

National Innovation Foundation, Ahmedabad

Explanatory Note for PRIOR INFORMED CONSENT

NIF is extremely happy that you have shared Innovation/ Traditional Knowledge developed/ communicated by you based on your own and independent effort or drawn from community knowledge. It has been included in the National Register of Grassroots Innovations and Traditional Knowledge. We need your informed consent before we decide to share this with any third party, or on the web or in any publication, or with any prospective entrepreneur or potential investor, or other individuals or communities requiring that knowledge for their own livelihood needs, with or without any restriction as per your instructions.

The objective is to balance the twin goals, partly in conflict, of dissemination and protection of your innovation/ traditional knowledge. Dissemination will benefit communities and individuals directly without any cost where as the protection and potential commercialization of the same through contractual arrangements may also help them but at some cost. If we had an intellectual property rights system in our country that granted the rights quickly, we could have got you the protection for new and non-obvious innovations/ localized traditional knowledge with industrial applications. We could have then shared the innovation/traditional knowledge with others without causing any trade off. It is because of the absence of such a system that we need your PIC so that we do what you think proper under the circumstances. PIC is also needed to fulfill ethical responsibility that NIF has towards knowledge providers (individuals or communities) and grassroots innovators.

NIF is duty bound to follow your instruction and keep complete confidentiality if that is advised. The purpose is to make you aware of your rights as a knowledge provider and as a contestant in the National Competition for scouting green grassroots innovations and traditional knowledge. It is not required as yet by law but NIF has decided to take your PIC so as to follow an ethical practice. This will help generate an environment of trust among various stakeholders who may provide innovation or add value to it or may have interest in commercial or non-commercial diffusion of the same. *However, if the knowledge, innovation or practice provided by you is already well-known and is in public domain, then the restrictions on its diffusion or application will not apply.*

*** Consent of community for sharing traditional knowledge with NIF**

Community knowledge, innovation and practices may some times be communicated by individuals who may or may not have improved it significantly. In general, we will appreciate if any communicator of community Innovation or traditional knowledge would ensure the following conditions:

- A) Knowledge of a community, as it exists, is shared with NIF preferably after obtaining the informed consent of the concerned community leaders, with the understanding that individual improvements in the same can indeed be communicated after *informing* the community.
- B) The degree to which a given traditional knowledge is known and/or practiced within or among communities may be disclosed in the submission.
- C) In the case of community traditional knowledge, any individual may share the same with NIF as stated above, but the right if any (that is if the traditional knowledge is not in public domain already) would belong to the community represented by its leaders or customary institutions except in the cases where (i) improvements are brought about by individuals or (ii) only an individual practices or specializes in that knowledge. In the latter two cases, the benefits if any would be shared between the individual and the community.

It is obvious that each individual communicator or community representative submitting entry to NIF will have to ensure compliance with these conditions. NIF will act in good faith and without negligence and hope that this will eventually become a general practice in the country. NIF will have no machinery of its own to ensure that this has indeed been the case in each entry. What we hope is that as the awareness increases in society about ethical ways of accessing people's knowledge, more and more people will comply with these conditions.

The process of seeking consent by NIF provides the Innovator/ Traditional Knowledge Holder/s with complete information on the basis of which to make an informed decision. In case of incomplete information provided by you, we will be bound only by the columns ticked or instructions provided. Wherever possible, if your innovation or traditional knowledge has been scouted by some third party, he/ she will also try to explain to you the implications of PIC.

Definitions:

Unaided technological Innovation refers to any technological improvement in an existing method, use or material involved in solving a problem or producing a product or service; or a new invention or application of existing technologies without taking the help from any outside agency or institution in the formal or informal sector. Innovations or inventions/traditional knowledge, which may cause any adverse consequence to the environment or cause any moral hazard, will be excluded from the purview of NIF.

Traditional Knowledge is any knowledge, innovation or practice produced by individual knowledge experts, healers, crafts persons etc., alone or in groups or community a long time ago or several generations ago.

There are three implications of "Informed Consent" (1) that the innovators/ knowledge providers have been fully informed of all information relevant to the activity for which the consent is sought, in the native language or other mode of

communication; (2) the innovators/ traditional knowledge holders understand and agree in writing to the carrying out of the activity for which the consent is sought, and the consent describes that activity and lists the records/innovations or traditional knowledge that will be released to third party; and (3) the innovators/ traditional knowledge holders understand that the consent is voluntary and may be revoked by them.

It is true however, that even after you sign the form, you are free to change your mind and decide not to participate in the value chain or technology transfer process. But such a change may not be binding on the agreements already entered into by then by NIF or anybody assigned with the responsibility. NIF is duty bound to keep you informed of the progress in the development, if any, of your idea or innovation. You can change your views at that stage also.

Implications for each of the conditions:

A. Sharing of address with a third party:

Quite often people interested in an idea or innovation or traditional knowledge are keen to find out more about the same, just for curiosity's sake, or for adding value or doing further research or for exploring commercial opportunities of using the same.

Advantages of providing your address:

- The third party may directly contact you and thus his/ her transaction cost of seeking information will be reduced
- You may be able to assess the terms of possible agreement directly without any influence or suggestion by NIF
- Dissemination of your ideas may take place directly though you without any chance of distortion or loss of information

Disadvantages of giving your address:

- While dealing with a third party, you may or may not be able to a) ascertain the genuineness of the information seeker, (b) negotiate a favorable deal, (c) or draw up a proper agreement safeguarding your interests

In case you do not provide your full address, we offer to mediate and help in the process of negotiation and try to protect you from unscrupulous parties. However, even if you wish to deal directly with the third party and at some stage seek our help in negotiation, you are always welcome to contact NIF.

B. Sharing of the Innovation/ Idea on the web site or through publication in *Honey Bee* or other media like film: with or without full disclosure

Nature of disclosure:

- We can show only the summary
- We can show the entry in detail

(i) Partial Disclosure or Disclosure in Summary Form only

Advantages:

- Potential entrepreneurs, investors, or other collaborators including researchers in private or public sector may show interest in joining hands in improving the technology or TK or disseminating it on commercial or non-commercial basis in society. The summary statement for a herbal technology may mean, for instance, “a herbal solution to treat diabetes developed based on local available raw materials”. Likewise, in the case of a machine it may be, “a motorcycle based ploughing machine”.
- Appreciation may follow from others with in and outside one’s community when others with similar problems read or hear about your innovation. This recognition may prove to be more valuable for some people than any monetary reward.
- The media (press, radio, television etc,) may approach you for wider sharing of your innovation/ traditional knowledge if they find the summary of your information interesting

Disadvantages:

- Potential investors, entrepreneurs, or scientists may not contact you for development/ commercialisation of product if they can make it with the help of disclosed information on their own

(ii) Full disclosure:

Advantages

- Any third party can contact you directly regarding your innovation/traditional knowledge with their queries
- Your innovation/traditional knowledge may gain recognition, publicity and respect among the readers/ viewers/ listeners

- Horizontal dissemination among peers or other members of local or wider community may encourage experimentation and possible utilization of the disclosed knowledge, thus increasing opportunities for self employment, poverty alleviation, environmental conservation and improvement in productivity.
- Copyright in the knowledge/ innovation/ practice is protected
- Disclosure may, by itself, generate demand for the products among consumers or potential partners in value chain. In some cases, the method of practicing the traditional knowledge or the process of using the innovation is complicated or all the materials are not available locally, such that users can not practice it or develop it on their own. In such a case they may like to buy it from the innovators and thus demand may get generated.
- Potential investors, entrepreneurs, scientists may contact you for further development/ commercialization of the product

Disadvantages:

- The information will be in the public domain, anybody will be able to use the disclosed information
- Once the information is disclosed, a patent cannot be granted on the disclosed information. Any specific part of the technology not disclosed can still be protected
- Potential investors, entrepreneurs, or scientists may not contact you for the development/ commercialisation of the product if they can make it with the help of disclosed information on their own
- Other people may benefit from it without giving you any credit for the same

C. Sharing of information

- (a) with restriction imposed
- (b) on commercial basis
- (c) on no-cost basis for personal application or household use only
- (d) with further research or value addition in it
- (e) any other

a) with restriction imposed

The knowledge provider may like to be consulted before taking up any value addition or licensing discussions with third party. Some innovators/traditional knowledge holders would like non-monetary benefits such as attachment (appellation) of their name to any product that is developed and diffused, or credit to them in the product package or on label. Likewise, they could put any other restriction, which NIF is expected to follow.

b) On commercial Basis:

The right to use the technology is granted to a third party only on the basis of benefit sharing. The terms may vary from one commercial deal to another. In some cases, the entrepreneur may agree to offer a small amount as up-front license fee but may share a given proportion of gross sales (generally 2-3 per cent) as royalty for a given period of time. However, the ability of a technology to generate commercial demand may depend upon its uniqueness, its commercial viability, whether the technology is in usable form or requires further research and development to convert innovation or idea into a product. Thus, even if somebody ticks this option, it may be appreciated that NIF may not be able to immediately generate commercial options for everybody submitting entries to the National Register. We will share synoptic information on the web and in our databases, and then potential entrepreneurs may show interest in a specific technology or product.

The disadvantage in marking this option is that only those users may get the advantage of your innovation or traditional knowledge who have capacity to pay for the right to license the technology. Further, in the absence of sharing full detail with others, those interested in developing this technology further may not be able to do so.

c) No-cost for individual use, but permission necessary for commercial use

The implication is that if some individual small farmer or artisan wants to use your innovation or traditional knowledge for personal application at his/ her own small farm or in small workshop only, he/ she can do so without any obligation to share benefits.

The disadvantage is that somebody may claim that it is for personal use but may later end up generating a commercial advantage. This will require a carefully drafted licensing agreement.

d) With further research and value addition

The innovation or traditional knowledge can be shared only after it is made more effective or efficient by pursuing further research by the innovator herself/ himself or by another research organization. The innovation/ traditional knowledge will not be shared with any third party without further research on it, if this condition is ticked.

The disadvantage is that if NIF or the innovator is unable for some time to take it up for value addition, because of lack of priority or lack of resources, the innovation will remain undisclosed with the rest of the society. Further, in the

absence of disclosure, some independent researchers may also not be able to come forward to join hands for value addition.

e) Any other

If you want to specify any other condition to NIF for enabling sharing of your information, you can do so under this choice.

D. Mediation by NIF for technology transfer

The assignment of technology or right to NIF to mediate implies that NIF can intervene on the behalf of the innovator/traditional knowledge holder/s, communicator/community for various purposes such as development of business plan, products, protection of intellectual property rights (IPR) in the cases where applicable.

- (i) Consent for Business Plan preparation implies that NIF might engage students, GIAN team, or others to explore the business prospects of an idea or innovation or traditional technology.
- (ii) The consent for the product development may require NIF to engage institutions like IITs, NID or other technological collages or private entrepreneurs, or research and development centers for value addition.
- (iii) The consent for IPR would enable NIF to pursue possible protection of the intellectual property rights through its own team or engaging private attorneys.

The cost of these activities may be recovered from the possible licensing fee or royalty income that might be generated from the commercialization of the technology or shared by the innovators/traditional knowledge holders wherever applicable and possible. NIF reserves the right to include only some of the award winning or priority technologies accepted in the national register for pursuing above. Criteria may include potential social impact, uniqueness, possible positive impact on environment or poverty alleviation or on jobs, or just the wider consumer applicability in reducing drudgery or women, or increasing efficiency or development of dryland regions etc.

(iv) Technology Transfer

(a) Assignment to NIF or authorization to mediate

By assigning rights to NIF or authorizing it to mediate, innovator/traditional knowledge holder enables NIF to negotiate on its behalf with the potential entrepreneurs and investors. In the case of any dispute regarding transfer of technology to third party, NIF will provide legal support in deserving cases to innovators/traditional knowledge holders to enforce the agreements with the concerned party.

Advantages:

- You will receive guidance about when, at what terms and to whom the technology should be transferred
- NIF will contact the concerned persons/ institutions for further development
- This will avoid the possibility of some third party taking advantage of the ignorance or lack of familiarity with the negotiation process on the part of the innovator/ knowledge provider
- The know-how or tacit knowledge may remain undisclosed and thus provide opportunity to negotiate separate agreements for the same

Disadvantages:

- The assumed benefits in the licensing agreement may not actually fructify
- Given social expectations, the licensing terms may try to balance the interests of small entrepreneurs and thereby prevent the innovator/ traditional knowledge holder from maximising his/her gains

In the absence of the disclosure of tacit knowledge, the technology users may have difficulty in exploiting the full potential of the technology

(b) Technology transfer on one's own

Advantages:

- Complete control over the process of negotiation
- No obligation to share benefits or economic gains with other innovators, or innovation fund or community (though the innovator may decide to do so voluntarily)
- The know-how or tacit knowledge may remain undisclosed and thus provide opportunity to negotiate separate agreements for the same

Benefit Sharing Arrangements

Benefits can be of four kinds, monetary – individual (MI), monetary collective (MC), Non monetary – individual (NMI) and non monetary collective (NMC). The first category includes monetary awards, license fees or royalty from commercial exploitation of technology or traditional knowledge, or any other monetary gain by entrepreneurial process. The incentives in this case go to individuals. However, as per the benefit-sharing clause given in the Consent Form, one can share part of the individual monetary gain with the community, innovation promotion fund

and institutions helping the value chain. The second kind of incentive is for communities or groups but in monetary form. It could include trust funds, micro-venture fund, common property infrastructure for use by individuals as well as communities (for instance, a workshop to fabricate tools, machines or process herbs, make medicines etc.,). In this category also, individuals can be supported by the collective fund. The third kind of benefits deals with non-monetary reward to individuals such as recognition, a citation in a public function, dissemination of one's creativity through media or in workshops or other public functions. Naming of streets or some other infrastructure or any other landmark after the innovator etc. The fourth kind of benefit is for collectives/communities and is non monetary in nature. For instance, the changes in policies and pedagogies for education at different levels so that respect for informal innovators/traditional knowledge holders increases in society.

Monetary benefits

The campaign for making India innovative will succeed in the long run only if the innovators and traditional knowledge holders and other stakeholders take the responsibility of running it in a self-reliant manner. The self-reliance of the entire value chain will require that some part of the benefits that innovators may get from possible commercialisation is shared with various actors and institutions. Those involved in the conservation of resources, process of adding value, sharing information, generating commercial opportunity, need to have incentives to join the value chain. The community of which an innovator is a member is an important stakeholder because it helps in conserving resources, provides the general knowledge pool by drawing on which many innovations or traditional knowledge evolve and are improvised. Thus the share of the community is generally essential to maintain knowledge systems in a vibrant form.

Likewise, the shares of the various stakeholders have been suggested in the proposed ratio of benefit sharing. But you are free to decide what proportions you feel proper. That may have a bearing on the motivation of the various stakeholders. For instance, suppose you say that 90 per cent of benefits should come to you, the innovator, and the remaining ten per cent may go to those who add value, or the community or innovation fund. In that case, it is possible that many scientists or private entrepreneurs may not agree to commercialise the innovation or traditional knowledge. The Innovation Fund will make it possible to help those innovators or traditional knowledge holders whose ideas or innovations may not attract private parties for value addition or dissemination. NIF has limited funds and the ability of NIF to help a larger number of innovators will depend upon the resources we can raise for the Innovation Promotion Fund.

E. Non Monetary benefits

NIF has shared several non-monetary benefits so far such as recognition in national award function(it includes monetary benefit also for some),

dissemination of innovations/traditional knowledge through exhibitions, Shodh Yatra (walk through the villages every summer and winter in different parts of the country), multi-media and multi-language data base, workshop of the innovators to promote lateral learning, workshops with experts for product development, or other feed back, and visit to each others' place. The diffusion of non-commercializable innovations / traditional knowledge and consequent recognition is one of the major non-monetary benefits. There are cases when these benefits count for much more in motivating one to innovate or share one's knowledge with others.

Please send comments to info@nifindia.org

Bungalow No.1, Satellite Complex, Jodhpur Tekra
Premchandnagar Road, Ahmedabad - 380015
Gujarat, India

Phone: +91-79-673 2095/2456 Fax:+91-79-673 –1903
www.nifindia.org