A. Preamble

Adelphi University (hereinafter referred to as the University) is committed to providing and ensuring an academic environment that supports and facilitates teaching, creativity and scholarly research in an atmosphere of academic freedom. This policy sets forth the rights and responsibilities of the university, its faculty, students, and employees in creating and using copyrighted works. This policy applies as well to all persons affiliated with the University, including research collaborators, visiting researchers, consultants, and contractors when their copyrighted work results in whole or in part from the use of University facilities or resources. This policy also sets forth equitable remuneration resulting from copyrighted works where ownership is retained by the University, as well as the conditions under which ownership would be retained.

Ideas and facts cannot be copyrighted. Copyright law protects the tangible expression of original works of authorship and describes the categories of works that may be copyrighted. Copyright owners have certain exclusive rights, subject to the “fair use” exception, which permits some limited use of copyrighted materials without prior permission or obligation to the author.

The University strives to protect the traditional rights of scholars with respect to the products of their intellectual endeavors while recognizing that when the University provides support that is beyond what is normally provided, either with money, facilities, equipment or staff, for the development of copyrighted works, it is reasonable for the University to participate in the fruits of the enterprise and/or be reimbursed for any costs associated with this support.

Examples of copyrightable works include, but are not limited to: creative or artistic works, books, texts, articles, monographs, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and work papers; lectures, musical and/or dramatic compositions, unpublished scripts, films, filmstrips, charts, transparencies, other visual aids; video and audio tapes, cassettes, discs, and DVDs; computer programs, live video and audio broadcasts; programmed instruction materials, web courses, drawings, paintings, sculptures, photographs, and other works of art.

The term Creator will apply to any faculty member, student, employee or any other person listed above who creates a copyrightable work that falls under this policy.

B. Policy Objectives

The following objectives shall govern the development and application of the University’s Copyright Policy:
1. Encourage the concept that copyrightable works produced at the University should be used for the greatest possible public benefit;

2. Specify the University’s responsibilities and privileges to encourage and promote intellectual scholarship and creativity;

3. Specify the responsibilities and privileges of faculty, staff and students, and any other person listed above who creates a copyrightable work that falls under this policy when creating and using copyrightable works that utilize University resources, facilities and/or funds; and,

4. Clarify copyright ownership rights.

C. Publication of Scholarly and Artistic Works

By longstanding academic custom and tradition, faculty, teaching assistants, and graduate assistants are free to publish scholarly and artistic works (hereinafter referred to as Scholarly and Artistic Works) they have created, such as books, monographs, journal articles, musical compositions, and artwork in pursuit of their scholarly and research activities. Nothing in this policy shall be construed to override this basic academic custom and tradition.

D. Ownership, Rights and Responsibilities of Copyright

Except as specifically set out below in this Section, ownership of traditional Scholarly Works will be retained by the Creator of such works, whether in print, electronic or other form.

Faculty, teaching assistants and graduate assistants also own copyright in pedagogical materials developed in the regular course of teaching, using resources ordinarily available to all or most faculty members and as defined below in the section on Use of Substantial University Resources. However, when such materials are created at the direction of the University, they will be owned by the University. When such materials are created by teaching or graduate assistants at the direction of a faculty member, these materials will be owned by the faculty member. Notwithstanding the foregoing, the University will retain the right to use such materials internally for pedagogical, scholarly or administrative purposes, even if the Creator leaves the University for any reason.

Students will own the copyright to works created as a requirement of their coursework, degree, or certificate program. However, the University will nevertheless retain the right to use student works internally for pedagogical, scholarly, and administrative purposes.

1. Subject to the traditional freedom to own and publish Scholarly and Artistic Works as described above, the University will retain ownership of copyright for the following types of works:

   a. Works that are created at the University’s direction, unless the University enters into a written agreement that provides otherwise

   b. Works that are created by University staff (non-faculty) within the scope of their employment
c. Works created by faculty administrators, within the scope of their administrative responsibilities d)

d. Works that are created by students in their capacity as employees of the University within the scope of their employment e)

e. Works that are created as a result of external funding where the terms of the funding require that copyright be in the name of the University, or any other agreed upon arrangement.

The University may elect to retain copyright to works created with the Use of Substantial University Resources, as defined below.

When works are created collaboratively with other entities or institutions, the University’s interests and rights in such works shall be recognized and protected consistent with this policy.

When consultants or contractors are retained by the University, such consultants or contractors should execute a written agreement that assigns copyright ownership to the University.

2. In cases where the University owns the copyright in materials created by any person listed above who creates a copyrightable work that falls under this policy, the University will make best efforts to:

a. Recognize the contribution of the Creators

b. Provide the Creators with the first opportunity to make revisions to the work (subject to reasonable deadlines and administrative review)

c. Entertain requests for revisions and updates by the Creators

d. Consult with the Creator before undertaking a commercialization effort

e. Allow Creators to remove their names upon request

f. Allow use of the work in professional contexts that do not create a conflict of interest

g. Entertain requests by the Creators for transfer of ownership to the Creators.

3. In cases where the Creator retains ownership of the copyright, the Creator:

a. Is encouraged, but not required, to appropriately acknowledge the University’s support

b. Will not use the University’s name or logos in connection with the work without the University’s permission, beyond identifying the affiliation of the Creator

c. Will not use the University’s name in a manner that suggests endorsement or commercial association.
The University may, at its sole discretion, waive or release all or a portion of its ownership rights to any intellectual property upon such conditions as the University deems appropriate. Where it is determined that the University is entitled to ownership rights, the University can waive its rights to creation and release the intellectual property to the Creator at any time.

E. Use of Substantial University Resources

As described under D, above, the University may elect to retain copyright to works created with the use of Substantial University Resources. Use of Substantial University Resources refers to the use of University funds, facilities, equipment or other resources not ordinarily available to all or most faculty Creators, and may, but would not always, include external research funding used to create the work, paid or release time awarded to support creation of the work, where the University elects to retain copyright and so informs the faculty, use of University laboratories, use of special equipment or instrumentation, and dedicated use of University employees.

The University will not invoke its right to retain copyright to works created with the Use of Substantial University Resources except in the most clear-cut cases. Use of any or all of the following resources ordinarily available to all or most faculty are not considered Use of Substantial University Resources: academic year salary and benefits, salary received on sabbatical, research or other release time (except where such release is given in explicit support of a defined project where the University elects to retain copyright and so informs the faculty member in advance), office space, library resources, internal research grant support, personal computers and computer infrastructure, normal use of secretarial staff and supplies, and use of instructional support services.

The University will not invoke its right to retain copyright to works created with the Use of Substantial University Resources in the case of Creators using University facilities and resources in the creation of works of artistic imagination.

Whenever a Creator embarks on a project which may make Use of Substantial University Resources, the Creator should seek guidance from the University before commencing such project with respect to whether or not substantial use is involved, and in order to assess whether or not a claim of copyright will be invoked.

F. Fair Use

The fair use provision of the copyright law (section 107) is an important exception to the exclusive rights of copyright owners. Fair use must be determined on a case by case basis by applying guidelines under the following criteria: 1) The character of the use including whether it is for commercial or not-for-profit educational purposes, 2) The nature of the copyrighted work to be used, 3) The amount of the copyrighted work used in proportion to the whole, 4) The effect on the potential commercial market.

In addition, the TEACH Act (Technology, Education, and Copyright Harmonization Act) of 2002 applies copyright law to digital resources used in distance education and the Digital Millennium Copyright Act hereinafter referred to as (DMCA) of 1998 applies to access to and copying of digital materials.
Members of the university community must exercise fair use rights appropriately in teaching, research and service activities. Since defining fair use must be determined on a case-by-case basis, such members of the university community should consult available guidelines before using copyrighted works. Permission should be sought from the authorized copyright owner prior to each use of a copyrighted work by such member of the university community that does not fall clearly within the fair use guidelines.

Links to resources and guidelines regarding fair use, the Teach Act, the DMCA, and in determining when the copyright protection in a work has expired and is in the public domain, may be found at: http://libraries.adelphi.edu/services/reserves.php

G. Royalty Distribution when University Retains Ownership

In recognition of the efforts and contributions of faculty and staff engaged in creating a copyrightable work where the University elects to pursue commercialization, the following revenue distributions shall be made.

All out-of-pocket costs paid by the University relating to the research, discovery and/or patent, including all specific administrative, legal, licensing, marketing, promotional, and other related expenses shall first be reimbursed to the University from the royalty proceeds. Any remaining proceeds shall be deemed the “net proceeds” and shall be distributed as follows:

<table>
<thead>
<tr>
<th>Creator as</th>
<th>Creator’s School:</th>
<th>University</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Income</td>
<td>Research Account for School</td>
<td>50%</td>
</tr>
<tr>
<td>50%</td>
<td>20%</td>
<td>30%</td>
</tr>
</tbody>
</table>

The income distribution in the above table will be a minimum default position that will be followed unless an alternative distribution scheme is negotiated between the Creator and the University. However, in the event of a separate negotiated agreement, the Creator’s portion of the income from such works will be no less than 50%.

The Creator’s rights to share in revenue shall remain with the individual or pass to the individual’s heirs and assigns for as long as net income is derived from the property. Further, when two or more individuals have made substantial creative contributions to the intellectual

\[1\] 50% of the amount allotted to the School or equivalent University Unit will be used specifically to support program development, equipment purchases and other activities that enhance research and development in the Creator’s area of research.
property in question, each individual shall share equally in the share of royalties, unless all individuals previously agreed in writing to a different distribution of such share.

Revenue distributions shall be made on an annual basis in December from the amounts received during the previous fiscal year ending August 31, and the Creator shall be given at the same time a report, showing the computation of the amount remitted.

H. Effective Date of Policy

This policy shall not apply to any research which was commenced or work created prior to the date it is approved by the Board of Trustees of Adelphi University and Adelphi University. However, the Creator at his/her sole discretion may elect to have the terms of the policy applied to said research and/or work.

I. Resolution of Disputes

1) Any disputes arising from the application of this policy that cannot be settled through informal discussions may be resolved following Section 2 and/or 3 below at the Creator’s option.

2) The Creator may bring the dispute to the attention of the Provost for attempted resolution. The Provost and Senate Executive Committee (hereinafter referred to as SEC) shall refer the matter to an ad hoc committee of five people. That committee shall consist of two full-time tenured faculty members (to be determined by the SEC), two members of the University administration and/or faculty (to be determined by the Provost), and an outside expert in the area of the dispute, selected by the Provost, and agreed upon by the Creator. The Provost will select the chair of this ad hoc committee. The Creator shall present his/her case to the ad hoc committee, including all relevant accompanying documentation, and may elect to state his/her case in person. The committee, after a thorough review of the facts and circumstances, shall render its decision to the Provost and SEC, and a final report will be made to the President.

3) The Creator may choose to resort to litigation. In the event of any litigation, actual or threatened, or any other action to protect intellectual property rights, the University may, to the extent permitted by law, withhold distribution and impound royalties until resolution of the matter.

J. Changes to the Policy

Any changes to this policy must be in writing and reviewed by the Intellectual Policy Committee, the Senate Executive Committee, with recommendations to the Provost and President. The Board of Trustees must approve all changes.