

BASC IP POLICY

**BASC Policy on Intellectual Property,
Technology Transfer, and Research
Collaboration**



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Philippine Copyright

BULACAN AGRICULTURAL STATE COLLEGE

Research, Extension, Production, and Development

Intellectual Property Office



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The Manual on Bulacan Agricultural State College (BASC) Intellectual Property (IP) Policy, as could be referenced on Republic Act Number (R. A. No.) 8293, Intellectual Property Code of the Philippines, is hereby promulgated as presented herein.



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ARTICLE 1. INTRODUCTION

BASC believes that the interest of the public is best served by creating an intellectual environment that encourages and rewards the generation of new knowledge, creativity, and innovation by its personnel and students.

It recognizes the need to promulgate a “**BASC Policy on Intellectual Property, Technology Transfer, and Research Collaboration**”, otherwise known as the “**BASC IP Policy**” as it becomes increasingly active in research, innovation, and technology transfer.

It seeks financial support from the government and from local and international organizations for its research activities. Consistent with this premise, it seeks to ensure that any resultant IP is administered and protected in the interest of the public.

This IP Policy seeks to provide guidelines that can be consistently applied to facilitate the commercialization of research outputs and to arrive at equitable solutions to possible IP issues relating to the conduct of research, technology transfer, and commercialization.

ARTICLE 2. POLICY OBJECTIVES

- 2.1 Promote, preserve, encourage, and aid scientific investigation and research;
- 2.2 Facilitate the transfer of technology from BASC to industry in order that research conducted results would benefit the public;
- 2.3 Establish and maintain an innovation fund for research and innovation;
- 2.4 Enhance the prestige of BASC as a state college and an academic research institution by pursuing the highest ideals of scholarship and teaching;
- 2.5 Encourage, assist, and provide mutually beneficial rewards within it that transfers its IP to the public through commercial channels under this IP Policy;
- 2.6 Establish standards for determining the rights and obligations of BASC and the creators of IP;
- 2.7 Ensure compliance with applicable laws and regulations and enable BASC to secure sponsored research funding at all levels of research; and
- 2.8 Generally ensure protection for the IP prior to any publication.

ARTICLE 3. COVERAGE

3.1 Personnel covered

This IP Policy applies to all BASC personnel, e.g. full-time/part-time faculty, visiting faculty, emeritus faculty, academic and research staff, affiliate and adjunct staff, non-teaching personnel, students (working, undergraduate, masters, Doctor of Philosophy, exchange scholars), other researchers, and stakeholders who participate in research projects at the Main Campus and the extension campuses, unless, BASC specifies other arrangements in such person's letter of appointment with it.

3.2 IP rights covered

This IP Policy shall cover all types of IP rights under relevant IP Laws of the country, such as:

- i. Copyright and Related;
- ii. Trademarks and Service Marks;
- iii. Geographic Indications;
- iv. Industrial Designs;
- v. Patents;
- vi. Utility Models;
- vii. Lay-out Designs (Topographies of Integrated Circuits);
- viii. Undisclosed Information, Trade secrets;
- ix. New plant varieties, per Republic Act No. 9168;
- x. Micro-organisms;
- xi. Non-biological; and
- xii. Micro-biological processes.

ARTICLE 4. DEFINITION OF TERMS OR EXPRESSIONS

4.1 **“Academic and Research Staff”** refers to all faculty, academic staff, visiting faculty, emeritus faculty while at the BASC and affiliate and adjunct staff members, fellows and other researchers carrying out research at BASC, whether part-time or full-time.

4.2 **“BASC”** or **“College”** refers to the Bulacan Agricultural State College or any of its offices, departments, college, institutes, campuses, and administrators duly authorized to transact or enter into agreement regarding IP.

4.3 **“BASC Personnel”** refers to all academic and research staff as well as other personnel covered by this IP Policy under Article 3.1

4.4 “**BASC Resources**” refers to all tangible resources provided by BASC to inventors, including:

- i. Facilities, such as office, laboratory and studio space;
- ii. Equipment;
- iii. Computer hardware and software;
- iv. Support and secretarial services;
- v. Research, teaching, and laboratory assistants;
- vi. Supplies;
- vii. Utilities;
- viii. Funding and reimbursement for research and teaching activities, including travel;

BASC Resources do not include salary, insurance, or retirement plan contributions paid to or for the benefit of Creators.

4.5 “**Breeder**” refers to the BASC personnel or student who breeds or discovers and develops a new plant variety; or the employer of the aforementioned person; or who has commissioned the work; or the successors-in-interest of the foregoing person as the case may be; or the holder of the Certificate of Plant Variety Protection.

4.6 “**Board**” or “**BOT**” refers to the BASC Board of Trustees.

4.7 “**Confidential Information**” refers to any information or data of a confidential nature, including all oral and visual information or data, and all information or data recorded in writing or in any other medium or by any other method, and all information and data which BASC is under an obligation, whether contractual or otherwise, not to divulge.

4.8 “**Copyright**” refers to the legal protection extended to the owner of the rights in a creative or literary work.

4.9 “**Commercialization**” refers to the process of deriving income or profit from a technology, such as the creation of a spin-off company, through licensing, or the sale of the technology and/or IPRs.

4.10 “**Creator**” or “**Author**” refers to the natural person who has made the work or the BASC personnel or student (covered under Article 3.1 of this IP Policy) who is considered as the first legal owner of literary, scholarly, scientific, or artistic works and made creative or authorship contributions.

4.11 “**Geographic Indication (GI)**” refers to the name or sign used on certain products which corresponds to a specific geographical location or origin (e. g., a town, region, or country). The use of a GI may act as a certification that the product

possesses certain qualities and enjoys a certain reputation, due to its geographical origin.

4.12 “**Government Funding Agency**” or “**GFA**” refers to any government agency or instrumentality, or government-owned and/or –controlled corporation that provides research grants and other technical and material support, from government appropriations and resources and those sourced from government-managed Official Development Assistance (ODA).

4.13 “**IP Code**” refers to Republic Act Number 8293 or the Intellectual Property Code of the Philippines and its amendments.

4.14 “**IP Policy**” refers to the “**BASC Policy on Intellectual Property, Technology Transfer, and Research Collaboration**”, as may be amended from time to time.

4.15 “**Intellectual Property**” or “**IP**” refers to any creation and product of the human mind, such as any patentable invention, utility model, industrial design, undisclosed information or know-how, copyright, layout design of integrated circuits, tangible research property, rights relating to computer software, trade mark, and any other industrial or intellectual property rights registered or otherwise, including tangible research property.

4.16 “**Intellectual Property Rights**” or “**IPR**” or “**IPRs**” refers to those rights recognized and protected in the IP Code.

4.17 “**Inventor**” refers to the BASC personnel (covered under Article 3.1 of this IP Policy) who comes up with new ideas to invent, develop, design, innovate, or manufacture something.

4.18 “**Industrial Design**” refers to any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors; provided, that such composition or form gives a special appearance and can serve as pattern for an industrial product or handicraft.

4.19 “**Know-how**” refers to acts or works enumerating methods, techniques, processes, discoveries, inventions, innovations, non-patentable processes, specifications, recipes, formulae, designs, plans, documentations, drawings, data, and other technical information.

4.20 “**Layout Design of Integrated Circuits**” refers to an original topography of elements, at least one of which is an active element, and a source of all interconnections of an integrated circuit or such three-dimensional disposition prepared for an integrated circuit intended for manufacture.

4.21 **“Mark”** means any visible sign capable of distinguishing the goods (trademark or service mark) of an enterprise and shall include a stamped or marked container of goods.

4.22 **“Net Revenue”** refers to gross consideration (including all royalties, fees, and other benefits, but excluding shares in a company) received, less all expenses (all filing, marketing and licensing costs, legal, and any other reasonable and relevant necessary expenses) incurred in the commercial exploitation of the IP.

4.23 **“Patentable Invention”** or **“Invention”** refers to any technical solution of a problem in any field of human activity which is new, involves an inventive step, and is industrially applicable.

4.24 **“Plant”** refers to a wide array of living organisms from the smallest bacteria to the largest living things which include algae, fungi, lichens, mosses, ferns, conifers, and flowering plants that thrive in terrestrial, aerial and aquatic environment.

4.25 **“Potential IPRs”** refers to intellectual property, or the products of creation and research that form the subject matter of IPRs, but which are not yet protected by the statutory grant of IP rights.

4.26 **“Research Agreement”** refers to the contract entered into by BASC and its researchers, including the agreements between BASC and collaborating agencies.

4.27 **“Research Funding Agreement”** or **“RFA”** refers to a contract entered into by and among the GFA and other funding agencies and BASC. It governs ownership of IP, duties and responsibilities of GFAs and RDIs, technology disclosure, exclusivity of the license, use for commercialization, establishment of spin-off firms, technologies for research use, and sharing of income and benefits from technology commercialization.

4.28 **“Researcher”** refers to a natural person engaged by employment or other contract to conduct research with or for BASC.

4.29 **“Staff member”** refers to all administrative staff, non-researchers or any other persons employed by BASC to participate in research projects, whether part-time or full –time.

4.30 **“Student”** or **“Students”** or **“Scholar”** or **“Scholars”** refers to all matriculated undergraduates, student-employees and higher degree students, i. e., graduate students, candidates for master and doctorate degrees, post doctorate fellows at the BASC.

4.31 **“Spin-off firm”** or **“Company”** refers to a juridical entity that is an independent business technology taker with a separate legal personality from BASC created through the initiative of the one who generated the technology.

4.32 **“Tangible Research Property”** refers to research results that are in a tangible form and that include items, such as materials, drawings, integrated circuit chips, computer software, computer and other databases, processes, prototypes, and circuit diagrams.

4.33 **“Technology”** refers to knowledge and know-how, skills, products, processes, and/or practices.

4.34 **“Technology transfer”** refers to the process by which one party systematically transfers to another party the knowledge for the manufacture of a product, the application of a process, or rendering of a service which may involve the transfer, assignment or licensing of IPRs.

4.35 **“Utility Model”** refers to any technical solution of a problem in any field of human activity which is new and is industrially applicable but does not involve an inventive step.

4.36 **“Undisclosed information or trade secrets”** refers to information which is secret; that it is not, as a body or in the precise configuration and assembly of its components generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; has a commercial value because it is secret; and has been subject to reasonable steps under the circumstances to keep it secret, by the person lawfully in control of the information.

4.37 **“Work” or “Works”** refers to original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

- i. Manuscripts, educational course materials, and academic papers;
- ii. Books, pamphlets, articles and other writings;
- iii. Periodicals and newspapers;
- iv. Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;
- v. Letters;
- vi. Dramatic or dramatic-musical compositions, choreographic works, or entertainment in dumb shows;
- vii. Works of drawing, painting, architecture; sculpture, engraving, lithography or other works of art; models or designs for works of art
- viii. Original ornamental designs or models for articles of manufacture, whether or not registered as an industrial design, and other works of applied art;

- ix. Illustrations, maps, plans, sketches, charts, and three-dimensional works relative to geography, topography, architecture or science;
- x. Drawings or plastic works of a scientific or technical character;
- xi. Photographic works, including works produced by a process analogous to photography; lantern slides;
- xii. Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- xiii. Pictorial illustrations and advertisements;
- xiv. Computer programs and software; and
- xv. Other literary, scholarly, scientific, and artistic works, such as musical compositions, with or without words.

4.38 “**Variety**” refers to a plant grouping within a single botanical taxon of the lowest known rank, that without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from the given genotype or combination of genotypes, distinguished from any other plant groupings by the expression of at least one (1) characteristic and considered as a unit with regard to the suitability for being propagated. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other forms.

ARTICLE 5. INTELLECTUAL PROPERTY (IP) OWNERSHIP

5.1 Copyright, Patent, UM, and other IPR

- a. By principle ownership of IP by BASC personnel shall belong to the Creator, Inventor, or Breeder, except when:
 - i. the IP is created in the course of, or pursuant to an agreement between BASC and an external party; then the IPR is subject to the terms on IP ownership set out in the relevant agreement; or
 - ii. the IP is commissioned by BASC or is created at the direction of BASC for a specific purpose; or
 - iii. the IP is created by a BASC personnel as part of his/her duties and responsibilities or in fulfillment of his/ her contract of employment; or
 - iv. the IP is created by a student for which the student receives financial support in the form of wages, allowances, salary, stipend or grant from funds administered by or through BASC; or

- v. the IP is submitted to BASC by its original Creator, Inventor, or Breeder, provided the Creator, Inventor, or Breeder willingly relinquishes ownership to BASC; or
 - vi. the IP is created or developed using resources provided by or through BASC for such a purpose.
- b. IP developed by BASC personnel in their own personal time which are neither connected to BASC Research nor developed with substantial use of BASC resources, shall belong to such BASC personnel.
 - c. If the owner of the IPR would be other than BASC, prior consent is required from the owner before any compilation, utilization, distribution, or sale by BASC can be made.

5.2 Trademarks

- a. BASC shall be the sole owner of the logos or any Mark of BASC, its offices, departments, college, institutes, campuses, and its products upon registration to the IPO of the Philippines. Any use of said the logo or Mark shall require prior license or permission from BASC.
- b. Logos or any mark of BASC accredited organization shall belong to said organization. However, BASC may assist in registering said logo or Mark upon request by the officers of said organization.

5.3 Tangible Research Property (TRP)

- a. Research results as defined in Article 4.32 which cannot be the subject of any other kind of intellectual property protection are presumptively owned by BASC.
- b. In no case shall TRP, be the subject of IP registration or any form of acquisition of other entities without prior approval of BASC.

5.4 BASC-owned IPR

- a. While BASC shall own the IPR, the Creator, Inventor, or Breeder shall be properly acknowledged as such and shall be granted with appropriate honoraria, incentive, or royalty as approved by the BOT.
- b. BASC shall have the right to use, publish, reproduce, distribute, and sell such IP in fulfilling its four-fold function of instruction, research, extension, and production with an appropriate notification to the creator, inventor, or breeder.

5.5 Student Thesis or Dissertation

- a. The student shall own the copyright of his or her thesis or dissertation, subject to the provisions of applicable laws or any agreement with BASC or external parties. The student shall grant to BASC a royalty-free permission to reproduce,

- publish, or publicly distribute copies of the thesis or dissertation or any of its parts, in whatever form.
- b. If a thesis or dissertation would contain information on a technology that may be registrable and/or commerciable, the thesis or dissertation may be withheld in accordance with the procedures below:
 - i. The College/Institute may withhold public access to the student's thesis/dissertation containing information on registrable technology until such time that an IP application is filed by the IP Office.
 - ii. If the IP Office decides not to pursue an IP protection in accordance with Article 7.2, the manuscript may be released to the public in accordance with the procedures adopted by BASC.
 - iii. If the student would request for the return of the IPR under Article 7.3 and wish to pursue commercialization for the technology, the student may request the College/Institute to withhold the thesis/dissertation for not more than six (6) months from the date of return of the IP in order for the relevant IP application to be filed.

ARTICLE 6. ADMINISTRATION

6.1. Creation of the BASC Intellectual Property Office

To supervise the implementation of the IP Policy and commercialization of BASC IP assets, an IP Office, which shall also act as the BASC Technology Licensing Office, shall be created, with the following functions and responsibilities:

- i. Administer and monitor the implementation of the IP Policy;
- ii. Coordinates activities with the other offices/departments/units in the College to promote awareness and compliance to intellectual property laws and policies;
- iii. Conduct seminars, trainings and workshops on IP and Technology Transfer and Commercialization;
- iv. Facilitate the registration of appropriate Intellectual Property Licenses for inventions, innovations, and new technologies generated;
- v. Evaluate the potential of the works and/or inventions submitted for commercialization;
- vi. Negotiate with BASC personnel with respect to the development of independently owned technologies, after a determination of their commercial potential for purposes of registration, licensing or joint venture agreements;

- vii. Manage BASC IP portfolio, including the drafting, filing, and pursuance of applications with the Intellectual Property Office of the Philippines (IPO Philippines) or the National Library, as well as the maintenance of granted patents and registered trademarks;
- viii. Recommend appropriate actions for enforcement of intellectual property rights and coordinate with the appropriate authorities for the filing of appropriate actions and other measures to protect the intellectual property rights of the University;
- ix. Administer the funds allocated for patenting and activities related to the protection and commercialization of BASC IP;
- x. Negotiate and manage contracts for the production, distribution, and marketing of BASC IP assets;
- xi. Spearhead the preparation of business and marketing plans and in securing financial assistance for any commercialization project activity.
- xii. Administer payments derived from any commercialized IP assets;
- xiii. Negotiate all license agreements for intellectual properties of BASC;
- xiv. Initiate the creation and revision of BASC policies, strategies, guidelines and procedures concerning intellectual property;
- xv. Represent BASC in Intellectual Property organizations, associations and societies;

6.2. Staffing of BASC Intellectual Property Office

The IP Office of BASC may have the following personnel, the number of whom depends on the volume of activities that are to be handled:

- i. **Director (of the Intellectual Property Office)** - who shall direct and supervise the day-to-day operation;
- ii. **Intellectual Property Officers** – who shall evaluate and facilitate registration of IP assets submitted to the BASC IPO;
- iii. **Technology Licensing Officers** – who shall facilitate IPR licensing agreements of BASC IP assets submitted to the BASC IPO;
- iv. **Intellectual Property Training Officers** – who shall facilitate capability building of BASC personnel regarding IP, Technology and Knowledge Transfer;
- v. **Marketing Officers** – who shall be responsible in locating suitable commercial development partners.
- vi. **Legal Officers** – who shall handle legal matters and issues relating to BASC IP assets.

- vii. **Financial Operations Staff** – who shall handle financial matters of the BASC IPO.
- viii. **Office Operations Staff** – who shall provide administrative support to the staff members of the BASC IPO.

If a faculty member shall be designated to occupy such positions, he/she shall be given an Equivalent Teaching Load as approved by the Board.

6.3. The Role of the Office of the Director of the Intellectual Property Office

The Office of the Director of the Intellectual Property Office shall supervise the operations of the BASC IP Office. It shall have an annual budget allotted for its operations and shall be under the Office of the Vice President for Research, Extension, Production and Development.

Further:

- i. It shall oversee the management of BASC IPO;
- ii. It shall review and endorse license agreements negotiated by the IPO and the IP management and licensing practices of BASC; and
- iii. It shall also be responsible for resolving any dispute that may arise from the interpretation of this IP Policy. If the matter cannot be resolved at this office, such matter shall be referred to the BASC President for the decision, which will be final and conclusive.

ARTICLE 7. DISCLOSURE, EVALUATION, AND COMMERCIALIZATION OF BASC IP

7.1. IP Disclosure and Evaluation Process

- a. The BASC IPO generally shall seek IP protection in order to pursue commercialization of the work, mark, innovation, invention and/or protect scientifically meritorious discoveries.
- b. If a creator, inventor, or breeder has developed any IP, and the ownership of which is vested to BASC under Article 5, or pursuant to any obligation to disclose such IP under any agreement BASC may have with an external party, the creator, inventor, or breeder must promptly disclose the full details of the IP to the Intellectual Property Office by submitting an IP Disclosure Form with a copy to his/her Dean or Director.
- c. The BASC IPO will evaluate the registrability and commercial potential of the IP. It may consult with other BASC personnel or independent experts who are competent in the field to assist in the evaluation if appropriate or necessary.

- d. If there would be obligations owed to an external party under the terms of a grant or agreement with respect to IPR, the BASC IPO will contract with the external party and proceed with the management of the IP, in accordance with the terms of the agreement with such party.
- e. For plants, inventions, innovations, or discoveries:
 - i. The BASC IPO shall, within three (3) months from the date of receipt of the IP Disclosure form, confirm in writing to the breeder or inventor whether or not BASC will pursue registration and/or commercialization of the IP, subject to any obligations that may be owed to external parties.
 - ii. The breeders or inventors shall at all times maintain confidential the details of the technology in accordance with the Confidentiality Policy set out in Article 9.1, in particular, during the period when the BASC IPO is assessing the viability of commercialization and/or registration of the IP. Any publication (even verbal disclosure) which describes a plant, invention, innovation or discovery prior to filing for a patent may jeopardize the registration process.
 - iii. During the evaluation process, the breeder or inventor is obliged to delay public disclosure until the appropriate IP application has been filed. BASC must endeavor to minimize delays in application.
 - iv. Breeders or inventors shall disclose to the BASC IPO the identity of any party interested in commercial exploitation of the IP in sufficient detail and as soon as practicable after the relevant facts have come to their knowledge.
 - v. Breeders or inventors are required to disclose any conflict of interest, as set out in Article 9.2.
 - vi. Prior to any IP registration or commercialization by a BASC personnel with respect to IP deemed owned by a BASC personnel under Article 5.1.b, BASC personnel shall make full and truthful disclosure to BASC by submitting the Declaration of Mandatory Disclosure.

7.2 Waiver of BASC to IPR

In general, BASC may waive ownership of IPR provided any of the following conditions are met:

- i. The waiver would enhance accessibility of the general public to the IP, will not violate any existing contract or obligations, and BASC shall be acknowledged;
or
- ii. BASC has decided not to publish, exhibit, utilize, or commercialize the IP. Provided that the creators, breeders, or inventors informed the BASC IPO

- of the potential IP beforehand. Provided further that, the BASC IPO shall notify the creators, breeders, or inventors that BASC shall not pursue the registration and/or commercial exploitation of the IP under Article 7.1; or
- iii. BASC is unable to publish, exhibit, utilize, or commercialize the IP in any form within 3 years of its registration; or
 - iv. The BASC IPO, within three (3) months of the receipt of the Technology Disclosure form, fails to inform the breeders/inventors whether BASC will pursue registration and/or commercial exploitation of the IP.

7.3 Return of IPR to Breeders or Inventors

- a. Where BASC owns the IPR and returns the IPR to the breeders or inventors, the breeders or inventors shall sign a Letter of Agreement which shall include the following terms and conditions for the return of the IP:
 - i. The breeder or inventor shall be entitled to register the succeeding IP rights in their own name and at their own expense;
 - ii. The breeder or inventor shall submit to BASC an annual report, and will keep BASC informed of the status of each and every IP filed in connection with the said returned IPR;
 - iii. The breeder or inventor shall disclose, furnish or otherwise make available to BASC all information relating to or in connection with such IP applications and/or the commercial exploitation of the IP, as and when, requested by BASC; and
 - iv. BASC shall be entitled to a percentage of any benefits received by the breeder or inventor from the commercial exploitation of the IP, as follows:
 - (a) The breeder or inventor shall account to BASC 30% of any net revenue that the inventors receive for the commercial exploitation of the IP.
 - (b) Where the breeder or inventor received shares in a company in return for the license or assignment of the IP to the company, BASC shall be entitled to 30% of the inventors' shares. Such percentage may be reviewed on a case-by-case basis.
 - (c) Where the breeder or inventor will be receiving shares in a start-up company that the breeder or inventor have founded, BASC or its nominee will further have a first right to invest in up to 20% of the total equity of the company at the initial formation of the company. BASC's share of the said net revenue shall be distributed, as per Article 7.5.

- b. BASC may, but is not obligated to, request for the IP to be returned, if the breeder or inventor would fail to commercialize the IP after three (3) years from the date the IP is returned to the breeder or inventor.

7.4 Commercialization and Protection of BASC IP

- a. BASC, being the legal and beneficial owner of such IP, shall be entitled to approach, negotiate, and enter into any binding IP agreement with any third party on such terms and conditions, in its sole and absolute discretion, deem fit
- b. BASC shall be entitled to assign rights or grant licenses, whether exclusive or not, with respect to the IP for such periods as it shall deem fit, or make such other arrangements relating to such IP, as it may deem appropriate, in order to facilitate technology transfer while protecting the rights of BASC and the creators, breeders, and inventors.
- c. BASC will not negotiate contracts for consulting services for individual creators, breeders or inventors as part of a license arrangement. Individual creators, breeders, or inventors are free to negotiate such contracts on a personal basis.
- d. BASC may use any means whatsoever, as it shall in its sole and absolute discretion deem fit, to protect any IP owned by it, including but not limited to instituting proceedings concerning infringement of IP rights and breach of license agreements.
- e. The support and cooperation of the creators, breeders, and/or inventors are usually critical for successful commercialization. The creators, breeders, and/or inventors shall provide all information and render all assistance to BASC in any phase as may be required from time to time.

7.5 Distribution of Commercialization Benefits

- a. BASC shall share with the creators, breeders or inventors of the IP, net revenue as defined in Article 4.22 received by BASC in a 40:60 ratio. BASC shall receive 40% while the remaining 60% shall belong to the creators, breeders, or inventors.
- b. If BASC would receive shares from a company in exchange for a license or assignment of the IP, the shares that BASC would obtain would be held by BASC and the proceeds from the liquidation of the shares should be distributed to the creators, breeders, inventors, according to the same ratio as set out in Article 7.4.a.

- c. A creator, breeder, or inventor may also request to waive his/her portion of the shares in his/her own name, in which case such creator, breeder, or inventor shall no longer be entitled to any proceeds from the liquidation of the remaining shares by BASC. The creator's, breeder's, or inventor's share of the net revenue shall be distributed equally among his/her other co- creators, breeders, or inventors, unless BASC has been previously notified in writing of any different sharing arrangement agreed upon between the joint creators, breeders, or inventors.
- d. It is the responsibility and obligation of each creator, breeder, or inventor to keep BASC updated of his/her current contact details and address in order for BASC to distribute his/her share of the net revenue.
- e. The share of BASC of the net revenue shall be distributed as follows: College, Institute, or Department - 30%; BASC IPO for the Administration of IP - 30%; Innovation Fund - 40%. Wherein, the Innovation Fund may be used to capacitate and/or nurture future and current creators, breeders, or inventors in terms of technology development and commercialization and other IP-related matters.
- f. Where there are multiple creators, breeders, or inventors from different Colleges, Institutes, or Departments, the share of the Colleges, Institutes, or Departments of the net revenue is to be distributed among the Colleges, Institutes, or Departments in accordance with the number of creators, breeders, or inventors.
- g. BASC shall distribute to the creators, breeders, or inventors the proportion of the net revenue due to them in such a manner and at such times BASC shall, in its sole and absolute discretion, deem fit.

ARTICLE 8. RESEARCH COLLABORATION AND FUNDING WITH EXTERNAL PARTIES

8.1 Research Collaboration with Non-Commercial Parties

- a. Non-commercial parties include other universities and academic institutions, research institutions, government agencies, and non-governmental organizations.
- b. If the IP was jointly developed (i.e. where employees/ students of both parties are involved in creating, developing or generating the IP), the IP shall be jointly owned by the parties concerned and shall have the right to jointly commercialize the IP.
- c. Where the IP is solely developed by the BASC, the ownership of the IP shall be retained by BASC but the non-commercial party may have free internal use of

the IP. The terms and conditions of any commercial use shall be subject to negotiations.

8.2 Research Collaborations with Industry

- a. Collaborations with the industry are encouraged, as interactions with industry ensure that research at BASC remains relevant and they also provide exposure among the students to possible future employers. Companies are also to benefit as they obtain access to the expertise, facilities, and resources of BASC not available elsewhere.
- b. The guidelines lay down the factors that are taken into consideration in determining the IP terms in order to provide consistency in decision-making.
- c. The guidelines also recognize the different types of projects that can be undertaken with industry, which can range from exploratory research (where the application is not known), technology development (where the application is known), to product design and problem solving.
- d. The guidelines also provide recognition of the contributions of BASC in the form of license fees payable by a company, as this company obtains commercial benefits from IP generated products with its help.
- e. The following guidelines on IP ownership and commercial use and licensing of the subject IP are to apply to all research projects with industry:
 - i. Sole ownership of IP by BASC
 - (a) This shall be the default position taken for all research collaborations with industry, unless the scope of the project and the contributions by a company can be shown to fall under joint ownership of IP by BASC or sole ownership of IP by the company.
 - (b) The company is to have the first right to negotiate either a non-exclusive or exclusive fee-based license on commercial terms. An exclusive license may not be available where a key platform technology is involved.
 - ii. Joint ownership of IP by BASC and the company
 - (a) BASC is to consider joint ownership where the company is contributing background IP to the project or is to have intellectual contribution to the IP. That is, employees of the company are also involved in creating or generating the IP together with BASC. The company must also be providing funding for a significant portion of the total project costs.

- (b) As a joint-owner which has contributed significantly to the development of the IP, the company is to have a non- exclusive royalty-free right to commercially exploit the IP. As the company is free to commercially exploit the project IP on its own without accounting, BASC also retains the right to give out non- exclusive licenses without accounting to the company.
 - (c) The company is to have the right to license the IPR non- exclusively to third parties but is required to account to BASC a percentage of any licensing revenue it receives.
 - (d) If the company would wish to commercially exploit the IP exclusively, it would also have the first right to negotiate a royalty-bearing exclusive license with BASC on commercial terms.
- iii. Sole ownership of IP by the company
- (a) BASC would consider the sole ownership by the company of the IP if the project would meet the following criteria:
 - (1) The project has clear and known objectives and the company lays down a defined way of performing the study;
 - (2) The project is focused mainly on product development or improvements to the company's existing products or services and only the background IP of the company is involved;
 - (3) The existing IP of BASC is not involved and the company requires mainly an access to the expertise and know-how of the BASC personnel; and
 - (4) BASC must benefit from the project and acquire relevant industry experience through the exposure provided by working with the company.
 - (b) The company is to be required to bear the full project cost, which includes full BASC manpower and facilities/equipment costing;
 - (c) The IPR ownership of the company is to be limited to its Field of Application, as specified in the project agreement. BASC is to reserve ownership of any project that the IP generates in the fields of application not specified in the project agreement and is to be free to exploit the IP in those other fields of application.

8.3 General Policies on Other Terms in Research Agreements

a. Publications

BASC reserves the right to publish or present the findings of any research project, subject only to the right of the external party to require the delay of any publication or presentation in order to remove any of its confidential information or to file for any IPR, in accordance to the term of the research agreement for the project.

b. Warranties

As the research is only conducted on a reasonable efforts basis, the results are provided “as-is” and without any representation or warranties of merchantability or fitness for any particular purpose or any warranty that any use is not to infringe or violate any patent or other proprietary rights of any other person.

c. Indemnities

BASC requires the external party to indemnify it from any claim, loss, cost, expense or liability of any kind that may be incurred by BASC due to the external party’s use (commercial or otherwise) of the results or IP that can be generated from the project.

d. Overhead Charge

- i. A three percent (3%) overhead charge is to apply to all research projects’ overhead costs in providing the facilities and resources to carry out research at the BASC. The overhead charge shall be distributed in the following ratio: BASC (1%) and College, Institute or Department (2%).
- ii. The overhead charge is to be imposed on all direct funding received from the external party.
- iii. The overhead charge does not apply to unrestricted or outright grants or to government grants that do not allow such overhead charges. Usually for such grants, no specific results are required or expected from the sponsor and no rights to any IP can be accrued by the sponsor.

ARTICLE 9. GENERAL OBLIGATIONS

9.1 Confidentiality

- a. All BASC personnel and students shall, at all times, maintain confidentiality to all information as defined in Article 4.7, whether made/developed on his/her own, in collaboration with BASC colleagues or acquired through discussions (whether formal or informal) with BASC colleagues.

- b. The above confidentiality obligations shall not apply in any of the following circumstances:
 - i. Where disclosure is required by law or any government agency;
 - ii. Where the information is in the public domain or becomes generally available to the public; or
 - iii. Where disclosure is made with the prior consent of BASC.

9.2 Disclosure of Conflict of Interest

- a. All creators, breeders, or inventors who have any interest, whether directly or indirectly, in any party interested in the commercial exploitation of a BASC IP, shall make full and honest disclosure of the nature and extent of their interest to BASC, as soon as practicable and to the best of their knowledge. Without prejudice to the generality of the foregoing, a creator, breeder, or inventor is deemed to have an interest if he/she (or a person over whom he/she has control) would be a director of, or a shareholder with a material shareholding in the organization or company interested in the commercial exploitation of the BASC IP.
- b. In addition, all BASC personnel shall make full and honest disclosure and seek the approval of BASC in the event of any situation where a conflict of interest may arise, as highlighted by Article 10.2.
- c. Failure to declare his/her interest in the commercial exploitation of a BASC IP and/or to seek approval from BASC as required in Article 9.2 a and b shall subject BASC personnel liable to disciplinary or other actions which BASC shall, in its sole and absolute discretion, impose.

ARTICLE 10. CONSULTANCIES/DIRECTORSHIPS IN COMPANIES

10.1 Consultancies

- a. BASC personnel entering into consultancy work in pursuing the commercialization of the IP shall commit not to disclose or transfer to an external party any IP belonging to BASC. They shall also ensure that a separate agreement is entered into with the appropriate College, Institute, or Department for the use of BASC facilities, equipment or resources for such consulting work.
- b. In any consulting service, BASC personnel shall not breach the confidentiality obligations to which they are subject to by virtue of being

employees of BASC. They shall not disclose any confidential information which relates to an IP or any research which is being carried out at BASC.

10.2 Conflict of Interest

Conflicts of interest may arise in various situations relating to technology transfer interactions with industry. To minimize or prevent such conflict of interest situations, BASC personnel must make a full and honest disclosure to, and seek approval of, BASC in the following situations:

- i. Undertaking a sponsored or collaborative research with a company that has a licensed IP from BASC where the research is related or in the same area as the IP licensed;
- ii. Deployment of students by BASC personnel to do product and/or process research and development for a company in which a BASC personnel has an interest. In cases where a BASC personnel supervises final-year projects and higher degree students, this includes working on thesis topics in which a BASC personnel has a commercial interest in the research area;
- iii. Transmitting to a company, information that is not generally available to the public. This includes withholding or reducing publications after transferring technology to the company or failing to attend to industry visitors from competing companies;
- iv. Undertaking or changing the orientation of a BASC personnel's research (whether supported by BASC funds or from external grants) so as to serve the research, product development or other needs of the company;
- v. Use of BASC personnel's position in BASC to participate in company activities;
- vi. Purchasing of equipment, instruments, materials or other items for BASC teaching and/or research from a company in which a BASC personnel has an interest; or
- vii. Engaging in consultation with a company in which a BASC personnel or any person who is related to him/her (including, without a limitation, his/her parent, spouse, brother, sister, son, daughter or any person who is holding a legal title for the benefit of the BASC personnel) has an interest, whether legal, beneficial or otherwise.

10.3 Directorship of Companies (Including BASC Spin-Off Companies)

Subject to the conditions as laid down by BASC for academic staff to undertake external consultation and specialist work (including non-executive company directorship), a BASC personnel may be given approval to accept an appointment to non- executive directorships in companies, including companies to be formed, that are to commercialize their inventions.

ARTICLE 11. GENERAL PROVISIONS

11.1 Interpretation and Construction

The Intellectual Property Code of the Philippines (R. A. No. 8293), Philippine Technology Transfer Act of 2009 (R. A. No. 10055), BASC Research and Development Manual, the Plant Variety Protection Act of 2002 (R. A. No. 9168), the Agriculture and Fishery Modernization Act (R. A. No. 8435), the Philippine Fisheries Code of 1998 (R. A. No. 8550), the Wildlife Act (R. A. No. 9147), Indigenous People Rights Act (IPRA Law), the Inventor's and Invention Incentives Act (R. A. No. 7459), the Magna Carta for Scientists, Engineers, Researchers, and other Science and Technology Personnel in Government (R. A. No. 8439), the Administrative Code of 1987 (E. O. No. 292), and R. A. No. 8548, the Charter of Bulacan Agricultural State College, and other relevant laws and their corresponding amendments, implementing rules and regulations are deemed written into the IP Policy.

In the event of doubts in the interpretation of this IP Policy, the provision should be construed in favor of BASC.

11.2 Waiver of Policy

BASC shall have the discretion to waive or vary any or all of the provisions of these rules in a particular case. A waiver in one occasion and for a particular case shall not be deemed to be a waiver or variation of the same or any other provision on a future occasion or for a future case.

11.3 Commencement and Application of IP Policy

This IP Policy shall be applicable to all BASC IP licenses after the effective date. The rules set out in the IP Policy are subject to the terms of any agreement with external parties that BASC may enter into.

11.4 Amendment of the Rules and Guidelines of the IP Policy

The rules and guidelines set out in the IP Policy may be amended by BASC from time to time. BASC shall undertake to notify its personnel and students as soon as possible of the amendments made. In any case, the amendments shall be in full force and effective on the date the amendments have been announced by BASC to take effect.

ARTICLE 12. PENALTIES

Any person found to have violated any of the provisions of this IP Policy shall be dealt with in accordance to the provisions of the BASC Code and other administrative or employee manual. Any violation of these policies shall be considered as a disciplinary offense.

ARTICLE 13. DISPUTE RESOLUTION

As a general rule, any dispute between the parties on the determination of government ownership shall be resolved amicably. If the matter could not be resolved amicably by the parties, then the administrative procedure for resolving any disputes on the determination for government ownership should be subject to the mediation and arbitration rules of the IPO.

ARTICLE 14. EFFECTIVITY

This IP Policy shall take effect immediately upon its approval by the Board of Trustees during its 3rd Quarter Regular Board of Trustee's Meeting on September 2, 2020 and its publication in the BASC official website, www.basc.edu.ph.

Published by the:

INTELLECTUAL PROPERTY OFFICE

Research, Extension, Production and Development

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