The University of West Florida
Intellectual Property Policy

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A. General Comments

Central to the purpose of the University of West Florida are teaching, research, and service. Research is undertaken to educate students, to stimulate a spirit of inquiry, to solve problems, and to discover new knowledge. Patentable inventions and other marketable forms of intellectual property may result from research conducted by University personnel. The University of West Florida believes that a university has an obligation to serve the public interest by insuring that such intellectual property is appropriately developed.

The University of West Florida Intellectual Property Policy is meant to encourage and enable technology development and transfer for the benefit of the public. Adequate recognition of and incentive to potential inventors through the sharing of the financial benefits resulting from the transfer and development of patentable inventions and other marketable forms of intellectual property encourages the creation of such intellectual property. At the same time, the University’s share in the financial benefits provides funds for further research at the University. In order to have successful technology transfer, a team effort on the part of the creator of the intellectual property, the staff of the University’s Research Foundation and Office of Research, the administrative staff of the creator’s department and college, and others involved in the creator’s research enterprise is necessary. Many factors must come together to make technology transfer successful. There must be: appropriate intellectual property; an effort on the part of the creator to assist in protecting and marketing the intellectual property; an effort on the part of the Research Foundation to protect, market, and license the intellectual property; a corporate licensee that is willing to invest the money, time, and effort to turn the intellectual property into a marketable product; and a market that is ready to buy the product when it has been fully developed and is ready to be sold. The University’s policy is intended to further that result.

It is the intent of the University that where possible, and after disclosure to the University of the invention or work, the University and the Creator should negotiate a written agreement concerning the ownership, control, use, and compensation of the invention or work that takes into account the distinct nature of the work, the potential markets and methods of distribution, the academic and business objectives of the Creator and University, and intended reproduction, use and control of

any copyright to maximize the mutual benefits to the Creator and the University community.

It is the intent that both the Creator and University retain a non-exclusive royalty free license to use and reuse the invention or work for educational purposes where such license does not violate the terms of any provision in a sponsoring agreement or interfere with the pursuit of intellectual property ownership rights under federal or state law.

The Intellectual Property Policy, as set forth below, is a University-level document and applies to all "University personnel," as that term is defined in the policy.

B. Legal Considerations

With the passage of the Bayh-Dole Amendments, Public Law 96-517, entitled "The Patent and Trademark Amendments Act of 1980," the federal government facilitated the retention of intellectual property, particularly inventions, by universities. In this act the federal government gives nonprofit organizations, including universities, the right to retain title to inventions they have made in the performance of government grants and contracts. The act reflects Congress' intention that these organizations use the patent system as a vehicle to "effectuate the transfer of government-funded inventions to the public."

The Intellectual Property Policy of the University of West Florida is based on Section 240.229, Florida Statues (Appendix I), which authorizes the University to license, protect, and otherwise deal with the work products of University personnel. All University of West Florida personnel are required to disclose certain works and all inventions which that person may develop or discover while affiliated with the University. Such a disclosure requirement is also found in Article 18 of the Collective Bargaining Agreement between the Board of Regents and the United Faculty of Florida (Appendix II), which governs faculty members in the collective bargaining unit. Both this policy and the collective bargaining agreement set forth the standards under which the University's ownership of such works and inventions are determined. These are explained in section C of this policy.

C. University Inventions and Works

C.1. Definitions

For the purposes of this Intellectual Property Policy, the following definitions shall apply:

a. "University" shall mean the University of West Florida.

b. "University personnel" shall include full-time and part-time employees of the University, including faculty, administrative and professional, University Support Personnel System, and Other Personnel Services employees; appointees of the University, including certain faculty members and all volunteers; persons paid by or through the University, including fellows; and anyone

working under University auspices. Students who are encompassed within any of these categories shall be considered "University personnel."

e. A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. Instructional technology material is included in this definition.

d. An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. Instructional technology material is included in this definition.

e. "Instructional technology material" includes video and audio recordings, motion pictures, film strips, photographic and other similar visual materials, live video and audio transmissions, computer programs, computer assisted instructional course work, programmed instructional materials, three dimensional materials and exhibits, and combinations of the above materials, which are prepared or produced in whole or in part by an employee, and which are used to assist or enhance instruction.

f. "Intellectual property" includes all works and inventions.

g. A "creator" shall mean a member of University personnel who creates a work or invention.

h. "University support" shall include the use of University funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University.

i. "Independent efforts" with regard to a work means that the ideas for the work came from the creator, the work was not made with the use of University support, and the University is not held responsible for any opinions expressed in the work.

j. "University-supported work" shall mean a work of a creator not made in the course of independent efforts. Notwithstanding the foregoing, "University-supported works" do not include scholarly articles published in journals independent of the University and theses or dissertations of graduate students. "University-supported works" do not include: (1) books, articles, and similar works, the intended purpose of which is to disseminate the results of academic
research or scholarly study; and (2) works developed without the use of appreciable University support and used solely for the purpose of assisting or enhancing the faculty member's instructional assignment. However, a work described under (2), called an "instructional work" in this policy, must be disclosed by all employees.

k. "OR" shall mean the Office of Research of the University of West Florida. The Director of Sponsored Research, as the director of OR, has been designated by the President of the University to carry out the responsibilities of the Division of Sponsored Research as authorized by Section 240.241, Florida Statutes, and the implementation of Section 240.229, Florida Statutes (Appendix I), concerning the work products of University personnel. Only OR shall be authorized to commit available University funds for the expenses of licensing and patenting of inventions on behalf of the University.

l. "Research Foundation" shall mean the Research Foundation of the University of West Florida, Inc., a direct support, not-for-profit section 501(c)3 organization incorporated December 7, 1995, in the State of Florida, to promote, encourage, and provide assistance to the research activities of University faculty, staff, and students. Technology transfer is facilitated through the Research Foundation because it may take equity interests in licensee entities from which the University is precluded. At the sole discretion of the University, works and inventions in which the University asserts its interests may be assigned to the Research Foundation. If a work or invention is assigned to Research Foundation, the Research Foundation follows the same policy as the University in the distribution of proceeds.

m. "Development expenses" shall mean all moneys paid by the University and Research Foundation for goods and services to protect, develop, and/or enhance the marketability or any other aspect of a work or invention, including, but not limited to, patent filing fees, protection of patent, marketing expenses, patent maintenance, consulting fees, prosecution expenses, expenses incurred in dealing with equity interests, travel, attorneys' fees, and research costs. Not included as development expenses are salaries and general operating expenses of University administrative personnel.

n. "Gross revenue" shall mean: (1) proceeds from the sale, lease, transfer, or other conveyance of an invention or work by the University and/or the Research Foundation, and (2) license issue fees, option fees, running royalties, and equity interests paid to the University and/or the Research Foundation by a licensee of an invention or work, except that such equity interests, or portion thereof, shall not be considered "gross revenue" unless and until the equity interests, or portion thereof, are sold by the University.
or Research Foundation.

o. "Net income" shall mean gross revenues less all development expenses for a work or invention and its improvements.

p. A "program" shall mean the specific University research program within which an invention or work was developed.

C.2. University Rights to Inventions and Works

An invention which is made in the field or discipline in which the creator is engaged by the University or made with the use of University support is the property of the University. The creator shall share in the proceeds therefrom subject to preexisting commitments to outside sponsoring agencies. An invention made outside the field or discipline in which the creator is engaged by the University and for which no University support has been used is the property of the creator. In the latter case, however, the creator and the University or Research Foundation may agree that the invention be pursued by the University and the proceeds shared pursuant to this Intellectual Property Policy.

A work which is made in the course of independent efforts is the property of the creator. A University-supported work is the property of the University. The creator shall share in the proceeds from a University-supported work subject to preexisting commitments to outside sponsoring agencies. University personnel are required to disclose promptly, pursuant to the disclosure procedures set forth in section D.2., all inventions and University-supported works made in the field or discipline in which the creator is engaged by the University, or made with the aid of significant University support, including all instructional works. All inventions must be disclosed, even those believed by the creator to be unrelated to his or her University duties and not involving the use of University support.

University personnel have the obligation to refrain from any act that would defeat the University’s rights in any works and inventions as well as the works and inventions of other University personnel. In order to maintain the University’s rights to obtain patent or other intellectual property protection of an invention or work, University personnel must maintain the confidentiality of each invention and University-supported work consistent with the University’s decisions regarding the protection desired, commercialization, and/or other uses of the invention or work. This is particularly important for works and inventions that have been sponsored by an outside entity through a grant or contract. If the publication of research results may reveal an invention, University personnel must ask the Office of Research or the Research Foundation for advice on how and when to publish the results in order that patent protection for the invention is not compromised. It is the University’s policy to publish the research results as soon as possible consistent with the securing of patent protection.

In accordance with recognized scientific research procedures, University
personnel are required to record all research data and information accurately and clearly and to keep all such data in a permanent and retrievable form. In addition, with regard to a patentable invention, original laboratory data must be kept for the life of the patent. University personnel must also securely store tangible property (such as biological materials, chemical compounds, and computer discs) related to an invention or work to which the University has asserted or may assert its ownership rights. Personnel who leave the University may be permitted to copy their laboratory notebooks and take the copies with them, or take samples of tangible property with them, although they are required to maintain the confidentiality of the data contained within the notebooks or the tangible property. The original notebooks will remain at the University.

C.3. Research Financed by Outside Sponsors and Outside Consulting Arrangements

It is the University’s policy, except in unusual cases, to require that works and inventions developed in the course of University research sponsored by private persons, business and not-for-profit entities, and state and local governmental agencies be the property of the University.

An exclusive option may be accorded to the sponsor with regard to inventions. The sponsor may be offered the option to acquire an exclusive license within a stated number of months from the disclosure of the invention to the Office of Research or the Research Foundation.

Faculty and other University employees engaged in consulting work should use great care to ensure that their consulting agreement(s) are not in conflict with the University’s policies on outside activities and financial interests. Consulting agreements frequently require that the consultant waive intellectual property rights as a condition of employment. Approval of such requests will be based on a determination that the University does not possess any interest in such rights or that the agreement is appropriately modified concerning such rights. Where consulting activities involve a reduction to practice of inventions or works or potential inventions or works conceived under federal sponsorship or University support, permission to waive rights to the company or the inventor will not be granted. A determination by the University must be initiated by submitting an Outside Activities and Financial Interests Report (Appendix III). University personnel engaged in approved consulting work are required to disclose any University work or invention made in the course of the work in accordance with the instructions of subsection D.2. of this policy.

C.4. Relationships between the Creator and the University Regarding Inventions

Two separate relationships between the creator and the University with regard to inventions are recognized:

a. Inventions Made Outside the Creator’s Field and Without University Support
If an invention is made or developed without any University support in a field other than the field or discipline in which the creator was engaged by the University to teach, do research, or perform other duties, the rights to the invention will be assigned to the creator. Under these conditions, the creator is, nevertheless, required to make full disclosure of the invention in accordance with subsection D.2. of this policy so that the University may make a determination of rights.

b. Inventions in the Field in Which the Creator is Engaged or Made with University Support

If, after a full disclosure of an invention and review in accordance with section D. of this policy, the invention is determined to have been made or developed in the field or discipline in which the creator was engaged by the University to teach, do research, or perform other duties, or the invention is determined to have been made with University support, OR may, on behalf of the University:

(i) elect to waive the University's rights to the invention, thus allowing the creator to protect the invention as he or she may wish. If outside funds supported the work leading to the invention, this waiver is subject to any provisions in the sponsoring agreement. In cases in which the University has waived its interest and the invention was supported by federal funding, any waiver must be to both the supporting federal agency and the creator(s). In addition, the waiver shall not affect the right of the University and the State of Florida to royalty-free use of the invention, nor shall such a waiver be granted until any pre-existing commitments to sponsoring agencies with regard to inventions are cleared. In general, the University will not waive its rights to inventions of creators who are full-time employees or appointees of the University; or,

(ii) elect to acquire title to the invention by assignment (i.e., the creator assigns the rights to the University). The development and marketing of the invention is at the discretion of the Office of Research and the Research Foundation. Generally, the Office of Research or the Research Foundation seeks to develop and market the invention and may elect to seek patent or other legal protection. Once application for a patent has been made, the Office of Research or the Research Foundation will be responsible for the development and negotiation of licensing agreements in order that the invention is managed in a way which serves the public interest. In certain cases, the University may
elect to license the invention to the creator for a minimal royalty, and the creator may elect to obtain patent protection; or,

(iii) decide the invention disclosure is premature or incomplete, in which case, the creator will be asked to resubmit the invention disclosure when additional information is obtained.

C.5. Relationships between the Creator and the University Regarding University-Supported Works

Any University-supported work is required to be disclosed under the procedures of section D. or, on behalf of the University, may elect to pursue any of the three alternatives described in C.4.b. above with regard to disclosures of University-supported works.

C.6. Distribution of Net Income from Works and Inventions

With regard to any Work or Invention title to which is owned by the University, Net Income less any foreseeable development expenses the Office of Research or the Research Foundation (or in the case described in C.4 (iii), the Creator) deems necessary to defend or maintain the Work or Invention ("net adjusted income") will be distributed as follows:

For net adjusted income up to $250,000 (Schedule A):

70% individual creator(s)
30% University

For net adjusted income over $250,000 or over (Schedule B):

30% individual creator(s)
70% University

Notwithstanding the above, all net adjusted income from the Office of Research or the Research Foundation’s sale of equity interests originally paid to the Office of Research or Research Foundation by a licensee shall be distributed according to Schedule B. Distributions of income will be made semiannually on or before June 1 and December 1 of each year. This distribution schedule allows the Office of Research or the Research Foundation to assure that all applicable licensing and related expenses have been accounted for. The Office of Research or the Research Foundation may, at its sole judgment, withhold or delay distribution of any income if there is a foreseeable development expense yet to be incurred. In instances where funds are held because of foreseeable development expenses or where expenses exceed revenue, an accounting of such will be sent to the creator’s department and college indicating the amounts received for the current six-month period and the amount of the anticipated expense or deficit. Once expenses are known with certainty, any excess withholding will be distributed.
Payments of the portion allocated to the creator(s) must be made to creator(s) individually and cannot be assigned by the creator(s) to other parties or entities. The only exception will be that after a creator's death, appropriate notification by the personal representative of the creator's estate, and court approval, if necessary, payment will be made to the creator's heirs or devisees. An IRS Form 1099 or other appropriate form will be issued to the creator(s) for their share of revenues. The University cannot advise individuals on the tax consequences of these payments.

In the event there are multiple creators for an invention or work, the creators' share will be divided equally among all creators. If the creators agree among themselves to a different split, the Office of Research or the Research Foundation must be notified in writing at least one month prior to the date of the first income distribution as to the agreed-upon division of income. The University portions distributed to the academic units, which are the academic units of the creator(s) at the time of the creation of the invention or work, will be pro-rated when more than one unit is involved. The Office of Research or the Research Foundation will make the final decisions on the pro-ration of such portions to academic units. In the case of licenses or other transactions involving multiple inventions or works, the Office of Research or the Research Foundation shall resolve any potential conflicts concerning the applicable distribution schedules after reviewing the technologies involved. The University portion allocated to the program (or programs) remains under the control of the Office of Research or the Research Foundation. If there is more than one program in which the invention or work was developed, the program portion will be pro-rated as determined by the Office of Research or the Research Foundation. If a creator should leave the University, the portion allocated to the creator's program will be allocated to that program as long as the program exists and consists of research in the same area as that conducted by the creator prior to leaving the University. If the program ends, the portion allocated to the program will be allocated to the Office of Research or the Research Foundation. Any determinations regarding the distribution of the University portion of net income to programs shall be at the sole discretion of the Office of Research or the Research Foundation. The Office of Research or the Research Foundation will utilize its share of the net income distribution to support research activities at the University. Funds allocated to academic units must be used solely for the support of research at the University.

**Equity in lieu of Cash Payment.**

The Office of Research or the Research Foundation may elect to accept equity in lieu of cash payments for a license fee or royalty. The decision to accept equity in lieu of cash is made at the sole discretion of the Office of Research or the Research Foundation and does not constitute an obligation on behalf of either entity to make a disbursement of equity to the creator(s) or to department(s) and college(s) until the equity is sold. The Office of Research or the Research Foundation will own and exercise all rights of ownership, including the rights to vote equity interests on all matters which are subject to the consent or approval of the holders of similar equity interests (including voting such equity interests...
for the election of the directors, approving or disapproving amendments to articles of incorporation, etc.). The Office of Research or the Research Foundation will retain and own the equity interest until the sale or exchange of the interest. The decision as to when to sell or exchange equity resides in the sole discretion of the Vice President for Academic Affairs in the case of the Office of Research and with the Board of Directors in the case of the research Foundation. When selling, exchanging or otherwise disposing of any equity interests, the Office of Research or the Research Foundation may agree to pay such commissions or other fees or charges and may incur such expenses as it shall determine at its sole discretion.

All such expenses are considered development expenses in determining net income to be distributed.

C.7. Relationships Between Employees and the University Regarding Business Transactions

University employees are required to receive appropriate permission before soliciting business from the University by completing and submitting a Report of Outside Activities/Determination of Conflict of Interest (Appendix III).

This form must be submitted by a creator employee with a financial and/or managerial interest in a business or a contractual relationship (for example, an employment or consulting agreement) with a business entity which is licensing or otherwise entering into a business relationship with the University or the Research Foundation concerning the employee’s invention or work.

Disclosure and approval of the interest or relationship must be accomplished by requesting an exemption under Section 112.313(12)(h), Florida Statutes. Guidelines for submitting a request may be obtained by contacting the Office of Research or the Research Foundation. Further information on outside activities, financial interests, and conflict of interest law and policies is found in the University of West Florida Conflict of Interest Policies and Procedures available from Academic Affairs and all academic units.

D. Procedures Regarding Inventions and Works

D.1. Organization

The Office of Research is responsible for all matters relating to patents, trademarks and copyrights as related to the identification, protection, and commercialization of intellectual property. The Office of Research staff are the primary contacts for creators with regard to the disclosure of inventions and works and during the subsequent stages of protection, marketing, licensing, and

other activities.

D.2. Making Disclosures

A timely and complete disclosure on the designated disclosure form (Appendix IV) to the Director of the Office of Research or designee must also be acknowledged by the signature on the disclosure form of the creator’s department chairperson.

D.3. Disclosure Review

The Office of Research will conduct a review of the disclosure that shall assess the respective equities of the creator and the University in the invention or work and determine its importance and the extent to which the University should be involved in its protection, development, and promotion.

The Office of Research shall recommend whether the University should assert or waive its interest in the invention or University-supported work based on a determination of potential technical and market value.

The Office of Research may employ outside evaluators and other consultants to review the disclosure, as well as to assist in the licensing, other commercialization, or protection of the invention or work.

The Office of Research will determine the University’s interests consistent with the provisions of Section C. of this policy. It shall be the obligation of the creator to be available to provide additional information as needed in all stages of this procedure.

D.4. Determination of Ownership

The Director of Sponsored Research shall inform the creator of the University’s decision regarding ownership and the University’s legal rights as soon as practicable, normally no later than 120 calendar days from receipt of the complete disclosure in the case of an invention and 60 days from receipt of the complete disclosure in the case of a University-supported work. If the University’s ownership interest is waived to the creator(s), it is the policy of the University that the creator(s) must disclose the potential conflict of interest created by the ownership interest when proposing research to be conducted using University resources that could reasonably appear to influence the financial value of the invention. In such cases the University, through the creator(s) and appropriate administrators, must have established the means to manage the conflict prior to conducting the research. At any stage in the commercialization of an invention or work, the Office of Research or the Research Foundation may elect to withdraw from further involvement in the protection or commercial application of the invention or work. At the request of the creator in such case, the Office of Research or the Research Foundation shall transfer the intellectual property rights to the creator, unless subject to the ownership rights of a federal agency. If the property rights are transferred to the creator, none of the costs incurred by the University or on its behalf shall be
assessed against the creator unless they are development expenses deducted from gross revenues received by the Office of Research or the Research Foundation prior to the transfer. The transfer shall not affect the right of the University and the State of Florida to royalty-free use of the invention or work.

Inventions and works in which the University has asserted its ownership interest may be protected, marketed, and licensed as appropriate. The Office of Research or the Research Foundation licensing specialist with responsibility for a particular disclosure will play a primary role in taking appropriate action on such disclosure in close collaboration with the creator(s) and appropriate departments or colleges at the University. All final decisions with regard to inventions and works in which the University has asserted its ownership interest are made by the Office of Research or the Research Foundation.

Note: University rules and collective bargaining agreements provide informal appeal and formal grievance procedures for University employee and students who believe that they have not been afforded their rights under those rules and agreements. Employees and students should refer to the appropriate handbooks, rules, and collective bargaining agreements for further information.

E. Effective Date

This policy shall be effective on November 1, 1999, with the exception of those provisions concerning distribution of proceeds as set forth in Section C.6. of this policy, which shall become effective as follows: The proceeds from any works or inventions which are the subject matter of any license agreement or other transaction entered into by the Office of Research or the Research Foundation before November 1, 1999 shall continue to be distributed pursuant to the previous University of West Florida Patent Policy or any previous agreement entered into by the creator and the University. The proceeds from any other works or inventions will be governed by the provisions of Section C.6. of this policy.

Appendices

Note: These sections of Florida Statutes, Collective Bargaining Agreements and University Policies were in effect at the time of this agreement but are subject to future amendment.

Appendix I

Section 240.229, Florida Statutes
Universities; Powers; Patents, Copyrights, and Trademarks

Any other law to the contrary notwithstanding, each university is authorized, in its own name, to:

(1) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and to enforce its rights there-in. The university shall consider contributions by university personnel in the development of trademarks, copyrights, and patents and shall enter into written contracts with such personnel establishing the interests of the university and such personnel in each trademark, copyright, or patent.

(2) License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use thereof, on a royalty basis or for such other consideration as the university shall deem proper.

(3) Take any action necessary, including legal action, to protect the same against improper or unlawful use or infringement.

(4) Enforce the collection of any sums due the university for the manufacture or use thereof by any other party.

(5) Sell any of the same and execute all instruments necessary to consummate any such sale.

(6) Do all other acts necessary and proper for the execution of powers and duties herein conferred upon the university. Any proceeds there-from shall be deposited and expended in accordance with Section 240.241, Florida Statutes. Any action taken by the university in securing or exploiting such trademarks, copyrights, or patents shall, within 30 days, be reported in writing by the president to the Department of State.

Section 240.241, Florida Statutes
Divisions of Sponsored Research at State Universities

(1) Each university, with the approval of the Department of Education, is authorized to create, as it deems advisable, divisions of sponsored research which will serve the function of administration and promotion of the programs of research, including sponsored training programs, of the university at which they are located.

(2) The university shall set such policies to regulate the activities of the divisions of sponsored research as it may consider necessary to effectuate the purposes of this act and to administer the research programs in a manner which assures efficiency and effectiveness, producing the maximum benefit for the educational programs and maximum service to the state. To this end, materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, or proprietary information received, generated, ascertained, or discovered during the course of research conducted within the state universities shall be confidential and exempt from the provisions of s. 119.07(1), except that a division of sponsored research shall make available upon request the title and description of a research project, the name of the researcher, and the amount and source of funding provided for such project.

(3) A division of sponsored research created under the provisions of this act shall be under the supervision of the president of that university, who is authorized to appoint a director; to employ full-time and part-time staff, research personnel, and professional services; to employ on a part-time basis...
personnel of the university; and to employ temporary employees whose salaries are paid entirely from the permanent sponsored research development fund or from that fund in combination with other nonstate sources, with such positions being exempt from the requirements of the Florida Statutes relating to salaries, except that no such appointment shall be made for a total period of longer than 1 year.

(4) The president of the university where a division of sponsored research is created, or his or her designee, is authorized to negotiate, enter into, and execute research contracts; to solicit and accept research grants and donations; and to fix and collect fees, other payments, and donations that may accrue by reason thereof. The president or his or her designee may negotiate, enter into, and execute contracts on a cost-reimbursement basis and may provide temporary financing of such costs prior to reimbursement from moneys on deposit in the sponsored research development fund, except as may be prohibited elsewhere by law.

(5) A division of sponsored research shall be financed from the moneys of a university which are on deposit or received for use in the research or related programs of that particular university. Such moneys shall be deposited by the university in a permanent sponsored research development fund in a depository or depositories approved for the deposit of state funds and shall be accounted for and disbursed subject to regular audit by the Auditor General.

(6) The fund balance on hand in any existing research trust fund in the respective university, at the time a division of sponsored research is created, shall be transferred to a permanent sponsored research development fund established for the university, and thereafter the fund balance of the sponsored research development fund at the end of any fiscal period may be used during any succeeding period for the purposes and in the manner authorized by this act.

(7) Moneys deposited in the permanent sponsored research development fund of a university shall be disbursed in accordance with the terms of the contract, grant, or donation under which they are received. Moneys received for overhead or indirect costs and other moneys not required for the payment of direct costs shall be applied to the cost of operating the division of sponsored research. Any surplus moneys shall be used to support other research or sponsored training programs in any area of the university. Moneys allocated for the payment of salaries from the sponsored research development fund shall be paid out by the Comptroller of the state in the same manner as salaries from other state funds. Transportation and per diem expense allowances shall be the same as those provided by law for state employees in s. 112.061, except that non-State of Florida personnel performing travel under a sponsored research subcontract may be reimbursed for travel expenses in accordance with the provisions of the applicable prime contract or grant and the travel allowances established by the subcontractor, subject to the requirements of subsection (9), or except as provided in subsection (13).

(8)(a) Each university shall submit to the Board of Regents a report of the activities of each division of sponsored research together with an estimated budget for the next fiscal year.

(b) Not less than 90 days prior to the convening of each regular session of the Legislature in which an appropriation shall be made, the Board of Regents shall submit to the chair of the appropriations committee of each house of the Legislature a compiled report, together with a compiled estimated budget for the next fiscal year. A copy of such report and estimated budget shall be furnished to the State Board of Education and to the Governor, as the chief budget officer of the state.

(9) All purchases of a division of sponsored research shall be made in accordance with the policies and procedures of the university; however, in compliance with policies and procedures established by the
university and concurred in by the Department of Education, whenever a director of sponsored research
certifies to the president that, in a particular instance, it is necessary for the efficient or expeditious
prosecution of a research project, the purchase of material, supplies, equipment, or services for research
purposes shall be exempt from the general purchasing requirement of the Florida Statutes.

(10) The university may authorize the construction, alteration, or remodeling of buildings when the
funds used are derived entirely from the sponsored research development fund of a university or from
that fund in combination with other nonstate sources, provided that such construction, alteration, or
remodeling is for use exclusively in the area of research; it also may authorize the acquisition of real
property when the cost is entirely from said funds. Title to all real property shall vest in the Board of
Trustees of the Internal Improvement Trust Fund and shall only be transferred or conveyed by it.

(11) The sponsored research programs of the Institute of Food and Agricultural Sciences and the
engineering and industrial experiment station shall continue to be centered at the University of Florida
as heretofore provided by law.

(12) The operation of the divisions of sponsored research and the conduct of the sponsored research
program are expressly exempted from the provisions of any other laws or portions of laws in conflict
herewith and are, subject to the requirements of subsection (9), exempt from the provisions of
chapters 215, 216, and 283.

(13) The divisions of sponsored research may pay, by advancement or reimbursement, or a combination
thereof, the costs of per diem of officers and employees of the state and of other authorized persons, as
defined in s. 112.061(2)(e), for foreign travel up to the current rates as stated in the grant and contract
terms and may also pay incidental expenses as authorized by s. 112.061(8). This subsection applies to
any state officer or employee traveling in foreign countries for sponsored programs of the university, if
such travel expenses are approved in the terms of the contract or grant. The provisions of s. 112.061,
other than those relating to per diem, apply to the travel described in this subsection. As used in this
subsection, "foreign travel" means any travel outside the United States and its territories and possessions
and Canada. Persons traveling in foreign countries pursuant to this section shall not be entitled to
reimbursements or advancements pursuant to s. 112.061(6)(a)2. for such travel.

(14) Each division of sponsored research is authorized to advance funds to any principal investigator
who, under the contract or grant terms, will be performing a portion of his or her research at a site that is
remote from the university. Funds shall be advanced only to employees who have executed a power of attorney with the university to ensure the proper collection of such advanced funds if it becomes necessary. As used in this subsection, the term "remote" means so far removed from the university as to render normal purchasing and payroll functions ineffective.

(15) Notwithstanding the provisions of s. 216.262(1)(a), each division of sponsored research is
authorized, upon approval of the Board of Regents, to establish additional positions as needed to
implement new contracts and grants, but in no instance shall any such position become permanently
established without legislative approval.

(16) Notwithstanding the provisions of s. 216.351, s. 216.346 does not apply to contracts or
subcontracts between state universities, between community colleges, or between state universities and
community colleges.
Section 240.299, Florida Statutes
Direct-Support Organizations; Use of Property; Board of Directors; Audits; Facilities.

(1) DEFINITIONS. -- For the purposes of this section:

(a) "University direct-support organization" means an organization which is:

1. A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State;

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a state university in Florida or for the benefit of a research and development park or research and development authority affiliated with a state university and organized under part V of chapter 159; and

3. An organization which the Board of Regents, after review, has certified to be operating in a manner consistent with the goals of the university and in the best interest of the state. Any organization which is denied certification by the Board of Regents shall not use the name of the university which it serves.

(b) "Personal services" includes full-time or part-time personnel as well as payroll processing.

(2) USE OF PROPERTY. --

(a) The Board of Regents is authorized to permit the use of property, facilities, and personal services at any state university by any university direct-support organization, and, subject to the provisions of this section, direct-support organizations may establish accounts with the State Board of Administration for investment of funds pursuant to part IV of chapter 218.

(b) The Board of Regents shall prescribe by rule conditions with which a university direct-support organization must comply in order to use property, facilities, or personal services at any state university. Such rules shall provide for budget and audit review and oversight by the Board of Regents.

(c) The Board of Regents shall not permit the use of property, facilities, or personal services at any state university by any university direct-support organization which does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) BOARD OF DIRECTORS.--The chair of the Board of Regents may appoint a representative to the board of directors and the executive committee of any direct-support organization established under this section. The president of the university for which the direct-support organization is established, or his or her designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit that university.

(4) ANNUAL AUDIT.--Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance

with rules to be promulgated by the Board of Regents. The annual audit report shall include a management letter and shall be submitted to the Auditor General and the Board of Regents for review. The Board of Regents and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor’s report. All records of the organization other than the auditor’s report, management letter, and any supplemental data requested by the Board of Regents and the Auditor General shall be confidential and exempt from the provisions of s. 119.07(1).

(5) FACILITIES.—In addition to issuance of indebtedness pursuant to s. 240.2093(2), each direct-support organization is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide strategic plan adopted by the Board of Regents, upon approval of such agreements by the Board of Regents and approval of the project by the Legislature. Such agreements are subject to the provisions of s. 243.151.

(6) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the university president and the Board of Regents its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

History.—s. 10, ch. 75-302; s. 21, ch. 79-222; s. 6, ch. 85-313; s. 67, ch. 87-224; s. 1, ch. 88-237; s. 75, ch. 90-360; s. 14, ch. 91-55; s. 5, ch. 94-230; s. 819, ch. 95-148; s. 16, ch. 95-243; s. 27, ch. 95-392; s. 96, ch. 96-406; s. 1, ch. 98-99.

Note.—Former s. 240.182.

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Appendix II

Article 18

BOR/UFF Collective Bargaining Agreement

Inventions and Works

18.1. University Authority and Responsibilities. Section 240.229 Florida Statutes (Appendix I), authorizes each university to establish rules and procedures regarding patents, copyrights, and trademarks. Such rules and procedures shall be consistent with the terms of this Article.

18.2. Definitions. The following definitions shall apply in Article 18:

(a) A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. Instructional technology material, as defined in Section 9.9(b), is included in this definition.
(b) An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. Instructional technology material, as defined in Section 9.9(b), is included in this definition.

(c) "Instructional technology material" is defined in Section 9.9(b).

(d) "University support" includes the use of university funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by a university.

18.3 Works.

(a) Independent Efforts.

A work made in the course of independent efforts is the property of the employee, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Section, the term "independent efforts" means that:

   a. the ideas came from the employee;

   b. the work was not made with the use of university support; and

   c. the university is not held responsible for any opinions expressed in the work.

(b) University-Supported Efforts.

(1) If the work was not made in the course of independent efforts, the work is the property of the University and the employee shall share in the proceeds therefrom.

(2) Exceptions. The University shall not assert rights to the following works:

   a. Books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly study; and

   b. Works developed without the use of appreciable university support and used solely for the purpose of assisting or enhancing the employee’s instructional assignment.

(c) Disclosure.

(1) Upon the creation of a work and prior to any publication, the employee shall disclose to the President or representative any work made in the course of university-supported efforts, together with an outline of the project and the conditions under which it was done. Consistent with the provisions of Section 18.3(b)(2)a., above, employees need not disclose regarding books, articles, and similar works, the intended purpose of which is to disseminate the results of
academic research or scholarly work.

(2) The President or representative shall assess the relative equities of the employee and the university in the work.

(3) Within sixty (60) days after such disclosure, the President or representative will inform the employee whether the university seeks an interest in the work, and a written agreement shall thereafter be negotiated to reflect the interests of both parties, including provisions relating to the equities of the employee and the allocation of proceeds resulting from such work. Creation, use, and revision of such works shall also be the subject of the written agreement between the employee and the university as well as provisions relating to the use or revision of such works by persons other than the creator. The employee shall assist the university in obtaining releases from persons appearing in, or giving financial or creative support to, the development or use of these works in which the university has an interest. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(4) The employee and the university shall not commit any act which would tend to defeat the university’s or employee’s interest in the work and shall take any necessary steps to protect such interests.

18.4 Inventions

(a) Disclosure/University Review.

(1) An employee shall fully and completely disclose to the President or representative all inventions which the employee develops or discovers while an employee of the State University System, together with an outline of the project and the conditions under which it was done. With respect to inventions made during the course of approved outside employment, the employee may delay such disclosure, when necessary to protect the outside employer’s interests, until the decision has been made by the outside employer whether to seek a patent.

(2) If the university wishes to assert its interest in the invention, the President or representative shall inform the employee within 120 days of the employee’s disclosure to the President or representative.

(3) The President or representative shall conduct an investigation which shall assess the respective equities of the employee and the university in the invention, and determine its importance and the extent to which the university should be involved in its protection, development, and promotion.

(4) The President or representative shall inform the employee of the university’s decision regarding the university’s interest in the invention within a reasonable time, not to exceed 135 days from the date of the disclosure to the President or representative.

(5) The division, between the university and the employee, of proceeds generated by the licensing or assignment of an invention shall be negotiated and reflected in a
written contract between the university and the employee. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(6) The employee shall not commit any act which would tend to defeat the university’s interest in the matter, and the university shall take any necessary steps to protect such interest.

(b) Independent Efforts. All inventions made outside the field or discipline in which the employee is employed by the university and for which no university support has been used are the property of the employee, who has the right to determine the disposition of such work and revenue derived from such work. The employee and the President or representative may agree that the patent for such invention be pursued by the university and the proceeds shared.

(c) University-Supported Efforts. An invention which is made in the field or discipline in which the employee is employed by the university, or by using university support, is the property of the university and the employee shall share in the proceeds therefrom.

(d) Release of Rights.

(1) In the event a sponsored research contractor has been offered the option to apply for the patent to an invention or other rights in an invention, the university will use its good offices in an effort to obtain the contractor’s decision regarding the exercise of such rights within 120 days.

(2) At any stage of making the patent applications, or in the commercial application of an invention, if it has not other-wise assigned to a third party the right to pursue its interests, the President or representative may elect to withdraw from further involvement in the protection or commercial application of the invention. At the request of the employee in such case, the university shall transfer the invention rights to the employee, in which case the invention shall be the employee’s property and none of the costs incurred by the university or on its behalf shall be assessed against the employee.

(3) All assignments or releases of inventions, including patent rights, by the President or representative to the employee shall contain the provision that such invention, if patented by the employee, shall be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the university.

(e) University Policy.

(1) Each university shall have a policy addressing the division of proceeds between the employee and the university.

(2) Such policy may be the subject of consultation meetings pursuant to Section 2.2.

(f) Execution of Documents. The university and the employee shall sign an agreement
individually recognizing the terms of this Article.

18.5 Outside Activity.

(a) Although an employee may, in accordance with Article 19, Conflict of Interest/Outside Activity, engage in outside activity, including employment, pursuant to a consulting agreement, requirements that an employee waive the employee’s or university’s rights to any work or inventions which arise during the course of such outside activity must be approved by the President or representative.

(b) An employee who proposes to engage in such outside activity shall furnish a copy of this Article and the university’s patents policy to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

Article 9.9

BOR/UFF Collective Bargaining Agreement

Instructional Technology.

(a) "Instructional technology material" includes video and audio recordings, motion pictures, film strips, photographic and other similar visual materials, live video and audio transmissions, computer programs, computer assisted instructional course work, programmed instructional materials, three dimensional materials and exhibits, and combinations of the above materials, which are prepared or produced in whole or in part by an employee, and which are used to assist or enhance instruction.

(b) The parties recognize the increasing development and use of technology, such as videotapes, interactive television, and computer software, to support teaching and learning and to enhance the fundamental relationship between employee and student. This technology may be used in the context of distance learning. Furthermore, the parties also recognize that this technology should be used to the maximum mutual benefit of the university and the employee.

(c) Each university shall review the considerations stated in (1) through (4), below, which may be raised by employee development and use of instructional technology/distance learning. It is recognized that these considerations may already apply to other employee instructional activities and, therefore, be addressed by existing SUS and university policies and procedures. If the university concludes that new or revised policies are needed, they shall develop such policies and consult with UFF pursuant to Section 2.2, prior to their implementation.

(1) Recognition of that employee effort spent in the assigned development of instructional technology/distance learning materials and in providing instruction assigned in this manner which is appreciably greater than that associated with a traditional course;

(2) Training and development resources available to employees who have been assigned to
provide instruction through the use of instructional technology/distance learning;

(3) Provisions for clerical, technical, and library support in conjunction with the assigned use of instructional technology/distance learning; and

(4) Compensation, including recognition in an employee's assignment or provisions for extra State compensation, for appreciably greater workload associated with the assigned development and use of instructional technology/distance learning.

(d) The employee shall not make use of appreciable university support in the creation or revision of instructional technology materials unless the university approves such use in advance and in writing.

(e)(1) Provisions governing releases to be obtained when the university has an interest in instructional technology are contained in Section 18.3(c)(3).
Consistent with such provisions and prior to the use of the instructional technology materials described in Section 9.9(a), above, releases shall be obtained from persons appearing in, or giving financial or creative support to their development or use, and the employee shall certify that such development or use does not infringe upon any existing copyright or other legal right. The employee shall be liable to the university for judgments resulting from such infringements.

(2) The university shall assist the employee in obtaining releases regarding instructional technology materials when:

a. the university has asserted an interest in such materials; or

b. the university has assigned the employee to develop such materials.

Appendix III

Sample Report of Outside Activity/Determination of Conflict of Interest

1. UWF Policy
2. BOR/UFF Article 19

Appendix IV

Invention and Works Disclosure

University of West Florida

A. Invention Disclosure Form (HTML) (Word) (PDF)

B. Work Disclosure Form (HTML) (Word) (PDF)

C. Purpose and Format of Disclosure Forms

This form is used to disclose an invention as required under University of West Florida Intellectual Property Policy. (If a "work," which refers in general to copyrightable material, must be disclosed, the disclosure should be on the form entitled "Work Disclosure.") An invention disclosure should be made when something new and useful has been conceived or developed, or when unusual, unexpected, or unobvious research results have been achieved and can be used.

The University of West Florida needs the information requested in this form to permit evaluation of your invention to determine whether the invention is patentable and whether commercial development is feasible. The invention should be clearly described in Section 2 of this form so that someone having knowledge in the field of the invention can understand the technical merits of the invention, its usefulness, and possible practical applications. Information that helps evaluators appreciate the invention will increase its ultimate chances for successful patenting, if that is appropriate, and later market development. The remainder of the disclosure form covers certain general issues that need to be taken into account with every invention. The subject covered in Section 5 is of particular importance as the public disclosure of the invention places severe limitations on available patent protection. Non-confidential disclosure of an invention (to people outside the University) may initiate a one-year period within which a United States patent application may be filed. If an application is not filed within that time, U.S. law prevents one from obtaining patent protection of the disclosed invention. The patent laws of most other countries are even more strict: in general, the right to patent protection is lost immediately upon public disclosure unless a U.S. patent application is filed prior to such disclosure. Thus, to ensure the possibility of worldwide patent protection, it is important that invention disclosures be submitted for timely review so that a U.S. patent application can be filed before public disclosure occurs.