

1 **ARTICLE 18**

2 *INVENTIONS AND WORKS*

3 **18.1 University Authority and Responsibilities.** The University is authorized to  
4 establish regulations and procedures regarding patents, copyrights, and  
5 trademarks consistent with federal and state law. Such regulations and  
6 procedures shall be consistent with the terms of this Article.

7 **18.2 Definitions.** The following definitions shall apply in this Article:

8 (a) A "Work" means, in accordance with Title 17 of the U.S. Code, any original  
9 work of authorship that is or may be subject to copyright. Work includes but is  
10 not limited to printed material (such as books, articles, memoranda, and texts),  
11 computer software or databases, audio and visual material, circuit diagrams,  
12 architectural and engineering drawings, lectures, compositions (e.g., written,  
13 musical, and/or dramatic), motion pictures, multimedia works, web pages, sound  
14 recordings, choreographic works, and pictorial or graphic illustrations or displays,  
15 and any creative expression of a Trademark used in connection with these items.

16 (b) An "Invention" means any discovery; process; composition of matter;  
17 article of manufacture; know-how; design; model; computer software or  
18 database; technological development; biological material, strain, variety, or  
19 culture of any organism; or portion, modification, translation, or extension of  
20 these items which is or may be patentable or otherwise protected under Title 35  
21 of the United States Code; or any Trademark, and/or any directly related know-  
22 how used in connection with these items.

23 (c) "Online Course" means a course that requires student access to a University  
24 online learning environment, and includes but is not limited to, courses taught  
25 under World Wide Web ("W"), Mixed Mode/Reduced Seat Time ("M"), Video  
26 Streaming ("V") Video Streaming/Reduced Seat Time ("RV") and Active  
27 Learning/Reduced Seat Time ("RA") course modalities.

28 (d) "University Support" means (1) the appreciable use of University resources,  
29 such as funds, personnel, facilities, equipment, materials, technological  
30 information, or students, (2) course release, and/or (3) support provided by other  
31 public or private organizations when it is arranged, administered, or controlled by  
32 the University or a University direct support organization. For a use of University

33 resources to be appreciable, it must go beyond the resources commonly or  
34 routinely provided or made available to similarly situated employees for the  
35 performance of their assignment. For example, the routine use of resources such  
36 as the libraries; one's office, office computer and other University computer  
37 facilities; and office supplies, is not considered appreciable University Support.

### 38 18.3 Works.

39 (a) Independent Creative Efforts. A Work made in the course of Independent  
40 Creative Efforts is the property of the creating employee(s), who each have the  
41 right to determine the disposition of such Work and the revenue derived from it,  
42 in accordance with U.S. copyright law. If requested, the employee shall provide  
43 documentation to substantiate his or her Independent Creative Efforts. As used in  
44 this Section, the term "Independent Creative Efforts" means that:

- 45 (1) the ideas came from the employee;
- 46 (2) the Work was made without the use of University Support; and
- 47 (3) the University is not responsible for any opinions expressed in the Work.

48 (b) University-Supported Efforts. A Work not made in the course of  
49 Independent Creative Efforts is the property of the University and is hereby  
50 assigned to the University by the employee(s), and the creating employee(s) shall  
51 share in any licensing or assignment proceeds therefrom.

52 (1) Notwithstanding the above,

53 (a) the University shall not assert ownership rights to Works for which  
54 the intended purpose is to disseminate the results of academic research, scholarly  
55 study, and/or creative efforts ("Scholarly Works").

56 (b) the University shall not assert ownership rights to Works  
57 developed without appreciable University Support and used solely for the  
58 purpose of assisting or enhancing the employee's instructional assignment.  
59 Examples include case studies, textbooks, laboratory manuals and class notes  
60 produced in connection with regular scheduled courses of instruction, regardless  
61 of the modality. (The Works described, in 18.3(b)(1)(b-d), collectively,  
62 "Instructional Material")

63  
64 (c) Instructional Material developed or substantially revised for an  
65 Online Course without University Support and without the use of UCF online  
66 instructional design services shall be the property of the creating employee(s) and

67 is hereby assigned to the creating employee(s) by the University, subject to the  
68 retained rights set forth in Section 18.3(b)(1)(d)(i) through (d)(iii).

69 (d) Instructional Material developed or substantially revised for an  
70 Online Course with the use of UCF online instructional design services shall be the  
71 property of the creating employee(s) and is hereby assigned to the creating  
72 employee(s) by the University, subject to a retained right by the University to  
73 continued internal use of the Online Course, including the Instructional Material,  
74 for instructional purposes, and subject to the retained rights set forth in Section  
75 18.3(b)(1)(d)(i) through (d)(iii). Unless employee agrees otherwise in writing as  
76 long as they are employed by the University, such employee shall have the  
77 exclusive right to revise the Online Course, provided that the University shall not  
78 be obligated to provide further resources for such revisions unless they are  
79 requested by the University or agreed upon jointly by the University and the  
80 employee.

81 (i) If an employee who develops or substantially revises an Online  
82 Course ceases to be employed by the University, the University shall possess and  
83 expressly retains the right to continued internal use of such Online Course,  
84 including the right to revise, reproduce, or make derivative works, of the  
85 Instructional Materials for instructional purposes for no more than the five (5) full  
86 academic years following the employee's separation from the University. The  
87 owner (creator) may continue to make personal and professional use of the  
88 Instructional Material, at no cost to and with no obligation by the University after  
89 termination of their employment, subject to any third-party obligations.

90 (ii) If an employee who develops or substantially revises an Online  
91 Course is unexpectedly unable to complete the employee's instructional  
92 assignment as to such Online Course, the University shall possess and expressly  
93 retains the right to internal use of such Online Course, including the right to  
94 revise, reproduce, or make derivative works, of the Instructional Materials for  
95 instructional purposes and to the extent necessary to ensure successful  
96 completion of the instructional assignment.

97 (iii) In any Online Course where the University exercises its rights  
98 to internal use of Instructional Materials for instructional purposes,  
99 acknowledgement and attribution of the creator(s) will be included.

100 (c) Disclosure/University Review.

101 (1) Upon the creation of a Work and prior to any publication, the employee  
102 shall disclose to the University's representative any Work that was not made in  
103 the course of Independent Creative Effort and/or that is not a Scholarly Work or  
104 Instructional Material, together with an outline of the project and the conditions  
105 under which it was done.

106 (2) The University's representative shall assess the relative equities of the  
107 employee and the University in the Work.

108 (3) Within ninety days after such disclosure, the University's representative  
109 will inform the employee whether the University seeks to record its interest in the  
110 Work, and if there are multiple creators of a Work and the creators do not agree  
111 that each creator should equally share in any licensing or assignment proceed  
112 distributions according to University policy, a written agreement shall thereafter  
113 be negotiated to reflect the interests of the applicable parties, including  
114 provisions relating to the equities of the employee and/or the allocation of  
115 proceeds resulting from such Work shall be made in accordance with the  
116 University's policy, per 18.4(g). The agreement will also include provisions relating  
117 to the creation, use, and revision of such Works by the University or the  
118 employee, as well as provisions relating to the use or revision of such Works by  
119 persons other than the University or employee, as applicable. All such agreements  
120 shall comport with and satisfy any preexisting terms or commitments to outside  
121 sponsoring contractors or agencies.

122 (4) The employee shall assist the University in obtaining releases from  
123 persons appearing in, or giving financial or creative support to, the development  
124 or use of these Works in which the University asserts an interest. The employee  
125 shall certify that such development or use does not infringe upon any existing  
126 copyright or other legal right.

127 (5) The employee and the University shall not commit any act that would  
128 tend to defeat the University's or employee's interest in the Work, such as making  
129 a public disclosure prior to the University obtaining intellectual property  
130 protection, and shall take any necessary steps to protect such interests.  
131 Employees will execute any and all necessary documents to affirm, publicly  
132 formalize, and record the transfer of all rights to the University or to University of  
133 Central Florida Research Foundation.

134 (d) Outside Activity. An employee may, in accordance with the Conflict of  
135 Interest or Commitment and Outside Activity Article, engage in outside activity,  
136 including employment pursuant to a consulting agreement. An employee who  
137 proposes to engage in such outside activity shall furnish a copy of the instant  
138 Article and the University's Copyrights and Works Regulation to the outside  
139 employer/party prior to the time a consulting or other agreement is signed or, if  
140 there is no written agreement, before the employment/activity at the outside  
141 employer/party begins.

142 (e) Transfer of copyright to the employee. When copyright is owned by the  
143 University in accordance with the provisions of this Article, the originating  
144 employee of the Work may request of the Vice President of Research that  
145 ownership be transferred to the employee. Such request shall be granted if it  
146 does not:

- 147 (1) violate any legal obligations of or to the University;
- 148 (2) limit appropriate uses of the Work by the University;
- 149 (3) create a conflict of interest for the employee; and
- 150 (4) otherwise conflict with specific goals of the University.

#### 151 18.4 Inventions.

152 (a) Independent Inventive Efforts. All Inventions made outside the field or  
153 discipline in which the employee is employed by the University, and for which no  
154 appreciable University Support has been used, are the property of the employee,  
155 subject to 35 U.S.C. 115, who has the right to determine the disposition of such  
156 property and revenue derived from such property. The employee and the  
157 University's representative may agree that the patent for such Invention be  
158 pursued by the University and the licensing or assignment proceeds shared.

159 (b) University-Supported Efforts. Inventions made in the field or discipline in  
160 which the employee is employed by the University, or by using University  
161 Support, are the property of the University and the employee shall share in the  
162 licensing or assignment proceeds therefrom. Such Inventions and related rights  
163 shall be the property of the University and are hereby assigned to the University  
164 by the employee. If the University decides to patent, develop and market the  
165 Invention, all costs of the patent application and related activities, including those  
166 which lead to active licensed production, shall be paid from University funds.

167 These costs shall be recovered before any division of license and assignment  
168 revenue is made between the University and the employee.

169 (c) Private or Industrially Sponsored Efforts. Except in unusual cases,  
170 Inventions developed in the course of privately or industrially sponsored research  
171 (also University-Supported Efforts) are the property of the University. The sponsor  
172 may be accorded the first option to negotiate an exclusive license, in which case  
173 the term of exclusivity and the compensation shall be negotiated at the time the  
174 Invention is made or under the provisions of the University's policy on copyrights  
175 and patents. If the sponsor exercises this option, the University generally retains  
176 royalty-free license rights to use the Invention or discovery for its own purposes.

177 (d) Outside Activity. An employee may, in accordance with the Conflict of  
178 Interest or Commitment and Outside Activity Article, engage in outside activity,  
179 including employment pursuant to a consulting agreement. All Inventions arising  
180 from authorized Outside Activity and outside of the field or discipline of the  
181 employee are the property of the employee. However, any requirement that the  
182 employee waive the University's rights to any Inventions which arise during the  
183 course of such activity must be approved in writing by the University's  
184 representative. Employees who propose to engage in such Outside Activity shall  
185 furnish a copy of Article 18 and the University's Patent, Trademarks, and Trade  
186 Secrets Regulation to the outside employer/party prior to the time an agreement  
187 is signed or, if there is no written agreement, before the Outside  
188 Activity/employment begins. Employees are not authorized and do not possess  
189 necessary ownership to waive University rights, and any such waiver is deemed  
190 void unless specifically authorized by the Vice President of Research or designee.

191 (1) Undisclosed Outside Activity is considered unauthorized.

192 a. Any Invention arising from undisclosed Outside Activity must be  
193 disclosed to the Vice President of Research (see 18.4(e)). If the employee claims  
194 the Invention resulted from Independent Inventive Effort(s), then as part of the  
195 disclosure, the employee shall provide sufficient documentation to substantiate  
196 the claim.

197 b. Upon receipt of written notice from the Vice President of Research  
198 confirming the University's decision not to assert a University interest in an  
199 Invention resulting from unauthorized Outside Activity, the employee shall have  
200 the right to determine the disposition of such Invention, subject to third party

201 rights, if any. However, the employee and the Vice President of Research may  
202 agree that a patent for such Invention will be pursued by the University; in that  
203 event, the employee and University shall share in the licensing or assignment  
204 proceeds of any Invention as provided by this Article and any applicable  
205 University policies or procedures, including applicable UCFRF Guidelines and  
206 Procedures for Distribution of Funds or in such other manner as the employee  
207 and the Vice President of Research may agree.

208 (e) Disclosure/University Review. Employees are required to disclose all  
209 Inventions resulting from University-Supported Efforts and all Inventions resulting  
210 from any Outside Activity within the field or discipline (field) of the inventing  
211 employee. It is the policy of the University that, in general, research results  
212 should be publishable; publication of such results in appropriate venues is  
213 encouraged. However, if the publication of research results may reveal an  
214 Invention in which the University has an interest, employees should seek advice  
215 on how and when to publish the results in order that potential patent rights for  
216 the Invention are not compromised. That is, upon the making of an Invention and  
217 prior to any publication or public disclosure, employees shall promptly and fully  
218 disclose to the Vice President of Research any Invention described in 18.4(b). Any  
219 delay in publication resulting from seeking such advice shall be minimized, but in  
220 any event shall not exceed ninety days from the date of presentation of the  
221 proposed publication.

222 (1) The disclosure shall be made on the forms and according to procedures  
223 prescribed by the Vice President of Research. At a minimum the disclosure shall:  
224 (1) identify each employee, (2) provide a brief description of the Invention, and  
225 (3) identify and summarize the research project including the participants and  
226 applicable funding sources

227 (2) The Vice President for Research shall conduct an investigation to assess  
228 the patentability and marketability, as well as the respective equities of the  
229 employee and the University in the Invention, and to determine the extent to  
230 which the University should be involved in its protection, development, and  
231 promotion.

232 (3) The Vice President for Research shall inform the employee of the  
233 University's decision regarding the University's interest in the Invention within a  
234 reasonable time, not to exceed ninety days from the date of the disclosure.

235 (4) In the event the University elects to obtain a Patent, register a  
236 Trademark or a Copyright, or to formally define a Trade Secret to protect the  
237 University's rights in the Invention, employees will execute any and all necessary  
238 documents to affirm, publicly formalize, and record the transfer of all rights to the  
239 University or to UCFRF. UCFRF is required to comply with the same policies and  
240 procedures regarding allocation of licensing or assignment proceeds/royalties as  
241 the University.

242 (5) In the event the University asserts its rights in the Invention, all costs  
243 and expense of patenting, developing, and marketing the Invention and related  
244 activities, including those which may lead to active licensing or assignment of the  
245 Invention, shall be paid by the University.

246 (6) The division, between the University and the employee, of proceeds  
247 generated by the licensing or assignment of an Invention shall be negotiated and  
248 reflected in a written contract between the University and the employee and/or  
249 as set forth in the University's policy on copyrights and patents, including the  
250 applicable UCFRF Guidelines. All such agreements shall comport with and satisfy  
251 any preexisting terms or commitments to outside sponsoring contractors.

252 (7) The employee shall not commit any act that would tend to defeat the  
253 University's interest in the matter, and the University shall take any necessary  
254 steps to protect such interest.

255 (f) Release of Rights.

256 (1) In the event a sponsored research contractor has been offered the  
257 option to apply for the patent to an Invention or other rights in an Invention, the  
258 University will obtain the contractor's decision regarding the exercise of such  
259 rights within ninety days, or within the time provided in the sponsored research  
260 agreement.

261 (2) Prior to making a patent application, at any stage of the patent process,  
262 or in the commercial application of an Invention, if the University has not  
263 otherwise assigned to a third party the right to pursue its interests, the  
264 University's representative may elect to waive the University's rights to the  
265 patent, or withdraw from further involvement in the protection or commercial  
266 application of the Invention. At the request of the employee in such case, the  
267 University shall transfer the Invention rights to the employee, subject to third  
268 party rights, if applicable. After ownership transfer to an employee, the Invention



269 shall be the employee's property and any costs already incurred by the University  
270 or on its behalf shall not be assessed against the employee.

271 (3) All assignments or releases of Inventions, including patent rights, by the  
272 University's representative to the employee shall contain the provision that such  
273 Invention, if patented by the employee, shall be available royalty-free for  
274 governmental purposes of the State of Florida and research or instructional  
275 purposes of the University, unless otherwise agreed in writing by the University.

276 (g) University Policy.

277 (1) The University shall have a policy addressing the division of proceeds  
278 between the employee and the University. See Business Manual, Ch. III(A), at  
279 [www.research.ucf.edu/ResearchFoundation/FoundationTools.html](http://www.research.ucf.edu/ResearchFoundation/FoundationTools.html)

280 (2) Such policy may be the subject of consultation meetings pursuant to the  
281 Consultation Article.