Stephen F. Austin State University
Joint Creation and Ownership Agreement

This Agreement is made the _____ day of _____, _____, by and between the Course Developer identified below ("Course Developer", and if there is more than one course developer then all of them collectively) and Stephen F. Austin State University ("University").

Course Developer: _____   Campus ID (CID):   _____

Course Prefix/Number: _____

Recitals

SFA Policy 9.4, Intellectual Property, provides that "*[w]orks, including the development or redevelopment of fully online courses, may be created through the joint efforts of faculty, employees working within the scope of employment, and/or others under contract to provide services. Such joint works are jointly owned by the faculty member and university. Ownership agreements shall be executed to memorialize the parties' intentions and avoid later confusion over ownership rights. Any of the joint owners may register and enforce the copyright in the names of all owners with accounting. In the absence of an agreement on the division of revenues, they will be shared pro rata after recouping costs.*"

The Course Developer and University 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 COURSE DEVELOPER AND THE UNIVERSITY AGREE THAT:

1. Rights Granted / Commercial Exploitation

(a) Both Parties retain all their rights to license the Work to others and to use the Work for non-commercial purposes.

(b) The Parties do not anticipate commercial exploitation of the Work and therefore have not chosen to allocate the exclusive right to commercially exploit the Work to either Party. In the event either party desires to exploit the Work for commercial gain, the Parties will, in accordance with university policy and after taking into account University's recoupment of costs associated with its contribution to the Work, negotiate in good faith an addendum to this Agreement to determine appropriate compensation and/or division of royalties.

2. Completion of Course Developer's Contribution to the Work

The Course Developer will prepare and deliver to the University the Course Developer'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.

3. Quoted Material

With the exception of short excerpts from others' works, which constitute fair use, Course Developer's contribution to the Work will contain no material from other copyrighted works without a written consent of the copyright holder. The Course Developer 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 Course Developer.

4. Copyright

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

5. Course Developer's Warranty

(a) The Course Developer warrants that he or she is the sole owner of the Course Developer'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 University's Intellectual Property policy and the University's Reproduction of Copyrighted Works by Educators and Librarians policy 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 COURSE DEVELOPER THAT RESULTS IN A CLAIM OF COPYRIGHT INFRINGEMENT WAS AUTHORIZED BY THE UNIVERSITY'S INTELLECTUAL PROPERTY POLICY AND/OR THE UNIVERSITY'S REPRODUCTION OF COPYRIGHTED WORKS BY EDUCATORS AND LIBRARIANS POLICY, TO THE EXTENT AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE UNIVERSITY WILL DEFEND, INDEMNIFY AND HOLD HARMLESS THE COURSE DEVELOPER AGAINST ALL CLAIMS, SUITS, COSTS, DAMAGES AND EXPENSES THAT THE COURSE DEVELOPER MAY SUSTAIN BY REASON OF SUCH INFRINGEMENT OR VIOLATION BY THE CONTRIBUTION OF ANY COPYRIGHT.

(c) IN ALL OTHER CASES, THE COURSE DEVELOPER 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 COURSE DEVELOPER'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 COURSE DEVELOPER UNDER THIS AGREEMENT.

6. Consideration

University will contribute the following resources to the creation of the Work:

Materials, Hardware, Software, Technical Assistance, Programming, Teaching Load Credit, and/or compensation in the amount of $_____. Any monetary compensation will be made only upon the University's acceptance of Course Developer's contribution to the Work as described in Section 2.

7. Subsidiary Rights

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.

8. Revisions

The Course Developer shall retain the right to revise the Course Developer's contribution to the Work at one year intervals during the term of this Agreement in accordance with academic standards. The provisions of this Agreement shall apply to each revision of the Work by the Course Developer as though that revision were the Work being published for the first time under this Agreement. If the University believes a revision is necessary and no timely revision is made, or if the revision is made and, in the University's opinion, it does not meet academic standards, the University may refuse to market the Work or the University may have the revision made and may display, in the revised Work, the name of the person or persons who perform the revision.

9. Term and Termination

(a) This Agreement shall remain in effect for five (5) years unless terminated earlier in accordance with this Section 9. Upon expiration of the term and any renewal term(s) agreed upon pursuant to Section 9(c), or upon earlier termination in accordance with Section 9(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 five (5) year term, upon the same terms and conditions as set forth herein. Such renewal will be reduced to writing and executed by the Parties.

10. Options/Contracts with Third Parties

Nothing contained in Section 9 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.

11. Amendments

The written provisions contained in this Agreement constitute the sole and entire agreement made between the Course Developer 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.

12. 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 Course Developer 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.

Course Developer: Stephen F. Austin State University

Address: By President:

Course Developer:

Address: