

**AGREEMENT FOR THE PRODUCTION OF NEW OR  
REPURPOSED COURSE MATERIALS TO BE OFFERED  
THROUGH THE VIRTUAL COLLEGE**

A. This Agreement is entered into as of the \_\_\_ day of \_\_\_\_\_, 2001, by the between the Virtual College acting on behalf of Fort Hays State University (collectively "FHSU") and \_\_\_\_\_, an Author in the Department of \_\_\_\_\_ of Fort Hays State University (the "Author").

All Material created under this Agreement will collectively be called "the Product." All Material produced under this Agreement may be used alone or as supplement to existing commercially produced material and offered as a course of study to be called the "Course".

B. FHSU desires the flexibility to use the Product in a variety of different contexts, whether through distance learning or in face-to-face classroom education, for purposes of educating students.

C. The Author desires to produce such Product to create a course or supplement to a course and to make it available to students in a variety of different formats, including videotapes, audiotapes, CD-ROMs, world wide web, or other media, and to allow FHSU to utilize the Product in many different contexts and through many different arrangements, including but not limited to broadcast, cablecast, rebroadcast, duplication and distribution.

D. The Virtual College and the Author agree that the Department and other appropriate parties

(e.g. General Education Committee) may review the content of the Product. The Virtual College and the Author agree that the Department and other appropriate parties may request and have changes made to the content. Expenses for these changes will be negotiated by all affected parties.

E. The Author, by developing the Product, and FHSU, by providing tangible support, adding value, and contracting for the Product, claim joint ownership of the Product and all rights flowing from such ownership.

F. The Author agrees that the Product is created by the Author within the scope of

G. The Author agrees to acknowledge the support of FHSU in developing and publishing the Product for the course. All materials created for the Product must include a statement "Developed for Fort Hays State University by Author, date."

The parties hereby agree as follows:

**.1. Production of Work**

**.1.1. Description and Purpose.** The Author shall produce all original or supplemental materials (the "Product"), appropriate for teaching the Course, as described on Exhibit

A.

1. **1.2. Funding and Other Support.** FHSU shall provide appropriate financial, equipment, and staff support to assist the Author in preparation of the Product as described on Exhibit A.

2. **1.3. Deadline.** The Author shall deliver to FHSU the Product in a completed state, suitable for immediate classroom or distance learning use, and as outlined in Exhibit A. The Product will be completed as per procedures on or before the following date:

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**.2. Rights of Use of the Product**

**.2.1. University Rights of Use.** Subject to the restrictions set forth in this Agreement, FHSU shall have the right to use the Product as a course or as supplement to a course in perpetuity and the right to transform the Product to another medium. FHSU's rights include the right to reproduce, market, distribute, perform and transmit the Product and to prepare derivative works based on the Product in furtherance of FHSU's allowed uses including the right to convert the Product to another medium in accordance with permission of the Author.

1. **2.1.1. First Right of Refusal to Teach the Course.** The Author has the first right of refusal to teach the course for FHSU.

2. **2.1.2. Scheduled Courses.** The Product, or parts thereof, shall be used only in connection with scheduled courses (whether credit or non-credit) with enrolled students or in connection with independent study by enrolled students.

3. **2.2. Publication and Sales of Fixed Media.** FHSU shall have the right to publish, to sell, or to authorize others to sell or make other distributions of the Product for instructional purposes.

**.2.3. Archival Collection.** FHSU may retain copies of the Product for archival purposes. FHSU may also make archival copies of the Product available to any persons who have access to Forsyth Library or other facility at FHSU where such copies will be retained. FHSU has no obligations to restrict access to such archival materials.

**.2.3.1. Use for Faculty training.** FHSU has the right to use the Product in an archival collection as a resource for FHSU faculty to use in other course preparation and in faculty development.

**.2.4. Author's Rights of Use.** Throughout the term of this Agreement, the Author reserves the exclusive right to use the substantive content of the Product, without further consent or approval from FHSU, in any scholarly or creative works that do not compete with FHSU's actual or planned use of the Product, subject to laws of the State of Kansas, Policies of the Kansas Board of Regents, and the Policies and Procedures of FHSU. In particular, the Author will have the right to use the content with no expense to FHSU in textbooks, journal articles, conference presentations, consulting projects, and other scholarly works or professional activities. The Author may also allow or arrange for the reproduction, packaging, and distribution of all or part of the Product for use in

connection with a textbook or other teaching materials developed by the Author for the general education market.

1. **2.4.1. Use Upon the Author Leaving FHSU.** The Author agrees that if the Author leaves FHSU, the Product may be taken with the Author, subject to the conditions below:

2. **2.4.2. Restriction on the Author's Use of the Product For Teaching Elsewhere.**

The Author agrees that the Author will not use the Product to compete with FHSU in Kansas. The Author also agrees to enter into an Agreement with FHSU to use the Product outside Kansas, including a license Agreement with any third party to utilize the Product.

**2.4.3. Distribution of Net Profit if the Author Leaves.** If FHSU markets the product, the Author will receive 50 percent of the net income and FHSU will receive 50 percent of the net income, unless otherwise negotiated. The Product shall be considered jointly owned for the distribution of net profit, unless otherwise negotiated.

### **.3. Rights of Control and Credit**

**.3.1. Quality, Clarity, Currency.** The joint parties shall have full control of the substantive and intellectual content of the Product, both at the time of their production and at any time during the Product's use by FHSU. The joint parties can cause changes to be made to maintain curricular coherence. Changes can be initiated by one or both parties.

**.3.1.1. Supplemental Revisions and Updates.** The Author shall produce any revised or supplemental materials defined or updates, as suggested by the reviewing parties appears in order to reflect developments or insights that come to the Author's attention following completion of the Product and before the expiration of FHSU's rights of use. Both parties must agree that the changes are required and permission will not be unduly withheld. If the updates are mutually agreed, then FHSU will support the financial and staff requirements for modifying the Product. If FHSU or the Author do not believe the changes are required, then the likely outcome may be the expiration of the use of the Product by both parties.

1. **3.2. Named Credit.** The Author(s) shall receive full credit as the named author(s) or principal developer(s) of all copies of the Product prepared by or authorized by FHSU. A statement in the works shall state: "Developed for Fort Hays State University by Author, Date". Application for Copyright shall be applied for by FHSU with the Office of Patents and Copyright. It is understood that joint copyright is held from the point of creation by the Author and FHSU.

2. **3.3. No Indemnification by the Author.** The Author shall not include in the content of the Product any content which the Author knows to constitute libel, invasion of privacy, infringement of copyright or other literary rights, or otherwise violate the legal rights of any persons who are not a party to this Agreement. Any responsibility or liability for such violations shall be treated in a manner consistent with the customary treatment of similar violations as they may occur in the context of traditional teaching at

FHSU. Otherwise, the Author makes no indemnification and no warranty to FHSU with respect to the appropriateness of including any content in the Product. Should the University conclude that any of the content of the Product may violate such rights of third parties, the procedure and the right to make revisions shall be that of the Author with no compensation to the Author to correct the violations. Pending such revisions, FHSU shall have the right to remove the portions of the Product that create the potential violations before making any further use of the Product pursuant to this Agreement.

**4. Copyright Ownership**

1. **4.1. FHSU Ownership.** FHSU shall retain copyright ownership of the Product, subject to the rights granted to the Author pursuant to this Agreement. At no time shall FHSU assign or transfer any or all of the copyright ownership privileges associated with the Product to any person, other than the Author, without the Author's consent.
2. **4.2. Copyright Registration.** The Author authorizes FHSU to register copyright of the Product in the name of Fort Hays State University with the U.S. Patent and Copyright Office and elsewhere as FHSU may elect.

**5. Miscellaneous Items**

- 5.1 Default.** In the event that either party defaults in its material obligations under this Agreement and shall fail to remedy said default in thirty (30) days after receipt of written notice thereof, this Agreement shall terminate upon expiration of the thirty-(30) day period.
1. **5.2 Compensation** will be negotiated on an individual basis on the type of product to be produced and the support requires and requested by the Author(s).

Reviewed prior to the signing of the agreement.

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Dept. Chair Dean of College

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
General Education Chair (if appropriate) Dean of Graduate Studies  
and Research (if appropriate)

I understand and agree to the above terms and negotiated payment of \$\_\_\_\_\_.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Instructor Date Dean, Virtual College

c. Faculty member Virtual College Department Chair College Dean Center for Teaching Excellence and Learning Technology