Intellectual Property Policy

Keene State College Policies and Procedures

Intellectual Property Policy

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2. Preamble

2.1 Consistent with our institutional mission, the purpose of this policy is to (1) encourage research and scholarly activities of the faculty, staff, and students of Keene State College and mobilize those activities in service of the public good; (2) where appropriate, utilize collaborative, entrepreneurial, commercial, and non-commercial mechanisms to assist in the transfer of the benefits of research and scholarly activities to the public; and (3) ensure appropriate stewardship of institutional resources in support of these goals. These guiding principles are described more fully in the following subsections of Section 2.

2.2 Mobilization of Research/Scholarly Activity for the Public Good: As an institution of higher education, Keene State College recognizes its responsibility to produce and disseminate knowledge. Inherent in this responsibility is the need to value and encourage (both internally and through external collaborations) the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other Intellectual Property. The Intellectual Property emanating from the College reflects and enhances the professional development of the individuals involved, enhances the reputation of the College, provides expanded educational opportunities for students, and promotes the public welfare. As a public institution, faculty, staff, and students of the College benefit from the facilities and infrastructure provided by the citizens of New Hampshire. The

College therefore seeks, through this policy, to ensure the public benefits from the activities undertaken with campus resources.

2.3 Mechanisms of Transfer: The rights and privileges of Creators must be preserved so that their initiatives and entrepreneurship may be encouraged, stimulated, and rewarded. Concurrently, the benefits derived from Intellectual Property produced under the auspices of the College should be used to further the teaching and/or research programs of the College, and to serve the public good. In order to accomplish this, a variety of mechanisms are available.

2.3.1 Intellectual Property that has commercial potential may be protected under a variety of legal mechanisms. Most commonly these are legal protections covering Copyrights, Patents (including provisional patents), Plant Variety Protection, Trademarks, and Trade Secrets. Not all Intellectual Property has commercial potential or requires protection through these mechanisms.

2.3.2 Intellectual Property that does not have commercial value may nonetheless serve the public good in important ways, and may require protection through legal or other mechanisms as part of an overall approach to its management.

2.4 Stewardship of Institutional Resources: The College has a responsibility to provide sound stewardship of available resources while expediting the development and transfer of Intellectual Property for the public benefit, through both commercial and non-commercial means, to the extent possible.

2.5 To foster such activities, the College shall maintain an Intellectual Property policy that is balanced with the College’s mission, serves the public good, and is fair to all parties.

3. Intellectual Property Administration

3.1 As the Chief Academic Officer, the Provost is responsible for stewardship of the College’s research and scholarly enterprise and the resulting Intellectual Property. Day-to-day administration of the principles and policy set forth herein for the management of Intellectual Property is delegated to the Office of Sponsored Projects & Research (OSPR) and the Intellectual

Property Committee (IPC).

3.2 OSPR's responsibility includes, but is not limited to, the following:

3.2.1 To act in accordance with the policy herein set forth;

3.2.2 To make recommendations to the Provost regarding proposed or necessary changes to the institution's Intellectual Property policy, institutional procedures, administrative structure, and/or the procurement of specialized expertise or services in support of Intellectual Property management.

3.2.3 To maintain files and records of Intellectual Property activities including the institutional expenses related to protection of the Intellectual Property and commercialization;

3.2.4 To submit an annual report to the Provost and IPC concerning the College's Intellectual Property activities;

3.2.5 To publicize and promote the College's Intellectual Property policy;

3.2.6 To serve as the liaison between the College's personnel and the external entity or entities providing Intellectual Property guidance and/or Technology Transfer services to KSC.

3.2.7 To offer information and assistance, or access to such information and assistance if outside consultation is required (per 3.2.6), to the College community concerning the procedures that should be followed in order to gain adequate protection between the time of conception of an Invention, discovery, trademark or Copyrightable Work and the processing of a formal application for a patent or registration.

3.2.8 To comply with Federal regulations regarding the reporting, licensing, and maintenance of Inventions;

3.2.9 With IPC, to determine an appropriate frequency for IPC meetings to accomplish the necessary work;

3.3 IPC's responsibility includes, but is not limited to, the following:

3.3.1 To evaluate Intellectual Property disclosures and the potential for successful transfer beyond the College via partnerships, commercialization, or

non-commercialization means;

3.3.2 To make recommendations regarding further development of the Intellectual Property disclosed in order to increase the likelihood of successful transfer beyond the College via partnerships, commercialization, or non-commercialization means; in order to formulate recommendations, it is acknowledged that consultation with others may be necessary (e.g., the creator/inventor, intellectual property consultants, etc.).

3.3.3 To make recommendations regarding Intellectual Property that warrants pursuit of protection via Patents, Trademarks, or other means with institutional resources;

3.3.4 To make recommendations regarding proposed or necessary changes to the institution's Intellectual Property policy, institutional procedures, administrative structure, and/or the procurement of specialized expertise or services in support of these functions. The IPC is authorized to define and adopt procedural rules for the conduct of their business, such as quorum requirements, voting procedures, etc.

3.3.5 To participate in resolution of cases where rights/or equities are in dispute, pursuant to Section 15.

3.3.6 To hear concerns regarding the management of the College's IP and/or petitions for return of rights that may result, and make recommendations;

3.3.7 With OSPR, to determine an appropriate frequency for IPC meetings to accomplish the necessary work;

3.4 Provost's responsibility includes, but is not limited to, the following:

3.4.1 To identify and appropriately allocate resources to manage the College's Intellectual Property;

3.4.2 To construct an Intellectual Property Committee (IPC), which shall be comprised of the following voting members: 2 tenure-track faculty from each school (one of whom is elected, and one of whom is appointed by the Provost); 1 tenure-track library faculty member (appointed by the Provost); 1 student (appointed by the Provost). Additionally, the Provost may appoint additional non-voting members as necessary to support the work of the IPC

(e.g., Director of Sponsored Programs, General Counsel, etc.). It is KSCEA's responsibility to forward the names of elected representatives to the Provost in a timely fashion. For consistency and timeliness of operations, the IPC is authorized to conduct its business with vacant positions and/or pending elections. It is recommended that elected IPC members serve 2 year terms.

3.4.3 To receive recommendations from the IPC regarding the disposition of IP disclosures, and make final determinations as to whether to pursue Intellectual Property protection via patents, trademarks, or other means;

3.4.4 To receive and respond to recommendations from OSPR and/or IPC regarding proposed or necessary changes to the institution's Intellectual Property policy, institutional procedures, administrative structure for Intellectual Property management, and/or the procurement of specialized expertise or services in support of these functions, including specialized legal counsel where needed to ensure the best outcome for the College and the Creator.

3.4.5 To submit an annual report to the President concerning the College's Intellectual Property activities;

3.4.6 To participate in resolution of cases where rights/or equities are in dispute, pursuant to Section 15.

4. Applicability

4.1 This policy applies to all members of the College community (hereinafter referred to as Covered Individuals) including, but not limited to, all faculty, administrators, staff, students; visiting scholars, scientists, and postdoctoral fellows; and any other persons at the College involved in carrying out the College's mission at or under the auspices of the College.

4.2 This policy applies to Intellectual Property developed with any one or more of the following: (1) External grant/sponsored funding (irrespective of sponsor type); (2) Significant (not incidental) use of College resources and/or equipment; (3) Under special internal agreements entered into by the creator and the College relating to specific projects or programs; (4) within the context of legal obligations designating ownership, such as Material Transfer,

Confidential Disclosure, or other legally binding agreements between the College and the other legal entity.

4.3 This policy should not be construed to limit the right of any member of the College community to conduct his/her research/scholarly work.

5. Definitions

Throughout this policy statement, terms related to development, transfer, and commercialization of Intellectual Property are used. These terms are briefly described below.

5.1 Assignment. The process of transferring ownership of the Intellectual Property from the Creator to another individual or entity, such as another educational institution or corporation. For purposes of this policy, assignment is to Keene State College.

5.2 Copyright and Copyrightable Work(s). As defined in 17 US Code, copyright is granted by the United States government to the author of “original works of authorship fixed in a tangible form of medium.” As often found in academia, these works include the following:

5.2.1 Scholarly works (e.g., textbooks, class notes, research monographs and articles, journal publications, classroom and research instructional materials);

5.2.2 Creative/artistic works (e.g., music, art, dance, poetry, fiction, photography, audio-visual works, and film);

5.2.3 Copyrightable software (academic, research, and commercial);

5.2.4 Mask Work(s) (semiconductor chip designs protected under a Federal law administered by the U.S. Copyright Office);

5.2.5 Other developing areas, including but not limited to multi-media works and electronic communications (including media used for distance learning).

5.3 Covered Individual. Any faculty member, staff member, student, visiting scholar, or any other person at the College involved in carrying out the College’s mission at or under the auspices of the College.

5.4 Disclosure. The act of reporting a creation of Intellectual Property as required under this policy.

5.5 Exempted Scholarly Work. This applies to Copyrightable Works where the College waives its ownership interest in favor of the author. See Section 8.

5.6 Creator(s)/Co-Creators. The person(s) who devises, creates, and produces Intellectual Property. In instances where multiple individuals devise, create, and produce Intellectual Property, the term Co-Creator will be used for the purposes of this policy.

5.7 Incidental use of College resources or equipment. Includes use of library, office space, typical computer equipment and common tools of the discipline routinely issued to faculty members by the College.

5.8 Intellectual Property. As used in this policy, includes not only Inventions, authored works, Trademarks, or other knowledge products which may be protected legally (such as with Patents and Copyrights), but also physical or tangible embodiment, such as biological organisms, unpatented plant varieties, or other tangible research properties.

5.9 Invention. Any invention or discovery which is or may be patentable or otherwise protectable as to ownership. Examples: new fluorescence optics instrument, new algorithm for data compression, new chemical process, new plant variety, or new monoclonal antibody.

5.10 Inventor(s)/Co-Inventor(s). The person(s) who devises, creates, and produces something not previously known or existing and who is determined to be an inventor under applicable patent law (e.g., someone who conceives of an idea that is embodied in a patent or patent application). The term Co-Inventor will be used for the purposes of this policy in instances where multiple individuals together devise, create, and produce something not previously known or existing and are determined to be inventors under applicable patent law. Inventor(s) is a specific category of Creator.

5.11 Intellectual Property Disclosure. The process of disclosing Intellectual Property to KSC’s OSPR/IPC.

5.12 Know-How. Often associated with Tangible Research Property, Know-How may include detailed and specific information regarding how to

manipulate specific biological materials or create and maintain specific devices. Know-How may add value to Intellectual Property Licenses.

5.13 License. A legal contract that grants to others certain legally protected rights of use in Intellectual Property. The License establishes the rights and obligations of each party and sets Royalties. It also identifies whether the License is exclusive or non-exclusive, the field of use, the term, and the territory.

5.14 Material Transfer Agreement (MTA). A legal document that governs the transfer of Tangible Research Property between the College and a potential partner for purposes including testing and evaluation

5.15 Net Income. As used in this Policy, Net Income is the amount of money received by KSC from licensing after deduction of certain expenses connected with developing, securing, maintaining and commercializing the Intellectual Property. For example: KSC receives a royalty payment of $100,000 and incurs Patent-related expenses of $15,000 and licensing expenses of $3,000. The Net Income is $100,000 minus $18,000, leaving $82,000. Net Income does not include research funding provided by a licensee, equipment, gifts, or other non-royalty-based items of value.

5.16 Owner(s). The individual(s) or entity holding the rights and title to the property. Property can be either tangible or intangible.

5.17 Patent. As defined in 35 US Code, a Patent is a grant of a property right by the U.S. Patent and Trademark Office to the Inventor for an Invention. The USPTO grants three types of Patents: utility Patents for novel, useful, and non-obvious Inventions; plant Patents for any distinct and new variety of plant that is asexually reproduced; and design Patents for a new, original, and ornamental design for an article of manufacture.

5.18 Plant Variety Protection Certificates. These certificates are issued by the U. S. Department of Agriculture for sexually produced plants.

5.19 Research Data. Data generated through research, including lab notebooks, research notes, research data reports, notebooks, survey data, etc. KSC Policy on Research Data Retention and Access.

5.20 Royalty. The value paid by a commercial partner, other university, or

other entity for the right to use Intellectual Property. Royalties are often expressed as a percentage of the licensee’s sales revenue earned through use of the Intellectual Property.

5.21 Significant use of College resources or equipment. Significant use of College resources includes use of laboratory, studio space, and/or specialized college-owned equipment that goes beyond what is routinely issued to faculty members by the College and without which the IP could not have been created; use of internal grant programs or specialized funding/investment provided by KSC; use of specialized campus services.

5.22 Start-Up. For purposes of this Policy, any company started as a result of licensing the College’s Intellectual Property.

5.23 Tangible Research Property. Perceptible items produced in the course of research including such items as biological materials, engineering drawings, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment. Individual items of Tangible Research Property may be associated with one or more intangible properties, such as Inventions, Copyrightable Works, Trademarks, and Know-How. An item of Tangible Research Property may be the product of a single individual or a group of individuals who have collaborated on a project.

5.24 Trademark. As recognized by Federal and state laws, a Trademark is any work, name, symbol, or device adopted and used by an individual or a corporation to distinguish its goods or services from the goods or services of others.

5.25 Trade Secret. Technical or business information, including formulae, processes, and devices used or usable to achieve a competitive advantage in a trade or business and not publicly available. Trade Secret protection may be available under state law. Trade Secrets may be retained by the College for a brief period of time for specific purposes, such as to allow for the preservation of rights to file a Patent application. (See Uniform Trade Secrets Act for further information.) As an academic institution, the College does not accept Trade Secrets.

6. Intellectual Property Ownership

6.1 IPC shall determine the appropriate ownership classification for each Intellectual Property case reviewed. OSPR concurrence with the IPC ownership classification determination is required in order to ensure adherence to any legal obligations placed on the institution, and to ensure greater continuity in how such decisions are made across time in like circumstances.

6.2 A Covered Individual shall own Intellectual Property discovered, created, or developed by the individual, unless one or more of the following prevails, in which case the Intellectual Property is hereby assigned to the College:

6.2.1 The Covered Individual discovered, created, or developed the Intellectual Property utilizing external grant/sponsored funding, irrespective of sponsor type. Federally-sponsored projects shall also follow 37 CFR 401. The Covered Individual shall comply with all state and federal requirements regarding ownership of government funded research.

6.2.2 The Intellectual Property resulted from a Covered Individual making significant Use of College Resources beyond what is considered incidental usage.

6.2.3 The Covered Individual discovered, created, or developed the Intellectual Property for which there is a special internal agreement entered into by the Creator and the College governing ownership of the Intellectual Property.

6.2.4 The Covered Individual discovered, created, or developed the Intellectual Property for which there is a legal obligation that designates ownership by virtue of Material Transfer, Confidential Disclosure, or other legally binding agreement. Intellectual Property in these instances shall be governed by the contract or other agreement between the College and the other legal entity.

6.2.5 The Intellectual Property is a “work made for hire” under the U.S. Copyright Act of 1976 (17 USC 101), in which case the College is the author and owner.

7. Student Intellectual Property

7.1 Students: Students shall own any Intellectual Property they make,

discover, or create unless one or more of the following applies, in which case the Intellectual Property is hereby assigned to the College:

7.1.1 The student made significant Use of College Resources beyond what is considered incidental usage (including College-administered funding, internal grant programs, facilities, or equipment).

7.1.2 The student developed the Intellectual Property in the course of research funded by a sponsor pursuant to a grant or Sponsored Research Agreement or is subject to a Material Transfer Agreement, Confidential Disclosure Agreement, or other legal obligation that designates ownership of Intellectual Property.

7.1.3 In all instances of Assignment to the College by undergraduate students, the student will share in the distribution of Royalties. See Sec. 12 of this policy.

7.1.4 Intellectual Property arising from a thesis submitted as a part of the requirements for a degree shall be subject to this Intellectual Property policy. In instances where graduate students are required to make Assignment to the College, such students will share in the distribution of Royalties. See Sec. 12 of this policy.

7.1.5 Theses. All student theses and derivatives of these works are considered Exempted Scholarly Works (see section 8 Copyright of this policy) and the student will own the Copyright unless the work was commissioned by the College or is under legal obligation. The College, however, retains a non-exclusive, irrevocable, Royalty-free License to reproduce and publish the works with appropriate attribution.

7.1.6 Students should be mindful of the possibility of “co-creator” and/or “co-investigator” situations, and that they must acknowledge the contributions of others (whether they are students, faculty, or staff) who were instrumental in the creation of intellectual property, and must respect the ownership rights of those individuals as defined in this policy and/or required by law.

8. Copyrightable Works

8.1 As a matter of fundamental principle the College encourages wide

dissemination of scholarly work produced by members of the Keene State community, including copyrightable works. Therefore, the policy at Keene State College — and most peer institutions — is that, except as provided for below, scholarship, literary works, computer software, artistic works and other items of copyrightable work created by faculty, employees, or other covered individuals are deemed to be the property of the writer/creator, who is entitled to determine how the works are to be disseminated and to keep any net income they produce.

8.2 In recognition of this long-standing practice, the College disclaims ownership of works by faculty and staff, or others participating in Keene State College programs including visiting faculty, whether in traditional or nontraditional forms, unless one of the following circumstances prevails, in which case the intellectual property is hereby assigned to the College:

8.2.1 Assigned Tasks. The College will own the copyright to works created:

By faculty members as part of an assigned task, where the assignment explicitly states that the work will be owned by the College.

8.2.1.1 By administrative staff members in any specialized field of work they perform for the College.

8.2.1.2 By technical staff, postdoctoral fellows, and student employees in the course of any assigned duties other than research tasks performed in support of a project directed by a faculty member.

8.2.2 Outside Agreements. Where copyrighted materials are developed by an investigator in the course of sponsored research funded by an outside agency pursuant to an agreement approved by the Office of Sponsored Projects, ownership of the copyright will be determined by the terms of the agreement.

8.2.3 Special Circumstances. Where the College makes an extraordinary investment in the development of a copyrightable material (by way of either financial or resources commitment) or the College enters into a written agreement with the Creator(s) and that agreement makes provision for copyright ownership, the College will own the copyright of the works unless the parties agree otherwise. In all cases where the College owns the copyright of the works, it will share net income received from the commercialization or exploitation of the copyrightable material as provided in section 12 of this

policy.

8.2.4 Patentable Works. Where the copyrightable work is also patentable, section 6 of this policy will apply to it.

9. Intellectual Property Records and Reporting

9.1 Covered Individuals engaged in any projects from which any Intellectual Property is likely to arise shall keep records consistent with the KSC Policy on Research Data Retention and Access, and witnessed where necessary, and shall report promptly to OSPR/IPC any Intellectual Property, whether or not the Covered Individual believes the College has a direct interest, by completing an Intellectual Property Disclosure form.

9.2 If an Invention was funded wholly or in part by the Federal government, the Intellectual Property Disclosure form must be filed promptly as required by Federal law 37 CFR 401.

9.3 Property rights shall depend upon the classification of the Intellectual Property. (Refer to Section 6, Section 7 and/or Section 8 above.)

9.4 Disclosure to OSPR/IPC is highly recommended before any other disclosure, presentation, display, performance, or publication of the work to any sizable audience. Failure to do so may result in loss of rights and subsequent commercial potential.

9.5 The College will maintain records regarding its investment in and/or contribution to the development and commercialization of an item of IP over time.

10. Protection of Intellectual Property Rights

10.1 Patents and Trademarks. The opportunity to patent an Invention and/or file for a Trademark registration is brought to the attention of IPC when the Creator documents the Invention or Trademark using the Intellectual Property

Disclosure. To preserve patent rights, inventors shall provide the Disclosure to the IPC prior to any submission that will result in the public disclosure of the patentable invention. The Intellectual Property Disclosure will include any anticipated dates of publication (electronic or print) of the invention. IPC will then consider whether the Invention or Trademark should be protected through filing an application or registration with the USPTO, and will make a recommendation to the Provost. The Provost, OSPR, and IPC may call upon other persons, associated or not associated with the College, for technical or other advice. To reach a decision, they will consider not only the importance of the Invention or Trademark, but also whether or not the interests of the Creator, the College, and the public would be served best by a Patent or Trademark registration. When the Invention/Trademark is assigned to the College under Section 6, Section 7 and/or Section 8, the IPC will respond to the Creator(s) within a reasonable time from its receipt of the Intellectual Property Disclosure with a recommendation to the Provost on patentability or trademarking, taking into consideration the nature of the disclosure, stage of development of the Intellectual Property, any legal obligations, and commercial potential. The Provost will likewise provide a decision within a reasonable time from the receipt of the IPC's recommendation.

10.1.1 When the Invention/Trademark is assigned to the College under Section 6, Section 7 and/or Section 8, OSPR/IPC shall make a recommendation, and the Provost shall make a determination, about patenting or trademarking based upon the commercial potential or other legal obligations.

10.1.1.1 If the College decides to file a Patent or Trademark application they will do so with the assistance of the USNH General Counsel's office. The Creator will be expected to provide all reasonable assistance in preparing the application. For Inventions developed under Federal sponsorship, the Patent process must also conform to grant and contract terms and conditions, with particular attention to 37 CFR 401.

10.1.1.2 If the College decides not to file a Patent or Trademark application, the College may, upon request and to the extent possible under the terms of any legal agreements that supported the work, reassign ownership to the Creator(s). In such cases, the Invention/Trademark will be released to the Creator(s) and the College will waive its rights to Assignment in a formal

Release Agreement that clarifies title in the Intellectual Property. The Creator(s) shall be free to make a Patent or Trademark application on his/her own responsibility but understands that any future work or improvement which utilizes any released Intellectual Property will require a new Intellectual Property Disclosure and the College will evaluate and may elect title to the new use/improvement (this will not affect title of the original Creation). When an Invention results from Federal funding, the right to patent is held by the Federal sponsor. In such cases, the Inventor(s) may request that the sponsor grant rights in the Invention directly to the Inventor(s). Once the College waives its interest in an Intellectual Property, the Creator must assume all liabilities connected with the exploitation and defense of the Intellectual Property or discovery and must acknowledge any rights held by research sponsors. The Creator(s) must not use the name of the College in advertising or otherwise promoting the development, manufacture, or use of the Intellectual Property. In the event the Intellectual Property was the subject of a patent or patent application or trademark or trademark application paid for by the College, the Creator(s) agree to reimburse the College for all out-of-pocket Intellectual Property-related expenses out of future revenues generated through exploitation of said patent or patent application or trademark or trademark application.

10.2 Copyrights and Mask Works Protection.

10.2.1 Notices.

10.2.1.1 If materials are published (i.e., distributed to any sizable audience) without a proper notice as described below, full protection against infringement is jeopardized. Prior to any publication, the Covered Individual should place the following notice on all materials in which the College owns the Copyright: Copyright © [year] Keene State College. All rights reserved.

10.2.1.2 To protect Mask Work rights, the Covered Individual should apply the following notice on all College-owned semi-conductor chip products, which incorporate Mask Works: Mask Work *M* [year] Keene State College

10.2.1.3 No other institutional or departmental name is to be used in the notice, although the name and address of the department to which readers can direct inquiries may be listed below it. The date in the Copyright or Mask Work notice should be the year in which the work is first published.

10.2.2 Registration. Additional rights and protection for Copyrightable Works and Mask Works require registration with the U.S. Copyright Office, which will be coordinated through OSPR and General Counsel’s office after Disclosure.

11. Commercialization of College-Owned Intellectual Property

The commercialization of the College’s Intellectual Property can be a lengthy process and requires relationships with businesses that have the ability and desire to utilize the Intellectual Property. The benefits of transferring the Intellectual Property include increased recognition of the College’s quality of research and scholarship as well as the potential for financial rewards. The College will seek to license all Intellectual Property assigned to the College. The typical means to transfer the Intellectual Property to a commercial partner is through legal agreements. These agreements can take a variety of forms: Cooperative Research Agreements, License Agreements, Option Agreements, and/or Contract Research Agreements. Successful commercialization also requires the Creator(s)’ participation and cooperation.

12. Income Received from Intellectual Property

12.1 The College will distribute Royalties and other Net Income (after expenses incurred by the College have been deducted from the gross income) received from the licensing of Intellectual Property according to the schedule outlined below.

12.1.1 Upon the date of approval of this policy, a phased-in approach to distributing royalties will be employed, which will allow a 5 year “start-up” period for the College to incentivize faculty to participate in collaborative product development. During this 5-year period the College will distribute royalties and other net income (after expenses incurred by the College have been deducted from the gross income) received from the licensing of intellectual property according to the following schedule:

- 70% to the Creator
- 25% to a Fund to be administered by the VP for Academic Affairs (Provost) to meet research and academic needs
- 5% to the College

In order to qualify for this distribution formula, the intellectual property in question will need to have been disclosed, developed, and actively moved to the technology transfer phase of the College intellectual property process within the 5-year “start-up” period window. Intellectual Property will be considered to have moved to the technology transfer phase of the College intellectual property process when it has been (a) disclosed to the Intellectual Property Committee; (b) reviewed by the Intellectual Property Committee; (c) protected by the institution by the means outlined in 2.3.1 (where those means are applicable); and (d) is ready to be actively marketed for licensing. Royalties from intellectual property meeting these criteria will be distributed in the percentages above for the life of the intellectual property.

12.1.2 For intellectual property disclosed, reviewed, protected, and readied for marketing after the 5-year phase-in period described in 12.1.1, the College will distribute royalties and other net income (after expenses incurred by the College have been deducted from the gross income) received from the licensing of intellectual property according to the following schedule:

- 50% to the Creator
- 20% to Creator’s discipline, administered by the appropriate Dean
- 25% to a Fund to be administered by the VP for Academic Affairs (Provost) to meet research and academic needs
- 5% to the College

12.2 Where Intellectual Property is conceived jointly by two or more Creators, each of the co-Creators shall share in the Creator’s distribution equally unless another distribution is desired and included on the original Intellectual Property Disclosure form.

12.3 For administrative efficiencies, the College shall make Net Income payments per the above schedule no more frequently than annually in the instances when any individual Net Income payment is less than $25.

12.4 Creators may opt to donate their royalties to the College via a gift agreement.

13. Equity

The College strives to achieve a creative and entrepreneurial environment for commercializing its Creations/Inventions. As such, the College recognizes that the Creations/Inventions may result in a new company as earlier defined as a Start-Up (see section 5.22). The College in these instances may accept equity in the Start-Up company as a portion of its consideration for the License.

14. Participation Agreement

14.1 All of the following shall execute an Acknowledgement of Intellectual Property Policy and Assignment as a condition of employment, participation in sponsored research, or Use of College Resources:

- All College faculty (including but not limited to tenured, tenure-track, research, clinical, adjunct, and emeriti faculty);
- visiting faculty or other visitors using research facilities;
- postdoctoral employees or fellows;
- graduate students and undergraduate students participating in sponsored projects.

14.2 Notwithstanding the above, an individual acknowledges that he or she is bound by the College Intellectual Property policy by accepting or continuing College employment or by using College resources or facilities.

14.3 All students shall be advised of the College Intellectual Property policy and procedures through its publication and dissemination in the KSC Student Handbook.

15. Appeal

In cases where rights and/or equities are in dispute, the OSPR shall report in writing such dispute to the Provost. Within 30 days of receipt of the notice,

the Provost shall appoint an ad hoc review committee consisting of three persons: one person selected by the Creator(s), the Dean of the individual's school, and one additional individual selected by the Provost. This committee shall recommend an agreement which shall take effect unless a further appeal is made by the individual or individuals involved, or by the Provost. In this event, the review committee will present the case to the College President, whose decision shall be final and binding upon all parties, except for faculty who are members of the KSCEA/KSCAA collective bargaining units, who retain the right to grieve the decision via the grievance procedure outlined in the Collective Bargaining Agreement.

Revision approved by KSCEA and Provost: 12/1/2016 (supersedes all previous versions).

5-Year Start-up Phase referenced in section 12.1.1 and 12.1.2 runs from 12/1/2016 to 11/30/21

Recommended policy review cycle: every 5 years.