Date: October 26, 2023

To: Melinda Smith  
    Chair, Faculty Council

From: Jennifer Martin  
    Chair, Committee on Responsibilities and Standing of Academic Faculty

Subject: Faculty Manual Section J

The Committee on Responsibilities and Standing of Academic Faculty submits the following:

MOVED, THAT SECTION J OF THE ACADEMIC FACULTY AND ADMINISTRATIVE PROFESSIONAL MANUAL BE REPLACED AS FOLLOWS:

SECTION J. RIGHTS AND RESPONSIBILITIES RELATED TO CREATIVE WORKS—(last revised June 14, 2000)

J.1—General Policy

Inventions, Academic Materials, Publications, and other creations, hereafter referred to as Works, are the natural outgrowth of activity in teaching, research, and service. University faculty members, administrative professionals, state classified staff, student employees, and anyone affiliated in a professional capacity with the University and using University Resources, who are inventors and creators (hereafter referred to collectively as “Members”), shall provide notification of their creation of Works to the appropriate administrator(s) and indicate their association with the University in all professional Publications.

In the interest of encouraging the development of new and useful scholarly material and the publication of such works, the University will continue the tradition of not claiming ownership or a share of the proceeds from scholarly works such as Academic Materials, textbooks or their equivalent not supported through the use of University Resources as defined below or expressly commissioned by the University or popular or scholarly nonfiction, novels, poems, sculpture, musical compositions, or other artistic works. A faculty member's general responsibility to produce scholarly and creative works does not constitute an express commission of Works. Subject to the use of such courses for continuing or distance education purposes, (see Section J.12.3) members are sole copyright holders in their own lectures and any publication, recording, or broadcasting of lectures must be authorized by the Members concerned.

J.2—Definitions

Academic Materials
Materials used for pedagogical purposes including, but not limited to collected data, recorded and live digital, video, and audio presentations; photographs, films, graphic illustrations, transparencies, and other visual aids; programmed instructional packages; computer programs and data bases; and scripts, study guides, syllabi, tests, and other items that accompany, or are used to present or demonstrate, the above described materials. Academic Materials may be copyrighted, patented, and/or trademarked.

**Contributing Unit**

An organizational entity, other than the Member’s home department, that provides University Resources directly in the creation or production of Works.

**Department**

The home department, either an academic department or other University entity, of the Member’s appointment or contract.

**Information Support Technologies**

Includes technologies or processes used to support the electronic capture, storage, retrieval, transformation, and presentation of digital data and information or to interface between digital forms and other communications and information media, but excludes the content presented and stored in word processors, databases, or other capture, storage, retrieval, transformation, or presentation programs.

**Inventions**

New, useful, and non-obvious ideas and/or their reduction to practice that result in, but are not limited to, new devices, processes, and/or methods of producing new and/or useful industrial operations and materials; any produced article useful in trade; any composition of matter, including chemical compounds and mechanical mixtures; any plant covered under plant patent laws, the Plant Variety Protection Act, or other methods that provide protection; biological materials including cell lines, plasmids, hybridomas, monoclonal antibodies, and genetically-engineered organisms with commercial potential; many new designs in connection with the production or manufacture of an article including computer software, data bases, circuit design, prototype devices and equipment; and any improvement upon existing processes or systems. An Invention may be copyrighted, patented, and/or trademarked.

**Inventors and Creators**

Members responsible for the conception, ideas, and content of Inventions and other Works. Support staff such as research assistants, photographers, artists, producers, computer programmers, printers, and others contribute to the Works but are not considered Inventors or Creators unless they substantially influence the original and novel aspects of the Works.
Other Creations

Creative and artistic endeavors and performances and all other Works.

Publications

Textbooks, bulletins, circulars, pamphlets, reports, information releases, data sets, exhibits, demonstrations, and other scholarly or popular writings regardless of medium. Publications may be copyrighted and may include any of the items described above in Academic Materials.

University Resources

Funds, supplies, equipment, physical facilities, support personnel, and/or other services or property of the University, including Information Support Technologies. In consideration of the benefit that accrues to the University from individual scholarly activity, the University has concluded that University Resources shall not include the Member's time, use of the library, or use of personal office including any office computer or data processor located therein.

Works For Hire

Expressly-commissioned Works for instructional, public service, or administrative use, by the University are deemed to be “works for hire” and property of the University. (See also Section J.12.2.)

J.3—Ownership and Rights

Ownership and rights to Works having potential monetary or commercial value depend on the origin, type, and amount of resources used in the creation of Works. The Vice President for Research (hereinafter referred to as “VPR”) is responsible for making ownership and licensing decisions for works pursuant to Section J. Decisions by the VPR concerning software will consider whether such software is Academic Material. When software is Academic Material, and not developed using University Resources, the Member retains ownership (see also Sections J.3.1, J.7, and J.12.2). The following provisions shall govern the ownership of Works.

J.3.1—Works Supported by the University

With the exception of Academic Materials and Publications not supported through the substantial use of University Resources, Works developed using University Resources or reduced to practice in the course of a Member's University responsibilities are owned and managed by the University or its designee on behalf of the University and the inventors/creators pursuant to this Section J. In this context, If data and information
that are a result of research activities are used in Academic Materials and Publications, that alone shall not be considered to constitute a substantial use of University Resources. All Members are obliged to assign and do hereby assign to the University or its designee all rights, title, and interest in and to all Inventions of which they are inventors/creators.

Inventors/creators will cooperate with the University, or its assignee, in seeking intellectual property protection for such Inventions and in complying with legal obligations to research sponsors related to such Inventions. The Member shall retain, in all circumstances, a non-exclusive, non-transferable right to use such Inventions for noncommercial teaching, research, and publication purposes. Any other use, such as a commercial use, including use in consulting activities, will require a license from CSU STRATA. The Member retains the following non-reassignable rights to use Academic Materials and Publications other than Inventions (“Non-Invention Academic Materials and Publications”) without obtaining permission from the University, unless waived in writing by the Member:

a. The right to use or reproduce such Non-Invention Academic Materials and Publications in other scholarly endeavors;

b. The right to update or revise the content of such Non-Invention Academic Materials and Publications except that the University shall not be obligated to provide further resources toward such use, unless the revisions are requested by the University or agreed to jointly by the University and the Member;

c. The right to be identified as the creator of such Non-Invention Academic Materials and Publications if desired;

d. The right to make derivations of such Non-Invention Academic Materials and Publications; and

e. The right to use such Non-Invention Academic Materials and Publications in other scholarly endeavors with a new employer. Notwithstanding the foregoing, if any such Non-Invention Academic Materials and Publications are the subject of an exclusive license to a third party, the Member shall be deemed to have waived the foregoing rights in consideration of the potential for royalty distribution as set forth in Section J without execution of a written waiver.

Where no inventors/creators are reasonably attributable to a Work, such as in the case of a Work created with the input of numerous individuals in past collaborative efforts over long periods of time, such that distinct inventors/creators or specific contributions
J.3.2 Works Financed by the Member

Works created by Members without University Resources are the property of the Members, and the University will not administer, finance, or provide other support as to these Works. Members have the use of their offices, including any office computer or data processor located therein, and the Library without charge; all other University Resources may be used only with the prior written permission of the department head and dean or director and/or the payment of the appropriate fees to cover the associated costs. The University requires Members not to engage in outside activities or use University Resources that interfere with the Member’s University duties and/or University operations.

J.4 Notification of Works (last revised February 6, 2001)

Members must provide notification of the creation of Works to their appropriate administrator(s) and indicate their association with the University in all professional Publications. The VPR, in making ownership decisions, shall determine whether works have been created with or without University Resources (see Section J.3.2). In this determination, the VPR shall consider three factors:

a. The extent to which the Member was the initial creator of the Work;

b. The extent to which the University controlled the content or authority over the Work; and

c. Whether the University provided support for the Work other than the library, the Member’s office and any personal computer or data processor located therein.

When the Member declares in such notification that a disclosed Work is not the property of the University, the VPR will announce a decision as to the University’s position on ownership within sixty (60) calendar days from receipt of notification of Works by Members. Works having potential monetary or commercial value and created using University Resources must be reported in writing through the Member’s department head and dean or director to the VPR. Notification must be timely to protect the rights of the Member(s) and the University in compliance with this policy and the strict requirements of the United States and foreign patent, trademark and copyright laws.
J.5—Classification and Disposition of Works Supported by University Resources

The VPR, on the advice of counsel if desired, shall classify any works created with University Resources into one or more of the following categories and report such action to the Member, the Member's department, and/or any contributing unit.

a. The Work is subject to terms of a sponsor's contract and handled accordingly (see Section J.7.3).

b. The Work is subject to terms of a special agreement and handled accordingly (see Sections J.7.1 through J.7.4 and J.12.2).

c. The Work is in the public domain and/or serves the public interest and is to be released to the general public.

d. The Work is the property of the University and is to be protected by patent, copyright, or trademark.

e. The Work is the property of the University and is to be managed and/or marketed as an item of commercial value through an internal or external agent.

f. The University has no interest in managing and/or marketing the Works and waives the right to receive an assignment of the Member's interest. However, notwithstanding such waivers, the University retains the right to use said Works in teaching and research. If the University or its marketing agent (see Section J.6) does not file for appropriate intellectual property protection or make continued efforts at marketing or fails to make such effort within six (6) months of notification of Works, the University's rights to a Work, excepting the use described above, shall be released to the Member. This time line can be extended by mutual agreement of the Inventor/Creator and the University.

g. The Work has not sufficiently developed beyond the concept phase to allow the University to make a determination of its interests in which case the original position between the Member and the University is resumed with regard to this policy.

J.6—Administration of Marketable Works (last revised February 2003)

The VPR is responsible for the administration of Works having potential monetary or commercial value created with University Resources and for the selection of internal or external marketing agents that meet the best interests of the Inventors or Creators and University. The primary marketing agent for the University is the CSU STRATA. For Academic Materials, CSU-STRATA works with the Division of Continuing Education (hereinafter referred to as “DCE”) as well as the VPR. However, the VPR has the discretion
to select an alternative marketing agent whenever the VPR determines that it would be in the best interests of the Member(s) or the University. All arrangements with internal or external agents must be covered by written agreements approved by the VPR and the agent. Generally, it will be necessary for the University to assign its ownership interests in Works to such agents to facilitate the marketing and development of such Works.

J.7—Special Circumstances

The following provisions shall govern the designation of rights and administration and handling of Works under specified circumstances.

J.7.1—Works Created by Members While Consulting

Rights to Works resulting when a Member acts as a consultant with non-University entities must be specified in the agreement under which the Member acts (see Section D.7.6, Consulting Policy). Members must be cognizant that Works may represent the culmination of endeavor in a specialized field, often conducted with University Resources. Therefore, prior to providing rights to sponsors or entering into agreements that contemplate such assignments of rights, Members must contact their appropriate administrator(s) and the VPR for advice and counsel to protect their own and the University’s interests (see Section D.7.7, Conflict of Interest). Consulting by Members shall not give rights to University-owned Works to non-University entities without a written agreement among the University, its marketing agents, and the non-University-entity.

J.7.2—Works Involving More Than One Member

When Works result from the joint efforts of Members, a written agreement among the parties must specify ownership, allocations, and other rights. The VPR is responsible for determining the provision of rights when disagreements occur among parties (see Section J.11, Member’s Right of Appeal).

J.7.3—Works Financed Wholly or in Part by Outside Agencies

Rights to Works financed wholly or partially by governmental, industrial, philanthropic, or other external organizations or persons must be specified in contracts or written agreements that protect the University’s interest. Before work begins, the Member responsible for a contract or agreement must advise all coworkers of their rights. The VPR will exercise every effort to assure that contracts and agreements secure commercial value and patent, trademark, or copyright rights favorable to the Members and the University.

J.7.4—Works Created or Marketed Under Special Conditions

Works created or marketed under special conditions affecting ownership and/or rights
must be covered by written agreements. A written agreement requires the approval of
the Member(s), the member’s department head(s), dean(s) and/or director(s), any
contributing unit(s), and the VPR.

J.8—Distribution of Proceeds

J.8.1—Marketing of Works

Royalties, whether derived from options, fees or similar payments, resulting from
licensing of Works to non-University entities, will be distributed as provided in such
agreements prepared pursuant to Sections J.5 and J.7.1 through J.7.4.

The primary marketing agent for Colorado State University is CSU STRATA (see
Section J.6), which shall work with the DCE as well as the VPR in marketing of
Academic Materials. The CSU STRATA shall be responsible for collecting and
distributing royalty income from licensed University Works which it administers. For
any royalties derived by CSU STRATA from such licenses, CSU STRATA will be
reimbursed for its direct costs attributable to marketing, patenting, and licensing
incurred in connection with each license agreement (“direct costs”). The DCE also will
be reimbursed for its direct costs attributable to equipment and materials used in the
production of Academic Materials. After reimbursement of those direct costs, CSU
STRATA shall retain twenty (20) percent of net royalties for marketing Academic
Materials. The remaining eighty (80) percent net royalties will be distributed as
follows:

35 percent inventor(s)/Creator(s)
10 percent inventor(s)/Creator(s) Department/College
20 percent DCE
15 percent Provost

The CSU-STRATA shall retain forty (40) percent of the net royalties for all other Works.
The remaining sixty (60) percent net royalties will be distributed as follows:

35 percent Inventor(s)/Creator(s)
10 percent Inventor(s)/Creator’s (s’) Department/College
15 percent VPR

The department/college, DCE, Provost, and VPR share in these royalties which shall be
used to promote and support research, scholarship, and instructional activities.

J.8.2—Royalty Distributions

Any proceeds accruing to Members in Section J.8.1 constitute royalties, not salaries,
and will be paid as royalties to Members through the University's external
agent/assignee. If a Member leaves the University, the Member's portion of proceeds will continue to be paid to the Member. If the Member dies, the Member's portion of the proceeds will continue to be paid in accordance with the testamentary disposition (wills, trusts and similar mechanisms) or, in the absence of such disposition, as provided by law.

J.9—Works Published by the University

Members who author or are responsible for official University Publications, not including scholarly works, must clear the material through their respective department heads, deans, and/or directors.

J.10—Member's Right of Review

Any Member who deems that continued use or marketing of Non-patentable Academic Materials is detrimental to the University or the Member's personal or professional reputation may call for a review by the department and/or college using procedures described in department and/or college codes. If department or college codes contain no applicable procedures or if disagreements are not resolved at that level, they shall be referred to the Provost for decision (see Section J.11). Notwithstanding the foregoing, if any such Non-patentable Academic Materials are the subject of an exclusive license to a third party, the Member shall be deemed to have waived the foregoing right of review in consideration of the potential for royalty distributions as set forth herein.

J.11—Member's Right of Appeal

Decisions on Works by the VPR may be appealed to the Provost who may overrule the VPR's decision. Any Member who feels aggrieved by decisions of the Provost has access to the University's mediation and grievance processes (see Section K).

J.12—Academic Materials

Members are sole copyright holders of the content of their own lectures (Section J.1), whether prepared for traditional classroom delivery or by any other means. Members may use their class materials, including lecture notes, in the preparation of textbooks or other Works. Members are encouraged to use appropriate instructional techniques and technologies that will best serve the educational objectives of students. Recordings, videotapes, or other technologies prepared in the ordinary course of teaching to meet the reasonable needs of currently enrolled students, including distance or handicapped students, and not involving University Resources, shall belong to the Member. When Academic Materials are created with University Resources, the interests in those Academic Materials are shared by the Member and the University and are covered in Section J.3.1.
The Member is not authorized to utilize recordings, videotapes, or other technologies prepared using University Resources for purposes of personal economic gain, commercial advertising, or other unacceptable uses described in University policy. A University web site may not be used for economic gain, commercial advertising, or other unacceptable uses as described in University policy. Members are responsible for obtaining all permissions necessary to avoid copyright infringement or invasions of privacy, whether specifically commissioned or not.

J.12.1 Ownership and Licensing of Academic Materials not Specifically Commissioned by the University or Developed Using University Resources

Academic Materials created by Members on their own initiative in the ordinary course of teaching to meet the reasonable needs of currently enrolled students, including distance or handicapped students, and not involving University Resources, belong to the Member. The Member has sole control over the content and use of the Academic Materials, is authorized to place supplemental classroom materials on a University Web site, may set access permissions to that site, and may assert exclusive copyright in their works. The University shall not exploit the Academic Materials nor authorize other employees to use the Academic Materials or derivatives of those Academic Materials in their classes without permission of the Member.

The ownership of student works created in the course of academic requirements shall be with the student and the University may retain the work as needed for its instructional or record-keeping purposes. The University and the Members may not use the work in any other manner without the written consent of the student.

Ownership of Works created in the course of sponsored research or other agreements are subject to the provisions described in Section J.7.

J.12.2 Ownership and Licensing of Academic Materials Commissioned by the University

The University shall have an exclusive license to use and market Academic Materials provided they are expressly commissioned as agreed to in writing by the University and the Member. A Member's general responsibility to teach specific courses of instruction shall not constitute an express commission of course materials, and this general responsibility is not bound by the "Works for Hire" provision of Section 101 of the Copyright Law of 1976. (See also Section J.1.)

J.12.2.1 Use of Commissioned Academic Materials in University Outreach Programs

Commissioned correspondence courses, videos, computer programs, on-line
Courses, instructional CD-ROMs, and other forms of technology-assisted or mediated instruction produced by a Member for registered distance students shall be delivered through the DCE. The University shall provide resources, including technical support personnel and quality-production facilities, necessary for the development of education outreach course.

Courses offered for academic credit through the Colorado State University DCE must be approved for that purpose by the Faculty Council. The Member, with the concurrence of his or her department head and the DCE, may set the maximum enrollment allowed for each outreach course in which they may participate, taking into consideration the extra efforts that may be associated with some types of outreach courses, the financial viability of the course, and any necessary minimum enrollment.

In the interests of encouraging the development of Academic Materials, the University may commission such development. A written agreement must be negotiated between the University and the Member which includes specifics as to remuneration, changes in effort distribution, time limits for use of Academic Materials, marketing and distribution rights, revisions, licensing, etc. (see following sections). In return for remuneration and/or other considerations, the Member shall assign to the University an exclusive license to use the Academic Material for a period negotiated between the University and the Member, with the Member retaining those rights specified in Section J.3.1.a-e.

The termination date shall be specified in writing and shall be based upon a joint determination of the Member and the DCE ("the parties") on the likely viability of the Academic Materials for future instruction. The parties may agree at a future date to extend the termination date based upon the continuing viability of the Academic Materials or the availability of revisions and updates.

No derivative of Academic Materials shall be prepared or licensed without the written approval of the Member (see also Section J.12.3) nor shall any other Member have the right to use the Academic Materials without such written approval. The Member who created the Academic Material retains the right to correct errors and provide updated information.

The Member may use and enter into agreements concerning personally-prepared derivative works of University-commissioned Academic Materials when they are no longer in the employ of the University, so long as those derivatives, excluding textbooks and scholarly/artistic works, do not significantly conflict with the economic rights of the University. Notwithstanding any use of University Resources, express commission of works, or licensing agreements, the Member retains ownership of textbooks, artistic works and manuscripts prepared for publication in scholarly works, and any revenue derived from these works shall belong to the Member.
J.12.2.2 — Licensing of Academic Materials to Third Parties

Pursuant to the commission, the University, through the DCE and CSU STRATA, may license or lease to third parties the marketing and distribution rights to the Academic Materials. The details of agreements with third parties shall be available for public inspection and shall incorporate provisions of Sections J.3.1.a-e and J.12.3 that are designed to protect the professional standing and reputation of the Member. Expenses and proceeds from such licensing shall be dealt with in accordance with the provisions in Section J.8.1.

J.12.3 — Right to Revise or Limit Period of Use of Works Expressly Commissioned or — Supported by University Resources

The Member retains those rights specified in Section J.3.1, notwithstanding any assignment of rights to Academic Materials by the Member to the University, unless waived in writing by the Member. Conditions for revision of University commissioned Academic Materials (if different from the following paragraph in this section) shall be contained in the written agreement between the University and the Member. However, revisions initiated by the Member, without using University Resources, may be made at any time, subject to approval by the Member’s department head and the DCE.

If the Academic Material has been used without revision for a period of two (2) years, the University shall request the Member to review the Academic Materials for possible revision or for termination of use. As long as the Member is in the employ of the University, that Member shall have the first right to revise or supervise revisions of Academic Materials as described in Section J.3.1.b. If either the University or the Member finds that the Academic Material has become outdated, inadequate to the educational needs, or contains errors and the Member does not wish to prepare revisions, or if the Member cannot produce the revisions in an agreed upon period of time, the University may assign another Member to prepare these revisions. If the cost of revision is found excessive by the University, the University may decline to make the revisions (see Section J.3.1.b). If the Member has left the employ of the University, the University in its sole discretion may contract with the former Member to prepare appropriate revisions, retain the former Member as a consultant for revisions, or assign the task of revision to a Member with appropriate expertise. The University shall renegotiate appropriate payments for the continued use of any revised Academic Materials when such revisions were not prepared by the Member or former Member.
SECTION J. RIGHTS AND RESPONSIBILITIES RELATED TO INVENTIONS AND CREATIVE WORKS

J.1 Policy on Patents, Inventions, and Research Property

J.1.1 Definitions

Appeals Committee for Inventions: The committee that makes decisions regarding disputes arising from the policies in Section J.1. The members are the Vice Provost for Faculty Affairs, the Chair of Faculty Council, and the University Grievance Officer. Decisions made by the Appeals Committee are final.

Bayh-Dole: U.S. legislation found at 35 U.S.C. §§ 200-212 pertaining to the reporting, ownership, patenting, and licensing of Inventions or Discoveries made under Federally Sponsored Research Agreements.

Colorado State University Research Foundation (“CSU-STRATA”): The primary intellectual property marketing agent for the University is the Colorado State University Research Foundation, now known as CSU-STRATA, and as it may otherwise be known from time to time. CSU-STRATA provides these services in accordance with the Master Services Agreement with the Colorado State University System on behalf of the University.

Data: The recorded material commonly accepted in the scientific community as necessary to validate research findings arising from or associated with research conducted at, under the auspices of, or using the resources of the University. “Data” covered in this policy includes both intangibles (e.g., information and copyrightable works such as software and expressions of creativity, artistry or information) and tangibles (e.g., cell lines, biological samples collected for research purposes, synthetic compounds, organisms, biomarkers, novel reagents and originals or copies of laboratory notebooks) arising out of the academic and research units of the University. Protectable “Data” includes the recorded material as well as supporting materials such as experimental protocols and code written for statistical analyses commonly accepted in the scientific community as necessary to validate research findings.

Equity: Any shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or any options, warrants, rights or securities (including debt securities) convertible, exchangeable or exercisable to acquire any such interests.

Extraordinary University Resources: Resources such as financial, technical, personnel, or additional forms of support provided by the University which exceed the type or level of resources typically provided to similarly situated Members. This may include the commitment of staff, faculty, or student effort or material support in the creation of the Invention other than what is available to similarly situated Members for their use, such as open-source materials. It may include use of University owned intellectual property, CSU-STRATA owned intellectual
property, Inventions, and Research Results. Considering the benefit that accrues to the University from individual scholarly activity, the University has concluded that Extraordinary University Resources shall not include the Member’s time, office space, computer equipment (excluding in some cases server space), use of the library, or any commonly available resources available on or off campus.

**Intellectual Property Disclosure:** Documentation of potential Invention to be completed by the Inventor(s) and submitted through the Disclosure Portal established by CSU-STRATA.

**Inventions:** New, useful, and non-obvious ideas and/or their reduction to practice that result in, but are not limited to, new devices, processes, and/or methods of producing new and/or useful industrial operations and materials; any produced article useful in trade; any composition of matter, including chemical compounds and mechanical mixtures; any plant covered under plant patent laws, the Plant Variety Protection Act, or other methods that provide protection; biological materials, including cell lines, plasmids, hybridomas, monoclonal antibodies, and genetically-engineered organisms with commercial potential; many new designs in connection with the production or manufacture of an article including computer software, data bases, circuit design, prototype devices and equipment; and any improvement upon existing processes or systems. An Invention may be patented or maintained as a trade secret. An Invention may contain Copyrightable Works. If so, the Marketing Agent may choose to license the patent and copyrights together or separately, depending on commercial interest.

**Inventor:** An Individual that made an Invention subject to this policy. Support staff such as research assistants, computer programmers, and others who contribute to an Invention may not be considered Inventors unless they substantially influence the original and novel aspects of the Invention. Inventorship is a legal standard and may not be consistent with authorship of any associated publications.

**Manual:** Academic Faculty & Administrative Professional Manual.

**Master Services Agreement:** The agreement by and between CSU-STRATA and the Colorado State University System on behalf of the University, as may be amended from time to time.

**Member:** This policy shall apply to all persons employed, compensated, or appointed by the University, including without limitation Supported Students, and to anyone making use of Extraordinary University Resources (including non-employees, absent an agreement to the contrary). The inclusion of this Policy in the Manual does not limit or impact the inclusion of individuals who would not otherwise be subject to the Manual.

**Reduced to Practice:** This is accomplished when an Inventor's conception is embodied in such form as to render it capable of practical and successful use.

**Research Results:** Includes, but is not limited to, materials, computer software, computer databases, prototype devices or equipment, engineering designs or drawings, integrated computer
chips, audiovisual works, antibodies, genetically modified animals, and cell lines. Also includes Data, samples, physical collections, records, results and supporting materials, documents, and records, whether or not patentable, including, for example, computer programs, circuit designs of all types, data bases, technical and design drawings, biogenic materials, novel varieties of plants, chemically synthesized molecular systems, and other creations. Absent agreement, University policy, contract, or legal requirement to the contrary, Research Results will be subject to this policy and must be disclosed upon request or where it reasonably appears there is commercial value in such Research Results.

**Sponsored Project**: Research activity or other work performed under sponsorship from any agency, party, or parties external to the University, pursuant to an agreement between such agency or party and the University, which may result in the creation of Inventions or Research Results.

**Supported Students**: Students who are either employed by the University or receive University support for research activity in the form of a stipend and/or tuition award, including but not limited to fellowships, teaching assistantships and research assistantships, and those Students who make Substantial Use of University Resources. “Support” in the form of financial assistance such as scholarships for which “support” is independent of a research degree program or research activities are not included within the definition of “Supported Student.”

**University Duties or Activities**: University Duties or Activities include teaching, mentoring of students, the conduct of scholarly research in the Member’s specialized field, and service on university committees consistent with the furtherance of knowledge and its dissemination. Members who are not members of the faculty have University Duties or Activities as defined by the position they hold at the university. A Member’s University Duties or Activities include those that are customarily expected to be performed by those holding the position held by the Member as well as those that are assigned by the University.

**VPR Intellectual Property Manager (IPM)**: The individual appointed by the Vice President for Research to be the division contact for matters involving intellectual property.

**J.1.2 Policy on Inventions**

**J.1.2.1 Ownership and Rights**

**J.1.2.1.1 University Ownership**
Unless otherwise stated in this policy, the University shall be the owner, under any applicable law, of all Inventions that fall into one or more of the following three categories:

i. Inventions created or developed by Members in the course of performing University Duties or Activities whether on or off campus, during or after normal University business hours, alone or with others, or during a sabbatical, summer, University holiday, or break.

ii. Inventions created or developed with Extraordinary University Resources or expressly commissioned by the University.

iii. Inventions created or developed as part of a Sponsored Project, unless explicitly provided otherwise in an agreement to which the University is a party.

J.1.2.1.2 Inventions Created by Members While Consulting

Rights to Inventions resulting when a Member acts as a consultant with non-University entities must be specified in the consulting agreement under which the Member acts. Members must be cognizant that Inventions may represent the culmination of endeavor in a specialized field, often conducted with University Resources. Members cannot grant rights to University-owned Inventions as the University’s ownership vests automatically in Inventions pursuant to this policy. As such it is recommended that the following clause be added to any consulting agreement a Member may sign:

The Company will have no rights by reason of the Agreement in any intellectual property whatsoever, whether or not patentable or copyrightable, generated wholly or in part as a result of Consultant’s activities carried out at the University, or with substantial aid of its facilities or funds administered by it or as otherwise provided in the University’s policies including for example and without limitation those covering Intellectual Property.

J.1.2.1.3 Inventions Involving More Than One Inventor

When Inventions result from the joint efforts of Inventors, including Inventors who are not Members, such as those from another institution, a written agreement among the parties must specify ownership, allocations, and other rights.

J.1.2.1.4 Sponsored Projects

Rights to Inventions financed wholly or partially by governmental, industrial, philanthropic, or other external organizations or persons must be specified in contracts or written agreements that protect the University's interest. Before work begins, the Member responsible for a contract or agreement must advise all coworkers of their rights. The Vice President for Research (VPR) will
exercise every reasonable effort to assure that contracts and agreements secure commercial value and patent rights favorable to the Member and the University.

**J.1.2.1.5 The U.S. Government**

Covered Individuals may receive financial support for their research from the U.S. Government. The ownership of Inventions or Research Results made with Government financial support is determined by Federal law, including the Bayh-Dole Act (35 U.S.C. §§ 200-212) and the regulations at 37 C.F.R. Pt. 401.

The University has certain duties to disclose to the Government all Inventions, and in some cases Research Results, made in the performance of a Government funding agreement, where a funding agreement means prime awards from the Federal government and Federal pass-throughs, i.e., subcontracts at all tiers. Other reporting requirements not previously mentioned may exist now or in the future. Accordingly, Members associated with Government-sponsored projects shall notify CSU-STRATA promptly whenever any Invention is conceived or actually Reduced to Practice in the course of the project. When permitted by law and the funding agreement, if CSU-STRATA decides to seek patent protection for such an Invention in accordance with this policy, CSU-STRATA must elect to retain title to the Invention within any time limits established by law and make efforts to achieve practical application of the Invention.

**J.1.2.1.6 University Sponsored Research**

If the University sponsors a research project, solicits voluntary Member participation in the project, and provides the funding for the project, possibly including compensation/release time for the Member, the University will own the intellectual property rights developed through the project unless the University agrees to share ownership. A written document, signed by the Member prior to initiation of the project, will be executed to acknowledge the University’s ownership, or sharing arrangement, and the Member’s commitment to cooperate with the University, at University expense, to protect and commercialize the intellectual property. Should the parties agree, the University may opt to share with the Member involved any profits that result from the intellectual property created on the project. Such agreement, and the details of profit-sharing arrangements, shall be recorded in a written document, signed by both parties, which shall supersede this policy to the extent that any provisions are in conflict.

**J.1.2.1.7 Member Rights in Inventions**

Unless otherwise stated in this policy, Member(s) will retain a non-exclusive, personal, non-transferable or sublicensable license to their Inventions for their own teaching and research purposes. Any use outside of that, such as a commercial use including use in consulting activities, will require a license from the University.
J.1.2.1.8 Member Conflict of Interest Disclosure

Member must disclose all Equity offered to or received by Member, or an individual or entity associated with Member, directly in connection with a license agreement. Member is required to disclose in writing to the University Conflict of Interest Office ("CIO") the specific terms and conditions associated with Equity issued to Member or an individual or entity associated with Member for their role as founders, consultants, or otherwise. The Member shall disclose to the University CIO any existing or proposed consulting agreement between the Member, or an individual or entity associated with Member, and the prospective licensee or any other agreements with other entities that have potential for conflicts of interest pertaining to the license. The University CIO may suggest limitations on the proposed license agreement, associated sponsored research agreement, consulting agreement between the Inventor and the licensee, or other agreements in order to address actual or potential conflicts of interest in accordance with the Conflict-of-Interest Policies. The University and CSU-STRATA will coordinate on Conflict of Interest matters, as set forth in the Master Services Agreement, particularly where CSU-STRATA is a party to the license agreement.

J.1.2.1.9 Assigning Ownership Back

CSU-STRATA may elect not to assert its rights to an Invention after disclosure. In such instance, ownership of the Invention will be returned to the University subject to any rights of the Federal Government and to any rights of the sponsor of the research leading to the Invention. The University or CSU-STRATA will execute such documentation as may be necessary to effectuate such transfer of ownership. When an Invention is returned to the University, the University may elect to transfer ownership to the Inventor(s), but the University retains the right to use said Invention in teaching and research. Inventor(s) remain(s) obligated to disclose to the University follow-on research or progeny, modifications or derivations of disclosed Inventions as these will remain subject to this Policy.

J.1.2.2 Ownership in Dispute

When the Member declares in an Invention Disclosure that a disclosed Invention is not the property of the University, the Invention Disclosure shall be forwarded to the IPM for a determination of ownership of the Invention under this policy. The IPM shall gather such information as needed to determine ownership of a disclosed Invention, including, but not limited to, consultation with CSU-STRATA and the Office of General Counsel. A decision by the IPM that the Invention is the property of the University must be announced within sixty (60) calendar days from receipt of notification of disputed ownership of an Invention by Member, unless an extension of this timeline is granted by the VPR.

J.1.2.3 Right to Appeal

If the Member disagrees with the decision of the IPM or there is any other dispute regarding ownership, the Invention Disclosure shall be forwarded to the Appeals Committee for Inventions for a final determination of ownership of the Invention under this policy.
J.1.2.4 Administration

The Office of the Vice President for Research (OVPR) is responsible for the administration of the University’s rights regarding Inventions having potential monetary or commercial value and for the selection of internal or external marketing agents. As set forth in the Master Services Agreement, the marketing agent for the University is CSU-STRATA. However, Inventions may be marketed better as part of an academic unit’s activities, especially in cases where use of the Invention is subject to sponsor requirements or limitations. The decision to use a marketing agent other than CSU-STRATA, including the decision to keep marketing within the academic unit, is set forth in the Master Services Agreement and currently requires the review and approval of the Chancellor, after consultation with CSU-STRATA.

J.1.2.5 Notification of Inventions

Members must provide timely notification of the creation of Inventions via submission of an Invention Disclosure to CSU-STRATA. Members shall disclose all Inventions as soon as possible after discovery or significant development, but, in all events, the Invention Disclosure must be submitted to CSU-STRATA prior to any public disclosure of the Invention. Members must keep CSU-STRATA informed about anticipated publications and presentations as well as update the Invention Disclosure as needed by providing copies of Data, publications, and presentations to CSU-STRATA. It is also expected that the Member will provide reasonable assistance and cooperation to CSU-STRATA in its efforts to market or license Inventions. Principal investigators of research projects, as well as department chairs and deans, have a responsibility to ensure that all Inventions of which they become aware are disclosed to CSU-STRATA. Failure to disclose an Invention or to provide reasonable assistance or cooperation may result in the forfeiture of the Member's rights to payment under this policy. Such a decision by the University may be appealed to the Appeals Committee for Inventions.

J.1.2.6 Evaluation of Disclosure, Patent Filing

The procedures to be followed by CSU-STRATA in evaluating an Invention Disclosure, electing to take an assignment of the disclosed Invention, evaluating the market for the Invention, and filing for appropriate intellectual property protection is set forth in the Master Services Agreement.

If the evaluation reveals that the Invention Disclosure is either incomplete or insufficient for a proper evaluation, CSU-STRATA shall notify the Member(s) of the need for more information or more research. Where additional research needs to be done, an updated Invention Disclosure should be submitted to CSU-STRATA once additional development has taken place.

The Member(s) will provide CSU-STRATA with such reasonable additional information and assistance as CSU-STRATA may request, and that the Member(s) can reasonably provide, in order to assist CSU-STRATA in evaluating the Invention Disclosure and the Invention, the need
for any further development of the Invention, the potential markets or licensees, and the like. If there is a disagreement concerning the scope of additional assistance requested of the Member, such disputes shall be settled by the Appeals Committee for Inventions.

J.1.2.7 Formal Assignments and Preparation of Documents for Prosecution

Once CSU-STRATA has evaluated an Invention, CSU-STRATA may require the Member(s) to execute a formal assignment document to the University, to CSU-STRATA or to a third party as required by the Patent and Trademark Office. Typically, assignments to third parties will be subject to the University’s and the Member’s nonexclusive, irrevocable, paid-up license to use the Invention for research and teaching purposes.

Members are required to execute all contracts, assignments, waivers, patent applications, and other documents reasonably necessary to carry out the provisions of this Policy in a timely manner. Members will also, at the request of CSU-STRATA or the University, meet with potential or actual licensors of an Invention and otherwise provide reasonable assistance to the University in the marketing and licensing of the Invention. If CSU-STRATA elects to seek patent protection for an Invention in one or more jurisdictions, the Member shall provide reasonable assistance to CSU-STRATA in preparing and prosecuting patent applications.

Any disputes involving these requirements shall be settled by the Appeals Committee for Inventions.

J.1.3 Marketing and Distribution of Proceeds

J.1.3.1 Marketing of Inventions

The Marketing Agent, as referenced in in Section J.1.2.4, shall be responsible for marketing Inventions, including collecting and distributing net income derived from licensing, sublicensing, or sale of an Invention which it administers. CSU-STRATA’s marketing responsibilities are set forth in the Master Services Agreement. For any income derived by the Marketing Agent from such licenses, the Marketing Agent will be reimbursed for its direct costs attributable to marketing, patenting, and licensing incurred in connection with each license agreement ("direct costs"). In general, absent agreement by all parties to the contrary, net income will be allocated as follows:

<table>
<thead>
<tr>
<th>Member</th>
<th>Member’s Department/College</th>
<th>VPR</th>
<th>Marketing Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>35%</td>
<td>10%</td>
<td>15%</td>
<td>40%</td>
</tr>
</tbody>
</table>
Distribution of net income shall occur no less than once per fiscal year. Where there is more than one Inventor, they will each receive an equal share of the “Member” portion (i.e., 35%) of net income, absent agreement among the Inventors to an alternative split of that portion. This same distribution will be applied to the Department/College portion where more than one Department/College is involved. If there is a dispute as to distributions among Inventors, the Invention Appeals Committee for Inventions will make a determination of the proper distribution.

J.1.3.2  Royalty Distributions

Any proceeds accruing to Members hereunder constitute royalties, not salaries, and will be paid as royalties to Members through CSU-STRATA or the University's external agent/assignee. If a Member leaves the University, the Member’s portion of proceeds will continue to be paid to the Member. If a Member dies, the Member’s portion of the proceeds will continue to be paid in accordance with the testamentary disposition (wills, trusts, and similar mechanisms) or, in the absence of such disposition, as provided by law.

J.1.3.3  Equity Transactions

Special circumstances may apply in the event CSU-STRATA or the University's external agent/assignee accepts Equity as consideration for the grant of a license or other interest in an Invention. License agreements involving Equity must be structured to protect the University from liability and to avoid conflicts of interest.

Generally, all Equity provided as payment for the grant of a license from CSU-STRATA must be issued directly to CSU-STRATA. All decisions with respect to management and liquidation of Equity held by CSU-STRATA will be made by CSU-STRATA on behalf of the University and the Inventor(s). Upon liquidation of the Equity held by CSU-STRATA, distributions shall be made by CSU-STRATA in accordance with Section J.1.3.1.

J.2  Policy on Copyrightable Works

J.2.1  Definitions

Appeals Committee for Copyrightable Works: The committee that makes decisions regarding disputes arising from the policies in Section J.2. The members are the Vice Provost for Faculty Affairs; the Chair of Faculty Council; and the University Grievance Officer. Decisions made by the Appeals Committee are final.

Author: Under the copyright laws of the United States, a person who has created a Copyrightable Work is called an “Author.” If more than one person has participated in the
creation of a Copyrightable Work, each must have contributed materials which would independently qualify as a Copyrightable Work in order to be considered a co-Author of such work. An Author of a Copyrightable Work may be different than the owner of such work such as when a Work is assigned to a new owner. An employer such as the University may also be considered to be the Author of a Copyrightable Work under certain circumstances. Under this Policy, when a Work constitutes a "University Institutional Work" or a “Work Made For Hire” the University will be deemed to be the “Author” for all purposes. This section extends the definition of Author from Copyrighted Works to Copyrightable Works.

**Colorado State University Research Foundation (“CSU-STRATA”):** The primary intellectual property marketing agent for the University is the Colorado State University Research Foundation, now known as CSU-STRATA, and as it may otherwise be known from time to time. CSU-STRATA provides these services in accordance with the Master Services Agreement with the Colorado State University System on behalf of the University.

**Copyrightable Works:** Original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. It includes, but is not limited to, books, journals, software, computer programs, databases, musical works, dramatic works, videos, multimedia products, sound recordings, pictorial and graphical works, and other similar works.

**Courseware:** The set of tools and technologies used to deliver or present the content of a course, independent of the content itself. Courseware is typically used in the asynchronous delivery of academic content via a learning management system (e.g., Canvas or Bridge) or an interactive online software system (e.g., Teams, Zoom, or Webex). Use of Courseware provided by the University (including courseware used by instructional designers at CSU Online to convert material to a different format) will not, in and of itself, be deemed use of Extraordinary University Resources.

**Creator Support Personnel:** Creator Support Personnel are support staff such as office staff, university photographers and graphic artists, non-faculty computer programmers, and others who contribute to the Works in the course of performing and within the scope of their employment duties and under the direction and guidance of a faculty member or supervisor. Faculty and Faculty-Like Employees generally will not be considered Creator Support Personnel. Creator Support Personnel are not generally considered to be Authors. Copyrightable Works by Creator Support Personnel are considered Works Made For Hire and the University is considered the Author. If, however, Creator Support Personnel substantially influence the conception, design and/or creation of the Copyrightable Work and make a copyrightable contribution to the Work, they may be determined to be an Author by the Provost. Note that use of Creator Support Personnel may at times constitute use of Extraordinary University Resources.
**Equity:** Any shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or any options, warrants, rights or securities (including debt securities) convertible, exchangeable or exercisable to acquire any such interests.

**Extraordinary University Resources:** Resources such as financial, technical, personnel, or additional forms of support provided by the University which exceed the type or level of resources typically provided to similarly situated Members. This may include the commitment of staff, faculty, or student effort or material support in the creation of the Copyrightable Work that is beyond what is available to similarly situated Members for their use. It may include use of University-owned intellectual property, CSU-STRATA owned intellectual property, Inventions, and Research Results. Considering the benefit that accrues to the University from individual scholarly activity, the University has concluded that Extraordinary University Resources shall not include the Member’s time, office space, computer equipment (excluding in some cases server space), use of the library, Courseware, or any commonly available resources available on or off campus. Where Scholarly Works or Publications are based on Research Results, that alone will not be considered “extraordinary” for purposes of this Policy. The use of Courseware will not in and of itself be considered “extraordinary” for purposes of this Policy.

**Faculty-Like Employee:** A University employee who teaches and/or conducts research at the University with a level of responsibility and self-direction similar to that exercised and enjoyed by a faculty member in a similar activity.

**Fair Use:** Fair Use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use under that Section.

**Intellectual Property Disclosure:** Documentation of potential Copyrightable Work to be completed by the Author(s) and submitted through the Disclosure Portal established by CSU-STRATA.

**Manual:** Academic Faculty & Administrative Professional Manual.

**Master Services Agreement:** The agreement by and between CSU-STRATA and the Colorado State University System on behalf of the University, as may be amended from time to time.

**Member:** This policy shall apply to all persons employed, compensated, or appointed by the University and to anyone (including non-employees absent an agreement to the contrary) making use of Extraordinary University Resources. Undergraduate students, unsupported graduate students, and secondary school students are excluded from the application of the policy unless they are paid by or through the University in connection with and participation in Sponsored
Research. When a Member has created a copyrightable work, they may be referred to as an “Author.”

Publications: Textbooks, bulletins, circulars, pamphlets, reports, information releases, exhibits, demonstrations, and other scholarly or popular writings regardless of medium. Publications may be copyrighted.

Research Results: Includes, but is not limited to, materials, computer software, computer databases, prototype devices or equipment, engineering designs or drawings, integrated computer chips, audiovisual works, antibodies, genetically modified animals, and cell lines. Also includes Data, samples, physical collections, records, results and supporting materials, documents and records whether or not patentable, including, for example, computer programs, circuit designs of all types, data bases, technical and design drawings, biogenic materials, novel varieties of plants, chemically synthesized molecular systems, and other creations. Research Results will be subject to this policy and must be disclosed upon request or where it reasonably appears there is commercial value in such Research Results.

Scholarly Works: Works used for pedagogical or scholarly purposes including, but not limited to recorded and live digital, video, and audio presentations; photographs, films, graphic illustrations, transparencies, and other visual aids; programmed instructional packages; virtual learning tools, computer programs and data bases; and scripts, study guides, syllabi, tests, and other items that accompany, or are used to present or demonstrate, the above-described materials. Scholarly Works may be copyrighted, patented, and/or trademarked.

Sponsored Project: Research activities or other work performed under sponsorship from any agency, party, or parties external to the University, pursuant to an agreement between such agency or party and the University, which research activity or other work may result in the creation of Inventions or Research Results.

Student Works: Copyright ownership of works prepared by University students, including graduate students, resides with such students, unless the work: (a) was created primarily in the course or scope of the student’s University employment; (b) involved the use of Extraordinary University Resources; (c) is a University Institutional Work or a Work Made for Hire, or (d) was created under a separate agreement that specifies a different copyright owner. For the purposes of this section, a student’s financial aid is not considered Extraordinary University Resources. Absent extraordinary circumstances, copyright ownership of theses or dissertations authored by University students resides with such students. Note that, notwithstanding the foregoing, the University may make Fair Use of Student Works in connection with or as part of normal academic and administrative activities.

University Duties or Activities: University Duties or Activities include teaching, mentoring of students, the conduct of scholarly research in the Member’s specialized field, and service on university committees consistent with the furtherance of knowledge and its dissemination. Members who are not members of the faculty have University Duties or Activities as defined by
the position they hold at the University. A Member’s University Duties or Activities include those that are customarily expected to be performed by those holding the position held by the Member, as well as those that are assigned by the University.

**University Institutional Work:** Where no single Author or set of Authors can be reasonably attributable to a Work, such as in the case of a Work created with the input of numerous individuals in past collaborative efforts over long periods of time, such that distinct Authorship or specific contributions are not reasonably identifiable, the Work will be treated as having no inventors/creators. When a University Work is clearly attributable to one or more specific unit, those unit shall be treated as the Author for the purposes of this policy.

**VPR Intellectual Property Manager (IPM):** The individual appointed by the Vice President for Research to be the division contact for matters involving intellectual property.

**Works:** Copyrightable Works or other intellectual property that are subject to this policy.

**Works Made for Hire:** Expressly commissioned Works for instructional, public service, or administrative use. Where a Work is created or developed in whole by Members, other than academic faculty members or Faculty-Like Employees, in the course of performing and within the scope of their employment duties, the Work will be considered to be a Work Made For Hire. Works created pursuant to a written agreement between the University and a Member will also be considered Works Made for Hire. In an agreement for the creation of a Work Made For Hire, the Member will generally receive some form of compensation such as funding or course relief. Ownership of Works Made for Hire will be governed by the terms of the agreement between the University and the Member.

**J.2.2 Ownership of Copyrightable Works**

Ownership of the various rights associated with Copyrightable Works is dependent upon several factors, listed below. As a general rule, Author(s) retains all rights to Copyrightable Works, unless subject to the conditions discussed in this section.

**J.2.2.1 Scholarly Work**

Scholarly Work produced by a Member on their own initiative shall be the exclusive property of such Member, unless the Scholarly Work was specifically commissioned or assigned as part of their employment (refer to Section J.2.2.2 – Employee Works), or unless the work was prepared under the terms of a contract or grant, or unless preparation involved use of Extraordinary University Resources. Copyrightable Scholarly Works include but are not limited to scholarly or educational materials, artworks, musical compositions, and literary works related to the Author(s)’ academic or professional field, regardless of the medium of expression. Except in the cases covered in Sections J.2.2.2 through J.2.2.5 below, the ownership of the copyright in the
Scholarly Work will reside with the Author(s) and any revenue derived from their work will belong to the Author(s).

Copyrightable Scholarly Works created for ordinary teaching use in the classroom and in department programs, such as syllabi, assignments, and tests, shall remain the property of the Author(s), but University shall be permitted to make Fair Use of the Scholarly Works for administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions.

**J.2.2.2. Employee Works**

Copyrightable Work prepared by a Member in the course of their University Duties or Activities, by special commission or assignment, or with the use of Extraordinary University Resources shall be the property of the University. The general obligation of a faculty member or a Faculty-Like Employee to produce scholarly and creative Copyrightable Works (such as being assigned to teach a course) does not constitute a University special commission or assignment or condition of employment in the context of this policy. In the case of faculty or Faculty-Like Employees, Copyrightable Work shall only be considered to be Employee Work if this is agreed to in advance by both the University and the faculty or Faculty-Like Employee and it is not a Scholarly Work. Employee Works also include, but are not limited to, Works Made for Hire.

**J.2.2.3 University Institutional Works**

Copyrightable Works whose authorship cannot be attributed to one or more specific Authors or units, but rather result from simultaneous or sequential contributions over time by multiple faculty, staff and/or employed students will be owned by the University. For example, software tools developed and improved over time by multiple faculty, staff and/or employed students where authorship is cannot be attributed to a specific group of Authors or units would constitute a University Institutional Work. The mere fact that multiple individuals have contributed to the creation of a Copyrightable Work shall not in and of itself cause the Copyrightable Work to constitute a University Institutional Work.

**J.2.2.4 Sponsor Works**

Ownership of Copyrightable Works developed during work supported partially or in full by an outside sponsor or through a contract or grant with the University is determined by the applicable provisions of such contract or grant. In the absence of any governing provision, the ownership of any Copyrightable Work shall be determined in accordance with Sections J.2.2.1 through J.2.2.3. Note that use or marketing of Sponsor Works may be subject to Sponsor imposed contractual limitations including, but not limited to, non-profit uses only.

**J.2.2.5 Supported Works**
A Copyrightable Work that is developed with Extraordinary University Resources and is not sponsor-supported shall be the property of the University.

**J.2.3 Marketable Works**

Marketable Works are Employee Works, University Institutions Works, and Supported Works which have potential monetary or commercial value.

**J.2.3.1 Disclosure**

Marketable Works should be disclosed in writing to CSU-STRATA. Notification must be timely and in accordance with University Intellectual Property submission procedures in order to protect the rights of the Author(s) and the University and the requirements of the United States and foreign copyright laws. Failure to disclose as required does not impact or eliminate the University’s rights in a Marketable Work. Upon CSU-STRATA’s receipt of a Disclosure of a Marketable Work, CSU-STRATA will evaluate the Marketable Work and determine if it wishes to have the Marketable Work assigned to CSU-STRATA or not.

**J.2.3.2 CSU-STRATA Notice of Election**

The procedures to be used by CSU-STRATA in evaluating a Disclosure and electing to take an assignment of the disclosed Marketable Work are set forth in the Master Services Agreement. Upon completion by CSU-STRATA of its evaluation of the Disclosure, as may be modified or updated, CSU-STRATA may elect to take an assignment of the disclosed Marketable Work, or it may determine that it will not take such an assignment. This decision will be completed expeditiously, typically within six (6) months of the filing of the Disclosure. Notice of CSU-STRATA’s decision with respect to its election must be promptly provided to the Author(s) and the IPM.

**J.2.3.3 Assigning Ownership Back to Author(s)**

As described in the Master Services Agreement, CSU-STRATA may elect at any time not to retain its rights in a Marketable Work after disclosure. In such instance, ownership of the Marketable Work will be returned to the Author(s) subject to any rights of the Federal Government and to any rights of the sponsor of the research leading to the Marketable Work. CSU-STRATA will execute such documentation as may be necessary to effectuate such transfer of ownership.

**J.2.3.4 Classification**

Author(s) may declare in such notification that a disclosed Copyrightable Work is not properly classified as a Marketable Work. Creator Support Personnel may argue that they are an Author of a disclosed Copyrightable Work. Questions over classification or Authorship will be submitted to the IPM who will evaluate the classification or Authorship of the Copyrightable Work and
will announce a decision as to the University's position within thirty (30) calendar days from receipt of notification of a dispute.

**J.2.3.5 Right to Appeal**

If the Member disagrees with the decision of the IPM or there is any other dispute regarding ownership, the disclosure shall be forwarded to the Appeals Committee for Copyrightable Works for a final determination of ownership of the Copyrightable Work under this policy.

**J.2.3.6 Administration**

The Provost is responsible for the administration the University’s rights in Marketable Works and for the selection of internal or external marketing agents. As set forth in the Master Services Agreement, the marketing agent for the University is CSU-STRATA. However, it is often the case that Marketable Works are best marketed as part of an academic unit’s activities, especially in cases where the use of the Marketable Work is subject to sponsor requirements or limitations. The decision to use a marketing agent other than CSU-STRATA, including the decision to keep marketing within the academic unit, is set forth in the Master Services Agreement and currently requires the review and approval of the Chancellor, after consultation with CSU-STRATA.

**J.2.3.7 Member Conflict of Interest Disclosure**

The Member must disclose all Equity offered to or received by the Member, or an individual or entity associated with the Member, directly in connection with a license agreement. The Member is required to disclose in writing to the University Conflict of Interest Office (“CIO”) the specific terms and conditions associated with Equity issued to the Member, or an individual or entity associated with the Member, for their role as founders, consultants, or otherwise. The Member shall disclose to the University CIO any existing or proposed consulting agreement between the Member, or an individual or entity associated with the Member, and the prospective licensee, or any other agreements with other entities that have potential for conflicts of interest pertaining to the license. The University CIO may suggest limitations on the proposed license agreement. Such limitations may be appealed to the Appeal Committee for Copyrightable Works. The University and CSU-STRATA will coordinate on Conflict of Interest matters, as set forth in the Master Services Agreement, particularly where CSU-STRATA is a party to the license agreement.

**J.2.4 Marketing and Distribution of Proceeds**

**J.2.4.1 Marketing of Copyrightable Works**

The Marketing Agent, as referenced in Section J.2.3.6 shall be responsible for marketing Marketable Works, including collecting and distributing net income derived from licensing, sublicensing or sale of such works which it administers. CSU-STRATA’s marketing responsibilities are set forth in the Master Services Agreement. For any income derived by the Marketing Agent with respect to Marketable Works, the Marketing Agent will be reimbursed for
its direct costs attributable to marketing and licensing incurred in connection with each license agreement ("direct costs"). In general, absent agreement by all parties to the contrary, net income will be allocated as follows:

<table>
<thead>
<tr>
<th>Member</th>
<th>Member’s Department/College</th>
<th>Provost</th>
<th>Marketing Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td>35%</td>
<td>10%</td>
<td>15%</td>
<td>40%</td>
</tr>
</tbody>
</table>

Distribution of net income shall occur by the end of each fiscal year. Where there is more than one Author, they will each receive an equal portion of the “Author” portion (i.e., 35%) of net income, absent agreement among the Authors to an alternative split of that portion. This same distribution will be applied to the Department/College portion where more than one Department/College is involved. If there is a dispute as to distributions among Inventors, the Invention Appeals Committee for Inventions will make a determination of the proper distribution.

**J.2.4.2 Royalty Distributions**

Any proceeds accruing to Author(s) hereunder constitute royalties, not salaries, and will be paid as royalties to Author(s) through CSU-STRATA or the University's external agent/assignee. If an Author leaves the University, the Author’s portion of proceeds will continue to be paid to the Author. If an Author dies, the Author’s portion of the proceeds will continue to be paid in accordance with the testamentary disposition (wills, trusts, and similar mechanisms) or, in the absence of such disposition, as provided by law.

**J.2.4.3 Equity Transactions**

Special circumstances may apply in the event CSU-STRATA or the University's external agent/assignee accepts Equity as consideration for the grant of a license or other interest in Marketable Works. License agreements involving Equity must be structured to protect the University from liability and to avoid conflicts of interest.

The Author(s) shall disclose to the University any existing or proposed consulting agreement between the Author(s) and the prospective licensee or any other agreements with other entities that have potential for conflicts of interest pertaining to the license. The University may impose limitations on the proposed license agreement, associated sponsored research agreement, consulting agreement between the Author(s) and the licensee, or other agreements in order to address actual or potential conflicts of interest in accordance with the Conflict-of-Interest
Policies. Such limitations may be appealed to the Appeal Committee for Copyrightable Works. The University and CSU-STRATA will coordinate on Conflict of Interest matters, as set forth in the Master Services Agreement, including Conflict of Interest matters concerning Equity.

CSU-STRATA may require the prospective licensee to disclose all Equity offered to CSU-STRATA, the University, their employees, and other institutions or individuals in consideration for the license agreement. In addition, the prospective licensee may be required to disclose in writing to CSU-STRATA the specific terms and conditions associated with such Equity and the anticipated capital structure of the venture. Furthermore, the Author(s) must disclose to CSU-STRATA in writing if any equity is to be issued to Author(s) for their role as founders, consultants, or otherwise.

Generally, all Equity provided as payment for the grant of a license from CSU-STRATA must be issued directly to CSU-STRATA. All decisions with respect to management and liquidation of Equity held by CSU-STRATA will be made by CSU-STRATA on behalf of the University and the Author(s). Upon liquidation of the Equity held by CSU-STRATA, distributions shall be made by CSU-STRATA as provided herein.

J.2.5 University Use of Scholarly Works

J.2.5.1 Fair Use

Nothing in Section J.2 will be deemed to limit in any way the right of the University or its faculty, staff, or students to make Fair Use of any Copyrightable Works.

J.2.5.2 Administrative Use

From time to time, the University may ask an Author to submit a Scholarly Work to the University for an administrative purpose. This includes, but is not limited to, tenure and promotion, curriculum committee review, and public record requests. Administrative use shall not alter the ownership of the Scholarly Work by the Author(s).

J.2.5.3 Unexpected Unavailability

If an Author is utilizing their Scholarly Work in teaching an assigned course and that Author becomes unexpectedly unavailable, such as in the case of death, injury/illness, or departure from the University prior to the end of the semester, the University may find it necessary to assign another faculty member to teach that course for the remainder of that semester. In such a case, the new faculty member will be permitted to utilize the Author’s Scholarly Works that would have been used by the Author for the teaching of that course for the limited purpose of teaching the remainder of that course.

J.2.5.4 Return of Scholarly Work
When an Author leaves the University, the University will take reasonable steps to work with the Author to effectuate an export of their Scholarly Works which may be contained within University Courseware. Thereafter, absent agreement of the Author to the contrary, such Scholarly Works will be deleted from the Courseware. Any disputes will be settled by the Appeals Committee for Copyrightable Works.

**Rationale:**

Changes in federal regulation over time have made it necessary to update Section J of the Manual. In particular, it is necessary to have separate policies for patents and inventions and for copyrightable works. This has necessitated a complete rewrite of Section J.