

Explanatory note for Prior Informed Consent for Ideas and Innovations

National Innovation Foundation - India

NIF is extremely happy that you have shared your idea/innovation based on your independent effort. 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 idea/innovation. 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 with industrial applications. We could have then shared the innovation 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 by you. The purpose is to make you aware of your rights as a knowledge provider and as a contestant in the National Competition for 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.*

Definition:

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, which may cause any adverse consequence to the environment or cause any moral hazard, will be excluded from the purview of NIF.

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) 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 *Megazine* or other media like film: with full or partial disclosure

C. Nature of disclosure:

- (a) 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 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 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 adequate information about the uniqueness of the product is not available.

- (b) **Full disclosure:**

Advantages

- Any third party can contact you directly regarding your innovation with their queries
- Your innovation 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.

- Disclosure may, by itself, generate demand for the products among consumers or potential partners in value chain. In some cases, 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

Conditions for Disclosure:

(i) 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 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.

(ii) Free of cost:

The implication is that if some individual small farmer or artisan wants to use your innovation 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. Value Addition to the Innovation/Idea:

The innovation 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 will not be shared with any third party without further research on it, if this condition is ticked. Value Addition would refer to analysis by experts, prototype development, testing, etc.

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, adding/ improving features or performance of the innovation etc.

E. Mediation by NIF for commercialization:

The assignment of technology or right to NIF to mediate implies that NIF can intervene on the behalf of the innovator, communicator for various purposes such as development of business plan, products and market research in 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 after undertaking market research.

(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.

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 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 of women, or increasing efficiency or development of dry land regions etc.

(iii) Technology Transfer:

(a) Assignment to NIF or authorization to mediate:

By assigning rights to NIF or authorizing it to mediate, innovator enables NIF to negotiate on his/her 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 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
- 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 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

F. Protection of IPR by NIF

NIF will protect your Intellectual Property Rights if your innovation is truly unique. The cost of this activity 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 wherever applicable and possible. The consent for IPR would enable NIF to pursue possible protection of Intellectual Property Rights by engaging its own team, or private attorneys.