

# **BASC IP POLICY**

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



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

**Jameson H. Tan, Ed.D.**

**Joselito D. Tucit**

**Philippine Copyright 2020**

**BULACAN AGRICULTURAL STATE COLLEGE**

**Research, Extension, Production, and Development**

**Intellectual Property Office**



The Bulacan Agricultural State College (BASC) Intellectual Property (IP) Policy, as could be referenced on Republic Act Number 8293 Intellectual Property Code of the Philippines, as amended by Republic Act 10372, is hereby promulgated as presented herein.

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## ARTICLE 1. INTRODUCTION

### Vision

*A globally-engaged higher education institution of agriculture and allied discipline.*

### Mission

*Provide excellent instruction, conduct relevant research and foster community engagement that produce competent graduates necessary to the development of the country*

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

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.

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.

This IP Policy seeks to provide guidelines that can be consistently applied to facilitate 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 and students who participate in the creation of Intellectual Property at the Main Campus and the other 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;
- 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,
- ix. Trade secrets and confidential information;
- x. New plant varieties, per Republic Act No. 9168;
- xi. Micro-organisms;
- xii. Non-biological; and
- xiii. 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 **“Licensor”** 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 IPO”** or **“IPO”** refers to the BASC Intellectual Property Office.

4.4 **“BASC Personnel”** refers to all BASC employees such as: full-time/part-time faculty, visiting faculty, emeritus faculty, academic and research staff, affiliate and adjunct staff, non-teaching personnel, as well as other personnel covered by this IP Policy under Article 3.1.

4.5 **“BASC funded”** refers to any program, activity, or project in which the funding is sourced from the funds for BASC as stipulated in General Appropriations Act (GAA) or from the income of BASC.

4.6 **“BASC Resources”** refers to all tangible resources provided by BASC to creators, 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.

4.7 “**Background IP**” or “**Pre-existing IP**” refers to the knowledge or IP or proprietary information owned by BASC that is relevant to a collaborative project that is supplied by BASC at the start of the project. The use may be allowed subject to terms and conditions specified in the agreement.

4.8 “**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.

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

4.10 “**Certificate of Plant Variety Protection**” refers to the document issued by the National Plant Variety Protection Board for the protection of a new plant variety.

4.11 “**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.

4.12 “**Commercialization**” or “**Technology 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.

4.13 “**Creator**” refers to any BASC personnel or student who creates IP.

4.14 “**Collaborative Research**” refers to any research project undertaken together with an external party.

4.15 “**Due Diligence**” refers to a reasonable investigation or examination conducted before any action undertaken by BASC. This can pertain to examination of IP application to make sure there is no infringement, or the IP can be registered before application, or it could also pertain to any investigation conducted before entering into a commercialization agreement.

4.16 “**Enabler**” or “**Enabling Mechanism**” refers to anything or anyone that makes IP creation or commercialization possible. It can also refer to seminars, trainings, or incentives provided to personnel and students which aids in IP creation.

4.17 “**External Party**” refers to any person or entity in which BASC enters into an agreement.

4.18 “**Extension**” refers to any program, activity or project undertaken by BASC to transfer knowledge or technology to its clients as part of its four-fold function.

4.19 “**Foreground IP**” refers to all the knowledge or IP produced within the collaboration of BASC and its partner during the conduct of the project.

4.20 “**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).

- 4.21 **“Hold Harmless Clause”** refers to a provision of the indemnification clause in a research agreement that absolves the BASC of any blame for any loss caused by the first party's negligence, after the loss has been determined by litigation, arbitration or settlement.
- 4.22 **“IP Assets”** refers to all IP owned by BASC in whole or in part.
- 4.23 **“IP Code”** refers to Republic Act Number 8293 or the Intellectual Property Code of the Philippines and its amendments.
- 4.24 **“IP Licensing”** refers to an agreement between BASC (licensor) who owns a specific IPR and an external party (licensee), in which BASC provides the licensee with the right to use the IPR or a part of it subject to the terms and conditions of the licensing agreement.
- 4.25 **“IP Policy”** refers to the **“BASC Policy on Intellectual Property, Technology Transfer, and Research Collaboration”**, as may be amended from time to time.
- 4.26 **“Intellectual Property Rights” or “IPR” or “IPRs”** refers to those rights recognized and protected in the IP Code.
- 4.27 **“Invention Disclosure”** refers to disclosure intended for patenting of invention.
- 4.28 **“IP Assignment” or “Assignment”** refers to the act of assigning to BASC all the rights, title to, or interest in all forms of IPR through an undertaking or any legal instrument.
- 4.29 **“IP Valuation”** refers to the process to determine the monetary value of BASC IP assets.
- 4.30 **“IP Disclosure” or “Disclosure”** refers to any communication of an idea, information or invention pertaining to BASC IP for the purpose registration.
- 4.31 **“Inventor”** refers to the BASC personnel who comes up with patentable technologies.
- 4.32 **“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.
- 4.33 **“Lead Creator”** refers to a member of a group of creators designated by the group to act as its contact person with BASC, or any person, group, or entity, such as but not limited to the IPOPHIL, National Library, journals, or clients.
- 4.34 **“Maker”** refers to the BASC personnel (covered under Article 3.1 of this IP Policy) who comes up with a Utility Model.
- 4.35 **“Net Cumulative Return”** shall refer to the money or revenue received by or through BASC in relation to exploitation of the relevant IP, minus payment of fees, royalties, tax, travel, production, development costs, legal fees, expenses of registration, or other protection.
- 4.36 **“Net Revenue” or “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.
- 4.37 **“Oversight Committee”** refers to the committee to be formed by BASC to settle disputes arising from BASC IP.
- 4.38 **“Patent Claims”** refers to the definition of the invention in technical terms, the extent of the protection conferred by a patent, or the protection sought in a patent

application. It has the purpose of defining which subject-matter is protected by the patent or sought to be protected by the patent application.

4.39 **“Patent Drafting”** refers to the process of writing the patent description and claims.

4.40 **“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.

4.41 **“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.

4.42 **“Patent Information Search”** or **“Patent Search”** or **“Patentability Search”**, refers to the search of existing patents and other publicly-available documents, or prior art to locate the closest existing things to the invention.

4.43 **“Potential IP”** or **“Potential IPs”** 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.

4.44 **“Non-Prejudicial Disclosure”** refers to the disclosure of information contained in the application during the twelve (12) months preceding the filing date or the priority date of the application which shall not prejudice the applicant on the ground of lack of novelty as provided by the IP Code.

4.45 **“Premature Disclosure”** refers to disclosing of information regarding the IP, such as but not limited to publication, presentation to any conferences or discussion with anyone not authorized by BASC, before an application for IP registration has been filed and will prejudice the novelty of the IP.

4.46 **“Prior Art”** refers to everything which has been made available to the public anywhere in the world, prior to the effective date of IP application. It includes but is not limited to public documents such as patents, technical publications, conference papers, marketing brochures, products, devices, equipment, processes and materials.

4.47 **“Prior Art Search”** refers to an organized review of prior art materials available from public sources which may be used to assess patentability of an invention or may be a part of due diligence.

4.48 **“REPD”** or **“REPD Office”** or **“REPDO”** refers to the Research, Extension, Production and Development Office of BASC.

4.49 **“Regular Duties”** refers to the duties and responsibilities of personnel by virtue of their rank or their designation. It also includes the responsibilities by the personnel stipulated in any contract or agreement undertaken by BASC with an external party or any of its stakeholders.

4.40 **“Research”** or **“Researches”** refers to any program, activity or project undertaken by BASC personnel with the purpose of generating technology as part of its four-fold function.

4.41 **“Research Agreement”** or **“Research Service Agreement”** or **“Cooperative Research and Development Agreement”** refers to the contract entered into by BASC and its researchers, including the agreements between BASC and its collaborator. Depending on the nature, purpose or extent of the contract it may also be called **“Material Transfer Agreement”** or **“Confidentiality Agreement”** or **“Consultancy Agreement”**.

4.42 **“Research Collaborator”** or **“Collaborator”** refers to other colleges, universities and research institutions which undertake research together with the Academic and Research Staff of BASC.

4.43 **“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.

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

4.45 **“Serendipitous IP”** refers to any IP created incidentally during the course of a project but was not originally intended at the start of the project.

4.46 **“Significant Use of Resources”** or **“Substantial Use of Resources”** refers to the use of resources and properties of BASC which are not commonly available to the public. Use of BASC’s resources is considered significant if:

- i. the use of resources is important for the creation of the IP,
- ii. resources used would cost an officer or employee certain amount if paid out of pocket, and
- iii. if the officer or employee is using committed or official time of BASC.

4.47 **“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.

4.47 **“Sponsored Research”** refers to researches in which funds are sourced from any external party.

4.48 **“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.

4.49 **“Stakeholder”** refers to any entity, organization, agency, group, or persons with an interest or concern which can either affect or be affected by BASC.

4.50 **“Student”** or **“Scholar”** refers to all matriculated undergraduates, student-employees and higher degree students such as but not limited to graduate students, candidates for master and doctorate degrees, post doctorate fellows at the BASC.

4.51 **“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.

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

4.53 **“Technology Readiness Assessment”** refers to the process of estimating the maturity of the technology for commercialization. It may also refer to the process of estimating the level of acceptance of the target adopters for the technology.

4.54 **“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.

4.55 **“Work”** or **“Works”** refers to all Intellectual Property created at BASC.

## **ARTICLE 5. INTELLECTUAL PROPERTY CREATION**

### **5.1 BASC IP Generation**

BASC as a state college has a four-fold function of instruction, research, extension and production. As such it is of utmost importance that all IP created while performing these functions is protected.

### **5.2 IP Generated from Research**

- a. Research is considered the primary generator of IP. As such all researches shall follow the BASC guidelines for research proposals both for BASC funded and externally funded projects.
- b. BASC funded research shall undertake prior art search as a pre-requisite for their approval.
- c. BASC personnel with approved research shall attend an orientation regarding general IPR, BASC IP Policy, and IP Protection before they conduct their research.
- d. BASC personnel shall disclose any technology generated upon the conduct of their research within one (1) month of termination of their research, through the submission of an IP Disclosure Form at the IP Office. IP registration shall be pursued by the BASC IP Office if applicable.
- e. Before any research results, whether in part or in full, can be published BASC personnel should first seek prior permission from the REPD Office.

### **5.3 Information, Education, and Communication (IEC) Materials**

- a. All IP generated by BASC personnel with the purpose of conveying information, transferring knowledge, or establishing a brand such as but not limited to: posters, brochures, flyers, billboards, infographics, electronic materials, instructional materials, modules, manuals, videos, recordings, or art works should first undergo evaluation by an Instructional Materials Committee or its equivalent before registration can be pursued to ensure its quality.
- b. Appropriate IP application shall only be pursued upon filing of the IP Disclosure Form at the BASC IP Office.

## **ARTICLE 6. INTELLECTUAL PROPERTY (IP) OWNERSHIP**

### **6.1 Copyright, Patent, UM, and other IP**

- a. As a general rule, all IP generated by BASC personnel shall belong to BASC if it falls under any of the following conditions:
  - i. the IP is funded wholly or in part by a GFA as stipulated in RA 10055; or
  - ii. the IP is created in the course of, or pursuant to an agreement between BASC and an external party and the IPR is subject to the terms on IP ownership set out in the relevant agreement; or
  - iii. the IP is commissioned by BASC or is created at the direction of BASC for a specific purpose; or
  - iv. the IP is created by a BASC personnel as part of their duties and responsibilities or in fulfillment of their contract of employment; or

- v. the IP is submitted to BASC by its original Creator, provided the Creator 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 their duties and responsibilities at BASC 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.

## **6.2 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 Intellectual Property Office of the Philippines (IPOP HL). Any use of said 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 provided said organization shall shoulder all expenses related to registration and maintenance.
- c. BASC may also extend assistance to its clients and other stakeholders in registering their marks subject to certain fees as approved by the board.

## **6.3 Tangible Research Property (TRP)**

- a. Research results as defined in Article 4.51 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.

## **6.4 BASC-owned IPR**

- a. While BASC shall own the IPR, the Creator 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.

## **6.5 IP Generated by Students**

- a. As a general rule, all IP generated by a student shall belong to the student except when:
  - i. 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 BASC with the purpose of creating the IP; or
  - ii. the IP was created using substantial resources of the BASC; or
  - iii. the student willingly relinquishes ownership of IP to BASC for the purpose of extension or commercialization, subject to existing rules and regulations.

- 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. BASC 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 9.2, 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 9.3 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.
- c. If a thesis or dissertation or any of its parts shall be published, the adviser or in some cases the members of the panel, may become co-authors with the consent of the student provided that the adviser or panel has substantial contribution to the thesis, dissertation or the article and subject to the BASC Policy on Research Ethics.
- d. If a patent or utility model may come out from a student thesis or dissertation, the adviser or in some cases the members of the panel, may become co-inventors or co-makers with the consent of the student provided that the adviser or panel has substantial contribution to the creation of the IP and subject to the BASC Policy on Research Ethics.

## **ARTICLE 7. RESEARCH COLLABORATION AND FUNDING WITH EXTERNAL PARTIES**

### **7.1 IP Generated by 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 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.

### **7.2 IP Generated by 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.
  - 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, all activities pertaining to exploitation of the IP, such as but not limited to commercialization and licensing, will be subject to the collaboration agreement.
    - (c) If the company is to have the right to license the IP non-exclusively to third parties the company 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.

### **7.3 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 that a Hold Harmless Clause should be included in any agreements entered into by BASC. As such the external party should indemnify BASC from any claim, loss, cost, expense or liability of any kind that may be incurred due to the external party’s use (commercial or otherwise) of BASC IP.

#### **d. Overhead Charge**

- i. An overhead charge may be applied to research projects’ overhead costs in providing the facilities and resources to carry out research at BASC subject to the terms stipulated in the agreement.
- ii. The overhead charge does not apply to unrestricted or outright grants or to government grants that do not allow such overhead charges.

## **ARTICLE 8. ADMINISTRATION**

### **8.1. 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. Coordinate 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 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 BASC;
- 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.

## 8.2. 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, they shall be given an Equivalent Teaching Load based on the BOT approved Faculty Manual.

### **8.3. The Office of the Director of the IP 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 BASC IPO;
- iii. It shall review and endorse the IP management and licensing practices of BASC; and
- iv. 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.

### **8.4. Duties and Responsibilities of the IP Office Personnel**

#### **a. Intellectual Property Officer for Patents, Utility Models, and Industrial Design**

- i. Provide advice to BASC constituents and clients regarding patent, UM and ID applications;
- ii. Evaluate IP applications for inventions, innovations, and aesthetic designs of BASC;
- iii. Conduct state-of-the-art search, prior art search, validity search, and infringement or freedom-to-operate search;
- iv. Provide assistance in the drafting and packaging of patent, UM, or ID application; and
- v. Facilitate IP registration of inventions, innovations, and aesthetic designs at IPOPHL.

#### **b. Intellectual Property Officer for Copyright, ISBN, ISSN**

- i. Provide advice to BASC constituents and clients regarding copyright, ISBN, ISSN, TM, and GI applications;
- ii. Evaluate IP applications for literary and artistic creations of BASC constituents and clients;
- iii. Provide assistance in the drafting and packaging of copyright, ISBN, ISSN application; and
- iv. Facilitate copyright IP registration for creations of BASC constituents and clients.

#### **c. Intellectual Property Officer for Trademark, and Geographic Indicator**

- i. Provide advice to BASC constituents and clients regarding TM, and GI applications;
- ii. Evaluate IP applications for any name, symbol, figure, letter, word, or mark adopted and used by BASC;
- iii. Provide assistance in the drafting and packaging of TM, or GI application; and
- iv. Facilitate IP registration of marks of BASC constituents and clients.

- d. Intellectual Property Officer (Campus, College, Institute)
  - i. Provide advice to their constituents and clients regarding Intellectual Property applications;
  - ii. Evaluate all IP applications from their Campus, College, or Institute before submission to the BASC IPO;
  - iii. Coordinate with the BASC IP Office regarding their Campus, College, or Institute IP applications;
  - iv. Provide IP-related seminars and trainings in coordination with the BASC IPO; and
  - v. Disseminate all IP-related information to their constituents and clients.
  
- e. Technology Licensing Officer
  - i. Facilitate IPR Licensing agreements of BASC IP assets submitted to the BASC IPO;
  - ii. Manage the BASC IP portfolio;
  - iii. Solicit and analyze invention disclosure from the inventors/ innovators makers;
  - iv. Complete patent, UM, ID agreements;
  - v. Initiate contacts with current and potential research collaborators, business partners, researchers, clinicians, and staff to develop successful collaborations, strategic relationships, and licensing arrangements;
  - vi. Draft and negotiate small to mid-sized license agreements and other types of agreements including material transfer, collaboration, inter-institutional and non-disclosure agreements;
  - vii. Prepare non-confidential, technical information for marketing purposes.
  
- f. Intellectual Property Training Officer
  - i. Facilitate capability building of BASC personnel regarding IP, Technology Transfer and Knowledge Transfer
  - ii. Coordinate with different offices, campuses, institutes, departments, or units in conducting orientations, seminars, trainings and other means to educate the faculty, non-teaching personnel, students and other clients regarding IP.
  - iii. Coordinate with the appropriate offices to facilitate wider dissemination of IP policies of the College.
  
- g. Marketing Officers
  - i. Locate suitable commercial development partners
  - ii. Engage with innovators and commercialization partners to conduct market assessment.
  - iii. Cooperate with the different offices to identify technologies with commercial applications
  - iv. Evaluate the commercial potential of technologies, and identify potential licensees
  - v. Develop and implement specific marketing strategies for each technology.
  
- h. Legal Officers
  - i. Counsel BASC and its clients on establishing and protecting IP capital;
  - ii. Assist in producing legal descriptions of IP applications;

- iii. Assist in licensing IP, transferring proprietary technology, drafting agreements, negotiating settlements, and conducting IP asset due diligence;
- iv. Recommend appropriate action pertaining to IP issues and concerns on legal matters;
- v. Pursue litigation on matters concerning BASC IP if the need arises,
- vi. Prepare communications in response to IP queries with legal implications;
- vii. Prepare contracts and instruments to which BASC is a party and interpret provisions of IP contracts BASC enters into; and
- viii. Handle all legal matters pertaining to IP, licensing franchising, distribution, technology transfer, and trade secret of BASC.

i. Financial Operations Staff

- i. Assist in the preparation of budget for the BASC IPO;
- ii. Manage records and receipts of BASC IPO;
- iii. Reconcile daily, monthly and yearly transactions;
- iv. Prepare balance sheets;
- v. Process invoices;
- vi. Develop an in-depth knowledge of BASC IPO products and processes;
- vii. Provide appropriate service to BASC IPO clients;
- viii. Provide support to the Technology Licensing Officer and the Marketing Officer; and
- ix. Perform other tasks relevant to the position as required.

j. Office Operations Staff

- i. act as office assistant of the Director
- ii. handle the clerical works at the office;
- iii. offer preliminary IP filing advice;
- iv. maintain the BASC IP database; and
- v. Perform other tasks relevant to the position as required.

## **ARTICLE 9. DISCLOSURE, EVALUATION, AND COMMERCIALIZATION OF BASC IP**

### **9.1. 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 has developed any IP, and the ownership of which is vested to BASC under Article 6, or pursuant to any obligation to disclose such IP under any agreement BASC may have with an external party, the creator, must promptly disclose the full details of the IP to the Intellectual Property Office by submitting an IP Disclosure Form with a copy to their 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, creations or discoveries:
  - i. The BASC IPO shall, within one (1) month from the date of receipt of the IP Disclosure form, confirm in writing to the breeder or creator whether or not BASC will pursue registration or commercialization of the IP, subject to any obligations that may be owed to external parties.
  - ii. The creators shall at all times maintain confidential the details of the technology in accordance with the Confidentiality Policy set out in Article 10.1, in particular, during the period when the BASC IPO is assessing the viability of commercialization or registration of the IP. Any publication (even verbal disclosure) which describes a plant, invention, innovation or discovery prior to filing for an IPR may jeopardize the registration process.
  - iii. During the evaluation process, the creator is obliged to delay public disclosure until the appropriate IP application has been filed. BASC must endeavor to minimize delays in application.
  - iv. Creators 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. Creators are required to disclose any conflict of interest, as set out in Article 10.2.
  - vi. Prior to any IP registration or commercialization by a BASC personnel with respect to IP deemed owned by BASC under Article 6, BASC personnel shall make full and truthful disclosure to BASC by submitting the Declaration of Mandatory Disclosure.

## **9.2 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 informed the BASC IPO of the potential IP beforehand. Provided further that, the BASC IPO shall notify the creators that BASC shall not pursue the registration and/or commercial exploitation of the IP; or
- iii. BASC is unable to exhibit, utilize, or commercialize the IP in any form within 1 year of its registration; or
- iv. The BASC IPO, within one (1) month of the receipt of the Technology Disclosure form, fails to inform the creators if BASC will pursue registration and/or commercial exploitation of the IP.

## **9.3 Return of IPR to Creators**

- a. Where BASC owns the IPR and returns the IPR to the breeders or creators, the breeders or creators shall sign a Letter of Agreement which shall include the following terms and conditions for the return of the IP:
  - i. The breeder or creator shall be entitled to register the succeeding IP rights in their own name and at their own expense;

- ii. The breeder or creator 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 creator shall disclose, furnish or otherwise make available to BASC all information relating to or in connection with such IP applications or the commercial exploitation of the IP, as and when, requested by BASC.
- 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 creator.

**9.4 Technology Transfer and Commercialization 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.
- c. BASC will not negotiate contracts for consulting services for individual creators as part of a license arrangement. Individual creators 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 are critical for successful commercialization. The creator shall provide all information and render all assistance to BASC in any phase as may be required from time to time.

**9.5 Distribution of Commercialization Benefits**

- a. BASC shall share with the creators of the IP, net revenue received by BASC in a 40:60 ratio. BASC shall receive 40% while the remaining 60% shall belong to the creators for the first three (3) years. For the succeeding years, the split will 60:40 in favor of BASC until the expiration of protection. In which case, BASC will have 100% of the net revenue.

	BASC	Creators
First 3 years	40%	60%
Succeeding years until expiration of protection	60%	40%

- 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 according to the same ratio as set out in Article 9.5.a.
- c. A creator may also request to waive their portion of the shares in their own name, in which case such creator shall no longer be entitled to any proceeds

from the liquidation of the remaining shares by BASC. The creator's share of the net revenue shall be distributed equally among their other co-creators, unless BASC has been previously notified in writing of any different sharing arrangement agreed upon between the joint creators.

- d. Separation from BASC, such as but not limited to retirement, graduation or resignation, does not exclude the creator from their due share provided the personnel was not separated due to violations of Civil Service Rules and clearance from BASC was issued.
- e. In case of the creator's death, their share shall be given to their legal heir.
- f. It is the responsibility and obligation of each creator to keep BASC updated of their current contact details and address in order for BASC to distribute their share of the net revenue.
- g. 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.

Distribution of BASC Share of the Net Revenue	
College / Institute / Department	30%
BASC IPO	30%
Innovation Fund	40%

- h. Where there are multiple creators 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.
- i. The distribution of commercialization benefits to the creators shall cease when the legal protection to the IP, as stipulated by the IP Code, expires.

## **ARTICLE 10. GENERAL OBLIGATIONS**

### **10.1 Confidentiality**

- a. All BASC personnel, students and other stakeholders shall, at all times, maintain confidentiality to all confidential information, whether made/developed on their 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 express written consent of BASC.

### **10.2 Disclosure of Conflict of Interest**

- a. All creators 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 is deemed to have an interest if they (or a person over whom has control of the IP) 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..
- c. Failure to declare their interest in the commercial exploitation of a BASC IP and to seek approval from BASC as required in Article 10.2 a and b shall subject BASC personnel liable to disciplinary or other actions in accordance to the BASC Code, other administrative or employee manual, or the Administrative code of the Civil Service Commission.

## **ARTICLE 11. CONSULTANCIES AND DIRECTORSHIPS IN COMPANIES**

### **11.1 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.
- b. 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.
- c. In any consulting service, BASC personnel shall not breach the confidentiality obligations to which they are subject 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.

### **11.2 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 them (including, without a limitation, their 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.

### **11.3 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, subject to the provisions of RA 10055 for spin-off companies.

## **ARTICLE 12. GENERAL PROVISIONS**

### **12.1 Interpretation and Construction**

The Intellectual Property Code of the Philippines (R. A. No. 8293) and its amendments (RA 10372), Philippine Technology Transfer Act of 2009 (R. A. No. 10055), BASC Research, Extension, Production 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 the Charter of Bulacan Agricultural State College (RA 8548) as amended by RA 9248, 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.

### **12.2 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.

### **12.3 Commencement and Application of IP Policy**

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

#### **12.4 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 13. PENALTIES**

Any BASC personnel 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.

### **ARTICLE 14. DISPUTE RESOLUTION**

As a general rule, any dispute between the parties on the determination of IP ownership shall be resolved amicably. If the matter could not be resolved amicably by the parties, then BASC shall form an Oversight Committee consisting of a nominee each from the parties. The nominees shall then nominate a third member who is acceptable to both nominees. The Oversight Committee shall then settle the dispute with utmost integrity and transparency. In any case where the contending parties are not satisfied with the resolution reached by the Oversight Committee, the parties shall be free to seek appropriate legal action in a court of law at their own expense.

### **ARTICLE 15. EFFECTIVITY**

This IP Policy with the prior approval by the Board of Trustees during the 90<sup>th</sup> (3<sup>rd</sup> Quarter of 2020) meeting held on September 2, 2020, with its amendments shall take effect 15 days after its publication in the BASC official website, [www.basc.edu.ph](http://www.basc.edu.ph).

Published by the:

**INTELLECTUAL PROPERTY OFFICE**

**Research, Extension, Production and Development**

**Bulacan Agricultural State College**

Pinaod, San Ildefonso, Bulacan 3010

Email: [ipo@basc.edu.ph](mailto:ipo@basc.edu.ph)