



**Networks of Centres  
of Excellence**  
**Réseaux de centres  
d'excellence**

## **FUNDING AGREEMENT**

**Among**

**The Canadian Institutes of Health Research**

**And**

**The Canadian Stroke Network**

**And**

**The University of Ottawa**

**WHEREAS** the Networks of Centres of Excellence (NCE) Program is a program of the Government of Canada jointly administered by the Natural Sciences and Engineering Research Council, the Social Sciences and Humanities Research Council and the Canadian Institutes of Health Research in partnership with Industry Canada;

**AND WHEREAS** the goal of the program is to mobilize Canada's research talent in the academic, private and public sectors and apply it to the task of developing the Canadian economy and improving the quality of life of Canadians;

**AND WHEREAS** the Canadian Stroke Network has been selected to receive funding under the NCE Program;

**AND WHEREAS** the Canadian Stroke Network (hereafter "the Network") has been established to achieve the following objectives:

- a. To ensure that leading Canadian researchers and partners collaborate and stay focused on creating valuable stroke knowledge in areas of Canadian strength
- b. To ensure the best stroke knowledge is applied in Canada and leads to measurable health and economic benefits for Canadians
- c. To build Canadian capacity in stroke by increasing the number of researchers and health professionals focused on stroke

**AND WHEREAS** the Parties wish to set out the terms and conditions under which the Network shall administer and disburse the funds received by it;

**NOW THEREFORE IN CONSIDERATION** of the premises and of the mutual covenants herein, the Parties agree as follows:

## **1. DEFINITIONS**

In this Agreement, the following terms are defined as follows:

**Administrative Centre** means the central administrative offices of the Network located at the Network Host.

**Agreement** means this Funding Agreement, including all attachments and appendices as may be amended from time to time.

**Confidential Information** means knowledge, materials, know-how or any proprietary information, whether in electronic, written, graphic or other tangible form and any such oral information that has been reduced to writing within two weeks of its disclosure.

**Granting Agencies** means the Canadian Institutes of Health Research (CIHR), the Natural Sciences and Engineering Research Council (NSERC) and/or the Social Sciences and Humanities Research Council (SSHRC).

## NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010

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

**NCE Directorate** means the directorate responsible for administering the NCE Program.

**NCE Funds** means funds provided to the Network by the Granting Agencies particulars of which are set out under Article 2.

**NCE Steering Committee** means the committee having the overall responsibility for the NCE Program and currently comprised of the Presidents of NSERC, SSHRC and CIHR, and the Deputy Minister for Industry Canada (as modified from time to time by the Government of Canada).

**Network** means the Canadian Stroke Network, a not-for-profit corporation incorporated under Part II of *the Canada Corporations Act* (the "Act") {or as the case may be}.

**Network Affiliate** means a company, government agency or other organization that is involved in a specific aspect of Network research or other Network activity or provides support to the Network and that has been accepted as an Affiliate of the Network by the Board of Directors and that has entered into a Network Affiliate agreement with the Network.

**Network Funds** means all funds managed by the Network, including NCE Funds and non-NCE funds provided by Network Affiliates and Network Members and funds provided by other sources in support of the activities of the Network. Network funds result from agreements between the Network and any of the following: Network Affiliates; Network Members; and, third parties.

**Network Host** means the Participating Institution or other organization that houses the Administrative Centre and that has signed the Funding Agreement.

**Network Investigator** means:

- a) a person employed or otherwise given academic status by a Participating Institution who is responsible for a specific aspect of Network Research;
- b) who has been accepted as an Investigator in the Network by the Board of Directors; and,
- c) who has signed the Acknowledgment attached as **Appendix A** to the Network Agreement.

**Network Manager** means the individual responsible for the general management of the Network's day-to-day operations, as described in Article 7 of this Agreement.

**Network Member** means a Participating Institution, the Network Host and any other organization accepted for membership by majority vote of the Board of Directors.

## **NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010**

**Network Research** means research projects substantially supported by Network Funds and carried out under the supervision of Network Investigators.

**Network Strategic Plan** means a description of the proposed activities of the Network comprised of two primary elements: the research plan, including its objectives and milestones, its anticipated achievements and the value added of a network approach to the research and research management; and the business management plan outlining the strategic importance of the research to Canada and its potential economic and social benefits, the intellectual property management and technology transfer mechanisms, and the details of the proposed management structure.

**Network-Supported Intellectual Property (NSIP)** means Intellectual Property created or invented during a Network Research project.

**Net Revenues** means proceeds received from commercialization of Network-Supported Intellectual Property (NSIP) minus reimbursement of out-of-pocket expenses incurred in obtaining legal protection for and/or commercialization of the NSIP.

**Non-NCE funds** means funds provided by Network Affiliates, Network Members and by other sources in support of the activities of the Network.

**Participating Institution** means any university, post-secondary educational institution hospital, institute or other organization eligible to receive research funds from any Granting Agency and that employs or otherwise gives academic status to one or more Network Investigators that has signed the Network Agreement attached as **Annex A**.

**Parties** means the signatories to this Agreement.

**Research Theme** means one of the primary research foci that guide the Network Strategic Plan.

**Scientific Director** means the individual appointed by the Board of Directors to be responsible for directing the scientific development of the Network and overseeing Network Research and the Network Strategic Plan.

**Theme Leader** means a Network Investigator to whom responsibility has been delegated for a Research Theme within the Network Strategic Plan and who accepts such responsibility. A Theme Leader is accountable to the Scientific Director.

**Technology Transfer Office** means the office at the Participating Institution or Network Member where a Network Investigator is employed or holds academic status that has responsibility for commercializing Intellectual Property.

## **2. NCE Funds**

- 2.1 The Agency(s) grants \$25,600,000 to The Canadian Stroke Network, to be administered by the Network Host in accordance with the terms and conditions of this Agreement and the Network Agreement attached as **Annex A**. The grant award is as follows:

## NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010

(# Indicate grant number(s), five-year total)

CIHR Grant # : 38298, \$25,600,000

- 2.2 The release of the instalments of the grant award will be approved annually by the Agency(s).
- 2.3 Annual instalments of the grant award to the Network will be at the following levels and be payable to the Network Host:

Fiscal Year	CIHR
2006-2007	6,400,000
2007-2008	6,400,000
2008-2009	6,400,000
2009-2010	6,400,000
Total	25,600,000

- 2.4 Instalments of the grant award will be released subject to:
- a) there being an appropriation by Parliament for the fiscal year in which payment is to be made;
  - b) satisfactory progress toward achieving milestones of the Network Strategic Plan, as determined by the NCE Directorate.
  - c) continued eligibility of the Network Host and the Network;
  - d) terms and conditions of this Funding Agreement.
- 2.5 Funding for years 2010-2011, 2011-2012 and 2012-2013 will be based on the result of a mid-term review of the Canadian Stroke Network.
- 2.6 The Agency(s) may with notice of ninety (90) days, alter the terms and conditions of the award, including the amount and/or duration.
- 2.7 The Network Host will release funds in accordance with Memorandum of Understanding dated May 22, 2002, between the Canadian Stroke Network, The University of Ottawa, the Canadian Institutes of Health Research and the Social Sciences and Humanities Research Council, attached as **Annex B**.
- 2.8 The Network Host will release funds to Participating Institutions and the Administrative Centre in accordance with decisions of the Network's Board of Directors.

Non-compliance with any of the aforementioned may result in the suspension or termination of the grant award.

**3. BENEFIT TO CANADA**

Pursuant to the mandate of the NCE Program, every reasonable effort must be made to have the results of Network Research exploited in Canada for the benefit of Canadians. Accordingly the Parties shall act in accordance with the Benefit to Canada Working Guidelines attached as **Annex D**.

**4. NETWORK GOVERNANCE**

The Network will ensure that its operating procedures and bylaws, where appropriate, are consistent with this Funding Agreement.

**5. BOARD OF DIRECTORS**

5.1 The Board of Directors shall be responsible for the governance and management of the Network and shall act in accordance with the NCE Program Guidelines and this Funding Agreement. Without limiting the generality of the foregoing, the Board of Directors shall:

- a) appoint the Chair of the Board;
- b) oversee an annual performance review of the Scientific Director;
- c) approve and update the Network Strategic Plan;
- d) approve new Network Members;
- e) approve applications for new Network Affiliates;
- f) approve applications for new Network Investigators;
- g) approve annual budgets of the Network;
- h) approve for submission to the NCE Directorate the financial and other reports in accordance with the requirements of this agreement;
- i) develop and approve Network policies and procedures consistent with the Network's objectives, including the policies and procedures of the Research Management Committee (see Article 8);
- j) establish a process for environmental assessment which is comparable to the process established by NSERC in fulfillment of its obligations pursuant to the *Canadian Environmental Assessment Act*.

5.2 Articles of incorporation shall be consistent with this Funding Agreement, and must be provided to the NCE Directorate.

## NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010

- 5.3 Prior to each annual meeting of the Network Members, the nominating committee, in consultation with the Scientific Director shall compile a list of nominations for elected positions available on the Board of Directors.
- 5.4 Annually a meeting of Network Members shall be held to receive the annual financial statements and annual report of the Network and, subject to the conditions set out in 5.5 and 5.6 below to elect the Board of Directors. For each Board of Directors position, each Network Member shall have the right to cast one ballot, and the decision will be made by majority vote.
- 5.5 The Board of Directors should consist of no fewer than seven (7) and no more than fifteen (15) voting members (not including ex-officio members):
- 5.6 The Board of Directors shall be composed as follows:
- a) a majority of the Board shall be employees of organizations other than Participating Institutions, and a majority of those shall be from the industrial sector and/or the Network's user community;
  - b) the Network Host may designate a representative to be a Director;
  - c) at least two Directors shall be representatives of Participating Institutions;
  - d) a Network Investigator shall be elected to the Board of Directors by the Network Investigators;
  - e) the Scientific Director shall be a voting member of the Board;
  - f) the Network Manager shall be a non-voting member of the Board;
  - g) the NCE Directorate may designate a staff member to attend, as an observer, meetings of the Board of Directors, all committees of the Board of Directors and any Executive Committee of the Board of Directors;
  - h) the NCE Steering Committee may designate a representative to be a Director.
- 5.7 The Board of Directors shall meet at least three times a year (this includes conference calls).
- 5.8 The Board of Directors must establish a Research Management Committee in accordance with Article 8 below. From time to time the Board may establish other committees to provide advice to the Board or assist in the management of the Network. The Board shall determine the mandate, membership, authority and termination of such committees. Information about these committees and their activities shall be included in the Network's annual report.

**6. SCIENTIFIC DIRECTOR**

- 6.1 The Board of Directors shall appoint a Scientific Director to hold office for a term as the Board may determine. The appointment of the Scientific Director will be subject to annual performance review by the Board of Directors. The Scientific Director may be removed by a simple majority vote of the Board.
- 6.2 The Scientific Director shall be responsible for the scientific and strategic direction of the Network, including but not limited to:
- a) act as or appoint the Chair of the Research Management Committee;
  - b) providing overall scientific direction, coordination and management of the Network Strategic Plan;
  - c) providing policy advice to the Board of Directors and any committees established by it;
  - d) proposing and administering scientific programs and budgets for the Network;
  - e) recommending to the Board new Network Members ;
  - f) recommending to the Board new Network Affiliates;
  - g) recommending to the Board the appointment of Theme Leaders;
  - h) recommending to the Board new Network Investigators;
  - i) recruiting the Network Manager;
  - j) liaising with the NCE Directorate and Granting Agencies;
  - k) communicating and promoting the Network's objectives and activities to the research community, the NCE Program Directorate, and private and public sector organizations;
  - l) performing other tasks as may be required.

**7. NETWORK MANAGER**

- 7.1 The Board of Directors shall appoint a Network Manager with advice of the Scientific Director, for a term not to exceed the duration of this Agreement, subject to an annual performance review by the Board of Directors. The Board may delegate this responsibility to the Scientific Director.
- 7.2 The Network Manager shall be responsible for the general management of the Network's operation. The terms and conditions of employment of the Network Manager shall be established by the Board of Directors.

## **NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010**

- 7.3 The Network Manager shall serve on the Research Management Committee and the Board of Directors as a non-voting member.
- 7.4 The Network Manager will be responsible for all management issues associated with the overall administration of the Network's activities in support of the Network Strategic Plan including:
- a) supervision of Administrative Centre personnel (e.g., Business Development Officers, Technology Transfer Officers, Communication Officers, Financial Officer, Administrative Assistant to the Network Manager);
  - b) overseeing the preparation of financial and other reports in accordance with this Agreement;
  - c) communications;
  - d) public affairs;
  - e) technology transfer in co-ordination with the owner(s) of the Intellectual Property and relevant Technology Transfer Office(s);
  - f) Intellectual Property and commercialization issues;
  - g) liaison with government, industry, government and other non-governmental organizations;
  - h) overseeing organization of general meetings;
  - i) overseeing preparation of annual reports;
  - j) overseeing preparation of supporting documents, meeting agendas and minutes of all meetings for the Research Management Committee and Board of Directors;
  - k) performing other tasks as may be required.

## **8. RESEARCH MANAGEMENT COMMITTEE**

- 8.1 The Research Management Committee is responsible for:
- a) reviewing research proposals;
  - b) monitoring the progress of Network research;
  - c) monitoring the performance of, and providing feedback to, the Network Investigators;
  - d) making recommendations to the Board of Directors through the Scientific Director for adjustments to Network Research including adding projects,

## **NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010**

- terminating projects, adding new Network Investigators, allocating and adjusting funds and budgets;
- e) assisting the Network Manager in identifying Network Research that contains commercializable Network-supported IP;
  - f) following policies, procedures and selection criteria established by the Board of Directors.
- 8.2 The Scientific Director will be Chair of the Research Management Committee or shall appoint the Chair.
- 8.3 Members of the Research Management Committee will include at least the following:
- a) the Scientific Director;
  - b) a maximum of one leader from each Research Theme;
  - c) additional members from the public and private sector as chosen to reflect the multisectorial, multidisciplinary and project orientation of the Network Strategic Plan;
  - d) the Network Manager, who will be a non-voting member and may act as recording secretary to the Research Management Committee;
  - e) one staff member of the NCE Directorate, where designated by the NCE Directorate, who shall be a non-voting observer.
- 8.4 Members of the Research Management Committee will be appointed for such terms as will ensure a balanced succession of membership.

### **9. NETWORK HOST**

- 9.1 The Network Host shall house the Administrative Centre. It shall ensure that the Administrative Centre has suitable accommodation, as well as access to appropriate computer, communications and financial administration systems needed to serve as the administrative secretariat of the Network. Particulars of same shall be set out in a separate agreement between the Network Host and the Network.
- 9.2 On the basis of an at least two-thirds majority vote of the Board of Directors and agreement by the NCE Directorate, the Network may change Network Host. The costs of such change shall be borne by the Network.

### **10. ADMINISTRATIVE CENTRE**

The Administrative Centre shall act under the direction of the Network Manager. Its duties shall include but not be limited to:

- a) internal and external communications;

## **NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010**

- b) drafting budgets and program guidelines;
- c) arranging for the disbursement of Network Funds to the Participating Institutions;
- d) preparing financial and other reports in accordance with this Agreement;
- e) providing administrative support to the Board of Directors, its committees and the Scientific Director;
- f) facilitating the transfer of Network-Supported Intellectual Property;
- g) assisting in the preparation of publications, meetings and events;
- h) maintaining books, files and accounts.
- i) regularly provide the NCE Program Directorate with up-to-date data concerning:
  - i) the names and full contact information of the Board of Directors of the Network;
  - ii) the names and departments of the Network Investigators arranged according to Participating Institution;
  - iii) the names and full contact information of the officials of the Network and Participating Institutions responsible for Network Agreement Administration, Financial Management and Reporting, and Technology Transfer.

### **11. MISCELLANEOUS**

- 11.1 The Network undertakes that no Network Research project will be considered or approved for funding by the Network unless the project proposal and budget have been counter-signed by the appropriate official of the relevant Participating Institution(s).
- 11.2 The Network shall organize, at least once per year, an Annual General and Scientific Meeting among Network Investigators, Network Members, Network Affiliates, the Network Host and others, as appropriate, in order to share and to discuss the results of Network Research and the exploitation or commercialization of those results.

### **12. NETWORK AGREEMENT**

In achieving the purposes of this Agreement, the Network shall enter into a Network Agreement with Participating Institutions in the form set out as **Annex A**.

### **13. AGREEMENTS WITH NETWORK AFFILIATES**

It is understood that in achieving the purposes of this Agreement, the Network may enter into Network Affiliate agreements with a Network Affiliate and, where relevant, with the appropriate Participating Institution(s). The Network shall ensure that any such Network Affiliate agreement shall be consistent with this Agreement and the Network Agreement.

**14. INTERNATIONAL COLLABORATORS**

The NCE Directorate endorses collaboration with leading researchers and organizations outside Canada.

**15. INSURANCE**

The Network shall procure and maintain throughout the term of this Agreement, Directors' and Officers' Liability Insurance for the Network Board of Directors. It shall also procure and maintain throughout the term of this Agreement Professional Liability Insurance for Network staff working at the Administrative Centre who are paid with Network Funds.

**16. CONFLICT OF INTEREST**

The Board of Directors shall adopt a code of conduct for directors, officers, employees and committee members designed to prevent real or perceived conflicts of interest. The code shall be no less stringent than the NCE Conflict of Interest Policy Framework attached as **Annex C**.

**17. INDEMNIFICATION**

Except for any claims arising from the negligence of the Granting Agency's employees or servants, the Network shall indemnify and hold harmless the Granting Agency, its employees and servants from all claims, demands, losses, damages, costs, actions, suits or proceedings brought by any third party, that are in any manner based upon, arise out of, or relate to this Funding Agreement.

**18. OFFICIAL MARKS**

The terms "Networks of Centres of Excellence, Réseaux de centres d'excellence," and the logo of the Networks of Centres of Excellence are official marks of the Federal Government of Canada as represented by NSERC. The Network may identify itself as a Network of Centres of Excellence and may use the name "Networks of Centres of Excellence," the name "Réseaux de centres d'excellence," the acronym "NCE," the acronym "RCE" and the logo of the Networks of Centres of Excellence until the expiry of this Agreement. The Network must immediately cease using all official marks upon termination of this Agreement or dissolution of the Network.

**19. EFFECTIVE DATE AND TERM**

This Agreement shall come into force on April 1, 2006. It shall continue in force until March 31, 2010.

**20. AMENDMENTS**

The terms and conditions set forth in this Agreement, together with the Appendices form the complete agreement among the Parties and no amendment or modification shall be binding upon the Parties unless agreed to in writing by the Parties. In the event the NCE program policies or policies of the Government of Canada are amended during the term of this Agreement, the NCE Directorate will provide ninety (90) days written notice to the Network and the Network Host.

**21. GENERAL**

21.1 Nothing in this Agreement shall be construed so as to create a legal relationship of partnership, agency or employment among any of the Parties. Each Party is an independent contractor and is not authorized or empowered to act as agent for any other Party for any purpose.

21.2 Notices under this Agreement shall be given by prepaid post, facsimile or courier. Notices sent by prepaid post shall be deemed received on the fifth business day following dispatch. Notices sent by facsimile or courier shall be deemed received on the business day following dispatch. Notices shall be addressed as follows:

a) if to the NCE Directorate:

Networks of Centres of Excellence  
16th Floor  
350 ALBERT ST  
OTTAWA ON K1A 1H5

b) if to the Network:

Canadian Stroke Network  
451 Smyth Road, Room 3105  
Ottawa ON K1H 8M5

c) if to the Network Host:

Office of the Vice-President of Research  
550 Cumberland Street, Room 246,  
P.O. Box 450, Station A,  
Ottawa, ON K1N 6N5 Canada

**NCE Funding Agreement, The Canadian Stroke Network, 2006 to 2010**

21.3 No Party hereto may assign, directly or indirectly, any right or obligation arising from this Agreement without the prior written consent of all of the other Parties. This Agreement shall ensure to the benefit of and be binding upon the Parties and their respective, heirs, executors, administrators, successors and permitted assigns.

21.4 This Agreement will be interpreted in accordance with the laws of the province where the Network Host resides and the applicable laws of Canada.

The dates and times by which either party is required to perform any obligation in this Agreement shall be postponed automatically to the extent, for the period of time that the party is prevented from so performing by circumstances beyond its reasonable control and which is not caused by any default or act of commission or omission of such Party and is not avoidable by the exercise of reasonable effort or foresight by such Party.

21.5 No failure to enforce any provision of this Agreement shall be construed as a waiver of such provision or a waiver of the right to enforce each and every provision of this Agreement. Waiver of any breach shall not be deemed to be a waiver of any future breach, even if similar in nature.

**SIGNATURES**

Signed for and on behalf of the CIHR by its duly authorized officer:

\_\_\_\_\_  
Alan Bernstein, President, CIHR  
Date: \_\_\_\_\_

Signed for and on behalf of the University of Ottawa by its duly authorized officer:

\_\_\_\_\_  
Howard Alper, Vice-President Research  
Date: \_\_\_\_\_

Signed for and on behalf of the Canadian Stroke Network by its duly authorized officer:

\_\_\_\_\_  
Antoine Hakim, CEO and Scientific Director  
Date: \_\_\_\_\_



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**ANNEX A to the NCE FUNDING AGREEMENT**

**STANDARD NCE NETWORK AGREEMENT**

**AMONG**

**The Canadian Stroke Network**

**AND**

- Dalhousie University
- Hospital for Sick Children
- McGill University
- McMaster University
- Memorial University
- Ottawa Health Research Institute
- Queen's University
- Sunnybrook & Women's College Health Sciences Centre
- University of Alberta
- University of British Columbia
- University of Calgary
- University Health Network
- University of Lethbridge
- University of Ottawa
- University of Prince Edward Island
- University of Sherbrooke
- University of Toronto
- University of Western Ontario

## **NCE Network Agreement, The Canadian Stroke Network, 2006 to 2013**

WHEREAS the Network has been selected to be funded under the Networks of Centres of Excellence Program;

WHEREAS in discharging its obligations under its Funding Agreement with the Granting Agencies, the Network will fund certain research activities carried out at Participating Institutions by Network Investigators;

WHEREAS the Funding Agreement obliges the Network to enter into an agreement with Participating Institutions, setting out the obligations of the parties and providing for such matters as reporting requirements, use of research funds, and ownership and exploitation of intellectual property;

NOW THEREFORE IN CONSIDERATION of the premises and of the mutual covenants contained herein, the Parties agree as follows:

### **1. DEFINITIONS**

In this Agreement, the following terms are defined as follows:

**Administrative Centre** means the central administrative offices of the Network located at the Network Host.

**Agreement** means this NCE Network Agreement including all attachments and appendices as may be amended from time to time.

**Confidential Information** means knowledge, materials, know-how or any proprietary information, whether in electronic, written, graphic or other tangible form and any such oral information that has been reduced to writing within two weeks of its disclosure.

**Granting Agencies** means the Canadian Institutes of Health Research (CIHR), the Natural Sciences and Engineering Research Council (NSERC) and/or the Social Sciences and Humanities Research Council (SSHRC).

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

**NCE Funds** means funds provided to the Network by the Granting Agencies particulars of which are set out in the NCE Funding Agreement.

**NCE Funding Agreement** means the agreement entered into between the Canadian Institutes of Health Research, the Canadian Stroke Network and the Network Host.

**Network** means the Canadian Stroke Network, a not-for-profit corporation incorporated under Part II of the Canada Corporations Act (or as the case may be)

**Network Affiliate** means a company, government agency or other organization that is involved in a specific aspect of Network research or other Network activity or provides support to the Network and that has been accepted as an Affiliate of the Network by the Board of Directors and that has entered into a Network Affiliate agreement with the Network.

**Network Funds** means all funds managed by the Network, including NCE Funds and non-NCE funds provided by Network Affiliates and Network Members and funds provided by other sources in support of the activities of the Network. Network funds result from agreements between the Network and any of the following: Network Affiliates, Network Members and third parties.

**Network Host** means the Participating Institution or other organization that houses the Administrative Centre and that has signed the Funding Agreement.

**Network Investigator means:**

- a) a person employed or otherwise given academic status by a Participating Institution who is responsible for a specific aspect of Network Research;
- b) who has been accepted as an Investigator in the Network by the Board of Directors; and,
- c) who has signed the Acknowledgment attached as **Appendix A** to the Network Agreement.

**Network Manager** means the individual responsible for the general management of the Network's day-to-day operations.

**Network Member** means a Participating Institution, the Network Host and any other organization accepted for membership by the Board of Directors.

**Network Research** means research projects substantially supported by Network Funds and carried out under the supervision of Network Investigators.

**Network Strategic Plan** means a description of the proposed activities of the Network comprised of two primary elements: the research plan, including its objectives and milestones, its anticipated achievements and the value added of a network approach to the research and research management; and the business management plan outlining the strategic importance of the research to Canada and its potential economic and social benefits, the intellectual property management and technology transfer mechanisms, and the details of the proposed management structure.

**Network-Supported Intellectual Property (NSIP)** means Intellectual Property created or invented during a Network Research project.

**Net Revenues** means proceeds received from commercialization of Network-Supported Intellectual Property (NSIP) minus reimbursement of out-of-pocket expenses incurred in obtaining legal protection for and/or commercialization of the NSIP.

**Non-NCE funds** means funds provided by Network Affiliates, Network Members and by other sources in support of the activities of the Network.

**Participating Institution** means any university, post-secondary educational institution hospital, institute or other organization eligible to receive research funds from any Granting Agency and that employs or otherwise gives academic status to one or more Network Investigators.

**Parties** means the signatories to this Agreement.

**Scientific Director** means the individual appointed by the Board of Directors to be responsible for directing the scientific development of the Network and overseeing Network Research and the Network Strategic Plan.

**Technology Transfer Office** means the office at the Participating Institution or Network Member where a Network Investigator is employed or holds academic status that has responsibility for commercializing Intellectual Property.

## **2. OBLIGATIONS OF PARTICIPATING INSTITUTIONS**

### **A. FINANCIAL MANAGEMENT AND REPORTING REQUIREMENTS**

Participating Institutions shall hold Network Funds in trust for use by the Network and the Network Investigators in accordance with the Funding Agreement, the terms established by the Network, the policies of the Participating Institutions and the requirements of the NCE Program.

- a) Each Participating Institution shall provide to the Administrative Centre, by June 30 of each year of this Agreement, financial reports for all Network Funds they receive in accordance with the requirements of the Network and the NCE Program.
- b) Each Participating Institution receiving Network Funds shall:
  - i) ensure that adequate financial controls consistent with the rules and guidelines of the NCE Program and the Canadian Institutes of Health Research rules and regulations are maintained with respect to Network Funds;
  - ii) keep proper accounts and records of all eligible expenditures;
  - iii) provide the Administrative Centre with the name and address of the person at the Participating Institution responsible for the administration and accounting of Network Funds and the name and address of the responsible person at the Technology Transfer Office;
  - iv) work in concert with the owners and inventors of the NSIP, the inventor's employer and the Network, in the commercialization of NSIP;
  - v) provide their Network Investigators with sufficient space, time and institutional support to allow them to contribute to Network Research;

- vi) promptly notify the Administrative Centre in the event that a Network Investigator ceases to be employed by a Participating Institution or otherwise ceases to hold academic status at that Institution;

## **B. CONFIDENTIAL INFORMATION AND MATERIAL TRANSFER**

In carrying out the activities contemplated by this Agreement, it is anticipated that the Participating Institutions may disclose certain information or material which is considered by the disclosing party to be confidential. Where such information is disclosed or material is transferred, it shall be substantially in accordance with the form of the Confidentiality Agreement attached as **Appendix B** to the Network Agreement or the Material Transfer Agreement attached as **Appendix C** to the Network Agreement, as the case may be.

## **C. OTHER REQUIREMENTS**

- a) Each Participating Institution shall obtain in writing an acknowledgment, in the form set out as **Appendix A** from each of their respective Network Investigators that he or she understands and agrees to be bound by the provisions entitled "Obligations of Network Investigators" set out in Article 3 of this Agreement;
- b) Each Participating Institution shall use its best efforts to ensure that the Network Investigator has complied with the requirement that students and all others members of the Network Investigator's research team have entered into agreements containing substantially similar terms to those governing the Network Investigator set out in this Agreement;
- c) Each Participating Institution shall ensure that Network Investigators obtain appropriate certification and/or approval regarding use of humans, animals and/or biohazards in the conduct of Network Research in accordance with the requirements of the NCE Program and the three Funding Agencies;
- d) Research involving human subjects shall meet the requirements of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans;
- e) Research requiring the use of animals shall be conducted in accordance with the policies and guidelines of the Canadian Council on Animal Care: Guide to the Care and Use of Experimental Animals;
- f) Research involving biohazards shall be conducted in accordance with the requirements of the Health Canada Population and Public Health Branch: Laboratory Biosafety Guidelines.

## **3. OBLIGATIONS OF NETWORK INVESTIGATORS**

In signing the Acknowledgement attached as **Appendix A**, a Network Investigator agrees as follows:

## **A. PUBLICATIONS**

In all presentations and publications of results of Network Research, the Network Investigator shall acknowledge the author's participation in the Network and the support of the NCE Program and Granting Agencies, and shall also refer to industrial support where appropriate (subject to written permission to do so where appropriate).

## **B. DISCLOSURE AND COMMERCIALIZATION OF NSIP**

- a) The Network Investigator shall promptly disclose in writing to the Network Manager and to the Technology Transfer Office, any results of Network Research that the Network Investigator believes have the potential to be commercialized;
- b) The Network Investigator shall withhold publication for the longer of 90 days or for such period as is provided by the policies of his/her Participating Institution, any such material pending evaluation by the Network Manager and/or his/her delegate and the Technology Transfer Office of his/her Participating Institution to determine whether contents contain patentable, commercializable or confidential information. For greater clarity Network Investigators shall not be restricted from presenting at symposia, national, or regional professional meetings, or from publishing in abstracts, journals, theses, or dissertations, or otherwise, whether in printed or in electronic media, methods and results of research carried out pursuant to this Network Agreement, except where such publication or presentation would result in the public disclosure of NSIP or Confidential Information.
- c) Furthermore, upon request by the Network or the Participating Institution, the Network Investigator shall further delay publication of NSIP for up to 6 months to provide time for the Network or the Participating Institution to seek patent protection for the NSIP. The Network Investigator will work with the Technology Transfer Office and the Dean of Graduate Studies to ensure that any such delays do not interfere with a student's thesis defence or the graduation of the student.
- d) The Network Investigator shall promptly disclose in writing to his/her Participating Institution, and to the Administrative Centre any conflict of interest that may arise pursuant to the terms of Section D of this Article 3.
- e) The Network Investigator shall promptly disclose in writing to the Network Manager and to the Technology Transfer Office existing Intellectual Property and any prior art which could limit the extent to which proposed and/or ongoing Network Research could be commercialized.

## **C. CONFIDENTIAL INFORMATION AND TRANSFER OF MATERIAL.**

The Network Investigator shall ensure that the appropriate agreements concerning the disclosure of Confidential Information and the transfer of biological and other materials are entered into prior to any disclosure of Confidential Information or transfer of material by the Network Investigator.

Where such information is disclosed or material is transferred, it shall be substantially in accordance with the form of the Confidentiality Agreement attached as **Appendix B** or the Material Transfer Agreement attached as **Appendix C**.

**D. CONFLICT OF INTEREST AND RESEARCH ETHICS**

- a) The Network Investigator shall abide by the Tri-Council Policy Statement on Integrity in Research and Scholarship governing the use of grant funds and the conduct of research.
- b) Each Network Investigator shall abide by the provisions of his/her Participating Institution's policies and guidelines with respect to conflict of interest and conflict of commitment and by the provisions of the NCE Conflict of Interest Policy Framework, as outlined in the NCE Program Guide. To the extent that there may be a conflict between these policies, the more stringent requirements shall prevail.
- c) The Network Investigator shall be responsible for ensuring appropriate certification and/or institutional approval is obtained for their Network Research that involves human subjects, or requires the use of animals or biohazards.

**E. RECORDS AND REPORTS**

- a) The Network Investigator shall submit research progress reports to the Administrative Centre as required by the Network;
- b) The Network Investigator shall ensure that students and all other members of his or her research team have entered into agreements containing substantially similar terms to those governing the Network Investigator set out in this Agreement;
- c) The Network Investigator shall ensure that students and all other members of his or her research team maintain effective record keeping for experiments carried out as part of Network Research.

**F. OTHER OBLIGATIONS**

- a) The Network Investigator shall use reasonable efforts to attract complementary research funding;
- b) The Network Investigator shall work in concert with the Network, the Participating Institutions, Network Affiliates and other inventors in the commercialization of Network-Supported Intellectual Property including, but not limited to, the prosecution of patents, all in accordance with Articles 6 (Ownership of Intellectual Property) and 7 (Principles of Commercialization of Intellectual Property).
- c) Participate on Network committees and in other Network activities as required.
- d) The Network Investigator(s) who is (are) the primary user(s) of equipment purchased with NCE funds, and the Participating Institution owning this equipment, agree(s) to provide other Network Investigators with reasonable access to the equipment for the pursuit of other Network Research projects, and other non-Network Research projects, with Network Research having priority access.
- e) The Network Investigator(s) shall promptly provide to the Network Manager a description of all equipment costing more than \$25,000 which was purchased with NCE Funds.

**G. TERMINATION OF PROJECT FUNDING**

Where the Network determines that a Network Investigator has failed to comply with the duties and responsibilities set out in this Agreement, it shall promptly notify the Participating Institution and the Network Investigator of the particulars. The Network Investigator shall have thirty (30) days within which to remedy the failure, failing which

the Network may terminate funding of the Network Research carried out by the Network Investigator. Notwithstanding the termination of funding, the Network Investigator will co-operate with the Network to ensure an orderly transfer of responsibilities and phase-out of activities and shall continue to be bound by the provisions of this agreement governing intellectual property, publication, confidentiality and any other provisions which are necessary for the Network to fulfill its obligations to the NCE Program.

#### **4. DISCLAIMERS OF WARRANTY AND LIABILITY**

Each Party to this Agreement acknowledges that any and all research results, including information, Intellectual Property and other tangible and intangible materials that it may receive pursuant to this Agreement are to be used with caution and prudence, since all of their characteristics are not known. Each party disclaims all liability for any damages however arising from the use of such research results. Each Party further acknowledges that such research results, information, Intellectual Property and other tangible or intangible materials are provided without warranty of merchantability or fitness for a particular purpose or any other warranty of any sort, express or implied, and that the provider makes no representations that the use of the same will not infringe any patent or other proprietary right. This Article survives the provisions of Article 10 of this Agreement (Withdrawal).

#### **5. EQUIPMENT**

- a) Title to equipment purchased with NCE Funds shall vest with the Participating Institution that purchased the equipment.
- b) The Board of Directors shall have the right to direct the relocation of equipment purchased with NCE Funds costing more than \$25,000 from one Participating Institution to another. In such event, ownership will be transferred to the receiving Participating Institution and the relevant Parties agree to execute any documents that may be reasonably necessary to effect this transfer. The cost of any such relocation shall be borne by the Network.
- c) To avoid unnecessary inconvenience, the Board of Directors shall, in directing the relocation of equipment from a Participating Institution, take into account the existing commitments of the Participating Institution for the use of the equipment.

#### **6. OWNERSHIP OF INTELLECTUAL PROPERTY**

Ownership of Network-Supported Intellectual Property (NSIP) shall be determined by applicable Canadian law and the policies of the relevant Participating Institution(s). The Parties agree that the authority and responsibility for making decisions with regard to legal protection and commercialization of NSIP shall rest with the owners of the NSIP. Where there are two or more owners of the NSIP, they shall designate an agent to act on their behalf. For greater certainty and without limitation, unless otherwise agreed to in writing on a case-by-case basis by the owners of NSIP, no one shall have any rights

in the NSIP, other than the right to a non-exclusive license provided for in clause (b) of Article 7 of this Agreement.

## **7. PRINCIPLES OF COMMERCIALIZATION OF INTELLECTUAL PROPERTY**

- a) Pursuant to the mandate of the NCE Program, every reasonable effort must be made to have the results of Network Research exploited in Canada for the benefit of Canadians. Accordingly the Parties shall act in accordance with the Benefit to Canada Working Guidelines, as outlined in the NCE Program Guide.
- b) Upon written request to the owner(s) of the NSIP, the Network Members shall be offered a non-transferable, non-exclusive, royalty-free, perpetual licence to use and modify all NSIP solely for research and educational purposes provided that the terms and conditions of such licence will not interfere with efforts to commercialize the NSIP.
- c) Within 30 days after the receipt of a written disclosure, the NSIP owner(s), the inventor's employer or the Network shall call a meeting of all interested parties to discuss the history of support, the potential for commercialization, a plan for management, share of returns and commercialization of the intellectual property.

## **8. SHARING OF NET REVENUES**

- a) The owner, the inventor, the inventor's employer, the Network and the relevant Network Affiliate or Network Member, shall be entitled to a share of the Net Revenues commensurate with their contributions related to the NSIP, in accordance with the applicable Participating Institution's official policies, those of other Network Members as appropriate, as well as the terms of any relevant Network Affiliate agreement.
- b) The parties shall negotiate the terms in good faith.

## **9. DISPUTE RESOLUTION**

- a) **Consultation/Negotiation.** In the event of a controversy or dispute between or among any Parties arising out of or in connection with this Agreement or regarding its interpretation or operation, the disputing Parties agree to shall use their best efforts to resolve the dispute amicably.
- b) **Mediation.** If the Parties are unable to resolve their dispute within sixty (60) days after beginning the consultation/negotiation process, any Party to the dispute may serve written notice on the other Party(s) requiring that they submit the dispute to non-binding mediation. The Parties shall mutually agree on a single mediator to mediate the dispute in accordance with mediation procedures suggested by the mediator and agreed to by the Parties. The Parties agree to use best efforts to participate in the mediation process and attempt to resolve

their dispute. Each party shall pay its own costs and an equal share of all other costs of the mediation.

c) **Arbitration.** If the mediation fails to resolve the dispute within 60 days following the day the mediator is appointed, or if one Party refuses to cooperate or participate in good faith in the mediation process, any Party to the dispute serve written notice on the other Parties that the dispute be submitted to binding arbitration in the following manner:

- i) The Parties shall mutually agree on a single arbitrator to adjudicate the dispute. If the Parties cannot agree on a single arbitrator within fifteen (15) days of receipt of the written notice requiring arbitration, they shall each appoint a single arbitrator and those arbitrators shall have a further fifteen (15) days to select a third person who will serve as chair of the arbitral panel.
- ii) Unless otherwise agreed to by the parties, the arbitration shall be conducted in English and according to the governing law of this Agreement and in accordance with arbitral procedures in place in that jurisdiction.
- iii) The arbitration shall be carried out no later sixty (60) days from appointment of the single arbitrator or chair of the arbitral panel, as the case may be.
- iv) Unless the Parties to the dispute otherwise agree, the arbitration shall be held in the City where the Network Host is located.
- v) Each party shall pay its own costs and an equal share of all other costs of the arbitration.
- vi) The award rendered by the arbitration shall be final and binding on all Parties and may be entered as an order in any court having jurisdiction.

This Article survives the provisions of Article 10 of this Agreement (Withdrawal).

## **10. WITHDRAWAL FROM AGREEMENT**

- a) **Voluntary Withdrawal:** A Participating Institution shall be entitled to withdraw from this Agreement upon ninety (90) days written notice to the Chair of the Network Board of Directors and to the Scientific Director.
- b) **Involuntary Withdrawal:** Where the Network determines on the basis of at least a two-thirds majority vote of the Board of Directors that a Participating Institution has failed to comply with the duties and responsibilities set out in this Agreement, it shall promptly notify the Participating Institution(s) of the particulars. The Participating

## NCE Network Agreement, The Canadian Stroke Network, 2006 to 2013

Institution shall have thirty (30) days within which to remedy the failure, failing which the Participating Institution may be deemed to have withdrawn from this Agreement.

- c) **Consequences of Withdrawal:** Upon the effective date of withdrawal of a Participating Institution, the withdrawing Participating Institution shall submit to the Network a full accounting and all unused and uncommitted funds advanced by the Network. The withdrawing Participating Institution and Network Investigator(s) will co-operate with the Network to ensure an orderly transfer of responsibilities and phase-out of activities.

Upon the withdrawal of a Participating Institution, that Institution's Network Investigators will no longer be able to receive Network Funds through that Participating Institution.

Notwithstanding withdrawal from this Agreement, the Participating Institution and the Network Investigator shall continue to be bound by the provisions of this Agreement governing intellectual property, publication, confidentiality and any other provisions which are necessary for the Network to fulfill its obligations to the NCE Program.

**NCE Network Agreement, The Canadian Stroke Network, 2006 to 2013**

**SIGNATURES ( \* )**

Signed for and on behalf of the Canadian Stroke Network by its duly authorized officer:

\_\_\_\_\_  
Antoine Hakim, CEO and Scientific Director  
Date: \_\_\_\_\_

Signed for and on behalf of the Network Host, University of Ottawa, by its duly authorized officer:

\_\_\_\_\_  
Howard Alper, Vice-President Research  
Date: \_\_\_\_\_

Signed for and on behalf of the Participating Institution, by the duly authorized officer:

Participating Institution: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Date: \_\_\_\_\_



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## **Appendix A to NCE Network Agreement**

### **Acknowledgement**

I, {name of Network Investigator, name of Participating Institution»} acknowledge that I have read, understood and agree to be bound by the Obligations of Network Investigators set out in this Network Agreement.

Name of Network Investigator

\_\_\_\_\_

Name and Title

Date: \_\_\_\_\_

#### **[IN THE CASE OF A STUDENT OR OTHER MEMBER OF THE NETWORK INVESTIGATOR'S TEAM]**

#### **Acknowledgement**

I, {name of Student or Member} participating in Network Research conducted by {name of Network Investigator} of {name of Participating Institution»} acknowledge that I have read, understood and agree to be bound by the Obligations of Network Investigators set out in this Network Agreement.

Name of Member of Network Investigator's Team

\_\_\_\_\_

Name and Title

Date: \_\_\_\_\_



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## Appendix B to the NCE Network Agreement

### Confidentiality Agreement (Reciprocal Non-Disclosure)

This Agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

**BETWEEN:**

\_\_\_\_\_

("Disclosing Party")

**AND:**

\_\_\_\_\_

("Receiving Party")

**WHEREAS:**

A. Each party (hereinafter referred to in its role as a provider of information as the "Disclosing Party") to this Agreement has information concerning a certain subject which is its confidential and proprietary property; and

B. Each party (hereinafter referred to in its role as recipient of information from the Disclosing Party as the "Receiving Party") to this Agreement wishes the Disclosing Party to disclose its information to it and the Disclosing Party is willing to disclose its information to the Receiving Party provided that the confidentiality of all such information so disclosed is maintained as hereinafter provided.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises and of the mutual covenants herein set forth, the parties hereto have covenanted and agreed as follows:

**1. Information covered by this Agreement must be identified as Confidential**

In this Agreement, "Information" shall mean any and all knowledge, know-how, information, and/or techniques disclosed by the Disclosing Party to the Receiving Party relating to financial and/or commercial information, and/or relating to research projects or technologies developed by members of NCE Program or \_\_\_\_\_ University or \_\_\_\_\_ Company or any combination of NCE Program, \_\_\_\_\_ University or \_\_\_\_\_ Company inclusive of:

- a) \_\_\_\_\_,
- b) \_\_\_\_\_,
- c) \_\_\_\_\_,
- d) \_\_\_\_\_, and
- e) \_\_\_\_\_,

all of the above which include, without limiting the generality of the foregoing, all research, data, specifications, plans, drawings, prototypes, models, documents, records, instructions, manuals, papers, or other materials of any nature whatsoever, whether written or otherwise, relating to same, as well as the existence of this Agreement and its terms and conditions. In order to constitute "Information" for the purposes of this Agreement, the Disclosing Party must clearly identify it in writing as being confidential, or if the disclosure takes place orally or in some other non-tangible form, the Disclosing Party must summarize it in writing within 15 days of making the disclosure.

**2. Specified use of Confidential Information**

The Receiving Party shall not, without the Disclosing Party's prior written consent, use the Disclosing Party's Information, directly or indirectly, for any purpose other than:

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Without limiting the generality of the foregoing, the Receiving Party shall not use, manufacture, or sell the Disclosing Party's Information or any device or means incorporating any of the Disclosing Party's Information, and shall not use any of the Disclosing Party's Information as the basis for the design or creation of any device or means.

**3. Permitted exceptions to the obligation to keep information confidential**

The Receiving Party shall keep and use all of the Disclosing Party's Information in confidence and shall not, without the Disclosing Party's prior written consent, disclose any part of the Disclosing Party's Information to any person, firm, corporation, or other entity unless and until that part of the Disclosing Party's Information:

- a) is made subject to an order by judicial or administrative process requiring the Receiving Party to disclose any or all of the Disclosing Party's Information, provided however that the Receiving Party shall promptly notify the Disclosing Party and allow the Disclosing Party reasonable time to oppose such process before disclosing any of the Disclosing Party's Information;
- b) is published or becomes available to the general public other than through a breach of this Agreement;
- c) is obtained by the Receiving Party from a third party with a valid right to disclose it, provided that said third party is not under a confidentiality obligation to the Disclosing Party;
- d) is independently developed by employees, agents or consultants of the Receiving Party who had no knowledge of or access to the Disclosing Party's Information as evidenced by the Receiving Party's business records; or
- e) was possessed by the Receiving Party prior to receipt from the Disclosing Party, other than through prior disclosure by the Disclosing Party, as evidenced by the Receiving Party's business records.

#### **4. Agreement does not create a license or contract**

The Receiving Party acknowledges and agrees that any and all disclosures of the Disclosing Party's Information pursuant to this Agreement are on a non-exclusive basis and that the Disclosing Party is free to make similar or other disclosures to third parties. Nothing in this Agreement shall create, or be construed to create, any license to the Receiving Party or any obligation on either party to enter into a license or other agreement with respect to the Information. Furthermore, nothing contained herein shall be deemed or construed to create between the parties hereto an agency relationship, partnership or joint venture. Neither party shall be liable for any act, omission, representation, obligation, or debt of the other party, even if informed of such act, omission, representation, obligation, or debt.

#### **5. No warranty given by Disclosing Party**

The Disclosing Party makes no representations or warranties, either express or implied, with respect to the merchantability or fitness for a particular purpose of its Information. The Disclosing Party shall in no event be liable for any loss of profits, be they direct, consequential, incidental, or special or other similar or like damages arising from any defect, error or failure to perform with respect to its Information, even if the Disclosing Party has been advised of the possibility of such damages.

#### **6. Receiving Party's indemnifies Disclosing Party**

The Receiving Party hereby indemnifies, holds harmless and defends the Disclosing Party, its Board of Governors, directors, officers, employees, faculty, students, invitees, and agents against any and all claims (including all legal fees and disbursements incurred in association therewith) arising from or out of the receipt or use of the Disclosing Party's Information by the Receiving Party including, without limiting the generality of the foregoing, any damages or losses, consequential or otherwise, arising from or out of the receipt or use of the Disclosing Party's Information by the Receiving Party, howsoever the same may arise. In the event that the Receiving Party is prohibited by law from granting the indemnity contemplated herein, the Receiving Party shall carry insurance in an amount of no less than \$1,000,000 and which shall provide coverage to

the Disclosing Party, its Board of Governors, directors, officers, employees, faculty, students, invitees, and agents against any and all claims (including all legal fees and disbursements incurred in association therewith) arising from or out of the receipt or use of the Disclosing Party's Information by the Receiving Party including, without limiting the generality of the foregoing, any damages or losses, consequential or otherwise, arising from or out of the receipt or use of the Disclosing Party's Information by the Receiving Party, howsoever the same may arise.

**7. No transfer of rights and duties under this Agreement**

Neither party shall assign, transfer, mortgage, charge or otherwise dispose of any or all of its rights, duties or obligations granted to it under this Agreement without the prior written consent of the other.

**8. Term of this Agreement and return of all copies of information**

This Agreement will be deemed to have come into force on the earlier date of the first date above written or the date when Information was transferred under this Agreement regardless of the date of execution, and shall be read and construed accordingly. This Agreement shall terminate on the expiration of a term of five (5) years after this Agreement comes into force unless earlier terminated by the mutual agreement in writing executed by duly authorized signatories of the parties. Forthwith upon the termination of this Agreement, the Receiving Party shall cease to use the Disclosing Party's Information in any manner whatsoever and upon the written request of the Disclosing Party shall forthwith deliver up to the Disclosing Party all of the Disclosing Party's Information, together with all full or partial copies thereof as shall then be in the Receiving Party's possession or control, except that the Receiving Party may retain one complete record copy of said Information for archival purposes to assure compliance with this Agreement. Notwithstanding any termination or expiration of this Agreement, the obligations created in this Agreement shall survive and continue to be binding upon the Receiving Party, its successors and assigns for the full term set forth above.

**9. Applicable laws**

This Agreement shall be governed by and construed in accordance with the laws of the « Province of the Participating Institution » and the laws of Canada in force therein without regard to its conflict of law rules.

**10. Arbitration**

In the event of any dispute arising between the parties concerning this Agreement, its enforceability or the interpretation thereof, the same shall be finally resolved by the provisions of Article 9 of the « network » Network Agreement.

**11. Notices**

All notices or other documents that either of the parties hereto are required or may desire to deliver to the other party hereto may be delivered only by personal delivery, by courier, by telecopy, or by registered or certified mail, all postage and other charges prepaid, at the address for such party set forth above or at such other address as that party may hereinafter designate in writing to the other.

**12. Miscellaneous Provisions**

No condoning, excusing or overlooking by either party of any default, breach or non-observance by the other party at any time or times in respect of any covenants, provisos, or conditions of this Agreement shall operate as a waiver of such party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance so as to defeat in any way the rights of such party in respect of any such continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by such party, save only an express waiver in writing.

13.

This Agreement may be executed in counterpart, each such counterpart when taken as a whole with the other executed counterparts, constituting an original Agreement.

**IN WITNESS WHEREOF the parties hereto have hereunto executed this Agreement on the dates set forth below but effective as of the date first above written.**

Signed for and on behalf of « \_\_\_\_\_ » by its duly authorized officer:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signed for and on behalf of « \_\_\_\_\_ » by its duly authorized officer:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

I, « **Network Investigator** », «of the University » hereby acknowledge that I have read and understood the provisions of this agreement.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



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## APPENDIX C to the NCE Network Agreement

# Confidential Information and Material Transfer Agreement

### BETWEEN:

**<University Name>**, a corporation continued under the \_\_\_\_\_ Act of \_\_\_\_\_, and having offices at \_\_\_\_\_, Attention: Industry Liaison Office, Telephone: \_\_\_\_\_, Fax: (\_\_\_\_\_) \_\_\_\_\_ ("\_\_\_\_\_")

### AND:

**<COMPANY>**, a corporation having its head office at \_\_\_\_\_, Attention: Name & Title, Telephone: (\_\_\_\_\_) \_\_\_\_\_, Fax: (\_\_\_\_\_) \_\_\_\_\_ ("\_\_\_\_\_")

### AND:

« **Network** », Attention: Name, Telephone: (\_\_\_\_\_) \_\_\_\_\_, Fax: (\_\_\_\_\_) \_\_\_\_\_

### AND:

« **Network Investigator** », Attention: Telephone: (\_\_\_\_\_) \_\_\_\_\_, Fax: (\_\_\_\_\_) \_\_\_\_\_

### WHEREAS:

A. Each party (hereinafter referred to in its role as a provider of information as the "Disclosing Party") to this Agreement has information concerning a certain subject which is its confidential and proprietary property; and

B. Each party (hereinafter referred to in its role as recipient of information from the Disclosing Party as the "Receiving Party") to this Agreement wishes the Disclosing Party to disclose its information to it and the Disclosing Party is willing to disclose its information to the Receiving Party provided that the Receiving Party maintains the confidentiality of all such materials and information and uses same only for the purposes as hereinafter provided.

**NOW THEREFORE IN CONSIDERATION** of the premises and of the mutual covenants herein set forth, the parties hereto have covenanted and agreed as follows:

**1. Confidential Information and permitted exceptions**

In this Agreement, "Information" shall mean any and all knowledge, know-how, information, and/or techniques disclosed by the Provider to the Recipient relating to the Materials hereinafter defined or related to the project entitled

“  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_”

including, without limiting the generality of the foregoing, all research, data, specifications, plans, drawings, prototypes, models, documents, recordings, instructions, manuals, papers or other materials of any nature whatsoever, whether written or otherwise, relating to same, as well as the existence of this Agreement and its terms and conditions. In order to constitute "Information" for the purposes of this Agreement, the Disclosing Party must clearly identify it in writing as being confidential, or if the disclosure takes place orally or in some other non-tangible form, the Disclosing party must summarize it in writing within 15 days of making the disclosure.

This Agreement does not apply to Information that:

- (a) is made subject to an order by judicial or administrative process requiring the Recipient to disclose any or all of the Information, provided however that the Recipient shall promptly notify the Provider and allow the Provider reasonable time to oppose such process before disclosing any of the Information;
- (b) is published or becomes available to the general public other than through a breach of this Agreement;
- (c) is obtained by the Recipient from a third party with a valid right to disclose it, provided that said third party is not under a confidentiality obligation to the Provider;
- (d) is independently developed by employees, agents or consultants of the Recipient who had no knowledge of or access to the Provider's Information as evidenced by the Recipient's business records; or
- (e) was possessed by the Recipient prior to receipt from the Provider, other than through prior disclosure by the Provider, as evidenced by the Recipient's business records.

**2. Definition of Materials**

In this Agreement, "Materials" shall mean any and all cell lines, vectors, plasmids, clones, micro-organisms, antibodies, antigens, biologies, test plates, reagents, chemicals, compounds, physical samples, models, and specimens delivered by the

Provider to the Recipient, as well as any and all progeny and derivatives thereof. Without limiting the generality of the foregoing, Materials shall include the following:

(a) \_\_\_\_\_ (description & quantity & concentration)

(b) \_\_\_\_\_

### **3. Provider retains ownership of Information and Materials**

This agreement and the resulting transfer of Information and Material constitutes a bailment and grants the Recipient a license to use the Material owned by Provider as provided herein. The parties hereby acknowledge and agree that the Provider owns any and all rights, title and interest in and to the Information and Materials.

### **4. Permitted use by Recipient of Information and Materials**

The Recipient shall not, without the Provider's prior written consent, use the Information or the Materials, directly or indirectly, for any purpose other than for the following experiments:

(a) \_\_\_\_\_; and

(b) \_\_\_\_\_

Without limiting the generality of the foregoing, the Recipient shall not commercially use, manufacture, or sell the Information or the Materials or any device or means incorporating any of the Information or the Materials, and shall not use any of the Information or the Materials as the basis for the design or creation of any device or means.

### **5. Restrictions on use of Information and Materials**

Notwithstanding anything else in this Agreement, the Recipient shall not apply, directly or indirectly, any of the Information or the Materials to any human use **without appropriate Institutional Approvals**. Without limiting the generality of the foregoing, the Recipient shall not utilise any of the Information or the Materials for any human research, treatment, or diagnosis, but the Recipient may conduct pre-clinical evaluation of the Information and the Materials.

### **6. Disclosure requires prior written consent**

The Recipient shall keep and use all of the Information and the Materials in strictest confidence and shall not, without the Provider's prior written consent, disclose any part of the Information or provide any part of the Materials to any person, firm, corporation, or other entity regardless of any affiliation or relationship with the Recipient.

### **7. Any disclosure to be under equivalent or greater obligation of confidentiality**

The Recipient agrees that it has and shall maintain an appropriate internal program limiting the Internal distribution of the Information and the Materials to those of its officers, servants, or agents who require said Information and Materials so that the Recipient may use them for the purpose set forth in *Article 4*. Notwithstanding *Article 6*, the Recipient may disclose the Information but may not provide the Materials to third-party consultants but such disclosure of Information shall only be permitted to the extent that said third-party consultants require access to the Information in order to enable the Recipient to carry out the purpose set forth in *Article 4*. The Recipient covenants and agrees that before making any Materials or Information available to said officers, servants, agents, or third-party consultants, it shall ensure they are under written obligations of confidentiality which are equivalent to or greater than those set forth in this Agreement.

#### **8. No license or other agreement created by this Agreement**

The Recipient acknowledges and agrees that any and all disclosures of Information and provisions of Materials pursuant to this Agreement are on a non-exclusive basis and that the Provider is free to make similar or other disclosures to third parties. Nothing in this Agreement shall create, or be construed to create; a license to the Recipient except as set forth in *Article 4* or any obligation on either party to enter into a license or other agreement with respect to the Information or the Materials. Furthermore, nothing contained herein shall be deemed or construed to create between the parties an agency relationship, partnership or joint venture. Neither party shall be liable for any act, omission, representation, obligation or debt of the other party, even if informed of such act, omission, representation, obligation or debt.

#### **9. No warranty given by Disclosing Party**

The Disclosing Party makes no representations or warranties, either express or implied, with respect to the merchantability or fitness for a particular purpose of its Information. The Disclosing Party shall in no event be liable for any loss of profits, be they direct, consequential, incidental, or special or other similar or like damages arising from any defect, error or failure to perform with respect to its Information, even if the Disclosing Party has been advised of the possibility of such damages.

#### **10. Recipient holds harmless and will defend Provider against claims from its use**

The Recipient hereby indemnifies, holds harmless and defends the Provider, its Board of Governors, directors, officers, employees, faculty, students, and agents against any and all claims (including all legal fees and disbursements incurred in association therewith) arising from or out of the receipt or use of the Information or the Materials by the Recipient including, without limiting the generality of the foregoing, any damages or losses, consequential or otherwise, arising from or out of the receipt or use of the Information or the Materials by the Recipient, howsoever the same may arise. The Recipient shall procure and maintain public liability insurance in reasonable amounts with a reputable and secure insurance carrier. In the event that the Recipient is prohibited by law from granting the indemnity contemplated herein, in addition to the public liability insurance contemplated hereunder, the Recipient shall also carry insurance in an amount of no less than \$1,000,000 which shall provide coverage to the

Provider, its Board of Governors, directors, officers, employees, faculty, students, and agents against any and all claims (including all legal fees and disbursements incurred in association therewith) arising from or out of the receipt or use of the Information or the Materials by the Recipient including, without limiting the generality of the foregoing, any damages or losses, consequential or otherwise, arising from or out of the receipt or use of the Information or the Materials by the Recipient, howsoever the same may arise.

### **11. No assignment of rights**

The Recipient shall not assign, transfer, mortgage, charge or otherwise dispose of any or all of the rights, duties or obligations granted to it under this Agreement without the prior written consent of the Provider.

### **12. Term of this Agreement**

This Agreement shall take effect on the earlier date of or the date first written above or the date that Information or Materials is transferred under this Agreement regardless of the date of execution, and shall remain in full force and effect for a period of three (3) years after this Agreement comes into force unless earlier terminated by any party with 60 days written notice, or unless earlier terminated by mutual written agreement executed by all parties. Notwithstanding any early termination of this Agreement, the obligations created in this Agreement shall survive and continue to be binding upon the Recipient, its successors and assigns for \_\_\_\_\_ ( ) years from the date first above written. Forthwith upon the termination of this Agreement, the Recipient shall cease to use the Information or the Materials in any manner whatsoever and, upon written request by the Provider, the Recipient shall deliver up to the Provider all of the Information and Materials in its possession or control, together with a certificate certifying that no copies or progeny or derivatives, as the case may be, have been made or retained or that one copy of the Information and one set of the Materials have been retained for the sole purpose of ensuring compliance with the ongoing obligations created in this Agreement.

### **13. Applicable law**

This Agreement shall be governed by and construed in accordance with the laws of the « Province of the Participating Institution » and the laws of Canada in force therein without regard to its conflict of law rules.

### **14. Arbitration in case of disagreement**

In the event of any dispute arising between the parties concerning this Agreement, its enforceability or the interpretation thereof, the same shall be finally resolved by the provisions of Article 9 of the « network » Network Agreement.

### **15. Notices**

All notices or other documents that either of the parties hereto are required or may desire to deliver to the other party hereto may be delivered only by personal delivery, by courier, by telecopy, or by registered or certified mail, all postage and other charges prepaid, at the address for such party set forth above or at such other address as that party may hereinafter designate in writing to the other.

**16. This Agreement comprises entire understanding between parties**

This Agreement sets forth the entire understanding between the parties and no modifications hereof shall be binding unless executed in writing by the parties hereto.

**IN WITNESS WHEREOF** the parties hereto have hereunto executed this Agreement on the dates set forth below but effective as of the date first above written.

Signed for and on behalf of « **UNIVERSITY** » by its duly authorized officer:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signed for and on behalf of « **COMPANY** » by its duly authorized officer:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signed for and on behalf of « **Network** » by its duly authorized officer:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Read & Approved by « **Network Investigator** », « **University** »

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**Networks of Centres  
of Excellence**  
**Réseaux de centres  
d'excellence**

**ANNEX B to the NCE FUNDING AGREEMENT**

## **Memorandum of Understanding**

*May 22, 2002*

**Memorandum of Understanding  
Among  
Canadian Stroke Network  
And  
University of Ottawa  
And  
Canadian Institutes of Health Research and  
Social Sciences and Humanities Research Council, hereinafter the "Funding  
Agencies"**

**1. Purpose**

The purpose of this Memorandum of Understanding (MOU) among the Canadian Stroke Network (CSN), the University of Ottawa (University), and the Funding Agencies is to establish the terms and conditions under which the University and CSN will receive and administer payments from the Funding Agencies in respect to the grant for the Canadian Stroke Network.

**2. Terms and Conditions of Payment**

All payment in respect to the grant made by the Funding agencies will be made payable directly to the University.

Upon receipt of these funds, the University will immediately transfer the total sum of the payment, directly to a bank account in the name of the CSN. Any unspent or uncommitted balance remaining in the University account at the time of the initial transfer must also be transferred to CSN.

The CSN will maintain at least two bank accounts, one of which will be used exclusively for the receipt of NCE funds from the University. No other revenue or other sources of funds will be credited to this account.

The University will continue to administer payroll and benefits services for the CSN, and the CSN will reimburse the University monthly, for these services, at a rate or amount agreed to by the University and the CSN.

The University will continue to provide in-kind services to the CSN in the form of accommodations to house the CSN, as well as other expert advice and services (e.g. contracting, procurement) on request by the CSN.

**3. Financial Accountabilities**

In so far as the Funding Agencies are concerned, The University and CSN will be jointly accountable for CSN funds received from the Funding Agencies and furthermore the University will ensure that appropriate financial controls are in place.

#### 4. Operational Responsibilities

In so far as the relationship between the CSN and the University is concerned, the CSN and the University will have the following operational responsibilities.

##### *CSN's Responsibilities*

- Receive and distribute the grant funds to eligible Network Partners in accordance with the decisions of the Board of Directors and, in the case of the NCE funds, in accordance with the requirements of the NCE Program, the laws of Canada, and the regulations of the federal government and its agencies;
- Provide on-going accounting and annual financial reporting as required by the NCE Program for the Network Funds, which include the NCE Funds provided by the Federal Granting Agencies and the non-NCE funds from other sources;
- Establish and maintain policies, systems, procedures and controls that require and ensure compliance with the policies and regulations of the NCE Program as published in their formal guides and program literature, and that ensure full accountability for funds;
- Withhold approval of expenditures, including payroll and employee benefits, that are contrary to the policies and guidelines of the NCE Program or CSN policies;
- CSN assures the NCE Program and the University that they do not have any inherited long-term commitments that would extend beyond the life of the Network;
- Advise the NCE Directorate, the University and the Granting Agencies without delay if they have knowledge that NCE funds have been used in a manner not in accordance with the intent of the grant;
- Provide access to all NCE fund accounts, records and other information the Agencies may reasonably request during the course of an on-site monitoring visit or investigation and respond fully and frankly to any requests the Agencies may make.

##### *University's responsibilities*

- Provide suitable space, facilities, and goods to the Administrative Centre of CSN;
- Receive the NCE funds from the Funding Agencies and transfer the full amount to a CSN bank account;
- Ensure that the CSN has established and maintains policies, systems, procedures and controls that require and ensure compliance with the policies and regulations of the NCE Program as published in their formal guides and program literature, and that ensure full accountability for funds; the University may audit the CSN to ensure these responsibilities are being met. Should the University find that the CSN is not meeting these responsibilities in accordance with the

May 22, 2002

application of a reasonable standard, the University shall notify the CSN Executive Director within 30 days. Within 60 days of this notification, the CSN shall satisfy the University that its concerns have been addressed and responsibilities are being met in accordance with a reasonable standard. At this time if the University is not satisfied that the CSN is meeting its responsibilities in accordance with a reasonable standard, the University and the Funding Agencies may terminate this MOU.

- A University representative will sit on the CSN Board of Directors and will be a member of the Audit and Finance Committee;
- Advise the NCE Directorate, the CSN and the Agencies without delay if they have knowledge that NCE funds have been used in a manner not in accordance with the intent of the grant;
- Provide access to payroll and employee benefits records and other information the Agencies may reasonably request during the course of an on-site monitoring visit or investigation and respond fully and frankly to any requests the Agencies may make.

#### 5. Amendment to Agreements

The responsibilities as described in this MOU replace the Section 11.1 of the CSN Network Agreement and section 9 of the NCE Funding Agreement.

This MOU will be in force subject to the written consent of two-thirds of the Participating Institutions and the written consent of the Funding Agencies. The MOU so approved shall be binding on all Participating Institutions.

#### 6. Effective Date

This MOU will come into force upon obtaining the required signatures to the amendment of the CSN Network Agreement. It shall continue in force until two years after the termination of the Funding Agreement or until dissolution of the Network, whichever comes first.

K. Lafferty  
Canadian Stroke Network

May 22, 2002  
Date

Tom Farrell  
University of Ottawa

May 23, 2002  
Date

B. D. Amin  
CIHR

June 2, 2002  
Date

[Signature]  
SSHRC

July 11, 2002  
Date



## Annex C - Conflict of Interest Policy Framework

Interactions between university researchers and the private sector are an essential feature of the NCE program. For the objectives of the NCE program to be achieved, many kinds of interactions among individuals participating in the network must occur. These interactions may lead to gains and benefits to the individuals participating in the network and are desirable and natural outcomes of being involved in the network. Such interactions, however, may place individuals participating in the network in a position of potential, apparent or actual conflict of interest.

The NCE Steering Committee is the body ultimately responsible to the government, and therefore to taxpayers, for the integrity of all the networks and their operations. The responsibility for implementing and managing the Conflict of Interest Policy Framework, to ensure that network operations and decisions are not biased by conflict of interest, is delegated to each Network Board of Directors, which represents the highest authority in the management structure of the network. The Network Boards of Directors are accountable to the NCE Steering Committee for the effective implementation and management of the Conflict of Interest Policy Framework.

Individuals participating in the network such as members of the Boards of Directors and advisory committees who do not receive NCE funds are recognized as playing a unique role in the networks. They bring an important perspective as a result of their particular knowledge, often as representatives of organizations in the field of interest of the network. Nevertheless, they are still required to disclose any financial interest or position of influence, as described in Section 2.0, in any business in the same area of interest as the network, other than that of their main employer.

The Conflict of Interest Policy is intended to enable Network Boards of Directors and individuals to recognize and disclose situations that may be open to question and to ensure that such situations are appropriately resolved. The policy builds upon and is complementary to those of the organizations that make up the Network Boards of Directors, the network investigators and of the administrators.

### **1.0 Definitions**

**"Avoidance"** means refraining from, or withdrawing from, participation in activities or situations that place an individual participating in the network in a potential, apparent or actual conflict of interest relative to his or her network duties and responsibilities.

**"Conflict of interest"** means a situation where, to the detriment or potential detriment of the network, an individual is, or may be, in a position to use research knowledge, authority or influence for personal or family gain (financial or other) or to benefit others.

**"Disclosure"** means the act of notifying in writing the Board of Directors, through the Network Manager, of any direct or indirect financial interests and positions of influence held by an individual participating in the network which could lead to a potential, apparent or actual conflict of interest.

**"Divestment"** means the sale at arm's length, or the placement in trust, of assets, where continued ownership by an individual participating in the network would constitute a potential, apparent or actual conflict of interest with the participant's network duties and responsibilities.

**"Financial interest"** means an interest in a business in the same area as the network as described in Section 2.1 of this document.

**"NCE"** means the federal Networks of Centres of Excellence program.

**"NCE Steering Committee"** means the committee comprised of the three granting agencies' Presidents and the Deputy Minister, Industry Canada, which has overall responsibility for the NCE program.

**"Network"** means a group funded under the federal Networks of Centres of Excellence program.

**"Network Board of Directors"** means the Board that is responsible for the overall management of the network and is accountable to the NCE Steering Committee.

**"Network Manager"** means the senior managerial employee of the network who reports to the Board of Directors.

**"Position of influence"** includes any position that entails responsibility for a material segment of the operation and/or management of a business.

## ***2.0 Disclosure***

Upon joining the network, each individual is obliged to disclose in writing to the Board of Directors, through the Network Manager, any direct or indirect financial interests and positions of influence that could lead to a potential, apparent or actual conflict of interest (examples provided in Attachment). In addition, these submissions must be updated whenever the individual's circumstances change in a way that would necessitate a further disclosure. The individual also has the obligation to disclose any potential, apparent or actual conflict of interest when it arises during network committee or Board meetings so that the committee or Board is aware of the situation and can take appropriate action.

### ***2.1 Financial Interest***

It consists of:

- Any material stock option (e.g., 1%) or similar ownership interest in such a business, but excluding any interest arising solely by reason of investment in

- such business by a mutual, pension, or other institutional investment fund over which the person does not exercise control; or
- Receipt of, or the right and potential to receive, any income from such a business, whether in the form of a fee (e.g., consulting), salary, allowance, interest in real or personal property, dividend, royalty derived from licensing of technology, rent, capital gain, real or personal property, or any other form of compensation or contractual relationship, or any combination thereof.

### ***3.0 Management of Conflict of Interest***

The Network Board of Directors or its conflict of interest sub-committee is charged with the responsibility of managing conflict of interest, and determining and implementing the appropriate course of action. This management system is based on disclosure, as described in Section 2. All disclosures constitute confidential information that will be available to the Network Board, or a sub-committee thereof, for the evaluation and resolution of any conflict of interest or allegations of conflict of interest brought before the Board or its conflict of interest sub-committee.

While it is recognized that it may be difficult to completely avoid situations of potential, apparent or actual conflict of interest, complete avoidance or divestment may be required in certain cases. Such divestment should not consist of a sale or transfer of assets to family members or other persons for the purpose of circumventing the conflict of interest compliance measures as directed by the Board.

### ***3.1 Principles***

An individual participating in the network who is involved with, or has an interest in, or deals in any manner with a third party which might cause a conflict of interest, will not be present and participate in any network decisions, including committee decisions, if the declared potential conflict of interest could influence the decision or actions of the network. It is the obligation of the individual to declare such potential, apparent or actual conflict of interest before discussions take place so that the committee or Network Board of Directors is aware of the situation in order to ensure that the individual is out of the room when the discussion and decision process on the item in question are taking place. This course of action should be recorded in the minutes of the meeting.

Any question raised by an individual or company regarding the potential conflict of interest of an individual will be raised at the Network Board of Directors level and must be documented in writing. The Network Board of Directors will determine the extent to which the question should be pursued and in such cases will consult the individual in question. If necessary, the individual will be asked to respond in writing.

### ***3.2 Non-compliance***

If an individual is discovered to be in conflict of interest where disclosure and prior approval have not been sought or granted, the Network Board of Directors will require the individual to:

- account to the network for any gain or benefit made directly or indirectly, arising from an involvement with, or an interest in, or from dealing in any manner with a third party that gives rise to a conflict of interest; **and**
- withdraw from the involvement; **or**
- withdraw from the Network; **or**
- take appropriate action as determined by the Board of Directors.

#### ***4.0 Review Process***

An individual may request in writing, within 30 days, a review of a Network Board of Directors' decision on conflict of interest. In certain circumstances, the Network Board of Directors may arrange for an independent third party appointed by mutual agreement of the network and the Board of Directors, and failing such mutual agreement appointed by the NCE Steering Committee, to act as an intermediary to scrutinize scientific reports and budgetary information of research project(s) in which the individual participating in the network is involved. The intermediary would provide an opinion on the overall merit of the review, without divulging specifics of a proprietary nature to other members of the network. The ultimate decision on the resolution of the review rests with the Network Board of Directors.

In cases where there is a concern with respect to decisions or actions of the Network Board of Directors itself, this concern should be submitted in writing to the NCE Steering Committee. The NCE Steering Committee may request the Chair of the Network Board of Directors to respond in writing to the Steering Committee. Following submission of the Chair's response, the NCE Steering Committee will decide on follow-up action.

#### ***Examples of Conflict of Interest***

The following examples, although not comprehensive, illustrate situations that may lead to an indirect or direct conflict of interest:

- employment in any capacity by another employer outside the participant's, administrator's or director's university, institution or company signing the Network Agreement, including self-employment;
- holding an office that puts the individual in a position to affect decisions, such as manager with executive powers, within a company, or member of a board of directors;
- participating in a research contract or consultancy relationship with a company, or serving on the board of a company;
- entering into a research contract with a company in which the participant, or a member of his or her immediate family, has a financial or other interest;
- carrying out supplementary professional scientific activities in accordance with the disclosure requirements of the participant's or director's employing organization;
- ownership of equity or other financial participation in a corporation (including stock options and shares). Participants, administrators and directors should abstain from activity in which they would have inside advantage (e.g., purchase of shares) based on the information they are privy to through membership in the Network;

- accepting gifts (other than some minor hospitality) or special favours for him or herself or a member of his or her family from private organizations with which the Network does business;
- influencing the purchase of equipment or materials for the Network from a company in which the participant, the administrator or the director has a financial or other interest.



## **Annex D - Benefit to Canada**

### ***Working Guidelines***

A key NCE program objective is to advance Canadian economic and social development. Accordingly, every effort must be made to have the results of network-funded research exploited in Canada, for the benefit of Canadians. Benefit to Canada is defined as incremental Canadian economic activity and improved quality of life in Canada. Maximum benefits would be derived from the creation of high-quality jobs in Canada and this should be an important goal of any commercialization activity.

The owners of intellectual property resulting from network-funded research, or the agent acting on their behalf, will consult with relevant stakeholders (Network administrators, universities, and researchers) on issues of commercialization. When selecting a receptor company for the exclusive license of the commercial rights of intellectual property resulting from network-funded research, the agent/owners of intellectual property resulting from network-funded research will use reasonable and thorough efforts to maximize benefits to Canada in a national and international context. Due diligence in efforts to maximize benefits to Canada depends in part on the nature of the research results that are being exploited, and on the window of opportunity. The agent/owners of intellectual property resulting from network-funded research should take the following non-comprehensive list of possible benefits to Canada factors into consideration in exercising that due diligence:

- existing company in Canada with receptor capacity;
- expansion of an existing company in Canada;
- formation of a new company in Canada;
- joint ventures or strategic alliances with a company in Canada;
- co-manufacturing involving a company in Canada;
- cross-licensing or co-development with a company in Canada;
- establishment of a new subsidiary in Canada (R&D, manufacturing, sales, marketing, distribution);
- development and/or production in Canada by a foreign company (world product mandate).

### ***Mechanism for Reporting Due Diligence***

Within 30 days of a decision to pursue exploitation by a foreign company, and in advance of finalizing this decision, the agent/owner is required to report the decision to the Network Board of Directors, and through the Network Board of Directors, to provide the NCE Steering Committee the rationale and circumstances that led to the decision. The NCE Steering Committee reserves the right to impose sanctions as it deems appropriate, if there is failure to comply with these reporting requirements or negligence in performing the due diligence, on the part of the Network.