

SEPSIS CANADA NETWORK – INTELLECTUAL PROPERTY POLICY

DEFINITIONS:

“Access Rights” as described in Section 3.3

“CIHR” means the Canadian Institutes for Health Research.

“Commercialization” means the series of activities to transform knowledge and/or technology into new goods, processes or services to satisfy market demands.

“Confidential Information” means knowledge, materials, know-how or any proprietary information whether in written, oral, electronic or other graphic form and identified as confidential before or at the time of disclosure.

“Background Intellectual Property” means, individually or collectively, all Intellectual Property developed, produced or obtained by a Network Partner outside of the Network Activities.

“Funds” means jointly Network Funds and Support Funds.

“Steering Committee” means the group or committee that as designed under the governing policy of the Network has the authority to administer and oversee the Network Activities.

“Intellectual Property”, or “IP” means all materials, concepts, know-how, formulae, inventions, improvements, industrial designs, processes, patterns, machines, manufactures, compositions of matter, compilations of information, patents and patent applications, copyrights, trade secrets, technology, technical information, software, prototypes and specifications, including any rights to apply for protections under statutory proceedings available for those purposes, provided they are capable of protection at law.

“Joint Owners” means ownership of the Intellectual Property is shared by two or more Network Investigators, or Network Partners.

“Network” means Sepsis Canada, as described in the Grant application.

“Network Activities” means the governing, administrative, coordinating and related activities conducted by the Parties for the day to day support and running of the Network as well as research projects supported by Funds.

“Network Activities Agreements” means a written agreement between the Network Partners conducting Network Activities and the Parties involved in that activity including the Network Lead, Network Partners, other third parties.

“Network Funds” means funds managed by the Network provided by the Grant from CIHR.

“Network Lead” means McMaster University, the institution affiliated with the Nominated Co-Principal Investigator and designated as the Receiving Institution listed on the Grant application submitted to CIHR.

“Network Partner” means the institution affiliated with a Co-Principal Investigator, Co-Applicant or Collaborator as listed on the Grant application submitted to CIHR that is providing or administering Funds or Support Funds and a party to the Canadian Sepsis Research Network Partner Agreement for the Network.

“Support Funds” means funds provided by other sources in support of the activities of the Network.

“Support Funds Agreement” means the agreement under which Support Funds are provided by other sources in support of the activities of the Network.

“Results” means any (tangible or intangible) output of the Network Activities such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the Network Activities, as well as any rights attached to it, including Intellectual Property rights.

“Sole Owner” means ownership of the Intellectual Property is held by a single Network Partner

OWNERSHIP OF RESULTS

1.1. Basic Principles The Parties acknowledge that the Network Activities may be supported from multiple sources each of whom may have an interest in the ownership of Results. Therefore, except when in conflict with the agreement under which Support Funds are provided (Support Funds Agreement) ownership and handling of Results shall be dictated by this Network Intellectual Property Policy. When a conflict exists between the Support Funds Agreement and this Policy, licensing of the intellectual property from Results shall be resolved in good faith negotiations between the Parties involved.

1.2 Ownership of Results. Results developed by a single Network Partner will solely vest with that Network Partner as a Sole Owner. Results jointly developed by two or more Network Partners will be jointly vested in those Network Partners as Joint Owners. The Parties agree that the authority and responsibility for making decisions with regards to legal protection and commercialization of Results shall rest with the Sole Owner or Joint Owners of the Results. Network Partners will not engage with third parties unless they can secure rights to intellectual property created by those parties, including external contractors and consultants, as well as students where applicable.

1.3 Disclosure of Results. Network Partners shall promptly and reasonably disclose to the Network all Results, patentable or unpatentable, made or conceived in the course of or as a result the Network Activities where not in conflict with a prior agreement as described in section 1.1. All disclosures will be coordinated through each Network Partner’s institutional technology transfer office, or its equivalent, and then forwarded to the Network Steering Committee

1.4 The Network Steering Committee shall provide written notice to the Network Partners of all IP disclosed pursuant to Section 1.3 of this IP Policy. The description of such IP shall initially be made available in a non-confidential manner. A confidential description of such IP shall be provided upon the signing of a non-disclosure agreement between the interested Network Partner and owning Network Partners or Lead Party (as defined below). The owner(s) of IP shall be under no obligation to initiate or maintain patent protection of IP that is not licensed exclusively or non-exclusively.

1.5 IP Protection. The Parties agree that the authority and responsibility for making decisions with regard to patent protection of IP shall rest with the owners of the IP. The following provisions shall apply to any such decision:

a) A Party that is the sole owner of IP is responsible for patenting the solely owned IP. A sole owner that is unwilling to obtain and maintain patent protection for solely owned IP shall diligently and effectively proceed with patent protection if any other Network Partner undertakes to pay the sole owner's reasonable expenses incurred in obtaining and maintaining the patent.

b) Parties that are joint owners of IP are responsible for patenting the jointly owned IP. Where there are two or more owners of the IP, they shall designate one of the Network Partners co-owning the IP as a lead party ("Lead Party") to act on their behalf. Joint owners shall share the costs for patent application and maintenance in respect of the jointly owned IP as negotiated in good faith.

c) A joint owner that is unwilling to obtain and maintain patent protection for jointly owned IP must diligently and effectively proceed with patent protection if:

i. the other joint owner(s) undertake(s) to bear all reasonable expenses incurred in obtaining and maintaining the patent, or

ii. if any other Network Partner (non-joint owner) undertakes to pay the unwilling joint owner's share of all reasonable expenses incurred in obtaining and maintaining the patent.

BACKGROUND INTELLECTUAL PROPERTY

2.1 In any agreements related to the Network, the Network Partners involved will identify and agree on the Background Intellectual Property related to Network Activities addressed in those agreements and will also, where relevant, inform each other that access to specific Background Intellectual Property is subject to legal restrictions or limits.

2.2 Each Network Partner shall bear sole responsibility for ensuring that its acts within the Network do not knowingly infringe third party intellectual property rights.

ACCESS RIGHTS

Network Partner Access Rights to Results and Intellectual Property

3.1 Sole owners of Results and IP shall be entitled to use their solely owned Results and Intellectual Property without restriction.

3.2 Joint owners of Results and IP, unless otherwise agreed in writing, shall each be entitled to use their jointly owned Results and IP for non-commercial research activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s.). Subject to Section 8 of this IP Policy, each of the joint owners shall also be entitled to otherwise exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), provided the other joint owners are given at least 45 calendar days advance notice and fair and reasonable compensation.

3.3 Upon written request to the owner(s) of the Results and IP, the other non-owning Network Partners shall be offered a non-transferable, non-exclusive, royalty-free, perpetual license to

use and modify all Results and IP solely for research and educational purposes provided that the terms and conditions of such license will not interfere with efforts to commercialize the Results (“Access Rights”).

Network Partner Access Rights to Background Intellectual Property

4.1 Any Access Rights granted on Background Intellectual Property needed to conduct specific Network Research:

- (a) shall expressly exclude any rights to sublicense unless expressly stated otherwise; and
- (b) shall be free of any administrative transfer costs; and
- (c) are granted on a non-exclusive basis, if not otherwise agreed in writing by all the parties; and
- (d) shall be used only for the purposes for which Access Rights to it have been granted and not for any commercial purposes; and
- (e) shall be made in writing; and
- (f) may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

Network Partner Access Rights for Exploitation of Results

5.1 Access Rights to Results if needed for exploitation of a Network Partner's own Results shall be negotiated on fair and reasonable conditions.

5.2 Access Rights to Results for internal research activities shall be granted on a royalty-free basis.

5.3 Access Rights to Background Intellectual Property if needed for exploitation of a Network Partner's own Results, including for research on behalf of a third party, shall be negotiated on fair and reasonable conditions.

5.4 The Network Partners shall promptly disclose in writing to the Network Partner's institutional technology transfer office, or its equivalent, which will then forward to the Network Steering Committee as per the details in Section 3.1, any existing Intellectual Property and any prior art which, to its knowledge, could limit the ability to commercialize any Results.

Additional Access Rights for Network Partners

6.1 For the avoidance of doubt any grant of Access Rights not covered by this Intellectual Property Policy shall be at the absolute and sole discretion of the owning Network Partner and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

Access Rights for Parties Entering or Leaving the Network

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7.1 New Parties entering the Network. With regards to Results developed before the accession of the new Network Partner, the new Network Partner will be granted Access Rights to those Results on the same conditions applying for Access Rights to Background Intellectual Property.

7.2 Parties leaving the Network. Access Rights shall be granted to a leaving Network Partner as follows:

a) Defaulting Network Partner

- i. Access Rights granted to a Defaulting Network Partner and such Network Partner's right to request Access Rights shall cease immediately upon receipt by the Defaulting Network Partner of the formal notice of the decision of the Network Steering Committee to terminate its participation in the Network.

b) Non-defaulting Network Partner

- i. A non-defaulting Network Partner leaving voluntarily shall, with the other Parties' consent, have Access Rights to the Results developed until the date of the termination of its participation.
- ii. It may request Access Rights to other Parties' Results and Background Intellectual Property under the terms of this Agreement.

LICENSING OF RESULTS

8.1 Each Network Partner may grant royalty-bearing or fee-paying licenses to its solely and jointly owned Results and/or Background Intellectual Property (or otherwise give the right to exploit them), if this does not impede the rights of the other Parties.

8.2 Exclusive licenses for Results and any Background Intellectual Property that is required to practice the Results or IP may be granted only if all the other Parties concerned have waived their Access Rights and with the written consent of the other Parties.

8.3 The obligations above apply only for as long as other Parties still have or still may request Access Rights to the Results and/or Background Intellectual Property.

8.4 The owner, the inventor, the inventor's employer, the Network Lead and any relevant Network Partners shall negotiate in good faith the sharing of the net revenues commensurate with their contributions related to the Results and IP, in accordance with the applicable Network and/or Network Partners official policies, as well as the terms of any relevant Network Activities of Support Funds Agreements. Any portion of net revenues allocated to the Network Lead shall be used to support the Network's sustainability and in furtherance of the Network's research or commercialization activities.

EFFECT OF TERMINATION ON NETWORK PARTNER AGREEMENTS AND ACCESS RIGHTS TO RESULTS

9.1 The provisions relating to Access Rights shall survive the expiration or termination of the Network Activities Agreement.

9.2 Termination shall not affect any rights or obligations of a Network Partner leaving the project incurred prior to the date of termination, unless otherwise agreed between the Network Steering

Committee and the leaving Network Partner. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

TRANSFER AND ASSIGNMENT OF OWNERSHIP OF RESULTS

10.1 Each Network Partner may transfer ownership of its own Results following the procedures below:

a) Each Network Partner must ensure that its obligations under this Agreement shall also apply to the new owner and that this owner has the obligation to pass them on in any subsequent transfer.

b) Unless agreed otherwise (in writing) for specifically-identified third parties or unless impossible under applicable laws on mergers and acquisitions, a Network Partner that intends to transfer ownership of Results must give at least 45 days advance notice (or less if agreed in writing) to the other Network Partners that have (or may request) existing Access Rights to the Results (as defined below). This notification must include sufficient information on the new owner to enable any Network Partner concerned to assess the effects on its access rights. Unless agreed otherwise (in writing) for specifically-identified third parties, any other Network Partner may object within 30 days of receiving notification (or less if agreed in writing), if it can show that the transfer would adversely affect its Access Rights. In this case, the transfer may not take place until an agreement has been reached between the beneficiaries concerned.

c) The transferring Network Partner shall, however, at the time of the transfer, inform the other Parties of such transfer and shall ensure that the rights of the other Network Partners will not be affected by such transfer.

10.2 The Network Partners recognize that in the framework of a merger or an acquisition of an important part of its assets, it may be impossible under applicable laws on mergers and acquisitions for a Network Partner to give the full 45 calendar days prior notice for the transfer.

PUBLICATION

11.1 The Parties shall not be restricted from presenting at conferences, symposia or professional meetings, or from publishing in abstracts, journals, theses, or dissertations, or otherwise, whether in printed or in electronic media, the methods and the results of the Project, except where such publication or presentation would result in the premature public disclosure of commercializable intellectual property or breach the confidentiality terms of the Network Activities Agreement or this IP Policy.

11.2 If a graduate student's thesis contains subject matter that requires protection, then each Network Partner retains the right to have graduate student theses reviewed and defended for the sole purpose of academic evaluation in accordance with the its established procedures.

-END OF POLICY-Jan 22, 2021