

# Worcester Polytechnic Institute

## Intellectual Property Policy

### Reason for the Policy

The Policy is designed to assist Worcester Polytechnic Institute (WPI) in fulfilling its mission and achieving its strategic goals.

### Strategic Direction

The Policy supports the strategic goals of creating an outstanding student experience that promotes personal and intellectual development; recruiting and retaining excellent students, faculty and staff; and strengthening research, and scholarship, as well as institutional financial resources.

### Procedures

The procedures associated with Policy implementation appear in full below.

### Forms

Relevant Forms appear in the Appendices to the Policy.

### Contact

The Director, Intellectual Property and Innovation is the WPI official responsible for administration and interpretation of the Policy.

### Policy Provisions

#### 1.0 Purpose

##### 1.1 *Statement of Mission*

WPI educates talented men and women in engineering, science, management, and humanities in preparation for careers of professional practice, civic contribution, and leadership, facilitated by active lifelong learning. This educational process is true to the founders' directive to create, to discover, and to convey knowledge at the frontiers of academic inquiry for the betterment of society. Knowledge is created and discovered in the scholarly activities of faculty and students ranging across educational methodology, professional practice, and basic research. Knowledge is conveyed through scholarly

publication and instruction.

## *1.2 Guiding Principles for Policy and Statement of WPI Interests*

In furtherance of the WPI mission, WPI community members develop inventions, discoveries, copyrightable material and new knowledge that constitute the intellectual property of WPI. WPI seeks to promote application of that knowledge for the benefit of society while enhancing the capacity of WPI to conduct its mission and protecting the interests of WPI, its faculty, students and staff. The Intellectual Property Policy helps achieve these goals by providing the framework that governs the ownership, disposition, use and commercial development of WPI inventions, discoveries and creative endeavors.

- The primary obligation in conducting WPI research and scholarship is the pursuit of knowledge for the benefit of society.
- Since WPI research has substantial public support, it is incumbent upon WPI to seek assurance that patents resulting from its work be managed in a manner consistent with applicable law.
- In order to provide adequate recognition of, and an incentive for, intellectual achievements, inventors and authors will be provided with opportunities to share in the proceeds from their inventive and creative endeavors.
- The contribution of outside sponsors to the research endeavors of WPI is recognized by granting certain rights to sponsors, consistent with the principles outlined herein.
- After payment of the costs associated with intellectual property protection, licensing and related activities as specified in this Policy, revenue accruing to WPI from the commercialization of its intellectual property shall be shared between the WPI, inventors and authors on a fair and reasonable basis. The WPI's share of that revenue shall be used to advance institutional research and scholarship endeavors.

## **2.0 Policy**

### *2.1 Intellectual Property Managed under this Policy*

#### 2.1.1 Inventions

The term "Invention" or "Inventions" as used in this Policy describes innovations or discoveries that are or may be patentable or otherwise protectable under Title 35 of the United States Code, as may be amended from time to time, regardless of whether a patent application has been filed or patent have issued for such innovations or discoveries.

#### 2.1.2. Patents

This Policy shall apply to patent(s) resulting from WPI-related activities of individuals subject to this Policy as described in §2.2. For purposes of this Policy, the term "Patent" or "Patents" shall apply to the Inventions, as described in §2.1.1. for which a provisional, design or utility patent application or applications is or are filed with the U.S. Patent and Trademark Office, or a foreign patent office, or for which a patent has been issued. Patent(s) shall include divisionals, continuations, continuations-in-part and relevant international counter-parts of issued patents or patent applications, and any reissues, reexaminations or extensions of issued Patents or their foreign counterparts

#### 2.1.3 Copyrights

This Policy applies to those copyrightable works developed or otherwise authored by persons covered by this Policy as described in §2.2. The term “copyrightable works” or “copyrights” applies to those works of authorship considered protectable under Title 17 U.S.C. as it may be amended from time to time. By way of example, but not by way of limitation, “Copyrights” include but are not limited to, copyrightable books, whether fiction or non-fiction, manuscripts, poems, plays, choreography, photography, motion pictures, videos, audio recordings musical works, works of art or design, pedagogical works such as course materials, syllabi, lecture notes and the like, regardless of the tangible form of medium through which they are expressed, except that copyrightable works that are expressed as “computer software” or computer programs for purposes of this Policy shall be treated as a separate category of intellectual property.

#### 2.1.4 Computer Software and Computer Software Documentation

“Computer software” as the term is used in this Policy shall include, but not be limited to, copyrightable computer programs in source and object code form. A computer program is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result. Computer software may also be patentable and where the subject of a patent application is treated as a “Patent”. Computer software without a filed patent application or issued patent is treated as an “Invention”. Documentation in the nature of users’ guides, manuals and instructions developed to assist or facilitate use of computer software shall be managed as specifically indicated throughout this Policy.

#### 2.1.5 Trademarks and Service Marks

Trademarks and Service Marks as described under this Policy shall be interpreted in accordance with Title 15 U.S.C. as it may be amended from time to time and also in accordance with validly existing laws of the Commonwealth of Massachusetts covering trademarks and service marks as they may be defined under such laws. The existence of a Trademark or Servicemark does not change the definition or treatment of Patent(s) or Invention(s) associated with such a Trademark or Servicemark.

#### 2.1.6 Mask Works

Mask Works are those series of related images which are fixed in a semiconductor chip product as described under Title 17, U.S.C. Ch. 9 §901. This Policy covers Mask Works developed by persons covered by this Policy as described in §2.2.

#### 2.1.7 Data and Tangible Research Property

The term “data” as used in this Policy is that recorded information in any form which is generated by individuals who are subject to this Policy as described in §2.2, through use of WPI supported resources as further described under §2.3.2 or the disposition of which is governed by the terms of grants, contracts, cooperative or other agreements to which the WPI is a signatory. “Tangible Research Property” as used in this Policy means products of research that include, but are not limited to, compositions, biological and chemical materials(including but not limited to cell lines, plasmids, DNA, RNA, and transgenic animals), illustrations and drawings, prototypes, devices, equipment and the like developed by persons covered under §2.2. The parties understand and agree that data and tangible research property not otherwise copyrightable may be a subject of scholarly articles and other forms of copyrightable work.

2.1.8 For purposes of this Policy, all of the above categories (§§2.1.1-2.1.7) shall be considered “Intellectual Property”.

### 2.2 Individuals Covered by this Policy

For purposes of this Policy, all individuals described in this §2.2 shall be considered persons covered by this Policy, hereinafter referred to as “Covered Persons.”

#### 2.2.1 WPI Faculty and Staff

The rights and responsibilities with respect to Intellectual Property as established under this Policy shall govern the activities of WPI faculty and staff regardless of their status as full-time or part-time. Such persons include, but are not limited to, faculty hired to teach specific courses including Summer Session, Evening Division and distance learning, and those persons who do not have faculty status and are employed by the WPI to carry out administrative, academic or technical duties of any nature or kind. The latter category shall include, without limitation, post-doctoral associates, fellows and

trainees, and students who are performing services as WPI employees. The term “faculty” shall also include those full-time and part-time faculty members who are members of duly certified bargaining units. All individuals described in this §2.2.1 shall be considered Covered Persons for purposes of this Policy.

Adherence to this Policy is considered a condition of, and in consideration of, employment, for all faculty, staff and students whom the WPI employs.

## 2.2.2 WPI Visitors

All non-student visitors to the WPI who are participating in research activities and/or making use of WPI facilities and/or resources are considered “Covered Persons” for purposes of this Policy. It is the responsibility of visitors to ensure that their obligations to third parties, including but not limited to their own employers, are satisfied in a manner consistent with WPI rights described in this Policy. Participation in WPI programs and/or use of WPI facilities and/or resources by WPI visitors is in consideration of, and conditioned upon, agreement with the provisions of this Policy.

## 2.2.3 Undergraduate, Graduate, and Visiting Students, full-time and part-time (“WPI Students”)

WPI Students are considered “Covered Persons” under this Policy for purposes of disposition of Intellectual Property developed by them as further described under this Policy. All Intellectual Property developed by WPI Students participating in WPI activities shall belong either to the WPI or to the Student, according to this Policy and subject to any other agreements. When serving in the capacity of a WPI employee (e.g. students working part-time for the WPI), students shall be deemed employees covered under §2.2.1 of this Policy.

## 2.3 Statement of WPI Intellectual Property Ownership

### 2.3.1 Developed in Connection With WPI External Relationships

Intellectual Property developed by Covered Persons in the course of, or directly related to, such individual’s participation or involvement in a program, project or other relationship between the WPI and a third party including, but not limited to, sponsored research, joint studies, cooperative or collaborative agreements, clinical trials and the like, is assigned to the WPI and considered “WPI-Owned” subject to any other agreements between WPI and such third party.

### 2.3.2 Developed with Support of WPI Financial Assistance or through Use of WPI-Supported Resources

Except for scholarly and artistic works as described in §§ 2.4.1 and 2.4.2, Intellectual Property developed by Covered Persons through the use of significant financial support from the WPI, including but not limited to use of WPI-supported facilities and resources as well as time devoted to WPI functions of research and other WPI activities, is assigned to the WPI and considered “WPI-Owned”. WPI-owned intellectual property shall be subject to the royalty-sharing provisions of § 4.1.5.a and § 4.1.5.b as applicable.

### 2.3.3 Developed within the Scope of Employment

Except as expressly set forth in §2.4 of this Policy, Intellectual Property developed by WPI faculty and staff within the scope of their employment is considered work-for-hire and owned by WPI to the extent permitted by law. Where WPI ownership is not established by operation of law, such Intellectual Property is nevertheless by operation of this Policy assigned to WPI and considered “WPI-Owned” subject to any other agreements.

### 2.3.4 WPI-Commissioned Works

From time to time the WPI, its schools, departments or other units may commission from faculty members or other employees educational materials or tools such as curriculum, syllabi, course content, course modules and educational or computer-aided delivery systems. These WPI-Commissioned works may be either content or text-based or may be computer software or both and are considered WPI-Owned. Participating individuals will be notified in advance and in writing of WPI’s intention to consider the works as WPI-Commissioned.

WPI recognizes its obligation reasonably to maintain the currency of Commissioned and Supplementally-Compensated Materials in active use so as to preserve the quality of educational programs and to protect the reputational integrity of the authors. Authors will be provided the opportunity no less than once annually to comment on the currency of their Materials.

If invited by WPI to update Materials, they will be offered compensation commensurate with the work in accordance with this Article.

## 2.4 Statement of Individual Intellectual Property Ownership

### 2.4.1 Scholarly and Artistic Works Exception for Copyrighted Works

“Scholarly and Artistic Works” means copyrightable and copyrighted works that are in the nature of academic and scholarly works of authorship and works of visual art, including but not limited to photography, film, audio-visual works, sculpture, painting, choreography and the like. "Scholarly and Artistic Works" include by way of example 1) scholarly articles and papers written for journal publication, presentations and scholarly papers prepared for seminars and conferences, pedagogical works, and teaching and curriculum materials (including classroom lectures, seminars and presentations reduced by or for the author to written or other recorded form); and 2) paintings, drawings, musical compositions and performances, dramatic compositions and performance, poetry, fiction and other works of artistic expression authored by WPI faculty, post-graduate students, postdoctoral fellows and postdoctoral associates; provided that, the definition shall not apply to the works of WPI Students authored pursuant to activities undertaken as Teaching Assistants. Distance Learning Materials that are Scholarly or Artistic Works as described in this paragraph will remain the property of their authors, subject to the provisions of § 5.1.3.

“Scholarly and Artistic Works” shall be and remain the property of their Authors (“Individually-Owned Works”) unless such copyrighted works are (i) developed as part of a WPI project, program or activity that is the subject of an external WPI agreement; (ii) developed within the scope of employment by non-faculty WPI Employees; or (iii) developed as part of a WPI- Commissioned project or program under §2.3.4 above. All Scholarly and Artistic Works described in the preceding sentence under (i), (ii), or (iii) are WPI-Owned. In addition, the Author grants the WPI a non-exclusive, royalty-free license to use, reproduce and distribute for non-instructional administrative purposes all Individually-Owned Works that are used for teaching at WPI.

Registration is not a requirement of assertion of a copyright interest. In addition, the medium in which Scholarly and Artistic Works are preserved shall not affect copyright ownership interests.

### 2.4.2 Independently-Developed “Individually-Owned” Intellectual Property

Intellectual Property invented or authored by individuals who are Covered Persons under this Policy that is not WPI-Owned as provided under §2.3, and not otherwise subject to an agreement between the Covered Person and WPI, shall remain the property of the individual (“Individually-Owned” Intellectual Property). Except for Scholarly and Artistic Works that are considered Individually-Owned Works under § 2.4.1 and are used in conjunction with an individual’s teaching activities, a covered person shall not utilize his or her independently-developed Individually-Owned intellectual property in furtherance of activities on behalf of WPI unless such person discloses to the Director, Intellectual Property and Innovation, in writing, his/her intention to do so. Within 30 days of receipt of such disclosure, the Covered Person will be notified by the Director or a designee of the Director, Intellectual Property and Innovation if permission to utilize the intellectual property has been granted and whether there are any conditions related to its use. If WPI denies permission, or the covered person fails to provide disclosure as required by this § 2.4.2, such Person’s use of the property shall be deemed a waiver of his/her rights to sue or otherwise seek legal redress for any alleged infringement by WPI or any of WPI’s officers, employees, students or agents.

Nothing in this §2.4.2 shall preclude a Covered Person and WPI from entering into a mutually acceptable agreement for WPI use of Individually-Owned Intellectual Property.

### 2.4.3 Consulting and Outside Business Relationships

Faculty who engage in permitted outside professional services, including without limitation consulting to private companies, are responsible for ensuring that those activities and any related contractual arrangements are consistent and do not conflict with all applicable WPI policies and applicable contractual provisions, including those relating to conflict of interest and commitment. All Covered Persons under this Policy have an obligation to inform all appropriate third parties, including companies with whom they have such a relationship, of the terms of this Policy with respect to ownership of Intellectual Property and other rights and responsibilities as expressed in this Policy. Under no circumstances will the WPI

be deemed to have waived any of its rights under this Policy unless specifically agreed in a writing signed by a duly authorized WPI official.

#### 2.4.4 Student Academic Work

It is the general policy of the WPI that WPI Students shall have ownership rights in Intellectual Property developed by them independently, except where it is developed using WPI funds, part of any project or sufficiency report, thesis, dissertation, Major Qualifying Project (MQP), directed study, directed research, or where the WPI has external obligations with respect to Student Intellectual Property. In such case Student Intellectual Property may assign to the WPI pursuant to §§ 2.3.1 and 2.3.2 of this Policy and be treated as a WPI Invention. The Students may also choose to not assign to WPI, pay for the costs of filing any Intellectual Property, and enter into an agreement with WPI for the value of that Intellectual Property. Such value will not exceed 10% of the current value of that Intellectual Property. The waiver provisions of §3.3.2 shall apply to WPI Students. Activities undertaken by WPI Students receiving financial aid as tuition assistance shall not be considered “WPI funds” unless such assistance consists of employment at the WPI (including, but not limited to teaching assistantships) or is charged against a grant, contract or other agreement between the WPI and an external funding source.

### 3.0 Implementation of Policy

#### 3.1 *Intellectual Property Assignment Agreement*

All WPI faculty and staff, WPI Visitors and WPI Students who engage in activities that will or may result in WPI ownership of Intellectual Property in accordance with this Policy must, prior to participating in any such activity, execute the WPI’s Intellectual Property Assignment Agreement (“IPAA”), attached hereto as Appendix A. Execution of the IPAA is deemed a condition to participation in any such WPI activities. If this Agreement is not executed as required under this §3.1, such individual is nevertheless subject to this Policy as a condition of his or her participation. The WPI and all necessary parties must approve the use of any agreement documents other than Appendix A.

#### 3.2 *Obligation to Disclose*

All individuals participating in WPI activities as WPI faculty and staff, WPI Visitors and/or WPI Students must disclose to the WPI in a timely manner any and all Inventions and computer software invented or authored by them so that the WPI can determine whether it has an ownership interest according to this Policy. Disclosure does not itself constitute a surrender or determination of ownership. Disclosure shall be made by completion of the appropriate Disclosure Form, appended to this Policy as Appendix B, and by submitting the Disclosure to the appropriate administrative offices as directed on the Form. Failure on the part of any Covered Person to complete the Disclosure Form(s) as required shall not in any manner impair or diminish the rights (including ownership rights) and obligations of either the WPI or the individual as described in this Policy. Covered Persons uncertain whether intellectual property developed by them during the period of their employment or relationship with WPI must be disclosed should consult with the Director, Intellectual Property and Innovation or his/her designee. It is important to note that disclosing and filing for intellectual property protection should be done prior to any public disclosure in order to secure the maximum intellectual property rights. Failure to do could possibly lose all rights to intellectual property protection.

#### 3.3 *Determination of Ownership and Waiver*

##### 3.3.1 Determination of Ownership

Following receipt of a properly completed and signed Disclosure Form, WPI will determine whether, consistent with this Policy, it will take ownership of the invention or software disclosed, and it shall promptly notify the inventor(s) or author(s) in writing of its decision. WPI determinations as to ownership and disposition of inventions and software will be made in accordance with the institutional mission and principles stated in § 1 of this Policy and the requirements of applicable external agreements and obligations under applicable laws and regulations, with due regard for considerations relating to use of WPI facilities and resources. WPI action may, in some instances, include exercising ownership and thereafter placing the invention or software in the public domain.

##### 3.3.2 Waiver

: WPI may determine that WPI will not take ownership of invention or WPI may, after initially exercising ownership, determine that the WPI will no longer pursue or maintain intellectual property protection, for example in cases without a revenue producing license.

. Where the WPI determines that it will not pursue or maintain intellectual property protection and licensing of WPI-Owned Intellectual Property, it will promptly and in writing so advise the inventor(s) or author(s). To the extent permitted by external obligations, including any applicable laws and regulations, WPI may consider application by inventor(s) or author(s) for alternative funding of prosecution or maintenance of intellectual property, or waiver of ownership rights and the terms under which such waiver may be made. WPI will not consider requests for waiver of ownership with respect to any invention or software program unless all inventors and authors, as legally determined, concur with the request for waiver. Ownership waivers, if granted, will be made to all relevant inventors and authors as joint owners. Waiver agreement terms between the WPI and the inventor(s) will include a perpetual, royalty-free right and license retained by WPI to use the invention or software for its own internal purposes, and will be further subject to any external obligations as may be required.

WPI reserves the right to deny a waiver without itself pursuing intellectual property protection or licensing provided that, prior to such denial, WPI will first obtain the advice of the Advisory Committee established under § 6.3. In the event of a grievance by a Covered Person or United Academics on behalf of such Person and/or represented employees, it will be the WPI's burden to demonstrate the circumstances warranting denial of the waiver.

### 3.3.3 Timeliness

WPI acknowledges the interests of inventors, authors and students in pursuing timely protection and/or publication of innovations and discoveries, and/or theses or dissertations. Once inventorship is established, WPI will act within 60 days with respect to ownership determinations. If, notwithstanding best efforts, WPI concludes that this time period is or will be inadequate, the WPI will inform the affected parties in writing of the circumstances of the delay and the expected date of determination.

## 3.4 Process for Seeking Intellectual Property Protection

### 3.4.1 Invention Reporting and Determinations of Patentability

Following the disclosure of an invention pursuant to this Policy, the WPI's Director, Intellectual Property and Innovation or her/his designee (hereinafter "IPI") will be responsible for reporting the invention as required under the terms of external funding agreements, if any. Further, in good faith consultation with the inventor or inventors, the IPI will undertake a patentability review with the assistance of patent counsel if necessary, where in the discretion of the WPI, such a review is reasonable to procure based upon the potential commercial value of the invention. Where, in the WPI's sole discretion, the filing of a patent application is deemed appropriate, it shall be the WPI's responsibility to undertake such filing at its own expense (or at the expense of a third party pursuant to IPI agreement with such third party) and in its own name. Where appropriate, the WPI may assign WPI-owned inventions to a patent management organization or to such other entity or person as the WPI, in its sole discretion, deems advisable.

All inventors of WPI-owned inventions will assign their rights to WPI and shall reasonably cooperate with the WPI or its designees or assignees in securing patent rights for inventions and shall diligently execute all documents as may be required. All patenting activities conducted at the behest of the WPI, its designees or assignees shall be at the expense of the WPI, its designees or assignees.

### 3.4.2 Protection Determinations with Respect to Computer Software

Upon disclosure of computer software pursuant to this Policy, the WPI's IPI will be responsible for reporting the disclosure in accordance with the WPI's external contractual obligations, if any. Determinations of patentability of computer software will be made according to requirements of external contractual agreements and in good faith consultation with the inventors and authors of the software. To the extent consistent with its external obligations, the WPI will consult with inventors and authors of the software with respect to whether or not a patent application covering the potentially patentable elements of the software will be filed, provided that all final decisions shall be made by the WPI in its sole discretion, and in accordance with the WPI mission and purposes described in § 1 of this Policy.

WPI shall hold copyright to computer software code and accompanying documentation to which it has ownership rights under this Policy, consistent with external contractual agreements and law. Registrations for copyright shall be made in the WPI's sole discretion and at its expense. To the extent the WPI is the owner of computer software and documentation under this Policy other than as a work-for-hire, authors will cooperate with the WPI, its designees and assignees in any executing any documentation required by the WPI to perfect a transfer of copyright, with any expenses to be borne solely by the WPI.

#### 3.4.3 Copyrights other than Computer Software and Documentation

Copyright to works that are WPI-Owned will be held in the name of the WPI. Registration for such works shall be at the sole discretion of the WPI. Where a WPI Employee, Faculty Member, Visitor or Student has an interest in obtaining rights to use WPI-Owned copyrights in furtherance of an educational or research purpose, the WPI's IPI will cooperate with the individual in providing such rights as may be needed on a non-exclusive, no-cost basis. Where it is necessary for an individual to secure rights for a publisher, distributor or like third party to WPI-Owned copyrights, the WPI's IPI will negotiate with such party to enable use of WPI-Owned copyrights on a reasonable basis.

#### 3.4.4 Trademarks and Service Marks

Trademarks and Service Marks that are WPI-Owned in accordance with this Policy and the WPI Trademarks Policy may be registered either federally or with the Commonwealth of Massachusetts in the sole discretion of the WPI. Determinations on applying for trademark and service mark registrations will be made by the IPI. Under no circumstance will WPI permit the trademarking by any individual, whether or not associated with WPI, of the name of the Worcester Polytechnic Institute, or any abbreviation thereof, or the using as a trademark or service mark of any other mark, logo or indicia that is emblematic of Worcester Polytechnic Institute.

#### 3.4.5 Mask Works

WPI, through its IPI, shall seek federal registrations for WPI-owned mask works at its discretion and consistent with external contractual obligations. Mask works for which registration is not pursued will be made generally available for public use in accordance with §3.5.

#### 3.4.6 Data and Tangible Research Property

WPI-Owned Data and WPI-Owned Tangible Research Property ("Data and TRP"), as defined in §2.1.7, for which a patent application has not been filed will generally remain in the custody of the principal investigator of the research or other project or program under which it was developed, or if there was none, in the custody of the academic department chair or other appropriate administrative unit supervisor. The processes for identifying, recording, managing, and retaining Data and TRP will be in accordance with the WPI's policies on data and materials management and retention. Faculty and students who have developed the Data and/or TRP wishing to take copies or samples with them upon leaving WPI shall seek permission of the IPI or his/her designee prior to removing these types of materials from WPI and, in any event, title to the Data and TRP shall at all times remain with the WPI. The WPI IPI or her/his designee shall make a determination as to whether an individual's new organization shall be required to execute a Material Transfer Agreement ("MTA") covering TRP as a condition of using the TRP at that new organization.

### 3.5 Sharing of Intellectual Property for Educational and Research Purposes

WPI manages the Intellectual Property which it owns in a manner consistent with institutional mission and the principles set forth in § 1 of this Policy. A prime aspect of this objective is to facilitate access to its Intellectual Property by the educational, scientific and research communities for non-commercial educational and research purposes.

## 4.0 Commercialization of Intellectual Property

### 4.1 Responsibilities of the Director, Intellectual Property and Innovation

#### 4.1.1 Reporting to Research Sponsors and Collaborators

The IPI has primary responsibility for notifying the WPI's external research sponsors and collaborating parties of Intellectual Property developed under agreements with them. Recognizing that such reporting cannot be undertaken until reports of inventions, computer software and other developments have been received from WPI faculty, staff and students, the IPI is also responsible for developing, managing and retaining WPI Intellectual Property Assignment Agreements and the processing of Disclosure Forms.

#### 4.1.2 Evaluation of Intellectual Property

The IPI is responsible for collecting all information necessary in order to conduct an evaluation of disclosed Intellectual Property, subject to a duty of reasonable cooperation on the part of disclosing inventors and authors. Information collection includes, but is not limited to, ascertaining participating inventors and authors, sponsored research funding, if any, and any encumbrances that may have attached to the Intellectual Property either through prior commitments or through use of third-party owned intellectual property to which the WPI does not have full and unrestricted rights. In conducting such evaluations, the IPI will communicate with inventors and authors to ensure full and accurate information.

#### 4.1.3 Election of Title and Waiver of Rights

The IPI has primary responsibility for making reasonably prompt determinations on election of title to Intellectual Property to which the WPI has ownership rights under this Policy, such determinations to be made in any event within any time frame required by external sponsors. All waiver of rights requests by inventors and authors submitted as provided under §3.3.2 shall be directed in writing to the Office of the IPI. The IPI shall respond promptly and in writing to requests, such response to inform the requestor(s) of the status of the request. A waiver of rights might first also require sponsor approval. In the event a waiver of rights is determined to be appropriate, the IPI shall negotiate the conditions of such waiver with the requestor(s) including, but not limited to, terms for reimbursement to the WPI of patent expenses, if any, retained rights of the WPI to use the waived Intellectual Property for purposes of education and research, transfer of sponsor reporting obligations, sharing of royalties, indemnification terms, and any other terms as appropriate. It is understood by inventors that as a consequence of federal law, the WPI does not have authority to waive title to inventions developed with federal funding; nevertheless, upon request of inventors and in the WPI's sole discretion, the IPI may support the inventor(s)' request for waiver in a letter to the appropriate federal agency officials.

#### 4.1.4 Licensing for Commercialization

Commercialization of WPI-Owned Intellectual Property shall be undertaken and managed by the IPI, with support from such other units within the WPI and/or inventors as deemed necessary or desirable. Authority to sign licenses or other agreements concerning the transfer or other disposition of WPI-owned Intellectual Property shall rest with the IPI and with such other officials as the WPI may duly authorize.

In no case shall inventors or authors of WPI-owned Intellectual Property have authority to enter into agreements respecting the WPI's Intellectual Property. Unless WPI grants a prior written permission, in no case shall inventors or authors of WPI-owned Intellectual Property have authority to enter into agreements respecting the WPI's Intellectual Property.

4.1.4. a. WPI will license its Intellectual Property in a manner that conforms to the mission and principles set forth in §1 of this Policy and consistent with its policy on conflict of interest as described in §4.1.7 below.

4.1.4.b. The WPI IPI shall have the authority, with approval of the Provost, to engage a third-party as a licensing agent to act on behalf of the WPI. In addition, nothing in this Policy shall be interpreted to preclude the WPI from joining with like institutions and non-profit organizations for the joint conduct of technology commercialization activities.

4.1.4. c Where licensing WPI Intellectual Property to WPI faculty, staff or students (such persons including inventors or authors of the Intellectual Property being licensed) is not inconsistent with the terms of an external WPI agreement and does not otherwise disadvantage the WPI, WPI may in its discretion consider proposals for licensing to such faculty, staff or students on a non-preferential, non-discriminatory basis. Recognizing the potential for conflict of interest in transacting business with its faculty, staff and, students, WPI may establish guidelines in addition to existing Conflict of Interest policies that specifically address real and potential conflicts of interest in licensing.

#### 4.1.5 Royalty Income Distribution

The term “Royalty Income” as used herein shall mean all revenues received by the WPI through the licensing or other transfer of WPI Intellectual Property and includes, but is not limited to, fees, milestone payments, percentages of gross or net sales of licensed products, and shares of stock or other equity; provided that, the term “Royalty Income” shall not include funds paid into the WPI as reimbursement for patent costs, for research or for any services supplied by the WPI, or for tangible property that may be received by the WPI (such as equipment, technological or scientific devices or computer software) even though the WPI may receive them pursuant to a licensing transaction.

For purposes of this Policy, “Net Royalty Income” shall mean all Royalty Income, with the exception of Royalty Income received in the form of "Equity" as defined in § 4.1.5.c., received by the WPI that is attributable to an individual Intellectual Property asset such as a patent or a copyright, less:

- i. WPI’s out-of-pocket costs for securing and maintaining legal protection, such as patenting and prosecuting, outside legal assistance in licensing, or defending against infringers;
- ii. WPI’s out-of-pocket costs associated with the utilization of a licensing agent or organization if applicable;
- iii. WPI’s out-of-pocket costs associated with any WPI Acceleration Fund Ignite seed funding; and
- iv. the cost of duplication, shipping and handling, where applicable

"Net Royalty Income" earned by the WPI from the licensing or other transfer of WPI Intellectual Property will be distributed within sixty (60) days of its receipt, not more often than quarterly, as further set forth below.

4.1.5.a. Net Royalty Income from Patents, Copyrights, or Inventions shall be distributed in the shares of 50% to the inventor, 5% to the Inventor’s Dean, 5% to the Inventor’s Department, 5% to the Office of Intellectual Property and Innovation and 35% to WPI. It is encouraged for the Department share give priority to the inventor’s laboratory if at all possible. The funds should be directed towards a continued investment in research and technology development. Dean and Department shares may involve multiple Deans or Departments. If this occurs, the split will go according to how the inventors have agreed to split their share.

4.1.5.b Net Royalty Income from Patents, Copyrights, or Inventions from Student Inventions that are not assigned to WPI per Section 2.4.4 will be negotiated with the Students on a case by case basis. The WPI share will not exceed 10% of the Net Royalty Income from those Patents, Copyrights, or Inventions from Student Inventions.

4.1.5.c. Royalty Income Distribution – Equity. Where all or a portion of the Royalty Income received by the WPI is in shares of stock, stock options, warrants or other indicia of ownership ("Equity"), Inventors and Authors shall be entitled to shares to be negotiated with the company. If Inventors and Authors obtain Equity from the company, WPI Equity will be wholly owned by WPI. For all other Inventors/Authors who did not receive Equity from the Company, WPI, upon occurrence of a liquidation event, distribute cash according to the distribution agreed upon among the inventors in their original invention disclosure.

4.1.5.d. Royalty Income Distribution – Special Cases. When authors of non-patent intellectual property are not reasonably ascertainable, the IPI will review the circumstances in consultation with the relevant parties. If such consultation does not yield identification of the authors, royalties will be considered supplemental revenue to be shared between the academic department(s) or administrative unit(s) and the WPI in the shares set forth in § 4.1.5.b. In any such instance, final distribution of income is subject to the approval of the IPI.

4.1.5.e. It is the policy of the WPI that administrative and WPI shares of royalty income shall be used to further the educational and research interests of WPI, and may be used as reasonably necessary for the support and advancement of the WPI's Intellectual Property and Innovation program.

4.1.5.f Any inventor or other party entitled to receive Royalty Income under this Policy may waive that share with the approval of the IPI or in accordance with the guidelines established by the IPI.

#### 4.1.6 Licensing Transactions Involving Equity

Where, in the discretion of the IPI, and with approval of the Provost, it is in the interests of the WPI to enter into a licensing transaction that involves the acceptance of company stock, stock options, warrants or other indicia of ownership ("Equity") in lieu of or in combination with royalties payable as dollar amounts, the WPI shall enter into such transactions in accordance with any and all applicable federal and state law. WPI recognizes that its inventors and authors, while not parties to the transaction, are important to the success of any licensing activity involving their discoveries and writings. Prior to entering into any license involving the transfer of company stock, options or warrants or the like in which inventors or authors are entitled to share under this Policy, the IPI, or his or her designee, will discuss with inventors and authors who do not wish to hold an equity interest whether there is a reasonable alternative that will better accommodate the interests of the inventor(s) or author(s), provided that, failure to identify such reasonable alternative shall not impair or vitiate the WPI's right to participate in an equity transaction.

#### 4.1.7 Conflict of Interest and Conflict Avoidance in Equity Transactions

4.1.7.a. Where an inventor or author holds or will acquire an equity or founder's stock and/or option position in a company to which Intellectual Property that the inventor or author helped develop is licensed by the WPI, WPI will accept an equity position in lieu of royalty only with the approval of the Provost or his or her designee. In all such situations, inventor(s) and author(s) who remain in the employ of the WPI will not use WPI students for research and development projects sponsored by the company without expressly disclosing to students the inventor(s)/author(s)' equity ownership interest in the company and without the express approval of the academic department chair or other appropriate administrative unit supervisor. In addition, inventor(s)/author(s) will not restrict or delay access to their research results so as to benefit the company (apart from any WPI- authorized agreement with the company) and will not engage in such other activities that may create a presumption of conflict of interest between their activities as faculty or staff of the WPI and their activities with or on behalf of the company. The limitations and conditions of this paragraph are in addition to those required by the WPI's conflict of interest or other related policies.

4.1.7.b. In situations where the WPI is negotiating the licensing of Intellectual Property with a company, it is a prohibited conflict of interest for any WPI faculty or staff member who supervises an inventor or author of that Intellectual Property to influence or attempt to influence the licensing negotiations. In addition, it is a prohibited conflict of interest for such supervisory personnel to cofound or invests in a WPI-licensed start-up company with inventors or authors under their supervision.

4.1.7.c. To avoid any real or apparent conflict of interest or conflict of commitment, WPI personnel engaged in Intellectual Property and Innovation activities as part of the office of the IPI or his/her designees will not personally invest in non-public companies holding licenses to WPI Intellectual Property either directly or, in the case of personnel identified above who are partners in venture funds, will not engage in WPI licensing negotiations with any company in which that fund is invested. Except as otherwise required by law, IPI personnel will assure that confidential or proprietary information to which they have access in carrying out their WPI responsibilities is not disseminated in such a way as adversely or favorably to affect the value of or market for stock in any company about which they have special knowledge and will not use that knowledge for investment purposes by themselves, their families, friends or business associates.

### **5.0 Educational Materials Developed for Distance Learning (“Distance Learning Materials”)**

#### *5.1 Identification of Distance Learning Materials*

Materials coming within the definition of “Distance Learning Materials” as described in this § 5.0 include, but are not limited to, course syllabi and curricula, lectures, pedagogical materials of any nature or kind (excluding computer software and its documentation), video and audio materials used in instruction and the like, in any format and which are developed for the purpose of teaching off-campus distance learners by means of electronic (or digital) delivery whether or not such materials are developed within or outside of the scope of employment. Subject to the requirements of § 5.1.3, Distance Learning Materials do not include educational materials developed and delivered for classroom teaching where the course may be simulcast or delivered by time-delayed transmission to students not in the classroom. Computer software and its documentation which may be developed in aid of delivery or

utilization of Distance Learning Materials shall be subject to those sections of this Policy specifically addressing computer software and its documentation. As previously set forth in § 2.4.1, Distance Learning Materials that otherwise constitute “Scholarly or Artistic Works” and do not fall within the scope of the exceptions also described in § 2.4.1 will be owned by their authors.

#### 5.1.1 WPI-Commissioned or Supplementally-Compensated Distance Learning Materials

Distance Learning Materials authored by WPI faculty or other teaching personnel that are WPI-Commissioned or Supplementally-Compensated under separate agreement with the WPI will generally be considered WPI-owned. Intellectual Property rights in such Materials, including copyright, will be transferred to the WPI in accordance with § 5.2.1. Provisions as to currency of Materials appear in § 2.3.4 of this Policy.

#### 5.1.2 Jointly-Owned Distance Learning Materials

Certain Distance Learning Materials may be jointly developed by faculty or other teaching personnel who are uncompensated and WPI faculty or staff who co-author materials or who may write accompanying computer software or documentation within the scope of their WPI employment. (An example is materials jointly-authored by a faculty member and his or her teaching assistant or other member of the WPI administrative staff wherein the contribution of the non-faculty member is considered a work-for-hire.) In the case of joint authorship, the rights of the co-authors of the joint works, whether the co-authors are an individual and WPI or individuals as co-authors, will be determined in accordance with U.S. Copyright law (17 U.S.C.).

#### 5.1.3 Author-Owned Distance Learning Materials

Distance Learning Materials authored by faculty or other teaching personnel without compensation by the WPI and not otherwise considered WPI-Owned under § 2.4.1 shall remain the property of the author(s). Use of WPI resources or facilities by such persons in the development of Distance Learning Materials will not change the status of author-owned Distance Learning Materials. Before seeking to commercialize these materials, authors must first obtain the written approval of the Provost. The Provost may approve or deny the request, or place conditions upon approval of the request. Denial or conditions will be based upon determination by the Provost that, absent such denial or condition, the commercialization proposal will adversely affect the WPI because (1) it will interfere with the author’s effective performance of WPI duties; or (2) it will present a conflict (a) of time or effort commitment with respect to the author’s WPI duties or (b) with the WPI’s mission, responsibilities or initiatives.

### *5.2 Allocation of Rights and Responsibilities with respect to Distance Learning Materials*

#### 5.2.1 Rights and Responsibilities of WPI

In all instances where WPI solicits the participation of faculty or other teaching personnel (but not students or Teaching Assistants) in the preparation of Distance Learning Materials, whether Commissioned as under § 2.3.4 or compensated as under § 5.1.1, WPI and the individual will enter into

a written agreement setting forth the terms under which the materials will be developed and delivered. Faculty and other teaching personnel wishing to participate will give deference to obligations of the WPI with respect to third party agreements that cover the funding, ownership, distribution and other aspects of the production of a distance learning course. WPI will seek to permit authors to retain the right to use WPI-owned Distance Learning Materials for the author's own purposes to the extent they do not compete with WPI purposes, as determined in the sole discretion of the Provost. All such agreements will accord faculty or other teaching personnel the right to modify the Distance Learning Materials.

### 5.2.2 Rights and Responsibilities of Authors

Agreements between WPI and faculty or other teaching personnel participating in the development of Distance Learning Materials will cover areas such as license rights granted to WPI where WPI does not own materials, representations of originality on the part of the authors, reasonable restrictions on the author(s) use of the materials for competing purposes, and prohibitions on implication or expression of endorsement of content by WPI.

### 5.3 *Distribution of Royalty Income*

Participating faculty and other teaching personnel are entitled to a share of Income derived from the WPI's commercialization of distance learning programs in the same percentages as set for in §4.1.5(b), notwithstanding the award of compensation in the development of Distance Learning Materials. Income derived from the licensing or other arrangement for distribution of Distance Learning Materials shall not, however, include payment received by the WPI for development of the distance learning course or program. Author(s)' royalty shares shall be distributed from Income earned after recoupment of the WPI's internal costs of production, as satisfactorily reported to the participating faculty member or other teaching personnel.

## **6.0 Policy Interpretation, Implementation and Oversight**

### 6.1 *Responsibility for Oversight*

Except as otherwise specified in this policy or as otherwise duly authorized by WPI, the IPI has responsibility for the interpretation, implementation and oversight of this Policy. The IPI will issue such administrative guidelines and procedures to facilitate Policy as may be reasonable and consistent with it. In accordance with otherwise applicable WPI policy or contract terms, WPI may also pursue disciplinary, or civil or criminal action, for Policy violations.

### 6.2 *Exceptions to Policy*

Exceptions to this Policy shall be authorized only upon approval of the Provost in consultation with the IPI. It is in the interest of the general WPI community that exceptions are kept to a minimum and granted only upon demonstrable extenuating circumstances with the advice of the Research and Scholarship Advisory Committee pursuant to § 6.3 below.

### 6.3 *Research Advisory Committee*

The Provost shall appoint an Advisory Committee. The purpose of this Committee is to advise the IPI

on matters concerning this Intellectual Property policy, and questions of interpretation or exceptions to this Policy.

## **7.0 Miscellaneous**

### *7.1 Effective Date of Policy*

This Policy shall be effective upon approval by the President in accordance with governing requirements.

### *7.2 Policy Review and Changes*

The Provost will periodically initiate review of this Policy to address legal developments and to reflect experience gained in its administration. Policy changes will be made in accordance with governance and applicable legal requirements.

## **Related Policies**

### **Effective Date:**

See § 7.1 above.

Date:

## **Appendices**

Appendix A : WPI Assignment agreement

Appendix B : WPI Invention Disclosure Form

Appendix C: Conflict of Interest Policy