

<b>Intellectual Property Policy</b>			
<b>Policy Sponsor</b>	President	<b>Category</b>	Board
<b>Policy Contact</b>	Provost and Vice President, Academic	<b>Effective Date</b>	May 22, 2020
<b>Approved By</b>	Board	<b>Review Date</b>	May 22, 2025
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### 1. Purpose

Athabasca University places high value on providing an environment that allows for creativity and innovation in the teaching, learning and research activities integral to its mandate. Intellectual Property (IP) plays an essential role in both the research and teaching functions of universities and public comprehensive research institutions. Where Intellectual Property is created, it is important to ensure that there is clarity around rights and responsibilities in relation to the creation and ownership of Intellectual Property within the University. This policy sets out the principles in relation to the rights and responsibilities in the creation and ownership of Intellectual Property in the context of the activities carried out at the University.

### 2. Scope

This Intellectual Property Policy (“**IP Policy**”) applies to any Intellectual Property created in the course of employment, or a contract with the University, or in the course of Academic Research Activities using University Resources.

### 3. Definitions

<b>Academic Research Activities</b>	The conduct of original research, scientific or scholarly inquiry, which advances knowledge in a discipline of study, or leads to publication in a peer-reviewed journal or other publication.
<b>Administrative and Operational Activities</b>	Activities that are for the administration and operations of the University, including matters of governance, finances, budgeting, financial planning, human resources, procurement, management of policies and procedures, and management of the business affairs of the University. These activities encompass non-academic research activity, including professional development

<b>Commercialization or Commercialize</b>	Any activity relating to the use, sale, transfer, license, marketing, or other disposition of IP for generation of profit. This is intended to cover any such activity, whether through business, industry or other organizations, such as a manufacturer, distributor, reseller, or licensee. However, publishing a scholarly article or chapter in a journal or textbook is not, by itself, considered “Commercialization” for the purposes of this IP Policy.
<b>Employee</b>	A full-time, part-time, casual, or seasonal staff member employed by the University.
<b>External Research Activities</b>	The conduct of research outside the University, independent of any relationship to or support from the University, apart from any duties and responsibilities to the University, and without the use of any University Resources.
<b>Intellectual Property or IP</b>	Any invention, work, information or material, trade secret, data, or technological or industrial design or process, regardless of form, including anything protectable by patent, copyright, industrial design, trademark, or other intellectual property rights.
<b>Public Disclosure</b>	Any activity that results in making Intellectual Property publicly available through any public medium, including (but not limited to) speech, print, paper, and electronic communication, and disclosure to third parties outside the University.
<b>Teaching and Learning Responsibilities</b>	These responsibilities may include the development and delivery of curriculum, for-credit programs, and courses of study, including the ongoing assessment, updating and maintenance of course materials, teaching and course instruction, assessment and evaluation of student performance, and supervision of graduate students.
<b>University</b>	Athabasca University.
<b>University Resources</b>	Resources that include but are not limited to the University’s funds, finances, physical structures, research laboratories, capital equipment, technical facilities, services, and personnel. Intellectual Property is not considered to use University Resources merely due to the limited use of University email or telephone or internet access.

#### 4. Guiding Principles

At Athabasca University, there are four main types of activities that result in the creation of Intellectual Property: (1) Administrative and Operational Activities, (2) Teaching and Learning Responsibilities, (3) Academic Research Activities and (4) External Research Activities. Each of these areas or categories will give rise to different Intellectual Property ownership rights and responsibilities.

**4.1. Administrative and Operational Activities:**

- a) Any Intellectual Property created by an individual in the course of Administrative and Operational Activities of the University is owned by the University.
- b) The University controls all rights to this content, including the rights to publish, share or Commercialize.
- c) Any revenue generated from those activities remains with the University.
- d) This type of content is usually created by University Employees in the course of their employment. It may also be created by contractors or consultants working for the University.
- e) Examples illustrative of this category of Intellectual Property include but are not limited to: non-academic research, policies, procedures, manuals, reports, software code or website design materials, guidelines, presentations, administrative training awareness materials, including materials developed as part of professional development, and other content that is for the administration and operations of the University.

**4.2. Teaching and Learning Responsibilities**

- a) Any Intellectual Property created by an individual in the course of their Teaching and Learning Responsibilities is owned by the University.
  - i. Ownership determination is based on the fact that these activities, related to course development, design, and production, are developed collaboratively and iteratively, and are part of the employment responsibilities of academics to support the University's mandate.
- b) Such materials may also be created by contractors who engage in Teaching and Learning Responsibilities under contract to the University.
- c) The University owns the Intellectual Property rights in this type of Intellectual Property.
- d) The University controls all rights to this content, including the rights to publish, share or Commercialize.
- e) Any revenue generated from those activities remains with the University.
- f) Examples illustrative of this category of Intellectual Property include but are not limited to: all materials created during the lifecycle of course development (course architecture, course design and content and digital production).

### 4.3. Academic Research Activities

- a) Academic Research Activities are a vital function of the University. Academics are expected to engage in Academic Research Activities that advance knowledge within various disciplines, result in scholarly publications, or contribute to society's knowledge and understanding.
- b) Intellectual Property that results from Academic Research Activities falls into a category of shared responsibility.
- c) If Intellectual Property results from Academic Research Activities, and is created either by:
  - i. an Employee in the course of employment duties, or
  - ii. an individual using University Resources,then the creator of the IP is the first owner of the Intellectual Property rights, subject to the following:
  - (A) the University's right to share in any profits or an ownership stake in any entity created for the purposes of Commercialization, as may be set out in any applicable Procedures, if such Intellectual Property is Commercialized; and
  - (B) the University's right to use and modify the Intellectual Property under a perpetual, irrevocable, royalty-free non-exclusive, non-transferable license for teaching, educational and non-commercial purposes within the University.
- d) The individual has a responsibility to disclose such Intellectual Property to the University if the individual wishes to Commercialize the IP. The individual's disclosure responsibilities may be described in more detail in any related procedures.
- e) If such Intellectual Property is disclosed to the University because the individual wishes to Commercialize, the University may support the protection and management of the Intellectual Property.
- f) Examples illustrative of this category of Intellectual Property include but are not limited to: results of academic research and scholarship that can be Commercialized, inventions, scientific discoveries, technological innovation.

### 4.4. External Research Activities

- a) In some cases, Intellectual Property is created by an individual independently of any relationship to or support from the University, apart from that person's duties and responsibilities to the University, and without

the use of University Resources. Intellectual Property that results from External Research Activities is owned by the creator.

- b) The University has no claim to this type of Intellectual Property, nor any responsibility to provide resources, or assist with IP protection or management.
- c) Examples illustrative of this category of Intellectual Property include but are not limited to: any independent research, inventions, written works, or artistic works that are unrelated to the individual's employment at the University, and industry sponsored research that does not make any use of University Resources.

#### **4.5. Public Disclosure of Intellectual Property**

- a) In cases where the Intellectual Property is a candidate for Commercialization, premature Public Disclosure can jeopardize the options for protection of the IP rights.
- b) A creator must not engage in Public Disclosure without first considering the consequences of Public Disclosure for the protection of the Intellectual Property.
- c) The University may establish procedures regarding Public Disclosure of Intellectual Property.

#### **4.6. Invention Disclosure and Commercialization**

- a) The University may establish procedures for the disclosure of Intellectual Property, for assessment of Commercialization opportunities, for the transfer of any IP rights, for the University's assistance with protection and management of the Intellectual Property, for any management fee associated with such assistance, and for the sharing of Commercialization revenue between the individual and the University.
- b) Protection and management of Intellectual Property includes but is not limited to: copyright registration, assistance with patent searching, patent protection, and license agreement management.
- c) Commercialization of Intellectual Property may include but is not limited to: entering into a sale of the Intellectual Property, or entering into a licensing agreement with an industry partner who is responsible for design, marketing, manufacturing, and sales, in exchange for a royalty or license fee.

#### **4.7. Dispute Resolution**

- a) The University may establish procedures for the resolution of disputes that arise under this IP Policy.

#### **4.8. Consequences for Non-Compliance**

- a) Consequences for non-compliance will be determined under any applicable employment agreement or contract with the University.
- b) The University may establish other procedures for determining any consequences for non-compliance with this IP Policy.

#### **5. Applicable Legislation and Regulations**

[Post-Secondary Learning Act, SA 2003, c. P-19.5, as amended](#)

Intellectual Property Legislation as applicable

#### **6. Related Procedures/Documents**

[Commercialization of Intellectual Property from Academic Research Activities Procedures](#)

[Open Access to Research Outputs Policy](#)

[Open Access to Research Outputs Procedures](#)

#### **History**

<i>Date</i>	<i>Action</i>
May 22, 2020	Policy Approved (The Governors of Athabasca University Motion #244-04)