

# University of Fort Hare

## Intellectual property policy



University of Fort Hare  
Together in Excellence

<b>Policy number</b>	ICT003			
<b>Policy Version Number</b>	Version 1.0			
<b>Policy originator / owner</b>	Information, Communications and Technology			
	<b>Date</b>	<b>Minute ref</b>	<b>Name</b>	<b>Signature</b>
<b>Approved by EMT</b>				
<b>Approved by Senate</b>				
<b>Approved by JBF</b>				N/A
<b>Approved by Council</b>				
<b>Next review date</b>	January 2018			

### 1. PURPOSE

Intellectual Property (IP) is an increasingly valuable asset for the University of Fort Hare ("the Institution"). The purpose of this Policy is to create a framework for the creation, protection, registration, maintenance, management and exploitation of IP.

## 2. DEFINITIONS

- 2.1. University of Fort Hare means the [University of Fort Hare, Alice];
- 2.2. "Content Provider(s)" means persons or businesses that create content or licence content to the University of Fort Hare through a service agreement or licence agreement such as authors, freelance lecturers, contributors but always excluding employees;
- 2.3. "Employee(s)" means any person(s) in the actual employment of the University of Fort Hare;
- 2.4. "External IP" means IP created by businesses or individuals other than the University of Fort Hare and include copyright assets, domain names, trade marks, trade secrets, patents and the like;
- 2.5. "Student" means any student duly registered at the University of Fort Hare;
- 2.6. The clause headings in this Policy have been inserted for convenience only and not for interpretation purposes; any reference to the singular includes the plural and vice versa; any reference to natural persons includes legal persons and reference to any gender includes reference to the other gender.
- 2.7. "Responsible person" – the person appointed from time to time by the University of Fort Hare whose duties incorporate those of a Chief Information Officer.

## 3. APPLICATION

4. This Policy applies to the University of Fort Hare well as all Employees and IP / content related agreements entered into by such Employees on behalf of the University of Fort Hare. All visiting lecturers / scholars who are granted affiliation with the Institution are obliged to abide by this IP Policy as though they are Employees.**OWNERSHIP OF IP**

### 4.1. GENERAL IP OWNERSHIP RULES

4.1.1. As a general rule, and unless stated otherwise in this policy or any other University of Fort Hare-wide policy, the University of Fort Hare shall own intellectual property that was:

4.1.1.1. created by or originated from an Employee, in whole or in part, as a direct result of his/her employment with the University of Fort Hare; or

4.1.1.2. created or originated by a Content Provider, in whole or in part, in terms of an agreement whereby intellectual property is created for the University of Fort Hare in return for a fee or payment or other form of compensation.

## **4.2. EXCEPTIONS TO THE GENERAL IP OWNERSHIP RULE**

4.2.1. Intellectual property will be owned by an Employee or Content Provider if:

- 4.2.1.1. its creation did not involve the use of any University of Fort Hare resources;  
and
- 4.2.1.2. it was not created, in whole or in part, during regular office hours; and
- 4.2.1.3. its content lies outside the Employee's academic scope with the University of Fort Hare; and
- 4.2.1.4. it was not created as a result of the Employee's employment responsibilities or a Content Provider's responsibilities in terms of an agreement entered into between such Content Provider and the University of Fort Hare; and
- 4.2.1.5. all teaching materials created by an employee of the University of Fort Hare shall be owned by the employee but the University of Fort Hare owns the right to reproduce and use such teaching materials without licence or fee, regardless of manner such material is published.

## **5. CONTRACTS WITH EMPLOYEES AND OTHER CONTENT PROVIDERS**

5.1. All agreements entered into between the University of Fort Hare and an Employee or Content Provider shall have the following clauses:

5.1.1. Assignment or exclusive licence of all IP from the Employee or Content Provider to the University of Fort Hare.

5.1.2. A non-disclosure agreement to protect the University of Fort Hare's confidential information and trade secrets.

5.1.3. A clause in which all moral rights to any IP are waived by the Employee or Content Provider; and

5.1.4. Warranties that all IP created by the Employee or Content Provider will:

- 5.1.4.1. be original;
- 5.1.4.2. not be licensed, in whole or in part, to any third party; and
- 5.1.4.3. not infringe any third party's IP rights.

## **6. COPYRIGHT / IP REGARDING STUDENTS**

6.1. All agreements entered between students and the University of Fort Hare shall be subject to the following: -

6.1.1.the agreement can be changed and amended by authorised officials of the Institution;

6.1.2.such authorised officials have the authority to negotiate on behalf of University of Fort Hare to reach an agreement with regards to the payment/claim of royalties; and

6.1.3.in the absence of such an agreement, University of Fort Hare shall be entitled to fifty percent (50%) of all royalties..

6.2. The student has the following options available with regards to the transferring of the Copyright /IP in material created by the student: -

6.2.1.a full transfer of the Copyright / IP right by the Institution to the student;

6.2.2.a limited right in the material, allowing the Institution to utilise the creation by the student for non-commercial purposes;

6.2.3.allowing the Institution to utilise the material in its normal operations but with the student retaining all IP rights in the material.

## **7. University of Fort Hare's USE OF EXTERNAL IP**

7.1. Employees and students of the University of Fort Hare that want to use External IP (as defined) in any way whatsoever shall do so through a proper licence agreement concluded between the University of Fort Hare and the owner of such external IP. Such agreement shall:

7.1.1.be in writing;

7.1.2.clearly state the rights in the IP that the University of Fort Hare may exploit;

7.1.3.clearly state whether electronic use of these rights is permitted or not;

7.1.4.state the term during which such rights may be exploited;

7.1.5.state the territory or territories in which such rights may be exploited;

7.1.6.include a warranty from the external party that:

7.1.6.1. he/she/it has the full right or licence to grant such rights to the University of Fort Hare; and

7.1.6.2. exploitation of such rights by the University of Fort Hare shall not infringe any third party's IP rights.

7.2. This clause 7 also applies to all software-related licences.

## **8. EXTERNAL USE OF University of Fort Hare's IP**

8.1. If any authorised employee of the University of Fort Hare wants to licence an external party to exploit certain IP of the University of Fort Hare, he or she do so through a proper licence agreement concluded between the University of Fort Hare and such external party. Such agreement shall:

8.1.1. be in writing;

8.1.2. clearly state the IP rights the external party may exploit;

8.1.3. clearly state whether electronic use of such IP rights is permitted or not;

8.1.4. state the term during which such right may be exploited; and

8.1.5. state the territory or territories within which such rights may be exploited.

8.2. This clause 8 also applies to all software-related licences.

## **9. WEB PAGES UNDER University of Fort Hare's CONTROL**

### **9.1. COPYRIGHT NOTICE**

9.1.1. Every web site under University of Fort Hare's control shall have a copyright notice on the home page of such web site and, as far as possible, on every page of such web site, stating the following:

9.1.1.1. Copyright ©;

9.1.1.2. name of University of Fort Hare;

9.1.1.3. address of University of Fort Hare;

9.1.1.4. "ALL RIGHTS NOT EXPRESSLY PERMITTED ARE RESERVED"; and

9.1.1.5. the year when the web site was first made available to the public and the current year.

### **9.2. TERMS AND CONDITIONS OF USE**

9.2.1. Every web site under University of Fort Hare's control shall have a "terms and conditions" document that shall be available as a link from the home page, or, ideally, shall appear as a pop-up screen where first users have to click on a "I agree with the terms and conditions of this site". Such "terms and conditions" shall include, among others, the following paragraphs:

9.2.1.1. Copyright notices as well as permitted use, e.g. are users allow to cut and paste from the site, forward it to other parties and/or use the content for other purposes? Are external parties allowed to link to the site or not? Are external parties allowed to frame the site or not? May the site be scanned by external software crawlers and/or spiders?.

9.2.1.2. A short version of the privacy policy of the site, depending on the business need. For example: Does the site use cookies and if so, for what purpose? Does the site collect personal information from users? If so, for what purpose and under what conditions might such information be disclosed to third parties?

9.2.1.3. A P3P-compliant privacy policy.

9.2.1.4. Disclaimer of liability incurred from the use of or inability to use the site.

9.2.1.5. Governing law.

### **9.3. LINKING**

9.3.1. As a general rule, no web site under University of Fort Hare's control shall link to another web site NOT under University of Fort Hare's control unless:

9.3.1.1. Written permission have been obtained from the target site to link to that site;  
or

9.3.1.2. The terms and conditions of such a target site do not prohibit linking in any way.

9.3.2. Web sites under University of Fort Hare's control may freely link to any other web site under University of Fort Hare's control.

### **9.4. FRAMING**

9.4.1. As a general rule no web site under University of Fort Hare's control may frame ANY other web site, whether under University of Fort Hare's control or not, without the express written permission of the webmaster of the framed site.

9.4.2. The "terms and conditions" of every web site under University of Fort Hare's control shall state that no other site may, in any manner whatsoever, frame a University of Fort Hare site.

#### **9.5. USE OF META TAGS**

9.5.1. As a general rule, no web site under University of Fort Hare's control shall use a trademark or name of another company or business as a metatag where such a company or business is not part of the University of Fort Hare and such trademark is not registered in the name of the University of Fort Hare.

#### **9.6. USE OF CRAWLING OR SPIDERING TECHNOLOGY**

9.6.1. As a general rule the University of Fort Hare shall not employ or use a spider, robot or crawling technology if:

9.6.1.1. the use thereof is likely to slow down another party's web site or web server;

9.6.1.2. the use thereof is prohibited by the "terms and conditions" on the target site;  
or

9.6.1.3. use of the information gathered by the spider, crawler or robot will amount to unfair competition, passing off or copyright infringement.

### **10. NON-DISCLOSURE AGREEMENTS**

10.1. All non-disclosure agreements entered into between the University of Fort Hare shall be signed by the responsible person as appointed by the institution and no other person;

10.2. As far as reasonably possible the general University of Fort Hare non-disclosure agreement shall be used. Where another party's non-disclosure agreement is to be signed, the signing of such a document shall be authorised by the legal representatives of the University of Fort Hare;

10.3. This clause 10 does not apply to non-disclosure or confidentiality clauses in employment agreements or service agreements.

### **11. E-MAIL DISCLAIMERS**

11.1. Every employee and student who sends email messages using the communication facilities of University of Fort Hare shall ensure that the Institution's standard email disclaimer is inserted at the end of all such email messages.

11.2. The University of Fort Hare's responsible person, as appointed the Institution should, from time to time, release an updated version of the e-mail disclaimer detailed in this clause.

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Approved on behalf of Council: \_\_\_\_\_



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