

# **INTELLECTUAL PROPERTY ONTARIO CLIENT AGREEMENT**

**EFFECTIVE JANUARY 20, 2026**

Intellectual Property Ontario (“IPON”) is a board-governed provincial agency that helps small-and-medium size enterprises (SMEs), postsecondary education institutions, and research and innovation sector clients generate, protect, manage, and commercialize Intellectual Property.

## **CONSIDERATION**

In consideration of the mutual covenants and agreements contained in this “Client Agreement” and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, IPON and the Client agree as follows:

### **1.0 ENTIRE AGREEMENT**

1.1 The Client Agreement, together with

Schedule “A” - General Terms and Conditions,

Schedule “B” - Approved Statements of Work incorporated into the Agreement as provided for in Article 3.0, and

any amendment entered into as provided for in Article 4.0,

constitutes the entire “Agreement” between IPON and the Client with respect to the subject matter contained herein and supersedes all prior oral or written representations and agreements.

1.2 Conflict or Inconsistency. In the event there is any conflict or inconsistency between the terms and conditions of the Client Agreement and the terms and conditions of any Schedule or SOW that forms a part of the Agreement, such conflict or inconsistency shall be resolved in accordance with the following order of precedence:

- (a) The Client Agreement;
- (b) Schedule “A”;
- (c) Schedule “B”.

## **2.0 COUNTERPARTS**

- 2.1 The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

## **3.0 STATEMENT OF WORK INCORPORATION**

- 3.1 IPON, at its sole discretion, may determine whether the Client can access IPON funding. If IPON determines that the Client is eligible to access IPON funding, the Client may consult with one or more potential Service Providers to determine IP-related services tailored to address the Client's IP-related needs.
- 3.2 Once the scope of work is determined, the potential Service Provider shall draft and deliver to the Client a completed Statement of Work (SOW), including the information required by IPON as specified in the SOW instructions or other accompanying documents.
- 3.3 The Client may submit to IPON multiple proposed SOWs for different IP-related services for IPON approval.
- 3.4 IPON has the discretion to approve the Client's selected Service Provider under a proposed SOW.
- 3.5 IPON, at its sole discretion, may approve all or a portion of a SOW (for IP-related services and other described expenses) and once approved by IPON, and signed by the Client and Service Provider, it is incorporated into the Agreement as part of Schedule "B".
- 3.6 For IPON to disburse any Funds, IPON must approve both the Service Provider and the SOW, prior to any work listed in the SOW being performed.
- 3.7 In accordance with applicable IPON funding procedures, IPON may, on behalf of the Client, disburse Funds to the Service Provider for completed work under an approved SOW upon receiving an invoice and confirmation that:
- (a) the invoiced work corresponds to those the work listed in the approved SOW;
  - (b) the invoiced work was completed within the period outlined in the SOW; and

- (c) the Client has paid the Service Provider the Client's portion of the invoice outlined in the SOW.

- 3.8 Regardless, IPON can only disburse Funds up to the Maximum Funds approved under the applicable SOW(s).
- 3.9 IPON retains the right to recover some or all of the Funds from the Client as outlined in Schedule "A", Article A9.0 and Article A10.0.

#### **4.0 AMENDING THE AGREEMENT**

- 4.1 The Client acknowledges that IPON may make changes to this Agreement from time to time. Changes that are administrative in nature or do not diminish or otherwise adversely affect the Client's rights under this Agreement will take effect ten (10) business days after written notice is provided to the Client. All other changes will take effect upon the Client's execution of a new SOW or upon renewal or extension of this Agreement, as applicable, and such execution, renewal or extension shall constitute the Client's acceptance of the revised terms. If the Client does not agree to any such changes, the Client may choose not to enter into a new SOW, or to decline renewal or extension of the Agreement. In such case, the Client may terminate the Agreement upon notice in accordance with section A9.6.

#### **5.0 ACKNOWLEDGEMENT**

- 5.1 The Client acknowledges and agrees that:
  - (a) the Client must meet pre-requisites set by IPON (e.g., completed IP education, Reports, and suitability assessments) before accessing Client Services.
  - (b) the Client will:
    - (i) complete written survey(s) and participate in meetings, focus groups, and one-on-one sessions as set out in Schedule "A", section A5.3; and
    - (ii) comply with all representations, warranties, and covenants in Schedule "A", and advise IPON of any changes thereto within five (5) Business Days of any non-compliance event.
  - (c) IPON is bound by the *Freedom of Information and Protection of Privacy*

Act (Ontario) and that any information provided to IPON in connection with Client Services or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act;

- (d) Funds provided by IPON are to be used by the Client only to obtain IP-related services from Service Providers under an approved SOW, not for any other Client expenditures or debts, and not to provide goods or services to IPON;
- (e) the Client's obligations to pay Service Providers under an approved SOW are its own, not those of IPON;
- (f) regardless of whether IPON disburses Funds, holds back Funds, or cancels the disbursement of Funds (e.g., in the Event of Default by Client), in no event will IPON be liable under this Agreement to the Service Provider; and
- (g) IPON is not responsible for providing the IP-related services.

The Parties have executed the Agreement on the dates set out below.

**Intellectual Property Ontario**

Jan 21, 2026

Date

*Cheryl Nicholson*

Name: Cheryl Nicholson

Title: Chief Operating Officer

**Stephanie A Sadownik**

Jan 21, 2026

Date

*Stephanie Ann Sadownik*

Name: Dr. Stephanie A Sadownik

Title: Teacher/Academic Researcher

I have authority to bind the Client

## SCHEDULE “A” GENERAL TERMS AND CONDITIONS

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### A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) “include”, “includes”, and “including” denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

**“Abandonment”, “Abandon” or “Abandoned”**

- (a) means any failure of the Client or of its Affiliates to take required actions within the specified timeframes under the *Patent Act* (Canada), the *Patent Rules* (Canada), or other applicable Canadian patent legislation or foreign patent legislation. This includes the Client’s or its Affiliates’ failure to respond to an examiner’s requisition, non-compliance with notice requirements, failure to request examination, failure to pay required fees including issue fees, maintenance fees, annuity fees, renewal fees, failure to submit inventor declarations or statement of entitlement, or failure to take other necessary steps to keep the Patent in force or the Patent application in good standing;
- (b) means failure to take action within a reasonable amount of time to reinstate an abandonment, or failure to take action within one month of the start of any grace period; or
- (c) has the same meaning as those same terms or equivalent terms are described under the *Patent Act* or applicable patent legislation.

**“Agreement”** means the Client Agreement entered into between IPON and the Client, all of the schedules listed in section 1.1, and any amendment entered

into pursuant to Article 4.0.

**“Affiliate”** means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with the Client.

**“Business Day”** means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Victoria Day; Canada Day; Civic Holiday (Ontario); Labour Day; Thanksgiving Day; National Day of Truth & Reconciliation; Christmas Day; Boxing Day and any other day on which IPON has elected to be closed for business.

**“Canadian Entity”** means any entity:

- (a) whose direct and indirect beneficial ownership is under the Control of:
  - (i) an individual or individuals who are residents of Canada (as determined in accordance with the *Income Tax Act* (Canada);
  - (ii) an entity incorporated under, or created pursuant to, the laws of Canada or any of its provinces or territories and has its head office located in Canada; or
  - (iii) an entity registered under the Canada Not-for-profit Corporations Act (NFP Act) or similar provincial or Canadian territorial legislation, and operates for charitable, educational, religious, or other non-profit purposes;or
- (b) who is a federal, provincial or municipal government body or agency that is established under the laws of Canada or any of its provinces or territories.

**“Ceases to Operate”** means:

- (a) the Client ceases to operate or is dissolved or wound up;
- (b) has sold all or substantially all of its assets as part of a winding up of its affairs; or
- (c) the Client makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Client bankrupt or applies for the appointment of a receiver.

**“Change of Control”** of a Client means, whether by way of a single transaction or a series of related transactions, coming under the Control of a person (such as an individual or corporation) or group of persons that was not previously Controlling, Controlled by or under common Control with the Client, including:

- (a) if a public for-profit corporation or a subsidiary of a public for-profit corporation: the acquisition by any person or two or more of them acting in concert that results in its or their direct or indirect beneficial ownership of 20% or more of outstanding shares of voting stock of the corporation other than in connection with a bona fide financing in which the acquiror(s) does not acquire a license or right to the Funded IP of the Client;
- (b) if a private for-profit company corporation (other than a subsidiary of a public for-profit corporation): the acquisition by any person, or two or more of them acting in concert, that results in its or their direct or indirect beneficial ownership of 50% or more of the voting shares in the corporation other than in connection with a bona fide financing in which the acquiror(s) does not acquire a license or right to the Funded IP of the Client;
- (c) if a for-profit corporation or other legal entity, whether public or private: if the corporation or entity, sells or otherwise disposes of all or substantially all of its assets; or
- (d) if a non-profit corporation: the acquisition, directly or indirectly, by a person (or two or more of them acting in concert) that results in their controlling 50% or more of the voting membership units in the corporation.

**“Change Transaction”** means, with respect to the Client:

- (a) Change of Control; or
- (b) the assignment or other transfer of any of its or its Affiliates’ interest in the Funded IP other than the assignment of any of its Funded IP to a Canadian Entity that is a wholly-owned subsidiary of the Client (and only for so long as it remains both a Canadian Entity and a wholly-owned subsidiary of Client);

where such Change of Control or assignment was not expressly approved in writing in advance by IPON.

**“Client”** means the entity named in the signature block of the Client Agreement.

**“Client Services”** means services described in sections 23, 24, and 26 of Ontario Regulation 4/22.

**“Confidential Information”** means all information provided in any form by either Party to the other Party that has been marked or identified as proprietary or confidential at the time of disclosure, and any records or information derived from that information, but does not include information that a Party can demonstrate on a balance of probabilities:

- (a) was, at the time of disclosure, already known or in the possession of the Party without restriction, as evidenced by written records predating such disclosure;
- (b) is or has become publicly available through no fault of the Party and other than as a result of disclosure directly or indirectly by the Party;
- (c) is or becomes available to the Party on a non-confidential basis from a source other than the other Party unless the source is prohibited from disclosing the information by a contractual, fiduciary or other legal obligation to the other Party; or
- (d) is or was independently acquired or developed by the Party without use of or reference to the Confidential Information, as evidenced by written records in the Party’s possession, and without violating obligations under the Agreement or any other obligation of confidentiality it may have to the other Party.

**“Control”** of one person by another person means that person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person, whether through the ownership of voting securities, by contract or otherwise, and **“Controlled”** and **“Controlling”** will have similar meanings.

**“Effective Date”** means the date set out at the top of the Agreement.

**“Eligibility Requirements”** means the requirements for individual clients set out in IPON’s By-law #4 (Eligibility for Services).

**“Event of Default”** has the meaning ascribed to it in section A10.1.

**“Event of Abandonment”** means Abandonment of a Patent, providing notice of an intent to Abandon, or taking steps that reasonably indicate an intent to Abandon or that the Client Ceases to Operate;



**“Funded IP”** means all IP created, developed, filed, obtained, or acquired by the Client or its Affiliates with the support of the Funds, and all Intellectual Property Rights therein including applications, registrations, divisional, continuation or other applications, renewals, and extensions thereof, but does not include any IP owned or licensed by the Client prior to the commencement of the Agreement or acquired by Client independent of the Agreement and without use of the Funds.

**“Funding Year”** means the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31.

**“Funds”** means the money IPON may disburse or has disbursed to the Client and to the Service Provider on behalf of the Client.

**“Indemnified Parties”** means IPON, its appointees, board members, employees, and authorized subcontractors.

**“Intellectual Property” or “IP”** means all algorithms including machine learning or artificial intelligence algorithms, models), application programming interfaces (APIs), apparatuses, concepts, data, databases and data collections, deliverables, designs, diagrams, documentation, drawings, engineering and test data, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), know-how, manufacturing methodology, materials, marketing and development plans, marks (including brand names, product names, logos, and slogans), measurements, methods, models, molds, practices, procedures, processes, protocols, prototypes, schematics, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test parameters, tools, uniform resource identifiers, user interfaces, works of authorship, and other forms of technology.

**“Intellectual Property Rights”** means all intellectual property rights in any IP in any country including all of the following:

- (a) all patents and utility models and applications therefor, and all reissues, divisions, re-examinations, renewals, extensions, provisional applications, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions and discoveries, including invention disclosures;
- (b) all trade secrets and other rights in technology, data, know-how and confidential or proprietary information;
- (c) mask works, mask work and integrated circuit topographies and registrations and applications therefor, and all other rights

corresponding thereto throughout the world;

- (d) all copyrights, copyright registrations and applications therefor and all other rights corresponding thereto throughout the world, including, where applicable, moral rights and droit d'auteur;
- (e) all industrial designs and any registrations and applications therefor throughout the world;
- (f) all rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefor, and in official marks; and
- (g) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

**“Maximum Funds”** means the maximum IPON contribution amount as indicated by IPON in one or more approved SOWs.

**“Notice”** means any communication given or required to be given pursuant to the Agreement.

**“Notice Period”** means the period of time within which the Client is required to remedy an Event of Default pursuant to section A10.2(b) and includes any extensions of time that IPON provides to the Client.

**“Parties”** means IPON and the Client.

**“Party”** means either IPON or the Client.

**“Patent”** means any patent application that has been filed or patent that has been issued with the support of IPON Funds under the Agreement and includes all registrations, divisional, continuation or other applications, renewals, and extensions of such patents worldwide.

**“Reports”** means any reports reasonably required by IPON to deliver, monitor, and evaluate performance under the Agreement, as further specified in section A4.1.

**“Service Provider”** means a person or entity approved by IPON to provide IP-related services to the Client under a SOW.

**“Statement of Work” or “SOW”** means a statement of work in the form required by IPON and as may be amended or revised from time to time by IPON, and which can be incorporated into Schedule “B” in accordance with the terms of Article 3.0.

## **A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS**

**A2.1 General.** The Client represents, warrants, and covenants that:

- (a) the Client has, and will continue to have, full power and authority to fulfill its obligations under the Agreement;
- (b) the Client is, and will continue to be, an Ontario-based SME, whether in its own right or in the context of its relationship with an Ontario-based entrepreneur or an Ontario-based researcher (as these terms are defined in the Eligibility Requirements); or the Client is otherwise an Ontario-based researcher or Ontario-based entrepreneur that is deemed to be an eligible applicant under the Eligibility Requirements and permitted to receive Client Services under the Agreement;
- (c) the Client is either:
  - (i) the owner of IP that it has developed or is developing that it intends to protect via IP Rights for the purpose of commercializing and monetizing the IP in a manner that benefits Ontario;
  - (ii) the owner of IP Rights that it is using or intends to use, or that it relies on or intends to rely on, for the purpose of commercializing or monetizing the IP in a manner that benefits Ontario; or
  - (iii) the exclusive licensee of IP that is protected via IP Rights for the purpose of commercializing or monetizing the IP in a manner that benefits Ontario;
- (d) the Client is operating in a sector or industry that has been published by IPON as a priority sector for purposes of eligibility under the Eligibility Requirements, if applicable;
- (e) the Client declares its intention to grow its business and maintain substantial operations in Ontario;
- (f) the Client declares its intention to ensure its IP and IP Rights remain under Canadian ownership or control;
- (g) the Client has the potential to realize societal or economic benefits to Ontario;
- (h) the Client has the ability to support its business and IP strategies with

the Client Services;

- (i) the Client declares that it:
  - (i) has the financial capacity to advance the protection and commercialization of any IP and IP Rights that may be supported by the Client Services;
  - (ii) is prepared to pay for a portion of the cost of the IP-related services with internal resources; and
  - (iii) is aware that funding from other governmental sources cannot be used for paying any costs of the IP-related services supported by IPON;
- (j) the Client will share information and documents relevant to any Client Services with IPON, including confidential information marked as such when submitted to IPON;
- (k) the Client will participate in surveys and meetings with IPON to share insights into IPON's service offerings;
- (l) the Client authorizes IPON to share its name, name of employee(s), images of the Client, its employees and contractors, quotes, and any comments, feedback or insights provided by the Client about IPON and its services, as deemed appropriate by IPON, with the Ministry of Colleges, Universities, Research Excellence and Security (MCURES) and the Ministry of Economic Development, Job Creation, and Trade (MEDJCT);
- (m) the Client authorizes IPON, MCURES, and MEDJCT to publicize its name, name of employee(s), quotes, and any comments or insights as deemed appropriate by IPON;
- (n) the Client will comply with all reasonable reporting requirements;
- (o) the Client consents to IPON confidentially sharing the contents of its application and any IP benchmarking results or reports with any identified organizations working with the Client (e.g., Regional Innovation Centres (RICs), other funders) for the purpose of evaluating eligibility and potential collaboration opportunities for provision of services to the Client;
- (p) the Client consents to IPON confidentially sharing with Canadian

funding organizations that have also supported the Client (e.g., Elevate IP, RICs), the list of IP-related services supported by either IPON or these other Canadian organizations, for the purpose of reviewing the delivery of the IP-related services to the Client;

- (q) any information the Client provided to IPON in support of its request for Client Services (including information relating to size, ownership, control or any other Eligibility Requirements) was true and complete at the time the Client provided it, and will continue to be so, absent Notice under clause (r), below;
- (r) the Client will provide to IPON Notice of any Change Transaction or any changes to its status or information that would render it ineligible under the then applicable Eligibility Requirements. Such Notice will be provided by Client to IPON within sixty (60) Business Days of such Change Transaction or other event occurring, and will include details such as relevant date, nature of the change, identity of the relevant IP Rights, and other information relating to such change as may be requested by IPON;
- (s) within five (5) Business Days of receiving Notice from IPON that the Eligibility Requirements have changed, if the Client no longer meets the updated Eligibility Requirements, the Client will provide IPON Notice of any information relevant to the updated Eligibility Requirements;
- (t) the Client consents to IPON using information provided by the Client about its business and about the IP-related services it has received, for aggregate analysis (i.e., combining with other client information) in order to identify trends and knowledge that will help improve IPON's services and efforts to support SMEs with the protection, management, and commercialization of their IP;
- (u) the Client is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Client Services, the Funds, or the Agreement, including the Eligibility Requirements; and
- (v) the Client will waive solicitor-client privilege and authorize IPON to collect information from a Service Provider that has provided the Client services under a SOW, for the purpose of allowing IPON to confirm the completion of work and disburse funds to the Service Provider on behalf of the Client.

A2.2 **Execution of Agreement.** The Client represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

A2.3 **Governance.** The Client represents, warrants, and covenants that it has and will follow procedures to enable the Client to address such matters as the Client considers necessary to enable the Client to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon IPON's request, the Client will provide proof of the matters referred to in Article A2.0.

### A3.0 **TERM OF THE AGREEMENT**

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on a date that is chosen by IPON with thirty (30) days' notice to the Client, unless terminated earlier pursuant to Article A9.0 or Article A10.0.

### A4.0 **REPORTS, RECORDS, CONFIDENTIALITY, AND AUDITS**

A4.1 **Reports.** The Client will:

- (a) submit to IPON at the e-mail address provided by IPON, all Reports in accordance with the timelines and content requirements specified by IPON;
- (b) ensure that all Reports are completed to the satisfaction of IPON; and
- (c) ensure that all Reports are signed on behalf of the Client by an authorized signing officer.

A4.2 **No Control of Records.** No provision of the Agreement will be construed so as to give IPON any control whatsoever over the Client's records.

A4.3 **Client Information.** The Client agrees to share with IPON relevant information and documents (including any change in ownership or control of the business, or Confidential Information) in a timely fashion, to verify Client's compliance with this Agreement and to otherwise support IPON's evaluation of Client's exploitation of Client's Funded IP. The Client will mark all Confidential Information as confidential when submitting information to IPON and, except to

enforce the terms of this Agreement and such disclosures as are expressly permitted under this Agreement, IPON shall hold such Confidential Information in confidence under and subject to the terms of this Agreement.

**A4.4 Ownership of Confidential Information.** It is agreed that:

- (a) any Confidential Information or Intellectual Property furnished by one Party to the other Party pursuant to the Agreement is proprietary and confidential to the Party that furnished it and shall be so treated by the other Party that received it;
- (b) Confidential Information or Intellectual Property furnished by one Party to the other Party, shall not be construed as granting to the Party receiving the Confidential Information or Intellectual Property, either by implication or otherwise, any interest, licence, or right respecting the Confidential Information or Intellectual Property or any Intellectual Property Rights therein; and
- (c) when a Party receives Confidential Information or Intellectual Property from the other Party, the Confidential Information or Intellectual Property shall:
  - (i) be kept confidential, and used only for the purposes of fulfilling the Party's obligations under the Agreement;
  - (ii) not be disclosed to any third party except as permitted under the Agreement;
  - (iii) not knowingly be used for the benefit of any third party;
  - (iv) be maintained securely in the Party's custody, and safeguarded in a manner commensurate with its sensitivity;
  - (v) be disclosed only:
    - 1. with the prior written consent of the Party that furnished it; or
    - 2. as required by law, and then only with advance notice to the Party that furnished it, unless the law prohibits such notice.

**A4.5 Record Maintenance.** The Client will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or

otherwise to the Client Services in a manner consistent with generally accepted accounting principles, and for no less than seven (7) years; and

- (b) all non-financial documents and records relating to the Funds or otherwise to the Client Services for a period of no less than two (2) years.

**A4.6 Inspection.** IPON, any authorized representative, or any independent auditor identified by IPON may request digital copies or access to digital records, or at IPON's expense, upon twenty-four (24) hours' Notice to the Client and during normal business hours, enter upon the Client's premises to inspect records and make inquiries of the Client in order to assess the truth of the Client's representations and warranties, to review the delivery of the Client Services to the Client, and to review the delivery of the IP-related services to the Client by the Service Provider and the Client's allocation and expenditure of the Funds and, for these purposes, IPON, any authorized representative, or any independent auditor identified by IPON may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section A4.5;
- (b) remove any copies made pursuant to section A4.6(a) from the Client's premises; and
- (c) conduct an audit or investigation of the Client in respect of any or all of the Client's representations and warranties, the delivery of the Client Services to the Client, the delivery of the IP-related services to the Client by the Service Provider, and the Client's expenditure of the Funds.

**A4.7 Cooperation.** To assist in respect of the rights provided for in section A4.6, the Client will cooperate by providing access to or disclosing any information requested by IPON, or any authorized representatives or independent auditor identified by IPON, and will do so in the form requested; will assist in copying such information, where requested; and authorizes IPON to:

- (a) correspond with any Service Providers, which are or have already provided IP-related services to the Client, regarding provision of the IP-related services; and
- (b) internally review, without disclosure, Client-specific documents and files in possession of any Service Providers, which are or have already provided IP-related services to the Client, thereby waiving solicitor-client privilege for the sole purpose of IPON auditing.



A4.8 **Auditor General.** The rights of IPON, its authorized representatives and any independent auditor identified by IPON under Article A4.0 are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

## **A5.0 COMMUNICATIONS AND OTHER REQUIREMENTS**

A5.1 **Acknowledge Support.** Unless otherwise agreed to by IPON, the Client will acknowledge the support of IPON for Client Services in a form and manner as directed by IPON.

A5.2 **Marketing and Promotion.** The Client grants IPON the right to use images depicting the Client and/or employees or contractors of the Client, information about the Client's experiences (including quotations and statements from the Client), and reported service results for promotional or reporting purposes.

A5.3 **Written Surveys, Focus Groups, and One-on-One Sessions.** The Client will complete written survey(s) and participate in focus group discussions and one-on-one sessions, as required by IPON, to provide feedback about the Client Services received under the Agreement.

## **A6.0 LIMITATION OF LIABILITY**

A6.1 **Limitation of Liability.** IPON and its directors, employees, contractors, agents or representatives shall not be liable for any damage whatsoever, including direct, indirect, special, incidental or consequential damages, including lost revenue or profits or additional operating expenses, and whether based upon negligence, strict liability or other tort, contract, statutory right or other theory of liability, with respect to the Service Provider, or arising out of or in connection with IPON's provision of the Client Services to the Client. Without limiting the foregoing, IPON and its directors, employees, contractors, agents and representatives shall not be liable for any damages arising from:

- (a) IPON's delay in making payment or refusing to pay the Service Provider for any reason, such as if the Client ceases to be an IPON client or if the invoice does not match the SOW between Client and the Service Provider or otherwise fails to meet IPON's requirements;
- (b) the Client's failure to submit an invoice to IPON in accordance with section 3.7;

- (c) the Service Provider going bankrupt; and
- (d) a dispute between the Client and the Service Provider regarding the quality of work performed or any matter relating to the Service Provider's retainer by the Client.

A6.2 **Professional Advice.** Advice given by IPON and its employees and contractors to a Client shall not constitute legal/professional advice, and IPON shall have no responsibility or liability whatsoever for any such advice provided or not provided by IPON, its staff, or contractors. IPON likewise is not responsible or liable whatsoever for any legal/professional advice provided by mentors or Service Providers used by the Client in conjunction with IP-related services or Client Services under the Agreement.

## A7.0 INDEMNITY AND INSURANCE

A7.1 **Indemnification.** The Client will indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert, and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with the Client Services or otherwise in connection with the Agreement, unless solely caused by the gross negligence or wilful misconduct of the Indemnified Parties.

A7.2 **Client's Insurance.** The Client represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, all the necessary and appropriate insurance that a prudent person would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage.

## A8.0 ABANDONMENT OF IPON-SUPPORTED PATENTS

A8.1 **Notice of Intent to Abandon.** If the Client or its Affiliate decides or intends to Abandon any Patent, it shall notify IPON immediately upon such decision or of such intention and provide sufficient notice to permit IPON to take all steps necessary to preserve such Patent and at least before Abandonment. This notice shall include the reasons for Abandonment and any relevant documentation.

A8.2 **Assignment Upon Abandonment.** In the Event of Abandonment, the Client or

its Affiliate is deemed to have assigned the Patent (and for clarity, hereby assigns the Patent) to IPON upon notice by IPON to Client. The assignment is effective the date of the Event of Abandonment. The consideration for the assignment shall be as set out in section A8.4.

**A8.3 Further Assurances.** Each Party shall use all reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to carry out the intent and purposes of this Agreement. Without limiting the foregoing, in the Event of Abandonment, each Party agrees to sign documents (including an assignment document for the assignment of a Patent) as may be required.

**A8.4 Assignment Consideration.** Assignment consideration for the Patent shall be fair market value as determined by an independent third-party appraiser appointed by IPON. The cost of the appraisal shall be borne by IPON.

The payment of the full amount of the assignment consideration may be made contingent upon the full cooperation of the Client, including executing any required documents as determined by IPON acting reasonably.

**A8.5 Obligations of the Client.** Until the assignment of the Patent is perfected, if required, the Client shall take all necessary steps to maintain the Patent in good standing, including paying any maintenance fees, responding to an examiner's requisition, and reinstating any Patent applications.

The Client shall provide IPON with all relevant information and documentation related to the Patent, including prosecution history, maintenance records, and any correspondence with Canadian Intellectual Property Office (CIPO) or the corresponding foreign intellectual property office having jurisdiction over the Patent.

In the event that documentation of the assignment of the Patent is not provided in a timely manner, the Client thereby authorizes IPON to:

- (a) instruct Client's agent of record or representative for the Patent pending with CIPO or the corresponding intellectual property office having jurisdiction over the Patent to take all necessary steps on the Client's behalf to maintain the Patent in good standing, including paying any maintenance fees, responding to an examiner's requisition and reinstating any Patent applications; and
- (b) at its discretion, instruct the current agent of record or Client representative to appoint an associate agent or a new representative selected by IPON who may act on IPON's instructions.

In the event that IPON exercises its rights under section A8.2, the Client also hereby grants power of attorney to IPON to execute a Revocation and Appointment of Agent form or documentation having a similar effect to appoint a new agent of record or representative for the Patent who may act on IPON's instructions.

## **A9.0 TERMINATION ON NOTICE**

**A9.1 Termination on Notice by IPON.** IPON may terminate the Agreement at any time without liability, penalty, or costs to IPON, upon giving at least thirty (30) days' Notice to the Client.

**A9.2 Termination if Client Ceases to Operate.** If the Client Ceases to Operate, IPON may provide the Client with Notice of termination of the Agreement, without liability, penalty, or costs to IPON, effective on the date and on such terms and conditions as IPON may specify.

**A9.3 Termination if Client Becomes Ineligible or owing to a Conflict of Interest.** If, in the opinion of IPON, the Client becomes ineligible for Client Services or is in a conflict of interest that IPON determines cannot be managed, IPON may provide the Client with Notice of termination of the Agreement, without liability, penalty, or costs to IPON, effective on the date and on such terms and conditions as IPON may specify.

**A9.4 Termination owing to Change Transaction.** Without limiting IPON's other termination rights under this Agreement, if the Client undergoes a Change Transaction, IPON may provide the Client with immediate Notice of termination of the Agreement, without liability, penalty, or costs to IPON, effective on the date and on such terms and conditions as IPON may specify.

**A9.5 Consequences of Termination on Notice by IPON.** If IPON terminates the Agreement pursuant to sections A9.1, A9.2, A9.3, A9.4, or 10.2(a) IPON may take one or more (or all) of the following actions:

- (a) cancel disbursement of Funds approved under the applicable SOW(s);
- (b) demand from the Client the return of any Funds remaining in the possession or under the control of the Client;
- (c) if IPON is terminating the Agreement under section A9.3 on the basis that the Client is ineligible as it no longer meets the definition of an "Ontario-based small-and-medium size enterprise" (e.g., has moved outside of Ontario), or under section A9.4, demand from the Client

repayment of an amount equal to the disbursed Funds, such amount to be repaid by Client to IPON within twenty (20) Business Days of the demand by IPON;

- (d) if IPON is terminating the Agreement under section A10.2(a) on the basis that there is an Event of Default under A10.1a(iv), demand from the Client repayment to IPON of one and a half (1.5) times the disbursed Funds, such amount to be repaid by Client to IPON within twenty (20) Business Days of the demand by IPON; and
- (e) if the Client does not repay the amount demanded by IPON pursuant to section A9.5(c) or (d), within twenty (20) Business Days of receiving that demand, then, unless IPON in its sole discretion elects to waive in writing (which must be evidenced by written agreement signed by IPON) any or all of its rights under section A21.5, the rights granted to IPON pursuant to section A21.5 shall automatically become effective and IPON shall be entitled to enforce the covenant of the Client under section A21.5.

**A9.6 Termination on Notice by the Client.** The Client may terminate the Agreement at any time upon giving at least thirty (30) days' Notice to IPON and upon returning an amount equal to any disbursed Funds (or in the case Client terminates after an Event of Default under A10.1a(iv), one and a half (1.5) times the disbursed Funds), and on such terms and conditions as IPON may specify.

**A9.7 Right to Notify Service Provider.** Upon termination of the Agreement, IPON may notify any of the Client's Service Providers of the termination.

## **A10.0 EVENT OF DEFAULT AND TERMINATION FOR DEFAULT**

**A10.1 Events of Default.** Each of the following events will constitute an Event of Default:

- (a) in the opinion of IPON, the Client breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
  - (i) provided accurate information in their application to IPON or in a SOW;
  - (ii) use or spend Funds for the IP-related services;

- (iii) provide Reports in accordance with section A4.1; or
- (iv) provide Notice as required by section A2.1(r).
- (b) in the opinion of IPON, fails to comply with IPON funding procedures despite IPON's reasonable efforts to clarify its requirements and support the Client's compliance; or
- (c) in the opinion of IPON, the Client is verbally abusive with, threatens, or harasses IPON staff or its authorized representatives.

**A10.2 Consequences of Events of Default.** If an Event of Default occurs, in addition to any rights IPON may have under section A21.5, IPON may at any time, take one or more of the following actions:

- (a) terminate the Agreement at any time, including immediately, without liability, penalty or costs to IPON, upon giving Notice to the Client;
- (b) require the Client to initiate and complete within a Notice Period any action IPON considers necessary in order to facilitate the successful continuation or completion of the Client Services or of the Agreement in general;
- (c) suspend the disbursement of Funds approved under the applicable SOW(s) for such period as IPON determines appropriate;
- (d) reduce the amount of the Funds approved under the applicable SOW(s);
- (e) cancel disbursement of Funds approved under the applicable SOW(s);
- (f) demand from the Client the payment of any Funds remaining in the possession or under the control of the Client;
- (g) demand from the Client the payment of an amount equal to any Funds the Client used, but did not use in accordance with IPON's contractual requirements; and
- (h) demand from the Client the payment of an amount equal to any disbursed Funds.

**A10.3 When Termination is Effective.** Termination under this Article will take effect as provided for in the Notice.

## A11.0 NOTICE

A11.1 **Notice in Writing and Addressed.** Notice will be in writing and will be sent by email and will be addressed to IPON and the Client respectively as provided in this section, or as either Party later designates to the other Party by Notice.

Party	Contact Information
(a) Contact information for the purposes of Notice to IPON	Email: <a href="mailto:legal@ip-ontario.ca">legal@ip-ontario.ca</a>
(b) Contact information for the purposes of Notice to the Client	Name: Dr. Stephanie A Sadownik Position: Teacher/Academic Researcher Address: A -42 Monclova Road , North York , Ontario M3M 0A6 Email: <a href="mailto:stephanie.sadownik@ocdsb.ca">stephanie.sadownik@ocdsb.ca</a>

A11.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five (5) Business Days after the Notice is mailed; or
- (b) in the case of email or personal delivery, one (1) Business Day after the Notice is delivered.

A11.3 **Postal Disruption.** Despite section A11.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email or personal delivery.

## A12.0 CONSENT BY IPON AND COMPLIANCE BY CLIENT

A12.1 **Consent.** When IPON provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Client will comply with such terms and conditions.

## A13.0 SEVERABILITY OF PROVISIONS

A13.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

#### **A14.0 WAIVER**

A14.1 **Waiver Request.** Either Party may, in accordance with the Notice provision set out in Article A11.0, ask the other Party to waive an obligation under the Agreement.

A14.2 **Waiver Applies.** Any waiver a Party grants in response to a request made pursuant to section A14.1 will:

- (a) be valid only if the Party granting the waiver provides it in writing; and
- (b) apply only to the specific obligation referred to in the waiver.

#### **A15.0 INDEPENDENT PARTIES**

A15.1 **Parties Independent.** The Client is NOT an agent, joint venturer, partner, or employee of IPON, and the Client will not represent itself in any way that might be taken by a reasonable person to suggest that it is or take any actions that could establish or imply such a relationship.

#### **A16.0 ASSIGNMENT OF AGREEMENT**

A16.1 **No Assignment.** The Client will not, without the prior written consent of IPON, assign any of its rights or obligations under the Agreement.

A16.2 **Agreement Binding.** All rights and obligations contained in the Agreement (including but not limited to the covenant and license granted under section A21.5) will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

#### **A17.0 GOVERNING LAW**

A17.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in



the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

#### **A18.0 FURTHER ASSURANCES**

A18.1 **Agreement into Effect.** The Client will provide such further assurances as IPON may request from time to time with respect to any matter to which the Agreement pertains and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

#### **A19.0 JOINT AND SEVERAL LIABILITY**

A19.1 **Joint and Several Liability.** Where the Client is comprised of more than one entity, all such entities will be jointly and severally liable to IPON for the fulfillment of the obligations of the Client under the Agreement.

#### **A20.0 RIGHTS AND REMEDIES CUMULATIVE**

A20.1 **Rights and Remedies Cumulative.** The rights and remedies of IPON under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

#### **A21.0 CONFLICTS OF INTEREST AND PROTECTING CANADA**

A21.1 **No Conflict of Interest.** The Client will obtain the Client Services and use the Funds without an actual, potential, or perceived conflict of interest.

A21.2 **Conflict of Interest.** For the purposes of Article A21.0, a conflict of interest includes any circumstances where:

- (a) the Client or any person who has the capacity to influence the Client's decisions has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Client's objective, unbiased, and impartial judgment relating to the Client Services, the use of the Funds, or both; and
- (b) an IPON employee, board member, contractor, or representative:

- (i) stands to benefit, directly or indirectly, should a specific Client application be accepted or rejected by IPON;
- (ii) has a family relationship or other close relationship with an applicant, an applicant's directors, officers, trustees, partners, employees, or shareholders, or any person representing an applicant;
- (iii) is a director, officer, trustee, partner, investor, or shareholder of an applicant;
- (iv) has been employed by an applicant within the past two years; or
- (v) has or had any other relationship with the applicant that could be perceived as causing bias or a conflict.

**A21.3 Disclosure to IPON.** The Client will:

- (a) disclose to IPON, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that IPON may prescribe as a result of the disclosure.

**A21.4 IPON Supporting other clients.** The Client acknowledges that IPON may provide services to other eligible clients, including entities that may be competitors of the Client and that the foregoing does not create a conflict of interest between the Parties. The Client waives any right to bring claims against IPON regarding the foregoing.

**A21.5 Protecting Canada.** The Client acknowledges that IPON's mandate is, among other things, to support commercialization of IP by Canadian Entities and for the benefit of Canadians, and that exploitation of the Funded IP by any person or entity that is not a Canadian Entity may be inconsistent with such mandate.

Therefore, as a condition of receiving the Funds, upon the occurrence of the event in section A9.5(e) [*failure to fulfil IPON's demand for repayment because of a change in Client's eligibility, a Change Transaction, or a failure to notify IPON of such changes*] (the "**Trigger Event**"):

- (a) **Non-Assertion Covenant.** From and after the Trigger Event, the Client agrees not to assert any claim of infringement under the Funded IP against any use, manufacture, sale, offer for sale, importation, or distribution of any products or services by any Canadian Entity; and
- (b) **Freedom to Operate.** From and after the Trigger Event, the Client hereby grants, and shall grant, to IPON a non-exclusive, perpetual, royalty-free, irrevocable, worldwide licence to use and otherwise exploit the Funded IP for any commercial purpose and for non-commercial research, scholarly or academic purposes. IPON shall have the right to sub-license such license to any one or more Canadian Entities on terms acceptable to IPON (including granting to such Canadian Entities the right to further sub-sub-license through one or more tiers of sublicensees and whether or not such sub-sublicensee is a Canadian Entity).

In the event of a Change Transaction while this section A21.5 remains in effect, the Client shall ensure that any transferee or licensee of the Funded IP agrees to be bound by the covenant in (a) above and acknowledges the non-exclusive license granted pursuant to (b) above.

For clarity, this section A21.5 will survive the expiry or termination of this Agreement except that upon repayment by Client to IPON of the amount demanded by IPON pursuant to section A9.5(c) or (d), as applicable, within twenty (20) Business Days of receiving that demand, and prior to occurrence of the Trigger Event in section A9.5(e), this section A21.5 shall not be effective.

## **A22.0 FUNDS AND OBTAINING IP-RELATED SERVICES**

### **A22.1 Funds Provided.** IPON will:

- (a) if applicable, disburse up to the Maximum Funds in accordance with the approved SOW for the purpose of supporting the IP-related services; and
- (b) disburse on behalf of the Client, the Funds to the approved Service Provider in accordance with the approved SOW and Article 3.0.

### **A22.2 Limitation on Payment of Funds.** Despite section A22.1:

- (a) IPON is not obligated to disburse instalments of Funds until the IP-related services have been provided;
- (b) IPON is not obligated to disburse Funds in the Event of Default (of Client); and

- (c) IPON may adjust the amount of Funds to be disbursed at any time upon IPON's assessment of the information the Client provides to IPON pursuant to section A4.1 or other relevant information made available to IPON.

**A22.3 Use of Funds and Obtaining IP-Related Services.** The Client will do all of the following:

- (a) unless otherwise directed by IPON, request Funds only for IP-related services provided by the Service Provider identified in an approved SOW;
- (b) obtain the IP-related services in accordance with the Agreement;
- (c) not use the Funds that have been reimbursed or disbursed by IPON to cover any cost that has or will be funded or reimbursed by one or more of any third party, or a ministry, department, agency, or organization of the Government of Ontario or Government of Canada; and
- (d) pay for the taxes and client portion of the cost of the IP-related services in accordance with the SOW (unless otherwise directed or permitted by IPON) using its own resources, which may not include funding from other ministries or agencies of Ontario, or other governments or government agencies.

## **A23.0 DEBT DUE AND PAYMENT**

**A23.1 Payment of Overpayment.** If at any time IPON provides Funds in excess of the amount to which the Client is entitled under the Agreement, IPON may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Client pay an amount equal to the excess Funds to IPON.

**A23.2 Debt Due.** If, pursuant to the Agreement:

- (a) IPON demands from the Client the payment of any Funds or an amount equal to any Funds; or
- (b) the Client owes any Funds or an amount equal to any Funds to IPON, whether or not IPON has demanded their payment,

such Funds or other amount will be deemed to be a debt due and owing to IPON by the Client, and the Client will pay the amount to IPON immediately, unless IPON directs otherwise.

- A23.3 **Interest Rate.** IPON may charge the Client interest on any money owing by the Client at the then current interest rate charged by the Province of Ontario on accounts receivable.
- A23.4 **Payment of Money to IPON.** The Client will pay any money owing to IPON by cheque payable to “Intellectual Property Ontario” and delivered to IPON at the address set out in section A11.1.
- A23.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Client fails to pay any amount owing under the Agreement, IPON may deduct any unpaid amount from any money payable to the Client by IPON.

#### **A24.0 SURVIVAL**

- A24.1 **Survival.** The following Articles and sections, and all applicable cross-referenced sections and schedules, will continue in full force and effect for a period of seven (7) years from the date of expiry or termination of the Agreement: Article 1.0, Article 3.0, Article 4.0, Article A1.0 and any other applicable definitions, section A2.1, Article A4.0, Article A5.0, Article A6.0, Article A7.0, Article A10, Article A11.0, Article A13.0, section A16.2, Article A17.0, Article A19.0, Article A20.0, section A21.3, section A21.4, section A21.5, section A22.3, Article A23.0, and Article A24.0.

**SCHEDULE “B”**  
**APPROVED STATEMENTS OF WORK (SOWs)**

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**B1.0 APPROVED SOWS**

- (a) Each SOW is incorporated into Schedule “B” upon approval by IPON.

**B2.0 ROLES AND RESPONSIBILITIES**

- (a) IPON will:
  - (i) provide Notice to the Client when IPON disburses funds to the Service Provider on behalf of the Client for services provided under the Agreement.
- (b) The Client will:
  - (i) inform IPON of any anticipated delay or change to the scope of work described in an approved SOW, including the cancellation of any services;
  - (ii) seek IPON's approval for any extensions of time or changes to the scope of work described in an approved SOW before commencing the work under this new scope;
  - (iii) review the expenses and billings/invoices of the Service Provider to ensure accuracy; provide IPON confirmation that the work under an approved SOW was completed by the approved Service Provider; and
  - (iv) provide IPON confirmation that they have paid their portion of the costs as outlined in the approved SOW.