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I. PURPOSE & INTENT

The Florida Legislature has declared:

The mission of the state system of postsecondary education is to develop human resources, to discover and disseminate knowledge, to extend knowledge and its application beyond the boundaries of its campuses, and to develop in students heightened intellectual, cultural, and humane sensitivities; scientific, professional and technological expertise; and a sense of purpose. Inherent in this broad mission are methods of instruction, research, extended training, and public service designed to educate people and improve the human condition. §1004.01(2), Fla. Stat.

As a constituent institution of the State University System under the Florida Board of Governors, the University of South Florida (USF) is dedicated to the above-stated mission and recognizes its obligation to encourage and support research and the development and utilization of inventions and works in a manner that benefits the public, the inventor or author, and USF education and research programs.

Accordingly, USF has exercised the authority conferred in §1004.22, Fla. Stat. and §1004.23, Fla. Stat., by adopting USF Regulation 12.003 Inventions and Works, and this USF policy to accomplish the following objectives:

- A.** Provide an environment that will encourage innovation, research, and the creation of inventions and works, and provide appropriate incentive and support to inventors and authors in connection with the development and commercial application of inventions and works.
- B.** Provide for the determination of the relationship between USF interests and individual interests in inventions and works according to fair and uniform guidelines and

procedures that implement the terms of §1004.22, Fla. Stat., §1004.23, Fla. Stat., USF Regulation 12.003 Inventions and Works, and the applicable United Faculty of Florida and Graduate Assistants United-United Faculty of Florida Collective Bargaining Agreements (Collective Bargaining Agreements).

- C. Provide for the development, protection, and utilization of inventions and works to serve the public interest.

See Section V for hyperlinks to referenced material.

II. DEFINITIONS

The Inventions and Works policy is intended to describe guidelines and procedures that implement the terms of §1004.22, Fla. Stat., §1004.23, Fla. Stat., USF Regulation 12.003 Inventions and Works; and the Collective Bargaining Agreements. The policy is supplemented by and subordinate to the referenced laws, regulations, rules, and agreements. The definitions that follow will apply for purposes of interpreting and implementing the policy.

A. University of South Florida (USF): The University of South Florida, including Tampa, Sarasota-Manatee, and St. Petersburg, or any college, campus, entity, program, or activity under the authority and direction of the University of South Florida.

B. USF Supported Efforts:

1. With respect to inventions, activity that is in the field in which a USF employee is employed by USF (i.e., the fields or disciplines for which the inventor is employed to teach or to research) or for which USF support is used.
2. With respect to works, activity that is pursuant to USF employee's position description or specific professional assignment or special commission by USF, or for which USF support is used.

C. Sponsored Research: USF-supported effort for which USF has received support under a contract or grant with a third-party sponsor.

D. Independent Effort:

1. With respect to inventions, the term means activity that is outside the field or discipline in which a USF employee is employed by USF (i.e., the field or discipline for which the inventor is employed to teach or to research) and for which no USF support is used.

2. With respect to works, the term means (1) the ideas come from USF employee; (2) the work is not made in the course of USF-supported efforts, except for approved uses of USF support as described in the policy; and (3) USF is not held responsible for any opinions expressed in the work.
- E. Invention:** Any discovery, process, composition of matter, article of manufacture, know-how, technique algorithm, concepts, devices, design, model, technological development, strain, variety, or culture of any organism, or portion, modification, translation, or extension of these items, any improvements thereof, and any mark used in connection with these items. As used in this policy in reference to inventions, the term “made” means the conception or first actual reduction to practice of an invention, provided that the term might be otherwise defined in a sponsored research contract or grant.
- F. Work:** Any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works.
- G. Inventor:** A person who makes an invention. As used in the preceding sentence, the term "makes" means conceives of or first reduces to practice an invention.
- H. Author:** A person who creates or authors a work.
- I. USF Support:** USF funds, facilities, materials, equipment, personnel, or proprietary technological information that are used by an inventor or author in the making or development of an invention or work. Funds, facilities, materials, equipment, personnel, or proprietary, technological information that are provided by other public or private organizations and are arranged, administered, or controlled by USF shall be considered to be provided by USF.
- J. USF Employee:** All General Faculty, Administration, Staff and Temporary employees of USF—in-unit or non-unit—regardless of classification or source of funding for the position, and volunteers. For example: USF employee under this definition includes a graduate student in a Temporary position as well as an undergraduate student receiving no funds and holding no appointment who would be considered a volunteer for the purposes of this policy.
- K. Outside Activity:** Any private practice, private consulting, outside teaching or research, or other activity, compensated or uncompensated, which is not part of USF employee's assigned duties and for which USF has provided no compensation. (See

Collective Bargaining Agreements or personnel regulations, as applicable, for provisions for reporting outside activity.)

L. Net Revenue: Gross revenue received by USF from commercial application of the invention or work, including royalties and license fees, minus direct costs incurred by USF in protecting, maintaining, licensing, and preserving patent rights and copyrights. As used in the preceding sentence, the term "gross revenue" does not include tuition and fees to USF students. Where the USF Research Foundation is granted rights and responsibilities for the commercial application of an invention or work, the term "gross revenue" shall include the revenue received and costs incurred by the USF Research Foundation.

M. Commercial Application: The exercise, assignment, or license of any rights existing under federal or state statutes or common law to make, have made, use, copy, sublicense, sell, or otherwise exploit an invention or work.

III. DETERMINATION OF RIGHTS AND ALLOCATION OF REVENUE FROM INVENTIONS AND WORKS

In accordance with USF Regulation 12.003 Inventions and Works and the Collective Bargaining Agreements, USF policy regarding the ownership and disposition of inventions and works is defined in terms of the various circumstances in which inventions and works may result. Further, in accordance with the referenced Regulation and Agreements, the allocation between USF and the inventor or author of revenue derived from commercial application of inventions and works is determined by negotiation and mutual agreement between USF and the inventor or author.

A. Books, Articles, and Similar Works

In accordance with USF Regulation 12.003 Inventions and Works and the Collective Bargaining Agreements, works made with the use of USF support are the property of USF. However, to encourage scholarly and creative activity and in keeping with tradition and the referenced Regulation and Agreements, USF policy is that it will not assert rights to books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly study, unless the work is a work made for hire as defined by the United States Copyright Act. Accordingly, such books, articles, and similar works are the property of the author, and the author has the right to determine the disposition and any resulting revenue.

A USF employee (see Section II. Definitions) may make approved use of USF support in the authorship or creation of works under this Section. For purposes of this Section, the following shall be deemed to constitute the approved use of USF support for a

USF employee's authorship or creation of books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly study:

1. The use of books and materials in USF libraries.
2. The use of office space and word processing, personnel and equipment.
3. The use of classroom and studio space and supplies for the creation of musical compositions and arts and crafts, including paintings, weavings, prints, sculptures, and other works of art.
4. The use of USF computers.
5. The use of other USF support upon the specific advance approval of the appropriate USF official.

The request for approval is made by completing and submitting the "University Equipment, Facilities, and Services" form that accompanies the "Report of Outside Activity" form. USF and the author may agree in writing that USF will pursue the commercial application of books, articles, and similar works under this Section. Pursuant to such agreement, the work will be assigned or licensed to USF; and USF will be responsible for taking appropriate and effective steps to accomplish the protection or commercial application of the work as agreed by the parties. Revenue derived from commercial application of such works is allocated in accordance with an agreement between USF or the USF Research Foundation and the author.

B. Inventions and Works Made in the Course of USF-Supported Effort

In accordance with USF Regulation 12.003 Inventions and Works and the Collective Bargaining Agreements, an invention or work made in the course of USF-supported effort is the property of USF. Revenue derived from commercial application of inventions and works made in the course of USF-supported effort is allocated in accordance with an agreement between USF or the USF Research Foundation and the inventor or author.

C. Inventions and Works Made in the Course of Independent Effort

In accordance with USF Regulation 12.003 Inventions and Works and the Collective Bargaining Agreements, an invention or work made in the course of independent effort is the property of the inventor or author, and the inventor or author has the right to determine the disposition of such invention or work and revenue derived therefrom.

USF and the inventor or author may agree in writing that USF will pursue the commercial application of an invention or work made in the course of independent effort. Pursuant to such agreement, the invention or work will be assigned or licensed to USF, and USF will be responsible for taking appropriate and commercially reasonable steps to accomplish the protection or commercial application of the invention or work as agreed by the parties. Revenue derived from commercial application of such inventions or works is allocated in accordance with an agreement between USF or the USF Research Foundation and the inventor or author.

D. Inventions Made in the Course of Outside Activity

In accordance with the applicable terms of the Collective Bargaining Agreements and USF Regulation 10.107 Ethical Obligations, Conflicts of Interest, Outside Employment, Employment of Relatives, and Public Office, USF Policy 0-027 Florida Code of Ethics for Public Officers and Employees-Compliance and Disclosure, a USF employee may engage in outside activity. However, pursuant to the referenced Agreements and USF Regulation 12.003 Inventions and Works, USF employees may not waive or assign either their or the rights of USF to any inventions that arise during the course of such outside activity except as specifically approved in advance by the Vice President for Research & Innovation.

The request for approval shall be made through the appropriate Outside Activity reporting module in the eDisclose system. Any agreement by USF President or the Vice President for Research & Innovation to assign or release any invention or work, including patent rights, to a faculty member must include that such invention or work, if patented by the employee, must be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by USF. The rights of USF and USF employee's obligations to USF are in no way abrogated or limited by the terms of outside employment/consulting agreements except as specifically approved in advance in writing by the Vice President for Research & Innovation. USF employee is responsible for providing a copy of this policy—including USF Regulation 12.003 Inventions and Works or Collective Bargaining Agreement, Article 18—as applicable, to an outside employer at the time negotiations for other employment are occurring, or if there is no written agreement, before the employment begins.

E. Allocation of Revenue from Inventions and Works

The need for fair and consistent sharing of revenue with inventors/authors and the prudent exercise of the public trust require clear guidelines and procedures for the conduct of the negotiations between USF and the inventor or author to determine the allocation of revenue derived from the commercial application of inventions or works.

Therefore, USF policy is to initiate the negotiations by offering terms that are at least as favorable to the inventor or author as the following:

- To the inventor or author: A share to be specified by the inventor or author but not exceeding forty-five percent (45%) of net revenue.
- To the inventor's or author's research support: A share to be specified by the inventor or author but not exceeding the difference between fifty-five percent (55%) of net revenue and the share allocated to the inventor or author.
- To USF: Forty-five percent (45%) of net revenue.

The share allocated to the inventor's or author's research support shall be deposited in an appropriate account within the USF Research Foundation, for which the inventor or author shall be the accountable officer, and such funds shall be utilized exclusively for support of the education and research activities of the inventor's or author's department or laboratory as determined by the inventor or author; subject to USF and Research Foundation policy and approval. The revenue allocation agreement shall provide that, upon the retirement or termination as a USF employee, USF and inventor or author shall each thereafter receive fifty percent (50%) of the inventor's or author's research support share. In the case of joint inventions or works, the above specified shares allocated to the inventor or author and inventor's or author's research support shall be divided equally among co-inventors or co-authors unless otherwise agreed by the co-inventors or co-authors.

IV. RESPONSIBILITIES, POWERS, AND DUTIES

A. Vice President for Research & Innovation

The Vice President for Research & Innovation the following responsibilities, powers, and duties in connection with the administration of this policy:

1. To serve as the President's representative for purposes of USF Regulation 12.003 Inventions and Works and the Articles relating to Invention and Works in the Collective Bargaining Agreements.
2. To represent USF in all matters of policy arising from USF research and technology transfer programs and activities.
3. To evaluate inventions for patentability, scientific merit, and practical application; and, where desirable, to appoint experts to examine the merits of a potentially patentable invention.

4. To authorize applications for patents, both U.S. and foreign, and to retain patent counsel, in coordination with USF General Counsel, for matters pertaining to patentability studies, the filing of patent applications, the prosecution and commercial application thereof and litigation that may arise therefrom.
5. To determine and negotiate USF interests in inventions and works according to the guidelines and procedures set forth in this policy, to approve the terms of revenue allocation agreements with inventors or authors, and to direct the performance of USF under such agreements.
6. To delegate the foregoing evaluation and protection activities to the USF Research Foundation, as appropriate.
7. To approve and execute the release or assignment of rights to inventors and authors in the circumstances described in Section IV(H).
8. To approve and execute contract and grant terms relative to the disposition of inventions and works and the amount and disposition of revenue derived therefrom.
9. To approve and execute licenses and other agreements with the USF Research Foundation and other third parties concerning the commercial application of inventions and works.
10. To report to the Florida Department of State, on behalf of USF President, actions taken by USF in securing or exploiting copyrights and patents in accordance with §1004.23, Fla. Stat.

B. Disclosure of Inventions

A USF employee shall fully and completely disclose directly to the Technology Transfer Office any and all inventions that he/she may develop or discover while a USF employee, whether USF-supported, independent effort or as a result of approved Outside Activity. All inventors are required to disclose to the Technology Transfer Office all inventions that he/she may develop or discover in the course of USF-supported effort. The disclosure should be promptly submitted directly to the Technology Transfer Office following conception or first actual reduction to practice of an invention.

The disclosure is made by completing and submitting the Disclosure of Invention Form through the Technology Transfer Office's inventor portal. The employee shall

not commit any act that would tend to defeat the interest of USF in the matter, and USF shall take any necessary steps to protect such interest.

The disclosure will be promptly acknowledged in writing by the Technology Transfer Office. The Technology Transfer Office will provide a copy of the disclosure to the funding sponsor if required by the terms of the contract or grant.

With respect to an invention made during the course of approved outside activity, at the request of the outside employer, disclosure by USF employee to USF may be made under the terms and conditions of a confidentiality agreement, to protect the outside employer's interests until the decision has been made by the outside employer as to whether to seek a patent.

C. Disclosure of Works

A USF employee is required to disclose to the Technology Transfer Office all works that he/she may create or author in the course of USF-supported effort. A USF employee is not required to disclose to USF any work that he/she may create or author in the course of independent effort and books, articles, and similar works described in Section III(A), unless disclosure is a condition of the approval for use of USF support.

The disclosure is made by completing and submitting the “Disclosure of Works Form” through the Technology Transfer Office’s inventor portal. The disclosure should be promptly submitted to the Technology Transfer Office following creation or authorship of a work.

The disclosure will be promptly acknowledged in writing by the Technology Transfer Office. The Technology Transfer Office will provide a copy of the disclosure to the funding sponsor, if required by the terms of the contract or grant.

D. Review of Disclosures; Notification of USF Interest

On behalf of USF Research & Innovation, the Technology Transfer Office will coordinate the review and evaluation of disclosures of inventions and works by designated USF staff, consultants, and committees. This evaluation shall include an assessment of the respective rights and equities of USF and the inventor or author; the importance of the invention or work; and the extent to which USF should be involved in the protection, development, and commercial application of the invention or work.

The Technology Transfer Office shall act with due diligence and reasonable dispatch to complete its evaluation of the disclosure and to notify the inventor or author of its interest in the invention or work. Within a reasonable time, not to exceed sixty (60)

days following the date of receipt of the disclosure, the Technology Transfer Office shall give written notice to the inventor or author as to whether USF wishes to assert its interest in the invention or work. The Technology Transfer Office and the inventor or author may agree to extend the period for USF evaluation of the invention or work.

Within a reasonable time, not to exceed 135 days from the date of receipt of the disclosure, the Technology Transfer Office shall inform the inventor of USF decision as to whether USF will apply for a patent for an invention in which USF has asserted its interest.

If an invention or work is made in the course of sponsored research and the sponsor has rights to the invention or work, the appropriate department within the Office of Research & Innovation will use its best efforts to obtain the sponsor's decision regarding the exercise of such rights within 120 days from the date of receipt of the disclosure.

If USF elects to apply for the patent or otherwise become involved in the protection, development, and commercial application of an invention or work, the Technology Transfer Office and the inventor or author will negotiate in good faith and with due diligence and reasonable dispatch to determine the terms of the revenue allocation agreement. USF will offer the inventor or author the applicable terms described in Section III(E), and the final agreement of the parties shall be reflected in a written revenue allocation agreement. Any revenue allocation agreement that does not conform to the terms described in Section III(E) must be approved by the Vice President for Research & Innovation.

E. Resolution of Disputes

Disputes regarding the ownership of inventions or works and other issues relating to the administration of this policy may be reviewed by the Vice President for Research & Innovation upon request by the affected employee. Disputes that are not resolved informally may be subject to grievance or hearing procedures as provided by the applicable Collective Bargaining Agreement or Florida law.

F. Sponsored Research Agreement

USF, represented by the Vice President for Research & Innovation, shall have final authority and responsibility for the approval and execution of sponsored research contract and grant terms relative to the ownership and disposition of inventions and works.

G. Commercial Application

USF, represented by the Vice President for Research & Innovation, shall have final authority and responsibility for the approval of licenses and other agreements with third parties concerning the commercial application of inventions and works, including the amount and disposition of revenue derived therefrom, subject to the terms of this policy and the revenue allocation agreement with the inventor or author. Subject to the terms of any applicable contract or grant, USF has the following options for the commercial application of inventions and works in which USF has an interest:

1. *USF Research Foundation.* The USF Research Foundation is a Florida not-for-profit corporation certified by the USF Board of Trustees as a USF direct-support organization pursuant to §1004.28(1)(a), Fla. Stat. that has been organized for the purposes of promotion and encouragement of and assistance to the research activities of USF faculty, staff, and students. The USF Research Foundation provides means by which inventions and works may be developed, patented, applied, and utilized in order that the results of USF research shall be made available to the public and that funds be made available from inventions and works to support education and research at USF. The general policy of USF is to enter into an agreement with the USF Research Foundation whereby the USF Research Foundation is granted rights and responsibilities for the development, protection, or commercial application of an invention or work in consideration of royalties, license fees, or other revenue to be dedicated to the benefit of USF and to be shared in accordance with the terms of the revenue allocation agreement with the inventor or author.
2. *USF/Research Foundation licensing programs.* USF/ Research Foundation may solicit, select, and negotiate agreements with third-party licensees or assignees to manufacture, have manufactured, use, copy, sub-license, or sell inventions or works in consideration of royalties, license fees, or other compensation.
3. *Patent management organizations.* There are organizations that are available to USF to provide development, protection, and marketing services.
4. *Development by inventor or author.* USF/Research Foundation and the inventor or author may enter into an agreement whereby the inventor or author is granted rights and responsibilities for the development, protection, or commercial application of an invention or work, in consideration of royalties, license fees, or other compensation to the Research Foundation/USF. Such agreements are required to be specifically approved by USF President and others as may be required in accordance with §112.313(12)(h), Fla. Stat.

USF/Research Foundation and a company in which the inventor or author has an ownership or management interest may enter into an agreement whereby the company is granted rights and responsibilities for the development, protection, or commercial application of an invention or work, in consideration of royalties, license fees, or other compensation to the Research Foundation/USF. USF employee is responsible for providing a copy of this policy to the company prior to or at the time the agreement is executed. USF employee is responsible for following all USF policies and procedures relating to outside activities, conflicts of interest, and reporting requirements.

In accordance with §1004.23, Fla. Stat., any action taken by USF in securing or exploiting an invention or work shall be reported in writing within 30 days by the Vice President for Research & Innovation, on behalf of USF President, to the Florida Department of State.

H. Release of Rights

At any stage of the protection, development, and commercial application of an invention or work, or if USF President or Vice President for Research & Innovation have not otherwise assigned to a third party the right to pursue their interests, USF President or Vice President for Research & Innovation may withdraw and abandon the invention or work. In this event, the inventor or author will be promptly notified in writing and, at the request of the inventor or author and as permitted by law, the invention or work will be assigned to the inventor or author, and none of the costs incurred by USF or the USF Research Foundation shall be assessed against the inventor or author.

If USF/Research Foundation decides to assign or release invention rights to the inventor, such assignment or release must be in writing and shall contain the provision that the invention, if patented by USF employee, shall be licensed royalty-free for governmental purposes of the State of Florida, unless USF has otherwise agreed in writing.

I. Publication and Confidentiality

USF encourages research that serves a public purpose and which results may be published. USF recognizes that the legitimate proprietary concerns of sponsors and the effective protection and commercial application of inventions and works may require confidentiality and limited delays in the publication of certain information.

In accordance with §1004.23, Fla. Stat. and §1004.30, Fla. Stat., USF is authorized to keep the following items confidential: materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade

secrets, business transactions, or proprietary information received, generated, ascertained, or discovered during the course of research conducted within USF.

The following information or materials are not confidential:

1. The title and summary description of a research project, the name of the researcher, and the amount and source of funding provided for such project.
2. Any information or material that is in the public domain or generally publicly available or that is described in an issued patent or publication.
3. Information or material that may be disclosed without violating the terms of a sponsored research contract or grant or without adversely affecting the proper development, protection, and commercial application of inventions or works.

The Vice President for Research & Innovation shall have authority and responsibility for the prior review and approval of disclosures of information and materials that are confidential under §1004.30, Fla. Stat. Disclosure delays mutually acceptable to the inventor, the Vice President for Research & Innovation, and the sponsor, if any, are authorized in order to allow all foreign and domestic patent applications to be filed prior to publication, thereby preserving patent rights, particularly in foreign countries requiring absolute novelty. "Disclosure" includes public use of an invention or description of an invention in a printed publication that is accessible to the public (including non-confidential oral descriptions that may lead to printed publications).

J. Copyright Notice and Registration

Copyrightable works that are published should include a notice consisting of the following three elements:

1. The symbol © or the word "copyright" or the abbreviation "Copyr." For sound recordings, the symbol P is used instead of ©.
2. The year of first publication of the work.
3. The name of the copyright owner or a recognizable abbreviation of that name.

In the case of works made in the course of USF-supported effort as described in Section II(B), if the work is to be published and protected by a registered copyright rather than being released to the public domain, a USF employee who creates or authors the work shall affix the following notice to the work prior to the publication thereof: "Copyright (year) University of South Florida." USF, in connection with the

written notice to the author that USF wishes to assert its interest in the work as described in Section III(B), may take action to protect the copyright by affixing the copyright notice and by registering the work with the Registrar of Copyrights, Library of Congress.

K. Execution of Documents

The policies set forth in USF Regulation 12.003 Inventions and Works and the Collective Bargaining Agreements constitute an understanding that is binding on USF employees, students, and other persons as a condition of their employment by USF or use of USF support. USF employees and other inventors or authors are required to execute all documents necessary to implement the terms of the referenced Regulation and Agreements including, but not limited to, invention and copyright disclosures, assignments, reports, and applications. USF and each USF employee shall sign an agreement individually recognizing the terms of the Collective Bargaining Agreement, Article 18, or USF Regulation 12.003 Inventions and Works, as applicable. Such an agreement may be contained in the employee's employment contract with USF or may be a separate instrument to be executed in connection with the initial appointment of USF employee.

V. LINKS FOR REFERENCE

- [§112.313\(12\)\(h\), Fla. Stat.](#)
- [§1004.01\(2\), Fla. Stat.](#)
- [§1004.22, Fla. Stat.](#)
- [§1004.23, Fla. Stat.](#)
- [§1004.28\(1\)\(a\), Fla. Stat.](#)
- [§1004.30, Fla. Stat.](#)
- [USF Regulation 10.107 Ethical Obligations, Conflicts of Interest, Outside Employment, Employment of Relatives, and Public Office](#)
- [USF Regulation 12.003 Inventions and Works](#)
- [Collective Bargaining Agreement, Article 18](#)
- [USF Policy 0-027 Florida Code of Ethics for Public Officers and Employees- Compliance and Disclosure](#)

HISTORY

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Other: Jul. 1, 2020 (Consolidation)