

**CALIFORNIA LUTHERAN UNIVERSITY
FACULTY INTELLECTUAL PROPERTY
POLICY**

March 2009

Section 1. Policy Objectives

Section 1.1. Policy Objectives

A goal of the University is to encourage creative activity and the prompt and open dissemination of ideas and Inventions by recognizing and rewarding members of the Faculty. At the same time, the University desires to preserve and protect the University's Intellectual Property and Intellectual Property developed and created by University Faculty using University assets.

The development of a comprehensive Intellectual Property Policy for the Faculty of the University will facilitate these goals.

This Policy cannot address every situation that may arise in the development, enforcement and management of Intellectual Property rights for University Faculty. The Policy itself may be amended over time to effect changes deemed to be in the best interests of the University Community.

The principles discussed in this Policy apply to Faculty employed by the University. Definitions of certain terms used in this Policy are located at the end of this Policy in Appendix 1.

Works created by student employees in the course of work being directed by a faculty member to assist in that faculty member's scholarly work shall be considered work for hire and the ownership of such work resides with the faculty supervisor subject to the same conditions and policies set forth in Section 2.1 below. Copyrightable works created by students other than in the course of University employment is wholly-owned by the student, subject to the terms of any applicable sponsored research or project requirements.

Section 1.2. Administration

The authority and responsibility for administration of the University's Intellectual Property Policy is delegated by the President to the VPAA, and to the Vice President's staff, as delegated by the Vice President, herein collectively referred to as the OAA.

Section 2. General Policy

As a general policy, Faculty own and control the copyrightable works in instructional materials and scholarly works created at his or her own initiative. Exceptions to this may occur when the University has invested an unusually great amount of resources in the creation of the material or when the work is completed by a faculty member on a "work for hire basis."

Faculty who are creators of copyrightable works and who are uncertain about the application of this policy should seek clarification from the VPAA for clarification.

Section 2.1. Copyrightable Works

The following copyrightable works created during the time of or the course of Faculty's employment at the University will be owned by the Faculty: all textbooks, including textbooks which are part of a software package and/or in electronic format, courseware, class notes, syllabi, tests, monographs, glossaries, bibliographies, study guides, laboratory manuals, lectures, unpublished scripts, books, articles, works of fiction and non-fiction, poems, dramatic works, music, musicals and choreographic works, artwork, graphic and sculptural works, websites, compositions, films, filmstrips, charts, transparencies, other visual aids, photographs, video, audiotapes, cassettes, and DVDs created by use of Usual University Resources (those resources commonly provided or made available to similarly situated faculty, such as desktop or laptop computers, office space and supplies, University libraries, and secretarial and administrative support staff).

Copyrightable materials created for distance learning (also referred to as E-courses) will be treated in the same way as materials created for traditional in-person classes.

The University shall have a non-exclusive, perpetual, non-cancellable fully paid license to use copyrightable works for administrative purposes only, including satisfying requests of accreditation agencies for faculty-authorized syllabi and course descriptions.

Notwithstanding the provisions of this Section 3.3, if there is a separate written contract granting the University the right to own or sell the Copyrightable works, that separate written agreement will prevail over this Policy.

Section 2.2. Software

Depending on its nature and purpose, software created by the faculty may be treated either like other instructional and academic work products discussed in Section 2.1 (in which case ownership rights will generally reside with the faculty member), or, like a patentable invention (in which case ownership will reside with the University or will be shared between the University and the faculty creator, as discussed in a later section of this policy).

Software created by the faculty for instructional, pedagogical or other traditional scholarly purposes in the course of their normal duties shall be treated like the other academic work products discussed in Section 2.1. Except in instances of the investment of Unusual amounts of University resources or when expressly created on a work for hire authorship of the software work product shall reside with the faculty member.

The University shall have a non-exclusive, perpetual, non-cancellable fully paid license to use software for normal and customary teaching use in the classroom and in University

department programs, and for administrative purposes, including satisfying requests of accreditation, agencies for faculty-authorized course descriptions.

Notwithstanding the provisions of this Section 3.4, if there is a separate written contract granting the University the right to own or sell the Copyrightable works, that separate written agreement will prevail over this Policy.

Products created through the use of materials covered by the GNU General Public License or other open source software sources to which no private ownership rights accrue are not covered by this policy. Software products eligible for ownership rights, regardless of the source of materials on which they are based, shall be treated as described in this section in its entirety.

Other types of computer software may be subject to Patent or Copyright protection, and should therefore at minimum, include the following notice on the first screen prior to distributing the software:

Copyright [year] or © [year], California Lutheran University. All Rights Reserved.

“This software is experimental in nature and is provided on an AS-IS basis only. The University SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

This software may be reproduced and used for non-commercial purposes only, so long as this Copyright notice is reproduced with each such copy made.”

If the software is owned by the University and the Inventor/author wishes to make it available to a specific individual or individuals for non-commercial use, without compensation, the written approval of the OAA should be obtained at the sole discretion of the OAA. Faculty should contact the OAA for an appropriate form of license agreement and related procedures before distributing University-owned computer software and to confirm that public distribution does not violate the terms of a sponsored agreement or applicable law (e.g., encryption software).

Section 2.3. Public Domain and Publishing

Faculty are encouraged to share their owned copyright with their University colleagues for internal instruction, educational and administrative purposes. When publishing copyrightable works Faculty are encouraged to provide and/or reserve rights for such use by the University. Faculty will submit proposed publication of a potentially patentable or commercializable Invention to Faculty’s Dean, who will coordinate with VPAA to

approve or disapprove publication of the potentially patentable or commercializable Invention, pursuant to a Publication Submission and Approved Policy.

Section 2.4. Ownership of Other Intellectual Property

Except as set forth in this Policy, the University is the owner, under federal and California law, including but not limited to California Labor Code, section 2870¹ of all Patents, Patent applications, Copyrightable works, original works of authorship, formulas, compositions of matters, databases, mask works, innovations, technical information, data, Invention notebooks, reports, devices, prototypes, modes, schematics, machine readable records and instructions, Tangible Research Property, algorithms and data techniques, discoveries, designs, processes, know-how, ideas, computer hardware, computer software, Trademarks, Service Marks, Trade Secrets, and other Intellectual Property rights hereinafter collectively referred to as “Inventions” created by the University and/or its Faculty which:

- Relates at the time of design, conceptualization or reduction to practice of the invention to University’s business, or actual or demonstrably anticipated research or development of the University; or
- Results from any work performed by Faculty for the University; or
- Was developed using University’s equipment, supplies, funds, facilities, or trade secret information;

Section 2.5. University Responsibilities

This policy delineates the University responsibilities and duties as it relates to Faculty for, among other things, paying to register Trademarks, Service Marks, Copyrights and Patents and all other University responsibilities as they related to Intellectual Property Rights. There will be formal instruction of Faculty on “marking” and protecting the University owned Intellectual Property.

Section 2.6. Faculty Responsibilities

Faculty recognizes their responsibility as members of the University’s community of scholars to cooperate in the prompt and full dissemination of their Intellectual Property described in Section 2.3 and to abide by the following:

¹ California Labor Code, section 2870 states: “(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer’s equipment, supplies, facilities, or trade secret information except for those inventions that either:

- (1) Relate at the time of conception or reduction to practice of the invention to the employer’s business, or actual or demonstrably anticipated research or development of the employer; or
- (2) Result from any work performed by the employee for the employer.”

- (a) disclosing promptly and completely the creation of new Intellectual Property to the VPAA, using the invention disclosure form available from the VPAA;
- (b) maintaining, consistent with applicable laws, regulations and customs, laboratory notebooks and similar written and digital records concerning research activities;
- (c) executing in a timely fashion all appropriate documents upon the University's request, such as an assignment of rights, including but not limited to Patent assignments, Copyright assignments, Trademark assignments, licenses, etc.;
- (d) adhering to restrictions on the assignment, sale, Licensing, commercialization, distribution or transfer of Intellectual Property that belongs to the University;
- (e) avoid any action which is inconsistent or contrary to or with the University's exclusive ownership of its Intellectual Property;
- (f) cooperating in technology transfer activities in a manner consistent with University policy and procedure;
- (g) cooperating with the University in legal actions relating to Intellectual Property (e.g., including administration, infringement and ownership litigation); and
- (h) obtaining the approval of the OAA prior to publication or dissemination of information that may have commercial value to ensure that such actions will not adversely impact the University's ability to protect, patent or commercialize Intellectual Property.
- (i) prohibited from placing Faculty name on student Intellectual Property or work for Faculty benefit without the written consent or written license from the student, procured without undue influence

Section 2.7. Patent Protection

By securing Patent protection for University Intellectual Property, the University receives the right to exclude all other parties from making, using or selling products or methods covered by the Patent for a specified term. This exclusive right may be secured on a country-by-country basis upon filing and prosecution of Patent applications, a process that may be time consuming and very costly.

The University will be the owner of all Inventions, patentable and non-patentable and Confidential Information with potential value created or developed by Faculty in the course of Faculty's employment at the University, and meeting the criteria set forth in Section 2.4 above.

The University will have six (6) months to declare its interest in the potential Inventions and an additional one (1) year to make a decision to agree to seek Patent protection, which is vested with the University's sole discretion. In making the decision about whether to file United States Patent applications, and potentially foreign Patent applications, the University will also take the following factors into consideration:

- (a) whether and to what extent the University has ownership;

- (b) whether the Inventor/author has made full and complete disclosure of the Intellectual Property to the OAA.
- (c) whether there are conflicts of interest and/or conflicts of commitment and, if so, whether they have been managed or resolved;
- (d) whether ongoing research is continuing at the University in the same or related areas as the Intellectual Property;
- (e) whether the University is permitted to do so under sponsored agreements;
- (f) the financial potential of the Invention;
- (g) the lifetime cost of Patent prosecution; and
- (h) whether United States only filing is more cost effective than foreign filings.

All decisions concerning publication or public use or disclosure of Inventions that are potentially patentable, or are the subject of a Patent or Patent application, will be made by the University.

If the University elects not to commercialize a technology, the OAA will so advise within 90-days after the University elects not to commercialize a technology, the Dean of the School/College of the Inventor's primary appointment and will give the Dean an opportunity to fund the commercialization. If the School/College decides to file or pursue Patent protection in the U.S. or abroad, the OAA will manage the prosecution of the Patent application on behalf of the University and the University will share Net Royalty Revenues, as specified in Section 4.1 below.

Section 2.8. Trademark/Service Mark Protection

The University's Service Marks and Trademarks distinguish the University's services and products from those of other institutions, and confer on the University the exclusive right to use the marks. For example, University has currently registered or used a wide variety of marks in connection with certain products and services developed by the University's schools, departments or related entities, including the following:

CALIFORNIA LUTHERAN UNIVERSITY, Reg. 3,003,983 issued 10/4/05
 CALIFORNIA INSTITUTE OF FINANCE, Reg. 2,953,967 issued 5/17/05
 REGALS, Reg. 3,333,546 issued 11/13/07
 KINGSMEN, Reg. 3,333,545 issued 11/13/07
 KINGSMEN HELMET & Design, Reg. 3,333,544 issued 11/13/07
 REGALS HELMET & Design, Appl. No. 77/065,529 filed 12/15/06
 CAL LUTHERAN, Appl. No. 77/137,988 filed 3/22/07
 KCLU, Reg. 2,531,330 issued 1/22/02

Neither the University name nor any Trademark or Service Mark may be used without the prior written consent of the University, which may be obtained through the OAA. This principle also applies to the use of any University Trademark or Service Mark, as part of an Internet domain name. Appropriate forms of agreement for sanctioning use of University's marks may be obtained from the OAA.

New Trademarks and Service Marks should be registered through the OAA. The OAA also can assist in performing conflicts checks in connection with the use of a particular mark. All University Marks must be graphically represented in a manner consistent with the University's identity guidelines.

Please contact the OAA with any questions concerning the use or Licensing of University Marks.

For Trademarks, trade names and/or Service Marks created or developed by Faculty in the course of Faculty's employment at the University for any purpose, will be owned by the University. There will be a Net Royalty Revenue sharing between the Faculty and the University as set forth in Section 4.1.

Section 2.9(a). Confidential Information with Potential Value

The University expends its resources to develop Confidential Information and Trade Secrets that are essential to the University and its research and development. The University's Confidential Information and Trade Secrets are sometimes developed by Faculty members. Faculty are expected to use good judgment and to act in the best interest of the University, and may not disclose any University owned Trade Secrets or Confidential Information to third parties without the consent of the University. Members of the University Community must take great care to protect the University's Trade Secrets and other Confidential Information. This includes written information and information contained in computer databases.

Confidential and Trade Secret information is to be stored in a manner that maintains the confidentiality of the information. Passwords for computer access should be used for confidential and trade secret information, and passwords should be changed periodically. There shall be limited access to confidential and Trade Secrets information. The University may conduct periodic security audits to make sure that confidentiality procedures are being followed. Any information to be viewed by third parties should contain notices that the information is confidential or constitutes a trade secret and members of the University Community should ensure that such information is returned from the third party when the third party has completed its need for such information. Distribution of such information should be tracked and limited to the particular person or organization in need of the information.

In order for the University to properly protect its Confidential and Trade Secret information, and to prevent others from unfairly competing by using such information, it is essential that members of the University Community abide by these policies and procedures.

In the course of their research activities, members of the University Community may develop Confidential Information, including Inventions and discoveries related to processes, machines, manufacturing, compositions of matter, and other commercially valuable information. This Confidential Information, referred to as Trade Secrets, may

have significant commercial value. The University needs the assistance and cooperation of Faculty, staff and students in order to protect and maintain the commercial value of its Confidential Information. Accordingly, before Faculty discloses University's Confidential or proprietary information to a third party, they should at a minimum, have that third party execute a non-disclosure agreement, the form of which is available from the OAA.

Faculty are never to disclose University Confidential Information to third parties, which includes, but is not limited to, information that has been labeled or marked as "Confidential," or which pertains to, or which relates to, University's business or its actual or anticipated research or development. Similarly, if Faculty receives Confidential or proprietary information from a third party under a confidentiality agreement, they have a duty not to disclose such information or use it in any manner other than the purpose of which it was confidentially disclosed, and to take necessary precautions to protect the confidentiality of such information. Under no circumstances should Confidential Information owned by third parties ever be used for University purposes.

Members of the University should label all confidential documents with a proprietary legend, such as:

"California Lutheran University Confidential Information. The information contained in this document is confidential to the University or CLU. Unauthorized access and use of this information is strictly prohibited. This document is for limited distribution. Copyright 2008 California Lutheran University. All rights reserved." Or:

"THIS DOCUMENT CONTAINS INFORMATION THAT IS CONFIDENTIAL AND THE PROPERTY OF CALIFORNIA LUTHERAN UNIVERSITY AND MAY NOT BE DISCLOSED, COPIED, PUBLISHED OR USED, IN WHOLE OR IN PART, FOR ANY PURPOSE OTHER THAN AS EXPRESSLY AUTHORIZED BY CALIFORNIA LUTHERAN UNIVERSITY."

Section 2.9(b). Sponsored Agreements

Contracts or grants sponsored by the State and/or federal government often require that the University retain title to Inventions conceived or reduced to practice in the performance of a sponsored project, subject to a royalty-free, non-exclusive license granted to the government. The same requirement frequently applies to Copyrightable works or material developed in the performance of a sponsored project. Note that there may be additional obligations contained in government contracts that are not enumerated in this Policy.

All government contract requirements must be adhered to and will take precedence over this policy, where applicable only.

Section 3. Administration of the Policy

This section describes the process by which Faculty and the University are to protect Intellectual Property covered under this Policy.

Section 3.1. Disclosure of Intellectual Property

When a member of the University Community creates potential Invention, the Invention should be disclosed promptly to the OAA by the Inventor. The OAA will furnish individuals with the disclosure forms and other documents necessary for the OAA to evaluate the Invention. Failure to make timely and complete disclosure of an Invention conceived or reduced to practice using any sponsored research funds may be a breach of contract or violation of law.

An Invention disclosure provides information about the Inventor(s), the nature of the Invention, circumstances leading to the Invention and activities by the Inventor(s) subsequent to the Invention. Typically, the Inventor(s) also must submit manuscripts, sketches, drawings and other pertinent data or materials as part of the disclosure. An Invention disclosure is also used to report technology that may not be patented but may be protected through other means such as Copyrights.

Section 4. Net Royalty Revenue Sharing

In consideration of the Invention ownership policy provided in this Policy, the University will share with the Faculty Inventor the revenue derived by the University from Licensing and similar agreements related to the Faculty Inventor's Inventions. The extent of this sharing will be determined as set forth in this Policy:

Section 4.1(a). Inventions, Patent, Non-patentable and Confidential Information with Potential Value

The Faculty and University shall share Net Royalty Revenue derived from Faculty developed Inventions, Patent, Non-patentable and Confidential Information with Potential Value created during Faculty's time of and course of Faculty's employment as the University as follows:

- Fifty percent (50%) to the Faculty Inventor(s) or the Faculty Inventors' heirs or assigns;
- Twenty-five percent (25%) to the University; and
- Twenty-five percent (25%) to the Inventor's School/Department or Institute.

The portion of Net Royalty Revenue distributed to each School/College, Department and Institute must be used for research or educational purposes only and may represent a source of unrestricted funds for such important activities as novel research, technical

advancements and student scholarships. It is expected that each School, Department and Institute receiving a share of Net Royalty Revenue will report annually on the recipient's application of such funds.

Co-inventors are required to sign, at the time of disclosure, a Distribution Agreement regarding the percentage distribution to each co-inventor. If no such agreement is furnished to the University, the University may withhold royalty distributions, with no obligation for the payment of interest or any similar amount, until it has received written direction, signed by all co-inventors, as to the appropriate distribution of royalties.

If a Dean decides to fund Patent protection on behalf of a School after the University has declined to do so, the School must reimburse OAA promptly for all Patent and other directly related out-of-pocket expenses for that specific Patent prosecution including but not limited to Patent application fees, attorney's fees, etc., and on an ongoing basis.

Section 4.1(b). Copyright

All Licensing and Net Royalty Revenue derived from Copyrightable works to which the University has rights under this Policy are administered by OAA. The Faculty and University will share Net Royalty Revenue derived from Faculty developed Copyrightable works created during Faculty's time of and course of Faculty's employment as the University as follows:

- Fifty percent (50%) to the Faculty Inventor(s) or the Faculty Inventors' heirs or assigns;
- Twenty-five percent (25%) to the University; and
- Twenty-five percent (25%) to the Inventor's School/Department or Institute.

The portion of Net Royalty Revenue distributed to each School/College, Department and Institute must be used for research or educational purposes only and may represent a source of unrestricted funds for such important activities as novel research, technical advancements and student scholarships. It is expected that each School, Department and Institute receiving a share of Net Royalty Revenue will report annually on the recipient's application of such funds.

Co-copyright holders are required to sign, at the time of disclosure, a Distribution Agreement regarding the percentage distribution to each co-inventor. If no such agreement is furnished to the University, the University may withhold royalty distributions, with no obligation for the payment of interest or any similar amount, until it has received written direction, signed by all co-copyright holders, as to the appropriate distribution of royalties.

Section 4.1 (c). Trademark/Service Mark Sharing Arrangements

The Faculty and University will share Net Royalty Revenue derived from Faculty developed Trademarks and Service Marks created during Faculty's time of and course of Faculty's employment as the University as follows:

- Fifty percent (50%) to the Faculty Inventor(s) or the Faculty Inventors' heirs or assigns;
- Twenty-five percent (25%) to the University; and
- Twenty-five percent (25%) to the Inventor's School/Department or Institute.

The portion of Net Royalty Revenue distributed to each School/College, Department and Institute must be used for research or educational purposes only and may represent a source of unrestricted funds for such important activities as novel research, technical advancements and student scholarships. It is expected that each School, Department and Institute receiving a share of Net Royalty Revenue will report annually on the recipient's application of such funds.

Co-Trademark or Service Mark holders are required to sign, at the time of disclosure, a Distribution Agreement regarding the percentage distribution to each co-inventor. If no such agreement is furnished to the University, the University may withhold royalty distributions, with no obligation for the payment of interest or any similar amount, until it has received written direction, signed by all co-Trademark or Service holders, as to the appropriate distribution of royalties.

Section 4.1 (d). Software Sharing Arrangements

The Faculty and University will share Net Royalty Revenue derived from Faculty developed Pedagogical software created during Faculty's time of and course of Faculty's employment as the University as follows:

- Fifty percent (50%) to the Faculty Inventor(s) or the Faculty Inventors' heirs or assigns;
- Twenty-five percent (25%) to the University; and
- Twenty-five percent (25%) to the Inventor's School/Department or Institute.

The portion of Net Royalty Revenue distributed to each School/College, Department and Institute must be used for research or educational purposes only and may represent a source of unrestricted funds for such important activities as novel research, technical advancements and student scholarships. It is expected that each School, Department and Institute receiving a share of Net Royalty Revenue will report annually on the recipient's application of such funds.

Co-software holders are required to sign, at the time of disclosure, a Distribution Agreement regarding the percentage distribution to each co-inventor. If no such agreement is furnished to the University, the University may withhold royalty distributions, with no obligation for the payment of interest or any similar amount, until it

has received written direction, signed by all co-software holders, as to the appropriate distribution of royalties.

Section 4.2. Consultants/Independent Contractors

Faculty working with consultants, who are independent contractors shall use forms approved by the Finance and Accounting department to assure that the University obtains and retains all rights to Intellectual Property created or developed by a consultant who is an independent contractor.

Section 4.3. Licensing of University's Rights to Third Parties

The University, in its sole discretion may license Intellectual Property to a third party, subject to certain conditions, including:

- The license will, in the judgment of the University, enhance the transfer of the technology;
- The potential licensee meets University's standard conditions, including commitments and capabilities to maintain insurance and protect the University from legal claims;
- The license is consistent with University's obligations to third parties;
- Neither the potential licensee nor the Inventor/authors have an unmanageable conflict of interest or commitment (*see Section 4.5*);
- The terms of the technology transfer are commercially reasonable.

Inventor/authors and Inventor/author associated companies also may seek a license to commercially exploit University owned Intellectual Property that they developed based upon these same guidelines. The Inventor/authors must make a full and complete disclosure of their financial or other interests in the entities seeking such a license from the University.

Section 4.4. Equity Interest

The University seeks licensees that have the financial and other resources necessary to pay for obtaining and/or maintaining Intellectual Property protection and to develop and commercialize the technology.

Under certain conditions, University will agree to accept an equity interest as partial or total compensation for any rights conveyed to a business entity to license or otherwise commercialize Intellectual Property owned by University. However, it is doubtful that the University will ever accept equity in a pass through entity. The VPAA and the VPAF must be advised before the University can enter into any agreement under which the University will receive an equity interest.

Before the University will grant a license to a business entity in which a University Inventor/author holds or will acquire an equity or founder's stock and/or option position, the Inventor/author must disclose any potential or actual conflicts of interest or commitment related to the Inventor/author and any other University employee and all such conflicts must be resolved to the University's satisfaction. (*See Section 4.5 regarding Conflict of Interest or Commitment.*)

The Office of the VPAFOAF will hold University's equity or equity-related interests on behalf of the University, but does not hold equity on behalf of University employees. The University exclusively decides whether and when to exercise or sell such equity.

When the University accepts equity in a company as partial consideration for a technology licensing-related transaction, the University requests that the Inventor/authors receive their shares of equity directly from the company. However, the aggregate of the shares received by the University and all University Inventor/authors will be treated as part of the Licensing revenue received by the University, subject to similar treatment as cash royalty payments. It is the responsibility of University Inventor/authors to cooperate with the University in directing the Licensing entity to issue shares to the University-related parties consistent with this Policy.

In some cases, the company may not offer shares to Inventor/authors, or the Inventor/authors may elect not to receive shares directly from the company. In such cases, University's VPAF will promptly authorize the company or its transfer agent to transfer to the Inventor/authors the portion of the shares allocable to the Inventor/authors personally. If that is not practicable, income from the sale or disposition of equity interests held by University on its own behalf will be distributed as Net Royalty Income pursuant to the royalty distribution policy applicable to the Inventor/authors under this Policy. However, unless the Inventor/authors provide the University with a written agreement specifying an alternate allocation of income, each individual's share of such income under the applicable policy will be divided equally according to the total number of Inventor/authors, net of the portion of such income allocable to any Inventor/author(s) who obtained equity shares directly from the company.

Section 4.5. Conflict of Interest or Commitment

The Faculty will comply with the conflict of interest policy statements located in the Faculty Handbook.

Section 5. Paid Sabbatical

If a Faculty member is on paid sabbatical by the University, this Policy shall be applicable. If the paid sabbatical is paid by another University or employer, the Faculty member is responsible to determine and advise the University if there are any conflicts with this Policy and resolve those conflicts in advance.

Section 6. Approval and Execution of Documents

The University has the sole right to negotiate and enter into agreements regarding the use, commercial development, distribution, publication, transfer and other exploitation of Intellectual Property which is owned by the University or to which the University otherwise has rights under this Policy, to the extent of such rights.

Such agreements may only be executed by the President, with the approval of the VPAF and VPAA.

All Faculty will be required to sign an Intellectual Property Agreement and a Confidentiality Agreement in conformance with this Policy, which is available from the OAA.

This Policy is effective as of the date set forth below.

Section 7. Enforcement

All Faculty members shall comply with the University's Intellectual Property Policy and report known violations to the VPAA. A violation of this Policy, like all important University policies, is subject to sanctions, including those set forth in the Faculty Handbook. In such cases the matter will be referred to the disciplinary process for Faculty as the case may be. No such disciplinary action will preclude the University from pursuing the matter through civil or criminal legal action when warranted.

The OAA will be the authorized party to administer this policy and will be responsible for enforcement of this Policy.

Where Faculty observes non-University related personnel making unauthorized use of University owned Intellectual Property, Faculty should report this to the OAA.

Section 8. Applicability

This policy is only applicable to the Faculty. Works and Inventions created or developed by students, Visitors, and non-Faculty staff are not covered by this Policy and will be covered by separate written policies.

Appendix 1. Definitions

Confidential Information includes, but is not limited to: University resources; the identities of and information concerning donors, students, Faculty and staff; identities of University's business partners, consultants, contractors, suppliers; revenue sources, pending bids and proposals, enrollment, costs, profits; present and future educational initiatives, all technical information; inventions, Patent applications, projects, plans, strategies, processes, procedures, methods, formulas, calculations, data, notes, notebooks, correspondences, reports, papers, documents, charts, tables, inventions, specifications, manuals, photographs, slides, videos, movies, games, know-how, concepts, designs, sketches, drawings, schematics, models, prototypes, devices, apparatus, equipment, patterns, machine-readable records and instructions, computer hardware and computer software, algorithms and data; and other information that is not generally known by others.

Copyrightable works applies to original works of authorship fixed in any tangible medium of expression, including literary, musical, dramatic, choreographic, pictorial, graphic and sculptural works, motion pictures and other audiovisual works and sound recordings. Examples of Copyrightable works could include films, songs, artwork, software, computer programs and web pages. Examples that do not qualify as Copyrightable works include ideas or concepts, mere facts, materials created by employees of the federal government or materials in the public domain.

Courseware includes all course syllabi, the expressive content of digital teaching media, CD-ROMs and Web publications and other materials created for the purposes of teaching or instruction or to support the teaching of a course.

Faculty includes all full-time, part-time, adjunct, voluntary and emeritus members of the University's instructional, research and clinical faculty.

Intellectual Property encompasses numerous forms of intangible personal property. For purposes of this Policy, Intellectual Property includes but is not limited to Copyright works or and Copyrightable works or materials, patented and patentable inventions, tangible research property, Trademarks, Service Marks and Trade Secrets.

Inventor or **Inventor/author** is the member of the University Community who develops an invention, creates a Copyrightable work, creates a Trademark, or otherwise generates Intellectual Property subject to the provisions of this Policy.

Invention shall mean Patents, Patent applications, Copyrightable works, original works of authorship, formulas, compositions of matters, databases, mask works, innovations, technical information, data, Invention notebooks, reports, devices, prototypes, modes, schematics, machine readable records and instructions, Tangible Research Property, algorithms and data techniques, discoveries, designs, processes, know-how, ideas, computer hardware, computer software, Trademarks, Service Marks, Trade Secrets, and other Intellectual Property rights

Licensing is the practice of transferring Intellectual Property rights to a third party, through a license agreement or other commercialization agreement.

Net Royalty Income is defined as gross revenues, fees and compensation received by the University under a license or other commercialization agreement after deduction of any and all direct expenses not reimbursed by licensees, such as fees for Patent, Trademark or Copyright design and searching, filing, prosecution, enforcement and maintenance, attorneys' fees, staff fees, equipment fees, development expenses, consulting and third-party contracts, and all out-of-pocket expenses, as well as marketing, Licensing and auditing expenses. If the University is obligated to share royalty income with a co-owner, research sponsor or other party, Net Royalty Income does not include that portion of the gross revenues allocated to such party. The University may deduct a reserve from gross revenue when the University determines that further expenses may be incurred, which may not be covered by future royalty revenue. The unspent balance of any such reserve is distributed when it is no longer required. Research support received from licensees, including funds for postdoctoral positions, are specifically excluded from gross revenue in determining Net Royalty Income.

OAA is the Office of Academic Affairs.

Pedagogical means created or developed through, pursuant with or as a result of the profession of academia, teaching or instruction.

Patents may be issued for a new, useful and non-obvious process, machine, manufacture, or composition of matter, or new, useful and non-obvious improvements. By way of example, patent protection may be available for such inventions as chemical compounds, chemical processes, identification and purification of biological material, genetically engineered products or processes, electronic circuitry, electromechanical apparatus, software, machines or manufacturing processes. Patent protection is not available for ideas or concepts or materials in the public domain. The owner of a patent has the right to exclude others from making, using or selling the patented invention for a certain time period in the territory covered by the patent.

PTO is the United States Patent and Trademark Office.

Service Marks are any word, name, symbol or device or any combination thereof, adopted and used to advertise or promote a service and to distinguish that service from those of others.

Syllabi are the instructional outlines and related materials used by Faculty to structure and effectively present the academic content of their courses.

Tangible Research Property includes research materials that are created, discovered or developed in the course of university research, such as biological materials and computer

software. Tangible Research Property may be protectable under Copyright, Patent or other Intellectual Property laws.

Trademarks are any word, name, symbol or device or any combination thereof, adopted and used to identify the source of goods and distinguish them from those manufactured or sold by others.

Trade Secrets are all types of information, including formulas, patterns, inventions, knowledge, ideas, data, plans, devices, techniques or processes, that (a) derive independent economic value from not being generally known to the public or to those who could obtain economic value from disclosure or use of the information and (b) are the subject of reasonable efforts to maintain their secrecy.

University Community includes (a) all CLU Faculty and staff, (b) all CLU students and postdoctoral fellows and (c) all CLU Visitors.

Usual University Resources shall mean those resources commonly provided or made available to similarly situated faculty, such as desktop or laptop computers, office space and supplies, University libraries, and secretarial and administrative support staff. For any given department, unit, or individual, whether access to a particular tool or resource constitutes use of a “usual University resource” will depend upon the functions, responsibilities and procedures of that department, unit or individual. For example, access to high-end computing facilities may be a usual resource in computer science, but would probably be considered an unusual resource in philosophy.

VPAA is the Vice President of Academic Affairs.

VPAF is the Vice President of Administration and Finance.

Visitors include all non-employees who participate in or intend to participate in research projects at CLU (including visiting faculty, industrial personnel, fellows and others with similar positions).

Work Made for Hire: A situation in which the University pays an employee specifically for the purpose of creating a work in which the University is the copyright holder. The actual creator may or may not be publicly credited for the work. This situation is an exception to the general rule that the person who actually creates a work is the legally-recognized author of that work. According to copyright law in the United States, if a work is "made for hire", the employer (not the employee) is considered the legal author. Faculty need to be aware of this when agreeing to create works for hire for the University.