

SCHEDULE “A”
INTELLECTUAL PROPERTY ONTARIO

BY-LAW NO. 4
Eligibility for Services

SECTION I – Interpretation

1.1 **Definitions and Interpretation** – In this By-Law, unless the context otherwise requires:

- a) **“Client Services”** means the services described in sections 23, 24, and 26 of Ontario Regulation 4/22;
- b) **“Eligible Applicant”** means a Person or Entity that meets the applicable threshold eligibility requirements and restrictions as set out in Section III (Eligibility Requirements) of this By-Law;
- c) **“Entity”** includes a corporation, sole proprietorship, and partnership;
- d) **“Intellectual Property”** or **“IP”** means all confidential or proprietary: algorithms, apparatus, application programming interfaces (APIs), art, compositions of matter, concepts, data, databases and data collections, designs, diagrams, documentation, drawings, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), know-how, machines, manufactures, materials, marketing and development plans, marks (including brand names, product names, logos, and slogans), methods, models, procedures, processes, schematics, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, tools, uniform resource identifiers, user interfaces, works of authorship, and other forms of technology;
- e) **“Intellectual Property Rights”** or **“IP Rights”** means all intellectual property rights in any IP in any country including, without limitation, all of the following: (i) all patents and utility models and applications therefor, and all reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions and discoveries, including without limitation, invention disclosures; (ii) all industrial designs and any applications and registrations therefor throughout the world; (iii) all trade secrets and other rights in technology, data, know-how and confidential or proprietary information; (iv) mask works, mask work and integrated circuit topographies and applications and registrations therefor throughout the world; (v) all copyrights, copyright applications and registrations therefor, and all other rights corresponding thereto throughout the world, including, where applicable, moral rights and droit d’auteur; (vi) all rights in

all trade names, logos, common law trademarks and service marks, trademark and service mark applications and registrations therefor; and (vii) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world;

- f) **“IPON”** means Intellectual Property Ontario, as established by Ontario Regulation 4/22;
- g) **“IPON Client”** means: an Eligible Applicant who has been accepted by IPON as a client and authorized by IPON to receive one or more Client Services pursuant to any IPON policies or procedures that may be in effect and as amended from time to time; or a Person or Entity that was accepted into the initial test phase for IPON’s services pursuant to the requirements set out in IPON’s By-Law #4 (Eligibility) as it read during that initial test phase;
- h) **“IPON Stakeholder”** means an Ontario-based academic hospital, accelerator, college applied research office (ARO), economic and technology organization, incubator, IP institute, regional innovation centre (RIC), research institute, university technology transfer office (TTO), and any other entity with whom IPON may have a direct or indirect, or formal or informal agreement or arrangement;
- i) **“MCU”** means the Minister of Colleges and Universities;
- j) **“MEDJCT”** means the Minister of Economic Development, Job Creation and Trade;
- k) **“Ontario-based entrepreneur(s)”** means a Person who is an Ontario Resident with at least six (6) months of full-time experience in the last twelve (12) months as an owner of an Ontario-based business venture involving Intellectual Property;
- l) **“Ontario-based researcher(s)”** means a Person who is an Ontario Resident and a member (whether faculty member, professor, adjunct professor, visiting professor, researcher, undergraduate student, graduate student, postdoctoral fellow, research associate, or similar) of: a college of applied arts and technology or university located in Ontario that receives regular or ongoing operating funds from the federal Parliament of Canada or provincial government of Ontario for the purpose of post-secondary research that generates IP; an Ontario-based academic hospital or research institute that conducts research and generates IP; or an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017* that conducts research and generates IP;
- m) **“Ontario-based small-and-medium size enterprise(s)”** or **“Ontario-based SME(s)”** means any company which is constituted, established, or organized under the laws of the federal Parliament of Canada or any provincial or territorial Legislature in Canada; is managed by a team that includes one or more Canadians; has fewer than 500 full-time equivalent employees or contractors

globally; and has a physical address in Ontario for substantive operations;

- n) “**Ontario Resident**” means a Person who has the right to live and work in Ontario without any restrictions, and is doing so;
- o) “**Person**” means a natural person.

SECTION II – Applicability and Scope

2.1 **Applicability** – This By-Law repeals and replaces By-Law No. 4 (Eligibility for Services), which came into effect on October 4, , 2022. This By-Law comes into effect on the date it is approved by MCU.

2.2 **Scope** – This By-Law sets out the requirements and restrictions for any Person or Entity to be considered an Eligible Applicant, and thereby a potential IPON Client.

SECTION III – Eligibility Requirements

3.1 – Eligibility

A Person or Entity is an Eligible Applicant if they meet the restrictions and requirements as set out in each of sections 3.2 to 3.5 herein.

3.2 Eligible Applicant – Persona Restrictions

An Eligible Applicant is:

- a) 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; or
- b) subject to all other sections in this Section III, any other Person who is an Ontario Resident or any other Entity that operates in Ontario may be deemed to be an Eligible Applicant by IPON, or by MCU in consultation with MEDJCT.

3.3 Eligible Applicant – IP Restrictions

An Eligible Applicant is:

- a) 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;
- b) 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
- c) 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.

3.4 Eligible Applicant – Sector and Industry Restrictions

Subject to section 3.6(a), an Eligible Applicant is a Person or Entity operating in a sector or industry that has been published by IPON. The sectors or industries shall be determined from time to time, in accordance with any policies or procedures in place among IPON, MCU, and MEDJCT, by:

- a) IPON, by itself or in consultation with an IPON Stakeholder, subject to MCU approval in consultation with MEDJCT; or
- b) MCU, in consultation with MEDJCT, via notification to IPON by MCU.

3.5 Required Terms and Conditions for Eligible Applicants

Eligible Applicants must:

- a) declare their intention to grow their business and maintain substantial operations in Ontario;
- b) declare their intention to ensure their IP and IP Rights remain under Canadian ownership or control;
- c) demonstrate their potential to realize societal or economic benefits to Ontario;
- d) demonstrate how IPON Client Services could support their business and IP strategies;
- e) demonstrate their own financial capacity to advance the protection and commercialization of any IP and IP Rights that may be supported by IPON's Client Services;
- f) share relevant information and documents, including confidential information, with IPON, both during the application process and if they become IPON Clients;
- g) participate in surveys and meetings with IPON to share insights into IPON's service offerings, if they become IPON Clients;
- h) authorize IPON, MCU, and MEDJCT to publicize their name and to publish any comments or insights as deemed appropriate, if they become IPON Clients; and
- i) comply with reasonable reporting requirements, if they become IPON Clients.

3.6 IPON Eligible Applicant Review

IPON will periodically review applications from Eligible Applicants in accordance with any applicable internal timelines and IPON policies and procedures that may be in effect, and as amended from time to time. When selecting IPON Clients from a pool of Eligible Applicants, IPON shall, where at all possible and as appropriate under the circumstances:

- a) give preference to those Eligible Applicants who operate in a sector or industry selected in accordance with section 3.4(b);
- b) give preference to those Eligible Applicants who own or have an exclusive license to IP or IPR, as applicable, developed using financial supports provided through the Ontario Research Fund – Research Excellence; and
- c) ensure that, as a whole, clients represent:
 - i. different geographic regions of the province of Ontario, including both rural and urban areas; and
 - ii. equity seeking groups; and
- d) choose clients that:
 - i. are at different stages of protection and commercialization of their IP; and
 - ii. will require different levels of Client Services as may be appropriate for their particular situation.