

**BUTLER UNIVERSITY**

**INTELLECTUAL PROPERTY MANUAL**

**Butler University**  
**Intellectual Property Manual**

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**Section A**

**Proposed Internal Procedures  
For Managing  
Intellectual Property**

BUTLER UNIVERSITY  
PROPOSED INTERNAL PROCEDURES FOR MANAGING INTELLECTUAL PROPERTY

To establish the rights of Butler University (the "University") and the University's faculty, staff, and students, the University has developed the following documents:

- Policy Statements: This document contains additions to be made to the existing Butler University Faculty Handbook, Butler University Staff Handbook, and Butler University Student Handbook. These additions specifically reference the Intellectual Property Policy.
- Intellectual Property Policy: This is a separate policy of the University that applies to faculty, staff, and students of the University. This Policy sets forth the respective rights and obligations with regard to intellectual property generated by any or all of those persons.
- Acknowledgment of Intellectual Property Policy for Full-Time Faculty: This is a short agreement signed by full-time faculty in which the full-time faculty member agrees to abide by the Intellectual Property Policy.
- Intellectual Property Rights Agreement for Staff and Part-Time Faculty: This agreement establishes the intellectual property rights of the University with respect to intellectual property created by staff, including faculty other than full-time faculty. This agreement also contains provisions to protect the University's proprietary information and to prohibit the solicitation of employees of the University.
- Intellectual Property Rights Agreement for Students: This agreement establishes the intellectual property rights of the University with respect to intellectual property created by students. This agreement also contains provisions to protect the University's proprietary information and to prohibit the student from soliciting employees of the University. Not all students are required to sign this agreement. Students who are to embark on a project with faculty or staff of the university that may result in creation of intellectual property in which the University has an interest (ownership or license interest) are required to sign this agreement. If the student is under age 18, this agreement must also be signed by the parent or guardian of the student.

To implement the Intellectual Property Policy, the following procedures will be used by the University.

- The Policy Statements are to be incorporated into the Butler University Faculty Handbook, Butler University Staff Handbook, and Butler University Student Handbook, and approved and formally made a part thereof in accordance with University Policies for modification of the Faculty Handbook, Staff Handbook, and Student Handbook, respectively. During this process, if any subset of faculty or staff is represented by a union, the University will seek approval of the Intellectual Property Policy and appropriate Policy Statement from such union.

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- The University will seek approval, if required, from any union of the Intellectual Property Rights Agreement for Staff and/or the Acknowledgement of Intellectual Property Policy for Full-Time Faculty.
- The University will require all current faculty and staff to sign either the Acknowledgement of Intellectual Property Policy for Full-Time Faculty or the Intellectual Property Rights Agreement for Staff and Part-Time Faculty.
- The University will require all students currently engaged in a project at the University to sign the Intellectual Property Rights Agreement for Students.
- The University will develop procedures for all new faculty and staff to sign either the Acknowledgement of Intellectual Property Policy for Full-Time Faculty or the Intellectual Property Rights Agreement for Staff and Part-Time Faculty, as appropriate.
- The University will develop procedures for all faculty to seek signature of the Intellectual Property Rights Agreement for Students from any student engaged in a project with that faculty member that might give rise to intellectual property covered by the Intellectual Property Policy.

In addition, training of faculty and staff is recommended. Such training may involve the University's counsel. In addition, the University should consider development of procedures and forms for managing Copyrightable Works and inventions covered by the Intellectual Property Policy. Some very preliminary procedures follow.

#### Intellectual Property Committee

The Intellectual Property Committee shall be composed of the following five (5) individuals:

1. Provost of the University
2. Vice President of Finance
3. Director of The Institute for Research and Scholarship
4. A First Faculty Member Appointed by the Council of Deans
5. A Second Faculty Member Appointed by the Council of Deans

The First and Second Faculty Members shall be appointed for a two (2) year term. A faculty member may serve consecutive terms.

Each member of the Committee shall be entitled to one (1) vote for decisions made by the Committee. A quorum shall constitute at least three (3) members with at least two of those members being either the Provost, Vice President of Finance, or Director of The Institute for Research and Scholarship. A majority decision shall be the decision of the Committee. In the event a conflict of interest, other factor, or absence or unavailability of a member results in a tie vote, the deciding vote shall be the vote of the Provost, or, in the absence of the Provost, the vote of the Vice President of Finance. Each member of the Committee agrees to use good faith efforts in performing his/her duties as a Committee member.

Unless a specific individual is identified in the Intellectual Property Policy, or other procedure/decision makers are identified in this procedures document, all decisions related to the Intellectual Property Policy will be made by the Intellectual Property Committee.

#### Submission and Evaluation of a Disclosure

Pursuant to the Intellectual Property Policy, all faculty, staff, and students of the University are under an obligation to inform the University of Inventions, Software, and Copyrightable Works covered by the Policy. The following procedure applies for submission of information regarding an Invention, Software, or Copyrightable Work and evaluation thereof:

1. The Creator(s) are to contribute and complete an Invention Disclosure (for Inventions), Software Disclosure (for Software), or a Copyrightable Work Disclosure (for a Copyrightable Works – all Copyrightable Works created by staff, and Copyrightable Works with "substantial use" as applicable to copyrightable works if the Creator(s) are faculty and/or students). The Creator(s) should sign the applicable Disclosure and send the same to the Director of The Institute for Research and Scholarship.
2. The Director of The Institute for Research and Scholarship will check the Disclosure for completeness. If the Disclosure is incomplete, the Director will return the Disclosure to the first named Creator for completion. If the Disclosure is complete, the Director will forward the Disclosure to the Intellectual Property Committee, or, for Copyrightable Works only, to the Vice President of Finance.
3. For Inventions and Software, the Intellectual Property Committee will consider the Disclosure during its normal course of business. The Committee will decide whether the Invention or Software of the Disclosure is worthy of formal legal protection, as well as the course of action to be taken with regard to commercialization, sale, or license of the Invention or Software.
4. For Inventions and Software, the Committee will direct the Director of The Institute for Research and Scholarship as to the Committee's decisions regarding the Invention or Software of the Disclosure.
5. For Copyrightable Works, if any of the Creator(s) are faculty or students, the Vice President of Finance and the Creator(s) will negotiate the terms of the license to the Copyrightable Work (consistent with the Intellectual Property Policy) and the royalties to be due the University.
5. The Director of University Research and the Creator(s) will cooperate to take any or all action directed by the Committee, or, for Copyrightable Works, the Vice President of Finance.

#### Waiver of University Rights

The Provost of the University and the Vice President of Finance are the only signatories that may grant a waiver of any or all of the University's right, title, and interest in and to an Invention, Software, or Copyrightable Work. The following procedure is used with regard to such a waiver:

1. All Creators of an Invention, all Creators of Software, and all Creators of a Copyrightable Work, as applicable, must submit a Waiver Request with a completed Invention Disclosure, Software Disclosure, or Copyrightable Work Disclosure, as applicable, to the Director of The Institute for Research and Scholarship.

2. The Director of The Institute for Research and Scholarship shall review the Waiver Request and Disclosure for completeness. If incomplete, the Waiver Request and Disclosure shall be returned to the first named Creator. If complete, the Waiver Request and Disclosure shall be forwarded to the Intellectual Property Committee.
3. For Inventions and Software, the Intellectual Property Committee, in conducting business in the normal course of the Committee, shall review the Waiver Request and Disclosure. The Committee's review and decision is not limited to the contents of the Waiver Request and Disclosure. Such review may entail, for example, discussions with the Creator(s) and/or research into the viability or commercialization of the invention or Copyrightable Work. The Committee may perform whatever inquiries or investigation it deems appropriate. The Intellectual Property Committee shall then draft a brief statement of its recommendation using the Waiver Recommendation Form, and then forward the Waiver Recommendation Form to the Provost, or, in the absence of the Provost, the Vice President of Finance. The activities of the Committee set forth in his paragraph shall be performed by the Vice President of Finance for Copyrightable Works.
4. The Provost or Vice President of Finance shall indicate the decision of the Committee on the Waiver Recommendation Form.
5. If the Provost or Vice President of Finance indicates approval of the Waiver Request on the Waiver Recommendation Form, the Director of The Institute for Research and Scholarship shall prepare or have prepared an appropriate University Waiver of Rights Agreement. Such Agreement must be signed by the Provost or Vice President of Finance and by all Creator(s) to be valid.

#### Interface with University Intellectual Property Counsel

The Office of The Institute for Research and Scholarship shall be primarily responsible for communication with the University's intellectual property counsel. Generally, the Office of The Institute for Research and Scholarship direct or coordinate communications between such counsel and any Creator of an Invention, Software, or Copyrightable Work.

#### Maintenance of These Procedures

These procedures and the Intellectual Property Policy shall be maintained by:

Dr. Robert (Bob) Holm  
Director of The Institute for Research and Scholarship  
Phone: 940-9766  
Facsimile: 940-8266  
E-Mail: rholm@butler.edu.

**Section B**

**Intellectual Property Policy Statements**

BUTLER UNIVERSITY  
INTELLECTUAL PROPERTY POLICY STATEMENTS

Faculty Policies (For the Butler University Faculty Handbook)

The University generally owns and/or has license rights to all copyright, trademark, service mark, patent, trade secret, and know-how rights created or developed by the faculty, other University employees, and students of the University where the Creator(s) have made "substantial use" of University resources. "Substantial use" has the meaning set forth in the University's Intellectual Property Policy. Generally, however, the University does not claim ownership to courseware, scholarly and artistic works, manuscripts for academic journals, and student academic creations. Where the University does have ownership, in the event of any proceeds from rights created, in whole or in part, by faculty, the University provides University full-time faculty, part-time faculty, staff, and, in some instances, the full-time faculty's College, with a portion of such proceeds.

The rights and obligations of faculty and the University with regard to intellectual property rights are set forth in the University's Intellectual Property Policy. By a faculty member's employment at the University, the faculty member agrees to the terms and conditions of the Intellectual Property Policy, as may be amended from time to time by the University.

Staff Policies (For the Butler University Staff Handbook)

The University generally owns and/or has license rights to all copyright, trademark, service mark, patent, trade secret, and know-how rights created or developed by the faculty, staff, and students of the University. Each staff member and each part-time faculty member is required to sign the University's Intellectual Property Rights Agreement prior to employment or upon request by the University. In addition, each employee agrees to abide by the University's Intellectual Property Policy, as may be amended from time to time by the University, and also agrees to cooperate with the University as set forth in the Intellectual Property Policy. In accordance with the Intellectual Property Policy, the University may share with a staff member proceeds resulting from intellectual property created, in whole or in part, by a staff member.

Student Policies (For the Butler University Student Handbook)

The University generally owns and/or has license rights to all copyright, trademark, service mark, patent, trade secret, and know-how rights created or developed by the faculty, staff, and students of the University. The University does not, however, generally claim ownership to academic work created by students. The University maintains an Intellectual Property Policy. By enrollment in the University, each student (and parent or guardian of such student if the student is under age 18) expressly agrees to the Intellectual Property Policy, as may be amended from time to time by the University, agrees to sign an Intellectual Property Rights Agreement when requested by the University, and also agrees to cooperate with the University as set forth in the Intellectual Property Policy.

**Section C**

**Intellectual Property Policy**

# Butler University

## Intellectual Property Policy

### Outline

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### A. Purpose

The purpose of this policy is to establish general guidelines for the determination of ownership of patent, trademark, and copyright rights created or developed by employees (both faculty and staff) of Butler University (the "University") within the scope of their employment and created or developed by students of the University while engaged in certain activities with the University. As used in this policy, the term "employees" means both faculty and staff, including both permanent and temporary faculty and staff and adjunct instructors. The term "faculty" includes both full-time faculty and part-time faculty. The term "staff" means employees of the University, including part-time faculty. The term "Creator" refers to any inventor, developer, author, or creator of intellectual property covered by this policy. A Creator may be faculty, staff, and other persons employed by the University, whether full-time or part-time; visiting faculty and researchers; and any other persons, including students, who create or discover applicable intellectual property covered by this policy.

This policy has as its primary purpose the protection of Creators' rights in their creative efforts and the recognition of their ownership interests except when the University has established its superior interest in ownership according to the following guidelines. As explained in greater detail, the ownership of the various rights is dependent upon the specific type of intellectual property. Since the University has a fiduciary responsibility for the appropriate use of University funds, unless otherwise provided for under this policy, all intellectual property rights associated with copyrightable works and patentable inventions that make "substantial use" of University resources belong to the University. For Inventions and Software, as such terms are defined herein, "substantial use" means that the Creator: (1) made use of University facilities, equipment, funds, or other resources (including the use of student resources); (2) received funds from the University in the form of salary, wages, stipend, or other support, but not including financial aid; (3) was involved in a research or development activity undertaken in connection with an externally funded product; or (4) performed under the duties and responsibilities for which the Creator is compensated by the University. With regard to item (1), the following do not constitute "substantial use": (a) normal use of an office, personal computer, and/or secretarial services provided by the University; (b) use of library services, unless the library was required to incur extraordinary expense; and (c) payment for sabbatical. However, all Inventions and Software created by staff within the scope of employment or relating to their job responsibilities or assignments, are considered to involve "substantial use" by virtue of the staff's salary and other compensation and benefits paid to the staff by the University.

For works that are copyrightable, "substantial use" means that the Copyrightable Work was: (1) funded as a part of an externally sponsored research program under an agreement which allocates rights to the University; (2) produced as a result of an assignment, direction, or specific funding by the University; (3) developed by a staff member of the University; or (4) developed with extraordinary or substantially more use of University resources than would normally be provided for the Creator's employment duties, such as when a disproportionate amount of staff time, networks, equipment, or direct funding is used by the Creator in the development of the Copyrightable Work. For students that work with one or more employees (faculty and/or staff) of the University, with or without compensation by the University or an external source, if the work of the employee(s) is(are) considered "substantial use", then the work performed by the student shall be considered as involving "substantial use" of University resources under this policy.

## **1. Courseware**

The University shall have limited ownership or control rights for courseware as specified below:

a. Self-initiated courseware. When faculty develop courseware without specific direction by the University, unless otherwise agreed, the ownership of the courseware shall remain with the Creators. Normally, no royalty, rent or other consideration shall be paid to the Creator when that courseware is used for instruction at the University and such courseware shall not be used or modified without the consent of the Creator(s). The courseware shall not be sold, leased, rented or otherwise used in a manner that competes in a substantial way with the for-credit offering of the University unless that transaction has received the prior written approval of the Provost or Vice President of Finance. Should approval be granted to offer the course outside of the University, the Creator shall reimburse the University for substantial use of University resources from revenues derived from the transaction offering the course.

b. University-directed courseware. When the University specifically directs the creation of courseware by assigning one or more employees or students to develop the courseware and supplies them with materials and time to develop the courseware, the resulting courseware belongs to the University and the University shall have the right to revise it and decide who will utilize the courseware in instruction. The University may, at its discretion, specifically agree to share revenues and control rights with the employee.

c. Reporting the development of courseware. Colleges shall develop procedures for reporting the development of courseware to the appropriate dean of the college.

## **2. Scholarly and Artistic Works**

Notwithstanding the "work-for-hire" principle, the ownership of textbooks, scholarly monographs, trade publications, maps, charts, articles in popular magazines and newspapers, novels, nonfiction works, supporting materials, artistic works, and like works created by faculty shall reside with the Creator(s) and any revenue derived from their work shall belong to the Creator(s) unless such work was created with "substantial use" as applicable to copyrightable works. Except for textbooks published by an entity other than the University, the University shall have royalty-free use of the work within the University, unless otherwise agreed in writing between the Creator(s) and the University.

## **3. Manuscripts for Academic Journals**

a. Notwithstanding the "work-for-hire" principle, the ownership of manuscripts for publication in academic journals created by faculty shall reside with the Creator(s) and any revenue derived from their works shall belong to the Creator(s) unless such manuscript was created with "substantial use" as applicable to copyrightable works.

b. If the manuscript is to be published, the Creator(s) shall request the right, from the publisher, to provide the University with a royalty-free right to use the manuscript within the University in its teaching, research, and service programs, but not for external distribution, and, if successful, the Creator(s) shall grant such right to the University. The refusal of any publisher to agree to this requirement shall be reported to the University prior to execution of an agreement with the publisher.

c. Upon the establishment of national governmental or nonprofit entities whose purpose is to maintain in an electronically accessible manner a publicly available copy of academic manuscripts, the University will review each entity and upon determination that providing the manuscripts will not jeopardize the publication of articles or infringe on academic freedom, require the Creator(s) to provide to the appropriate entity a limited license for the use of each manuscript.

## **4. Software**

a. Except for software produced for use as self-initiated courseware, all software created by any employee with "substantial use" as applicable to Inventions and Software (the "Software") shall belong to the University, and the Creator(s) shall assign all right, title, and interest in and to such Software to the University. Software shall be subject to the Software Rights Policy set forth herein, and software produced for use as courseware shall be considered courseware under the terms of this policy.

## **5. Student Academic Creations**

If a student's Inventions, Software, and Copyrightable Works involved "substantial use" of the University resources in a research setting (whether or not for credit, such as in the instance of working with faculty for independent study on a research project for which the faculty member made substantial use of University resources), such Inventions, Software, and Copyrightable Works are subject to this policy and, unless otherwise excluded, are owned by the University. Otherwise, the ownership of other student works and the intellectual property rights submitted in fulfillment of academic requirements ("academic creations") shall be with the Creator(s). The student, by enrolling in the University gives the University a nonexclusive royalty-free license to mark on, modify, retain the academic creations as may be required by the process of instruction, to otherwise handle the work as set out in the University's Intellectual Property Policy, and to otherwise use the work as stated in the course syllabus. The

University shall not have the right to use an academic creation in any other manner without the written consent of the Creator(s).

## **6. Copyrightable Works**

The rights to all copyrightable works other than self-initiated courseware, scholarly and artistic works, manuscripts for artist journals, Software, and student academic creations ("Copyrightable Works") shall be determined pursuant to the University's Copyrightable Works Policy set forth herein. According to the Copyrightable Works Policy, examples of Copyrightable Works created by faculty and/or student to which the University may have rights include: software written for customer relationship management; a skit written at the request of the University for a University celebration; software created for use in musical composition; a video produced to promote the University; and a painting commissioned by the University for display on University property. Examples of Copyrightable Works created by faculty and/or students that may belong to the author(s) of the work include: a painting, a skit, or a musical composition written without the request of the University; a video produced for a class assignment; and a novel.

## **7. Inventions**

The rights to all inventions, ideas, discoveries, and improvements, whether or not patentable, conceived by an employee or student of the University with "substantial use" as applicable to Inventions, alone or in combination with others (the "Inventions") belong to the University under the University's Patent Policy set forth herein.

## **8. Externally Funded Developments**

In the event any coursework, scholarly and artist works, manuscripts for academic journals, Software, Copyrightable Works, or Inventions are funded by an external source, the intellectual property rights in such works shall be governed by the terms of the agreement between the University and the external source, or, in the absence of such agreement, shall be governed by this policy.

## **B. Patent, Software, and Copyrightable Works Rights Policies**

### **1. Patent Rights Policy**

All patent rights on Inventions resulting from substantial use of University resources shall be owned by the University. The following regulations shall be followed with respect to Inventions:

a. Any Creator who conceives an Invention resulting from substantial use of University resources shall report the matter to their appropriate dean, who will, in turn, recommend whether or not to forward the matter to the Provost for consideration of protection and/or commercialization of the same.

b. If the University decides according to the University's procedures that an Invention does not warrant patenting, the inventor is free to patent it. In the event the University decides to take no action with regard to an Invention, the University does not relinquish its right to publish any of the data obtained in the applicable research project.

c. Unless otherwise agreed between the Creator(s) and the University, or unless otherwise specified in a contract with an external funding source relative to the patent rights in an Invention, revenues shall be divided between the employee (recall that "employee" encompasses both faculty and staff) Creator(s) and the University

after direct costs (e.g., cash expenditures, legal costs, etc.), excluding overhead, have been deducted according to the following schedule:

| Cumulative Net Income to University | Percentage to University | Percentage to Employee Creator(s) As Individuals | Percentage to College(s) of Faculty Creator(s) |
|-------------------------------------|--------------------------|--|--|
| Up to \$99,999                      | 50%                      | 50%  | 0%   |
| \$100,000 to \$299,999              | 45%                      | 40%  | 15%  |
| \$300,000 to \$999,999              | 40%                      | 30%  | 30%  |
| \$1,000,000 and above               | 35%                      | 25%  | 40%  |

The employee Creator(s) may, at his/her(their) discretion decide whether to share a portion of their respective revenues with any student Creator(s). If there are no faculty Creators, the percentage designated above for the College of faculty Creators will be evenly divided between the University and the staff Creator(s).

To assist in understanding this above table, consider the following examples:

Example 1: Invention Created by a Faculty Member and a Staff Member:

| Cumulative Net Income to University | Percentage to University | Percentage to Faculty Creator | Percentage to Staff Creator | Percentage to College of Faculty Creator |
|-------------------------------------|--------------------------|-------------------------------|-----------------------------|--|
| Up to \$99,999                      | 50%                      | 25%                           | 25%                         | 0%                                       |
| \$100,000 to \$299,999              | 45%                      | 20%                           | 20%                         | 15%                                      |
| \$300,000 to \$999,999              | 40%                      | 15%                           | 15%                         | 30%                                      |
| \$1,000,000 and above               | 35%                      | 12.5%                         | 12.5%                       | 40%                                      |

Example 2: Invention Created by a Faculty Member and a Student, where the Faculty Member agrees to share some of the Faculty Member's proceeds with the Student (such sharing must be set forth in a written agreement presented to the University):

| Cumulative Net Income to University | Percentage to University | Percentage to Faculty Creator | Percentage to Student Creator | Percentage to College of Faculty Creator |
|-------------------------------------|--------------------------|-------------------------------|-------------------------------|--|
| Up to \$99,999                      | 50%                      | 50%                           | 0%                            | 0%                                       |
| \$100,000 to \$299,999              | 45%                      | 39%                           | 1%                            | 15%                                      |
| \$300,000 to \$999,999              | 40%                      | 28.5%                         | 1.5%                          | 30%                                      |
| \$1,000,000 and above               | 35%                      | 23%                           | 2%                            | 40%                                      |

Example 3: Invention Created by two Faculty Members in Two Different Colleges:

| Cumulative Net Income to University | Percentage to University | Percentage to Faculty Creator A | Percentage to Faculty Creator B | Percentage to College of Faculty Creator A | Percentage to College of Faculty Creator B |
|-------------------------------------|--------------------------|---------------------------------|---------------------------------|--|--|
| Up to \$99,999                      | 50%                      | 25%                             | 25%                             | 0%   | 0%   |
| \$100,000 to \$299,999              | 45%                      | 20%                             | 20%                             | 7.5%                                       | 7.5%                                       |
| \$300,000 to \$999,999              | 40%                      | 15%                             | 15%                             | 15%  | 15%  |
| \$1,000,000 and above               | 35%                      | 12.5%                           | 12.5%                           | 20%  | 20%  |

Example 4: Invention Created by a Staff Member:

| Cumulative Net Income to University | Percentage to University | Percentage to Staff Creator |
|-------------------------------------|--------------------------|-----------------------------|
| Up to \$99,999                      | 50%                      | 50%                         |
| \$100,000 to \$299,999              | 52.5%                    | 47.5%                       |
| \$300,000 to \$999,999              | 55%                      | 45%                         |
| \$1,000,000 and above               | 55%                      | 45%                         |

**2. Software Rights Policy**

For Software produced by one or more Creators, the Creator(s) shall follow the same policy applicable to Inventions. The University may opt to pursue patent protection and/or copyright registration for any Software, or may waive its rights to do so in the same manner set forth for Inventions. Any revenue generated from Software shall also be shared according to the same methodology as set forth for Inventions.

**3. Copyrightable Works Rights Policy**

Notwithstanding anything to the contrary in this policy, all Copyrightable Works, whether or not created with "substantial use", created by staff of the University shall belong to the University. For Copyrightable Works created by faculty and/or students, ownership shall remain with the Creator(s). However, for Copyrightable Works created by faculty and/or students involving "substantial use" as applicable to copyrightable works:

- a. The Creator(s) shall retain ownership of the Copyrightable Work.
- b. The Creator(s) shall report the matter to their appropriate dean who will ensure that the Creator(s) provide(s) a Copyrightable Work Disclosure to the Vice President of Finance.
- c. According to the University's procedures, the Vice President of Finance and the Creator(s) will use good faith efforts to negotiate royalties from the Copyrightable Work to the University, and the Vice President of Finance will have a written agreement prepared for signature by the Creator(s) for such royalties.

d. The Creator(s) shall, in the agreement, grant the University a fully-paid, perpetual licensed to use, display, distribute, copyright, publish, and perform the Copyrightable Work solely for the University's own purposes, including but not limited to display and performances sponsored by the University open to the public with or without fees charged therefor. The University shall have no obligation to make an accounting to the Creator(s) for revenues to the University under this license.

#### **4. General Policy**

The general policies set forth below are applicable to any and all intellectual property rights created by faculty, staff, and students of the University.

a. In case of cooperative research sponsored in whole or in part by an external source, a written contract shall be made between the University and the external source. This contract should include a statement of policy substantially equivalent to that outlined below:

"It is agreed by the parties to this contract that all results of experimental work, including inventions and copyrightable works, carried on under the direction of the scientific staff of the University, belong to the University and to the public and shall be used and controlled so as to produce the greatest benefit to the University and the public. It is understood and agreed that if patentable inventions or copyrightable work grow out of the investigation and such inventions or copyrightable work have commercial value, the contracting party shall receive preferential consideration as a prospective licensee, with a view to compensating said contracting party in part for the assistance rendered in the investigation.

"It is further agreed that the name, trademarks, and service marks of the University shall not be used by the contracting party in any advertisement, whether with regard to the agreement or any other related matter, without the prior written consent of the University."

b. In case of a research project where it is proposed that all costs including overhead, salary of investigator, reasonable rent on the use of equipment, etc., are paid by an external source, the external source and the University shall negotiate ownership of all patent or copyright rights as memorialized by written agreement prior to the provision of any funding by the external source. The University shall reserve the right to publish all data of fundamental value to science and technology.

c. For intellectual property rights owned by the University and for which the University seeks protection, the University will indemnify, defend, and hold harmless employees and students from claims of infringement of the intellectual property right of any third party. For intellectual property rights owned by Creator(s), the Creator(s) will indemnify, defend, and hold harmless the University from claims of infringement of the intellectual property rights of any third party.

#### **C. Trademark Policy**

The University may develop a trademark policy that provides for the protection of the trademarks and service marks of the University. The University does not acquire by this policy any trademarks or service marks belonging to any faculty, staff, or student.

#### **D. Creator and University Responsibilities**

If the University is entitled to ownership and/or license rights of intellectual property rights according to the guidelines above, the Creator(s) involved will promptly disclose the Invention, Software, or Copyrightable Work to the University and will not publish or otherwise disclose the Invention, Software, or Copyrightable Work to others except as permitted herein. The Creator(s) will also execute all documents necessary (such as an assignment of rights) to memorialize and perfect the University's ownership and/or license rights. The Creator(s) will assist the University to determine whether protection should be sought for the Invention, Software, and Copyrightable Work and, where appropriate, whether the Invention, Software, or Copyrightable Work has commercial viability. In the event the University decides that protection and/or commercial sale/license is appropriate, the Creator(s) shall assist the University in the activities necessary to protect and/or commercialize the intellectual property rights in the Invention, Software, or Copyrightable Work. In the event that the University decides to take no further action, the University may, at its sole discretion, if so requested by the Creator(s) assign the University's intellectual property rights to the Creator(s). If the University has no ownership rights or license rights, or assigns such intellectual property rights to the Creator(s) according to the guidelines above, the University shall have no obligation to assist the Creator(s) in the development, protection, or commercialization of the Invention, Software, or Copyrightable Work.

#### **E. Independent Contractors**

In performing duties for the University or for University Programs funded in whole or in part by an external source, employees shall only utilize the services of employees and/or students of the University. In the event an employee wishes to engage the services of a person or entity other than an employee or student of the University (an "independent contractor"), the employee must first consult with the University, and the independent contractor must enter into a written agreement with the University prior to such engagement shall assign all right, title, and interest in and to the work performed for the employee to the University and/or external funding source, as appropriate.

#### **F. University Procedures**

The University shall establish procedures that require employment contracts and course catalogs or syllabi to state that the employee or student is subject to this policy and to resolve questions concerning intellectual property rights and any disputes that develop under this policy. Final decisions on disputed matters will be made by the Provost or designee and shall constitute final action.

#### **G. Waiver of University Rights**

The University may, in its sole discretion, waive any or all of its right, title, and interest in and to an Invention, Software, or Copyrightable Work. The procedures required for such waiver shall be established by the University from time to time.

#### **H. Modifications to this Policy**

Changes in the above policies may be made by the University to conform to the requirements of the United States Government when contracting with the United States Government or a Federal Government Agency. In addition, the University reserves the right to modify this Policy from time to time in accordance with University Procedures. The then-current policy will be made available to employees and students upon request. Royalties shall be distributed according to the policy in effect at the time the University enters into any license, assignment, or contractual agreement regarding the exploitation of the intellectual property.

**I. Internal Procedures for Managing Intellectual Property**

The University shall establish and maintain internal procedures for managing intellectual property in accordance with this Policy. The procedures will also identify the person(s) having authority to make the decisions for the University as set forth in this Policy, unless a specific person is identified in this Policy. The procedures may be amended by the University from time to time at its sole discretion, and will be made available upon request.

Questions about this Policy should be directed to:

Dr. Robert (Bob) Holm

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