



JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

COPYRIGHT POLICY

November 2017

Jaramogi Oginga Odinga University of Science and Technology

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2017

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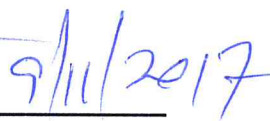
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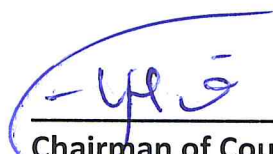
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Signed:



Vice-Chancellor, Secretary to Council
Prof. Stephen. Gaya. Agong'

Date



Chairman of Council
Dr. Walter. J. Ongeti



Date

TABLE OF CONTENTS

PREAMBLE.....	5
POLICY FRAMEWORK	6
LIST OF ABBREVIATIONS AND ACRONYMS	7
DEFINITION OF TERMS	8
1 INTRODUCTION	10
2 PURPOSE OF THE POLICY.....	10
3 POLICY STATEMENT	10
4 POLICY OBJECTIVES.....	10
5 GOVERNING FRAMEWORK.....	11
6 SCOPE OF THE POLICY	11
7 OWNERSHIP OF MATERIALS OR WORKS.....	12
8 PUBLICATIONS AND CONFIDENTIALITY	12
9 DISCLOSURE OF INNOVATION / INVENTION AND DISCOVERIES	12
10 INTELLECTUAL PROPERTY AGREEMENTS	13
10.1 Material Transfer Agreements (MTA).....	13
10.2 Confidential Disclosure Agreements (CDA).....	14
10.3 Sponsored and Collaborative Research Agreements (CRA).....	14
10.4 Licensing Arrangements / Agreements (LAA).....	15
11 DISTRIBUTION OF TANGIBLE RESEARCH ASSETS	16
12 CONFLICT OF INTEREST OR COMMITMENT.....	16
13 LIMITATIONS AND EXCEPTIONS TO COPYRIGHTS.....	16
13.1 Limitations to Copyright Law.....	17
13.2 Exceptions to the Copyright Law.....	17
14 PENALTIES FOR INFRINGEMENT OF COPYRIGHT LAWS.....	18
15 ACADEMIC INTEGRITY	19
15.1 Values and Academic Integrity.....	19
16 PLAGIARISM AND ACADEMIC MISCONDUCT	20
16.1 Plagiarism.....	20
16.2 Preventing Plagiarism.....	22
16.3 Assessing Works for Plagiarism.....	23
16.4 Penalties for Plagiarism.....	23
17 REVIEW	23

PREAMBLE

Jaramogi Oginga Odinga University of Science and Technology (JOOUST) hereinafter referred to as 'University' is an educational institution established under the Universities' Act 2012 and granted a charter in February 2013. This Copyrights Policy (CP) is intended to provide guidance to staff, students and collaborators (stakeholders) towards promoting creativity, facilitating academic, research integrity and international competitiveness for the benefit of staff, students and other stakeholders in pursuit of the University's mission of nurturing creativity and innovation through integrated training, research and community outreach. The University recognizes that knowledge and observation of Copyright laws and principles are key factors in achieving the University's Mission of providing quality education that nurtures creativity and innovation through integrated training, research and community outreach for advances of humanity. In that regard, this policy clearly stipulates and advocates for proper use of Copyrights, conditions and use, and the benefits thereof.

POLICY FRAMEWORK

This policy shall be read and enforced alongside:

Constitution of Kenya, 2010,
The Copyright Act, No. 12 of 2001 (Rev. 2016),
Protection of Traditional Knowledge and Cultural Expressions Act, 2016,
Seeds and Plant Varieties Act, Cap. 326 (Revised Edition 2012),
Trade Marks Act, Cap. 506 (Revised Edition 2009),
Industrial Property Act, 2001,
Copyright (Amendment) Act No. 9 of 1995),
Trade Marks (Amendment) Act No. 5 of 1994),
Trade Marks (Amendment) Act No. 1 of 1984),
Universities Act, 2012,
Universities Amendments Act, 2016
Access to Information Act, 2016,

Jaramogi Oginga Odinga University of Science and Technology:

Statutes (2013),
Research & Development Policy,
Rules and Regulations Governing the Organization, Conduct and Discipline of Students,
Examination Policy.
ICT Policy,
Communications Policy,
Ethics & Integrity Policy, and
Intellectual Property Rights Policy.

In case of any conflicts, the national policies and Laws override.

LIST OF ABBREVIATIONS AND ACRONYMS

APA	American Psychological Association
BPS	Board of Postgraduate Studies
CDA	Confidential Disclosure Agreement
CRA	Collaborative Research Agreements
DVC-AA	Deputy Vice Chancellor (Academic Affairs)
DVC-PAF	Deputy Vice Chancellor (Planning, Administration and Finance)
DVC-RIO	Deputy Vice Chancellor (Research, Innovation and Outreach)
ERC	Ethics Review Committee
IASC	Industrial Advisory Sub-Committee
IDF	Innovator Disclosure Form
IEEE	Institution of Electrical and Electronic Engineers
IP	Intellectual Property
IPC	Intellectual Property Committee
IPR	Intellectual Property Rights
JOOUST	Jaramogi Oginga Odinga University of Science and Technology
KIPI	Kenya Industrial Policy Institute
LAA	Licensing Arrangements/ Agreements
MLA	Modern Language Association
MTA	Material Transfer Agreement
R&D	Research and Development
RPPC	Research, Publication and Press Committee
SCCR	Standing Committee for Copyright and Related Rights
VC	Vice Chancellor
WIPO	World Intellectual Property Organization

DEFINITION OF TERMS

Citation	A way of giving credit to individuals for their creative and intellectual works that are utilized to support research. Citation is reference to a published source. It gives the readers the information necessary to trace that source again, including: - information about the author - the title of the work - the name and location of the company that published your copy of the source - the date your copy was published - the page numbers of the material you are borrowing or - Digital Object Indicator (DOI)
Citation Styles	Many Styles are available. Examples are: American Psychological Association (APA) is used by Education, Psychology, and Sciences. Chicago, Turabian is generally used by Business, History, and the Fine Arts. Harvard: Comprehensively covers many types of documents. Institution of Electrical and Electronic Engineers (IEEE) citation style includes in-text citations, numbered in square brackets, which refer to the full citation listed in the reference list at the end of the paper. The reference list is organized numerically, not alphabetically. Modern Language Association (MLA) style used by the Humanities.
Innovations	Often a result of research, it is a new or original or improved product or process.
Innovators	Scientists, researchers, authors or performers. These include staff members (researchers and non-researchers), undergraduate and graduate students, candidates for Masters and Doctoral degrees, pre-doctoral and postdoctoral fellows, including any other person employed by the University, whether full or part-time, emeritus staff while at the University, visiting faculty and researchers, adjunct staff and professors, company representatives, administrators and any other persons who create or discover applicable intellectual property using the University resources or who receives funds or other rewards for their services (work-for-hire), work done through research whether or not funded by the Government, or those who voluntarily assign their intellectual property to the University
Inventions	New, useful, and non-obvious ideas and/or their reduction/translation to practice that result in, but are not limited to, new products, devices, processes, and/or methods of producing new and/or useful industrial operations and materials; any article useful in trade; any composition of matter, including chemical compounds and mechanical mixtures; biological materials including cell lines, plasmids, hybridomas, monoclonal antibodies, and genetically-engineered organisms that are industrially useful or that have commercial potential; new varieties of plants;

any new design in connection with the production or manufacture of an article including computer software, data bases, circuit design, prototype devices and equipment; and any improvement upon existing processes or systems

Inventors or Creators	The person(s) responsible for the conception, ideas, and content of Inventions and other works. Support staff such as research assistants, photographers, artists, producers, computer programmers, printers, and others who contribute to the works shall not be considered inventors or creators unless they have evidentially and substantially influenced the original or novel aspects of the works
Invention Disclosure Form	The written submission to the Office of the DVC (RIO)
Patent	An exclusive right granted for an invention, a product or a process that provides a new way of doing something or offers a new innovative and useful technical solution to a problem in industry or commerce or public life
Plagiarism	The expression of original ideas is considered intellectual property and is protected by Copyright laws. All of the following are considered plagiarism: - i). Turning in someone else's work as your own - ii). Copying words or ideas from someone else without giving credit - iii). Failing to put a quotation in quotation marks - iv). Giving incorrect information about the source of a quotation - v). Changing words but copying the sentence structure of a source without giving credit - vi). Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.
Trade mark	Includes any word, phrase, logo, name, symbol, device, sign or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and uses or applies to register, to identify and to distinguish his/her goods from those of others.
Works	Include teaching material, student manuscripts, dissertations, and thesis, research reports (data and information), conference and workshop papers, publications, books, book chapters. These also include materials / products, processes, methods, computer software and business names, which may also qualify for Intellectual Property Rights protection or trademarks. It also includes translations, adaptations, new versions, or arrangements of pre-existing works, and anthologies or collections of works or mere which, by reason of the selection and arrangement of their content, present an original character

1 INTRODUCTION

Jaramogi Oginga Odinga University of Science and Technology (JOOUST) acknowledges that the creation, discovery and dissemination of knowledge is the key to achieving its mission. JOOUST therefore recognises and encourages its staff and students both individually and through collaborations, to pursue academic and research integrity to generate and publish new knowledge including products and processes. Consequently, JOOUST will be responsible for ensuring that, on the one hand all the works of staff, students and collaborators do not infringe any local or international copyright laws or any other relevant rules and regulations applicable in this policy and on the other, the said works are not infringed by other parties. Although the University is obliged to ensure that any works emerging from staff, students and collaborators is fully referenced and due acknowledgements made to the authors and contributors of the said works, the overall responsibility for ensuring academic and research integrity and compliance with the copyright laws remain with the staff and students.

2 PURPOSE OF THE POLICY

The purpose of this policy is to guide staff, students, and other stakeholders on copyrights, promotion of academic and research integrity, and access, use, dissemination and sharing of data and information.

3 POLICY STATEMENT

JOOUST shall provide the necessary environment to promote academic integrity, discovery, development, publication of new knowledge and creative works, guide training and capacity building. This policy aims at creating an enabling environment for effective administration of copyrights laws and regulations for the advancement of science and technology within the University. JOOUST shall however, not assume legal responsibility for any independent application of copy right principles made by its staff, students or collaborators that are not in good faith or that do not otherwise comply with this policy.

4 POLICY OBJECTIVES

The objectives of this policy are to:

- i). Promote academic integrity, creativity, innovation and international competitiveness;
- ii). Protect the intellectual assets of the University, its creators, innovators, inventors, collaborators, research sponsors and the public;
- iii). Ensure fair and equitable attribution of all works from all innovations, creations and inventions generated by University staff, students, collaborators, public and sponsoring parties;
- iv). Eliminate infringement, improper attribution and abuse of copyrights and intellectual assets;
- v). Optimize the environment for research and creation of new knowledge; and
- vi). Promote linkages with stakeholders and stimulate research through information exchange, utilization of technologies and creative works.

5 GOVERNING FRAMEWORK

This policy shall be interpreted in accordance with all applicable national and international laws and in a manner consistent with the JOOUST policies listed in the Policy Framework section.

Two University research functions in accordance with JOOUST Statutes II.2. are, *inter alia*, to :

- (a) provide education directly, or in collaboration with other institutions, and in so doing provide for the integration of teaching, research and effective application of knowledge and skills to the life, work and welfare of the citizens of Kenya;
- (b) participate in scholarly work, the discovery, transmission, utilization, preservation and enhancement of knowledge and to stimulate the intellectual participation of students in the economical, social, cultural, scientific and technological development of Kenya;

The Committee structure relevant to the research function is as follows:

- 1 **Committee of Council** : Research, Training, Statutes, Sealing and Honorary Degree Committee one of whose Terms of Reference is to deal with all matters related to Research see Statutes: Schedule VI .5
- 2 **Senate** : Some of the related functions are, *inter alia*, see Statute XXVI :
 - (a) evaluate research, teaching, staffing and general work of any body or section of the University and if it so wishes to report and make recommendations thereon to the Council;
 - (b) promote research and innovation work in the University;
 - (c) promote co-operation and linkages with other institutions of higher learning and industry;
 - (d) propose regulations governing the award of fellowships, scholarships, bursaries, prizes and other awards; and
 - (e) develop, implement and promote quality assurance systems and structures in all University operations.
- 3 **Committee of Senate** : Research, Publications and Press Committee (RPPC) Chaired by the Deputy Vice-Chancellor (RIO), charged with, *inter alia* , recommending to Senate relevant regulation, guidelines, policies and directives with regard to ethical and safe practice in research, see Statutes: Schedule VII .4.

6 SCOPE OF THE POLICY

This policy aims at promoting academic integrity at JOOUST and shall include virtues and values related to the maintenance of academic standards such as the prevention of: examination irregularities, plagiarism or any other academic fraud, and honesty and rigor in research and academic publishing. This policy shall apply to all units of the University and to all full or part-time University staff and students, emeritus staff while at the University, visiting researchers, external examiners, adjunct faculty, representatives of other organizations and any other persons who create or discover, publish applicable intellectual property in collaboration with the University.

7 OWNERSHIP OF MATERIALS OR WORKS

The materials or works considered under this policy comprise the following: lecture notes, examinations, students scripts, publications, academic papers, books and book chapters, survey tools and instruments, dissertations, thesis, project reports, experimental results and records, internally generated software, designs, arts, music and drama, JOOUST infrastructure development projects designs and reports, JOOUST human resource records, JOOUST staff medical records, students (enrolment & academic) records, students medical records, products and processes.

Unauthorized access and use or commercialization of any of the above constitutes an infringement of intellectual property rights policy, copyright laws and policies.

8 PUBLICATIONS AND CONFIDENTIALITY

This section is in conformity with JOOUST IPR Policy section eleven (11.0):

- i). The University shall encourage dissemination of research results, while ensuring adequate and timely protection of the rights to such intellectual assets;
- ii). No individual shall publish, in any form, information relating to research for which an innovation or invention disclosure has been submitted without the express written consent of the Office of the Deputy Vice Chancellor (RIO) provided that the consent shall not be unreasonably denied or delayed and the decision shall be communicated within a period of one month;
- iii). Inventors, innovators and creators shall take steps to maintain confidentiality of the disclosed intellectual property until protection has been obtained; and
- iv). Inventors, innovators and creators shall, in consultation with the Office of the Deputy Vice Chancellor (RIO), assess own work prior to public disclosure to determine whether it contains any potential protectable intellectual property and if so to expeditiously disclose it to the Office of the Deputy Vice Chancellor (RIO) on the Intellectual Property Disclosure Form (IPR-DF) prior to public disclosure.
- v). Sources of proprietary materials (including prior published works of the author) used in any document intended for publication shall be accurately quoted and duly acknowledged.
- vi). Use or quotation of confidential data or information and sources in any publication is not allowed. Notwithstanding this provision, where permission of the proprietor has been granted, only codified data and information shall be used and shall be subject to the existing policies on disclosure of confidential data and information.

9 DISCLOSURE OF INNOVATION / INVENTION AND DISCOVERIES

The following applies relating to disclosure of innovations / inventions and discoveries and is in conformity with section twelve (12.0) of the JOOUST IPR Policy:

- i). When it first becomes apparent that an innovation / invention, discovery or technical development has been made, the innovator / inventor shall immediately notify the Office of DVC (RIO) by means of an IP Disclosure Form (IDF)
- ii). An innovation disclosure shall include but not be limited to the following:
 - a) Information about the innovator(s) or inventor(s);
 - b) Technical details of disclosure;

- c) Detailed justification for believing that the disclosure constitutes a patentable innovation/invention;
 - d) Facts concerning subsequent activities undertaken and planned;
 - e) Information regarding any resources understood to include information that contribute to the innovation/invention;
 - f) Information the innovator/inventor may have relating to other activities which in turn are related to the innovation/invention at the University or elsewhere; and
 - g) Any other information that may prove useful in making a determination as to IP protection.
- iii). On receipt of the disclosure, Office of DVC (RIO) shall prepare for the RPPC, a report listing the titles and abstracts of each disclosure received;
 - iv). The Office of DVC (RIO) in consultation with the RPPC will recommend a search at KIPI, Copyrights Office, Trademarks office or Plant varieties Protection Office to determine if the innovation has any protectable value;
 - v). Based upon the findings of RPPC, DVC (RIO) will implement the resultant recommendations;
 - vi). The Office of DVC (RIO) will find out from the innovator/invention if there was any information or agreements entered into to facilitate the development of the innovation.
 - vii). Having made the disclosure above, the innovator(s) / inventor(s) or discoverer(s) shall have the following responsibilities:
 - a) Cooperate fully with Office of DVC (RIO) in marketing, licensing, registration, litigation and other areas in protection and transfer of University IP;
 - b) Taking all reasonable steps requested by DVC(RIO), including the execution of assignments and other requests necessary for evaluation of the item and the protection by patent or other IPRs; and
 - c) Making their obligations to the University clear to those with whom they make agreements with and the innovator/inventor shall disclose other parties to the agreement with a current statement of this policy.

10 INTELLECTUAL PROPERTY AGREEMENTS

This section is in conformity with section thirteen (13.0) of the JOOUST IPR Policy.

For purposes of this policy, the following shall apply:

10.1 Material Transfer Agreements (MTA)

The University considers that the transfer of materials between Universities and Research groups or other Organizations is an important aspect of scientific cooperation. Researchers may wish to exchange a variety of materials (chemicals, plants or animal derived material, cell lines, research animals or other materials in order to facilitate a collaboration, initiate new research or enhance current investigations. Materials may be exchanged between the University and other Universities in Kenya and beyond, national and international research institutions, or between the University and commercial entity/entities.

In the event of material transfer, the MTA between the University and the receiving or providing organization must be signed. The MTA signed must be in line with Countries Access Benefit Sharing Commitments under Nagoya Protocols and other local regulatory frameworks.

In the event of any disclosures, IP Protection or commercialization of the transferred material, it must be by mutual consent of the transferor(s) and transferee(s).

10.2 Confidential Disclosure Agreements (CDA)

Any person accessing proprietary information must sign confidentiality agreement with the University before access is permitted.

A disclosure can be made under the protection of a Confidential Disclosure Agreement (CDA) while a patent application is under evaluation. A disclosure made under the protection of a CDA is not considered public disclosure.

Similarly, a disclosure can be made under the protection of a Confidential Disclosure Agreement (CDA) where ethical issues (student records, staff records and medical records) are involved. A disclosure made under the protection of a CDA must not reveal the subjects and shall be subject to approval by the Ethics Review Committee (ERC).

A disclosure made to a University staff under a CDA with other organization may have implications on the IP of any innovation/invention or resulting from the use of such disclosure. A CDA between the University and other institutions must first be approved by the RPPC. The use of confidential information by the University staff will be governed by the terms of agreement relevant to the contract research being undertaken. A CDA form shall be available at the Office of the DVC (RIO).

10.3 Sponsored and Collaborative Research Agreements (CRA)

Innovations or inventions may arise from research which has been funded or sponsored by third parties. In such cases the following shall apply:

- i). The ownership of IP shall be agreed in writing by the collaborators, partners, sponsors or any other persons and the University before the work begins, in the following cases:
 - a) Collaborative work involving persons employed by outside organizations;
 - b) Work that is supported either partially or wholly by one or more sponsors;
 - c) Projects where two or more persons collaborate;
 - d) Projects funded by external agency;
 - e) Visitors on sabbatical leave or on study leave at the University;
 - f) IP developed by staff or students at other institutions;
- ii). If no written agreement exists before the innovator's or inventor's work begins then the University shall own all IP rights arising from work involving collaborators, partners or sponsors as itemized above;
- iii). The sponsor may be granted an option to acquire license rights to the inventions that arise under the agreement;
- iv). A collaborative research agreement shall inter alia cover the following elements:

- a) Arrangement for the management and co-ordination of the project;
- b) Responsibilities (including funding) and liabilities of the various parties;
- c) Arrangements for the treatment of Intellectual Property;
- d) Reporting and publication arrangements, access to results and confidentiality provisions;
- e) Consequences of termination/default, and ways of handling disputes;
- f) That the University shall apply the terms of this policy to any IPR of which it receives ownership; and
- g) That where there are issues that arise which are not covered by the terms of agreement, this policy shall be applicable.

10.4 Licensing Arrangements / Agreements (LAA)

University-generated intellectual property may be licensed to external entities for further development and commercialization in exchange for a return on the resulting revenues.

The following shall apply in licensing:

- i). By mutual agreement with the inventor/innovator, the University may license or arrange for licensing of production of a product arising from an innovation as invention owned by individuals who are employees of the University. The DVC (RIO) shall determine whether, under certain conditions, the University will contract with a competent agency or firm for the licensing of certain innovations;
- ii). Assignment and license agreements entered into by the University shall *inter alia* include provisions, as appropriate, regard:
 - a) Due diligence in patent or copyright protection and commercialization of the innovation/invention;
 - b) Reports on effort and success in commercialization, access to records to ensure compliance with the terms of the agreement, retention of University rights to use the innovation and extent of authority for subsequent licensing or re-assignment.
- iii). The University's licensing and assignment agreements must be in compliance with applicable Laws, regulations, University policies, and the terms of agreements with sponsors;
- iv). The Research, Publication and Press Committee (RPPC) may grant an exclusive license for use of University-owned policy properties to an external organization or to a University employee. Exclusive licenses typically will be granted for periods of ten years. They may include provision for an option to renew the exclusive license for additional five years. In all cases where exclusive license is granted for a limited period, the University will retain an option to revoke the license in the event that the licensee does not demonstrate due diligence in the exercise of the license.
- v). License agreements with University employee (inventor(s)/innovator(s)) will normally include a provision that any continuing development of the IP with the use of University funds, facilities or funds administered by the University may only proceed if reviewed and approved by the RPPC.
- vi). In keeping with the University's mission to disseminate new knowledge, and protect the public interest, RPPC will have the authority to retain royalty-free rights for use of the University-owned innovations

11 DISTRIBUTION OF TANGIBLE RESEARCH ASSETS

This section is in conformity with section fourteen (14) of the JOOUST IPR Policy,

- i). All the tangible research property leaving the University shall be governed by a Material Transfer Agreement (MTA). Any proprietary information accompanying tangible research property shall be governed by a Confidentiality Agreement.
- ii). The Office of the DVC (RIO) will provide guidelines, procedures and prepare agreements for the distribution/sharing of all information and materials.

12 CONFLICT OF INTEREST OR COMMITMENT

This section is in conformity with section fifteen (15) of the JOOUST IPR Policy,

- i). Any of the following factors may signify a conflict of interest, which will be taken into account prior to waiving or licensing the University's rights to inventors, innovators, creators under this policy:
 - a) An adverse impact on the University's educational responsibility to its students;
 - b) Undue influence on the employment commitment to the University in terms of time or direction of effort;
 - c) A detrimental effect on the University's obligations to serve the needs of the general public; and
 - d) Potential conflict of interest as defined in the national laws, University's code of ethics, regulations, policies and procedures.
- ii). An employee shall disqualify himself or herself from participating in any licensing negotiations or other matters of technology transfer where the University is likely to be disadvantaged by such a decision in the following circumstances:
 - a) Where an employee has an external relationship with a company that itself has a financial interest in a University project; or
 - b) Where the University official serves on a board of a company that has financial transactions with the University; or
 - c) Where an employee has equity holding or royalty expectations that could influence the decision; or
 - d) Where the employee of the University is an interested party and by virtue of his/her position is likely to influence the decision.

13 LIMITATIONS AND EXCEPTIONS TO COPYRIGHTS.

The Bern Convention on the protection of literary and artistic works (last revised, 1979) allows copyrighted works to be used without a license from the copyright owner. Limitations and exceptions to copyright and related rights vary from country to country due to particular social, economic and historical conditions.

International treaties acknowledge this diversity and provide general conditions for application of the exceptions and limitations while leaving to national policy makers to decide

if particular exceptions and limitations is to be applied and, if it is the case, to determine its exact scope. Due to advances in technology and the widespread use of the Internet, it has been considered that the balance between various stakeholders' interests needs to be recalibrated.

The issues of limitations and exceptions are considered agenda items of the WIPO Standing Committee for Copyright and Related Rights (SCCR). Recent debates in the SCCR have focused mainly on activities relating to education, libraries and archives and in particular, visually impaired persons. (<http://www.wipo.int/copyright/en/limitations/>).

Kenya is a member State of the World Intellectual Property Organization (WIPO) and a signatory to all its agreements and conventions. In this regard, where issues arise that are not covered by Kenyan laws, policies and regulations, the provisions of WIPO shall apply.

13.1 Limitations to Copyright Law

There is no consensus among copyright experts as to whether user rights are rights or simply limitations on copyright. Laws generally recognize the need to balance the rights of the copyright holder with the public good and the provisions of the Copyright Law aim at doing exactly that. For example, one of the most obvious and important limitations to copyright is that Copyright license is not perpetual and expire after a set period.

13.2 Exceptions to the Copyright Law

Three major exceptions to this Copyright Law include: ***fair use, face-to-face instruction, and virtual instruction***. Exceptions allow for the use of a work without requesting permission from the copyright holder and potentially paying fees. If the use does not qualify under face-to-face instruction or virtual instruction, then fair use is generally utilized because it is much broader and more flexible.

13.2.1 Fair Use

There are four factors of fair use that shall be evaluated to assist in making good faith determination as to whether the use can be considered fair use. Table 13.1 below provides guidance on fair use analysis. (*Caution: Please be aware that all educational use is NOT automatically fair use*).

Table Guide for Fair Use Analysis

First Factor <i>Purpose and Character</i>	Second Factor <i>Nature of Work</i>	Third Factor <i>Amount</i>	Fourth Factor <i>Market Effect</i>
What is the purpose and Character of the use?	What is the nature of the work to be used?	How much of the work will be used?	What is the effect of the use in the market for the work?

Source: *Purdue University*, (https://www.lib.purdue.edu/uco/CopyrightBasics/fair_use.html)

It is the decision of the individual who is using the work as to which exception is applicable. It should be a conscious decision not a decision by default. It is the responsibility of all members of JOOUST community to understand the exception and to make a good faith determination that their use of a copyright protected work is authorized under one of the exceptions. A good faith determination means that the individual must understand the exception they are selecting, be able to articulate it, and be able to reasonably apply it to

their specific situation. If none of the exceptions are applicable, then permission should be requested for the use of the work.

13.2.2 Face-to-Face Instruction

The traditional classroom setting which facilitates face-to-face instruction is when the lecturer / instructor and the students of a nonprofit educational institution are in place devoted to instruction and teaching and learning take place at the same time. In this setting, ALL performances and displays of a work are allowed. Copyrighted materials used in face-face instructions include: Music, Printed Word, Images and Video.

The requirements for legitimate face-to-face instruction are that (i) ALL materials must be legally acquired and (ii) Teaching activities must take place in the classroom or a similar place devoted to instruction.

13.2.3 Virtual Instruction

Virtual instruction is when a course is taught solely online or when components of a face-to-face instruction are taught online such as with Blackboard or other course management system. Virtual instruction includes digitally transmitting class materials to students under the NEPAD E-Schools Programme (2003) and the National ICT Strategy for Education in Kenya (2006). The basic premise behind the strategy is to allow comparable instruction in the online environment as to what takes place in a traditional classroom or face-to-face instruction.

One of the major requirements of the strategy is that materials can only be digitally transmitted to students officially registered in the course. There are other requirements for teaching, technology and course materials that lecturers / instructors must meet before using this exception.

14 PENALTIES FOR INFRINGEMENT OF COPYRIGHT LAWS.

The broad categories and definitions of copyrights and what is copyrightable are found in the Copyrights Act, No. 12, Laws of Kenya (2001, Revised 2016). The offences and penalties for infringement of any of the provisions are prescribed Section IV (38) of the Act.

Penalties for infringement of Copyrights depend on the severity of offence and whether there are previous offences, but include

Sub-section 6(a) of the Copyright Act (2001, Revised 2016) provides that anybody found guilty of infringement of Copyright Laws (Kenya) is liable to a fine not exceeding Kenya shillings four hundred thousand (KES 400,000) or a jail term not exceeding six (6) years or both.

For repeat offenders sub-section 6(b) of the Copyright Act (2001, Revised 2016) provides that anybody found guilty of infringement of Copyright Laws (Kenya) is liable to a fine not exceeding KShs eight hundred thousand (KES 800,000) or a jail term not exceeding ten (10) years or both.

15 ACADEMIC INTEGRITY.

The value of a University degree, amongst other things, is determined by the Commission of University Education's (CUE) which accredits the programmes so as to determine whether the students have acquired the skills, knowledge and critical thinking ability to become responsible citizens who contribute to their vocation, profession and to development.

Academic integrity is the creation of an environment of trust that allows honesty from both the lecturer / instructor and the students is considered a critical factor in the university. An environment of academic integrity is essential so that students are judged by their contributions and efforts and that the lecturers / instructors can best assess that by evaluating the work the students have produced.

15.1 Values and Academic Integrity

15.1.1. Integrity: honesty, trust and fairness

Academic honesty underpins respect for knowledge and its development. Academic staff must be honest in their research and in their dealings with other staff and with students. Students must be honest with themselves and others, in their personal ambition, study and in their involvement in the assessment process.

Trust follows academic honesty. Society trusts an academic institution which, through its mission, public work and in how it deals with employees and students, demonstrates commitment to academic integrity. Staff trusts the institution to uphold honest scholarly enterprise. Students trust their lecturers to guide their learning and to uphold the values to which the institution aspires. Academic staff trust students to work honestly, and with effort, to achieve their personal goals.

Everyone in an academic community expects to be treated fairly. Fairness is expressed in the institution's standards, practices and procedures, and in all interactions between the institution, its staff and its students. Judgments about the work of staff must be fair and accountable. Assessment of the work and learning of students must be fair and accountable.

15.1.2. Respect:

Respect comes from meeting high and honourable expectations. Society has respect for an academic institution that is seen to uphold high standards of conduct in learning, teaching and research. Respect among those in an academic community means interacting with civility and justice, and valuing others and their work. Self- respect comes from active and honest involvement in the learning and academic process.

15.1.3. Courage:

Those in an academic community have the right to expect that the principles of academic integrity and scholarship will be upheld. However, with rights come responsibilities. Responsibility for academic integrity and scholarship thus rests with every member of the community. This sometimes requires us to have the courage to challenge the actions of others and to take specific actions to ensure that academic integrity is upheld.

15.1.4. Excellence and Impact:

By upholding the principles of academic integrity the members of our academic community are inspired and enabled to achieve excellence. With trust, it becomes possible for our work to have impact.

16 PLAGIARISM AND ACADEMIC MISCONDUCT.

16.1 Plagiarism

Plagiarism has been stated as acts of fraud and lack of academic integrity. It involves both stealing someone else's work and lying about it afterward. To "plagiarize" means:

- i). to steal and submit (the ideas or words of another) as one's own
- ii). to use (another's production) without crediting or acknowledging the source
- iii). to commit literary theft
- iv). to present as new and original an idea or product or process derived from existing source

All of the following are considered plagiarism:

- i). Turning in someone else's work as your own
- ii). Copying words or ideas from someone else without giving credit
- iii). Failing to put a quotation in quotation marks
- iv). Giving incorrect information about the source of a quotation
- v). Changing words but copying the sentence structure of a source without giving credit
- vi). Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.

16.1.1. Plagiarism of Images, Videos, Arts, and Music

Using image(s), video(s) or piece of music or art in a work produced without receiving proper permission or providing appropriate citation is plagiarism. The following activities are very common in today's society. Despite their popularity, they still count as plagiarism.

- i). Copying media (especially images) from other websites to paste them into your own papers or websites.
- ii). Making a video using footage from others' videos or using copyrighted music as part of the soundtrack.
- iii). Performing another person's copyrighted music (i.e., playing a cover).
- iv). Composing a piece of music that borrows heavily from another composition.
- v). A photograph or scan of a copyrighted image (for example: using a photograph of a book cover to represent that book on one's website)
- vi). Recording audio or video in which copyrighted music or video is playing in the background.
- vii). Re-creating a visual work in the same medium. (for example: shooting a photograph that uses the same composition and subject matter as someone else's photograph)
- viii). Re-creating a visual work in a different medium (for example: making a painting that closely resembles another person's photograph).
- ix). Re-mixing or altering copyrighted images, video or audio, even if done so in an original way.
- x). Writing a computer program and presenting it as own work while incorporating the coding of a computer program written by another person;

- xi). Using or paraphrasing work from any source other than the person's own work, including a book, journal, newspaper article, set of lecture notes, current or past student's work or any other person's work;
- xii). Using a musical composition, audio, visual, graphic or photographic work created by other person(s);
- xiii). Using media created by another person, including an object, artefact, costume or model;
- xiv). It is plagiarism to produce and submit or present as own independent work an assessment item which has been prepared in conjunction with other persons.

The media certainly poses challenging situations in determining whether or not the copyrights of a work are being violated. The legality of these situations, and others, would be dependent upon the intent and context within which they are produced. The two safest approaches to take with regards to these situations is:

- i. Avoid them altogether or
- ii. Confirm the works' usage permissions and cite them properly.

16.1.2. Academic misconduct

Academic misconduct is a form of fraud and intellectual theft and is a serious breach of academic integrity. It covers a range of activities including:

- i). Plagiarism
- ii). Cheating
- iii). Failing to comply with examination or assessment rules or directions
- iv). Engaging in other conduct with a view to gaining unfair or unjustified advantage
- v). Committing research misconduct

16.1.3. Research misconduct

Research misconduct means the dishonest, reckless or negligent deviation from accepted standards of scientific and scholarly conduct of research, including:

- i). the fabrication or falsification of data or results;
- ii). plagiarism;
- iii). misleading or failing to appropriately attribute and acknowledge sources and contributions;
- iv). failure to disclose a conflict of interest;
- v). failure to obtain necessary regulatory or ethical approval; and
- vi). failure to comply with relevant regulatory or ethical approval conditions or requirements;

This does not include honest differences in judgment and honest errors that are minor and unintentional

16.1.4. Academic Misconduct by Students

Academic misconduct by a student is when:

- a. In relation to an examination or assessment:
 - i. Cheating and being caught;
 - ii. Cheating and not being caught (soon becomes apparent when employed that qualifications do not match abilities);

- iii. engaging in plagiarism;
 - iv. improperly colluding with another person;
 - v. failing to comply with examination or assessment rules or directions; or
 - vi. engaging in other conduct with a view to gaining unfair or unjustified advantage; or
- b. In relation to research, commits research misconduct.

16.1.5. Academic Misconduct in Group work

In the case of group projects:

- i). Falsely claiming authorship without making an adequate contribution.
- ii). Attributing authorship to group members who failed to contribute.
- iii). Collaborating too closely on work that is intended to be completed individually.

16.1.6. Self-plagiarism

Self-plagiarism (or auto-plagiarism) occurs when you submit work or large sections of previous assessments of your own for different assessments either in the same unit or subsequent units. It can also occur where a student is required to repeat a unit and the work completed when the student first undertook the unit is submitted again.

Self-plagiarism can also arise when a student re-uses work they have previously presented/published, for example in journals and at conferences. It may be possible to re-use some of your earlier work providing it is acknowledged appropriately and permission obtained where the duplication is more extensive.

16.2 Preventing Plagiarism

Most cases of plagiarism can be avoided by simply citing or acknowledging the sources of any materials borrowed and providing your audience with the information necessary for tracing that source. This is usually enough to prevent plagiarism.

16.2.1. Citations

This is a way of acknowledging or giving credit to individuals for their creative and intellectual works that are utilized to support research. Citation is reference to a published source. It gives the readers or audience the information necessary to trace that source again, including:

- i). information about the author
- ii). the title of the work
- iii). the name and location of the company that published your copy of the source
- iv). the date your copy was published
- v). the page numbers of the material you are borrowing or
- vi). Digital Object Indicator (DOI)

16.2.2. Citations Styles

There are many Citation styles that differ mostly in the location, order, and syntax of information about references. The number and diversity of citation styles reflect different priorities with respect to concision, readability, dates, authors, publications, and, of course, style.

There are also two major divisions within most citation styles: documentary-note style and parenthetical style. Documentary-note style is the standard form of documenting sources. It involves using either footnotes or endnotes, so that information about your sources is readily available to your readers but does not interfere with their reading of your work.

Different publishers often prescribe their own citation and referencing styles. It is important to note and adapt their requirements for one's documents to be accepted for publication.

16.3 Assessing Works for Plagiarism

JOOUST considers Plagiarism as a form of serious academic misconduct. In order to secure good scientific practice, JOOUST has developed Rules for dealing with misconduct in the context of examinations that can be found in the exam regulations for respective degrees, as well as in the doctoral degrees of the Schools.

To mitigate against the risk of plagiarism this policy mandates that all student and staff assignments, reports, projects, dissertations and theses be submitted through a licensed plagiarism detection software application for assessment.

16.4 Penalties for Plagiarism

The consequences of plagiarism could seriously endanger one's academic career. One's records follow one's self. Should one be compelled to leave one's course of study, it is likely to be extremely difficult to obtain a place elsewhere because no college or university would admit a student who has proven to be dishonest and unworthy.

When cases of plagiarism as an academic malpractice see Statutes XLV and XLVI have been investigated and proven, the penalties /punishments that can be meted on any one found culpable at JOOUST are as follows in accordance with JOOUST Rules and Regulations Governing the Organization, Conduct and Discipline of Students 2013:

- (a) Examinations: see Chapter G Clauses 8.11 and 8.12:
 - i). Expulsion from the University or
 - ii). Suspension and cancellation of examinations results of the candidate or
 - iii). Issuance of final stern letter of warning
- (b) Theses submitted for examination: see Chapter H Clause 6.1
 - i). Fail without possibility of resubmission and
 - ii). De-registration and
 - iii). Indefinite Expulsion from the University
- (c) Draft theses submitted to a supervisor purely for corrections: see Chapter H Clause 6.2
 - i) Letter of Warning by supervisor with copies duly escalated.

17 REVIEW

This Policy will be reviewed every three years or as need arises.