



POLICY ON INTELLECTUAL PROPERTY

OFFICE WITH PRIMARY RESPONSIBILITY: Office of Research Compliance (ORC)

DIVISION: Research and Economic Development (RED)

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Table of Contents

1.	PURPOSE, SCOPE, AND DEFINITIONS	1
1.1.	PURPOSE	1
1.2.	SCOPE	1
1.3.	DEFINITIONS	1
2.	GENERAL POLICY	3
3.	PROCEDURE	5
3.1.	GENERAL OVERVIEW	5
3.2.	DISCOVERY AND INVENTION DISCLOSURES	5
3.3.	COPYRIGHTABLE WORK	7
3.4.	TRADEMARKS	8
3.5.	COMMERCIALIZATION	9
3.6.	SHARING ROYALTY INCOME	10
3.7.	SHARING OF RESEARCH MATERIALS	11
3.8.	CONSULTING AGREEMENTS	11
3.9.	DISPUTE RESOLUTION	11
3.10.	REVISIONS AND MODIFICATIONS TO THIS POLICY	12

1. PURPOSE, SCOPE, AND DEFINITIONS

The policies set forth herein constitute a set of guidelines binding on Alabama A&M University (AAMU) faculty, staff, and students as a condition of their participation in AAMU research, teaching, extension and service programs and for their use of AAMU funds, facilities, or other resources.

1.1. PURPOSE

- To make clear the University's policy concerning intellectual property;
- To encourage research, scholarship, creative activity, and the documentation of new knowledge;
- To facilitate the dissemination of knowledge and technology for the benefit of the University community, regional business and industry, and society;
- To provide an administrative system to assist faculty, students and staff members in bringing new discoveries and developments into public use;
- To provide an administrative procedure to evaluate, where appropriate, the commercial significance of discoveries and developments;
- To provide for the equitable disposition of interests in shared intellectual property among the author, inventor, developer, the University, and, where applicable, the external sponsor;
- To provide incentives to creators in various forms, including professional development, recognition, and financial compensation; and
- To safeguard intellectual property so that it may receive adequate and appropriate legal protection against unauthorized use and dissemination.

1.2. SCOPE

1. **Who is covered by this Policy:** All University employees. Also covered are non-employees (including students, visitors, volunteers, fellows, and scholars) who are supported by significant use of University resources in their creative efforts.
2. **What is covered by this Policy:** All inventions, discoveries, trademarks, and copyrightable works made or authored by covered individuals using AAMU funds, facilities, or other resources, and to any royalties derived therefrom. It does not apply to University service marks (the various designs, artwork, logos, and other symbols and devices describing or identifying the University programs) nor property belonging to others or in the public domain.

1.3. DEFINITIONS

- 1.3.1. **Intellectual Property:** Intellectual Property (IP) is defined as the tangible or intangible results of scholarship, research, development, teaching, or other scholarly activity. Intellectual Property may include but is not limited to the following (non-exclusive) categories:
 - Inventions, discoveries, or other new developments that are appropriate subjects of patent applications;
 - Written materials; exhibits; sound, video, and other media productions; computer programs and software (including mobile apps); computer-based instructional materials; works of art including paintings, sculptures, and musical compositions; and all other material that may be copyrightable;
 - Tangible research materials include biological, chemical, physical, and technological products, analytical procedures, and laboratory methods. These may or may not be patentable or copyrightable.

- 1.3.2. **Inventions:** Under federal patent law (U.S.C. Title 35), inventions are novel and valuable ideas relating to processes, machines, manufacturing, and compositions of matter. An invention can be made solely or jointly with others as co-inventors. To be recognized legally, a co-inventor must have conceived of an essential element of an invention or contributed substantially to the general concept.
- 1.3.3. **Discoveries:** Discoveries are defined as new products or processes that are not patentable inventions or copyrightable works but may contain or be based on proprietary information. Examples include tangible research properties such as biological materials (including cell lines) and chemical substances, prototype devices and equipment, and research data. Discoveries may sometimes be protected as trade secrets.
- 1.3.4. **Patent:** The exclusive right granted by a government to an inventor to manufacture, use, or sell an invention for a certain number of years. The US Patent & Trademark Office has determined that software which meets specific technical and legal criteria may be patentable. Suppose software originally disclosed as a Copyrightable Work is subsequently determined to be patentable subject matter, and AAMU chooses to seek patent protection for the software. In that case, such software shall be managed under this Policy as patentable Intellectual Property.
- 1.3.5. **Copyrightable works:** These are, under federal copyright law (U.S.C. Title 17, as amended by the 1976 Copyright Act), original works of authorship that have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include:
- Literary works, such as books, journal articles, poems, manuals, memoranda, tests, instructional material, databases, and bibliographies;
 - Computer software, which in addition to being copyrightable, may also be patentable;
 - Musical works, including any accompanying words;
 - Dramatic works, including any accompanying music;
 - Pictorial, graphic, and sculptural works, including photographs, diagrams, sketches, and integrated circuit masks;
 - Motion pictures and other audiovisual works such as videotapes; and sound recordings.
- 1.3.6. **Trademark:** A trademark includes any word, name, symbol, device, or combination used or intended to be used in commerce to identify and distinguish the goods of one manufacturer or seller from goods manufactured or sold by others and to indicate the source of the goods.
- 1.3.7. **Royalty:** A royalty is a payment made to an owner of Intellectual Property for the privilege of practicing a right under a patent, copyright, or discovery. The term 'royalty' does not apply to funds awarded to the University under sponsored agreements nor gifts made to the AAMU Research, Innovation, Science, and Engineering (AAMU-RISE) Foundation or the AAMU Foundation.
- 1.3.8. **Material Transfer Agreement (MTA):** The MTA is a contract that governs the transfer of tangible research materials between two organizations when the recipient intends to use them for their research purposes. The MTA defines the rights of the provider and the recipient concerning the materials and any derivatives. Biological materials, such as reagents, cell lines, plasmids, and vectors, are the most frequently transferred materials, but MTAs may also be used for other types of materials, such as chemical compounds and even some types of software.
- 1.3.9. **Significant use of University resources:** This includes the use of University facilities, staff, or funds beyond those commonly available to members of the University community. Examples are:
- Extended use of time and energy by the developer(s) in the creation or promotion of the intellectual property enabled by a reduction in the levels of teaching, scholarship, or citizenship activities, so that anticipated performance in these areas is at a level significantly less than usual (as evidence by faculty load form);

- Use of products or services obtained by a substantial expenditure of University funds in support of the intellectual property's creation;
 - Direct assignment or commission from the University to undertake a creative project as a part of the developer's regular appointment;
 - Production of the intellectual property under specific terms of a sponsored research grant or contract.
- 1.3.10. **Work for Hire:** According to the 1976 Copyright Act, this is a work prepared by an employee within the scope of their employment; or a work specially ordered or commissioned for use if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.
- 1.3.11. **Directed Works:** "Directed works" include works funded explicitly by, or created at the direction of, or made under contract with, the University and other AAMU employees (including RISE consultants/employees).
- 1.3.12. **Student Work:** Any form of paper, computer program, theses, dissertations, artistic and musical works, and other tangible or intangible creative works made by students that could be protected via patent, copyright, or trade secret. For this Policy, the term "student" shall include undergraduate and graduate students.
- 1.3.13. **Sponsored or Externally Contracted Work:** A "sponsored or externally contracted work" is any copyrighted work developed with funds supplied under a contract, grant, or other arrangements between the University (or RISE) and third parties, including sponsored research agreements.
- 1.3.14. **Traditional Work:** A "traditional work" is a pedagogical, scholarly, literary, or aesthetic (artistic) work originated by a faculty or other EPA employee resulting from a non-directed effort. (Such works may include textbooks, manuscripts, scholarly works, fixed lecture notes, distance learning materials not falling into one of the other categories of this Policy, works of art or design, musical scores, poems, films, videos, audio recordings, or other works of the kind that have historically been deemed in academic communities to be the property of their creator.)

2. GENERAL POLICY

- 2.1. When an AAMU faculty member, staff member, or student creates an item of intellectual property that, under the terms of this Policy, may be owned and controlled by AAMU, the creator shall report the potential intellectual property to the Director of the AAMU Office of Research Compliance, Project Initiative Assistance and Intellectual Property (hereafter Director-ORC), who is charged with the responsibility for Intellectual Property, Technology Transfer, and Commercialization, by completing an Intellectual Property Disclosure Form.
- 2.2. The creator shall also: cooperate in the execution of legal documents and the review of the literature and prior art (e.g., patent searches); be allowed to assist in the further commercial development of the intellectual property; and have an interest in and share in any income derived from the commercialization of such property.
- 2.3. Traditional products of scholarly activity that have customarily been considered to be the unrestricted property of the author or creator are exempted from this General Policy.
- 2.3.1. Such conventional products exempted from the General Policy include books, monographs, articles, reviews, and works of art (including paintings, sculptures, plays, choreography, musical compositions, film, and video); and individual course materials such as syllabuses, exams, transparencies, study guides, workbooks, and manuals.
- 2.3.2. Also included are instructional software, webpages, and internet-based instructional materials developed by faculty members during their usual scholarly, pedagogical, and service activities. The latter include projects undertaken during sabbatical leaves, faculty fellowships, and other

- special assignment periods intended for such activities. AAMU will not claim ownership rights to such traditional works. It disclaims any potential rights to do so under the “work made for hire” provisions of the U.S. Copyright Act unless there is a written agreement.
- 2.4. AAMU encourages student innovation, creativity, and entrepreneurship, and students have opportunities to make original creations, inventions, and discoveries as part of their activities both within and outside the class. Students shall own any intellectual property they make, discover, or create as part of a course, as long as the resources used were part of the course and available to all students; and the class or project was not sponsored by a corporation, grant, or contract. To the extent permitted by this Policy, students shall own any intellectual property that they make, discover, or create unless:
- 2.4.1. The student performed the research while receiving financial support from the University (or RISE) through wages, salary, stipend, or grant funds.
- 2.4.2. The student used University resources (including University-administered funds, facilities, or equipment) in the research. In this context, the term “University resources” does not include resources such as a computer lab, a commonly available 3D printer, or other resources typically available in the AAMU student workspace. It does cover other unique AAMU resources without which the invention could not have been made or tested.
- 2.4.3. The research was funded by a sponsor under a grant, contract, or sponsored research agreement or is subject to a Material Transfer Agreement, Confidentiality Disclosure Agreement, or other legal obligation that restricts ownership of Intellectual Property.
- 2.5. Works produced in specific AAMU support units (non-academic departments) whose mission includes the production of works for instructional, public service, or administrative use and which employ designated staff or faculty to produce such work (e.g., Career Services, Sponsored Programs, Recruitment, and Admissions, Alumni Relations), are deemed to be works made for hire and, therefore, the property of AAMU. Such work may include brochures, films, videotapes, web-based courses, recordings, displays, drawings, slides, models, computer programs, and the like. AAMU shall own and control all such works produced in such units for such purposes.
- 2.5.1. The U.S. Copyright Act defines a “work made for hire” as: (1) a work prepared by an employee within the scope of their employment; or (2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.
- 2.5.2. For the preceding sentence, a “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author to introduce, conclude, illustrate, explain, revise, comment upon, or assist charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes; and an “instructional text” is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.
- 2.6. The utilization of AAMU support units to prepare instructional materials does not automatically transform such materials into work made for hire or deprive faculty of ownership rights. Instead, it generally continues the University’s traditional role of facilitating the faculty member’s usual teaching activities and thus may fall under the exemption in **Section 2.3**. Exceptional cases, and interpretative disagreements will be brought to the Intellectual Property Rights Review Committee (IPRRC), **as described in Section 3.2.1**, for adjudication. The IPRRC shall make disposition according to the following factors: the initiation of the creative effort, control over the work’s content and form of expression, and the amount of extraordinary or non-usual support afforded by the University. Creators should consult with their immediate administrative supervisor to determine whether an official disclosure of such materials is required. The AAMU support

unit should discuss with the creator the ownership, use, and disposition of all materials before their creation.

- 2.7. Arrangements for expertise or talent from other units or outside AAMU may be utilized to create, further develop, produce or commercialize the creation. Compensation for these arrangements may include a fixed fee payment or payments based on sales or usage of such works, to be negotiated by AAMU, the creator, and the party providing the additional expertise or talent. Such payments are considered to be a part of the costs of production. Commercialization of such works must be assigned to AAMU, which shall be responsible for the commercial development.
- 2.8. AAMU shall own and control the rights to intellectual property resulting from sponsored projects. To ensure compliance with the Bayh-Dole Act (Pub. L. 96-517, December 12, 1980—United States legislation dealing with intellectual property arising from federal government-funded research), AAMU requires its employees and graduate students to sign an agreement to comply with the requirements of the Bayh-Dole Act. The agreement must be signed before any federal government-funded research with potential to generate intellectual property can commence.
- 2.9. In some instances, the provision of additional or unusual funding, background information, product samples, or confidential, proprietary data by a sponsor may create a situation in which the sponsor may claim ownership of intellectual property that might result from the sponsored project. In such cases, the final disposition of the property may be negotiated as a part of the funded project agreement.
- 2.10. In those cases, where the final disposition of the property has not been negotiated as part of a sponsored project agreement, AAMU will proceed as described under Commercialization (**Section 3.5**).

3. PROCEDURE

3.1. GENERAL OVERVIEW

- 3.1.1 As provided by the AAMU Policies, to which these policies and procedures are expressly subject, the University has an ownership interest in all inventions of University personnel (other than "Inventions made on Own Time") that are conceived or first actually reduced to practice as a part of or as a result of University research or other activities involving the use of University facilities, staff, or funds administered by the University.
- 3.1.2. The University may also be interested in inventions under the terms of contracts, grants, or other agreements. Faculty, staff, and students whose inventions are made on their own time and without University facilities, staff, or other resources and whose inventions are, therefore, their exclusive property as specified by AAMU Policies, may avail themselves of the opportunity to submit the invention to the University for possible patenting and commercial exploitation and management under terms to be agreed between the inventor and the University.
- 3.1.3. All inventions discovered by faculty, staff, or students on appointment while pursuing their University duties, on University premises, or with University supplies or equipment must be reported to the University using AAMU Intellectual Property Disclosure Form. The principal investigator for a research program is responsible for assuring that an Intellectual Property Disclosure Form is filed for any such discovery occurring in their laboratory or under their oversight.

3.2. DISCOVERY AND INVENTION DISCLOSURES

- 3.2.1. The Vice President for Research and Economic Development (hereafter "VP-RED") shall appoint an Intellectual Property Rights Review Committee (hereafter "IPRRC"). The IPRRC, to be chaired by the Director-ORC, shall meet regularly (at least once annually) to review and make recommendations to the VP-RED concerning these policies and procedures, appropriate disposition of invention disclosures, and distribution of invention royalties. The IPRRC shall make such recommendations as are deemed relevant to encourage disclosures; assure prompt and

effective handling, evaluation, and prosecution of invention opportunities; and protect the University's and the public's interests. The AAMU Office of General Counsel will advise the IPRRC upon request.

3.2.2. The IPRRC will consist of at least the following voting members.

3.2.2.1. Two tenured faculty member from each of the existing academic units:

- College of Agricultural, Life and Natural Sciences.
- College of Business and Public Affairs.
- College of Education, Humanities and Behavioral Sciences.
- College of Engineering, Technology and Physical Sciences.

3.2.2.2. A representative appointed by the Faculty Senate.

3.2.2.3. A representative of the Office of Sponsored Programs.

3.2.2.4. A representative of the AAMU-RISE Foundation.

3.2.3. Employees and others who are subject to these policies and procedures by virtue of their employment or use of University services or facilities, either alone or in association with others, shall immediately disclose to the Director-ORC, or such officer's designee, any invention or discovery (including those made under cooperative arrangements); provide complete information thereon, and cooperate with the University in protecting potential patent and know-how rights following AAMU Policies and these policies and procedures.

3.2.4. The Director-ORC or that officer's designee will promptly acknowledge receipt of completed disclosure forms and distribute such documents to the IPRRC for consideration at its next meeting.

3.2.5. The IPRRC will review each written disclosure promptly. The inventor or that person's representative shall be allowed to examine all written materials submitted to the IPRRC in connection with the disclosure and to make a written and, where practicable, oral presentation to the IPRRC. The IPRRC will make recommendations to the VP-RED or that officer's designee on the proper disposition of the invention to secure the interests of the University, the inventor, the sponsor, if any, and the public. Its recommendation may include, but is not limited to, one or a combination of the following:

3.2.5.1. To submit the disclosure for review by a patent or invention management firm;

3.2.5.2. To make inquiries of potential licensees that may have an interest in the invention, including the financing of a patent application, where applicable;

3.2.5.3. To study the practicality of applying for a patent with University resources (an option with limited application because of financial constraints);

3.2.5.4. In proper cases, to release the University's rights to the inventor following AAMU Policies, subject to an agreement to protect the interests of the University, the sponsor, if any, and the public, including an obligation to pay the University a percentage of any royalties or other income generated through assignment, licensure or other commercial exploitation of the invention; or

3.2.5.5. With the concurrence of the inventor(s), to dedicate the University's interest in the invention to the public.

3.2.6. Within ninety (90) days of the next regularly scheduled meeting of the IPRRC following the Director-ORC's receipt of the disclosure (or such other time as may be agreed upon by the inventor(s) and the Director-ORC or that officer's designee), the inventor will be notified in writing of the decision by the VP-RED, or such officer's designee, on (1) whether the University plans to file a patent application, (2) whether the University will accept assignment of the invention for patenting, licensing and commercial handling as applicable, and (3) the equities involved, including financial participation. Suppose the University chooses neither to file a patent application nor otherwise make an invention available commercially nor to dedicate to the public an invention in which it asserts its rights. In that case, the University will release the invention in writing to the inventor,

subject to the terms of an applicable sponsored research contract, if any. If no patent application is filed within eight (8) months following the decision of the VP-RED, all patent rights revert to the inventor. If, after the University has filed a patent application, it decides to abandon the application, the University will promptly notify the inventor in writing, and the University's rights in the invention will be released by written agreement to the inventor, subject to the terms of an applicable sponsored research contract if any.

- 3.2.7. In those cases, in which the University has obtained a patent without obligation to sponsors, if the University has made no arrangement (e.g., a license agreement, search for prospective licensees, or other commercially reasonable efforts) for commercial development of the invention within one year from the date of the issuance of the patent and each year after that, the inventor(s) may request in writing a release of the University's patent rights. The VP-RED or such officer's designee will promptly either grant the request or advise the inventor(s) of the University's plans for the development of the invention after consultation with the IPRRC and the Office of the AAMU General Counsel.
- 3.2.8. The AAMU-RISE Foundation serves as the University's agent in the receipt of intellectual property income and the protection, development, and commercialization of intellectual properties under this Policy on behalf of the University.
- 3.2.9. AAMU faculty, staff, students, or external parties, may request that AAMU accept, for management and commercialization, intellectual properties not initially subject to this Policy. If AAMU takes management and commercialization responsibilities for such intellectual property, the intellectual property shall become subject to, and be treated in accord with, all provisions of this Policy. If the management and commercialization of the intellectual property include an offer of sale of the intellectual property, AAMU and the owner of the intellectual property shall come to a written agreement as to the percentage of the sales price to be retained by AAMU, with concurrence obtained from the VP-RED (or designees) before AAMU may extend an offer of sale.
- 3.2.10. Intellectual property given to AAMU by external parties shall be assigned to AAMU for management following appropriate parts of this Policy.

3.3. COPYRIGHTABLE WORK

- 3.3.1. Covered individuals retain ownership of their copyrightable works unless the work is a work-for-hire or is subject to a separate written agreement that requires assignment to the University or a third party. In the case of assignment to the University, the author will retain the right to use the material for noncommercial purposes. It is emphasized that the legal copyright owner is the author of the work—the person(s) who gives tangible expression to the idea regardless of who might have been the original creator of that idea. For example, if a student writes a paper based on a professor's idea, and the professor is not a co-author of the work, the student is, by law, the sole copyright owner.
- 3.3.2. Covered individuals shall cooperate with and sign all documents reasonably requested by the University to enable it to secure, register, and enforce in the U.S. and any foreign countries copyrights in all works owned by or assigned to the University. The University shall cooperate with and sign all documents reasonably requested by a covered individual to enable them to secure, register, and enforce copyrights in the U.S. and any foreign countries in all works owned by or assigned to that individual.
- 3.3.3. Traditional faculty products of scholarly activity that have customarily been considered to be the restricted property of the author will be owned by the author regardless of the medium in which the work is embodied. Such traditional products include, but are not limited to, journal articles, textbooks, monographs, works of art, including paintings and sculptures, and musical

compositions. The University does not claim any ownership rights to such works. The University also does not claim ownership of traditional academic works produced by professional employees who, though not appointed as faculty, play a role in supporting the University's academic mission. In addition, the author of such traditional works is responsible for compliance with applicable copyright laws. If such works embody a patentable invention, the inventor will disclose and assign ownership of the invention to the University following the above Policy on "Discoveries and Inventions."

- 3.3.4. Royalties earned from the commercialization of traditional faculty products will accrue entirely to the author(s) as personal income unless copyright was previously assigned to the University or significant University resources were used in the production of the work. For traditional faculty products requiring significant use of University resources, the author(s) will repay the University for identifiable resources from any personal income earned. Before making significant use of University resources in creating such works, covered individuals shall consult with their Chair or supervisor, who shall have the opportunity to consult with the Director-ORC before approval.
- 3.3.5. As a public institution subject to State and Federal laws and regulations pertaining to access by certain public officials to research data, the University, to be able to investigate allegations of scientific misconduct, will have unlimited access to records, notebooks, and other repositories of information arising out of sponsored research. The research project Principal Investigator is responsible for maintaining and retaining research data for at least 5-years. Additional information on required retention periods may be obtained from the Director-ORC.
- 3.3.6. Development of distance learning courseware, instructional software, and other multimedia works involving significant University resources requires a written agreement between the University and the creator(s) outlining the rights and responsibilities of the parties. The agreement will cover, at a minimum, ownership, the right of the creator(s) to erase videotape or delete from a Web server any or all of the course content at the conclusion of a course, the need for written permission from the creator for the modification, reuse, or sale of courseware, the responsibility for obtaining copyright permission for items used in the creation of courseware, and the distribution of royalties.
- 3.3.7. Copyright owners may assign their copyrights to the University, which may, at its option, endeavor to commercialize the copyrighted work. Any royalties generated would be shared following the royalty distribution schedule attached to this Policy.
- 3.3.8. As a condition of enrollment, a student grants royalty-free permission to the University to reproduce and publicly distribute, on a noncommercial basis, copies of student project reports, theses, or dissertations, including any computer software developed as part of the student project, thesis, or dissertation. In certain situations, the Director-ORC, in consultation with the thesis director or faculty advisor, may conclude that joint ownership by the University and student is appropriate for computer software developed as part of a student project, thesis, or dissertation. In such cases, the Director-ORC shall prepare an agreement between the University and the student as soon as practicable during the research project process but before the final submission of the student project report, thesis, or dissertation. Notwithstanding the preceding, if the student authors copyrightable material that is either subject to a sponsored agreement or research data requirements, such material will be owned by the University or the supervising faculty member pursuant to any such sponsored agreement and this Policy.

3.4. TRADEMARKS

- 3.4.1. Any trademarks created by a covered individual at the request of the University shall be owned by the University.

- 3.4.2. Trademarks created by a covered individual in association with an invention, discovery, or copyrighted material shall be owned by the same party that owns the invention, discovery, or copyrighted material.

3.5. COMMERCIALIZATION

- 3.5.1. All intellectual property assigned to AAMU shall be transferred to the AAMU-RISE Foundation for protection and commercialization. AAMU may seek patent or copyright coverage, or the property may be treated as proprietary information, technical expertise, or trade secret.
- 3.5.2. In seeking and developing the commercialization of intellectual property, AAMU shall be guided by the following principles:
 - 3.5.2.1. The primary objective and responsibility of AAMU shall be to exercise due diligence so that the products of its intellectual activity are brought into extensive use for the benefit of AAMU and the broader public. This objective includes the possibility of granting an exclusive or non-exclusive license for or sale of intellectual property. If the commercialization of the Intellectual Property consists of an offer of purchase, AAMU and the creator of the Intellectual Property shall enter into a written agreement as to the percentage of the sales price to be retained by AAMU. The Director-ORC, VP-RED, the Provost, AAMU-RISE Foundation Director, and the AAMU General Counsel shall be informed of and provided a copy of such agreements.
 - 3.5.2.2. Intellectual Property should be treated as an asset, and AAMU should seek an appropriate return.
 - 3.5.2.3. AAMU shall vigorously seek active creator participation in all commercialization efforts.
- 3.5.3. To commercialize the intellectual property, AAMU will seek various written arrangements such as licenses, outright assignment or sale of rights, partnerships, collaborations, and joint ventures. The selection of arrangements will depend on the circumstances of each.
- 3.5.4. In some situations, it may be in the best interest of AAMU, the general public, and the creator to enter into commercialization arrangements with entities wholly or partially owned or controlled by the faculty, staff, or students who originated the property. Due to the potential of such arrangements for contributing to the economic development of the state and local areas, such arrangements may be considered and accepted, provided they are not explicitly prohibited by law and that adequate provisions, including full disclosure of interests, are made to avoid or otherwise protect against conflict of interest on the part of those involved.
- 3.5.5. Commercialization of intellectual property by AAMU may involve discussions and negotiations over months and sometimes years. Based on national data, the process more often fails than succeeds. Suppose no commercialization has occurred within a reasonable period after the property has been transferred to AAMU. In that case, the creator may submit a written request to the Director-ORC, with a copy to the AAMU General Counsel, that all rights be transferred.
- 3.5.6. Such requests should be directed to the VP-RED, who shall explain what efforts have been made and what additional steps are planned. If the VP-RED, following consultation with and written advice from the IPRRC and the AMU General Counsel (or designee), determines that there is little chance of successful commercialization, all rights may be transferred to the creator. If the VP-RED, following consultation with and written advice from the IPRRC, the AAMU-RISE Foundation Director, and AAMU General Counsel (or designees), determines that AAMU has undertaken reasonable efforts to commercialize and that further AAMU efforts offer reasonable chances of success, the VP-RED shall deny the creator's request. Such denials will be accompanied by a written report, copied to the Director-ORC, the AAMU-RISE Foundation Director, the Provost, and General Counsel, summarizing the factors considered by the VP-RED in arriving at a decision. The creator may request a review of the disposition annually. Such requests should be directed to the VP-RED, with a copy to the Director-ORC, the AAMU-RISE Foundation Director, and the Provost.

3.6. SHARING ROYALTY INCOME

3.6.1. AAMU shall distribute the Net Revenue to the Originator(s) regardless of whether they remain employed by the University. If an Originator is deceased, the distribution will be paid to the estate (or beneficiaries). The University will withhold payment when it believes the law requires it. The revenues that the University receives from a patent or invention (net of expenses described below) shall be distributed at least annually as follows:

- The net revenue is the amount of proceeds remaining after deducting all direct expenses necessary for obtaining protection for, and licensing of applicable intellectual property plus fifteen (15%) for overhead costs.
- **Of the First \$100,000 of Net Revenue**
 - The Creator(s), or Creator's heirs, successors, and assigns shall receive fifty percent (50%) of the net revenue arising from applicable intellectual property.
 - The Department/College(s) responsible for the applicable intellectual property shall receive twenty-five percent (25%) of the revenue arising from the applicable intellectual property to support research or other activities, as appropriate.
 - The University shall receive twenty-five percent (25%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities.
- **Of the next Net Revenue in excess of \$500,000**
 - The Creator(s), or Creator's heirs, successors, and assigns shall receive forty percent (40%) of the net revenue arising from applicable intellectual property.
 - The Department/School(s) responsible for the applicable intellectual property shall receive twenty-five percent (25%) of the revenue arising from the applicable intellectual property to support research or other activities, as appropriate.
 - The University shall receive thirty-five percent (35%) of the net revenue arising from the applicable intellectual property to support research and technology transfer activities. Whenever an invention or other intellectual property is released to the inventor pursuant to this policy, the University may claim a share in any income received by the originator after the deduction of his/her expenses as a condition of such release.

3.6.1.1. However, applicable laws, regulations, or provisions of grants or contracts may require that a lesser share be paid to the inventor. In no event shall the percentage payable to the inventor or inventors in the aggregate by the University be less than 15% of the gross royalties received by the University. In the case of co-inventors, each percentage share described in this section as due to a sole inventor shall be subdivided equally among the co-inventors unless all the co-inventors provide the University a written instrument signed by each of them allocating ownership among them other than in equal shares.

3.6.1.2. Gross receipts refer to agreed-upon payments specified in a license or other commercialization agreement. Net revenue is defined as gross receipts, which include royalties, license fees, profits from sales, and similar payments received by AAMU, minus necessary deductible costs incurred by AAMU (e.g., patent applications, patent search fees, patent services, patent maintenance fees, mailing, phone, or courier costs; necessary travel; and auditing fees and expenses).

3.6.2. AAMU shall reserve the right to suspend net revenue distribution when there is reason to believe that AAMU shall incur substantial deductible costs in the future. AAMU shall inform the creator of such decisions. A detailed accounting of revenue and expenses shall be made available to the creator upon distribution of royalties or upon request.

3.6.3. Funds distributed to AAMU may be transferred to the Office of Research Compliance, for IP-related

expenses, with consent from the AAMU. A report shall be made annually to the IPRRC and AAMU on the division of revenues and activities supporting intellectual property creation and protection.

- 3.6.4. A report shall be made annually to the VP-RED on the division of revenues and activities supporting Intellectual Property creation and protection.
- 3.6.5. In the case that AAMU decided not to pursue either domestic or foreign protection of intellectual property, and where the creator pursued this at their own expense, net royalties are, by default, still subject to the same distribution as specified in the preceding section. In this case, the creator shall provide the Director-ORC and VP-RED with a detailed accounting of costs incurred.
- 3.6.6. As stated above, the creator's rights to share in revenue shall remain with the individual or pass to the individual's heirs and assigns for so long as net income is derived from the property.
- 3.6.7. Creators may make a charitable gift of all or part of their income shares to the AAMU-RISE Foundation to support AAMU's creative activities. Upon request by a creator and the consent of the VP-RED, the AAMU-RISE Foundation will retain all or part of the creator's share in a separate account within the AAMU-RISE Foundation for expenditure following the creator's wishes. The creator may restrict such gifts to any program or unit of AAMU, as permitted by applicable law. The creator may limit the duration of such requests to a specific period or some specific future event (e.g., the creator's retirement or resignation from AAMU) and may be canceled or modified by the creator at any time upon written request to the VP-RED.
- 3.6.8. All appeals of decisions of AAMU under this Policy will be referred to the IPRRC for resolution.
- 3.6.9. This revised Policy will replace all previous revenue-sharing agreements.

3.7. SHARING OF RESEARCH MATERIALS

There is a long tradition in some fields of sharing research materials. AAMU encourages this cooperation. However, commercialization rights and product liabilities make it advisable to have a written agreement among the parties before entering into any sharing arrangement. This agreement is generally referred to as a Material Transfer Agreement. When significant costs to AAMU are involved in producing the material, provision for the recovery of those costs not covered by sponsor support shall be considered in making a sharing agreement. A copy of any such agreement shall be maintained by the Office of Research Compliance and provided to the VP-RED and AAMU General Counsel.

3.8. CONSULTING AGREEMENTS

- 3.8.1. Any faculty or staff member engaged in consulting work or in business is responsible for ensuring that clauses in the individual's agreements are not in conflict with this Policy, with AAMU's Consulting Policy, or with AAMU's commitments or agreements with third parties; and that AAMU's rights and the creator's obligations to AAMU are in no way abolished or limited by the terms of such contracts. Questions about potential conflicts should be directed to the Director-ORC and VP-RED (or designees), with a copy to AAMU General Counsel.
- 3.8.2. Faculty and staff members shall make clear to those with whom they make such agreements their obligations to AAMU and shall ensure that other parties to the contract are provided with a current copy of this Policy.

3.9. DISPUTE RESOLUTION

Suppose a dispute arises as to the operation of this Policy or as to any matter on which the operation of this Policy relies. In that case, the Chair of the IPRRC will serve as a mediator to assist the parties in resolving their dispute.

If such a dispute cannot be resolved through the assistance of a mediator, the VP-RED will appoint a suitably

qualified person to investigate the dispute. Such appointment(s) or persons may be external to the University. Where more than one person is appointed to an investigation, one of those persons will be an external appointment.

The person(s) conducting the investigation will act expeditiously and have access to all persons and relevant information to thoroughly investigate the matter consistent with the principles of natural justice. The inquiry may entail gathering evidence and interviewing the parties to the dispute, including Employees and Students. The dispute's parties may submit in writing to the investigator(s). Confidentiality will be respected during the investigation process, within the constraints of needing to investigate the matter thoroughly.

The outcomes of the investigation, together with recommendations, will be forwarded to the VP-RED for consideration. The VP-RED will review the outcomes but is not bound to accept the investigation's recommendation. Following receipt of the investigation, the VP-RED shall make a finding on the dispute, which shall be in writing and be final and binding on all parties.

3.10. REVISIONS AND MODIFICATIONS TO THIS POLICY

This Policy is subject to ongoing assessment and future modification. The version of this Policy in effect at the time of disclosure/proposal submission is binding. Faculty members and others are therefore expected to acquaint themselves with the current version posted on the AAMU Research Compliance website.