



BOTSWANA INSTITUTE FOR TECHNOLOGY RESEARCH AND INNOVATION

INTELLECTUAL PROPERTY POLICY

APPROVED BY THE BOARD OF DIRECTORS

2018

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BITRI Strategic Intent

#1640 At BITRI we are focused on three strategic priorities to be achieved by 2020.

- 1** We are focused on developing a One Team/Mission/Goal
- 6** We will deliver on six technologies
- 40** We will generate Forty percent of our own revenue

Mission

To conduct needs-based technology research that provides sustainable innovative solutions through co-creation and collaboration.

Vision

To be the leading technology solutions provider that transforms lives.

Values

Team work
Excellence
Empathy

1. Purpose

The Botswana Institute for Technology Research and Innovation (BITRI) encourages technology research and development and engagement by creating a research culture that actively responds to the needs of the people of the Republic of Botswana, whilst also contributing to the global research community.

The purpose of the Intellectual Property Policy is to balance the need for protecting and sharing of results. BITRI seeks to protect the rights and privileges that members of the BITRI community traditionally enjoy in the pursuit of knowledge, whilst at the same time balancing this with the philosophy of sharing information with others.

The Intellectual property policy recognises that BITRI Employees and affiliates activities may result in creative outputs. In certain instances it may best serve the public interest to obtain legal protection for these innovations and creative works, to make them commercially attractive and/or to support the development of useful processes, products or services. The intention of this Policy is therefore to make research outputs available in a form that will most effectively promote their development and use for economic and social benefit. It provides a framework for governing the rights and responsibilities of all stakeholders in relation to inventions and other creative processes arising from their activities. This Policy also provides for the recognition and provision of incentives for the innovative contributions of individual researchers and to provide for more effective utilization of Intellectual Property.

2. Definitions

Certain terms are used in this document with specific meanings, as defined in this section. These definitions do not necessarily conform to customary usage.

- 2.1. **Benefit** means the contribution to the socio-economic needs of the Republic of Botswana and includes capacity development, technology transfer, job creation, enterprise development, social upliftment and products, or processes or services that embody or use the Intellectual Property.
- 2.2. **BITRI** means the Botswana Institute for Technology Research and Innovation.
- 2.3. **Commercialisation** means any form of exploitation of intellectual property emanating from research and development by BITRI's Employees, Students and Visiting Researchers, including assignment, licensing, internal exploitation within BITRI and commercialization via a spin-off enterprise/entity;
- 2.4. **Computer Software** means any computer program (including, without limitation, microcode, subroutines and operating systems), regardless of form of expression or object in which it is embodied, together with any user manuals and other accompanying explanatory materials and any computer database;
- 2.5. **Creator / Inventor** means any person or persons to whom this Policy is applicable, who create, conceive, reduce to practice, author, or otherwise make a substantive intellectual contribution to the creation of Intellectual Property and who meets the definition of 'inventor' as generally defined in patent acts and/or the definition of 'author' as generally defined in copyright acts.
- 2.6. **Employee** means a person who has entered into an employment relationship with BITRI, whether research or professional, administrative and support staff, paid or unpaid, full time or part time, full appointment or joint appointment.
- 2.7. **Expenses** means those expenses assignable to the management of a specific BITRI Intellectual Property case including costs for achieving and maintaining patent or other Intellectual Property protection, financing costs, loans, marketing, licensing and other

- legal actions related to the enforcement of Intellectual Property and contract rights, which does not include staff time or general administrative expenses;
- 2.8. **Full Cost** of research means the full cost of undertaking the research and development as determined in accordance with international financial reporting standards, and includes all direct costs (including staff salaries, bursaries, equipment and other running costs) and indirect costs (costs that cannot be specifically attributed to an individual project e.g. space usage, rent, services e.g. financial services and other overheads, etc.);
- 2.9. **Intellectual Property Disclosure Form** means the form which needs to be completed by a Creator(s) to document their Invention and provide key information regarding the Creator(s), funding used to develop the IP and the rights of third parties, for submission to BITRI Research and Partnerships Division for assessment of the Intellectual Property;
- 2.10. **Intellectual Property (IP)** means all outputs of creative endeavour in any field at BITRI that can be protected either statutorily or not, within any jurisdiction, including but not limited to all forms of copyright, design right, whether registered or unregistered, patent, patentable material, trademarks, know-how, trade secrets, rights in databases, information, data, discoveries specifications, diagrams, expertise, techniques, research results, inventions, computer software and programs, algorithms, laboratory notebooks,, BITRI's name, badge and other trade-marks associated with the operations of BITRI, Tangible Research Property, and such other items as BITRI may from time to time specify in writing;
- 2.11. **Nett proceeds to BITRI** means revenue received by BITRI on intellectual property that it assigns, sells or licenses, minus any application, litigation, interference, or marketing costs directly attributable to the intellectual property being licensed. Deducted costs shall be reasonable and fair, and shall be properly disclosed; the sources and amounts of compensation shall also be properly disclosed.
- 2.12. **Open Source** in the context of software means software whose source code is published and made available to the public, enabling anyone to copy, modify and redistribute the source code in accordance with the specific conditions that are imposed;
- 2.13. **Patentable Invention** means Intellectual Property that is novel (i.e. that has not been Publicly Disclosed), involves an inventive step (not obvious to a person skilled in the technical discipline) and is useful (can be applied in trade or industry or agriculture);
- 2.14. **Public Disclosure** means, in the absence of a non-disclosure or confidentiality undertaking, the oral or written communication of information relating to Intellectual Property to a person, or people, that are external to BITRI, for example, but not limited to, communication by email, web blog, news report, press release or interview, journal article, abstract, poster, conference presentation and through the submission of a report placed in the library constitutes public disclosure;
- 2.15. **Public Domain** means works that do not qualify for protection under any intellectual property title, either because the rights have expired or the rights have been forfeited; and as such are held by the public at large and are available for anybody to use without permission from the creator or the original right owner;
- 2.16. **Publicly Financed**” means research and development undertaken using any funds allocated by the Republic of Botswana. Research and development that is undertaken by BITRI at below Full Cost is deemed to be inherently subsidised by the state and is regarded as being Publicly Financed;

- 2.17. **Researcher** means persons employed by BITRI who use the resources and who perform any research task or otherwise participate in any research project administered by BITRI, including those funded by external sponsors;
- 2.18. **Student** means any full-time or part-time graduate or undergraduate student that is co-supervised by a BITRI researcher and their research forms part of a BITRI funded project. It is the responsibility of students who are also employees of other outside entities to resolve any conflicts between this policy and provisions of agreements with their employers prior to beginning any undertaking at BITRI that will involve the development of intellectual property.
- 2.19. **Substantial use of BITRI resources** means extensive unreimbursed use of major BITRI laboratories, design studio or computational facilities, or human resources. The use of these facilities must be important to the creation of the intellectual property; merely incidental use of a facility does not constitute substantial use, nor does extensive use of a facility commonly available to all researchers or professional staff (such as libraries and administrative staff), nor does extensive use of a specialized facility for routine tasks. Use will be considered "extensive" and facilities will be considered "major" and assigned by the BITRI Research and Innovation Committee. Creators wishing to directly reimburse the BITRI for the use of its facilities must make arrangements to do so before the level of facilities usage for a particular intellectual property becomes substantial. (This provision is not intended to override any other BITRI policy concerning reimbursement for facilities usage.)
- 2.20. **Tangible Research Property (TRP)** is defined for purposes of this Policy as tangible items produced in the course of research projects supported by BITRI or by external sponsors. TRP includes such items as: biological materials, engineering drawings, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams, equipment. TRP is separate and distinct from intangible (or intellectual) property such as inventions, patents, copyright and trademarks.
- 2.21. **Visiting Researcher** means a person who is not an employee of BITRI who engages in work at BITRI and includes visiting researchers, adjunct researchers, and volunteers. Visiting Researchers to BITRI who make substantial use of BITRI resources are considered as researchers with respect to any intellectual property arising from such use.

3. Policy

3.1. Obligations

3.1.1. Research and Partnerships Division obligations

The Research and Partnerships Division (R&PD) has been designated by BITRI to fulfil the role commonly referred to as a Technology Transfer Office and shall have oversight of this Policy. The responsibilities of R&PD include, but are not limited to the following:

- 3.1.1.1. Receive IP disclosure forms and supporting documentation from employees and submit to the Research and Innovation Committee for consideration;
- 3.1.1.2. Receive disclosure of potential Intellectual Property through the submission of an IP Disclosure Form by a Researcher;
- 3.1.1.3. Analyse the disclosures within 60 days of receipt and consider:
 - 3.1.1.3.1. How the IP meets the objectives of BITRI;
 - 3.1.1.3.2. How the IP may be of benefit and contribute to the socio-economic needs and competitiveness of Botswana;

- 3.1.1.3.3. The extent to which failure to seek such IP protection will compromise the achievement of BITRI's objectives;
- 3.1.1.3.4. The extent of readiness of the IP for protection and whether any additional research and development needs to be undertaken before IP protection can be obtained;
- 3.1.1.3.5. Forms of IP protection that are most appropriate for the IP in question;
- 3.1.1.3.6. The costs and advantages of the various possibilities for protection;
- 3.1.1.3.7. The potential for Commercialisation of the IP; and
- 3.1.1.3.8. Whether the IP should be placed in the Public Domain;
- 3.1.1.4. After analysis, provide a recommendation for consideration by the Research and Innovation Committee to proceed on an appropriate course of action which may include;
 - 3.1.1.4.1. proceeding with an application for protection of the Intellectual Property, such as via the filing of a patent application or the registration of a design or other IP title as it may be deemed fit;
 - 3.1.1.4.2. delaying the IP protection application for strategic reasons, but ensure that confidentiality is maintained until the application has been made;
 - 3.1.1.4.3. where necessary, requesting that the IP Creator to carry out additional work to enable an IP protection application to be made; whilst confidentiality is maintained;
 - 3.1.1.4.4. where the IP is found to have no prospects of addressing BITRI's objectives or of being commercialised:
 - 3.1.1.4.4.1. not proceeding with protection;
 - 3.1.1.4.4.2. advising the IP Creator that they are free to publish the work;
 - 3.1.1.4.4.3. assigning rights to the IP in the first instance to the funder; or where the funder declines the assignment of the IP, to the Creator.
 - 3.1.1.4.5. Determine any rights of a third party, such as a funder or collaborator, to the IP or a share in the IP;
 - 3.1.1.4.6. Attend to all aspects of protection of the Intellectual Property, including the appointment of a patent attorney or IP Agent;
 - 3.1.1.4.7. Attend to all aspects of Intellectual Property transactions associated with the commercialisation of the Intellectual Property, including the negotiation of licenses to, or assignment of BITRI Intellectual Property;
 - 3.1.1.4.8. In conjunction with the Research and Innovation Committee make the final decision on the terms of any commercialisation agreement, with due consideration being taken of the Creator's opinion;
 - 3.1.1.4.9. Administer the distribution of the Gross Revenues arising from the commercialisation of the IP, where such revenues accrue;
 - 3.1.1.4.10. Assign rights to any IP that BITRI elects not to retain ownership of, in the first instance to a funder of the work that led to the IP; or where the funder declines the assignment of the IP, to the Creator;
 - 3.1.1.4.11. Conduct evaluations of the scope of the protection of the Intellectual Property in all geographic territories subject to the Commercialisation potential of the Intellectual Property.
 - 3.1.1.4.12. Conclude in a timely manner, all assignments of Intellectual Property necessary to give effect to the ownership provisions set out

below and to allow for the use and commercialisation of the Intellectual Property by BITRI in accordance with this Policy.

- 3.1.1.4.13. Negotiate the Intellectual Property clauses of sponsored research agreements in accordance with the objectives of this Policy and any other applicable legislation after consultation with the Employee leading the research project concerned.

3.1.2. Intellectual Property (IP) Advisory Committee obligations

3.1.2.1. An Intellectual Property Sub-Committee of the Research and Innovation Committee shall be established on commencement of this Policy, which shall comprise members selected as follows:

- Executive Director (Chair)
- Director of Research and Partnerships
- Manager Technology Transfer and Funding (Secretary)
- Finance Manager
- Lead Researcher (x 1)
- Any such person(s) the members above may wish to co-opt, such as a Legal Expert, or other external expert.

3.1.2.2. The responsibilities of the IP Sub-Committee shall be to advise the Research and Innovation Committee on matters relating to:

3.1.2.3. Establishment of spin-out companies and the share in equity of the founders of such companies;

3.1.2.4. Preside over any disputes arising from this Policy;

3.1.2.5. Recommend endorsements and branding;

3.1.2.6. Any other matters as the Research and Innovation Committee may deem appropriate.

3.1.2.7. The IP Sub-Committee shall meet at least quarterly.

3.1.3. Employees obligations

3.1.3.1 Employees conducting research are required to retain appropriate records of their research, such as through the use of laboratory notebooks and the records of Inventions in the form of original research data.

3.1.3.2 Employees must disclose the development of any Intellectual Property to R&PD as early as possible, within 30 days of the discovery, by means of an IP Disclosure Form (Appendix 1).

3.1.3.3 Employees must review their work and obtain clearance from their supervisors and the BITRI IP Advisory Committee prior to any Public Disclosure to assess whether the work contains any potentially protectable IP, in particular a Patentable Invention, and if so to timeously disclose it to R&PD on an IP Disclosure Form ahead of the planned Public Disclosure so that if warranted the IP can be protected. If employees are in doubt, they should consult the R&PD at the early stages of their research.

3.1.3.4 Employees must take steps to maintain confidentiality of protectable IP until protection has been obtained.

3.1.3.5 Employees are expected to co-operate with R&PD and assist in preparing, reviewing, signing, and abiding by the terms of all documents necessary for the protection and exploitation of an Invention or other IP work (including

but not limited to preparation of patent specifications and technical descriptions).

- 3.1.3.6 An Employee must ensure that the IP rights relating to their work have been clarified in writing prior to long term leave such as exchange visits etc and that any contractual arrangements are approved and authorised by R&PD.
- 3.1.3.7 On leaving BITRI an Employee must contact R&PD to negotiate terms for continued access to IP and Tangible Research Property even if they are a Creator of it.
- 3.1.3.8 The onus is upon the Creator, or their heirs, to ensure that R&PD is in receipt of their current address details for the purpose of revenue sharing.
- 3.1.3.9 Under no circumstances are Employees expected to disclose to and use for the benefit of BITRI and its affiliates any protected background IP owned by previous employers

3.1.4. Visiting Researchers obligations

- 3.1.4.1 In the absence of an agreement to the contrary, the clauses above for employees will apply to Visiting Researchers.
- 3.1.4.2 Prior to or on arrival at BITRI, a Visiting Researcher must declare to R&PD their Background IP relating to work that will be undertaken whilst visiting BITRI.
- 3.1.4.3 On departure from BITRI, a Visiting Researcher must declare to R&PD any Intellectual Property created whilst at BITRI.

3.1.5. Students obligations

- 3.1.5.1. Where students are co-supervised by BITRI employees and involved in BITRI research activities that could lead to the development of Intellectual Property over which BITRI or a third party may claim ownership, the following conditions will apply:
 - 3.1.5.1.1. The Student's rights in Intellectual Property in any theses or publications arising from the research will be protected;
 - 3.1.5.1.2. It will be made clear to Students what the nature of the work is before they undertake the activity that leads to the claimable Intellectual Property;
 - 3.1.5.1.3. Any confidentiality and ownership of Intellectual Property agreement will only be signed by Students after they have been properly advised by the principal investigator or their BITRI co-supervisor on the contents of the agreement;
 - 3.1.5.1.4. Any delays in the publication of the thesis that arise from a confidentiality agreement, will be subject to the approval of the relevant University committee, for periods of 6 months, up to a maximum of two years.
 - 3.1.5.1.5. BITRI co-supervisors electing to supervise a Student in an area likely to lead to the creation of Intellectual Property to which a funder has been granted rights in terms of a funded research agreement, must ensure that a confidentiality and Intellectual Property assignment agreement, which may form part of a Student-Supervisor

Memorandum of Understanding is completed with the Student before the work is commenced. This scenario may result in some projects not being available to Students who choose not to sign a confidentiality and Intellectual Property assignment agreement.

3.2. Ownership of Intellectual Property

3.2.1. Employees of BITRI

- 3.2.1.1. All rights in Intellectual Property devised, made or created by an employee of BITRI in the course of his or her duties and activities of employment shall generally belong automatically to BITRI.
- 3.2.1.2. If an employee of BITRI creates Intellectual Property outside the normal course of his or her duties of employment, with the significant use of BITRI Resources, he or she will be deemed to have agreed to transfer the IP Rights in such Intellectual Property to BITRI as consideration for the use of BITRI Resources.
- 3.2.1.3. Intellectual Property, created in the course of, or pursuant to a sponsored research or other type of agreement with a third party, shall initially belong to BITRI and then ownership shall be determined according to the terms of any agreements of the parties.

3.2.2. Employees pursuing research activities at other institutions

- 3.2.2.1. Rights related to Intellectual Property that is created during an exchange visit by the employee of BITRI to another institute shall be governed by an agreement between BITRI and the other institute. If BITRI's IP Rights are not affected, the IP created during the visit shall belong to the other institute unless otherwise provided in an agreement.

3.2.3. Non-employees

- 3.2.3.1. Visiting Researchers are required to transfer to BITRI any Intellectual Property they create in the course of their activities arising from their association with BITRI. Such individuals will be treated as if they were BITRI employees for the purposes of this Policy.

3.2.4. Students

- 3.2.4.1. Students who are not employed by BITRI and supervised by a BITRI researcher shall own all Intellectual Property and associated IP Rights they create in the normal course of their studies. However, the following exceptions shall apply.
 - 3.2.4.1.1. If a student is offered a scholarship sponsored by a third party under a separate agreement, under which the third party has a claim on Intellectual Property arising from the scholarship, the student must agree that the Intellectual Property shall initially belong to BITRI and ownership will then be determined in accordance with the terms of the agreement concluded with the third party.

- 3.2.4.1.2. If a student creates Intellectual Property with the significant use of BITRI Resources in connection with his or her research activity, he or she will be deemed to have agreed to transfer the IP Rights in such Intellectual Property to BITRI as consideration for the use of BITRI Resources.
- 3.2.4.1.3. BITRI shall claim ownership of all Intellectual Property created in the course of doctoral students' research activity that is supervised by a BITRI researcher.
- 3.2.4.2. Students shall be given the option to assign IP Rights to BITRI and shall then be granted the same rights as any employee creator as set out in this Policy. In such cases students should follow the procedures set out in this Policy.
- 3.2.5. If BITRI cannot, or decides not to, exploit any Intellectual Property to which it lays claim, it shall forthwith notify the Inventor(s). The notification shall be made at least one month prior to any act or any intentional omission liable to prevent the obtainment of protection. In such cases the Inventor(s) shall have the option to acquire related IP Rights; however, BITRI may claim a share from the income of any subsequent exploitation of the Intellectual Property to the extent equaling the verified expenditures of BITRI incurred in connection with the protection and commercialization of such IP. BITRI may also claim for a perpetual non-exclusive royalty-free license for research purposes without the right to business exploitation and without the right to sub-license. BITRI may also claim for a 5% percentage of any net income generated by the Inventor(s) from the commercialization of the Intellectual Property. BITRI shall not unreasonably withhold or delay an assignment of the IP Rights to the Inventor(s); however it reserves the right to delay exploitation where it is in its interests to do so.
- 3.2.6. Requests for any transfer of rights from BITRI to the Inventors(s) or any other third party should be made in the first instance to the person or Division designated by BITRI.

3.3. Copyright ownership

- 3.3.1. BITRI holds copyright in:
 - 3.3.1.1 Computer software developed at, or commissioned by BITRI to support research or administrative processes or the general operational management of BITRI
 - 3.3.1.2 All BITRI produced publications including electronic media and content on the BITRI websites
 - 3.3.1.3 Photographs and digital images taken by Employees for BITRI media or publicity or specifically commissioned by BITRI
 - 3.3.1.4 Specifically commissioned works that fall outside the scope of normal research work
 - 3.3.1.5 Computer Software developed as part of a research project, unless assigned by research agreement to another party.

3.3.1.6 BITRI will not automatically assign to the author(s) the copyright, unless BITRI has assigned ownership to a third party in terms of a research contract, in:

3.3.1.6.1 Scholarly publications

3.3.1.6.2 Designs, graphics and photographs produced as an art form

3.3.1.6.3 Film.

3.3.1.7 BITRI assigns the copyright in a Student's thesis that has been co-supervised by a BITRI employee or that is part of a BITRI research project, to the Student author. Whilst the Student has the right to enter into agreements with the publishers who may wish to publish the thesis in whole or in part, the Student shall ensure that BITRI's rights are acknowledged by the third party and maintained and shall with the consent of their supervisor(s) ensure that such publication is not in conflict with any past, or planned future, assignment of rights to another publisher, e.g. of a journal article, or other literary publication.

3.4. Public Domain

Where it is deemed appropriate to release any IP to which this Policy applies into the Public Domain, the R&PD will seek guidance from the IP Advisory Sub-Committee, which shall make recommendations to the Research and Innovation Committee which shall approve the release of such IP into the Public Domain.

3.5. Trademarks

3.5.1 All BITRI trademarks will be used solely to denote BITRI's ownership or involvement in an activity in its official capacity. No trade-mark associated with BITRI may be used outside of BITRI official context without obtaining the prior written permission of the CEO.

3.5.2 R&PD shall take responsibility for trade mark registration and maintenance, where the trade mark is directly related to Intellectual Property that may be commercialised, e.g, the name of a product, process or device. Costs will be funded by BITRI and as such, the trade mark may form part of a license or assignment agreement.

3.5. Commercialisation options

3.5.1. BITRI will generally adopt a commercialisation strategy that will involve one of the following three routes, as deemed appropriate:

3.6.1.1 Selling or assigning ownership of the technology to an existing company;

3.6.1.2 Licensing the technology to a third party/another entity;

3.6.1.3 Starting a new company/spin-off company.

3.6.2 Preference will be given to:

3.6.2.1 Non-exclusive licensing;

3.6.2.2 Citizen owned entities and small enterprises;

- 3.6.2.3 Parties that seek to use the Intellectual Property in ways that provide optimal benefits to the economy and quality of life of the people of Botswana;
- 3.6.2.4 Creators who can demonstrate that they have assembled a team with the necessary skills to operate a spin-off business, have submitted a business plan that is acceptable to the IP Advisory Committee and who have appropriate funding in place.

3.7. Incentives to Employees and Distribution of Revenue

- 3.7.1 BITRI will provide an incentive to employees for generating protectable inventions and commercialization of IP.
- 3.7.2 A once off payment in the amount of P10,000.00 will be paid to a Creator for coming up with a protected and commercialized industrial design.
- 3.7.3 A Creator and their heir (s) will be granted a right to a portion of the revenues that accrue to BITRI from the Commercialization of the created Intellectual Property for as long as revenues are derived from such Intellectual Property. The revenue is taxable and where a Creator is on the BITRI payroll, tax will automatically be deducted by Human Resources and payment made through the payroll system. An heir will have no claim to portions of revenue other than to the portion which is allocated to the specific Creator in terms of approved distribution options and taking other co-creators into consideration.
- 3.7.4 If there is more than one Creator in respect of any Intellectual Property, the allocation will be shared equally between them unless another arrangement has been reached by written agreement.
- 3.7.5 A creator may at their sole discretion elect and make provision for an Enabler(s) to receive a share of the Creator portion of the revenue. This arrangement will be agreed to by all Creators should there be more than one, reduced to writing, signed and lodged with Research and Partnerships Department.
- 3.7.6 Disbursement to a Creator, and if appointed, Enablers, will be made within one year of receipt of the revenues by BITRI.
- 3.7.7 Revenue from Commercialization activities will be distributed as follows:
 - 3.7.7.1 Amounts due to third parties who may be either co-owners of IP or beneficiaries in terms of benefit sharing agreements entered into by BITRI, if received by BITRI, will be paid to those third parties as agreed in writing prior to any internal distribution within BITRI.
 - 3.7.7.2 For any amounts of Net income after taxes (NIAT) earned by BITRI, a flat share will be split as follows:
 - 3.7.7.2.1 5% of NIAT will be paid to the Creator(s);
 - 3.7.7.2.2 70% of NIAT to the BITRI Central Fund; and
 - 3.7.7.2.3 25% of NIAT to the Creator's Department.
- 3.7.8 The portion of revenue going to the;
 - 3.7.8.1 Division will support the divisional research and innovation activities to be determined by the Executive Director of the Division;

- 3.7.8.2 BITRI central fund will be used for further research and innovation, development of high level partnerships, capacity building in research and innovation, technology transfer, IP protection, proposal writing, Commercialization costs as well as towards performance bonuses for the institution overall; to be determined by the CEO;
- 3.7.8.3 If a Creator cannot be located using reasonable efforts by Research and Partnerships, then the portion accrued to that Creator or his or her heirs will after a period of five (5) years from the time when the amount became due to the Creator, be paid to the BITRI Central Fund

3.7.9 Special royalty cases

- 3.7.9.1 *Distribution of Equity*: If a Creator holds equity in a BITRI spin-out company, such Creator will not share in BITRI's receipts, whether dividends and/or royalties and/or sale of equity, from such company.
- 3.7.9.2 *Non-monetary benefits*. It is possible that non-monetary benefits may accrue through the Commercialisation of Intellectual Property, for example, but not limited to, shares or equity in companies, receipt of free or reduced rate services or free products or equipment being received by BITRI instead of a monetary amount.
- 3.7.9.3 Equity will typically be held by BITRI on behalf of any Creator who is not directly participating in a company. Dividends and proceeds from the disposal of equity will be distributed as agreed in writing by the parties.
- 3.7.9.4 The decision as to the timing of any equity disposal will be made by the IP Sub-Committee, taking due consideration of the Creator's opinion.
- 3.7.9.5 Wherever possible, R&PD will strive not to include any non-monetary benefits in any commercialisation agreement.
- 3.7.9.6 Reward to a Creator from other non-monetary benefits will be negotiated with a Creator on a case by case basis by R&PD and approved by the IP Sub-Committee, prior to the conclusion of any commercialization agreement that may include non-monetary benefits.

3.8. Distribution of Tangible Research Property

- 3.8.1 BITRI encourages the distribution of Tangible Research Property that it owns that arises from research (just as it encourages the publication of all research for peer scrutiny) on appropriate terms, and provided that this distribution does not conflict with existing obligations.
- 3.8.2 A Researcher or Creator wishing to make such distribution must seek authorisation from the R&PD in advance and ensure that an appropriate materials transfer agreement is put in place and that this complies with the requirements of relevant Government regulations.
- 3.8.3 Whilst scientific exchanges should not be inhibited by potential commercial considerations, Tangible Research Property may have potential commercial value and a Researcher or Creator may elect to make it available to a third party through a commercial license agreement that will be put in place by R&PD.
- 3.8.4 Where Tangible Research Property is distributed under commercial terms:

- 3.8.4.1 each Tangible Research Property item should have an unambiguous identification code or name;
- 3.8.4.2 the principal investigator shall identify the Employees responsible for creating the Tangible Research Property, i.e. the Creator(s), and they will agree in writing to their relative contributions;
- 3.8.4.3 R&PD will maintain a record of this Tangible Research Property and distribute any revenue in accordance with section 3.7 of this Policy.

3.9. Dispute Resolution

- 3.9.1 Any internal disputes or questions of interpretation arising under this Policy must in the first instance be referred to the R&PD for resolution, at the request of any interested party.
- 3.9.2 If the matter cannot be resolved by the R&PD, then the dispute or question of interpretation must be referred to the CEO or his/her nominee for referral to an appropriate authority or panel for mediation or arbitration.
- 3.9.3 In the event of a creatorship dispute arising with an external third party, the matter must be referred to the IP Advisory Committee for referral to an Attorney with suitable expertise.

4. Scope and authority

This policy applies to the following:

- 4.1. All intellectual property created on or after September 2014 and all other intellectual property associated with them.
- 4.2. All BITRI Creators who are under employment contract with BITRI as Researchers.
- 4.3. Visiting Researchers, in the absence of any written agreement to the contrary, who through their use of BITRI Resources create patentable inventions or other works protectable under other intellectual property titles; prepare a copyright protected work; contribute substantially to the existence of any Tangible Research Property; or otherwise create an item of Intellectual Property. The Division of Research and Partnerships that has oversight of Visiting Researchers and their access to BITRI Resources, shall ensure that the Visiting Researcher has been notified of this Policy and obtain written acknowledgement from the Visiting Researcher that they are aware that they are bound by this Policy in the absence of any written agreement to the contrary.
- 4.4. Intellectual Property developed in terms of an agreement between BITRI and a third party unless there is an express agreement to the contrary.

Exceptions to this policy include:

- 4.5. Intellectual Property developed solely in terms of a private contract, outside of the course and scope of employment or contract of service with BITRI, by an Employee and a third party, approved in compliance with the relevant BITRI Consultancy policies, provided that in the case of any potential conflict of interest (real or perceived), the Employee must notify BITRI of the Intellectual Property, or possible creation of Intellectual Property.
- 4.6. Intellectual Property created as part of a private contract, or private and professional work that falls within the technical scope of the Creator's employment at BITRI, the

Creator is bound to disclose this IP to BITRI. In the absence of an agreement signed by BITRI to the contrary, the Intellectual Property will be deemed to be owned by BITRI.

5. Intellectual Property disclosure process

- 5.1. Under BITRI's Intellectual Property Policy, BITRI owns the Intellectual Property created by employees and employees are obligated to disclose it to the Director Research & Partnerships. BITRI may choose to commercialise the Intellectual Property and reserves the right to determine at its sole discretion if it wishes to pursue commercialization.
- 5.2. If BITRI pursues the commercialization route, BITRI will enter into an agreement with the creator(s) of the invention regarding their rights to distribution of returns. BITRI assumes sole responsibility and authority for legally protecting and marketing the intellectual property, finding a licensee or buyer, and negotiating a license or sale and administering that agreement. BITRI shall share with the creator(s) revenue derived from the licensing or sale of the technology.

6. Unsolicited ideas

Disclosure of any unsolicited idea or suggestion by an outsider may be made to BITRI with the expectation of receiving compensation provided BITRI uses the idea or suggestion. Employees of BITRI may at times receive calls, personal visits or correspondence from sources outside BITRI who wish to submit ideas for use by BITRI. Such ideas shall only be given consideration if they appear to be of interest to BITRI and only after a satisfactory release have been signed by the submitter. In order to provide legal protection and to protect the reputation and image of BITRI, employees should avoid accepting or discussing any unsolicited ideas but are to refer them immediately to the Director, Research and Partnerships. Submissions of ideas are to be handled expeditiously

7. Review of Policy

This policy shall be reviewed every 3 years.

APPENDIX 1



INTELLECTUAL PROPERTY DISCLOSURE FORM

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This form is to assist BITRI researchers who are engaged in active research or projects that have the potential to develop IP in disclosing their activities in order to:

- Seek advice on IP protection and development
- Receive prioritised access to available support and funding
- Obtain authorisation for IP exploitation
- Comply with BITRI’s reporting requirements

Completed forms should be submitted preferably to the Director, Research and Partnerships.

1. Please provide a working title that best describes the Intellectual Property.

2. Indicate the type of Intellectual property you have created. Please put a “X” or tick in the corresponding box

Invention	<input type="checkbox"/>	Software	<input type="checkbox"/>
Industrial Design	<input type="checkbox"/>	Know-how	<input type="checkbox"/>
Trademark	<input type="checkbox"/>	Utility model	<input type="checkbox"/>
Layout design of an integrated circuit	<input type="checkbox"/>	Trade Secret	<input type="checkbox"/>
Literary work		Artistic work	

3. Please indicate the type(s) of Intellectual Property Rights you believe will apply to and help protect the Intellectual Property. *Please put an “X” or tick(s) in the corresponding box or boxes below.*)

Patents	<input type="checkbox"/>	Copyright	<input type="checkbox"/>
Industrial Design Rights	<input type="checkbox"/>	Know-how	<input type="checkbox"/>
Trademark	<input type="checkbox"/>	Don’t know	<input type="checkbox"/>
Utility Model Certificate	<input type="checkbox"/>	Trade Secret	<input type="checkbox"/>

4. What were the reasons for developing the IP in the first instance? (*e.g. serendipity, identified an unmet need, funded or contract research etc*).

5. Which problems are being solved by the IP?

6. Please detail the main benefits / advantages and purpose of the IP? (*e.g. technical innovation, greater efficiency, cost saving etc*). *Please indicate, where possible, to whom the benefits would be of interest. (e.g. end users, supply chain participants, manufacturers in the case of process based innovation etc). Note benefits include enhanced research status, societal benefits, environmental impacts etc.*

7. Are you aware of any competing innovations, products, services or relevant research which makes available or discloses similar innovations? If yes, please provide details. *Please identify any existing IP, products or services of relevance.*

8. Ownership - Has the IP been wholly developed by you and by BITRI? *If not, please give details of any persons who contributed to the creation of the IP, their organisational affiliations and outline the nature of their involvement.*

9. a) BITRI Creators:

SURNAME, GIVEN NAMES	DIVISION AND POSITION (e.g. Researcher, Graduate student, Visiting Researcher)	BUSINESS CONTACT INFORMATION (phone, e-mail)	CURRENT HOME ADDRESS

b) BITRI Non-Inventive Contributors:

If applicable, please list other individuals who have made a significant contribution to this Intellectual Property but whose role was not substantially “creative” in nature. For clarification please discuss with Director, Research and Partnerships.

SURNAME, GIVEN NAMES	DIVISION AND POSITION (e.g. Researcher, Graduate student, Visiting Researcher)	BUSINESS CONTACT INFORMATION (phone, e-mail)	CURRENT HOME ADDRESS AND

6. Did the IP result from a specific funding arrangement (e.g. contract for services, research grant, industry collaboration, etc)?

SPONSOR(S)	GRANT OR CONTRACT FUND #

7. Please highlight any BITRI facilities or resources which have been used to create the IP.
(e.g. laboratory resource, computing resource, bought out staff etc.)
8. Please describe where and how this invention is documented (lab notebooks, computer files, photographs, charts, correspondence regarding invention, etc.)
9. Which similar products/services/technologies (prior art) related to the innovation already exist? How does your creation/IP differ from these?
10. Which publications or patents concerning the innovation are you aware of? Please state.

11. Have confidential recording and reporting procedures been followed in the course of the development of the IP? (e.g. use of non-disclosure agreements, the IP has not been published or exhibited etc.)

12. If the IP has been disclosed in any form not subject to confidentiality please provide details of to whom and when. (e.g. marketing, publications, exhibitions, demonstrations, conference presentations, discussions with any third parties.)

13. Please indicate the stage of development of the intellectual property.

Dev Stage	Definition	Description	✓
*TRL 1	Idea/Concept of innovation	Principles hypothesized no experimental proof available.	<input type="checkbox"/>
TRL 2	Concept development	Principle of innovation seems feasible based on observations. Research plans and protocols are developed. Assumptions not supported by any practical proof or detailed analysis.	<input type="checkbox"/>
TRL 3	Applied research/ R&D initiated	Analytical and laboratory studies done. Parameters of interest measured and compared with analytical predictions. Initial Proof of Concept and Hypothesis tested.	<input type="checkbox"/>
TRL 4	Technical development	Basic aspects of the innovation are integrated/ assimilated to establish that the pieces will work together. Hypothesis refined.	<input type="checkbox"/>
TRL 5	Lab-scale model development and validation	Small scale prototype/model of innovation validated under relevant operational conditions mimicked in the laboratory. Hypothesis validated.	<input type="checkbox"/>
TRL 6	Pilot model development and validation	Representative prototype/model tested in intended environment and close to expected performance. Phase 1 trials	<input type="checkbox"/>

TRL 7	System prototype development and validation	Fully functional prototype/model demonstrated in actual operational environment at pre-commercial scale.	<input type="checkbox"/>
TRL 8	Product testing and validation	Innovation proven to work in final form, under expected conditions and tested to see if it meets design and user specifications.	<input type="checkbox"/>
TRL 9	Finalisation of product manufacturing specifications	Proven innovation and ready for full commercial deployment	<input type="checkbox"/>

14. Brief Description:

(Please highlight the novelty and potential applications of this Intellectual Property; attach separate sheet if necessary)

15. Is this Intellectual Property subject to any 3rd party materials that may have been used during development such as software, biological materials, MTA agreements or under research contracts with partners external to BITRI?

_____NO

_____YES (If “Yes”, please provide details)

16. Briefly state the intellectual property you claim as your own creation.

17. Commercial Demand: Please highlight to the best of your knowledge the general markets or industry sectors where the IP could be exploited or commercialised.

18. Do you have any idea or direct evidence of the potential market size or commercial interest in the IP? *Please provide any details in relations to known market factors such as volumes, unit sales potential, nature and number of customers etc. Also detail any commercial enquiries from interested parties, project partners etc.*

19. Do you have any initial thoughts or business plans outlining how you envisage the IP being exploited? (e.g. IP licensing, further research, new company formation, IP sale, own manufacture etc.) Please provide a copy of any available business plans.

20. Risks / Benefits: Can you identify any potential technical, or similar, risks associated with the further development of the IP? If yes, please provide details.

21. Warranty:

I/We, the Inventors listed in Section 6(a), have read, understood and agree to all of the preceding and declare that all of the information provided in this disclosure is complete and correct. To the best of our knowledge, all persons who might legally make an ownership claim in this Intellectual Property are identified in Section 6(a).

Creator:

Creator:

SIGNATURE

SIGNATURE

PRINT NAME

PRINT NAME

TITLE

TITLE

DATE

DATE

22. Completed by Lead Researcher/Executive Director

I have read through this intellectual property disclosure. I confirm that the information provided is accurate to the best of my knowledge and I recommend that the intellectual property be evaluated by the BITRI IP Advisory Committee.

(Full Names)

Signature

Date

23. Completed by Executive Director

I have read this intellectual property disclosure. I confirm that the information provided is accurate to the best of my knowledge and I recommend that the intellectual property be evaluated in accordance with relevant BITRI policies and procedures.

(Full Names)

Signature

Date

Creation Disclosure Process

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If BITRI pursues the commercialization route, BITRI will enter into an agreement with the creator(s) of the invention regarding their rights to distribution of returns. BITRI assumes sole responsibility and authority for legally protecting and marketing the intellectual property, finding a licensee or buyer, and negotiating a license or sale and administering that agreement. BITRI shall share with the creator(s) revenue derived from the licensing or sale of the technology.

APPENDIX 2



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INTELLECTUAL PROPERTY ASSIGNMENT FORM

Completed in accordance with Section 3.1.1.4.12 of the BITRI IP Policy and

Rule No. 3 of the Industrial Property Act, Cap. 68:03, Implementing Regulations

This Assignment of Invention is made by and between _____ (the "Inventor") and Botswana Institute for Technology Research and Innovation (the "Employer") on _____ (Effective Date),

The Inventor is the owner of all right, title and interest in and to the Invention titled _____ comprising of _____

In accordance with the Employer approved Intellectual Property Policy, Terms and Conditions of Employment as well as the terms and conditions of Inventor Contract of Employment, the Inventor hereby assigns, transfers and conveys to the Employer any and all rights, title, interests in and to the described Invention to the Employer.

The parties hereto have executed this document as of the date written above

Inventor (Full names) Signature

Witness (Full names) Signature

Employer (Authorized representative) Signature

Witness (Full names) Signature

APPENDIX 4

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DECLARATION BY VISITING RESEARCHERS AND STUDENTS

Section 3.1.4.2 and 3.1.4.3

I _____ a visiting researcher to BITRI/student supervised by a member of the BITRI staff wishing to conduct research and development within BITRI premises and using BITRI resources declare my background intellectual property as per the attached document.

I further declare that I am the sole and exclusive owner of the Background Intellectual Property and that no third party has rights, interest and title thereto.

Date: _____

Signature: _____