

MOUs FOR NAIP

DRAFT MODEL-1

Rules & Regulations

Preliminary:

- 1) These Rules and Regulations shall be known as the '*National Agricultural Innovation Project Rules and Regulations*' and for the sake of brevity and convenience, hereinafter referred to as "Consortia Rules and Regulations".
- 2) These Rules & Regulations shall come into force with effect from such date as the Indian Council of Agricultural Research {hereinafter referred to as the ICAR} may decide.
- 3) These Rules & Regulations shall at all times be read subject to the provisions of the other legislations, rules, regulations *etc.* concerned with ICAR.
- 4) The ICAR shall have powers to frame and amend Rules & Regulations from time to time for efficient functioning and operations of the National Agricultural Innovation Project (NAIP) and to regulate the functioning and activities of the members of the consortium.

Definition:

- 5) Unless in the context it is explicitly stated otherwise, all words and expressions used herein but not defined herein, shall have the same meanings as specified in the following:
 - a) *ICAR* means the Indian Council of Agricultural Research
 - b) *Rules & Regulations* means these rules and regulations drafted for the proper implementation of the National Agricultural Innovation Project
 - c) *Member* means any person as defined in clauses a and b of rule 9.
 - d) *Lead Partner* means any member in his individual or representative capacity to be appointed by the NAIP/ICAR as defined in clause a & b of rule 9 (c) & (d)
 - e) *NAIP* means the National Agricultural Innovation Project. d) The CAC shall meet at least twice a year.

- f) *PIU* means the Project Implementation Unit of the NAIP.
- g) *Government* means the Government of India and the Governments of any State as per the context.
- h) *CIC* means Consortium Implementation Committee which will consist of the lead partner as the Chair and a representative of each member of the consortium and the CIC shall be responsible for all executive decisions of consortium within the duly approved framework of the sub-project to be executed by the Consortium.
- i) *CAC* means the Consortium Advisory Committee consisting of the stakeholders for oversight of preparation, monitoring and implementation of approved NAIP Sub-projects.
- j) *Consortium* means a consortium formed as per a Memorandum of Understanding among the members.
- k) *Memorandum of Understanding* means the memorandum signed between the members for the proper implementation of the NAIP.

Objectives:

- 6)
 - a) To facilitate accelerated and sustainable transformation of Indian agriculture for increased productivity, global competitiveness, poverty alleviation and nutritional and income security through agricultural innovations by the public research organizations in partnership with farmers, the private sector and other stakeholders.
 - b) The objectives of the project undertaken by the Consortium if duly approved shall be the part of the project objective.

Area of Operation:

- (7) The consortium shall undertake activities in any part of India as decided by the competent authority in ICAR / NAIP.

Applicable Law:

- (8) The law of Union of India will be the Applicable Law.

Members:

- (9) *a)* Any public institution, public organization, private sector organization or institution, farmer group, NGO, scientist, researcher, individual and other stake holder may be a member of the Consortium on admission by the lead partner after the approval of the competent bodies /authorities in NAIP/ICAR.
- b)* The member institutions/organizations shall be represented in the Consortium by an individual duly designated on that behalf. The consortium shall be acknowledged in advance about any change in the representative capacity through a notice in writing and accepted by the CIC.
- c)* Any member in his individual or representative capacity shall be appointed by the ICAR / NAIP, as the Lead Partner who is to act in accordance with the directions of the ICAR/NAIP, which may be given from time to time. The Lead Partner shall be responsible to co-ordinate the activities of the Consortium (The lead partner is the institution, which is the Consortium Leader. The ICAR/NAIP will be deemed to have appointed the leader once the project submitted by the Consortium with its leader defined by it approved by the ICAR/NAIP. No individual is involved here).
- d)* The Lead Partner shall make recommendations for providing the members with necessary finance and also to ensure its proper utilization.

Unauthorized Activities:

- (10) The ICAR / NAIP shall not be liable financially or otherwise for any unauthorized activity outside the activities/tasks defined in the Project, by the members or any persons under the consortium.

Meeting:

- (11) *a)* Each CIC shall meet at least once in every three months.
- b)* The Lead partner shall chair the meeting of the CIC.
- c)* The minutes of the meeting duly signed by the Chairperson shall be prepared and made available to all members and the PIU, NAIP within a week of the Meeting

Out Sourcing:

- (12) *a)* A member may outsource a part of the work allotted to them.
- b)* The nature and extent of work to be outsourced will be in accordance with the details in the sub-projects as approved by the ICAR / NAIP.
- c)* In case any specific task gets identified to be pursued for which core competency does not exist in the Consortium, it may be outsourced with the recommendation of CAC and approval of ICAR / NAIP.

Withdrawal of Membership:

- (13) *a)* A member may be allowed to withdraw from a Consortium at any time after giving a prior written notice of six months.
- b)* The withdrawal shall be effective after the approval of the NAIP/ICAR based on the recommendations of the CAC.
- c)* All rights relating to movable, immovable or intellectual property accrued by the out going member in the capacity as a member of a Consortium shall be transferred to the ICAR.
- d)* All rights relating to movable, immovable or intellectual property accrued by any member in the capacity as a member of a Consortium shall be transferred to the ICAR at the time of closure of the project.
- e)* The difference between the funds received by the outgoing member and the money spent by the outgoing member shall be adjusted reconciled and returned to the NAIP/ICAR as the case may be.

Substitution:

- (14) No member shall have the right to substitute himself with any other person, under any circumstances.

Termination of Membership:

- (15) The NAIP/ICAR shall have the right to terminate the membership under the following circumstances:
 - a)* Persistent non-adherence to agreed programme and activities.
 - b)* Gross violation of Financial and Procurement Rules.
 - c)* Inability to work as a member of the consortium.
 - d)* Gross misconduct of the members to authorities.
 - e)* Violation of any of the provisions of these Rules and Regulations or any other law. The expulsion, on the recommendation of CAC, shall be effective, upon the approval of the ICAR / NAIP.

Entry of A New Member:

- (16) A new member either to replace an existing one or to contribute to a newly identified task may be permitted to join the Consortium if a proposal to this effect in writing is received from the CIC recommended by the CAC and approved by NAIP/ICAR.

IPR Policy:

- (17) *a)* The rights on any intellectual property shall be vested in the ICAR, who shall be the absolute and full owner.
- b)* The member who has developed these intellectual properties shall be paid a royalty/ benefits/returns, as deemed fit by NAIP/ ICAR
- c)* The Sharing of income from Intellectual Property Rights (IPR) from the Consortium would be in accordance with the proportion/percentage given below:
 - i) Share of NAIP/ICAR : 60%
 - ii) Share of Consortium : 40 %

- d) Share of major /inventing partner 50%
- e) The other 50% share shall be shared equally among other partners.
- f) The technologies licensed against a fee (premium) which may be in a lump sum or with royalty for a fixed/defined period of time.
- g) The technologies to be licensed on exclusive basis or non-exclusive basis will be decided by the NAIP/ICAR depending upon the welfare gains considerations or public consideration or public welfare embedded in the technology

- h) Whereas a minimum price for the technology is to be evaluated, it may not be rigidly adhered to; and the offers made by different parties shall be given due consideration in consultation with the CAC. The spirit behind this should be to commercialize the technology in the best interest of the investment.
- i) If one of the partners of the Consortium is interested to commercialize the technology, he/she may be given preference over other parties at mutually agreed terms and conditions between interested partner and the NAIP / ICAR.
- j) The ICAR/NAIP and the Consortium hold the right to use the Technology/Product/ Biological Material such as plants, gene constructs and germ-plasm, Organism and non- biological material such as metals, fabrics and composite materials for non-commercial purposes.
- k) The services of the inventor rendered subsequent to the transfer of technology may entail certain charge/fee etc., distribution of which will be as per the clause stated in para 20(c) above.
- l) It will not be incumbent upon the ICAR to protect every Intellectual Property (IP) generated from the Consortium. On refusal by the ICAR to own the IP, the inventor(s) shall be free to protect it at their own cost.

Funding:

- (18) a) The ICAR would finance investment and operational costs of the Consortium.
- b) The ICAR may finance personnel costs of the Consortium like Research Associates, Research Fellows, Experts, Typist, Computer Operator and other skilled / unskilled workers who are employed/hired on Contractual basis.
- c) The ICAR may release the funds directly to the members in stages on the recommendation by the lead partner and based on the progress against the project objectives, as recommended by a competent authority at the PIU-NAIP.
- d) The Guidelines and Procedures of Procurement of the World Bank as agreed with the ICAR / NAIP shall form part of these rules and regulations.
- e) The implementing partners will operate a separate bank account for monetary transactions under NAIP. The Bank Reconciliation Statement will be sent to PIU –NAIP by the 15th of every following month.
- f) The Guidelines and instructions issued from time to time on Financial Management from the PIU, NAIP shall also form part of these rules and regulations.

Recruitment of Staff and their Service Condition:

- (19) a) The staff for the Project work will be hired on contract following the Guidelines of the Institutions and will be regulated by the terms and conditions laid down in the contract for hiring. His/Her engagement in the Project will be maximum co-terminus with the Project. They would have no claim for regular employment in the ICAR or in the institutions where engaged after the termination of the Project.

Dispute Settlement:

- (20) a) Any disputes arising between
 - i) Members or,
 - ii) Members and lead partner or,
 - iii) Members (including lead partner) and ICAR/NAIP in connection with the project shall be referred to the CIC in case of (i) , to CAC in case of the consortium in case of (ii) & to a joint meeting of ICAR / NAIP and the consortium in case of (iii) where as far as possible the dispute shall be compromised.

- b) The dispute in the event of its continuation shall be referred to a sole arbitrator appointed by consensus by the parties to the dispute. In the event of difference of opinion in appointing a sole arbitrator, the parties to the dispute shall appoint one each arbitrator who shall appoint a third arbitrator. In any case the arbitrators shall be appointed from a panel of arbitrators identified by the CIC and NAIP/ICAR. The decision of the arbitrator(s) shall be final and binding on both the parties.

- c) The location where arbitration shall take place shall be such a place as may be identified by the NAIP/ICAR from time to time and intimated to the arbitrator and the parties to the dispute accordingly.

- d) Arbitration proceedings shall be conducted in accordance with procedure of the Arbitration Conciliation Act. 1996, of India unless one of the members is a foreign institution where arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.

- e) If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

- f) The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (b) through (c) of Clause 20 hereof shall be a reputed legal or technical expert with extensive experience in relation to the matter in dispute.

- g) The English Language shall be the official language for all purposes.

DRAFT MODEL - 2

MEMORANDUM OF UNDERSTANDING AMONG THE MEMBERS

This Memorandum of Understanding (“MOU”) is made among the Members whose name, name of the authorized representative; signature and office seal are given below. Throughout this MOU, the reference to any word shall mean as defined in the Rule and Regulations of the National Agricultural Innovation Project (NAIP).

- 1) The Parties intend by this MOU to establish a consortium for the implementation of NAIP.
- 2) This MOU will address the basic relationship, roles and responsibilities of the Parties.

Purpose:

- 3) The Parties enter into this MOU for the purpose of forming a Consortium with a collective and individual responsibility for attaining the objective as set out in the sub-project “.....” under the National Agricultural Innovation Project NAIP

Roles and Responsibilities of the Parties:

- 4) The Parties agree to undertake the following activities pursuant to this MOU:
- a) The Parties agree to work together to achieve the objectives of the sub-project under the NAIP.
 - b) The Parties by working together in the Consortium shall contribute to the creation of the Public Good.

Roles and Responsibilities of the Lead Partner:

- (5) The Lead Partner shall be responsible for coordinating and leading the activities of the Consortium. The Lead Partner shall also be responsible for ensuring the proper utilization of funds by members.

Agreements:

- 6) In order to foster the successful completion of the whole or part of the NAIP, the Parties agree to the following terms and conditions:
- a) Each Party pledges in good faith to go forward with this MOU and to further the goals and purposes of this MOU, subject to the terms and conditions of this MOU. The Parties shall attempt to resolve disputes through good faith discussions.
 - b) The parties agree that they will select one from among themselves as the lead partner who shall be responsible for co-coordinating and leading the activities of the Consortium. The Lead Partner shall also be responsible for ensuring the proper utilisation of fund by the members.
 - c) The parties understand that in the event of mis-utilization or non-utilization of funds they shall be liable as per all the civil and criminal laws of India. (Non-utilization of funds, here means (i) Non-utilization of funds allocated during the financial year and for a particular purpose/activity deliberately and without sufficient and adequate reasons and (ii) utilization for propose (s) other than that of which fund was allotted. Hence the reasons for non-utilization as cited by BCKV may not be treated as deliberate and without sufficient reasons if enough justification is obvious and available.)
 - d) Any Party may withdraw at any time from this MOU by following the procedures as set out in the Rule and Regulations of the NAIP. The MOU and the Consortium created thereby shall be continuing even if one or more than one partner withdraws.
 - e) The parties agree that any disputes that may arise among the members or with NAIP/ICAR shall be resolved as given in the Rule and Regulations of the NAIP.
 - f) The Parties understand that their participation in this MOU does not constitute an endorsement, express or implied of any policy advocated by them.
 - g) The Parties agree that ICAR shall maintain full right, title and interest in any intellectual property right under NAIP.

- h) The Parties agree that the work under the NAIP shall be carried out in as efficient a manner as possible. To that end, the Parties intend to designate individuals as authorized representatives between the Parties. The Parties intend that, to the maximum extent possible and unless otherwise approved by the other Party, all significant communications between the Parties shall be made through the authorized representatives.
- i) The parties agree that the Rule and Regulations of the NAIP and the Contract entered between the members and the ICAR shall form part of this memorandum of Understanding.
- j) The parties shall be individually and collectively responsible for the effective management of fund and implementation of the programme in accordance with the program guidelines and with ethical and legal standards.
- k) The parties shall be individually responsible for managing and supervising the programme and its activities, utilization of fund, personnel deployed and the schedule of implementation.

Unless extended by a written agreement executed by the Parties with the written consent of the NAIP/ICAR, this MOU shall terminate after the completion

DRAFT MODEL -3
CONTRACT BETWEEN THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH/
NATIONAL AGRICULTURAL INNOVATION-PROJECT (NAIP) AND

.....
 This Contract made on this.....day of.....200.... between:
 The Indian Council for Agricultural Research (hereinafter referred to as ICAR) of the FIRST PART;
 AND
 a having its Registered office
 at
, which expression shall include its successors hereof of the SECOND PART;

WITNESSETH:

WHEREAS

On the basis of the Rules and Regulations framed for the proper implementation of the National Agricultural Innovation Project (NAIP), the Memorandum of Understanding entered by among members AND other laws prevailing in INDIA; on the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the premises and covenants and conditions herein contained, IT IS HEREBY AGREED between the Parties as follows:

- 1) THAT the parties agree to work in coordinated manner and cooperate with each other and with others for the implementation of the National Agricultural Innovation Project (NAIP) and to achieve the objectives of the National Agricultural Innovation Project (NAIP).

- 2) THAT the NAIP/ICAR of the first part shall finance the investment and operational costs and some of the identified personnel costs of the member of second part to the extent provided for in the agreed programme/Consortium/research sub-project.
- 3) THAT the member of the second part shall implement the project as per the guidelines and covenants prescribed by the NAIP/ICAR from time to time.
- 4) THAT the member of the second part shall appoint staff within one month from the date of final approval of the project.
- 5) THAT the member of the second part shall provide land, laboratory, equipments, physical facilities and other facilities required for the project.
- 6) THAT the member of the second part shall provide services of competent scientific, technical, administrative and ancillary staff as well as skilled and semi skilled labour required for the project. (The cost of contractual scientific staff and, skilled and unskilled labours, has to be proposed by the project proponents in their budget and the ICAR/NAIP will approve it following a due prescribed process. However the scientific, administrative and other such regular staff required by the Consortium for operation of the project will be the responsibility of each consortium partner.)
- 7) THAT the member of the second part shall not transfer / shift the staff deployed for the project without the concurrence of the NAIP/ICAR.
- 8) THAT the member of the second part shall use the staff in such a way that the project work of NAIP is not affected at all.
- 9) THAT the member of the second part shall use the funds provided under the project exclusively for the project work.
- 10) THAT the member of the second part shall maintain and render records and accounts adequate to reflect the operations, resources and expenditure in respect of the project in accordance with sound accounting practices to the ICAR.
- 11) THAT the member of the second part shall keep the project funds in a separate bank account with separate cash book to be operated as per the existing instructions of the NAIP/ICAR/Govt. of India.
- 12) THAT the member of the second part shall send audited statements of expenditure as per the prescribed schedule.
- 13) That the NAIP/ICAR shall not be responsible for absorption of any staff deployed for the Project work after completion/termination of the Project/Scheme.
- 14) That the implementing agency shall permit the above staff, depending upon the requirement, to attend trainings, impart trainings, attend the review meetings and workshops and present their reports/data etc. for discussion and review.
- 15) That the member of the second part will allow monitoring of the progress of the programme and activities by NAIP/ICAR/the World Bank, and provide all assistance including all information required and access to the Project sites.
- 16) That the member of the second party will comply with the Financial Reporting and its management in accordance with the Guidelines/instructions of the Financial Management System as agreed between by the NAIP / ICAR / Govt. of India and the World Bank.
- 17) That the member of the Second party will follow the Guidelines and Procedure of Procurement of the National Agricultural Innovation Project (NAIP) as agreed between the NAIP/ICAR/Govt. of India and the World Bank.

18) THAT the parties agree that in case of any dispute it shall be solved as per the Rule and Regulations of the National Agricultural Innovation Project (NAIP).

19) THAT the Rights to any Intellectual Property developed at any time, as a part of the activities of the National Agricultural Innovation Project (NAIP) shall be vested in the ICAR. The ICAR shall be the absolute owner of these rights.

20) The National Agricultural Innovation Project (NAIP)/Indian Council of Agricultural Research (ICAR) can enter into a Material Transfer Agreement for purpose of evaluation/multiplication and uses in research to further technological developments.

21) Material developed/ procured/ arranged in the Consortium shall be transferred only through an approved Material Transfer Agreement (MTA) by the National Agricultural Innovation Project (NAIP)/Indian Council of Agricultural Research (ICAR) to an interested party with the stipulation that the material will neither be used for commercial purpose nor will it be used for profit making whatsoever.

22) It will be incumbent upon the Consortium to forward a copy of the signed Material Transfer Agreement (MTA) on account of obtaining material from the third party to the National Agricultural Innovation Project (NAIP) /Indian Council of Agricultural Research (ICAR).

23) THAT the member of second part agrees to enter into a Memorandum of Understanding with other members, ICAR *etc.* to form a Consortium and members to the Consortium as a whole and individually shall work according to the directions of the NAIP/ICAR. They SHALL NOT under any circumstances decide its activities, programmes, *etc.* without the consent in written from the authorized officer/s of the NAIP/ICAR.

24) That the approved Project Proposal of the Consortium/Research sub-project shall form part of the contract. The Cost Table of the approved proposal shall form the appendix to this contract.

25) THE Rules and Regulations and the Memorandum of Understanding entered by the members to form Consortium shall form part of this contract.

In witness whereof, the Parties through its authorized officers has set its hand and stamp on this day of 200..... at

AUTHORISED OFFICER (Institution/Organization
(NAIP/ICAR)
of Consortium Leader/Partner)
(Signature with seal)

AUTHORISED OFFICER

(Signature with seal)

Witness:

Witness:

1)

1)

2)

2)

APPENDICES

APPENDIX A – Objective(s) and Deliverables in the Project

APPENDIX B –Cost Table