



1 dissemination, transfer and use of technologies and knowledge that enhance  
2 national competitiveness and socioeconomic well-being.

3 The State shall call upon all research and development institutions  
4 (RDIs) and universities that perform government-funded research and  
5 development (R&D) to take on technology transfer as their strategic mission  
6 and to effectively translate results of government-funded R&D into useful  
7 products and services that redound to the benefit of Filipinos, notwithstanding  
8 the income generated from intellectual property rights (IPRs) and technology  
9 transfer activities.

10 The State acknowledges that the successful transfer of government-  
11 funded R&D results depend on the proper management of intellectual property,  
12 development of capacity by RDIs and universities to become self-sustaining  
13 and competitive, and on their capacity to interact and cooperate with the  
14 private sector, particularly small- and medium-enterprises through  
15 collaborative and contract research based on equitable, fair access and mutual  
16 benefit for all involved partners.

17 The State shall establish the means to ensure greater public access to  
18 technologies and knowledge generated from government-funded R&D while  
19 enabling, where appropriate, the management and protection of related  
20 intellectual property.

21 SEC. 3. *Objective.* – This Act aims to promote and facilitate the  
22 transfer, dissemination and use of technologies and knowledge resulting from  
23 government-funded R&D.

24 SEC. 4. *Scope.* – This Act shall cover the following:

25 (a) All results of R&D carried out by research and development  
26 institutions being given grants directly by government funding agencies  
27 (GFAs) on behalf and for the interest of the Philippine government;

1 (b) All intellectual property rights derived from R&D activities funded  
2 by government;

3 (c) All government agencies that provide financial, technical or  
4 material support to all R&D activities; and

5 (d) All R&D institutions including higher education institutions that  
6 implement government-funded R&D.

7 SEC. 5. *Definition of Terms.* – (a) “Intellectual Property Rights (IPRs)”  
8 refers to those rights recognized and protected in Republic Act No. 8293,  
9 otherwise known as the ‘Intellectual Property Code of the Philippines’. For  
10 purposes of this Act, “Intellectual Property Rights” also refers to Plant Variety  
11 Protection as defined by law.

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

15 (c) “Protection of IPRs” refers to the statutory grant of rights upon  
16 which the basis of enforcing the right rests, such as the issuance of patents; the  
17 registration of utility models, industrial designs and trademarks; or the issuance  
18 of a certificate of Plant Variety Protection; and other rights as may be provided  
19 by law. “Protected IPRs”, therefore, may refer to issued or pending patents;  
20 registered utility models, industrial designs and trademarks; and certificates of  
21 Plant Variety Protection.

22 (d) “IP Code” refers to Republic Act No. 8293, otherwise known as the  
23 ‘Intellectual Property Code of the Philippines’.

24 (e) “Intellectual Property Rights management” refers to the principles,  
25 mechanisms and processes involved in the identification, assessment,  
26 protection, utilization and enjoyment of IP rights.

27 (f) “Other support” refers to technical and material support.

1 (g) "Government funding agency (GFA)" refers to any government  
2 agency or instrumentality, or government-owned and/or -controlled  
3 corporation that provides research grants and other support, including those  
4 sourced from government-managed Official Development Assistance (ODA).

5 (h) "Parent agency" refers to the department or agency which exercises  
6 the powers of control or supervision over the GFA or agency acting as the  
7 GFA itself. In general, where multiple GFAs are involved, the department or  
8 agency which has the largest financial contribution shall be deemed as the  
9 parent agency, except as may otherwise be specifically provided by this Act.

10 (i) "Research and Development Institute (RDI)" refers to a public or  
11 private organization, corporation, partnership or joint venture that performs  
12 and conducts R&D activities using public funds and is duly registered and/or  
13 licensed to do business in the Philippines, or otherwise with legal personality  
14 in the Philippines. In the case of private RDIs, they shall be owned solely by  
15 the citizens of the Philippines or corporations or associations, at least sixty *per*  
16 *centum* (60%) of the capital of which is owned by such citizens. This does not  
17 include RDIs covered by international bilateral or multilateral agreements.

18 (j) "Research funding agreement" refers to a contract entered into by  
19 the GFAs, RDIs and other funding agencies, the provisions of which are  
20 covered by Articles III and V of this Act.

21 (k) "Research agreement" refers to a contract entered into by the RDIs  
22 and researchers, including the agreements between the RDI and collaborating  
23 RDIs.

24 (l) "Researcher" refers to a natural person who is engaged by the RDI  
25 by employment or other contract, to conduct research with or for the RDI.

26 (m) "Spin-off company" refers to a juridical entity with a separate legal  
27 personality from the GFA, RDI and researcher, created through the initiative of  
28 the researcher-employee and/or RDIs who generated the technology.

1 (n) “Technology” refers to knowledge and know-how, skills, products,  
2 processes and/or practices.

3 (o) “Technology transfer” refers to the process involving the systematic  
4 transfer of knowledge for the manufacture of a product, the application of a  
5 process, or rendering of a service, which may involve the transfer, assignment  
6 or licensing of IPRs.

7 (p) “Commercialization” refers to the process of deriving income or  
8 profit from a technology, such as the creation of a spin-off company or through  
9 licensing, or the sale of the technology and/or IPRs.

10 (q) “Revenue” refers to all monetary and non-monetary benefits  
11 derived as a result of the development, production, transfer, use and/or  
12 commercialization of IPRs, including income from assignments and royalties  
13 from licenses.

14 (r) “Research and Development (R&D)” refers to “creative work  
15 undertaken on a systematic basis in order to increase the stock of knowledge,  
16 including knowledge of man, culture and society, and use this stock of  
17 knowledge to devise new applications”.

## 18 ARTICLE II

### 19 OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

#### 20 SEC. 6. *Ownership of Intellectual Property Rights.* –

21 (a) IPRs derived from research funded by the GFA, whether in whole  
22 or in part, shall, in general, be assigned to the RDI that actually implemented  
23 the research, except in the following circumstances:

24 (1) When the researcher as employee of the RDI becomes the owner of  
25 the IPR under Chapter 3, Section 30.2, paragraph (a) for patentable inventions  
26 or Chapter 6, Section 178.3, paragraph (a) for copyrights in the IP Code;

27 (2) When the RDI has entered into a public, written agreement sharing,  
28 limiting, waiving or assigning its ownership of IPRs generated from its

1 research in favor of the funding agencies: *Provided*, That the GFA shall be  
2 entitled to sharing in the revenues, whether in fraction or in full, of the IPRs at  
3 least to the extent of the proportion of the total funding of the research that was  
4 derived from the GFA, whether or not the GFA was a party to the agreement;

5 (3) In cases of national emergency or other circumstances of extreme  
6 urgency, or where the public interest demands/dictates, and in particular  
7 concerns for national security, nutrition, health or the development of other  
8 vital sectors of the national economy, as determined by the head of the parent  
9 agency. Such determination shall be made within thirty (30) days after the  
10 receipt of the recommendation of the head of the GFA. Such recommendation  
11 shall be made within thirty (30) days upon the discovery of the potential IPR  
12 by the GFA or the disclosure of the same by the RDI pursuant to Section 8(c)  
13 of this Act, or upon written notice or petition by other government agencies or  
14 other interested persons. In cases where the parent agency itself is acting as the  
15 GFA, the head of the parent agency may make such determination *motu*  
16 *proprio*, or upon written notice or petition by other government agencies or  
17 other interested parties. The right to the potential IPR shall be assumed by the  
18 GFA upon written order, declaration or determination by the department  
19 secretary or head of the parent agency. The department or the agency that has  
20 functional jurisdiction over the technology or IPRs shall be deemed as the  
21 parent agency.

22 The determination of cases under the first paragraph of Section 6(a)(3)  
23 for the right to the potential IPR to be vested to the GFA shall be subject to the  
24 following conditions:

25 (i) The determination must be accompanied by an analysis and  
26 justification of such reason(s);

1           (ii) The RDI may file with the secretary or head of the parent agency an  
2 opposition to such determination within fifteen (15) calendar days from notice  
3 or publication of the written determination;

4           (iii) The assumption of the rights to the potential IPR by the GFA shall  
5 carry with it the obligation to equitably share with the RDI or other funding  
6 agencies any profits generated from the IPR; and

7           (iv) The rights to the potential IPR shall revert back to the RDI upon the  
8 cessation of the existence of the cases under Section 6(a)(3), as determined by  
9 the secretary or head of the parent agency *motu proprio* or by petition of the  
10 RDI;

11           (4) In case of failure of the RDI to disclose potential IPRs to the GFA,  
12 whereupon the GFA shall assume the rights to the potential IPR;

13           (5) In case of failure of the RDI to initiate the protection of potential  
14 IPRs within a reasonable time from confidential disclosure to the GFA or  
15 within three (3) months from public disclosure, whereupon the GFA shall  
16 assume the rights to the potential IPR; and

17           (6) In case the RDI ceases to become a Filipino corporation as defined  
18 in Article I, Section 5(i) of this Act.

19           (b) In case of collaborative research where two (2) or more RDIs  
20 conducted the research funded by the GFA, the RDIs shall own the IPRs  
21 jointly or as otherwise stipulated in the research agreement between them:  
22 *Provided*, That any research agreement between RDIs and other funding  
23 entities shall be made with the full knowledge of the GFA: *Provided, further*,  
24 That the agreement shall strictly be in accordance with the provisions of this  
25 Act.

## ARTICLE III

## RESPONSIBILITIES OF THE GFA AND THE RDI

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3       SEC. 7. *Responsibilities of the Government Funding Agency.* – The  
4 GFA shall:

5       (a) Protect government interest in the IPR generated from the R&D  
6 that it has funded through suitable provisions in the R&D funding agreement.  
7 The GFA is authorized to withhold from public disclosure, for a reasonable  
8 time, any information relating to potential IPR of the RDI, to allow the RDI to  
9 pursue full protection of such IPR;

10       (b) Monitor efforts and effectiveness of the RDI in securing IPR  
11 protection and in pursuing IPR commercialization as well as provide  
12 alternative solutions and assistance, including additional funding, in case of  
13 shortfall in RDI's performance in protecting, utilizing and commercializing the  
14 IPRs;

15       (c) Ensure adequate freedom for the RDI to use the IPRs for its policy  
16 and business needs, including its use for further research to expand the  
17 knowledge frontier, and requirements for publication of information as  
18 appropriate, in accordance with government or academic policy or institutional  
19 mandate of the RDI; and

20       (d) Allow sharing of revenues from IPR commercialization in a way  
21 that is not onerous to commercialization.

22       SEC. 8. *Responsibilities of the Research and Development Institutes.* –  
23 The RDIs that availed of research funds from the GFAs shall:

24       (a) Identify, protect and manage the IPRs and potential IPRs generated  
25 from R&D funded by the GFA, and pursue commercialization diligently as a  
26 required performance stipulated in the R&D funding agreement and as allowed  
27 by this Act and other applicable laws. The responsibility of the RDI to protect  
28 any potential IPRs shall also apply in the event that the RDI elects to recover



1 ownership of the potential IPRs that has been vested in the GFA under Section  
2 6(a)(3), 6(a)(4) and 6(a)(5) of this Act;

3 (b) Be authorized to keep confidential from the public any document or  
4 information relating to potential IPRs that are not yet fully protected by law;

5 (c) Make a confidential disclosure to the GFA, within a reasonable  
6 time, of any potential IPRs with possibilities for commercialization and/or  
7 technology transfer. In case of failure to disclose any such potential IPRs,  
8 Section 6(a)(4) shall apply;

9 (d) Strengthen their capability in protecting, utilizing and  
10 commercializing the IPRs with smaller RDIs, encouraged to pool and share  
11 resources;

12 (e) Notify the GFA, within a reasonable time, of all patent applications,  
13 licenses and assignments made. All applications for IPR protection shall  
14 disclose any biodiversity and genetic resource, traditional knowledge and  
15 indigenous knowledge, systems and practices as these terms are defined in  
16 Republic Act No. 8371 or the Indigenous People's Rights Act and Republic  
17 Act No. 9147 or the Wildlife Act;

18 (f) Report annually to the GFA on the progress of IPR  
19 commercialization efforts and of all licenses granted;

20 (g) Inform the GFA of any agreement pertaining to the research funded  
21 by the GFA and entered into by the RDI with any other entity or person.  
22 Failure to do so shall render the agreement invalid as against the GFA, and  
23 cannot prejudice any right of the GFA as provided in this Act;

24 (h) Accord their staff with incentives consistent with existing laws to  
25 sustain efforts in identifying valuable IPRs and in pursuing IPR  
26 commercialization; and

27 (i) When necessary, create and establish spin-off companies to pursue  
28 commercialization.

## ARTICLE IV

MANAGEMENT OF IPRs FROM R&D PERFORMED BY  
GOVERNMENT RDIs THROUGH THEIR OWN BUDGET

SEC. 9. *Responsibilities of the RDI Performing R&D with Their Own Budget.* – All government RDIs performing R&D through an annual budget provided by the government shall submit their IP management reports annually to the parent agencies that they are attached to. The report shall contain plans and activities for securing protection of IPRs with commercial potential, the technology transfer approaches to be or have been pursued and the progress of ongoing commercialization of technologies derived from R&D funded from their own budget.

SEC. 10. *Responsibilities of the Concerned Parent Agencies.* – Concerned parent agencies shall monitor efforts and effectiveness of their RDIs in securing IPR protection and in pursuing IPR commercialization, based on the annual IPR management reports submitted by the RDIs.

## ARTICLE V

## REVENUE SHARING

SEC. 11. *Revenue Sharing.* – (a) All revenues from technology transfer and/or commercialization of IPRs from R&D funded by GFA shall be allocated and shared in accordance with the provisions of the research funding agreement and/or research agreement. In case of joint funding, where research is funded by a GFA in part, and by other entity or entities in part, the RDI may enter into contractual agreements with the other entity or entities providing funding: *Provided*, That all contractual agreements shall contain appropriate provisions effectuating the following:

(1) That the RDI or the GFA shall be entitled to shares of the revenues, if any, from IPR arising from the research, as provided in Section 6(a)(2) of this Act, unless such right to share is waived by the GFA in writing;

1 (2) That the RDI must disclose to the GFA, within a reasonable time,  
2 all IPRs referred to in Section 6 of this Act;

3 (3) That the RDI must undertake, within a reasonable time, to obtain  
4 full protection of the potential IPRs referred to in Section 6 of this Act;

5 (4) That the RDI must share at least forty percent (40%) of the  
6 revenues it earns from the IPRs, net of the IPR management-related expenses,  
7 with the researcher(s) concerned based on a schedule of revenue-sharing to be  
8 set forth in the implementing rules and regulations of this Act; and

9 (5) That all revenues from the IPRs of the RDI and pertaining to the  
10 RDI must be reported to the GFA: *Provided*, That such information, when  
11 pertaining to private entities jointly funding the RDI, shall be treated as  
12 *financial information and may be subject to confidentiality*.

13 The absence of any of the above appropriate provision shall not render  
14 the contractual agreements unenforceable and the provisions of the IRR shall  
15 apply in place of the missing provisions.

## 16 ARTICLE VI

### 17 COMMERCIALIZATION OF THE IPRs BY THE RESEARCHER

18 SEC. 12. *Establishment of Spin-off Companies*. – To help ensure the  
19 successful commercialization of IPRs, a public RDI may allow its researcher-  
20 employee to pursue commercialization of the IPRs generated from R&D  
21 funded by public funds by owning, controlling, managing or accepting  
22 employment as officer, employee or consultant in a company undertaking such  
23 commercialization: *Provided*, That its researcher-employee takes a leave of  
24 absence, whenever applicable, without pay for a period of one (1) year and  
25 renewable for another year from the time the researcher signifies in writing that  
26 he/she desires to create or participate in a spin-off company: *Provided, further*,  
27 That this provision shall be an exception to the provision of Section 7(b)(1) of

1 Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical  
2 Standards for Public Officials and Employees”.

3 The leave of absence shall be included in computing the length of  
4 service for retirement but not for the commutation of leave credits earned in  
5 the public RDI. The researcher shall not earn leave credits in the public RDI  
6 during such period of leave of absence. Such leave of absence shall not  
7 likewise affect the researcher-employee’s security of tenure or result in the loss  
8 of one’s seniority rights.

9 SEC. 13. *Detail or Secondment to the Private Sector.* – In a case  
10 where the researcher of a public RDI would be employed by an existing  
11 company which will pursue the commercialization, the applicable provisions of  
12 Republic Act No. 8439 or the “Magna Carta for Scientists, Engineers,  
13 Researchers and other Science and Technology Personnel in Government”  
14 shall prevail.

15 SEC. 14. *Management of Conflict of Interest or Commitment.* – The  
16 RDIs shall properly manage any possible conflict of interest or commitment by  
17 issuing appropriate guidelines for its researcher-employee. Mechanisms for  
18 handling conflicts include, but are not limited to, the following:

19 (a) RDIs shall ensure that its researcher-employee is made fully  
20 accountable for his/her research, and that commercial objectives do not divert  
21 the researcher-employee from carrying out the RDIs core research program;

22 (b) Heads of RDIs should ensure that where a researcher-employee has  
23 a financial interest in a spin-off or existing company (e.g. shareholding,  
24 *personal directorship or consultancy agreement*), this individual should not  
25 also act on behalf of the RDI in transactions with that company;

26 (c) Where researcher-employee is nominated as director without  
27 executive functions to the Board of a spin-off or existing company in which the

1 RDI or its sponsor holds an equity stake, he/she should have a clear duty to  
2 ensure that the RDI's interests are not compromised by his/her role; and

3 (d) RDIs should take steps to ensure that collaborative undertakings  
4 with a spin-off or existing company are governed by a written public  
5 agreement.

## 6 ARTICLE VII

### 7 ESTABLISHMENT AND MAINTENANCE OF REVOLVING FUND 8 FOR R&D AND TECHNOLOGY TRANSFER

9 SEC. 15. *Revolving Fund* – All income generated from  
10 commercialization of IPRs from R&D funded by public funds shall be  
11 constituted as a revolving fund for use of the RDI undertaking technology  
12 transfer, except for state universities and colleges (SUCs) by virtue of their  
13 fiscal autonomy, deposited in an authorized government depository bank  
14 subject to accounting and auditing rules and regulations: *Provided*, That said  
15 income shall be used to defray intellectual property management costs and  
16 expenses and to fund R&D, science and technology (S&T) capability building  
17 and technology transfer activities, including the operation of technology  
18 licensing offices: *Provided, further*, That no amount of said income shall be  
19 used for payment of salaries and other allowances.

20 In case the income after payment of all costs and expenses for IPR  
21 management, including the payment of royalties to other parties, shall exceed  
22 ten percent (10%) of the annual budget of the RDI, then a minimum of seventy  
23 percent (70%) of the excess income shall be remitted to the Bureau of  
24 Treasury: *Provided*, That a GFA has solely funded the research.

25 SEC. 16. *Exception*. – This Article shall not apply to SUCs with respect  
26 to the use and allocation of funds derived from the commercialization of IPRs  
27 generated from R&D funded by public funds.

## ARTICLE VIII

## INSTITUTIONAL MECHANISMS

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3       SEC. 17. *Public Access Policy.* – While enabling, where appropriate,  
4 the related IP to be protected, all RDIs and GFAs shall promote and facilitate  
5 the cost-effective sharing of and access to technologies and knowledge  
6 generated from government-funded R&D by developing appropriate policies  
7 and procedures on public access which shall be made known to the public.  
8 These policies and procedures shall be aimed at promoting the advancement of  
9 R&D, boosting its quality and enabling cross-disciplinary collaboration and,  
10 thereby, increasing the returns from public investment in R&D and contribute  
11 to the betterment of society. All RDIs and GFAs shall develop and maintain  
12 archival facilities for their IPRs in connection with the implementation of their  
13 public access policy.

14       SEC. 18. *Development of Internal IPR Policies and Establishment of*  
15 *Technology Licensing Offices (TLOs) and/or Technology Business*  
16 *Development Offices (TBD Os).* – All RDIs are encouraged to establish their  
17 own TLOs in whatever form, including consortia and regional groupings they  
18 may deem appropriate, and to develop their own policies on IPR management  
19 and technology transfer, in accordance with existing laws and in conformity  
20 with national policy and the mandate of their parent agency.

21       SEC. 19. *Technology Transfer Infrastructure Support* – To be  
22 effective, the management and protection of IPRs by RDIs shall be  
23 supplemented by programs to support technology transfer, innovation and  
24 competitiveness. In this regard, the Department of Science and Technology  
25 (DOST) shall be mandated to design, implement and fund appropriate  
26 programs to include, but not limited to, incentives and grants for the  
27 commercialization of technologies and IPRs and to encourage collaboration  
28 between RDIs and the private sector.

## ARTICLE IX

## DISPUTE RESOLUTION

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3 SEC. 20. The administrative procedure for resolving any dispute on the  
4 determination for government ownership shall be provided by the  
5 implementing rules and regulations of this Act. To protect the integrity of  
6 IPRs, confidentiality of the process of determination and dispute resolution  
7 shall be maintained insofar as it does not prejudice the rights of the RDI or  
8 researcher to due process.

## ARTICLE X

## FINAL PROVISIONS

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11 SEC. 21. *Administrative, Criminal or Civil Liability.* – The failure of  
12 the GFA or the RDI to fulfill its responsibilities under this Act or the violation  
13 of any provision by any person, natural or juridical, may result in  
14 administrative, criminal or civil liability under applicable laws.

15 SEC. 22. *Funding.* – The activities and operational expenses related to  
16 the implementation of this Act shall be funded from the budget appropriations  
17 and other incomes of GFAs and public RDIs. The heads of the GFAs and  
18 public RDIs shall include in the agency's program the implementation of this  
19 Act.

20 SEC. 23. *Periodic Review.* – Every three (3) years from the effectivity  
21 of this Act, an independent review panel to be appointed by the President shall  
22 review the policies and programs on technology transfer under this Act and  
23 shall recommend appropriate measures to the President and to both Houses of  
24 Congress.

25 SEC. 24. *Implementing Rules and Regulations.* – The DOST and the  
26 Intellectual Property Office (IPO) of the Philippines, with the participation of  
27 the GFAs, RDIs and other interest groups, shall formulate the implementing  
28 rules and regulations (IRRs) for the effective implementation of this Act. The

1 DOST Secretary shall chair the drafting committee. The IRR shall be issued  
2 within ninety (90) days after the effectivity of this Act. Copies of the IRR shall  
3 be submitted to the Committees on Science and Technology of both Houses of  
4 Congress within thirty (30) days after its promulgation, as well as to other  
5 appropriate agencies as may be required by law.

6 Nothing in this section shall derogate ownership of copyrights as  
7 conferred by the IP Code or other applicable laws. The IPO shall issue the  
8 necessary rules and regulations governing the ownership of copyrights as  
9 conferred by the IP Code or other applicable laws: *Provided*, That such IRRs  
10 are consistent with the objectives of this Act. The IPO shall also issue the IRR  
11 to implement the disclosure requirement stated in Section 8(e).

12 SEC. 25. *Repealing Clause.* – All laws, presidential decrees, executive  
13 orders, presidential proclamations, rules and regulations or parts thereof which  
14 may be contrary to or inconsistent with this Act are hereby repealed or  
15 modified accordingly.

16 SEC. 26. *Separability Clause.* – If any provision of this Act is declared  
17 unconstitutional, the same shall not affect the validity and effectivity of the  
18 other provisions hereof.

19 SEC. 27. *Effectivity.* – This Act shall take effect fifteen (15) days after  
20 its publication in two (2) newspapers of general circulation.

Approved,

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