

 <p><b>CANADIAN PARTNERSHIP AGAINST CANCER</b></p> <p><b>PARTENARIAT CANADIEN CONTRE LE CANCER</b></p>	<b>Intellectual Property Policy</b>	
	<p>Effective date: June 19, 2015</p> <p>Policy owner: VP Finance &amp; Corporate Services</p> <p>Last Revised Date: June, 2015</p> <p>Next Review: 2018</p> <p>Contact: VP Finance &amp; Corporate Services</p> <p>Approved by: Board of Directors</p>	<p>Page 1 of 6</p>

## I. Background

1. The Canadian Partnership Against Cancer Corporation, the Partnership, is funded by Health Canada to implement the Canadian Strategy for Cancer Control.
2. In implementing the Canadian Strategy for Cancer Control the Partnership plays a unique role working with partners in the cancer control community to support multi-jurisdictional uptake of knowledge emerging from cancer research and evidence of what is working across Canada. Knowledge translation and exchange – putting evidence into practice – is central to the Partnership’s mandate.
3. Intellectual property<sup>1</sup> includes all original works of authorship, trademarks, logos, designs, inventions, discoveries, developments, innovations, ideas, business improvements, processes, and compilations of data, whether or not subject to registration or capable of registration.
4. As part of implementing the Canadian Strategy for Cancer Control, new intellectual property<sup>2</sup> of different types is likely to be generated, and existing intellectual property<sup>3</sup> may be employed by those working with and funded by the Partnership.
5. New intellectual property to be generated by those working with and funded by the Partnership is likely to arise from two sources:
  - a. Partner organizations such as research institutions, not-for-profit, and government agencies for work related to the Canadian Strategy for Cancer Control; and
  - b. Consultants, contractors and other service providers engaged directly by the Partnership for work related either to the Canadian Strategy for Cancer Control; or the administration and governance of the Partnership in support of the Canadian Strategy for Cancer Control.
6. As part of the Health Canada funding agreement, if requested by the Minister, the Partnership has agreed to negotiate on behalf of the Minister, royalty-free licences to intellectual property created in implementing the Canadian Strategy for Cancer Control.
7. As a part of delivering on the Canadian Strategy for Cancer Control, the Partnership works with Canada’s First Nations, Inuit and Métis population. It is understood that any intellectual property resulting from work with any of these populations will be governed and maintained in accordance with the relevant policies such as Ownership Control Access Possession: Inuit regional research processes; and Six Principles of Métis Health Research.

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## II. Purpose

The purpose of this policy is to specify principles and requirements on how the Partnership will address intellectual property matters within its operations to carry out its mandate and to remain in compliance with the Health Canada funding agreement. This includes:


1. The ownership, management, and rights to use intellectual property generated by projects funded by the Partnership.
2. The disclosure and use of information relating to prior rights in intellectual property to be used in projects funded by the Partnership

## III. Scope

This policy applies to all Partnership employees<sup>4</sup>, contractor/consultants<sup>5</sup> and partners<sup>6</sup> who do work with and for the Partnership.

## IV. Principles

1. The Partnership has a role to play in accelerating the uptake of knowledge to reduce the burden of cancer.
2. Newly created intellectual property funded in whole or in part by the Partnership should be put into practical use by the Canadian public health care system as quickly as possible.
3. Newly created intellectual property funded in whole or in part by the Partnership should be available for use by the Canadian public health care system without additional payments being required for its use.
4. Newly created intellectual property funded in whole or in part by the Partnership shall be owned in accordance with the policies of the lead partner organization<sup>7</sup> or consultant/contractor<sup>5</sup> provided that the lead partner organization or consultant/contractor would be the owner of the newly created intellectual property or was assigned the rights to the intellectual property and can assign rights to use in accordance with the provisions of this policy.
5. The Partnership will seek to own intellectual property only in cases where either it is itself the creator of the intellectual property, or when the creator of the intellectual property is not able

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to accept legal responsibility to provide the rights to use the intellectual property in accordance with the provisions of this policy.

6. The lead partner organization or owner of the intellectual property arising from Partnership funding shall provide a non-exclusive, royalty-free, non-assignable license to the intellectual property to Health Canada, the Partnership, and for Canadian public health care system use<sup>8</sup> or Canadian health care policy development use<sup>9</sup> subject to any prior encumbrances or existing intellectual property that the Partnership has been notified of.
7. If the lead partner organization is not the owner of the intellectual property arising from Partnership funding, the lead partner organization shall:
  - a. secure the rights to the intellectual property and be able to assign rights to the intellectual property as required;
  - b. manage the intellectual property in accordance with the provisions of this policy;
  - c. determine what intellectual property protection in its sole discretion may be required in the specific circumstances;
  - d. put any required intellectual property protection into place in its sole discretion and at its sole cost;
  - e. determine the licensing or other disposition of intellectual property that may be required to ensure that the said intellectual property can be used in an effective manner for the treatment of patients or in such other manner as is reasonable in the circumstances; and
  - f. take such other actions that it considers advisable to ensure as broad a use of the said intellectual property as possible taking into account:
    - i. any economic development opportunities emphasizing the benefit that may accrue within Canada;
    - ii. the potential to reduce health care costs in Canada;
    - iii. the possibility of better health care outcomes; and
    - iv. dissemination of the resulting knowledge to health care professionals in a manner where such knowledge will be adopted in practice.
8. Canadian organizations which have the capacity and knowledge to commercialize newly created intellectual property funded in whole or in part by the Partnership should be allowed to do so with a minimum of impediments as long as they adhere to the requirements in principle #6 above.
9. Where intellectual property is commercialized, owners shall have no obligation to share any revenues or other proceeds with the Partnership.

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10. All procurements must require potential partners and/or consultants/contractors to inform the Partnership in writing of the terms and conditions for the use of existing intellectual property, or of any prior encumbrances that might exist in the ownership of and use of any existing intellectual property.
11. In the event that a proposal received as part of the procurement process indicates that existing intellectual property is required to be used and that that the intellectual property is owned by the organization, consultant/contractor or person making the proposal, the Partnership shall expect to receive a non-exclusive, royalty-free, sub-licensable right to use that intellectual property only in connection with the right to use the intellectual property created as part of the proposed work.
12. In the event that a proposal received as part of the procurement process does not indicate existing intellectual property or prior encumbrances but these are suspected by the Partnership, the Partnership shall seek indemnification if a decision is made to fund the proposal.

## V. Procedures

1. As a part of the planning phase of a project, considerations should be given to the potential development of intellectual property and a requisite plan developed to address the management and ownership of the resulting intellectual property.
2. Procurement documents shall clearly outline the requirement for partners, and consultants/contractors to include in their written proposals explicit reference informing the Partnership of the terms and conditions applicable to the use of any existing intellectual property and/or prior encumbrances that may exist in the ownership of and use of the creation of intellectual property that is implicit in their proposals.
3. In the event that a proposal to the Partnership indicates existing intellectual property is required to be used as part of the proposed work, or that prior encumbrances might exist in the ownership of and use of any intellectual property that might be generated, the Partnership may use this information in determining whether or not to proceed with funding the proposal.
4. Procurement documents shall clearly outline that in the event that a proposal to the Partnership has not provided any indication that there are any terms and conditions relating to the use of any existing intellectual property or that there are prior encumbrances on the ownership of or

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use of any existing intellectual property, the consultant/contractor or organization making the proposal shall be deemed to represent and warrant to the Partnership that there are no such terms and conditions relating to the use of any existing intellectual property and that there are no prior encumbrances on the ownership of and use of any existing intellectual property.

5. Procurement documents shall clearly outline that in the event that it becomes clear that intellectual property is pre-existing based on work by the organizational partner, or consultant/contractor at any time during the project funded by the Partnership, the organizational partner or consultant/contractor shall immediately inform the Partnership of such existing intellectual property and otherwise comply with the other provisions of this policy.
6. Procurement documents shall clearly outline that existing intellectual property shall be owned in accordance with the policies of the lead institution or consultant/contractor provided that the lead institution or consultant/contractor who would be the owner or owners of the intellectual property pursuant to such policies accepts legal responsibility to provide the rights to use in accordance with the provisions of this policy and to manage any newly created intellectual property in accordance with the provisions of this policy. In the event that the person or persons who would be the owner of the existing intellectual property under the applicable policies is unable or unwilling to accept the legal responsibility, the Partnership shall own the existing intellectual property.
7. The owner of Partnership-funded newly created intellectual property may defer the granting of the licences required in this policy for no more than six (6) months after its initial discovery or creation by providing the Partnership with written notice of its intention to require such a deferral within one (1) month after the initial discovery or creation thereof and prior to any public disclosure has been made of the newly created intellectual property.
8. Every owner of intellectual property created with Partnership funds shall provide the Partnership with an annual report on intellectual property in a manner determined by the Partnership in the year the intellectual property was created. The report should contain such information that may be reasonably required by the Health Canada funding agreement.

## **VI. Exceptions and Any Matters Not Provided For**

Any deviations or exceptions to the policy may be made in extenuating circumstances upon approval of the CEO and Vice President, Finance and Corporate Services. Any matters related to intellectual property that are not provided for in this policy may be dealt with by the CEO and Vice President,

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Finance and Corporate Services. In all cases, these deviations, exceptions, and matters should be reported to the Board of Directors.

## VII. Endnotes/Definition of Terms

In this policy, the following terms have the specific meanings as described:

<sup>1</sup> **Intellectual Property** includes all original works of authorship, trademarks, logos, designs, inventions, discoveries, developments, innovations, ideas, business improvements, processes, and compilations of data, whether or not subject to registration or capable of registration.

<sup>2</sup> **New or Newly Created Intellectual Property** sometimes referred to as Foreground Intellectual Property means any new intellectual property to be generated from a specific project:

<sup>3</sup> **Existing Intellectual Property** sometimes referred to as Background Intellectual Property means any intellectual property owned by the Partnership or by anyone else that is required to legally use any new intellectual property to be generated.

<sup>4</sup> **Employee** refers to an individual who has agreed, under an employment contract, to perform specified services for the Partnership in exchange for financial or other forms of compensation.

<sup>5</sup> **Consultant/Contractor** – any individual or organization with whom the Partnership has entered into a fee for services agreement.

<sup>6</sup> **Partner** refers to any organization with whom the Partnership is associated that plays an active part in delivering on the Canadian Strategy for Cancer Control.

<sup>7</sup> **Lead Partner/Organization** – organization with whom the Partnership has a funding or project agreement. This organization is responsible for leading and delivering the work included in the funding or project agreement.

<sup>8</sup> **Canadian public health care system use** means any use in Canada by a health care professional to treat or provide care to a patient or patients.

<sup>9</sup> **Canadian health care policy development use** means any use in Canada by any government or research institution to provide recommendations on new or amended policies relating to cancer control, including prevention or treatment.