

Intellectual Property Procedure Manual

November 8, 2012

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Introduction

The AHS Research Division, with the support of the Corporate Policy Department and Legal Services, led the development of the AHS [Intellectual Property](#) policy (#1137) following stakeholder consultation and engagement. AHS supports a culture of knowledge, research, and innovation, and promotes the development of expertise that benefits health care delivery, outcomes, and patient safety. AHS respects and upholds the principles of academic integrity and scholarship in disclosure and potential commercialization of IP.

One of the main objectives of the Intellectual Property Procedure Manual is to provide guidance on the rights and obligations of AHS and IP creators in the disclosure, ownership, transfer, commercialization, and revenue sharing of IP. The Manual and its accompanying procedures are primarily directed to AHS representatives and those utilizing AHS resources for development of IP, although they may be of interest to external organizations wishing to collaborate with AHS. It is the responsibility of AHS representatives to be aware of policies and procedures on IP to ensure that they are engaged in research and innovation activities in a manner that is consistent with them. The Manual is not intended to restrict the openness and transparency of AHS with respect to its philosophy on IP. The Manual should not be treated as comprehensive, nor should it be relied upon as a substitute for legal or other professional advice.

Individual procedures may be viewed by clicking on the procedures name in the Table of Contents or by navigating the bookmarks tab.

Please note that the official version of this Manual is the electronic version available on Insite as it may be revised from time to time.

If you have any questions related to the procedures, please contact the Corporate Policy Department at corporatepolicy@albertahealthservices.ca.

Intellectual Property Assessment (#1137-01)

Intellectual property fosters innovation, and the ability to assess and protect IP is essential to incentivize investments in R & D in health innovation that have the potential to address unmet health needs and system challenges. IP assessment is intended to be impartial, transparent, and consistent in approach to inform decision makers around the protection, use, and deployment of IP.

AHS aims to assess IP at the outset during its developmental phase with the IP creator so as to determine whether there is an IP position and evaluate the need to protect the IP, which will be important considerations in shaping the level of involvement and resources that are required on the part of AHS. Not all IP will require protection or even ownership by AHS to facilitate commercialization; however, ownership of IP puts AHS in a position to effectively control the diffusion of clinically relevant IP and minimize poor-evidence technologies, counterfeits, enhance patient safety and promote the public good.

When IP creators submit a report of invention disclosing to AHS an innovation with potential commercial value, AHS will assess the potential commercial value in accordance with the Intellectual Property Assessment procedure (#1137-01). Serving as a broad outline of steps to be taken in the assessment, IP creators should note that each innovation is different and factors to consider will therefore vary from project to project. Intellectual property assessment is a necessary step in the due diligence conducted by AHS to maximize return on investment while minimize risks and upcoming issues associated with IP.

TITLE
INTELLECTUAL PROPERTY ASSESSMENT

DOCUMENT # 1137-01	INITIAL APPROVAL DATE November 8, 2012
PARENT DOCUMENT LEVEL LEVEL 1	INITIAL EFFECTIVE DATE November 8, 2012
PARENT DOCUMENT TITLE Intellectual Property	REVISION EFFECTIVE DATE N/A
APPROVAL LEVEL Alberta Health Services Executive Committee	NEXT REVIEW November 8, 2015
SPONSOR Research	
CATEGORY Corporate Accountability	

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services ("AHS") and **intellectual property creators** in the assessment of **intellectual property** ("IP").

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE

1. Assessment of the Intellectual Property

- 1.1 Once a report of invention ("ROI") has been submitted by an IP creator, in accordance with the Intellectual Property Disclosure procedure (#1137-04) and Report of Invention procedure (#1137-07), the Senior Vice President ("SVP"), Research, or designate, in consultation with the IP creator, makes an assessment of the IP.
- 1.2 Assessment of the IP varies from project to project. Assessment of the IP to assess potential commercial value in the IP may include, but not be limited to:

- a) checking the actions of the IP creator and contributing researchers regarding the IP (material transfer agreements, publications, collaborations, disclosures, non-disclosure agreements);
- b) understanding any university involvement in the IP (salary, laboratory space, etc.);
- c) evaluating the technology and its use; and
- d) assessing prior art, current state of the art, freedom to operate, and patentability.

2. External Expertise

The SVP, Research, or designate may obtain the advice of external experts, including patent agents or IP consultants in conducting the assessment, or may request an external agency to oversee all or part of the assessment, or accept assessments previously completed by an external agency.

3. Results of Assessment

If the assessment of the IP shows there is opportunity for **commercialization** or business development, this is presented to the IP creator with a written recommendation as to next steps, and AHS proceeds with any required patent protection. The SVP, Research, or designate and the IP creator should meet to review the status of the project and make sure the goals for the future of the project are aligned. Depending on the options for IP protection and commercialization, it might be relevant to review financing capabilities, grant applications, and patent protection.

4. Business Plan

The SVP, Research, or designate may require a business plan be developed for the IP which would include a technology assessment, IP assessment, business description, market analysis, management plan, project timeline, and costs.

DEFINITIONS

Commercialization means the transfer or commercial exploitation or any combination thereof undertaken with respect to IP and includes, without limitation, licensing, sale or further development through a spin-off company or joint venture.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

Intellectual property ("IP") means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

REFERENCES

- AHS Policies and Procedures
 - Intellectual Property (#1137)
 - Intellectual Property Disclosure Procedure (#1137-04)
 - Report of Invention Procedure (#1137-07)

REVISIONS

None

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Commercialization and Revenue Sharing (#1137-02)

AHS investment in IP development requires some expectation of a return on the investment to fuel further health innovation for AHS. It also creates positions of leverage for industry partnerships, funding and commercialization.

Once potential commercial value is identified, the strategy to move the innovation through the commercialization process must be devised. While general principles set out in this procedure will be considered, no two intellectual property projects are alike and each commercialization strategy will reflect the unique nature of each project.

TITLE
COMMERCIALIZATION AND REVENUE SHARING

DOCUMENT # 1137-02	INITIAL APPROVAL DATE November 8, 2012
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PARENT DOCUMENT TITLE Intellectual Property	REVISION EFFECTIVE DATE N/A
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SPONSOR Research	
CATEGORY Corporate Accountability	

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services ("AHS") and **intellectual property creators** in the **commercialization** and revenue sharing of **intellectual property** ("IP").

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Commercialization of Intellectual Property**

- 1.1 The Senior Vice President ("SVP"), Research, or designate may convene a working group for each IP commercialization project upon an assessment of the IP. Membership of the working group is determined by the SVP, Research, or designate based on the specific skill sets required for each project.

- 1.2 The SVP, Research, or designate consults with the IP creator and the working group, as appropriate, with respect to the commercialization strategy of the IP. Such consultation includes, but is not limited to:
- a) exploring opportunities for further evaluation to be performed by the IP creator or others;
 - b) potential revenues that may arise from commercializing the IP;
 - c) payment of costs related to patent applications and legal protection of the IP; and
 - d) other aspects of commercializing the IP.
- 1.3 The IP creator is not responsible for paying any costs relating to the commercialization of AHS-owned IP.
- 1.4 Final IP commercialization strategies are determined by the SVP Research, or Designate. Such strategies may include:
- a) in-house development with grant/donor funding;
 - b) licensing the technology to a third party (i.e. exclusive, non-exclusive, sole, limited exclusive);
 - c) pursuing joint venture, creating a spin-off company; or
 - d) developing an exit strategy, including but not limited to the sale of the IP.
- 1.5 The SVP, Research, or designate consults periodically with the IP creator on the commercialization of IP created by the IP creator and the revenues arising from the commercialization.
- 1.6 If the SVP, Research, or designate determines that AHS no longer wishes to continue to commercialize the IP, AHS may discontinue such efforts provided that there are no outstanding contractual commitments, and the IP creator has been offered a transfer of any existing rights relating to the IP in accordance with the Transfer of Ownership to the Intellectual Property Creator procedure (#1137-09).

2. General Principles

Where applicable, the SVP, Research, or designate consults with the working group to make decisions regarding revenue sharing. In exceptional circumstances, the SVP, Research, or designate reserves the right to enter into alternate arrangements other than the revenue sharing arrangements defined in this procedure.

3. Revenue Sharing

- 3.1 **Net revenue** from commercialized IP is shared in accordance with Section 8 of the Intellectual Property policy (#1137).
- 3.2 All revenues from commercialization of AHS-owned IP are paid directly to AHS and distributed to the appropriate parties by the SVP, Research.

- 3.3 Before AHS commercializes the IP, AHS, and the IP creator enter into an agreement which, among other things, specifies how net revenues are distributed when the relationship between AHS and the IP creator ceases to exist and describes the rules for collecting, reporting, and paying net revenues to each party. This includes arrangements for how AHS will distribute the IP creator's share of the net revenue in the event of his/her death. Each party is responsible for its own legal costs in negotiating the terms of such agreement.
- 3.4 Before AHS-owned IP is transferred to an IP creator, the two parties enter into an agreement describing the rules for collecting, reporting, and paying net revenues to each party. Each party is responsible for its own legal costs in negotiating the terms of such agreement.

4. Equity Sharing

- 4.1 In some circumstances, AHS may determine that it is appropriate to obtain stock, stock options, warrants, or similar financial options ("equity" or "stock") in lieu of or in addition to cash in exchange for the transfer or license of an invention owned by AHS. The ownership, management, and disposition of such equity or stock are within the sole discretion of AHS.
- 4.2 In the event AHS decides to sell the equity or stock, or to permit an IP creator to own directly equity or stock, the cash proceeds or share of stock, as appropriate are distributed to the IP creator in accordance with the revenue sharing principles of the Intellectual Property policy (#1137) and this procedure.
- 4.3 To the extent that cash proceeds of equity or stock are distributed, the amount available for distribution is the net after out-of-pocket costs attributable to patenting, litigation, marketing, and sale of the equity or stock incurred by AHS.

5. Multiple Intellectual Property Creators

In the event that there is more than one IP creator, the IP creators determine the division of net revenue among them, which is proportionate to their relative contributions to the IP. Any dispute relating to either the relative contributions of multiple IP creators or their revenue entitlement is decided in accordance with the Dispute Resolution procedure (#1137-05).

6. AHS as Test Site

From time to time AHS may be requested by third party vendors to participate as a test site or pilot site for third party-owned innovation. The ownership of any IP created as part of such sponsored innovation is determined by the terms of the agreement between AHS and the third party vendor. AHS endeavours to obtain a non-exclusive, royalty-free, irrevocable license to use such IP arising for not-for-profit, research activities.

DEFINITIONS

Commercialization means the transfer or commercial exploitation or any combination thereof undertaken with respect to IP and includes, without limitation, licensing, sale or further development through a spin-off company or joint venture.

Intellectual property ("IP") means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

Net revenue means all revenue or other considerations generated by the commercialization of IP less all direct expenses incurred in pursuing such commercialization including, but not limited to, any fees for protecting, marketing, manufacturing, licensing, publishing, or selling IP.

REFERENCES

- AHS Policies and Procedures
 - Intellectual Property (#1337)
 - Dispute Resolution Procedure (#1137-05)
 - Transfer of Ownership to the Intellectual Property Creator Procedure (#1137-09)

REVISIONS

None

Intellectual Property Confidentiality and Non-Disclosure Agreements (#1137-03)

Promoting a culture of research and innovation requires a flow of information among researchers both within and outside the organization. In order to facilitate a sharing of information without compromising commercially sensitive material, this procedure provides guidance with respect to entering into confidentiality and non-disclosure agreements on behalf of AHS.

TITLE

INTELLECTUAL PROPERTY CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENTSDOCUMENT #
1137-03INITIAL APPROVAL DATE
November 8, 2012PARENT DOCUMENT LEVEL
LEVEL 1INITIAL EFFECTIVE DATE
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Intellectual PropertyREVISION EFFECTIVE DATE
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Corporate Accountability

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OBJECTIVES

- To outline the procedure for entering into the Confidentiality and Non-Disclosure Agreement ("NDA") on behalf of Alberta Health Services ("AHS").

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Non-Disclosure Agreement Requests**

- 1.1 The **intellectual property** ("IP") **creator** forwards the request for the NDA to the Senior Vice President ("SVP"), Research, or designate with a copy to AHS Legal. Such request includes the name and address of the third party, the name of the IP creator, and a description of the confidential information to be disclosed.
- 1.2 AHS Legal prepares the NDA and forwards the completed NDA to the third party for review and processing. Upon receipt of the partially executed NDA from the

third party, AHS Legal processes the NDA for signature by authorized AHS signing officers. Each party receives a copy of the fully executed NDA. Execution in counterpart and delivery of an executed document by electronic or facsimile transmission is acceptable provided the NDA permits it.

- 1.3 If the third party insists upon its own form of document, AHS Legal reviews these documents and negotiates with the third party any revisions required to protect the interests of AHS and the IP creator prior to execution by AHS and the IP Creator.

DEFINITIONS

Intellectual property ("IP") means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- AHS Policies
 - Intellectual Property (#1137)

REVISIONS

None

Intellectual Property Disclosure (#1137-04)

The Intellectual Property policy (#1137) describes certain circumstances where intellectual property is owned by AHS. In such circumstances, an IP creator is required to disclose the intellectual property to enable AHS to assess the commercial value and to preserve any proprietary rights. This procedure establishes the process for disclosure to AHS of AHS-owned intellectual property.

TITLE
INTELLECTUAL PROPERTY DISCLOSURE

DOCUMENT # 1137-04	INITIAL APPROVAL DATE November 8, 2012
PARENT DOCUMENT LEVEL LEVEL 1	INITIAL EFFECTIVE DATE November 8, 2012
PARENT DOCUMENT TITLE Intellectual Property	REVISION EFFECTIVE DATE N/A
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SPONSOR Research	
CATEGORY Corporate Accountability	

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services ("AHS") and **intellectual property creators** in the disclosure of **intellectual property** ("IP").

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Disclosure**

- 1.1 The IP creator must report work that has the potential to be protected to the Senior Vice President ("SVP"), Research, or designate by submitting a Report of Invention ("ROI") when such work results in AHS-owned IP, as defined in the Intellectual Property policy (#1137).
- 1.2 A copy of the ROI must be sent by the IP creator to AHS Legal and to the IP creator's immediate AHS supervisor, if applicable.

- 1.3 The SVP, Research, or designate advises the IP creator in writing, no later than ninety (90) calendar days following receipt of the ROI, of the outcome of the assessment regarding commercialization potential of the IP.

2. Confidentiality and Preserving Intellectual Property Rights

- 2.1 AHS is committed to encourage and facilitate publication of research findings. This commitment is balanced with the reality that public disclosures (e.g. publication and/or presentation about the IP) before filing IP protection could jeopardize ability to secure IP protection or invalidate future IP positions.
- 2.2 The IP creator corresponds with the SVP, Research, or designate to identify IP relevant or commercially sensitive material prior to publication, public presentations, or other forms of disclosures of the IP and refrains from publicly disclosing the IP until AHS has had a reasonable opportunity to conduct due diligence and assessment of the IP. The following applies to such disclosures:
- a) The IP creator completes the ROI in accordance with this procedure and the Report of Invention procedure (#1137-07) or submits the ROI along with the proposed public disclosure documentation to the SVP, Research, or designate.
 - b) AHS advises the IP creator in writing within thirty (30) days of receiving the proposed public disclosure (e.g. publication and presentation related to the ROI) if the proposed public disclosure contains information that could compromise protecting the IP.
 - c) The IP creator may proceed with public disclosure if the identified information is removed, or the IP creator may delay public disclosure another sixty (60) days to enable the IP to be protected.
 - d) The IP creator reasonably considers advice from AHS in removing information from public disclosure if the IP can only be protected through Non-Disclosure Agreements ("NDA") (e.g. know how).
 - e) The total review period does not exceed ninety (90) days following receipt of a copy of the proposed public disclosure unless otherwise agreed to by AHS and the IP creator or, by separate agreement per research contacts.
 - f) The IP creator reasonably considers special circumstances delaying the IP protection where AHS seeks the IP creator's consent for an extension beyond the ninety (90) day period.

3. Other Disclosure

- 3.1 Disclosure of protectable IP to third parties shall be permitted only after the third parties receiving such information have signed a NDA in accordance with the Confidentiality and Non-Disclosure Agreements procedure (#1137-03).
- 3.2 Where the disclosure includes the provision of material and/or products (e.g. biological or genetic samples) to third parties the IP Creator must arrange for the third parties receiving such materials or products to have signed a Material

Transfer Agreement ("MTA") in accordance with the Material Transfer Agreements procedure (#1137-06).

DEFINITIONS

Commercialization means the transfer or commercial exploitation or any combination thereof undertaken with respect to IP and includes, without limitation, licensing, sale or further development through a spin-off company or joint venture.

Intellectual property ("IP") means:

- a) intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

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REFERENCES

- AHS Policies and Procedures
 - Intellectual Property (#1137)
 - Confidentiality and Non-Disclosure Agreements Procedure (#1137-03)
 - Material Transfer Agreements Procedure (#1137-06)
 - Report of Invention Procedure (#1137-07)

REVISIONS

None

Dispute Resolution (#1137-05)

At times disputes may arise about intellectual property, about the application of the Intellectual Property policy (#1137), or about related procedures. AHS encourages resolution of these disputes through communication and negotiation, and this procedure provides guidance for resolving disputes.

TITLE**DISPUTE RESOLUTION****DOCUMENT #**
1137-05**INITIAL APPROVAL DATE**
November 8, 2012**PARENT DOCUMENT LEVEL**
LEVEL 1**INITIAL EFFECTIVE DATE**
November 8, 2012**PARENT DOCUMENT TITLE**
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Research**CATEGORY**
Corporate Accountability

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services ("AHS") and **intellectual property creators** in the resolution of disputes relating to **intellectual property ("IP")**.

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE

Any disputes about IP or the application of the Intellectual Property policy (#1137) or related procedures that cannot be resolved by the parties involved and their supervisors is referred in writing to the Senior Vice President ("SVP"), Research, or designate. No action is to be brought by the IP creator against AHS, or by AHS against the IP creator, in any court of law on any matter arising out of the Intellectual Property policy (#1137) or its procedures until both parties have worked through the dispute resolution process as identified in the policy and this procedure.

1. Assessment

- 1.1 The SVP, Research, or designate may request in writing that all parties to the dispute provide all relevant material regarding the dispute within ten (10) working days of the original request.
- 1.2 The SVP, Research, or designate may invite comments from interested parties and consult with experts under a strict confidentiality procedure as appropriate.
- 1.3 The SVP, Research, or designate shares the opinion of the experts with the interested parties and invites their comments within five (5) working days.
- 1.4 Within sixty (60) days of having received all relevant materials and information, the SVP, Research, or designate advises the parties in writing of his/her decision on the dispute.
- 1.5 In exceptional circumstances, the SVP, Research, or designate may take more than sixty (60) days to provide a decision. The requirement for an extension and rationale is communicated to the parties within the sixty (60) day timeline.

2. Appeal of Decision of the SVP, Research, or designate

- 2.1 An appeal of the Decision is made in writing to the applicable Executive Vice President ("EVP") within ten (10) working days following completion of the assessment.
- 2.2 The EVP may meet separately and/or jointly with the parties or form a Dispute Resolution Committee as required to determine the facts and possible resolutions.
- 2.3 The EVP or Dispute Resolution Committee will recommend a resolution to the parties on a timely basis. If one or more party rejects the Dispute Resolution Committee's recommendation, the party(ies) must request in writing within ten (10) working days that the dispute proceed to arbitration.

3. Arbitration

Arbitration is conducted in accordance with the Intellectual Property policy (#1137).

DEFINITIONS

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- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- AHS Policies
 - Intellectual Property (#1337)

REVISIONS

None

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Material Transfer Agreements (#1137-06)

Promoting a culture of research and innovation may require from time to time a transfer of biological materials for research purposes. Such transfer shall be made under a material transfer agreement which defines the rights and obligations of the parties in regard to the receipt of biological materials. This procedure provides guidance with respect to entering into material transfer agreements on behalf of AHS.

TITLE
MATERIAL TRANSFER AGREEMENTSDOCUMENT #
1137-06INITIAL APPROVAL DATE
November 8, 2012PARENT DOCUMENT LEVEL
LEVEL 1INITIAL EFFECTIVE DATE
November 8, 2012PARENT DOCUMENT TITLE
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OBJECTIVES

- To outline the process for entering into **Material Transfer Agreements** ("MTA") on behalf of Alberta Health Services ("AHS").

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Material Transfer Agreements**

- 1.1 From time to time, an **intellectual property** ("IP") **creator** may wish to obtain from or provide to third parties biological materials for research purposes. The IP creator and AHS enter into the MTA with the third party prior to the IP creator receiving or providing any biological materials.
- 1.2 All requests to enter into the MTA on behalf of AHS are submitted to the Senior Vice President ("SVP"), Research, or designate with a copy to AHS Legal.

- 1.3 The IP creator forwards the request for the MTA to the SVP, Research, or designate with a copy to AHS Legal. Such request will include the name and address of the third party institution and researcher, the name of the IP creator, and a description of the biological materials.
- 1.4 AHS Legal prepares the MTA and forwards the completed MTA to the third party institution for review and processing. Upon receipt of the partially executed MTA from the third party institution, AHS Legal processes the MTA for signature by authorized AHS signing officers. Each party receives a copy of the fully executed MTA. Execution in counterpart and delivery of an executed document by electronic or facsimile transmission is acceptable provided the MTA permits it.
- 1.5 If the third party insists upon its own MTA form, AHS Legal reviews these documents and negotiates with the third party institution any revisions required to protect the interests of AHS and the IP creator prior to execution by AHS and the IP creator.

DEFINITIONS

Material Transfer Agreement ("MTA") means a written agreement, enforceable under law, that defines the rights and obligations of the parties in regard to the receipt of materials, most commonly biological materials, that may need to be distributed for purposes such as confirming experimental results or evaluating material for alternative uses. An MTA is used to ensure that materials are used only for an authorized purpose (e.g. scientific research), and to limit further unauthorized disclosure.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

Intellectual property ("IP") means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

REFERENCES

- AHS Policies
 - Intellectual Property Policy (#1137)

REVISIONS

None

If you have any questions or comments regarding the information in this procedure, please contact the Corporate Policy Department at corporatepolicy@albertahealthservices.ca. The Corporate Policy website is the official source of current approved corporate policies, procedures, and directives.

Report of Invention (#1137-07)

The Intellectual Property policy (#1137) describes certain circumstances where intellectual property is owned by AHS. In such circumstances, an IP creator is required to disclose the intellectual property to enable AHS to assess the commercial value and to preserve any proprietary rights. This procedure establishes the process for submitting a report of invention to AHS with respect to AHS-owned intellectual property.

TITLE
REPORT OF INVENTIONDOCUMENT #
1137-07INITIAL APPROVAL DATE
November 8, 2012PARENT DOCUMENT LEVEL
LEVEL 1INITIAL EFFECTIVE DATE
November 8, 2012PARENT DOCUMENT TITLE
Intellectual PropertyREVISION EFFECTIVE DATE
N/AAPPROVAL LEVEL
Alberta Health Services Executive CommitteeNEXT REVIEW
November 8, 2015SPONSOR
ResearchCATEGORY
Corporate Accountability

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To outline the process for preparing and submitting a Report of Invention (“ROI”).

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Purpose of the Report of Invention**

- 1.1 The ROI provides important information to conduct a patent search and prepare a patent application for the purpose of protection and securing **intellectual property** (“IP”) rights. There are no patent application forms. A person skilled and licensed to practice in the jurisdiction where the patent will be filed must prepare the application in the format required by the intellectual property office of the jurisdiction.
- 1.2 The ROI also provides information used to administer the AHS Intellectual Property policy (#1137).

2. Structure of the Report of Invention

The information on the ROI form is grouped under the following headings:

- a) Personal Data
- b) Title of Invention
- c) Patent Policy Administration
- d) Description of Invention
- e) Type of Invention
- f) Background Information
- g) General Explanation
- h) Use
- i) Marketing
- j) Publication
- k) Disclosure and Authorization

3. Comments on the Invention

3.1 When the invention lies in a formulation, mixture of ingredients, or a chemical procedure involving quantities or proportions, set out the expected workable ranges for the various ingredients. The ranges should be supported by test data, and such data should be included as an appendix. If no test data are available, estimate the workable ranges of the various components. The patent agent typically has to devise monopoly claims expressed in terms of percentage or proportion ranges. If the expressed ranges are too narrow, competitors might be able to circumvent the patent by narrowly avoiding the claimed ranges. If the ranges are so broad as to include unworkable mixtures, the patent could be attacked on this basis.

3.2 Computer-related inventions can be patentable provided the computer, when programmed, interacts with the real world in some way. There must be some interfacing with real things in order to obtain protection under current patent law. For example, a system for regulating the operation of air-blowers in a sewage treatment plant, in which a computer performs calculations based on oxygen levels in the sewage taken is patentable (prior art permitting). Computer-related patent applications should be accompanied by at least a logic flow diagram explaining the various stages followed by the computing process. A printout of the program itself should also be included. Generally, software cannot be patented as it is protected by copyright.

4. Approval of the Report of Invention

The ROI must contain confirmation from the **IP creator's** supervisor, department head, dean, or other reporting officers that the ROI has been submitted. The ROI must be signed by all co-inventors, the IP creator's direct supervisor, and the Senior Vice President ("SVP"), Research, or designate. A copy of the completed and signed ROI must be forwarded to the SVP, Research, or designate and to AHS Legal. Issues arising with respect to the ROI shall be dealt with in accordance with the Dispute Resolution procedure (#1137-05).

DEFINITIONS

Intellectual property ("IP") means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual Property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- AHS Policies and Procedures
 - Intellectual Property (#1137)
 - Dispute Resolution Procedure (#1137-05)
- AHS Report of Invention template

REVISIONS

None

Trademark and Official Mark Registration (#1137-08)

From time to time IP creators may identify an AHS trademark or official mark that should be protected and registered. Registration of a trademark provides proof of ownership, gives exclusive rights of use within the country of registration, prevents others from using a confusingly similar mark, and facilitates licensing of trademarks. This procedure sets out the process to be following for submitting an AHS trademark or official mark for registration.

TITLE
TRADEMARK AND OFFICIAL MARK REGISTRATION**DOCUMENT #**
1137-08**INITIAL APPROVAL DATE**
November 8, 2012**PARENT DOCUMENT LEVEL**
LEVEL 1**INITIAL EFFECTIVE DATE**
November 8, 2012**PARENT DOCUMENT TITLE**
Intellectual Property**REVISION EFFECTIVE DATE**
N/A**APPROVAL LEVEL**
Alberta Health Services Executive Committee**NEXT REVIEW**
November 8, 2015**SPONSOR**
Research**CATEGORY**
Corporate Accountability

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OBJECTIVES

- To outline the procedure for requesting registration of Alberta Health Services (“AHS”)-owned **trademarks** and **official marks**.

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Request for a Trademark or Official Mark**

- 1.1 All requests to register a trademark or official mark on behalf of AHS are managed through AHS Legal. AHS Legal engages with trademark agents as appropriate.
- 1.2 The requestor is to provide the name and full address of the principal office of the intended owner (i.e. AHS) for each trademark or official mark that is to be registered and a description of the general products/services that each trademark

is being used in association with. A description is not required, but is recommended for official mark applications.

- 1.3 The requestor is to provide the date when use of the mark commenced. There is no definition as to what constitutes use for official marks; however, guidance can be obtained from its application in relation to trademarks. For trademarks, use in association with:
 - a) products/wares means use in the normal course of trade in direct association with the products (i.e. endorsement of the mark on the packaging or directly on the product); and
 - b) services means that the mark is displayed in the performance or advertisement of such services.
- 1.4 If the mark is a logo/design, AHS Legal must obtain a copy. An electronic copy showing the logo approximately 7cm (2 ¾ inches) x 7cm (2 ¾ inches) is preferable. The mark's colours need to be provided if the colours are anticipated to be an integral part of the mark; however, the mark may be registered in black and white if it is unclear if the same colours will always be used.
- 1.5 The requestor provides AHS Legal a functional centre where the fees are to be deducted.
- 1.6 The requestor provides any findings of trademarks and trade names, whether or not registered, that are currently in use (i.e. that one may have come across in trade journals, directories, and other publications relative to the business). A search of existing trade names must be conducted before filing a trademark or official mark application. AHS Legal must be consulted before ordering any formal trademark or trade name searches from third parties.

2. Registration of an Official Mark and a Trademark:

- 2.1 If applying for an official mark, the application must be filed in prescribed form (and with the prescribed fee) along with evidence of the public authority status of the applicant. AHS Legal provides written proof that AHS is a public authority under the *Trade-marks Act* (Canada). The Trademarks Office requires that evidence of use of an official mark also be filed. If applying for a trademark, an Application for Registration (instead of a Request for Public Notice) must be filed.
- 2.2 If approved, a Certificate of Public Notice in relation to an official mark, and a Certificate of Registration in relation to a trademark, will be issued by the Trademarks Office confirming registration of the trademark either as an official mark or a trademark.

DEFINITIONS

Official Mark means an authorized mark used by universities, governments, and public authorities in Canada for wares (goods) and services. Official marks are similar to trademarks,

and are governed by the *Trade-marks Act* (Canada). A public authority is an entity that requires ongoing governmental control and supervision and whose activities benefit the public. A mark must be in use to qualify as an official mark.

Trademark means a word, symbol, or design (or a combination of these features), used to distinguish the wares (goods) or services of one person or organization from those of others in the marketplace.

REFERENCES

- AHS Policies
 - Intellectual Property (#1137)
- *Trade-marks Act* (Canada)

REVISIONS

None

If you have any questions or comments regarding the information in this procedure, please contact the Corporate Policy Department at corporatepolicy@albertahealthservices.ca. The Corporate Policy website is the official source of current approved corporate policies, procedures, and directives.

Transfer of Ownership to the Intellectual Property Creator (#1137-09)

From time to time an IP creator who is an AHS employee may request that AHS-owned intellectual property be transferred to the IP creator. In advance of any such transfer, AHS is obliged to review its contributions to the commercialization process, investments made to date and future commercial potential and commitments required, balanced with interests of patients and health care delivery. This procedure describes the process to be followed when an IP creator requests transfer of AHS-owned intellectual property.

TITLE**TRANSFER OF OWNERSHIP TO THE INTELLECTUAL PROPERTY CREATOR****DOCUMENT #**
1137-09**INITIAL APPROVAL DATE**
November 8, 2012**PARENT DOCUMENT LEVEL**
LEVEL 1**INITIAL EFFECTIVE DATE**
November 8, 2012**PARENT DOCUMENT TITLE**
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Alberta Health Services Executive Committee**NEXT REVIEW**
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Research**CATEGORY**
Corporate Accountability

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services ("AHS") and **intellectual property creators** in the transfer of ownership of **intellectual property** ("IP") to the IP creator.

APPLICABILITY

Compliance with this procedure is required by all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted services providers as necessary). This procedure is subject to all applicable laws.

PROCEDURE**1. Initial Ownership of Intellectual Property**

Ownership of rights in IP developed by an IP creator is governed by the AHS Intellectual Property policy (#1137).

2. Transfer of Intellectual Property owned by AHS to Intellectual Property Creator

- 2.1 An IP creator who is an AHS employee may request AHS to transfer ownership of IP to the IP creator. Such a request may only be made with respect to IP for which

a Report of Invention has been filed in accordance with the Intellectual Property Disclosure procedure (#TBD) and the Report of Invention procedure (#TBD).

- 2.2 The Senior Vice President (“SVP”), Research, or designate will correspond with the IP creator as soon as reasonably possible, which, in normal circumstances, not exceed thirty (30) days after receipt of the request. The IP creator and the SVP, Research, or designate will review the IP creator’s plans for the commercialization of the IP, and such other matters with respect to the IP as the SVP, Research, or designate considers relevant in the circumstances. The SVP, Research, or designate may involve additional AHS staff and consultants to assist and review the IP creator’s request.
- 2.3 A decision on the IP creator’s request for transfer of ownership is made no later than three (3) months after receipt of the request; however, AHS and the IP creator may agree in writing to further extensions of this time as may be required. AHS is not obligated to transfer IP to the IP creator.
- 2.4 If the IP ownership rights are jointly held through a contract or other agreements, the SVP, Research, or designate must consult with the other IP stakeholders before a decision is made regarding the transfer. The terms and conditions of the transfer will take into account the provisions for the sharing of revenues.
- 2.5 Before ownership of IP is transferred to the IP creator, the parties enter into an agreement setting out the terms and conditions of such transfer. All such agreements include a provision granting AHS a perpetual, royalty-free, non-exclusive, and irrevocable license to use for non-profit activities or for the provision of health care services any IP transferred back to the IP creator, with no rights to sublicense, assign, make, modify, or sell the IP.
- 2.6 AHS is not obligated to provide any resources after the transfer has occurred. The IP creator is solely responsible for any accounting or reporting requirements and the costs related to any professional advice, unless other specific arrangements have been negotiated in advance as part of the agreement to transfer the IP.

DEFINITIONS

Intellectual property (“IP”) means:

- a) the intangible nature of works or creations that is unique and original;
- b) any tangible expression thereof;
- c) the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- d) know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques and all original literary, dramatic,

musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator ("IP creator") means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- AHS Policies
 - Intellectual Property (#1137)
 - AHS Report of Invention template

REVISIONS

None

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