

# Agreement Between the Creator and the Academic Unit Head (or Executive Officer for a Non-Academic Unit)

**PURPOSE:**

Creators who are producing web tools or course material should have a written agreement with their Academic Unit Head (or responsible executive officer for a non-academic unit) involved in the funding and development of web tools and course materials that summarizes their mutual understandings regarding copyright ownership, license rights, distribution restrictions (if any), derivative works, income sharing (if any) and other relevant issues. This document attempts to raise some of the issues that should be considered, and to provide a menu of options that might serve as the basis of a written agreement. This agreement can be amended to reflect changes in the understandings of the parties, as needed.

Responsible creator(s): \_\_\_\_\_

Identification of web tool or course material (title and brief description):  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of work:

- Web Tool
- Entire Academic Course or Certification Course
- Course Module (i.e., material to supplement an instructional program)

Who provided the impetus for creating the course material?

- Initiative of faculty creator(s)
- Initiative of non-faculty creator (academic professional staff, student)
- Request of the Academic Unit Head (or executive officer for a non-academic unit)
- Joint initiative
- Other? Specify: \_\_\_\_\_

What University resources will be used to create the course material?

- UI-OnLine grant?
- Funding from other University sources? Identify: \_\_\_\_\_
- Funding from external sources (grants, contracts, and gifts)? Identify: \_\_\_\_\_
- Released time for responsible creator(s)? Specify: \_\_\_\_\_
- Summer salary for responsible creator(s)? Specify: \_\_\_\_\_
- Contributions by other University employees, who will provide technical assistance, programming support, graphics, etc., as "work for hire"?
- Use of University-provided hardware or software, beyond what is "usually and customarily provided" for the creator's use?

Other? Identify: \_\_\_\_\_

If the material is a course (or course module), who has rights to the existing content?\*

- Responsible creator(s); i.e., material from the faculty member's syllabus, course notes, academic research program, etc.?
- Other University faculty/staff?
- University students (who are not student employees)?
- Commercial publishers (for textbooks, instructional software)?
- Other? Identify: \_\_\_\_\_

If the material is a web tool, is the web tool based on software that already exists in some form?

- No     Yes. If affirmative, who has rights to the existing web tool software?\*
- Responsible creator(s)?
- Other University faculty/staff?
- University students (who are not student employees)?
- Commercial publishers or software distributors?
- The Board of Trustees of the University of Illinois?
- Other? Identify: \_\_\_\_\_

How widely should the course material be distributed by the University?

- Used by UI students for UI-administered programs of teaching, research and public service only (including UI distance education programs)
- Limited to campus/unit of origin only
- Available to campuses/units that request it
- Licensed to other academic institutions, for use by their students that want to receive academic credit from that institution.
- Licensed, in whole or in part, to commercial publishers or other academic institutions (for distribution by disk, CD-ROM) or other on-line service providers, as supplementary materials (i.e., not for purposes of academic credit).

*Proposal for distributing the "creator's share" of net income:* If the course material is commercially licensed by the University to third parties and generates royalty revenue, how should resulting net income be shared with the faculty creator(s) and others who have contributed (or will contribute) to the work (if applicable)? (Refer to the University policy for distribution of income\*\*)

\_\_\_\_\_

\_\_\_\_\_

\*It is the responsibility of the creator to identify any materials included in their work that are owned by third parties, and to secure written permissions or licenses from such third party owners, sufficient to cover the University's use (and greater rights if needed for distribution outside the University).

\*\*The University's policy for distribution of income from marketing University-owned copyrighted works is found in Article III, Section 3(h) of the General Rules, as further clarified in campus policies. The University will normally distribute 50% of net income to the creators of such works up to the first

\$200,000 of cumulative net income, and 25% thereafter. Other distributions may be justified in unusual situations or by written agreement with the creator(s). By administrative determination of the University Intellectual Property Committee, creators may not receive in excess of 50% of net income. (See Article III, Section 8, of the Pending IP Policy for analogous terms. The creator's share decreases to 40% (but with no threshold), and the creator's Unit gets 20%.)

**NOTE:**

The sharing agreement among creators may need to be revised over time to reflect changing contributions to the work by various creators. The proposed sharing arrangement will be reviewed and formalized by the campus technology transfer office before any distribution.

**OWNERSHIP AND LICENSE RIGHTS OPTIONS:**

The following options cover the most common situations. Check all options that apply. NOTE: Other options may be possible, i.e., in certain unusual circumstances, the University, through the Academic Unit Head (or executive officer for a non-academic unit), may "commission" creation of a copyrightable work through a special written agreement with an employee, where the work would be over and above the employee's normal employment responsibilities. The campus technology transfer office and/or the Office of University Legal Counsel can provide advice on other options.

\_\_\_\_\_ *Copyright owned by creator(s); licensed to University with minimum rights*

If funding from the Campus, Unit or a UI-OnLine grant is used, in whole or in part, to pay other University employees (including student employees) who will contribute to the development effort (e.g., programmers, graphic artists, designers) and work under the creator's direction, such employees are performing "work for hire" that is owned by the University. However, the University, through the Academic Unit Head (or the executive officer for a non-academic unit), assigns all right, title and interest, including copyright, in the "work for hire" material to the creator, subject to a grant of license rights to the University. Otherwise, the course materials are being created independently and at the creator's initiative but using University resources "usually and customarily provided". The University confirms that it claims no right, title or interest, including copyright, in the course materials, except for an irrevocable, perpetual, royalty-free, non-exclusive license to use and distribute the original version of the course materials (i.e., the version of the software developed with University resources) in the University's internally administered programs of teaching, research and public service, including its distance education programs. If specified below, this license extends to derivative works. Except for this non-exclusive license, the faculty creator has an unrestricted right to use and reproduce the original course materials, to prepare derivative works therefrom, and to sell and distribute the course materials and derivative works as the faculty creator sees fit, without further obligation to the University (subject to the Policy on Conflicts of Commitment and Interest). The University's decision not to retain ownership applies only to the "work for hire" materials created with funding from the Campus, Unit or a UI-OnLine grant: commingling support from other sources or other units will require agreements regarding ownership and license rights with the unit(s) that provide such support.

\_\_\_\_\_ *Copyright owned by creator(s); licensed to University with more than minimum rights*

If funding from the Campus, Unit or a UI-OnLine grant is used, in whole or in part, to pay other University employees (including student employees) who will contribute to the development effort (e.g.,

programmers, graphic artists, designers) and work under the creator's direction, such employees are performing "work for hire" that is owned by the University. However, the University, through the Academic Unit Head (or executive officer for a non-academic unit), assigns all right, title and interest, including copyright, in the "work for hire" material to the creator, subject to a grant of license rights to the University. However, the parties concur that creation of the course materials requires significant use of University resources "over and above those usually and customarily provided". The University confirms that it claims no right, title or interest, including copyright, in the course materials. However, the University claims more than minimum license rights, including an irrevocable, perpetual, royalty-free, non-exclusive license to use and distribute the original version of the course materials (i.e., the version of the software developed with University resources) in the University's internally administered programs of teaching, research and public service, including its distance education programs, and to license it for external use by \_\_\_\_\_ other academic institutions and/or \_\_\_\_\_ commercial publishers. If specified below, this license extends to derivative works. The University's decision not to retain ownership applies only to the "work for hire" materials created with funding from the Campus, Unit or a UI-OnLine grant: commingling support from other sources or other units will require agreements regarding ownership and license rights with the unit(s) that provide such support.

\_\_\_\_\_ Except for this non-exclusive license, the creator has an unrestricted right to use and reproduce the original course materials, to prepare derivative works therefrom, and to sell and distribute the course materials and derivative works as the creator sees fit, without further obligation to the University (subject to the Policy on Conflicts of Commitment and Interest).

\_\_\_\_\_ Due to the significant subvention provided by the University to the creator(s), the creator agrees to share revenue (if any) received from independently licensing the course materials outside the University with the University as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ *Solely owned by University*

The parties concur that the course materials will be (were) developed at the initiative of the Academic Unit Head (or executive officer for a non-academic unit), and that the creator's participation in the project is an assigned University duty, that is, the work will be (was) prepared at the University's instance and expense and the University is (was) the motivating factor in the preparation of the work. Thus the course materials are a "work for hire" and the University has sole copyright ownership in the work. The creator has no right to use or distribute the course materials outside the University's internally administered programs of teaching, research and public service, or to make derivative works, without the prior written permission of the University.

\_\_\_\_\_ *Jointly owned by University and creator(s), by mutual agreement with creator(s)*

The parties concur that the course materials will be (were) developed at the initiative of the Academic Unit Head (or executive officer for a non-academic unit), and that the creator's participation in the

project is an assigned University duty, that is, the work will be (was) prepared at the University's instance and expense and the University is (was) the motivating factor in the preparation of the work. Thus the course materials are a "work for hire" and the University has sole copyright ownership in the work. However, due to the significant contributions of the creator, the University agrees that the course materials should be jointly owned, and hereby assigns an undivided co-ownership interest in the course materials to the creator.

\_\_\_\_\_ *Jointly owned by University and creator(s), because of contributions by other University employees doing "work made for hire"*

The creation of the course materials requires substantive contributions from other University employees doing "work made for hire" to support the development effort, and the University has an ownership interest in such employees' work, thus making the course materials jointly owned by the University and the creator.

Additional considerations regarding distribution of jointly owned works:

\_\_\_\_\_ As joint owners of the copyright, either the University or the creator has the independent right to use and reproduce the original course materials, to prepare derivative works therefrom, and to sell and distribute the course materials and derivative works as the owner(s) see(s) fit, without further obligation to the other party, except for an obligation to account for or share profits resulting from such unilateral exploitation of the work (which may be waived by mutual agreement). (The creator is subject to the Policy on Conflicts of Commitment and Interest.)

\_\_\_\_\_ Despite joint ownership, the creator agrees not to exercise his/her right to independently market the course materials outside the University, thus making the University the exclusive source for the Work.

#### **DERIVATIVE WORKS:**

Does the University have the right to make derivative works, based on the original Course material?

- Yes  
 No

If yes, how should derivative works be handled, to meet the Unit's need to maintain continuity beyond the original creator?

- Creator has no objection to the Academic Unit Head (or executive officer for a non-academic unit) directing other employees to make derivative works, with no further obligations to the creator  
 Creator has no objection to the Academic Unit Head (or executive officer for a non-academic unit) directing others to make derivative works, subject to the right of the creator to review and approve derivative works before dissemination  
 Creator requests the first opportunity to make derivative works at the request of the

Academic Unit Head (or executive officer for a non-academic unit), on terms and conditions to be negotiated

Other? Specify: \_\_\_\_\_

For course material (not web tools) owned by the University, or exclusively licensed to the University, if the creator leaves the University and moves to another institution:

Can the creator take the course with him/her, to the new institution?

Yes. If affirmative, any restrictions? \_\_\_\_\_

No

Can the Unit continue to offer the course, without the creator's participation?

Yes. If affirmative, any restrictions? \_\_\_\_\_

No

**APPROPRIATE SIGNATURES:**