

INTELLECTUAL PROPERTY POLICY

Introduction

The University recognizes that inventions may be made and copyrightable works may be created in the course of research supported by facilities, equipment or funds furnished by the University and others. The University desires that such inventions and works be brought into use for the public benefit at the earliest possible time. The University recognizes that this objective may be best accomplished through the patenting of such inventions and the licensing of such inventions and works consistent with the public interest. The University also desires to foster the creation and publication of scholarly works by authors at the University. This policy seeks to reconcile these interests on behalf of the public, the University and the inventors and authors.

Effect and Incorporation by Reference

This Intellectual Property Policy (this "*Policy*") supercedes the current Patent Policy of January 1, 1994, and the current Copyright Policy of January 18, 1984, (collectively, the "*Prior Policies*") as of the Effective Date set forth below, and shall be deemed to be incorporated by reference in existing agreements referencing either of the Prior Policies, except as noted below.

Summary of Policy

All inventions will be owned by the University. The copyright in scholarly works and works created outside of the University will be owned by the author. All other copyrightable works will be owned by the University. Cash proceeds from licensing transactions, after the University recovers its costs for intellectual property protection, licensing, and management and disposition of equity, will be paid 33-1/3% to the inventors or authors and 66-2/3% to the University. Any equity or other securities derived from a license transaction will be held by the University, and managed by the University's Office of Technology Transfer ("*OTT*") or its designee. Such equity will be liquidated as soon as reasonably practicable, with cash proceeds distributed as described above.

Policy

1. Ownership of Inventions. All inventions and improvements, whether patentable or not, that are conceived or reduced to practice using the facilities, equipment or funds of the University by employees of the University or by others authorized to use the facilities, equipment or funds of the University (each, an "*Invention*") will be the sole property of the University. The term "*Inventor*" under this Policy means an individual who is or could be determined to be an inventor of an Invention under applicable Federal patent law.

2. Ownership of Works. The University acknowledges that copyrightable works that are submitted and accepted for scholarly publication, such as a journal article or a text book (each, a "*Scholarly Work*"), will be owned by the author. The University further acknowledges that copyrightable works that are created outside of the scope of employment or engagement by the University and without the use of the facilities, equipment or funds of the University, such as a novel or a painting (each, an "*Individual Work*"), will belong to the author. All copyrightable works that (i) are neither Scholarly Works nor Individual Works and (ii) are created by employees of the University or others authorized to use the facilities, equipment or funds of the University (each, a "*Commercial Work*") will be the sole property of

the University. Where applicable, Commercial Works will be treated as works for hire under Federal copyright law. Examples of Commercial Works would include: the text of an invention disclosure written by an author to be used in a patent application; courseware; databases; and the source code and documentation for a new computer software program created by an author. The term “*Author*” under this Policy means an individual determined to be an author of a Scholarly Work, Individual Work or Commercial Work under applicable Federal copyright law.

3. Exceptions. The University reserves a royalty-free, non-transferable right to use all Inventions, Scholarly Works and Commercial Works for academic and research purposes. In the case of Inventions, Scholarly Works or Commercial Works arising under research sponsored by third parties, including government agencies, the University may choose to modify the disposition of ownership under this Policy. In the case of joint invention or authorship with entities or individuals not covered by this Policy, the University will seek to resolve any ownership questions by contract in a timely manner.

4. Disclosure Process. At the commencement of his or her employment or engagement, each employee or other person authorized to use the facilities, equipment or funds of the University will be required to sign an Agreement Concerning Intellectual Property (Appendix A) agreeing to be bound by this Policy. The Inventor or Author must promptly disclose to OTT each Invention or Commercial Work for which he or she may seek commercialization. Following disclosure and a decision by OTT to proceed with commercialization, the Inventor or Author will sign an Assignment confirming the transfer of all rights in the Invention or Commercial Work to the University. Each Inventor or Author will comply with his or her Agreement Concerning Intellectual Property, or his or her existing Agreement Concerning Inventions, to be bound by this Policy, and cooperate with OTT at all times in the implementation of this Policy and in any potential license or sponsored research transactions for Inventions or Commercial Works.

5. Role of OTT. OTT will be the primary office at the University responsible for managing this Policy. OTT will, for example: (a) determine whether or not to seek patent or copyright protection for Inventions and Commercial Works and implement the selected strategy; (b) determine whether or not releasing an Invention to the Inventor or Commercial Work to the Author is in the best interests of the University; (c) market Inventions and Commercial Works to potential licensees; (d) structure, close and administer license and sponsored research transactions; (e) facilitate the distribution of cash proceeds from license transactions; and (f) develop and administer procedures that are consistent with this Policy.

6. Division of Cash Proceeds. The Author will retain any cash proceeds from Scholarly Works and/or Individual Works. The use of proceeds from sponsored research transactions for Inventions and Commercial Works will be governed by applicable contracts and this Policy and any other applicable University policy. Cash proceeds from a licensing transaction for an Invention or Commercial Work will be divided as follows: first, the University will recover its patenting, licensing and legal expenses, including those related to any dispute resolution, associated with the Invention or Commercial Work, as well as legal, transactional, and other costs relating to management and disposition of any equity; and second, the remaining cash proceeds (“*Net Proceeds*”) will be divided thirty-three and one-third percent (33-1/3%) to the Inventors of the Invention or the Authors of the Commercial Work, as a group, and sixty-six and two-thirds percent (66-2/3%) to the University. If there is more than one Inventor of an Invention or Author of a Commercial Work, then the Inventors’ or Authors’ share of the Net Proceeds will be divided as agreed among such Inventors or Authors. Any allocation among Inventors or Authors must be unanimous and must be presented in writing to OTT prior to the distribution of any Net Proceeds. The University is under no obligation to resolve any disagreements among Inventors or Authors. However, OTT reserves the right to intervene, at its discretion, to aid in dispute resolution. Mechanisms of dispute resolution may include, but are not limited to, mediation, arbitration or other services performed by outside individuals. All expenses of such services incurred by the University will be deducted as an additional expense prior to distribution of Net Proceeds. This Policy will not affect any

existing arrangements or agreements concerning allocation of proceeds among Inventors or Authors. If an Inventor or Author who is a Head of Laboratory elects to contribute any or all of his or her share of the Net Proceeds to his or her laboratory for the purposes of supporting ongoing research, then the University will contribute a matching sum from the University's share of the Net Proceeds to such laboratory to support such research at the University.

7. Distribution of Net Proceeds. Net Proceeds from licensing transactions for Inventions and Commercial Works will be distributed to Inventors or Authors, as the case may be, according to the agreement regarding allocation by the University in the ordinary course of business when and as received by the University. The University will use reasonable efforts to distribute any Net Proceeds due to an Inventor or Author who is no longer associated with the University, provided that it is the sole obligation of such Inventor or Author to maintain current contact information with the appropriate office of the University for such purposes. In the event of the death of an Inventor or Author, any Net Proceeds due to the Inventor or Author will be distributed to his or her estate, in accordance with this Policy and applicable law. Distribution of Net Proceeds to an Inventor or Author will cause tax consequences to the Inventor or Author. All such taxes incurred by the Inventor or Author are the sole responsibility of the Inventor or Author. Payment of Net Proceeds to an Inventor or Author will be reported by the University as payment of "other income or "royalties" and not as "salary". Each Inventor or Author should consult his or her tax advisor to determine his or her own tax consequences.

8. License-Derived Equity. If the University receives any equity, or other class of securities, of a licensee as consideration in a license transaction for Inventions or Commercial Works, then the equity will be held by the University-and managed by OTT or its designee. It is the policy of the University to liquidate such equity as soon as reasonably practicable, usually in the public market, rather than seek to maximize the return on the equity by trying to time the sale of the equity. The University does not act as fiduciary for any Inventor or Author concerning such equity, and no Inventor or Author will have any right to vote or direct the disposition of such equity. The University has no obligation or duty to an Inventor or Author regarding the value realized upon liquidation of such equity, or with respect to any personal tax obligations that may arise as a result of the receipt of Net Proceeds from the disposition of such equity. Once the equity is liquidated, the proceeds will be treated as cash proceeds of the applicable license transaction and distributed under the terms of this Policy. For a more detailed explanation of the considerations involved in equity transactions, see the attached Appendix B on Equity Guidelines for License Transactions, which is incorporated by reference into and made a part of this Policy.

9. Inventor or Author-Held Equity. Should any Inventor or Author receive equity, or other class of securities, directly or indirectly from an entity that is or becomes involved in a license transaction with the University (regardless of whether the University also receives equity, or other class of securities), the facts of the Inventor's or Author's equity interest will be fully and promptly disclosed in writing by the Inventor or Author, upon request from OTT, for evaluation by the University's Technology Transfer Committee. This Committee may then decide to further review the transaction and make a decision on the appropriate sharing of Net Proceeds with and among all Inventors or Authors based on the unique circumstances of each transaction. This decision will supersede the provisions regarding sharing of proceeds set forth in Paragraphs 6 and 8.

Effective Date

This Policy became effective on June 4, 2003 upon approval by the Board of Trustees of the University, and is first being amended effective on October 7, 2005. This Policy may be further amended from time to time.

AGREEMENT CONCERNING INTELLECTUAL PROPERTY

In consideration of my employment or engagement by The Rockefeller University (the "*University*") or my access to certain of its facilities, equipment or funds, I agree with the University as follows:

1. I agree to be bound by the University's Intellectual Property Policy, as it may be amended from time to time by the Board of Trustees of the University (the "*Policy*").

2. I agree to disclose promptly and fully, in writing, to the designated official of the University, all Inventions and/or Commercial Works (as defined in and under the terms of the Policy).

3. I agree that all right, title and interest in and to the Inventions and/or Commercial Works discovered or created by me will be the property of the University under the terms of the Policy.

4. At the request of the University at any time and in accordance with the Policy, I will execute, without charge, written assignments to the University or its nominee of my entire right, title and interest in and to the Inventions and/or Commercial Works throughout the world, including all patent applications, patents, copyright applications and copyrights anywhere relating to the Inventions and Commercial Works and all right to file, obtain and maintain such applications, patents and copyrights.

5. At the request of the University, I agree to assist the University, without charge, (except for reasonable compensation for my time, if the same is not covered by my employment, engagement or other remuneration by the University) in the following:

(a) Preparation, filing and prosecution of applications on any of the Inventions or Commercial Works;

(b) Obtaining and maintaining patents or copyrights anywhere on any of the Inventions or Commercial Works; and

(c) Cooperating in any litigation or proceedings (in courts, patent offices, copyright offices or elsewhere), or any arbitrations or negotiations relating to any of the Inventions or Commercial Works.

6. This Agreement will inure to the benefit of the University and its nominees and their respective legal representatives, successors and assigns, and this Agreement will be binding henceforth upon me and my heirs, legal representatives, executors, administrators and assigns. Except with the prior, written consent of an authorized official of the University, no attempt by me to assign or transfer any rights in Inventions or Commercial Works will relieve me of any of my obligations under this Agreement or the Policy.

7. This Agreement, together with the Policy, supersedes any prior agreements or understandings between me and the University with respect to the subject matter of this Agreement. I am under no obligation to any person, organization or corporation that is in conflict with my obligations under this Agreement or the Policy.

Signature: _____

Dated: _____, 200_

Printed Name: _____

EQUITY GUIDELINES FOR LICENSE TRANSACTIONS

One of the categories of potential licensees for an Invention or Commercial Work that is evaluated by OTT is a start-up company. Typically, a start-up company's survival will be tied to the development of the technology licensed to it by the University, and the company's research and development efforts will be focused on that technology. Often, a start-up company can represent the best opportunity for the development of an early-stage technology. In some cases, a start-up may represent the only licensing alternative available.

Most start-up companies, whether just formed or in existence for a few years, have little cash and no revenues. Under these circumstances, the heavy cash burden on the company of a traditional license transaction would divert critical cash from research and development efforts and diminish the company's ability to attract initial investors. In such a licensing transaction, the equity is issued to the University at the commencement of the license and most of the company's cash obligations to the University are postponed until milestones are reached and sales and sublicense fees are generated. Equity is not accepted by the University in preference to cash. Rather, in the absence of sufficient cash compensation available from the company, equity may be accepted by the University as compensation in addition to future fees and royalties, in lieu of all or part of the initiation fees. Thus, the issuance of equity in a license transaction is a reasonable business solution that enhances the overall potential financial return to the University and remains acceptable to the start-up company and its investors.

OTT uses the following list as a guideline in negotiating license transactions with start-up companies, and this list must be read in context of the entire Policy:

- The company should be legally formed, managed by industry-experienced executives and have the potential for credible investors.
- The University, its officers, its employees, the Inventors and the Authors should not hold management or fiduciary positions in the company.
- If the University accepts equity in a company, or in the event that an Inventor or Author holds, or will hold, equity in the company on an individual basis, the requirements of the Conflict of Interest and Commitment Policy of the University must be followed.
- In the event that an Inventor or Author holds, or will hold, equity in a company on an individual basis, the distribution of Net Proceeds may be determined according to Paragraph 9 of the Policy.
- The University's equity position should be a minority one, generally not more than fifteen percent (15%) of the total equity value of the company post financing.
- The University should not invest cash directly in the formation of the company or in follow on rounds of financing. This does not preclude, for example, investments in the company by venture capital funds in which the University has invested or the exercise of warrants or options held by the University.
- Once equity is received by the University, the equity will be held, managed and liquidated in accordance with the Intellectual Property Policy and other applicable policies and procedures of the University.