1. Context

Torrens University Australia (the University) is committed to providing a teaching environment where both staff and students recognise others’ work as well as a setting in which scholarship and research can flourish. As such, the University:

- recognises that intellectual property created as a result of University activities may be a significant and valuable asset which must be responsibly managed.
- recognises that the use of copyrighted material is central to its functions as a teaching and research institution, and supports and encourages the legitimate use of copyrighted materials to enhance its teaching and research activities. It is committed to the proper observance of copyright law, and to upholding the rights of copyright creators and users.

This policy:

- sets out the University’s approach to the ownership and commercialisation of intellectual property created by the University community or with University resources.
- reinforces the obligation on all members of the University community to comply with copyright law when engaging in University activities.

2. Definitions

**Administrative materials**: means materials created for the University’s administrative or business functions, including letters, memos, templates, handbooks, systems software, advertising material and internal reports.

**Commercialise**: means engage in any process to transfer technology, sell, assign, license, sub-license, or otherwise trade in or deal with intellectual property to gain or attempt to gain financial or other benefit.

**Copyright**: protects the original expression of ideas in a material form (e.g. original works of art, scripts, books, reports, information sheets, music, films, broadcasts and computer programs). Copyright protects only the material expression of ideas not the ideas themselves. A speech given ad-libitum, for example, would not attract copyright protection, but when written down, it is protected as a literary work.

**Creator**: means a staff member, student, affiliate or visitor of the University who is the inventor, author, composer, sculptor, designer, compiler, film-maker, programmer, photographer or other originator of intellectual property which is the subject of this policy.

**Intellectual property**: means the legal rights which may be claimed for intellectual creations. Specifically, it includes:

- Copyright, which protects computer software; teaching materials; scholarly written, artistic, dramatic and musical works; and other works including film and sound recordings. Refer to the Copyright Act 1968 (Cth);
• Patents, which protect new inventions and processes in areas such as software, biotechnological and engineering advances, and business methods. Refer to the Patents Act 1990 (Cth);

• Confidential information, consisting of know-how, trade secrets or other proprietary information and background knowledge. This is protected under Common Law;

• Design Rights to protect the shape or appearance of manufactured goods. Refer to the Designs Act 2003 (Cth);

• Trademarks comprising the signs and trading identities of businesses. See the Trade Marks Act 1995 (Cth) for registered marks. Unregistered trademarks are protected under Common Law; and

• Circuit Layout Rights to protect the configuration of electronic circuits in integrated circuit products or layout designs. Refer to the Circuit Layouts Act 1989 (Cth).

Scholarly or Creative work: means journal articles, conference papers and proceedings, books, recorded performances, radio scripts, as well as artistic, musical, dramatic or other creative works produced during the course of a creator’s University activities, but does not include work that is a computer program, teaching materials or administrative materials.

Staff: all employees, affiliates, contractors, visitors and authorised users of the University’s IT facilities.

Teaching materials: means materials in any form prepared for the teaching of a course or program that is offered or intended to be offered by the University. They include curriculum outlines, lectures, lecture notes and material, syllabuses, study guides, assessment materials, images, web content, course software, etc.

University community: students, staff, agents, affiliates, alumni, officers, contractors, volunteers, and other people who are formally involved in University-related activity, regardless of the location of that activity.

3. Scope
This policy applies to all University staff, students, affiliates and visitors.

This policy covers:
• the management of University-owned copyright
• strategies for minimising risks that flow from copyright non-compliance.

4. Responsibilities

4.1 Torrens University Australia
The University has a responsibility to:
• protect the University’s intellectual property;
• ensure that copyright users are informed of their legal obligations;
• provide guidance and mechanisms to enable users to meet their legal obligations;
• monitor and rectify unlawful use of copyright material; and
• promote a positive ethical and compliance culture in relation to copyright.
4.2 Staff
All staff have a responsibility to:

- read, understand and apply the copyright compliance information provided for them on the University’s staff portal
- adhere to the requirements of the Copyright Act when using copyright works
- consult with the Copyright Officer when preparing course materials supplied to or made accessible to enrolled students to clarify any uncertainties about compliance obligations
- report any apparent breaches of copyright of which they are aware to the Copyright Officer and
- safeguard the University’s intellectual property.

A staff member who does not comply with this policy and copyright compliance requirements may be liable for disciplinary action under the Staff Misconduct Policy.

4.2.1 President
The President is responsible for the control and administration of section A of this policy, and has delegated authority from the Governing Board to submit patent applications in the name of the University.

4.3 Students
All students have a responsibility to:

- read, understand and act in accordance with the provisions of the Academic Integrity Policy as well as refer to the Academic Writing Guide to ensure compliance with copyright requirements; and
- adhere to the requirements of the Copyright Act when using copyright works.

Students are personally responsible and liable for breaches of copyright arising from their own actions. Breaches may result in disciplinary action under the Academic Integrity Policy, Student Conduct Policy and/or criminal proceedings under copyright law.

SECTION A: Intellectual Property

5. Intellectual Property Ownership

5.1 Ownership of intellectual property created by staff
- At law, the University owns all intellectual property created by staff members in the course of their duties with the University, including teaching/course materials, administrative materials, scholarly or creative work, computer work, and research design and outcomes, unless there is a specific written agreement or exception to the contrary. This includes, but not limited to, presentations, slides, teaching aids, etc. This excludes existing external resources already owned by staff members that they may choose to bring in from time to time to complement University provided materials, such as examples of work drawn from their own external professional/industry practice.

- In the case of scholarly or creative works, the University retains a discretion to assign ownership of these to the creator and would normally do so unless:
  - the creator has been engaged specifically by the University to create such work; or
  - the relevant work is subject to a contractual obligation with a third party; or
  - the relevant work relates to intellectual property which is being commercialised by the University.
• Applications to assign ownership will be dealt with on a case-by-case basis and may be conditional on the University receiving a free, ongoing, and non-exclusive right to use the relevant work for teaching, research, and promotional purposes.
• On a case-by-case basis, applications will be assessed by the Dean in the first instance.

5.2 Ownership of intellectual property created by students
All intellectual property created by students in the course of their studies (including, without limitation, students in Doctor and Master of Philosophy programs) will be owned by the University (and students must do all things necessary to vest that intellectual property in the University) unless there is a specific written agreement or exception to the contrary. Applications to assign ownership from the University will be dealt with on a case-by-case basis and may be conditional on the University retaining a free, ongoing, and non-exclusive right to use the relevant work for teaching, research, and promotional purposes. If a student participates in an activity that:
• builds upon pre-existing University intellectual property; or
• is being carried out for, or in conjunction with, an external third party (including work integrated learning placements),
then the University owns the intellectual property, subject to any other agreement in writing between the University, the third party, and/or the student.

5.3 Ownership of intellectual property created by visitors and affiliates
The University owns all intellectual property created by visitors and affiliates where the intellectual property was generated solely or primarily through the use of the University’s resources, funds or pre-existing University intellectual property, unless there is a specific written agreement or exception to the contrary.

5.4 Collaborative research
Staff, students, affiliates and visitors who engage in collaborative research with a person or organisation external to the University must ensure that appropriate agreements are in place to clarify intellectual property ownership and rights of use.

5.5 Commercialisation of Torrens University Australia’s intellectual property
• Creators (whether students, staff, visitors or affiliates) have an obligation to:
  o disclose the creation of new intellectual property if it has potential commercial value, or is required by third party agreements; and
  o keep it confidential pending commercialisation decisions.
• When intellectual property is protected or commercialised, the creators will be appropriately recognised as contributors to that intellectual property.
• Following the commercialisation of intellectual property other than administrative materials, teaching materials or scholarly or creative works, the University is amenable to sharing the net revenue from the intellectual property (i.e. cash revenue, including royalties, licence fees, lump sums, milestone payments and revenue from sale of shares, less commercialisation costs, including costs of commercial development, legal services, IP protection and marketing) with the creators.
• Subject to any particular agreement with the creator, net revenue will usually be disbursed as follows:
  o ½ to the creators
  o ½ to the University
This disbursement to the creators will continue regardless of whether a creator remains a staff member, student, affiliate or visitor with the University.

Where the University decides not to protect or commercialise intellectual property, opportunity will be provided to creators to apply to the University to do so in their own right. Prompt consideration will be given to any such application and the implications of any assignment for the University]. Assignment will not, however, affect the
University’s right to seek a share of net commercialisation revenue from any such commercialisation by the creators.

6. Traditional Indigenous Knowledge

The University recognises that the commercial development of products resulting from use of the traditional knowledge of indigenous peoples should be subject to benefit-sharing negotiations with the providers of such knowledge, and conform to the relevant Indigenous protocols and ethical guidelines (including the Guidelines for Ethical Research in Australian Indigenous Studies).

7. Moral Rights

The University recognises and respects the Moral Rights, ie the rights conferred on creators by Part IX of the Copyright Act 1968 (Cth) in relation to their literary, dramatic, musical or artistic works and cinematograph films. It will use its best endeavours to ensure that those Moral Rights are respected by any third party under contract with the University.

In the case of administrative or teaching materials (including existing course and teaching materials staff members bring in to complement University provided materials), the University asserts its right to use or modify such materials as it sees fit.

8. Disputes

If a disagreement arises out of the application of this section of the policy, the Dean/Pro-Vice Chancellor (for scholarly and creative works) or Senior Executive (for administrative materials), will work with the parties in dispute to find a mutually acceptable solution. If the matter is not resolved within six (6) weeks of its reference to the Dean/Pro-Vice Chancellor or Senior Executive, then the relevant Dean/Pro-Vice Chancellor or Senior Executive and President will appoint an appropriate expert to determine a resolution. The expert must act as an expert and not as an arbitrator, and the determination of the expert will be final and binding.

For any dispute not covered by such expert determination:
- staff may use the Grievance Resolution Policy; and
- students may use the Student Complaints Policy.

Nothing in this policy affects any available options for general legal redress.

SECTION B: Copyright Compliance

9. Copyright

Copyright protects the original expression of ideas and gives the copyright owner exclusive economic rights to release, communicate to the public (text), reproduce (record, film, scan, digitise, photocopy), adapt, and perform the work. For a work to receive copyright protection the material must be original and it must be in material form; copyright protects the expression of the thought, not the thought or idea itself, meaning that until a work is in material form, copyright protection cannot be attached.

Works created, written or produced by staff for the purpose of subject delivery in the course of their employment does not require attribution to the creator. The copyright of material created for work belongs to the employer.
9.1 Materials protected under the Copyright Act 1968

- *written works* such as books, editions, articles, newspaper articles, short stories, poems, procedures, reports, lyrics, tables or compilations expressed in words

- *artistic works* including paintings, graphics, sculptures, drawings, cartoons, photographs, buildings or models of buildings

- *musical works* including musical scores as well as music for songs and jingles

- *dramatic works* including plays, television, radio and film scripts.

- subject matter other than works (these do not exist in isolation but may have collections. If so, there is underlying copyright *such as electronic databases*):
  - computer programs meaning the written expression of a computer program
  - films including advertisements, documentaries, feature films, TV programs, other digital recordings
  - sound recordings
  - compilations (e.g. broadcasts of television and radio programs including Podcasts).

9.2 Moral rights of attribution

- Legally, staff and students are obliged to attribute a person's work, including that of colleagues, whenever quoting, transmitting, or including it in readings, lecture notes, or other educational material. This is because the creator of a work has moral rights (regardless of who the copyright owner is).

- These rights involve:
  - the right of (correct) attribution for the work
  - the right to non-derogatory treatment of the work.

An exception to the right of attribution applies where a person is an employee of the University and has given written consent not to be identified in relation to work they have produced in the course of their employment.

9.3 Torrens University Australia copyright agreements

- Educational use of copyright material must fall within the limits prescribed by the Act under *Part VB*. The University has elected to rely on the educational copying provisions in the Act for its use of copyright material for teaching and research.

- The University has copyright agreements with the following collection agencies which allow the copying and use of material for teaching purposes (see under Links). These fees go to the creators of the works copied:
  - Copyright Agency Educational Statutory Licence (CAL)
  - Australasian Performing Right Association (APRA), for use of music by William Blue Dining and Wellness Clinics
Screenrights Educational Licence for the showing of film, radio or television materials (See Appendix 1 & 2: Television, Film Radio Notice and labelling).

9.4 Amount the University staff can copy when teaching students

- 10% of the number of pages
- 10% of the words if the work is in electronic form (e.g. web-pages, DVD)
- One chapter of a book (if it is divided into chapters, even where that exceeds 10% of the total number of pages) either printed or electronic
- One article from a newspaper, magazine or journal (or more than one if the articles are on the same subject matter, e.g. two articles on interior design history in a design journal)
- All of an artistic work, for example: a diagram or photo (if the work is illustrating the text that is copied or the work cannot be purchased separately)
- 10% of a sheet music piece or play
- If a play was less than 15 pages and in an anthology, staff could potentially take all of it under the anthology provision (for performances in class).

9.4.1 Producing multiple photocopies, emailing the material to students, placing the material online through the student portal or creating course packs (within the limits stated above), always need attribution of the copyright owner’s work on the copy. If a copy is used for a purpose other than education, or it is sold, it is deemed to be an infringing copy.

9.4.2 If the amount of material used falls outside the licensing or legal permissions, special permission may be sought from the copyright holder for its use. This can be negotiated directly with the copyright owner, or with the assistance of Copyright Agency under the University’s Educational Statutory License. If special permission is granted by the copyright owner, permission statements must be stored as evidence that use is compliant. The Copyright Officer is responsible for coordinating requests for addition to scope (either with the copyright owner or with the Copyright Agency) and for the maintenance of a copyright permissions register.

9.4.3 In certain circumstances permission of the copyright owner of copyright material is not needed (but attribution is required) and is free in legislation for the following:
- insubstantial use, such as quoting a line from a novel, 1% or maximum 2 straight pages of a work
- Limited Preservation Copying: back-up copy of a computer program, for use if the original is lost, destroyed or unusable
- Reproductions for Examinations only
- fair dealing for the purpose of research or study, within specified limits (see below).
- Material published under a Creative Commons licence (note that other constraints may apply depending on the licence type).

9.4.4 “Fair Dealing” applies and is under S40 of the Act. Fair Dealing includes using no more than a reasonable portion, as outlined above. For other works (poems of less than 10 pages, artistic works, audio-visual works) there is no definition of reasonable portion. In deciding what is reasonable, the Act requires the consideration of:
- the purpose and character of the dealing
• the nature of the work or adaptation
• the possibility of obtaining the work or adaptation within a reasonable time at an ordinary commercial price
• the effect of the dealing upon the potential market for, or value of, the work or adaptation
• in a case where part only of the work or adaptation is reproduced - the amount and substantiality of that part in relation to the whole work.

9.4.5 Copying material off the World Wide Web falls under the same legislation and is subject to the limitations imposed by the Copyright Act. It may be clearly marked as copyright, by means of a statement or the copyright symbol ©. However, some material on the Web is marked as being in the public domain where no-one is claiming copyright and the material is free for use. It is recommended to only download material within the terms and if there is a download button. However, referring students to an illegal site that infringes copyright puts the focus back on the referring staff and may be regarded as careless liability.

10. Copyright warning notices and permission forms

10.1 Electronic material
• Any material that is made available under the licence with Copyright Agency Educational Statutory Licence that is electronically reproduced, including any readings that are uploaded, needs to have the Electronic Copyright Notice incorporated, preferably as the first page (see Appendix 1).
• In the case of book chapters, only one chapter from a single volume can be made available to student access at any one time within the entire Learning Management System. If a second chapter from the same volume needs to be uploaded, the first chapter must first be removed.

10.2 Copyright warning notice
It is required that relevant copyright warning notices are displayed in the vicinity of, or attached to, any equipment for copying print and audio-visual materials. This is a legal requirement (see Appendices 3 and 4).

10.3. Intellectual property consent form
• If academic staff use student material, they need permission from that student to copy, show other students, or use this work as an exemplar. The intellectual property remains with the student, and needs to be attributed, as always (see Student Intellectual Property Consent Form).
• These requirements and rules must be followed to avoid breaching the Copyright Act.

11. Responsibilities

11.1 Specific copyright obligations
• Production of hybrid, blended and online teaching materials as part of a product development project
  o Responsibility: Product Operations & Projects Manager for the course(s) for which the materials are produced.

• Production/distribution of additional hybrid, blended and online teaching materials during trimester delivery, and/or as part of course review/continuous improvement
  o Responsibility: Program Director or delegate for the course(s) for which the materials are produced.

Academic staff or other persons involved in the production, reproduction or delivery of teaching materials must be familiar with and meet their obligations as outlined in this policy.
All staff posting other material online (such as website content or other student portal materials) are responsible for ensuring the copyright compliance of their uploaded content and/or links to external material.

11.2 Copyright awareness and management

- **Delegated Copyright Officer**
  
  **Responsibility:** Head of Library Services
  - Provide professional advice to staff on the interpretation of the Act and this policy
  - Present education sessions and information in collaboration with Product Innovation Hub and/or Academic Professional Development Team for all staff
  - Maintain information concerning Copyright on the University staff portal and learning portals for both staff and students
  - Ensure appropriate copyright licensing is current
  - Liaise with all relevant copyright agency bodies CAL and APRA.

- **College and campus awareness**
  
  **Responsibility:** Campus Director
  - Raise awareness of this policy within their campus community
  - Refer copyright questions to the Copyright Officer.

- **Staff education**
  
  **Responsibility:** Program Director or delegate
  - Require new academic staff to read and agree to comply with this policy as part of their induction
  - Ensure all new staff are instructed in the processes required for ensuring copyright compliance, in conjunction with the Copyright Officer
  - Encourage existing staff to read this copyright policy regularly to keep up to date with requirements
  - Refer copyright questions to the Copyright Officer.

- **Licensing and audit management**
  
  **Responsibility:** Product Innovation Hub
  - Manage agency audit and survey requests
  - Liaise with all relevant licencing agencies in relation to the licensing of content for inclusion in teaching materials, e.g. Screenrights

11.3 Copyright breach management

- If a breach of copyright is known or suspected, the person identifying the suspected breach must notify the Copyright Officer immediately. The Copyright Officer will investigate the suspected breach, and if needed supervise the rectification without delay.
- Following rectification, the Copyright Officer will liaise with the Program Director and Director of Product Innovation to investigate how the breach occurred, and ensure that any systemic improvements required are implemented to improve processes to minimise the risk of further breaches.
- Once a situation is resolved, a report detailing the breach and subsequent actions or improvements will be sent to the Dean/Pro-Vice Chancellor of the relevant faculty vertical for their information.
12. Enquiries
All copyright enquiries should be directed in writing to the Copyright Officer. The contact details are:
Copyright Officer
220 Victoria Square,
Adelaide SA 5000
www.torrens.edu.au
copyright@torrens.edu.au

13. Further resources
http://www.copyright.org.au/
http://www.screenrights.org/

14. References
Copyright Law is contained in the Copyright Act 1968 and there have been two significant amendments to include the Copyright Amendment (Digital Agenda) Act 2000 and Copyright Amendment (Moral Rights) Act 2000.
Appendix 1: ELECTRONIC COPYRIGHT NOTICE / TELEVISION, FILM, RADIO NOTICE

Commonwealth of Australia
Copyright Regulations 1969

Warning
This material has been reproduced and communicated to you by or on behalf of Torrens University Australia pursuant to Part VB of the Copyright Act 1968 (the Act).

This material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

Appendix 2:

MATERIAL COPIED OR COMMUNICATED UNDER SCREENRIGHTS LICENSE TO BE LABELLED WITH:

Made for Torrens University Australia’s educational purposes under Part VA, Copyright Act 1968

Date of broadcast__________________________________________________________

Date this copy made ______________________________________________________
Commonwealth of Australia  
*Copyright Act 1968*

Notice about the reproduction of works and the copying of published editions

**WARNING**

Copyright owners are entitled to take legal action against persons who infringe their copyright.

A reproduction of material that is protected by copyright may be a copyright infringement.

Certain dealings with copyright will not constitute an infringement, including:

- a reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study; or
- a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for research or study, of one or more articles in a periodical publication for the same research or same course of study or, for any other work, of a reasonable portion of a work.

For a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

For a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act. A court may impose penalties and award damages in relation to *offences and infringements* relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.
Appendix 4: COPYRIGHT NOTICE FOR COPYING AUDIO-VISUAL MATERIAL

NOTE: This must be displayed in the vicinity of, or attached to, any machines that can copy audio-visual material, e.g. video/DVD recorders, computers.

Commonwealth of Australia

Copyright Act 1968

Notice about the copying of audio-visual items

Warning

Copyright owners are entitled to take legal action against persons who infringe their copyright. Unless otherwise permitted by the Copyright Act 1968 (the Act), unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item.

It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act.

Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.