

## UNIVERSITY OF MANITOBA POLICY

<b>Policy:</b>	<b>ALLOCATION OF REVENUES DERIVED FROM PLANT VARIETIES DEVELOPED AT THE UNIVERSITY</b>
<b>Effective Date:</b>	March 26, 2002
<b>Revised Date:</b>	July 3, 2013
<b>Review Date:</b>	July 3, 2023
<b>Approving Body:</b>	Board of Governors
<b>Authority:</b>	
<b>Responsible Executive Officer:</b>	Vice-President (Research and International)
<b>Delegate:</b>	
<b>Contact:</b>	Vice-President (Research and International)
<b>Application:</b>	All Employees

### Part I Reason for Policy

#### 1.1 Whereas:

- (a) The duties of certain academic staff members in the Faculty of Agricultural and Food Sciences (the "Faculty") include the development and propagation of plant varieties and seed;
- (b) Certain rights arising from development of plant varieties and seeds are set out in the Plant Breeders' Rights Act (Canada), or such other substitute or amended legislation as may be enacted from time to time (the "Act");
- (c) The University is the owner of all plant varieties developed at the University; and
- (d) A plant variety that is owned by the University may be licensed by the University in exchange for the payment of royalties

## Part II Policy Content

### Definitions

- 2.1 The following terms have the following defined meaning for the purpose of this Policy:
- (a) **Variety Developer(s)** means: an academic staff member, graduate student, post doctorate or research associate of the University who is named on the Variety List as a developer of a plant variety;
  - (b) **Variety List** means: a report provided by the Department Head to the Dean of the Faculty and to the Vice-President (Research and International) annually which contains the plant variety and the name(s) of the Variety Developer(s) for the preceding fiscal year together with the percentage of net royalties that will be allocated to each of the Variety Developer(s);
  - (c) **Department** means: the Department of Plant Science;
  - (d) **Faculty** means: the Faculty of Agricultural and Food Sciences;
  - (e) **fiscal year** means: the University's fiscal year ending March 31, or such other date as may be from time to time determined by the University as the end of the budget year;
  - (f) **net royalty(ies)** means: revenue in any given fiscal year received by the University for the license or sale of a particular plant variety (the "revenue") less:
    - (i) royalty payments to, or royalty sharing arrangements with, a company associated with a particular plant variety; and
    - (ii) 45% of the revenue, which amount shall be used in the manner and for the purpose set out in paragraph 3 under the heading of "Use of Net Royalties by the Faculty" herein below;
  - (g) **plant vareity(ies)** means: a "strain" of a unique plant species developed at the University in the Department whether or not recognized under the Act.

### Allocation of Net Royalties

- 2.2 Net royalties shall be distributed in equal shares as between the University and the Variety Developer(s).

- 2.3 Net royalties shall be distributed to the Variety Developer(s) by the University once annually, usually within 60 days of the end of the fiscal year, in respect of net royalties received for that fiscal year.

### **Use of Net Royalties by the Faculty**

- 2.4 The percentage of net royalty identified in (f)(ii) under the heading of "Definitions" hereinabove, shall be used by the Department for plant variety development programs and associated expenditures of the Department, in a manner and for purposes as recommended by the Head of the Department, in consultation with the Variety Developer(s) to the Dean of the Faculty who shall make the final budgetary allocation.
- 2.5 The Department Head shall provide the Variety List to the Dean of the Faculty and to the Vice-President (Research and International) annually in respect of the preceding fiscal year within 30 days of the end of that fiscal year.
- 2.6 With respect to each plant variety giving rise to net royalties, the Head of the Department shall prepare and submit a report to the Dean of the Faculty and the Vice-President (Research and International), which report shall review the allocation of revenue and net royalties by the Faculty in respect of the preceding fiscal year, within 30 days of the end of that fiscal year.

### **Effective Date**

- 2.7 This policy shall be deemed to be effective and shall apply to any net royalties accruing, owed, due or payable as of April 1, 2000, regardless as to the date of development of the plant variety giving rise to the net royalties.

### **Dispute Resolution**

- 2.8 Any disputes arising from the Variety List shall be referred to the Vice-President (Research and International) and the Dean of the Faculty for final consideration.

## **Part III Accountability**

- 3.1 The Office of Legal Counsel is responsible for advising the Vice-President (Research and International) that a formal review of this Policy is required.
- 3.2 The Vice-President (Research and International) is responsible for the implementation, administration and review of this Policy.
- 3.3 All employees are responsible for complying with this Policy.

#### **Part IV Review**

- 4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Policy is July 3, 2023.
- 4.2 In the interim, this Policy may be revised or repealed if:
- (a) the Vice-President (Research and International) or Approving Body deems it necessary or desirable to do so;
  - (b) the Policy is no longer legislatively or statutorily compliant; and/or
  - (c) the Policy is now in conflict with another Governing Document.

#### **Part V Effect on Previous Statements**

- 5.1 This Policy supersedes all of the following:
- (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
  - (b) all previous Administration Governing Documents on the subject matter contained herein.

#### **Part VI Cross References**

- 6.1 This Policy should be cross referenced to the following relevant Governing Documents, legislation and/or forms: