**Intellectual Property Commercialization Policy**

Final Approval Body: Board of Trustees  
Senior Administrative Position with Responsibility for Policy: Vice-Principal Research  
Date Initially Approved: Click or tap to enter a date.  
Date of Last Revision, if applicable: Click or tap to enter a date.

**DEFINITIONS**

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The definitions of words in the singular in this Policy shall apply to such words when used in the plural where the context so permits and vice versa.

1. **"Applicable Invention"** means an Invention, wholly or partially created by one or more Researcher, Staff and/or Student (i) in the course of their employment by the University and/or (ii) with Use of University Facilities.
2. **"Computer Software"** means any set of instructions or statements, expressed, fixed, embodied or stored in any manner, that is to be used directly or indirectly in a computer to bring about a specific result.
3. **"Contributor"** means any person who has made a material intellectual or artistic contribution to Intellectual Property.
4. **"Independent Commercialization"** means the commercialization of Intellectual Property without using the commercialization services of the University.
5. **"Indigenous Research"** means “research in any field or discipline that is conducted by, grounded in or engaged with First Nations, Inuit, Métis or other Indigenous nations, communities, societies or individuals, and their wisdom, cultures, experiences or knowledge systems, as expressed in their dynamic forms, past and present” (Social Sciences and Humanities Research Council Definition of Terms, Government of Canada 2021).
6. **"Intellectual Property Agreement" or "IPA"** means an agreement between the University and one or more Researcher and/or Student that outlines the required terms for the commercialization services to be provided by the University in relation to an Applicable Invention, including the process for the conveyance of ownership to the University, and the sharing of any net proceeds of commercialization.
7. **"Intellectual Property"** means any subject matter that is a result of intellectual or artistic activity that can be owned and may or may not be eligible for protection by Intellectual Property Rights; such as, but not restricted to, works (including, e.g., creative works, documentation), Computer Software, inventions, trade-marks, industrial designs, trade secrets, data, and confidential information.
8. **"Intellectual Property Rights"** means any right relating to Intellectual Property, such as, but not restricted to, rights to register copyrights and rights under copyrights, moral rights, rights to obtain patents and rights under patents, rights to register trade-marks and rights under trade-marks, rights to register industrial designs and rights under industrial designs, rights under trade secrets and confidential information, and other similar rights in any country.
9. **"Invention"** means any Intellectual Property that is a new and useful art, process, machine, manufacture, or composition of matter, or any new and useful improvement in any art, process, machine, manufacture, or composition of matter, whether or not it would be eligible for a patent.
10. “Invention Disclosure Form” means the form that one or more Researcher, Staff, and/or Student completes for submission to Queen’s Partnerships and Innovation to describe an Applicable Invention, which may include, among other information, an outline of relevant scientific and technical information, potential industry partners, sources of research funding used, and a list of all possible Contributors.

11. “Researcher” means faculty members (whether part-time, full-time, emeritus or adjunct status) and post-doctoral fellows employed by, cross-appointed to, or under contract to provide personal services for the University.

12. “Staff” means administrative, professional and support staff including technicians, teaching and research assistants employed by the University, or under contract to provide personal services for the University. For clarity, where a person fits within the definition of both Staff and Student, for the purposes of this Policy the person shall be considered Staff with respect to any Intellectual Property created in the performance of their employment (e.g., assigned or tasks within scope of role description), except for any Intellectual Property created for the purposes of their academic studies where the person shall be considered a Student.

13. “Student” means all full or part-time students enrolled at the University, including without limitation undergraduate, graduate and visiting or exchange students from other institutions.

14. “Supported Research” means research conducted, in whole or in part, by the University through its Researchers, Staff and/or Students, under an agreement between the University and one or more persons or other legal entities external to the University as outlined in the Queen’s Research Administration Policy.

15. “University” or “Queen’s” means Queen’s University at Kingston, Ontario, Canada.

16. “Use of University Facilities” means the non-trivial use of a University research facility under the supervision of a Researcher. For the purposes of this Policy, use of University resources commonly available to Researchers and/or Student(s), such as wireless networks, maker spaces, libraries and other spaces open to the public, shall not be considered “Use of University Facilities”

PURPOSE OF POLICY
A key objective of the University is to create and disseminate knowledge, generated from intellectual inquiry, for public benefit. The creation and dissemination of knowledge includes the potential to create i) partnership opportunities; ii) innovation activities; and iii) economic impact (e.g., job creation, startup formation and technology licensing). The University has made it a priority to foster innovation by providing support services and programs to promote and enable innovation activities.

It should be noted that it is possible Intellectual Property may be created under different categories by an individual (e.g., a graduate student working as a research assistant). The frame of reference should be considered for each Invention for appropriate application of this policy.

1.1. Ownership of Intellectual Property – Researcher(s) and Student(s)
All Intellectual Property wholly or partially created by a Researcher and/or Student (i) in the course of their employment by the University and/or (ii) with Use of University Facilities shall be owned by the Researcher and/or Student who creates it, except to the extent that such Researchers and/or Students have agreed to an alternative arrangement by written contract.

Where Intellectual Property is created by two or more Researchers and/or Students, such Intellectual Property will be owned by the Contributors in proportion to their respective contributions to its creation, except to the extent that such Researchers and/or Students have agreed to an alternative arrangement.
by written contract. The preceding division of ownership of Intellectual Property will still apply where one or more third parties, including Staff, contribute to the creation of such Intellectual Property.

1.2. **Ownership of Intellectual Property - Staff**
The University will own all Intellectual Property created by Staff in the course of employment or provision of services at the University, with the exception of Staff engaged in a research project that is supervised by a Researcher. In such exceptions, the Researcher shall own all Intellectual Property created by such Staff during the performance of, or related to, the research project supervised by such Researcher.

**SCOPE OF PROPOSED POLICY/PROCEDURE**
This Policy applies to all Intellectual Property created by a Researcher, Staff and/or Student in the course of their employment by the University, and/or with Use of University Facilities.

In the event of a conflict between the provisions of this Policy and the provisions of any current and/or future collective agreement covering a Researcher, Student, and/or Staff, the applicable collective agreement shall govern to the extent of the conflict.

This Policy does not apply to any Intellectual Property Rights in lecture materials, teaching materials, and course syllabuses (hereafter the “Educational Materials”), except where the University has directed the creation of such Educational Materials under a contract that specifies the University owns such Educational Materials.

This Policy does not apply to any Intellectual Property Rights related to or arising from Indigenous Research.

**RESPONSIBILITIES**

**Related Policies, Procedures, Guidelines:**
Commercialization of Applicable Inventions Procedure
Dispute Avoidance and Resolution Procedure

Table Summarizing Policy Guideline
Formation of a Startup to Commercialize Applicable Inventions Guideline

**Policies Superseded by this Policy:**
Collective agreements as noted above.

**Responsible Officer** (senior administrator ultimately responsible): **Vice-Principal Research**

**Contact:** jim.banting@queensu.ca
**Date for Next Review** (five years from initial approval): Click or tap to enter a date.
Commercialization of Applicable Inventions

Final Approval Body: Board of Trustees
Senior Administrative Position with Responsibility for Procedure: Vice-Principal Research
Date Initially Approved: Click or tap to enter a date.
Date of Last Revision, if applicable: Click or tap to enter a date.

PURPOSE OF PROCEDURE

When using the commercialization services of the Queen’s Partnerships and Innovation (“QPI”), the proceeds of commercialization of an Applicable Invention wholly owned by one or more Researcher and/or Student shall be shared 50:50 between the Researcher and/or Student on one side and the University on the other, after the deduction of eligible commercialization costs incurred by QPI pursuant to the terms of an Intellectual Property Agreement.

The Vice-Principal Research, in consultation with senior leadership and Deans, will determine an allocation of the institution’s share of any commercial proceeds.

PROCEDURE

If a Researcher and/or Student has an interest in commercializing an Applicable Invention wholly or partially owned by the Researcher and/or Student, such Researcher and/or Student shall inform the University by submitting an Invention Disclosure Form to QPI.

1. On behalf of the Vice-Principal Research portfolio, QPI will review the Applicable Invention for commercialization feasibility.
   a. Within ninety days QPI will either:
      i. make an offer to commercialize the Applicable Invention in accordance with a proposed Intellectual Property Agreement,
      ii. decline to make an offer to commercialize, or
      iii. recommend further steps and a re-evaluation of the Applicable Invention at a later date.

2. Such Researcher and/or Student may accept or reject QPI’s offer of commercialization services or recommended further steps.
   a. After such a rejection or the lapsing of ninety days from submission of the Invention Disclosure Form, such a Researcher and/or Student may pursue Independent Commercialization, or
   b. If accepted, an Intellectual Property Agreement will govern the commercialization support provided by the University

3. When pursuing Independent Commercialization, no share of proceeds of commercialization shall be owed to the University.

Related Policies, Procedures, Guidelines: None

Procedures Superseded by this Procedure:

In the event of a conflict between the provisions of the aforementioned Procedure and the provisions of any current and/or future collective agreement covering a Researcher, Student, and/or Staff, the applicable collective agreement shall govern to the extent of the conflict.
Responsible Officer (senior administrator ultimately responsible): Vice-Principal Research  
Contact: Jim Banting, Assistant Vice-Principal (Partnerships and Innovation)  
jim.banting@queensu.ca  
Date for Next Review (five years from initial approval): Click or tap to enter a date.

**Dispute Avoidance and Resolution**

Final Approval Body: Board of Trustees  
Senior Administrative Position with Responsibility for Procedure: Vice-Principal Research  
Date Initially Approved: Click or tap to enter a date.  
Date of Last Revision, if applicable: Click or tap to enter a date.

**PURPOSE OF PROCEDURE**
The University recommends that all Contributors discuss treatment of Intellectual Property before starting a new research project. As Intellectual Property may be identified at different phases during the life span of a project, discussions about such Intellectual Property may need to occur at later times or at multiple times throughout the project. As needed, consultations about such Intellectual Property should start informally with University experts, including but not limited to, Department Heads, Deans/Associate Deans (Research) and representatives of Queen’s Partnerships and Innovation (“QPI”). Any areas of concern must be brought forward in these discussions for clarification, so that an agreement can be reached. The agreement must be in writing and may be revised in writing by the Contributors as needed.

For **Student Disputes** - Intellectual Property disputes that are wholly among Students are to be reported to the appropriate Faculty Dean and addressed under the Dean’s processes and jurisdiction. If the dispute cannot be resolved by the Faculty Dean, the Vice-Provost and Dean (Graduate Studies) shall address the dispute under its processes and jurisdiction.

**PROCEDURE**
When Researcher(s) and/or Student(s) cannot reach an agreement about shared Intellectual Property, a dispute is deemed to exist, and the following processes shall apply:

- **Referral to Advisor** – The Researcher and/or Student may contact the Vice-Principal Research portfolio to request a referral to an advisor who will provide confidential advice regarding the matter, prior to the Researcher and/or Student deciding whether to submit a formal written complaint to the Vice-Principal Research. The advisor will be appointed by the Vice-Principal Research and will normally have expertise related to Intellectual Property and to the mechanisms that exist to resolve disputes.
- **Submission of Formal Complaint** – If the preceding step does not resolve the dispute, the Researcher and/or Student must bring forward the complaint that forms the basis of the dispute to the Vice-Principal (Research). The Vice-Principal Research or their delegate will apply the following required procedures:
a. The complaint must be in writing, signed and dated, and contain any evidence regarding the matters in dispute.
b. The Vice-Principal Research or their delegate will endeavor to undertake the review and assessment of the complaint by meeting separately with the Researcher and/or Student within 20 working days.
c. The Vice-Principal Research or their delegate will maintain appropriate confidentiality of the review and assessment process at all phases but may communicate with administrators, witnesses and external agency representatives, as they determine is appropriate to the conduct of a full and fair review and assessment.
d. The University has the responsibility for putting in place appropriate protections for all complainants and witnesses, and when determining appropriate protections in a given case must be especially mindful of the needs of those complainants and witnesses who may be vulnerable due to an imbalance of power between them and any of the disputants; for example, when a junior researcher, student or staff person is in a dispute with a senior researcher.
e. Based on all information gathered during the initial assessment process by the Vice Principal Research or their delegate, the Vice-Principal Research will offer a written recommendation on how the dispute can be resolved.
f. When a dispute involves the Vice Principal Research, the Researcher and/or Student will bring their complaint to the Provost who will be responsible for managing the resolution under these circumstances.

- **Mediation** – If the preceding steps do not yield a resolution to the dispute that is acceptable to the Researcher and/or Student, the Researcher and/or Student and the University shall, by mutual agreement, identify and engage the services of an independent mediator to assist the Researcher and/or Student to resolve the dispute. If mediation is not successful, it is assumed that the relevant parties would likely seek legal action.

The above processes shall remain applicable to parties in a dispute who were a Researcher, Staff or Student at the time the circumstances for the dispute arose.

**Related Policies, Procedures, Guidelines:**
None.

**Procedures Superseded by this Procedure:** [Click or tap here to enter text.]
In the event of a conflict between the provisions of the aforementioned Procedure and the provisions of any current and/or future collective agreement covering a Researcher, Student, and/or Staff, the applicable collective agreement shall govern to the extent of the conflict.

**Responsible Officer** (senior administrator ultimately responsible): Vice-Principal Research
Contact: Jim Banting, Assistant Vice-Principal (Partnerships and Innovation),
jim.banting@queensu.ca
Date for Next Review (five years from initial approval): [Click or tap to enter a date.]
Formation of a Startup to Commercialize Applicable Inventions

Final Approval Body: Board of Trustees
Senior Administrative Position with Responsibility for Guideline: Vice-Principal Research
Date Initially Approved: Click or tap to enter a date.
Date of Last Revision, if applicable: Click or tap to enter a date.

PURPOSE OF GUIDELINE
The University recognizes that startup companies can be an effective approach to the commercialization of early-stage research and innovations. In situations where a startup is based on an Applicable Invention being commercialized with assistance from the University (e.g., under an Intellectual Property Agreement with Contributors), agreements between the University and startup company may be put in place to grant suitable Intellectual Property Rights to such startup. In general, the University will not take an equity ownership in Researcher and/or Student founded startups receiving support services from the University, unless such equity is received as a term of a license agreement between the University and the startup, or as a condition of a specific program offered by the University to fund a startup.

GUIDELINE
A Researcher creating a startup or taking equity in a startup which has rights to use an Applicable Invention is encouraged to:

a. Refer to the University's conflict of interest policies or articles referenced in relevant collective agreements;

b. Discuss with the Department Head and/or Dean of the Faculty or School concerned or other person delegated by the Dean, all proposed activities in which the individual is or proposes to be involved as an employee, consultant, manager, director, substantial shareholder, or owner of any startup operated for the purpose of commercializing Applicable Inventions. Such discussions are encouraged to occur before initiating commercial activity, and periodically throughout the commercialization activities.

Related Policies, Procedures, Guidelines: Various conflict of interest policies and guidelines
Guidelines Superseded by this Guideline:
In the event of a conflict between the provisions of the aforementioned Procedure and the provisions of any current and/or future collective agreement covering a Researcher, Student, and/or Staff, the applicable collective agreement shall govern to the extent of the conflict.

Responsible Officer (senior administrator ultimately responsible): Vice-Principal Research
Contact: Jim Banting, Assistant Vice-Principal (Partnerships and Innovation), jim.banting@queensu.ca
Date for Next Review (five years from initial approval): Click or tap to enter a date.

Table Summarizing Policy

Final Approval Body: Board of Trustees
Senior Administrative Position with Responsibility for Procedure: Vice-Principal Research
Date Initially Approved: Click or tap to enter a date.
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PURPOSE OF PROCEDURE
Table 1 below provides a summary of the Policy, to assist Creators, in determining the applicable provisions of the policy.

PROCEDURE
Table 1

<table>
<thead>
<tr>
<th>Invention Ownership</th>
<th>Obligation to disclose Invention prior to commercialization?</th>
<th>Sharing of Proceeds with University Commercialization Support (Contributor: University)</th>
<th>Sharing of Proceeds with Independent Commercialization (Contributor: University)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Researcher</td>
<td>Contributor</td>
<td>Yes</td>
<td>50:50</td>
</tr>
<tr>
<td>Student - Using University Facilities</td>
<td>Contributor</td>
<td>Yes</td>
<td>50:50</td>
</tr>
<tr>
<td>Student – Not Using University Facilities</td>
<td>Contributor</td>
<td>No</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Staff</td>
<td>University</td>
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<td>Not Applicable</td>
</tr>
<tr>
<td>Staff – Supervised by a Researcher</td>
<td>Supervising Researcher</td>
<td>Yes</td>
<td>50:50</td>
</tr>
</tbody>
</table>

Related Policies, Procedures, Guidelines: None.

Procedures Superseded by this Procedure: Click or tap here to enter text.
In the event of a conflict between the provisions of the aforementioned Procedure and the provisions of any current and/or future collective agreement covering a Researcher, Student, and/or Staff, the applicable collective agreement shall govern to the extent of the conflict.

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