***Note: Words contained in brackets indicate that you must choose among the alternatives listed, insert appropriate language, replace the given variable with another or, if the bracketed material is a note to you, like this one, remove the material. Be sure you have addressed all bracketed issues and removed all brackets before signing your agreement.]***

**JOINT CREATION AND OWNERSHIP AGREEMENT**

**Educational Course Materials**

**This Agreement** is made the [date] day of [month], 20[year], by and between [name of author] ("Author," and if there is more than one author then all of them collectively) and [name of institution] ("University").

**Recitals**

The Author and University shall each contribute copyrightable expression to and intend to be joint owners of the educational course materials anticipated to result from this collaboration (the "Work"). The Parties recognize that under law, each could act independently of the other in exploiting the Work, with only an obligation to account to each other for a share of any profits. In furtherance of their mutual objectives, the Parties instead will allocate certain of their jointly held rights and responsibilities as set forth in this agreement.

**THE AUTHOR AND THE UNIVERSITY AGREE THAT:**

**1. Rights Granted**

**[Choose this first set of paragraphs if the parties want only one or the other to have the right to license the Work to others.]**

(a) [Author/University] (the "Exclusive Licensor") shall have the exclusive right to license the Work to others, including, without limitation, the rights described in Section 8.

(b) [Author/University/Each Party] shall retain a nonexclusive right to use the Work for non-commercial educational purposes.

(c) The Parties shall share in royalties, if any, as set forth in Section 7.

**[Choose this second set of paragraphs if both parties will have the right to license the Work or if commercial exploitation is not likely at all.]**

(a) The Parties have not chosen to allocate the exclusive right to commercially exploit the Work to either Party. Both retain all their rights to license the Work to others and to use the Work for non-commercial purposes.

(b) The Parties shall share in royalties from any commercial exploitation by either of them as set forth in Section 7.

**2. Completion of Author's Contribution to the Work**

(a) The Author will prepare and deliver to the University on or before [date] the Author's contribution to the Work (with all illustrations, charts, graphs, and other material, including syllabi, handouts, reference lists, etc., in the medium mutually agreed upon for the Work) in form and content satisfactory to the University.

(b) If the Author fails to deliver Author's contribution on time, the University will have the right to terminate this agreement and to recover from the Author any sums or other resources advanced in connection with the Work. Upon such termination, the Author may not have the contribution to the Work published elsewhere until such advances have been repaid.

**3. Quoted Material**

With the exception of short excerpts from others' works, which constitute fair use, Author's contribution to the Work will contain no material from other copyrighted works without a written consent of the copyright holder. The Author will obtain such consents at his or her own expense after consultation with the University and will file them with the University at the time the contribution is delivered. Any obligations associated with permissions will be the responsibility of the Author.

**4. Publication of the Work**

The Work shall be distributed, transmitted or published by the [University/Author] as soon as circumstances permit after receipt, at its own expense, in such manner as the [University/Author] shall deem appropriate.

**5. Copyright**

The Author authorizes the University to register copyright in the Work in the Author's and University's names in the United States and elsewhere as the University may elect.

**6. Author's Warranty**

(a) The Author warrants that he or she is the sole owner of the Author's contribution to the Work and has full power and authority to make this agreement; that he or she has made a good faith effort to follow the [U.T. System Copyright Policy](http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm) and that the contribution does not infringe any copyright, violate any property rights, or contain any scandalous, libelous, or unlawful matter.

(b) To the extent that an act of the Author that results in a claim of copyright infringement was authorized by the [U.T. System Copyright Policy](http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm), in accordance with that Policy and to the extent authorized by the Constitution and laws of the State of Texas, the U.T. System will defend, indemnify and hold harmless the Author against all claims, suits, costs, damages and expenses that the Author may sustain by reason of such infringement or violation by the contribution of any copyright.

(c) In all other cases, the Author will defend, indemnify, and hold harmless the University and/or its licensees against all claims, suits, costs, damages, and expenses that the University and/or its licensees may sustain by reason of any scandalous, libelous, or unlawful matter contained or alleged to be contained in the Author's contribution to the Work or any infringement or violation by the contribution of any copyright or property right; and until such claim or suit has been settled or withdrawn, the University may withhold any sums due the Author under this agreement.

**7. Consideration**

(a) University will contribute the following resources to the creation of the Work:

[Materials, Hardware, Software, Technical Assistance, Other Assistance, Videotaping, Programming, Teaching Load Credit, or Funding.]

**[Choose one of the following paragraphs.]**

(b) The parties shall share in any revenues from the commercialization of the Work as follows:  University will first recover its resource contribution in the amount of  $\_\_\_, then the Parties shall share profits 50% to the University and 50% to all Authors (to be shared evenly among the Authors if more than one.)

**or**

(b) The parties shall share in any revenues from the commercialization of the Work as follows: The Parties shall share profits 50% to the University and 50% to all Authors (to be shared evenly among the Authors if more than one.)

**or**

(b) The Parties do not anticipate commercial exploitation of the Work and so have not addressed University's recovery of its contribution or allocated royalty percentages to either Party.

**[Please see** [**"What is Consideration?"**](http://utsystem.edu/ogc/IntellectualProperty/Contract/consider.htm) **for more information about how this Section and Section 1, Rights Granted, relate, and how to make this Section reflect your particular needs.]**

**8. Subsidiary Rights**

**[Choose one paragraph depending on which set of paragraphs you chose for** [**Section 1**](http://utsystem.edu/ogc/IntellectualProperty/Contract/jtowners.htm#1)**.]**

The Exclusive Licensor shall have the right to license, sell, or otherwise dispose of the following rights in the Work: Publication or sale by book clubs; reprint rights; foreign rights; translation rights; publication in anthologies, compilations, digests, condensations; first and second serial rights (in one or more installments); dramatic, motion picture, and television rights; broadcast by radio; recordings; electronic, mechanical, and visual reproduction; computer programs; microprint, microfiche, and microfilm editions; syndication rights; permission rights (quotations, excerpts, illustrations, etc.); any other rights to the Work not specifically enumerated; and otherwise utilize the Work and material based on the Work.

**or**

The Parties do not anticipate commercial exploitation of the Work and so have not allocated the exclusive right to license subsidiary rights to either Party.

**9. Revisions**

The Author shall retain the right to revise the Author's contribution to the Work [at one year intervals] during the term of this agreement in accordance with academic standards. The Author further agrees to update the contribution within ninety (90) days upon the receipt of a written request from the University. The provisions of this agreement shall apply to each revision of the Work by the Author as though that revision were the Work being published for the first time under this agreement. In the event that the Author is unable or unwilling to provide a revision within ninety (90) days after the University has requested it, or should the Author be deceased, the University may have the revision made and charge the cost against the Author's royalties and may display, in the revised Work and in advertising, the name of the person or persons who perform the revision.

**10. Term and Termination**

**[Choose this first set of paragraphs if the parties expect to commercially exploit the Work and have given either one or the other the exclusive right to license the Work, in accordance with what you choose in** [**Section 1**](http://utsystem.edu/ogc/IntellectualProperty/Contract/jtowners.htm#1)**.]**

(a) This agreement shall remain in effect for [three (3)] years unless terminated earlier in accordance with this Section 10. Upon expiration of the term and any renewal term(s) agreed upon pursuant to Section 10(d), or upon earlier termination in accordance with Sections 10(b) or (c), the rights granted in the Work shall revert to those provided to joint owners under law.

(b) In the event that either party shall be in default of its material obligations under this agreement and shall fail to remedy such default within sixty (60) days after receipt of written notice thereof, this agreement shall terminate upon expiration of the sixty (60) day period.

(c) The Work shall be considered to be "in use" if it is made available by the Exclusive Licensor for distribution or transmission, offered for sale or licensed for distribution, transmission or sale during the term of this agreement. If the Exclusive Licensor fails to keep the Work in use and the other party makes a written request to terminate this agreement, the Exclusive Licensor shall notify the other party in writing of its decision in the matter within sixty (60) days after receipt of the written request. If the Exclusive Licensor elects to keep the Work in use, it shall have six (6) months thereafter to comply. If the Exclusive Licensor elects not to keep the Work in use or fails to comply with the six (6) months deadline (unless the failure is due to circumstances beyond control), then this agreement shall terminate.

(d) Upon the expiration of the term of this agreement, the parties may agree to renew this agreement for an additional [three (3)] year term, upon the same terms and conditions as set forth herein.

**[Choose this second set of paragraphs if the parties do not expect to commercially exploit the Work or if neither has the exclusive right to license the Work to others under** [**Section 1**](http://utsystem.edu/ogc/IntellectualProperty/Contract/jtowners.htm#1)**.]**

(a) This Agreement shall remain in effect for [three (3)] year(s) unless terminated earlier in accordance with this Section 10. Upon expiration of the term and any renewal term(s) agreed upon pursuant to Section 10(c), or upon earlier termination in accordance with Section 10(b), the rights granted in the Work shall revert to those provided to joint owners under law.

(b) In the event that either Party shall be in default of its material obligations under this Agreement and shall fail to remedy such default within sixty (60) days after receipt of written notice thereof, this Agreement shall terminate upon expiration of the sixty (60) day period.

(c) Upon the expiration of the term of this Agreement, the parties may agree to renew this Agreement for an additional [three (3)] year term, upon the same terms and conditions as set forth herein.

**11. Options/Contracts with Third Parties**

Nothing contained in Section 10 shall affect any license or other grant of rights, options, or agreements made with third parties prior to the termination date or the rights of either Party in the income resulting from such agreements.

**12. Amendments**

The written provisions contained in this agreement constitute the sole and entire agreement made between the Author and the University concerning this Work, and any amendments to this agreement shall not be valid unless made in writing and signed by both parties.

**13. Construction, Binding Effect, and Assignment**

This agreement shall be construed and interpreted according to the laws of the State of Texas and shall be binding upon the parties hereto, their heirs, successors, assigns, and personal representatives; and references to the Author and to the University shall include their heirs, successors, assigns, and personal representatives.

IN WITNESS WHEREOF, the parties have duly executed this agreement as of the date first written above.

|  |  |
| --- | --- |
| Author:   Address: | The University of Texas [at (name of component) ]  By Authorized Officer : |
| Author:  Address: |  |