

Florida Atlantic University Interim Intellectual Property Policy

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A. General Comments

The central mission of Florida Atlantic University (the University) is to promote effective teaching and research that foster innovation, stimulate a spirit of inquiry and problem solving, and lead to the discovery of new knowledge. While the vast majority of activity conducted at the University is not directed toward the production of commercial products and inventions, the University recognizes that marketable forms of intellectual property may result from research conducted by personnel of the University. The University has a responsibility to support personnel in fostering all forms of intellectual property, but has a special obligation to serve the public interest by insuring that marketable forms of intellectual property are appropriately developed into commercial products available to the public.

This policy distinguishes between two classes of intellectual property produced on campus, Works and Inventions, which are defined in Section C.1. Generally, Works include copyright able material and Inventions include patentable material. This policy articulates the specific rights that accrue to the authors/inventors and the University according to these two primary categories.

In accordance with the U.S. Constitution, the objective of copyright is to promote the progress of science and useful arts. Like the policies of most institutions of higher learning, the University interprets copyright law (excerpted in Appendix II) as a means of encouraging the discovery of new knowledge and its dissemination to students, to the profession, and to the public. Furthermore, this policy promotes the long-standing academic tradition, as described by the *Statement on Copyright*, issued by the American Association of University Professors (AAUP), that treats the faculty member as the copyright owner of works that are created independently and at the faculty members' own initiative for traditional academic purposes, regardless of the physical medium, whether on paper or in audiovisual or electronic form.

Under the Bayh-Dole Act of 1980 and subsequent amendments, universities are granted the ownership of intellectual property created under government-funded work and charged with commercializing those inventions for the public good. This 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 creators of intellectual property 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. Consistent with the Bayh-Dole Act, the University is committed to sharing the intellectual and financial benefits resulting from the work of its personnel.

This policy acknowledges that issues of intellectual property are complex and that individual circumstances may affect the establishment of ownership of University works and inventions. It provides a framework for assigning ownership rights and creating both incentives and protections that will encourage the discovery and development of new knowledge and its application and transfer for the public benefit. In addition, it provides for the equitable distribution of net income from the transfer and development of works and inventions.

B. Legal Considerations

With the passage of the Bayh-Dole Act (Public Law 96-517 entitled The Patent and Trademark Amendments Act of 1980) and subsequent amendments, 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.

This Intellectual Property Policy of Florida Atlantic University is based on Section 240.229, Florida Statutes (Appendix I), which authorizes the University to license, protect, and otherwise deal with the work products of University personnel. The University has implemented this authority through this Intellectual Property Policy, which requires that all Florida Atlantic University personnel 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. 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.

This Intellectual Property Policy is a University-level document and applies to all University Personnel, as that term is defined in this policy. Additional policies or provisions of State law may also affect the handling of intellectual property.

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 Florida Atlantic University.
- 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 categories of faculty members and all volunteers; persons paid by or through the University, including fellows; and anyone working under University auspices. Students encompassed within any of these categories shall also be considered University Personnel.
- c. **Work(s)** shall include 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, and pictorial or graphic works. A Work also includes copyrightable material that is used to assist or enhance instruction.
- d. **Invention(s)** shall include any discovery, invention, process, composition of matter, method of doing business, article of manufacture, know-how, design, model, technological development, biological material, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. An Invention also includes material, other than Works, that is used to assist or enhance instruction.
- e. **Intellectual Property** means all intellectual property including all Works and Inventions.
- f. **Creator(s)** shall mean a member of University Personnel who creates a Work or creates or discovers an Invention.
- g. **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.
- h. **Independent Efforts** with regard to a Work means that the ideas for the Work came from the Creator(s), 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.

i. **University-Supported Work(s)** shall mean a Work of a Creator(s) made using University Support, or for which the University is held responsible for any opinion expressed in the Work, or for which the ideas for the Work did not come from the Creator(s).

j. **Traditional Work(s) Of Scholarship** shall mean University-Supported Works such as theses, dissertations, books, articles, plays, poems, musical compositions, and similar works of scholarship or artistic imagination, to the extent these Works disseminate the results of academic research or scholarly study. Underlying University-Supported Works contained within Traditional Works Of Scholarship may not themselves be Traditional Works Of Scholarship.

k. **Regular Instructional Work(s)** shall mean University-Supported Works developed without the use of appreciable University Support and used solely for the purpose of assisting or enhancing the faculty members' instructional assignment. In determining whether University Support is appreciable, factors such as the following shall be considered: (i) whether the creation of the Work involved the use of special services, equipment, facilities, or technological information that go beyond what is traditionally provided to faculty members generally in the preparation of course materials; and (ii) whether the Work in question was created as a specific requirement of employment or as an assigned instructional duty.

l. **OTT** shall mean the Office of Technology Transfer of the Florida Atlantic University. The Vice President for Research has been designated by the President of the University to carry out the responsibilities authorized by Section 240.241, Florida Statutes, and the implementation of Section 240.229, Florida Statutes, concerning the work products of University personnel. Through the selective delegation of authority from the Vice President for Research, only OTT shall be authorized to commit available University funds for the expenses of licensing and patenting or copyrighting Works and Inventions on behalf of the University. OTT shall also be responsible for all matters relating to patents, trademarks, and copyrights as related to the identification, protection, and commercialization of University-owned Works and Inventions. OTT represents the University in the implementation of this Intellectual Property Policy with regard to governmental entities, industry, and the public.

m. **FARC** shall mean the Florida Atlantic Research Corporation, Inc., a direct support, not-for-profit organization incorporated 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 FARC because it may take equity interests in licensee entities, which the University is precluded from accepting. At the sole discretion of the University, Works and Inventions in which the University asserts its interests may be assigned to FARC. If a Work or Invention is assigned to FARC, FARC follows the same policy as the University in the distribution of proceeds.

n. **Development Expense(s)** shall mean all moneys paid by the University and/or FARC 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 preparation and prosecution expenses, patent filing fees, marketing expenses, patent maintenance fees, consulting fees, expenses incurred in dealing with equity interests, travel, attorneys' fees, litigation costs, and research costs. Not included as Development Expenses are salaries and general operating expenses of University administrative personnel.

o. **Gross Revenue(s)** shall mean: (1) proceeds from the sale, lease, transfer, or other conveyance of an Invention or Work by the University and/or FARC, and (2) license issue fees, option fees, royalties, and equity interests paid to the University and/or FARC 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 FARC sells, exchanges, or chooses to distribute the equity interests, or portion thereof.

p. **Net Income** shall mean Gross Revenues less all Development Expenses for a Work or Invention and its improvements.

C.2. Inventions and Works: Overview of Rights and Obligations

Ownership Rights

An Invention that 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 generally will share in the

proceeds therefrom subject to preexisting commitments to outside sponsoring agencies. For the faculty who are members of the Collective Bargaining Agreement, the Collective Bargaining Agreement shall apply. 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 OTT may agree that the Invention be assigned to the University and the proceeds, if any, shared pursuant to this Intellectual Property Policy. (See also Section C.3. and C.4.)

A Work that 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 University will not assert rights to Traditional Works Of Scholarship or Regular Instructional Works. The Creator shall share in the proceeds from a University-Supported Work, for which the University asserts rights, subject to preexisting commitments to outside sponsoring agencies. (See also Section C.4.)

Disclosure Obligations

University Personnel are required to disclose promptly, pursuant to the disclosure procedures set forth in Section D.2., all Inventions and University-Supported Works, including all Regular Instructional Works but excluding Traditional Works Of Scholarship. *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.*

Requirement to Safeguard

University Personnel have the obligation to refrain from any act that would defeat the University's rights in any Works and Inventions they make 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 shall inform OTT of such publication in a timely manner to give OTT an opportunity to file a patent or copyright and protect the intellectual property rights of the University.

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. When specifically authorized by the University, personnel who leave the University may be permitted to copy their laboratory notebooks and take the copies with them, although they may be required to maintain the confidentiality of the data contained within the notebooks when appropriate. The original notebooks will remain at the University.

Outside Sponsorship

The University enters into research contracts that promote the public interest and usually lead to publishable research or provide for educational opportunities. Such agreements must permit the disclosure and publication of University research results, although limited delays in publication for patent filing may be acceptable. 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 option to acquire a license may be accorded to the sponsor with regard to such Inventions or Works, but this option will be only for a limited period of time following disclosure. University Personnel working on any project funded under a research contract with an outside sponsor must be aware of, and follow the disclosure and publication provisions in the research contract. In addition, University Personnel working on any such project are required to submit, and update periodically, a Disclosure of Financial Conflict of Interest (Appendix IV).

Consulting Activities

Faculty and other University Personnel 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 sometimes require that the consultant waive intellectual property rights as a condition of service. Such agreements may conflict with this policy concerning University ownership of Inventions and Works. Approval of such requests will be based on a determination that the University would 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 with University Support, permission to waive rights to the company or the Creator will not be granted. A determination by the University must be initiated by submitting a Report of Outside Business or Professional Activity (Appendix V). University Personnel engaged in approved consulting work are required to disclose any Work or Invention made in the course of the consulting work in accordance with the instructions of subsection D.2 of this policy.

C.3. Inventions: 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 in a field or discipline other than the field or discipline in which the Creator was engaged by the University to teach, do research, or perform other duties, and without any University Support, the rights to the Invention shall belong 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, OTT may, on behalf of the University:

(i) 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 are at the discretion of the University and FARC. Generally, the University or FARC 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, OTT will be responsible for the development and negotiation of licensing agreements in order that the Invention is managed in a way that serves the public interest. In rare 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

(ii) 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; or

(iii) 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 the supporting federal agency, rather than to 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.

C.4. Works: Relationships Between the Creator and the University Regarding University-Supported Works

Three separate relationships between the Creator and the University with regard to University-Supported Works are recognized:

a. Traditional Works Of Scholarship:

The University recognizes and affirms the traditional freedom of its faculty and staff to publish Traditional Works Of Scholarship without restriction. A Work that a Creator believes is a Traditional Work Of Scholarship, as defined in Section C.1.j., need not be disclosed to the University. The University will not assert rights to Traditional Works Of Scholarship. However, the University may assert rights to University-Supported Works contained within a Traditional Work Of Scholarship.

b. Regular Instructional Works:

The University recognizes and affirms that Regular Instructional Works are the property of their Creators. However, a Work that a Creator believes is a Regular Instructional Work, as defined in Section C.1.k., must be disclosed to the University. Procedures for such disclosure should be determined by the head of the Creators Center or Department/Division. Following an assessment that the Work is a Regular Instructional Work, the University will not assert rights to such Work.

c. All other University-Supported Works:

If, after a full disclosure of a Work and review in accordance with Section D of this policy, a Work is determined to be a University-Supported Work that is neither a Traditional Work Of Scholarship nor a Regular Instructional Work, OTT may, on behalf of the University:

- (i) elect to acquire title to the Work by assignment (i.e., the Creator assigns the rights to the University). The development and marketing of the Work is at the discretion of the University and FARC. Generally, the University or FARC seeks to develop and market the Work and may elect to seek copyright or other legal protection. OTT will be responsible for the development and negotiation of licensing agreements in order that the Work is managed in a way that serves the public interest. In rare cases, the University may elect to license the Work to the Creator for a minimal royalty; or
- (ii) decide the Work disclosure is premature or incomplete, in which case, the Creator will be asked to resubmit the Work disclosure when additional information is obtained; or
- (iii) elect to waive the University's rights to the Work, thus allowing the Creator to protect the Work as he or she may wish. If outside funds supported the work leading to the Work, this waiver is subject to any provisions in the sponsoring agreement. In cases in which the University has waived its interest and the Work was supported by federal funding, any waiver must be to the supporting federal agency, rather than to the Creator(s). In addition, no waiver shall be granted until any pre-existing commitments to sponsoring agencies with regard to Works are cleared. In general, the University will not waive its rights to Works of Creators who are full-time employees or appointees of the University.

If a Creator assumes ownership of any University-Supported Work, the University and the State of Florida will retain for informational or educational purposes a limited, royalty-free right to the use of the Work and to all copyright rights in the Work, excluding the copyright right to make modifications.

If the University asserts rights to any University-Supported Work, upon request, the Creator will be granted, only for the Creators own informational or educational purposes, a limited, royalty-free right to the use of the Work and to all copyright rights in the Work, excluding the copyright right to make modifications. Furthermore, while the Creator is a University Personnel, the University will consult with, and first offer to the Creator the right to make modifications in the Work should the modified Work be intended for use within the University. Should the University allow anyone other than the Creator to make modifications in the Work then, upon request of the Creator, the University will make all reasonable efforts to remove from the Work any attribution to the Creator.

Separate written agreements may be made between OTT and the Creator regarding any Work. For example, to protect the integrity of the Work, certain artistic rights, especially the right to make modifications, might be retained by the Creator. Conversely, to assure effective commercialization of a Work, certain rights that the Creator reserves may be relinquished prior to licensing the Work to a commercial developer. Prior to the creation of a Work, especially when appreciable University Support may be used in its creation, the Creator may seek an agreement with OTT to establish or clarify certain ownership rights.

C.5. Distribution of Net Income from Works and Inventions

With regard to any Work or Invention owned by the University, Net Income, less any foreseeable Development Expenses OTT or FARC deems necessary to defend or maintain the Work or Invention, will be distributed as follows:

	To Cap A	From Cap A to Cap B	Above Cap B
Creator	100%	50%	35.0%
Creators research use	0%	5%	6.5%
Creators Center	0%	5%	6.5%
Creators Department/Division	0%	5%	6.5%
Creators College	0%	5%	6.5%
FARC	0%	30%	39.0%

Cap A is reached when a total of \$5000 of Net Income has been distributed from a license, regardless of the number of Inventions or Works or Creators associated with such license. Cap B is reached when \$100,000 has been distributed from a license, regardless of the number of Inventions or Works or Creators associated with such license.

Distributions of Net Income will be made semiannually on or before June 1 and December 1 of each year. This distribution schedule allows OTT or FARC to assure that all applicable licensing and related expenses have been accounted for. OTT or FARC may, at its sole judgment, withhold or delay distribution of any Net 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 and the Creators Center, Department/Division 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 of Net Income allocated to the Creator(s) must be made to Creator(s) individually. An IRS Form 1099 or other appropriate form will be issued to the Creator(s) for their share of Net Income. The University cannot advise individuals on the tax consequences of these payments. After a Creators death, payment will be made to the Creators estate or heirs.

In the event there are multiple Creators for an Invention or Work, the Creators=share will be divided among the Creators as the Creators decide by mutual agreement. OTT 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 Net Income. If the Creators cannot mutually agree on a distribution, then the OTT Director will decide on a distribution among the Creators. The decision of the OTT Director may be appealed to the Vice President for Research whose decision in this regard shall be final.

The portion distributed to the Creator's research use shall be allocated to a fund in the Creator's Center or Department/Division for discretionary research use by the Creator. If a Creator should leave the University, the portion allocated to the Creator's research use will be allocated to the Creator's Center or Department/Division. If there is more than one Creator, the portion allocated to the Creator's research use will be pro-rated among the Creators as OTT determines.

The portions distributed to the Center, Department/Division and College, which are the Center, Department/Division and College of the Creator(s) at the time of the creation of the Invention or Work, will be pro-rated when more than one Center or more than one Department/Division or more than one College is involved. OTT will make the final decisions on the pro-ration of such portions to Centers, Departments/Divisions and Colleges. In the case of licenses or other transactions involving multiple Inventions or Works, OTT shall resolve any potential conflicts concerning the applicable distribution schedules after reviewing the technologies involved. If any Creator is not affiliated with a University recognized Center, that portion normally allocated to that Creator's Center will instead be allocated to that Creator's Department/Division. Funds distributed to the Centers, Departments/Divisions and Colleges must be used solely for the support of research at the University.

OTT and FARC will utilize their share of the Net Income distribution to support patent and research activities at the University.

Equity in Lieu of Cash Payments

FARC 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 FARC and does not constitute an obligation on behalf of FARC to make a disbursement of equity to the Creator(s) or to the Center(s), Department(s)/Division(s) and College(s) until the equity is sold.

Until distributed, FARC 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.). FARC will retain and own the equity interest until the distribution, sale or exchange of the interest. The decision as to when to distribute, sell or exchange equity resides with the FARC Board of Directors in its sole discretion.

The value received by FARC from the sale or exchange or other disposition of any equity interests will be treated as Gross Revenues. Equity that FARC chooses to distribute will be treated as Gross Revenue. When distributing, selling, exchanging or otherwise disposing of any equity interests, FARC 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. Net Income from equity will be distributed as described above, however, any Net Income that is distributed in the form of shares of equity, as against cash from the sale of equity, will be distributed as if it were Net Income in excess of Cap B.

A Creator may receive equity from a licensee outside of the equity that the University receives from the licensee in consideration for a license to a Work or an Invention. If a Creator receives equity from a licensee outside of the equity received by the University, such Creator will not share in the distribution of the Net Income associated with the equity received by the University except with the approval of the Vice President for Research. If one or more Creators receive equity directly from a licensee, the portion of equity to be received by the other Creators will be reduced in proportion to the contribution to the Invention or Work, as determined by OTT, made by the Creators who receive equity directly from a licensee. A Creator who receives equity directly from a licensee may share in the distribution of Net Income derived from non-equity fees and royalties paid by such licensee. For example, this may arise when the Creator receives certain considerations directly from the licensee. In such cases the University may determine that such Creator not receive some or any of the distribution of Net Income. The OTT Director will make a recommendation in this regard to the Vice President for Research who shall make a determination in consultation with the relevant Dean.

C.6. Relationships Between Employees and the University Regarding Business Transactions

Florida Statutes declare it to be the policy of the State that no officer or employee of a state agency or other political subdivision of the State, shall have any interest, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. A Conflict is defined as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest. Section 112.313, Florida Statutes, sets forth the specifically prohibited conduct, as well as the authority to obtain an exemption from the statutory prohibition against engaging in conduct which creates a conflict of interest.

University employees are required to receive appropriate permission before soliciting business from the University by completing and submitting a Report of Outside Business or Professional Activity (Appendix V) and a Report of Specified Interest (Appendix VI).

These forms must be submitted by an 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 that is licensing or otherwise entering into a business relationship with the University or FARC. 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 Vice President for Research. Further information on outside activities, financial interests, and conflict of interest law and policies is found in the FAU Faculty Handbook or may be obtained from the Department of Human Resources, ADM 228, or from OTT.

D. Procedures Regarding Inventions and Works

D.1. Organization and Authority

The Office of Technology Transfer (OTT) is responsible for all matters relating to patents, trademarks and copyrights as related to the identification, protection, and commercialization of Intellectual Property.

In order to have successful technology transfer, a team effort on the part of the Creator of the Intellectual Property, the staff of OTT, the administrative staff of the Creators Center, Department/Division and College, and others involved in the Creators 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 OTT 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.

Licensing specialists in OTT 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. OTT represents the University in the implementation of this Intellectual Property Policy with regard to governmental entities, industry, and the public. Through the selective delegation of authority from the Vice President for Research to OTT, only OTT shall be authorized to commit available University funds for the expenses of licensing and patenting of Inventions or copyrighting of works on behalf of the University.

Technology transfer is facilitated through FARC. At the sole discretion of the University, Works and Inventions in which the University asserts its interests may be assigned to FARC. If a Work or Invention is assigned to FARC, FARC follows the same policy as the University in the distribution of proceeds.

D.2. Making Disclosures

University Personnel are required to disclose all Inventions to OTT. Appendix VII contains an Invention Disclosure Form that should be used to disclose each invention. Relevant manuscripts describing the Invention can be attached to the disclosure. The disclosure should be signed and dated and submitted to the Creator's Department/Division Chair and College Dean for their signatures, comments and recommendations. A fully signed disclosure should then be submitted to OTT. Timely disclosure prior to publication is required to prevent the loss of patent rights in countries outside the United States and the potential loss of patent rights in the United States. Therefore, Creators may wish to send a preliminary copy of the original disclosure, prior to signing by the Chair and Dean, directly to OTT. Disclosures should be made on Inventions even if the Creator is uncertain as to whether the Invention has commercial value.

University Personnel are required to disclose all University-Supported Works, excluding Traditional Works Of Scholarship. The procedures for disclosing Regular Instructional Works should be determined in discussions with the head of the Creator's Center or Department/Division. All other University-Supported Works should be disclosed to OTT. Appendix VIII contains a Work Disclosure Form that can be used to disclose each Work. Relevant manuscripts describing the Work can be attached to the disclosure. The disclosure should be signed and dated and submitted to the Creator's Department/Division Chair and College Dean for their signatures, comments and recommendations. A fully signed disclosure should be submitted to OTT. Disclosures should be made on Works even if the creator is uncertain as to whether the Work has commercial value.

If a Creator believes that a given Invention or Work described in a disclosure is not the property of the University, the disclosure should indicate the reasons behind this belief so that an assessment can be made by the University.

D.3. Disclosure Review

OTT will conduct a review of the disclosure that shall include an assessment of its commercial importance and the extent to which the University should be involved in its protection, development, and promotion. OTT shall recommend whether the University should assert or waive its interest, if any, in the Invention or University-Supported Work based on a determination of potential technical and market value.

OTT 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. It shall be the obligation of the Creator to provide additional information as needed in all stages of this procedure.

D.4. Determination of Ownership

OTT will assess the respective equities of the Creator and the University in the Invention or Work and make a recommendation, consistent with the provisions of Section C of this policy, to the Vice President for Research as to the ownership interest of the University and the University's legal rights. The Vice President for Research, or the Director of OTT, shall determine the ownership interest of the University by consulting, if needed, a standing committee consisting of the Vice President for Research as Chair, the Director of OTT, the Provost or designee, the University's General Counsel or designee, and three faculty members (appointed by the Provost) with knowledge of issues related to patents and copyrights. The Director of OTT shall inform the Creator of the University's decision regarding ownership and the University's legal rights as soon as practicable, with a goal of not later than 120 calendar days from receipt by OTT of the complete disclosure in the case of an Invention and 60 days from receipt of the complete disclosure by OTT in the case of a University-Supported Work.¹ It shall be the obligation of the Creator to provide additional information as needed in all stages of this procedure.

If the University's ownership interest in an Invention or Work 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 or Work. In such cases the University, through the Creator(s) and appropriate administrators, must establish the means to manage the conflict prior to conducting the research.

D.5. Commercialization

Inventions and Works in which the University has asserted its ownership interest may be protected, marketed, and licensed as appropriate. The OTT 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 Centers, Departments/Divisions 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 Vice President for Research or his/her designee.

At any stage in the commercialization of an Invention or Work, OTT may elect to withdraw from further involvement in the protection or commercial application of the Invention or Work including withdrawing from financing or prosecuting patent applications. At the request of the Creator in such case, OTT may transfer the intellectual property rights to the Creator. The transfer shall not affect the right of the University and the State of Florida to royalty-free use of the Invention or Work.

E. Effective Date

This policy shall be effective on August 16, 2001, with the exception of those provisions concerning distribution of proceeds as set forth in Section C.5. of this policy, which shall become effective as follows: The proceeds from any Works or Inventions that are the subject matter of any license agreement or other transaction entered into by the University or FARC before August 16, 2001 shall continue to be distributed pursuant to the previous 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.5. of this policy.

¹ *Failure of the University to meet the time frame goals does not mean the University has waived its ownership interests. University rules and collective bargaining agreements provide informal appeal and formal grievance procedures for University employees 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.*

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 therein. 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 therefrom shall be deposited and expended in accordance with s.240.241. 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 112.313 (1-8), Florida Statutes Standards of Conduct for Public Officers, Employees of Agencies, and Local Government Attorneys

- (1) DEFINITION: As used in this section, unless the context otherwise requires, the term **public officer** includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.
- (2) SOLICITATION OR ACCEPTANCE OF GIFTS: No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.
- (3) DOING BUSINESS WITH ONE'S AGENCY: No employee of an agency acting on his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee of the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) UNAUTHORIZED COMPENSATION. No public officer, employee or an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) SALARY AND EXPENSES: No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) MISUSE OF PUBLIC POSITION: No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall be construed to conflict with Section 104.31.

(7) CONFLICTING EMPLOYMENT OF CONTRACTUAL RELATIONSHIP:

(a) No public officer or employee of an agency shall have or hold any employment of contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to Chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION:

No public officer, employee of an agency, or local government attorney shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

Appendix II

Sections of US Copyright Law

(US Code as of: 01/23/00)

Section 106. Exclusive rights in copyrighted works

Subject to Sections 107 through 121, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) to reproduce the copyrighted work in copies or phonorecords;
- (2) to prepare derivative works based upon the copyrighted work;
- (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
- (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
- (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Section 106A. Rights of certain authors to attribution and integrity

(a) Rights of Attribution and Integrity. - Subject to Section 107 and independent of the exclusive rights provided in Section 106, the author of a work of visual art -

(1) shall have the right -

(A) to claim authorship of that work, and

(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his or her honor or reputation; and

(3) subject to the limitations set forth in Section 113(d), shall have the right -

(A) to prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and any intentional distortion, mutilation, or modification of that work is a violation of that right, and

(B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

(b) Scope and Exercise of Rights. - Only the author of a work of visual art has the rights conferred by subsection (a) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are co-owners of the rights conferred by subsection (a) in that work.

(c) Exceptions. **B**

- (1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a distortion, mutilation, or other modification described in subsection (a)(3)(A).
- (2) The modification of a work of visual art which is the result of conservation, or of the public presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.
- (3) The rights described in paragraphs (1) and (2) of subsection (a) shall not apply to any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in subparagraph (A) or (B) of the definition of "work of visual art" in Section 101, and any such reproduction, depiction, portrayal, or other use of a work is not a destruction, distortion, mutilation, or other modification described in paragraph (3) of subsection (a).

(d) Duration of Rights. **B**

- (1) With respect to works of visual art created on or after the effective date set forth in Section 610(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author.
- (2) With respect to works of visual art created before the effective date set forth in Section 610(a) of the Visual Artists Rights Act of 1990, but title to which has not, as of such effective date, been transferred from the author, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by Section 106.
- (3) In the case of a joint work prepared by two or more authors, the rights conferred by subsection (a) shall endure for a term consisting of the life of the last surviving author.
- (4) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

(e) Transfer and Waiver. **B**

- (1) The rights conferred by subs (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.
- (2) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any copy of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright in that work.

Section 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of Sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that Section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include –

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Appendix III

Article 18 BOR/UFF Collective Bargaining Agreement Inventions and Works

18.1 University Authority and Responsibilities

Section 240.229, Florida Statutes, 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 9.8(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 9.8(b), is included in this definition.

(c) **Instructional technology material** is defined in Section 9.8(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:

- (1) the ideas came from the employee;
- (2) the work was not made with the use of university support; and
- (3) 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 otherwise 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 19 BOR/UFF Collective Bargaining Agreement Conflict of Interest/Outside Activity

19.1 Policy

(a) An employee is bound to observe, in all official acts, the highest standards of ethics consistent with the code of ethics of the State of Florida (Chapter 112, Part III, Florida Statutes), the advisory opinions rendered with respect thereto, Board rules, and university rules. Other provisions of State law govern obligations and responsibilities of employees who receive State compensation in addition to their annual salary (see Section 240.283, Florida Statutes).

(b) Nothing in this Article is intended to discourage an employee from engaging in outside activity in order to increase the employee's professional reputation, service to the community, or income, subject to the conditions stated herein.

19.2 Definitions

(a) "Outside Activity" shall mean any private practice, private consulting, additional teaching or research, or other activity, compensated or uncompensated, which is not part of the employee's assigned duties and for which the university has provided no compensation.

(b) "Conflict of Interest" shall mean

(1) any conflict between the private interests of the employee and the public interests of the university, the Board of Regents, or the State of Florida, including conflicts of interests specified under Florida Statutes; or

(2) any activity which interferes with the full performance of the employee's professional or institutional responsibilities or obligations.

19.3 Conflicts of Interest Prohibited

Conflicts of interest, including those arising from university or outside activities, are prohibited. Employees are responsible for resolving such conflicts of interest, working in conjunction with their supervisors and other university officials.

19.4 Report of Outside Activity

(a) An employee who proposes to engage in any outside activity which the employee should reasonably conclude may create a conflict of interest, or in any outside compensated professional activity, shall report to the employee's supervisor, in writing, the details of such proposed activity prior to engaging therein.

(b) The report, as described in paragraph 19.4(a) shall include where applicable, the name of the employer or other recipient of services; the funding sources; the location where such activity shall be performed; the nature and extent of the activity; and any intended use of university facilities, equipment, or services.

(c) A new report shall be submitted for outside activity previously reported at:

(1) the beginning of each academic year for outside activity of a continuing nature; and

(2) such time as there is a significant change in an activity (nature, extent, funding, etc.)

(d) The reporting provisions of this section shall not apply to activities performed wholly during a period in which the employee has no appointment with the State University System.

(e) Any outside activity which falls under the provisions of this Article and in which the employee is currently engaged but has not previously reported, shall be reported within sixty (60) days of the execution of this Agreement and shall conform to the provisions of this Article.

19.5 Expedited Grievance Procedure

(a) In the event the proposed outside activity is determined to constitute a conflict of interest, and the employee disagrees with that determination, the employee may file a grievance under the expedited grievance procedure contained in Article 20.

(b) The employee may engage in such outside activity pending a resolution of the matter pursuant to paragraph 19.5(a).

(c) If the resolution of the matter is that there is a conflict of interest, the employee shall cease such activity immediately and may be required to turn over to the university all or part of compensation earned therefrom.

19.6 Use of University Resources

An employee engaging in any outside activity shall not use the facilities, equipment, or services of the university in connection with such outside activity without prior approval of the President or representative. Approval for the use of university facilities, equipment, or services may be conditioned upon reimbursement for the use thereof.

19.7 No University Affiliation

An employee engaging in outside activity shall take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the university.

Appendix IV

Florida Atlantic University

Disclosure of Financial Conflict of Interest Status

Federal regulations require that the university manage, reduce, or eliminate any actual or potential conflicts of interest that may be presented by the compensated outside activities and other financial interests of persons involved in sponsored research projects. In keeping with the State of Florida Code of Ethics (Section 112.313, Florida Statutes), it is Florida Atlantic University policy that this form be submitted to the Division of Sponsored Research with every proposal for sponsored research or educational activities and be updated periodically.

Type of Disclosure: (check one) Proposal Submission Annual Update Periodic Revision

*Investigator: _____ Department/College _____

Title of Proposal/Project: _____

Funding Agency: _____

Principal Investigator (if different): _____

- I have no *financial interest(s)* that would reasonably appear to affect or be affected by this proposed or funded sponsored project.
- I am disclosing the following *financial interest(s)* that would reasonably appear to affect or be affected by this proposed sponsored project, and I am attaching supporting documentation that identifies the business enterprise or entity involved and the nature and amount of the interest:
 - Salary or other payments for services, such as consulting fees and honoraria.
 - Equity interests, such as stocks and stock options.
 - Intellectual property rights, such as patents, copyrights, and royalties.
 - Other significant financial interests that possibly would affect or be perceived to affect the results of the research, educational or service activities funded or proposed for funding.
- Further, I agree
 - to update this disclosure annually during the period of the award and any time new reportable significant financial interests are obtained, and
 - to comply with any conditions or restrictions imposed by Florida Atlantic University to manage, reduce or eliminate actual or potential conflicts of interest, or forfeit the award.

Investigator's signature: _____ Date: _____

(Original signatures only; a "per" signature is unacceptable)

This form must accompany all proposals.

* Definitions:

1. For the purpose of this disclosure, *investigator* is defined as the Principal Investigator/Project Director, Co-Principal Investigator, and any other persons who is responsible for the design, conduct, or reporting of research, educational or service activities funded (or proposed for funding) by an external sponsor.

Appendix VI

REPORT OF SPECIFIED INTEREST

An employee is required under Florida law, University rules, and/or provisions of a Collective Bargaining Agreement to disclose contractual relationships, including financial and managerial interests, with an entity that proposes to do business with the University prior to such business being conducted. In the case of financial and managerial interests, the information required extends to the spouse and/or child of the employee and, for managerial interests, to relatives. Please note that an employee must submit the disclosure information and obtain required approvals on an annual basis.

Specific Activity - Please check the appropriate interest and/or activities and provide the information requested. In the case of numbers one (1) and two (2) below, the declaration applies to immediate family and to certain relatives.

- _____ 1. **Financial Interest**, i.e., direct or indirect ownership of assets or capital stock of the business entity. Name and location of business entity, the nature of the financial interest (proprietorship, partnership, interest and/or stock ownership, etc.), brief description of business to be conducted with the University, the department/unit from which business is to be solicited, and the source of funding (if applicable) to be used to pay for the product/services.
- _____ 2. **Managerial Interest**, i.e. officer, director, partner, proprietor, etc., of the business entity. Name and location of business entity, the nature of managerial interest, brief description of business to be conducted with the University, the department/unit from which business is to be solicited, and the source of funding (if applicable) to be used to pay for the product/service.
- _____ 3. **Employment or Other Contractual Relationship**. Name and location of business entity or agency, the nature of employment and/or other contractual relationship, brief description of business to be conducted with the University, the department/unit from which business is to be solicited, and the source of funding (if applicable) to be used to pay for the product/service.
- _____ 4. **Textbook/Instructional Materials**. Name of textbook/instructional materials and publisher and brief description of use at the University.
- _____ 5. **Candidate for Political Office**. Name of office, dates of campaign, length of term, if elected. **Any report that is to continue beyond August 6 must be resubmitted for review and action prior to August 7 of each year, including authorship of textbooks.**

Description of Interest/Activity. Please indicate the interest(s)/Activity (Activities) being described:

It is the employee's responsibility to ensure that an approved copy of this form is attached to any "Requisition to Purchase" for items 1 and 2. Note that each transaction is subject to review, and justification/explanation may be required to determine if a conflict of interest exists and to comply with state regulations.

I hereby certify that the information reported here is accurate and complete and does not create a conflict of interest or interfere with the efficient and faithful performance of my professional responsibilities or other institutional obligations.

_____ Employee's Name	_____ Employee's Signature	_____ Date
_____ Employee's Title	_____ Department	
Reviewed By:		
Chairperson or Director	_____	_____ Date
Dean or Director	_____	_____ Date
Vice President (if appropriate)	_____	_____ Date
Approved By:		
President (or Designee)	_____	_____ Date

DISTRIBUTION: White -Personnel Services Yellow -Provost/Vice President Pink -General Counsel Gold -Employee

Appendix VII

INVENTION DISCLOSURE FORM

I. Purpose and Format of Invention Disclosure Form:

In order to protect and commercialize your invention and determine whether to pursue patent protection for your invention, Florida Atlantic University needs the information requested by this form. All questions are important, so please respond to each of them even if the answer is "none" or "not applicable". If more space is needed, feel free to insert into this form or use additional sheets. Your disclosure will be treated confidentially. For any questions regarding this form, please call the Office of Technology Transfer: 297-0202.

II. Disclosure of Invention

- A. TITLE: _____
- B. In lay terms, briefly describe your invention, including its potential commercial use. This description will be used as a non-technical marketing abstract. Do not include any enabling information. (insert or add sheets)
- C. DESCRIPTION AND OPERATION: Provide a complete yet concise description including sketches, diagrams, photographs and any other data which would be sufficient to enable another person skilled in the field to reproduce the invention. Include any data that show that the invention works. (insert or add sheets)

III. Prior Art

- A. Have you conducted a patent search?
YES _____ NO _____
If YES, please give results and list names and issue numbers of each patent you reviewed: _____
- B. Have you ever seen or read about an invention similar to yours:
YES _____ NO _____
If YES, then provide: 1) Name and date of publication or presentation
 2) Explain how your invention is different or better.
- C. Please identify any other technologies that might commercially compete with your invention: _____

IV. Public Disclosure

- A. Which of the following have you done or do you intend to do?

	YES	NO	DATE		YES	NO	DATE
1. Publish	___	___	_____	2. Oral Presentation	___	___	_____
3. Poster Section	___	___	_____	4. Disclose to Industry Rep.	___	___	_____
5. Other	___	___	_____				

V. Were any students involved in the creation of the invention or use of the invention in writing theses or dissertations? YES _____ NO _____

If YES, please explain: _____

VI. Commercial Consideration

- A. Where would your invention have the most commercial value? Please indicate your evaluation by ranking the following geographic areas (1 being the highest).
United States _____ Japan _____ Europe _____ Other (Please specify) _____
- B. Please estimate the market value of your invention: \$ _____
- C. Have you communicated with any industry representatives regarding your invention? YES__ NO__
If YES: Date of Disclosure _____
Company _____
Address _____
City/State/Zip _____
Telephone Number _____
Individual Contact _____
Official Title _____

(Use additional insertions or pages as needed.)

D. Do you wish to license this invention for your own company? YES ____ NO ____

E. Do you wish to continue research on this invention if the entity licensing the invention provides funding? YES ____ NO ____

VII. Administrative Considerations

A. SUPPORT: NOTE: percentages indicated below should add up to 100%

1. University Support:

a. Name and address of the University facility where the invention was developed:

Name _____
Address _____
City, State, Zip _____

b. What was the university percentage of support, in the way of money, facilities, and personnel (include yourself as part of the personnel), to the invention process? _____%

2. Other Support:

a. Name and address of any other organization contributing to the development of the invention:

Name: _____
Grant/Contracts _____
Address _____
City, State, Zip _____
P.I. Name _____
Grant Title _____

b. What was the percentage of this organization's contribution? _____% Note: percentages indicated should add up to 100%.

VIII. Inventor(s): Use additional sheets if there are more than two inventors.

(1) Name _____
Official Title/Position _____
Business Address _____
City, State, Zip _____
Telephone Number _____ email address: _____
% of contribution _____

(2) Name _____
Official Title/Position _____
Business Address _____
City, State, Zip _____
Telephone Number _____ email address: _____
% of contribution _____

Signature of Inventor(s) submitting disclosure:

Signature _____ Date _____

If only one inventor, the disclosure should be signed and dated by one technically Qualified witness who has read and understood the disclosure.

Witness _____ Date _____

Each inventor should confirm the proportion of University contribution, outside contribution, and individual contribution to the invention.

IX. Authorized Signature(s):

	Name	Signature	Date
Dept./Div. Chair	_____	_____	_____
College Dean	_____	_____	_____
OTT Reviewer	_____	_____	_____

X. University Decision: (to be filled in by Office of Technology Transfer)

On Behalf of Florida Atlantic University, the Office of Technology Transfer has

- _____ elected to acquire title to the Invention by assignment
- _____ decided the disclosure is premature or incomplete (see comments below)
- _____ elected to waive the University's rights to the invention

XI. Comments:

Signed by _____
Vice President for Research or designee Date _____

Send original and one copy of the Invention Disclosure Form to the Office of Technology Transfer
File # _____

Appendix VIII

Work Disclosure Form

I. Purpose and Format of Work Disclosure form

This form is used to disclose a University-Supported Work(s), excluding Traditional Works of Scholarship and Regular Instructional Works (defined in Florida Atlantic University's Intellectual Property Policy).

All questions are important so please respond to each of them even if the answer is **None** or **Not applicable**. If more space is needed, feel free to use additional sheets. For any questions regarding this form, please call the Office of Technology Transfer 297-0202.

II. Disclosure of Work(s)

- A. Title: _____
B. Briefly describe the work(s), including the date that the project was begun, and the date of (expected) completion, and the medium, (book, computer program, sound recording, sculpture, and so forth).

III. Support

- A. List all University facilities and materials used in the development of the work(s).

	Facility/material/personnel	Dates	Total hours	Costs
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

Total costs: _____

- B. If any of the University support described above was through a grant or contract, please provide the following information for each such contract or grant:

Name: _____
Grant/contract #: _____
Address: _____
City, State, Zip: _____
P.I. Name: _____
Grant/Contract title: _____

What was the percentage of contribution to the work through this contract/grant?

- C. Did you or any of the authors use material from others (such as software or manuscripts) to produce the work?

YES _____ NO _____

If yes, please explain the nature of these materials.

- IV. Were any students involved in the creation of the work or use of the work in writing theses or dissertations?
YES _____ NO _____ If YES, please explain: _____

V. Statement

Provide a brief statement describing (1) the work(s), (2) the circumstance under which the work(s) was developed, (3) what interest you believe the University has in the work(s), and (4) the proposed disposition of proceeds if the University waives its interest in the work(s). If the University waives its interests in the work(s), the author(s) must ensure that the University is not held responsible for any opinions expressed in the work(s).

VI. Author(s) (Attach additional sheets if there are more than two authors of the work(s).)

Note: percentages indicated should add up to 100%.

(1) Name: _____

Title/Position: _____

Business Address: _____

City, State, Zip: _____

Telephone number: _____ email address _____

% of contribution _____

(2) Name: _____

Title/Position: _____

Business Address: _____

City, State, Zip: _____

Telephone number: _____ email address _____

% of contribution _____

Signature of Author(s) submitting disclosure:

Signature: _____ **Date:** _____

VII. Authorized Signature(s):

The Department/Division Chair of each author should confirm the proportion of University contribution, including contract and grant support, to the work(s)

	Name	Signature	Date
Dept/Div Chair:	_____	_____	_____
College Dean:	_____	_____	_____
OTT Reviewer	_____	_____	_____

VIII. University Decision: (to be filled in by Office of Technology Transfer)

On behalf of Florida Atlantic University, the Office of Technology Transfer has

_____ elected to acquire title to the work by assignment

_____ decided the disclosure is premature or incomplete

(see comments below)

_____ elected to waive the University's rights to the work(s)

IX. Comments:

Signed by Vice President for Research or designee:

_____ Date: _____

File # _____

Send original and one copy of the Disclosure to the Office of Technology Transfer,

Extension 7-0202