Subject: Intellectual Property Policy

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I. POLICY PURPOSE

A. Purpose.

The purpose of this policy is to establish, (i) the respective rights in Intellectual Property created by Community Members ("IP"), (ii) the duties of members of the University community regarding the creation, protection, and management of IP; (iii) guidelines for sharing royalties generated by IP; and (iv) the composition and duties of the committee for administering IP.

B. Applicability.

This policy applies to the University, all Community Members; and all IP, whether created in whole or in part by Community Members. Compliance with this policy is a condition of all Community Members’ employment, funding, compensation, and/or use of University resources.

From time to time, it may be in the best interests of the University to enter into agreements with third parties that are exceptions to the policies reflected in this document and the persons covered by this policy. Exceptions shall be made after consultation with the Intellectual Property Committee and only upon written agreement(s) signed by the individual(s) authorized to grant such exceptions on behalf of the University.

C. Revision

This policy supersedes previous policy ________, which was in effect from ________, through consolidation, and until the effective date of this policy.

II. DEFINITIONS

A. “University” means the University of North Georgia. In the context of ownership of Intellectual Property, University also includes the University of North Georgia Research Foundation Inc.
B. “Community Member(s)” means the following persons, including their heirs and assigns:

1. faculty (full-time and part-time), including visiting faculty who have a University faculty appointment;
2. staff (full-time and part-time), including technical, clerical, and student employees;
3. research scientists and post-doctoral appointees;
4. non-faculty or non-staff who participate in research at the direction of the University or in conjunction with assigned institutional effort, including consultants, fellows, and visiting faculty and scholars who do not have a faculty appointment;
5. faculty affiliates, including persons assisting faculty whether or not receiving compensation; and
6. all other persons receiving compensation from, funding from, or funding administered by the University, excluding students in roles other than those specifically identified above.

C. “Creator(s)” means a Community Member that:

1. with respect to Inventions, is an inventor under the patent laws of the United States or another country or union;
2. with respect to Works, is an author under the copyright laws of the United States;
3. with respect to Marks, is an author of the trademark, service mark, trade name, seal, symbol, design, slogan, or logotype;
4. with respect to Secrets, is a person who created or developed the trade secret; and
5. with respect to Tangible Research Property, is a person that (a) conceived of the idea of the specific tangible research property that is to be made; or (b) substantially participated in making the tangible research property but only when making the tangible research property was not a routine or known practice.

D. “Intellectual Property” means:

1. Inventions;
2. Works;
3. Marks;
4. Secrets; and
5. Tangible Research Property.

E. “Inventions” include the following:

1. any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof that may qualify for protection under the patent laws of the United States or another country or union; and
F. “Works” include the following:

1. books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals;
2. lectures, musical or dramatic compositions, unpublished scripts;
3. drawings, sketches, renderings, blueprints, photographs;
4. films, filmstrips, charts, transparencies, and other visual aids;
5. video and audio tapes or cassettes;
6. live video and audio broadcasts;
7. programmed instructional materials;
8. mask works; and
9. other materials or works which qualify for protection under the copyright laws of the United States (see 17 U.S.C. 102 et seq.) or other protective statutes, whether or not registered thereunder.

G. “Marks” includes trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes.

H. “Secrets” means trade secrets as defined in O.C.G.A. § 10-1-761, which includes information, without regard to form, such as technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers that:

1. derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
2. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

I. “Tangible Research Property” means research results that are in a tangible form including integrated circuits, 3D printed objects, and other devices or materials.

III. POLICY STATEMENT


1. Scope.

   a. This section defines the University’s policy on ownership of Intellectual Property created in whole or in part by Community Members. Specifically, this section defines the distribution of ownership rights between such Creators and the University.

   b. Ownership, even if vested solely in the University, does not affect the distribution of royalties. The distribution of royalties among Creators and the University is defined in § III.C.
c. This section includes general policy that applies to all types of Intellectual Property. In certain cases, supplemental patent-specific and copyright specific policies are also defined. In the event of conflict between the general policy and supplemental policies, the supplemental policies control.

2. Framework.
   
a. This policy determines ownership rights based on the context in which the Intellectual Property is created.

b. The Intellectual Property Policy of the Board of Regents identifies four general contexts in which Intellectual Property may be created by Community Members: (1) Sponsor-Supported Efforts; (2) Institution-Assigned Efforts; (3) Institution-Assisted Efforts; and (4) Individual Efforts. This policy addresses the foregoing contexts, and further clarifies ownership rights in the context of Consulting Efforts addressed in § III.A.3.e.

c. The distribution of ownership rights between the Creator(s) and the University varies depending on the context.

3. Ownership.
   
a. Sponsored Efforts.
      
i. General Policy.

   (A) Ownership of Intellectual Property resulting from sponsored efforts resides with the University.
   
   (B) However, the grant or contract between the sponsor and the University under which such Intellectual Property is created may include specific provisions governing the ownership of such Intellectual Property.

b. Assigned Efforts.
   
i. General Policy.

   (A) Ownership of Intellectual Property created by a Community Member at the direction of the University or in conjunction with assigned institutional effort resides with the University.
   
   (B) Ownership of Intellectual Property created by a Community Member as a result of efforts normally associated with the Community Member’s discipline or position, in education, research, and service resides with the University.
(C) Ownership of Intellectual Property created by a Community Member other than faculty in the normal course of such Community Member’s employment or engagement resides with the University.

ii. **Supplemental Copyright-Specific Policy.**

   (A) **Traditional Works of Scholarship Exception.** The development of scholarly and creative works, including books, journal articles, course material, textbooks, and associated supplementary material (excluding software), by faculty does not constitute a specific institutional assignment.

   (B) **University Courses, Programs, and Presentations.** With respect to Intellectual Property described in § III.A.3.b.i above, ownership of such Works that include online courses and audio or visual reproductions of a University course, program, presentation, or the like resides with the University.

c. **Assisted Efforts.**

   i. **General Policy.**

      (A) Ownership of Intellectual Property created by a Community Member with University Assistance, as defined below, resides with the University.

   ii. **University Assistance.**

      (A) **Procedure.**

         (1) The specific determination of what usage of University support or University resources constitutes University Assistance, as that term is used in this section, may vary depending on the circumstances and practices within the particular discipline.

         (2) Such a determination shall be made by the Intellectual Property Committee as defined in § III.D, subject to the guidelines prescribed in this section.

      (B) **Scope.**

         (1) Generally, incidental University support or use of University resources in the creation of Intellectual Property by a Community Member does not, in and of itself, vest ownership in the University.

         (2) Thus, University Assistance, as that term is used in this section, typically does not include:
(a) incidental or occasional use of:

(i) libraries, offices, studios, and similar University facilities;

(ii) computers and equipment generally available to all faculty and students without special permission; or

(iii) personnel or secretarial staff;

(b) regular salary by faculty for their academic appointments; or

(c) student financial aid.

(3) Instead, examples of University Assistance include:

(a) funding for specific initiatives, such as the Presidential Innovation Incentive Award;

(b) release time or material reduction in normal teaching workload;

(c) paid time allocated for research and scholarship as part of normal full-time faculty workload;

(d) substantial use or specific assignment of non faculty employees working within their scope of employment or additional staff or teaching or research assistants;

(e) use of specialized facilities or equipment; or

(f) using expert University services,

(g) special expenses including the purchase of additional supplies, equipment, or services.

iii. Supplemental Copyright-specific Policy.

(A) Works Created Under University-led Efforts. Ownership resides with the University with respect to Works created by Community Members in the course of research or other collaborative projects directed or led by University, where the identity of the project resides with the University (e.g., resulting in a publication of a school or department).


(A) Inventions Created by Faculty, Staff, and other Employees. Ownership of Intellectual Property created by a Community Member resides with the University with respect to Inventions conceived or first reduced to practice:
b. Individual Efforts.

i. General Policy. Ownership of Intellectual Property created by a Community Member resides with the Community Member if the Intellectual Property is:

(A) not the result of Sponsored Efforts (see § III.A.3.a);

(B) not the result of Assigned Efforts (see § III.A.3.b);

(C) not the result of Assisted Efforts (see § III.A.3.c); and

(D) none of the policies listed in §§ III.A.3.a-c otherwise applies.

c. Consulting Efforts.

i. Scope.

(A) This section applies to faculty consultants, which are Community Members that are either faculty or staff.

ii. General Policy.

(A) Disclosures. Faculty consultants shall:

(1) prior to engaging in third party consulting efforts, inform the third party, in writing, of the University’s Intellectual Property Policy, Conflict of Interest Policy, and the Faculty Consultant’s obligations and restrictions under such policies; and

(2) disclose to the University all consulting efforts in writing.

(B) Compliance. Faculty consultants shall not enter into third party agreements with respect to consulting efforts that conflict with the University’s Intellectual Property Policy, Outside Employment and Activities Policy, Conflict of Interest or Commitment Policy, and the Faculty consultant’s obligations and restrictions under such policies.

(C) Ownership.
(1) The third party agreement under which Intellectual Property is created by faculty consultants may include provisions governing the ownership of such Intellectual Property.

(2) Only under the following circumstances shall ownership of Intellectual Property created by faculty consultants reside jointly with (i) the University and (ii) the Faculty Consultant and/or third party:

(a) by agreement;

(b) where the Intellectual Property was created with University Assistance; or

(c) where the Intellectual Property relates to the Faculty Consultant’s specific research at the University.

d. Other Efforts.

i. Ownership of Intellectual Property created by a Community Member under circumstances other than those addressed in §§ III.A.3.a-e of this policy shall be determined on an individual basis by the Intellectual Property Committee.


a. Creator Licenses where Ownership Resides with the University.

Where the University retains ownership of Intellectual Property, the Creator(s) of such Intellectual Property retains a non-exclusive, worldwide, royalty-free, non-assignable license to use the same for personal, non-profit educational or research purposes.

b. University Licenses where Ownership Resides with the Creator.

Where ownership of Intellectual Property would vest with the University if not for the Traditional Works of Scholarship Exception defined in § III.A.3.b.ii.(A), the University retains a non-exclusive, worldwide, royalty-free, non-assignable license to make, use, sell, reproduce, modify, and distribute the same and make derivative works thereof.

Where the Creator(s) retains ownership of Intellectual Property, the University retains a non-exclusive, worldwide, royalty-free, non-assignable license to use, reproduce, modify, distribute, and make derivative works based on the same for all educational and research purposes to the extent said Intellectual Property is used in the title or description of a University course, in the syllabus of a University course, or created for distribution or actually distributed to students in a University course.
B. Duties Regarding the Creation, Protection, and Management of IP.

1. Disclosure.

   a. Inventions and Secrets. Creators shall promptly, and no later than thirty (30) days after conception, disclose all Inventions and Secrets to the Office of Research and Engagement prior to public disclosure.

   b. Works. Creators shall promptly disclose all Works excluding Traditional Works of Scholarship to the Office of Research and Engagement prior to any attempt at commercialization or public disclosure other than scholarly publication.

   c. Marks. Creators shall promptly disclose all Marks relating to the University, courses, or Inventions, Secrets, and Works (excluding Traditional Works of Scholarship) to the Office of Research and Engagement prior to any attempt at commercialization or public disclosure other than scholarly publication.

   d. Third Party Disclosure. The University may be obligated to report certain Intellectual Property to third parties, for example, pursuant to contractual obligations with sponsors or Federal law.

2. Protection & Management.

   a. University’s Duties.

      i. Sole Discretion.

         (A) The University has sole discretion as to whether to seek protection or licensing of any Intellectual Property the ownership of which resides with the University pursuant to this policy.

         (B) The University has no obligation to bear or liability for the costs of administering (including protecting and managing) Intellectual Property absent separate express, written acceptance by the University of Intellectual Property the ownership of which resides with the University pursuant to this policy.

         (C) The University has sole discretion in whether to commercialize or otherwise seek royalty-bearing or royalty-free licensing of any Intellectual Property the ownership of which resides with the University pursuant to this policy.

      ii. No Fiduciary Duty. The University neither guarantees nor owes any fiduciary duty or other obligation to the Creator(s) to seek or maximize royalties or remuneration for the utilization of any Intellectual Property the ownership of which resides with the University pursuant to this policy.
iii. Decision to Administer.

(A) The University will advise the Creator(s) of its decision to administer specific Intellectual Property (including seeking protection) within ninety (90) days of receipt of complete disclosure.

(B) Should the University decide at any time not to administer specific Intellectual Property, or not to take any further action administering the same, the University shall within thirty (30) days of such decision notify the Creator(s) and, should the Creator(s) so request, and if the University is able to do so, release the Intellectual Property to the Creators (subject to the mandatory licenses defined in this policy).

b. Creator’s Duties.

i. Assistance. Where the University accepts Intellectual Property for administration, the Creators shall do all things necessary and comply with reasonable requests by the University to assist in obtaining protection and/or facilitate in the management and licensing of the Intellectual Property.

ii. Confidentiality.

(A) Contractual and Federal or State law may require that information regarding certain Intellectual Property be maintained in confidence. Where Sponsored Efforts result in the creation of Intellectual Property, the grant or contract may expressly require that Creators maintain confidentiality of any resulting Intellectual Property. In addition to contractual obligations, Federal and/or State law may require that information regarding Inventions and Secrets be maintained in confidence in order to ensure legal protection of the same.

(B) At least until the University renders a determination as to whether to accept Intellectual Property for administration, Creators shall exercise all reasonable efforts to maintain confidentiality of any Intellectual Property resulting from Sponsored Efforts and any Inventions, Secrets, or software.

C. Royalty Sharing.

1. General Policy.

a. No Fiduciary Duty. The University has sole discretion as to whether to license or otherwise commercialize any Intellectual Property the ownership of which resides with the University pursuant to this policy. The University neither guarantees nor owes any fiduciary duty or other obligation to the Creator(s) to seek or maximize royalties or remuneration for the utilization
of any Intellectual Property the ownership of which resides with the University pursuant to this policy. For the avoidance of doubt, the determination of the parties to, scope of, or remuneration associated with a license to any Intellectual Property the ownership of which resides with the University pursuant to this policy is within the University’s sole discretion.

b. Shares.

i. Royalties received by the University attributable to the licensing or sale of Intellectual Property, the ownership of which resides with the University pursuant to this policy, less all expenses attributable to such Intellectual Property, including filing, attorney, marketing, licensing, and other costs and fees of administration (hereinafter, “Net Income”) shall be divided into a Creator Share, Department Share, and University Share.

ii. Creator Share. The sharing of royalties with Creators pursuant to this policy shall not be affected by changes in employment by or affiliation with the University. Where there are multiple Creators, the Creator Share shall be divided equally unless otherwise agreed to in writing by all Creators.

iii. Department Share. The Department Share shall be used only for University research, innovation, or educational purposes designated by the respective department(s). Where there are multiple Creators from different departments, it is within the discretion of the Intellectual Property Committee how to divide the Department Share.

iv. College/Division Share. The College/Division Share shall be used only for University research, innovation, or educational purposes designated by the respective college(s) or division(s). Where there are multiple Creators from different colleges or divisions, it is within the discretion of the Intellectual Property Committee how to divide the College/Division Share.

v. University Share. The use of the University Share is managed by the Office of Research and Engagement.

vi. Sponsored Efforts Exception. The distribution of Net Income attributable to Intellectual Property resulting from Sponsored Efforts may be dictated by grant, contract, or other written agreements that include exceptions to the policies reflected in this document and the persons covered by this policy.

2. Share Allocations. The percentage allocations of Net Income shall be calculated as follows:

a. Net Income up to ten thousand dollars ($10,000 USD):
i. Creator: 100 percent (100%).

b. **Net Income above ten thousand dollars ($10,000+ USD):**
   
i. Creator: Forty percent (40%);
   
ii. Department: Fifteen percent (15%);
   
iii. College/Division: Fifteen percent (15%);
   
iv. University: Thirty percent (30%).

D. Intellectual Property Committee.

1. **Purpose.** The Intellectual Property Committee shall:
   
a. advise the President or his/her designee on matters related to intellectual property policy and its application;
   
b. make recommendations regarding the rights and equities in to Intellectual Property created by Community Members;
   
c. identify an appeal procedure to resolve disagreements regarding the administration of Intellectual Property; and
   
d. serve as the intake point for the receipt of disclosures of Intellectual Property invented by or created by Community Members that is reasonably likely to have commercial value.
   
e. Make a recommendation to the President about the course of action the institution should utilize to develop and manage its licensing program for Intellectual Property.

2. **Composition.** The Intellectual Property Committee shall be composed of the following members appointed by the President or his/her designee for two (2) year terms:
   
a. Chair;
   
b. Representative from the Office of Business and Finance;
   
c. Up to one faculty member from each of the College of Arts & Letters, College of Business, College of Health Sciences & Professions, College of Science & Mathematics, and Institute for Environmental & Spatial Analysis;
   
d. University General Counsel; and
   
e. Up to one Intellectual Property Counsel.
II. REVIEW AND RESPONSIBILITY

Responsible Party: Director of ________________

Review: Every three years (or more frequently if needed)

III. APPROVAL

_____________________________________________  _______________________
Andy Novobilski, Associate Vice Provost              Date

_____________________________________________  _______________________
Chaudron Gille, Senior Vice President and Provost    Date

_____________________________________________  _______________________
Bonita Jacobs, President                            Date

REVISION/REVIEW LOG

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