptcy, business closure, court receivership, or other event equivalent thereto before concluding an agreement on royalty collection, the percentage to be borne by such participating company (in cash + in-kind) may be exempted, and in case where said event occurs after conclusion of the agreement on royalty collection, the percentage stipulated in said agreement shall apply. ◦ As for projects performed without participation by companies, the portion of the royalties corresponding to the Government Contributions provided during the term of the agreement may be exempted. 							