I. POLICY SUMMARY:

Children’s Healthcare of Atlanta, Inc. (“Children’s”) has established an Intellectual Property Policy to support research and development of commercially valuable works.

The Policy is intended to encourage, support, reward and recognize the rights and interests of the Contributors and the Sponsor(s).

Children’s will own all copyrightable, patentable, registered or other Intellectual Property created or developed by Children’s Personnel if the Intellectual Property is related to Children’s Personnel normal duties or is created or discovered with the use of Children’s Support.

This Policy will apply to Children’s Personnel who may receive Children’s Support, visitors with research duties at Children’s or others who receive Children’s Support, and Students. Non-employees will own the Intellectual Property they create except where Intellectual Property is (1) work-for-hire; (2) supported by Children’s Support; (3) commissioned by Children’s; (4) made with significant use of Children’s Support or Children’s Personnel; or (5) subject to contractual obligations.

Within the Policy is a Distribution of Net Revenue section to provide guidelines to be followed in distributing the Net Revenue.

II. PREAMBLE TO CHILDREN’S HEALTHCARE OF ATLANTA INTELLECTUAL PROPERTY POLICY

Children’s mission embraces three means to achieve our defining purpose. We strive to enhance the lives of children through excellence in patient care, research and education.

To support this mission and the commitment to use research and education to enhance the lives of children, Children’s has established this Intellectual Property Policy and these procedures.

Although Children’s does not undertake research or developmental work principally for the purpose of developing patents and commercial applications, patentable inventions
and/or other valuable works sometimes result from the activities carried out wholly or in part with Children’s funds and facilities. This Policy is intended to encourage, support, reward and recognize the rights and interests of the Contributors, the public and the Sponsor(s).

In establishing this Policy, Children’s recognizes employees pursue areas of study and concentration, share the results of their intellectual efforts with colleagues and Students and retain the traditional academic freedoms for the conduct of scholarly and scientific work. In addition, it is intended that application of this Policy will take into consideration principles of open and full disclosure, overall equity, fairness to the Contributors and Children’s, and the need for understanding and goodwill among the parties who have an interest in Intellectual Property.

III. OWNERSHIP OF INTELLECTUAL PROPERTY

Children’s will own all copyrightable, patentable, registered, claimed or other Intellectual Property created or developed by Children’s Personnel if the Intellectual Property either (a) is related to the Children’s Personnel’s normal duties (including clinical duties), course of studies, field of research or scholarly expertise, or (b) was made with the use of Children’s Support.

A. Copyrightable Works. In keeping with tradition, Children’s does not assert its rights in academic or scholarly Copyrightable Works, such as books, articles, and creations, including Works-for-Hire, except under circumstances in which the Copyrightable Works are either (a) related to Children’s Personnel’s normal duties (including clinical duties), course of studies, field of research or scholarly expertise, or (b) made with the use of Children’s Support.

If there is any question as to whether a Copyrightable Work falls within the category of exempt Copyrightable Works, a determination will be made by the Director of Research who shall have consulted with the Office of General Counsel (“OGC”). If the Director of Research is unable to make a determination, or if the Children’s Personnel wishes to appeal the determination, the issue will be presented to the Senior Vice President of Academic Administration who will finalize the decision with Executive Leadership. After receiving the advice of the OGC, Executive Leadership will make the final decision.

B. New Media. Ownership rights and control of the content included in New Media are governed by copyright and patent law and the provisions of this Policy regarding Copyrightable Works. Subject to this Policy, Children’s will assert ownership in New Media works under circumstances in which the content included in New Media (a) is related to the Children’s Personnel’s normal duties (including clinical duties), course of studies, field of research or scholarly expertise, or (b) was made with the use of Children’s Support.
If there is any question as to whether a New Media work falls within the category of exempt Copyrightable Works, a determination will be made following the procedure set out in Section III.A.

C. **Patentable and Other Intellectual Property.** Children’s will assert ownership rights to patentable and other Intellectual Property not covered by Section III.A or III.B which (a) is related to the Children’s Personnel’s normal duties (including clinical duties), course of studies, field of research or scholarly expertise, or (b) was made with the use of Children’s Support.

D. **Trademarks and Service Marks.** Children’s will assert ownership rights to all related Trademarks and Service Marks in all circumstances. This applies to both common law claimed marks and registered marks.

**IV. OBLIGATIONS OF CHILDREN’S PERSONNEL (INCLUDING VISITORS AND STUDENTS)**

A. **Children’s Personnel.** All Children’s Personnel shall be bound by this Policy. Children’s Personnel who may receive Children’s Support may also be required to sign an Intellectual Property Rights Agreement Form (the IP Rights Agreement, Exhibit A), to be filed in the following locations:

- Original to be retained by signatory;
- Original to be retained by the Department Vice President;
- Copy to the relevant Supervisor; and
- Original to the OGC.

Children’s Personnel are bound by this Policy regardless of whether they have signed an IP Rights Agreement.

A. **Visitors.** In the event a visitor participates in research or receives Children’s Support for research, the visitor will be required to sign a Visitor’s Intellectual Property Agreement (Exhibit B), available from the OGC. Visitors are obligated to adhere to the provisions of this Policy regardless of whether they have signed a Visitor’s Intellectual Property Agreement.

B. **Students.** Children’s generally does not claim ownership of Intellectual Property created by Students in the course of their education. Student Contributors will own the Intellectual Property they create, except where the Intellectual Property:

- Is a Work-for-Hire;
- Is supported by allocation of funds through Children’s for a specific project;
- Is commissioned by Children’s;
Makes significant use of Children’s Support or Children’s Personnel; or
Is otherwise subject to contractual obligations.

Students will promptly disclose to the OGC the existence of any Intellectual Property to which they have contributed (that is, Intellectual Property to which Children’s may assert ownership rights pursuant to Section III).

Externally funded research may be subject to an agreement that imposes certain restrictions upon Children’s and/or Children’s Personnel regarding Intellectual Property rights and confidentiality. If a Student wishes to participate in Children’s research under an agreement that imposes restrictions on Intellectual Property rights or confidentiality, an employee or the Student will make a written request to the Director of Research who, after consulting with the OGC, may grant permission, in writing, for the Student to participate in that research. For good cause shown, the Director of Research may also, after consulting with the OGC, grant permission for a Student to enter into agreements that bind the individual(s), but not Children’s. However, Students may not engage in research leading to a thesis or dissertation under an agreement that imposes such restrictions regarding Intellectual Property rights and confidentiality.

V. DISCLOSURE OF INTELLECTUAL PROPERTY TO THE DIRECTOR OF RESEARCH

Children’s Personnel will promptly disclose the existence of any Intellectual Property (that is, Intellectual Property to which Children’s may assert ownership rights pursuant to Section III) to the Director of Research. Delay in contacting the Director of Research may compromise the ability to secure effective legal protection for Intellectual Property. Publication or presentation of research results prior to filing a patent application may substantially compromise patent protection both in the United States and in foreign countries. Prompt disclosure is also necessary to ensure that the appropriate research Sponsor is notified in a timely manner and that Children’s is in compliance with the federal laws governing research or regulating the Sponsor.

The Children’s Intellectual Property Disclosure Statement Form (Exhibit C) is available from the OGC. Children’s Personnel are encouraged to contact the OGC staff with questions.

The Research Department will review all disclosures, obtain a preliminary determination as to the patentability and marketability of the Technology, and notify the Children’s Personnel of its decision as soon as is reasonably possible.

VI. RELEASE OR ASSIGNMENT OF CERTAIN INTELLECTUAL PROPERTY

At the time of disclosure of Intellectual Property (that is, Intellectual Property to which Children’s may assert ownership rights pursuant to Section III) to the Director of
Research, or at any time thereafter, Children’s Personnel may petition Children’s to release or assign ownership of the Intellectual Property by completing a Petition for Release or Assignment (available from the OGC), obtaining approval from his/her Supervisors and submitting the form to the OGC, which office will submit the form with its recommendation to Children’s Executive Leadership for final approval. An approved petition is required when Children’s Personnel intend to pursue commercial development of Intellectual Property independently. Circumstances may exist where Children’s is not interested in pursuing the commercialization of the Intellectual Property, and that determination will be made by Executive Leadership. Petitions will be processed as soon as is reasonably possible, which shall mean not more than 120 days from the completion of the submission.

Under all circumstances, Children’s will retain a non-exclusive, royalty-free, perpetual license to use any released or assigned Intellectual Property for research, clinical service, and educational purposes.

VII. DISTRIBUTION OF NET REVENUE

It is anticipated that certain Children’s Intellectual Property will generate revenue in various forms, including, but not limited to Royalties or Equity. This section provides the guidelines to be followed in distributing the Net Revenue derived from this Intellectual Property.

The Net Revenue allocated to Children’s pursuant to a licensed Technology or Copyrighted Work will be distributed by Children’s in accordance with Table 1 “Distribution of Net Revenue.” Such distribution will take place not less than quarterly, unless otherwise agreed upon. Revenues generated from Children’s Intellectual Property disclosed on or prior to the date on which this Policy is adopted by Children’s will be distributed as provided in this Policy. Children’s Personnel are not entitled to receive interest on sums deposited into or held by Children’s.

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Distribution of Net Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contributor Share</td>
<td>Gross Revenue up to $25,000</td>
</tr>
<tr>
<td>Program Share*</td>
<td>100%</td>
</tr>
<tr>
<td>General Children’s Share*</td>
<td>0%</td>
</tr>
</tbody>
</table>

* When the Bayh-Dole Act applies to Intellectual Property, the Program Share and General Children’s Share shall be used for education and research. Any questions concerning whether the Bayh-Dole Act applies shall be directed to the OGC for resolution.
A. **Contributor Share.** Contributors to Children’s Intellectual Property that generates Net Revenue are entitled to receive one hundred percent (100%) of the first $25,000.00 in Gross Revenue, and thereafter a portion of Net Revenue. Children’s Personnel receiving Contributor Share funds will be responsible for any personal tax obligations that may arise. Children’s will assume that all Contributors contributed equally to the development of Intellectual Property, unless Contributors request a different allocation. To be effective, such a request must be made by all Contributors in writing to OGC and signed by all Contributors. Contributors shall have the right to designate other individuals who participated in the design and/or development by submitting the designation in writing to the OGC. If any dispute arises as to the allocation of Contributors Share among multiple Contributors, or as to whether a Children’s Personnel is a Contributor, the dispute will be resolved as set forth in Section XI, Conflict Resolution.

Contributors will be entitled to receive their Contributor Share funds if they leave the employment of Children’s. The estate or designated beneficiaries of a deceased Contributor will be entitled to receive his/her Contributor Share funds. In the event of any dispute or delay arising in the course of probating the estate of a Contributor, Children’s will be entitled to retain the Contributor Share in an escrow account until the dispute or delay is resolved.

B. **Program Share.** Use of funds in this account will be subject to the policies established by the Senior Vice President/Chief Financial Officer in consultation with Executive Leadership.

C. **General Children’s Share.** A portion of the Net Revenue generated by Children’s Intellectual Property will be allocated to a General Children’s account. Distribution of these funds will be done upon the review and approval of the Senior Vice President/Chief Financial Officer in consultation with Executive Leadership.

**VIII. DISTRIBUTION OF EQUITY**

A. **Contributor Equity.** It is anticipated that certain Children’s Intellectual Property will generate revenue in the form of Equity. This section provides the guidelines for the distribution of any Equity that Children’s receives in the exchange for the grant of rights to Children’s Intellectual Property. Contributors will be allowed to receive such Equity subject to and consistent with the following policies:

- This IP Policy;
- Individual Conflict of Interest Related to Human Subject Research; and
- Children’s Standards of Conduct.

All arrangements for the receipt of Equity by Contributors must be approved in advance by the OGC and the Senior Vice President/Chief Financial Officer in consultation with Executive Leadership.
B. Children’s Equity. Equity received by Children’s will be distributed according to the distribution formula set forth in Table 1, column 2 (“Net Revenue up to $4 million”) either from Children’s promptly upon receipt from the Commercial Venture, or directly from the Commercial Venture.

IX. INTELLECTUAL PROPERTY DEVELOPED WITH EXTERNAL FUNDING OR JOINTLY DEVELOPED WITH A THIRD PARTY

Notwithstanding any other provisions of this Policy, all compensation received by Children’s, resulting from Children’s Intellectual Property developed in whole or in part with funds received from a source outside Children’s or developed jointly with a third party, will be used in compliance with any terms or conditions of the agreement with such granting agency or source.

X. INTELLECTUAL PROPERTY DEVELOPED BY THIRD PARTIES WITH CHILDREN’S FUNDING

The funding of outside research by Children’s shall be only pursuant to written agreement providing for terms that return to Children’s an appropriate return on the funding. The distribution of Net Revenue and distribution of Equity shall be generally in line with the provisions of this Policy. Exceptions may be made in consultation with the OGC.

XI. CONFLICT RESOLUTION

Unless otherwise provided in this Policy, any disputes that arise will be resolved by Executive Leadership in consultation with the OGC, the Senior Vice President for Academic Administration and the Director of Research.

XII. USE OF CHILDREN’S NAME, LOGO OR TRADEMARKS/SERVICE MARKS

Use of Children’s name, logo or marks in any commercial setting requires prior written approval from Children’s. Requests for such approval should be submitted to the Marketing Department, and a decision will be made in conjunction with the OGC.

Forms: [maintained in OGC]

A. Intellectual Property Rights Agreement
B. Visitors Intellectual Property Rights Agreement
C. Intellectual Property Disclosure Statement
D. Petition for Release or Assignment
APPENDIX A

Definition of Terms

For the purposes of this Intellectual Property Policy, the following terms will have the following meanings:

**Affiliates** shall mean (i) any entity owned or controlled by Children’s Healthcare of Atlanta, Inc. and (ii) Children’s Pediatric Research Trust.

**Author** shall mean any individual who has participated in the creation of a work that may be protected under United States copyright law, 17 U.S.C. §102.

**Background Technology** shall mean all inventions, information, materials, reports, samples, trade secrets, Intellectual Property and know-how, in whatever form, that are owned by Children’s and/or by a third party, pre-exist any specific Intellectual Property, and are required for the use or practice of such Intellectual Property developed in accordance with this Policy.

**Commercial Venture** shall mean any legal entity that has licensed or intends to license Children’s Intellectual Property for further development or commercialization.

**Commercialization Costs** shall mean all payments made to third parties for the following costs and expenses:

- Actual expenses incurred by Children’s in protecting, developing or marketing any Children’s Intellectual Property;
- Actual expenses associated with negotiations in connection with licensing any Children’s Intellectual Property; or
- Contractual obligations associated with any Children’s Intellectual Property, such as distributing revenues to joint inventors who are not Children’s Personnel.

**Confidential Information** shall mean any and all information relating to the businesses or Intellectual Property of Children’s and its Affiliates, including both information existing before the issue date of this Policy and information generated after the issue date. “Confidential Information” may be any information, data, or know-how in any form, including documented information, machine-readable or machine-interpreted information, information contained in physical components, designs, sketches, photographs, drawings and reports, and may include, without limitation, Background Technology, technical or non-technical data, formulae, plans, procedures, processes, specifications, samples, client lists, files, reports, protocols, lists, studies, findings, inventions, ideas, cost and pricing information, and business, financial and marketing information, that is not commonly known by or available to the general public. The term “Confidential Information” also includes any Intellectual Property in which Children’s acquires
ownership rights, until publication of patents or applications relating to such Intellectual Property by national patent offices. Confidential Information shall not include any information that: (a) is or becomes generally known to the public through no fault of the disclosing party; (b) was in the disclosing party’s possession, as demonstrated through its written records, prior to disclosure; (c) is disclosed to the disclosing party by a third party without breach of any legal obligation; or (d) is independently developed by the disclosing party without use of, or reference to, any Confidential Information furnished.

**Contributor** shall mean any individual(s) who is an Inventor and/or an Author with respect to a specific Intellectual Property, whether or not that Intellectual Property is protected under the patent and copyright laws of the United States.

**Copyrightable Work(s)** shall mean an original work of authorship fixed in a tangible medium of expression, as described in the Copyright Act, 17 U.S.C. §102, such as, but not limited to, books, articles, lectures, musical compositions, films, charts and other visual aids, software, video/audio tapes, and video/audio broadcasts.

**Children’s Intellectual Property** shall mean Intellectual Property that is either owned by or assignable, in whole or in part, to Children’s or its assignee or designee, as provided in this Policy.

**Children’s Personnel** shall mean all persons working at Children’s Healthcare of Atlanta, Inc. and its Affiliates, including but not limited to:

- Employees, whether full-time, part-time, or PRN;
- Outside consultants or contractors;
- Post-graduate Students who are enrolled in any Children’s program; and
- Members of the Professional Staff with a contract with Children’s.

For purposes of this Policy, Children’s Personnel also includes any of the above associated with any Children’s Affiliate.

**Children’s Support** shall mean any resources of Children’s or any of its Affiliates received or used by Children’s Personnel, including but not limited to monies from internal or external sources, facilities, space, equipment, services or Personnel.

**Contributor Share** shall mean the amount of any Gross Revenue or Net Revenue that is allocated to a Contributor.

**Equity** shall mean any stock, stock options, warrants, partnership interest or any other type of ownership interest in a Commercial Venture.

**Executive Leadership** shall mean Children’s Executive Vice President, Chief Medical Officer, Senior Vice President of Academic Administration, Senior Vice President and General Counsel,
Senior Vice President/Chief Financial Officer and the Director of Research. All determinations made by Executive Leadership under this Policy shall be made by general consensus. If there is a split among Executive Leadership, the final decision will be made by the Chief Executive Officer in consultation with the Senior Vice President of Academic Administration.

**Gross Revenue** shall mean payments actually received by Children’s from a third party for the sale, assignment, or licensing of Intellectual Property, including without limitation, license initiation fees, option fees, up front fees, minimum Royalties or milestone payments, sublicense fees, Equity or any other fixed sum payments received from the licensing or other disposition of the Intellectual Property, and shall not include consideration in the form of additional research funding. Gross Revenue shall include payments received by Children’s in connection with litigation or the resolution of a dispute involving Intellectual Property, but only after all litigation expenses, fees and costs will be deducted first from any payments received. If those litigation expenses exceed the amounts of the payments, then they will be the first, prior to any deduction for Commercialization Costs, to be deducted from any revenue generated from the Intellectual Property that is the subject of the dispute.

**Intellectual Property** shall include, but not be limited to, inventions (whether patentable or not), Copyrightable Works, Trademarks, Service Marks, domain names, trade secrets, trade dress rights, formulas, designs, software, programming code, new media, intangible rights in machines, compositions of matter and devices, techniques, processes, procedures, systems or formulations and any other intellectual property rights existing under International, Federal or State law.

**Intellectual Property Disclosure Statement Form** shall mean the form supplied by the OGC and submitted by a Children’s Personnel to the OGC for the purpose of disclosing an Intellectual Property. The form is available from the OGC.

**Inventor** shall mean any Children’s Personnel who is an inventor under applicable United States law of a new and useful process, machine or composition of matter, or any new and useful improvement thereof, whether patentable or not. Inventorship shall be determined by outside counsel to Children’s.

**IP Agreement Form or Intellectual Property Rights Agreement Form** shall mean the form submitted by a Children’s Personnel who shall receive or may have opportunities to receive direct Children’s support. The form is available from the OGC.

**Net Revenue** shall mean the Gross Revenue generated by Intellectual Property less (i) the Contributor Share of the Gross Revenue determined in accordance with Table 1 and (ii) any Commercialization Costs.

**New Media** shall mean digital or electronic media, including but not limited to software, video/audio tapes, CD-ROM, DVD-ROM, Internet-based media, and other multimedia materials.
that are used for the purpose of education or the dissemination of knowledge, but does not include technology that may be embodied in the new media.

OGC shall mean the Office of General Counsel at Children’s. (Note: Print forms from this site).

Patent shall mean a legal grant made by the United States government pursuant to 35 U.S.C. §101, et. seq., for certain inventions or discoveries that constitute any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or a similar grant made by any other government pursuant to the laws of that country.

Royalties shall mean any royalties generated by the Intellectual Property.

Software shall mean one or more computer programs and any associated operational procedures, manuals or other documentation, whether or not it may be protected under United States patent or copyright law.

Sponsor shall mean: (i) the U.S. Government in its capacity as a sponsor of research; (ii) entities fully or jointly established by Children’s Healthcare of Atlanta, Inc. which fund the research relating to the Intellectual Property; or (iii) third parties which fund the research relating to the Intellectual Property.

Students shall mean individuals enrolled at an accredited institution.

Supervisor shall mean the Director, Department Head, Vice President and/or other individual having direct supervisory authority or responsibility over a Children’s Personnel.

Technology shall mean the tangible and intangible results of research and scholarship and related Intellectual Property rights, whether or not patentable or copyrightable, but excluding Copyrightable Works as defined above. Technology may include, but is not limited to:

- Prototype devices;
- Novel biological materials;
- New chemical compounds;
- Materials having novel optical or electronic characteristics; and
- Software and programming code, where software is not excluded as a Copyrighted Work.

Trademark shall mean a word, name, symbol, device or a combination of these used to identify the source or sponsor of a product. Similarly, Service Mark shall mean a word, name, symbol device or a combination of these used to identify the source or sponsor of a service.

Visitors shall be considered Children’s Personnel for the purposes of this Policy, except that they will be required to sign a Visitor’s Intellectual Property Agreement Form.
**Visitor’s Intellectual Property Agreement Form** shall mean the form to be signed by Visitors who either:

- Have assigned research duties and responsibilities at Children’s; or
- Utilize Children’s Support in the development or creation of Intellectual Property.

**Work for Hire** shall mean “Work Made for Hire” as defined under the Copyright Act, 17 U.S.C. §101, which refers to “(1) a work prepared by an employee within the scope of his or her employment” and certain specially ordered or commissioned works.