

Traditional Knowledge Digital Library (TKDL)

Access Agreement

This Agreement is made on this _____ day of _____ 2005 between Council of Scientific & Industrial Research, a Society registered under the Societies Registration Act XXI of 1860 having its registered office at Anusandhan Bhawan, 2 Rafi Marg, New Delhi – 110 001 [hereinafter called the “CSIR (Provider)”].

And

_____ is a Office concerned with Patent Search & Examination having its registered office at _____ hereinafter called the “User”.

Whereas Traditional Knowledge Digital Library (TKDL) has been developed jointly by Controller General of Patents, Design and Trade Marks; Council of Scientific & Industrial Research through its one of the constituent units called National Institute of Science Communication And Information Resources hereinafter called NISCAIR; and Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (called AYUSH) and is a proprietary and original database.

Whereas TKDL is in five international languages (English, French, German, Spanish and Japanese) database, which converts Indian Traditional Knowledge (Ayurveda, Unani, Siddha, Yoga, etc.) from existing *prior art*, **traditional knowledge formulations or know-how** available in Hindi, Sanskrit, Arabic, Persian, Urdu, etc. to five international languages.

Whereas TKDL at NISCAIR contains images of Ayurveda formulations with an objective to protect Indian Traditional Knowledge already available.

Whereas TKDL is a bridge between ancient Sanskrit *Slokas* (verses) (existing *Prior Art*) and a Patent Examiner at a global level, portal provides information on modern as well as local names in a language and format understandable to Patent Examiners.

Whereas **NISCAIR** is one of the constituent units of CSIR having its office at Dr. K.S. Krishnan Marg, New Delhi – 110 012 has been involved in the development of TKDL and **is the implementing agency of the project**.

Whereas the Govt. of India has duly authorized CSIR to execute this Agreement.

And Whereas the user has expressed its interest to enter into an agreement for the purpose of having an access to TKDL.

Now Therefore, this Agreement witnesses as follows:-

1. That CSIR hereby grants to the User full access to TKDL website *for a period of 3 years.*
2. It is hereby agreed and declared between the parties that aforesaid access is on non exclusive basis and grants is subject to the following conditions:-

Responsibilities of CSIR (Provider)

- (i) CSIR/NISCAIR shall provide uninterrupted access to its website to use TKDL for patent search, examination and analysis of the information available in TKDL.
- (ii) CSIR/NISCAIR shall provide training to User to use TKDL tools for search and examination as and when needed.
- (iii) CSIR/NISCAIR shall render assistance through TKDL in search and examinations as and when needed by the User.
- (iv) CSIR/NISCAIR shall carry out its own search and examination
- (v) CSIR/NISCAIR shall remain free to grant access of TKDL to other patent offices *on non-exclusive basis* for search and examination purposes.

Responsibilities *and Obligations* of User

- (i) The User shall not disclose any information of TKDL contents to third party unless it is necessary for patent search and examination. *The user undertakes the obligations to preserve the secrecy or / and confidentiality of the information(s). The user, whenever required may give printouts from TKDL contents to the applicant of patents only for the purpose of citations.*
- (ii) The User shall use TKDL information *only* for patent search and examination *and for no other purpose.*
- (iii) The User shall provide related information to the Provider as and when TKDL is utilized for prior art searches.
- (iv) The User shall give feedback on enhancing the features and functionality of TKDL to *the* Provider in case considered necessary.
- (v) *Survival of obligations for maintaining the secrecy and confidentiality of TKDL shall remain even after the termination of this agreement.*

Annual Periodic Review

Provider and User shall review the status on access on TKDL once annually at mutually convenient date and location for identifying the impediments and issues that may need corrective action.

User Access Details: Options for

A	B
User Id based access	IP Address based access
<i>No of user(s)</i> _____	<i>No of IP addresse(s)</i> _____
User (Id) (eg Jonh, William)	IP Address Details (eg 202.203.2.6)
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

(Note: **A** to be filled up for User Id based access or else fill up **B** for organization based access in its Intranet)

3. Severability

If any covenant or provision of the Agreement is determined to be void or unenforceable in whole or part, then such void or unenforceable provision shall be deleted from this Agreement and shall not affect or impair the enforceability or validity of any other provision of this Agreement or any part thereof.

4. Modification

Any provision of this Agreement can be modified only by the express consent of both parties and in writing signed and acknowledged by both parties thereof.

5. Supercession

This Agreement represents the entire understanding between the parties and supersedes all other agreements expressed or implied between the parties herein regarding disclosure.

6. Waiver

No delay, indulgence or failure to act by either party regarding any particular default or omission of the other Party shall affect or impair any rights or remedies regarding that or any subsequent default or omission **unless** it is waived in writing.

7. Governing Law

All disputes arising out of or in connection with this Agreement shall be resolved through negotiations between the Parties, and if required the Parties may involve the participation of the Director General of CSIR.

7.1 In case no settlement is reached between the Parties within 90 days from the date of making a written complaint by the either party to the other, then either party may refer such dispute to an arbitral tribunal which may consist of a Sole Arbitrator, if agreed by the Parties. Failing which, to an arbitral tribunal comprising three arbitrators; one arbitrator to be appointed by each party to the dispute and two arbitrators in turn shall appoint a third arbitrator who shall act as the Presiding Arbitrator.

7.2 The decision of arbitral tribunal shall be final and binding on the Parties. The venue of the arbitration will be in India at such a place as agreed by Parties to the dispute and the arbitration proceedings shall take place in accordance with the Indian Arbitration and Conciliation Act, 1996. Each party shall bear its own cost of arbitration proceedings. The provision of this clause shall not become inoperative notwithstanding this agreement expires or ceases to exist or is terminated or revoked.

7.3 The language of the Arbitral Tribunal shall be in English.

8. Force Majeure

Neither party shall be liable for damages or have the right to cancel or terminate this Agreement for cause of any delay or default in performing any of the respective obligations if any such delay or default is caused by unforeseen conditions or conditions beyond the reasonable control of the delaying or defaulting party including but not limited to acts of God, government restrictions, continuing domestic or international problems such as wars or insurrections, strikes, fires, floods, work stoppages and embargoes **if the delay or default on account of force majeure events occur or is likely to continue for a period of more than 3 months, the Parties shall meet to discuss the consequences of force majeure and course of action to be taken to mitigate the effects thereof or to be adopted in the circumstances.**

9. Disclaimer

The provider/user reserves all rights in its confidential information and no rights or obligations other than those expressly written therein are granted or to be implied from this agreement.

10. Termination

This Agreement can be terminated by either of the signatories by giving three months notice to the other signatory.

11. Nothing in this Agreement shall affect the rights and obligations relating to any prior art, traditional knowledge formulations or know how which are not listed in the Traditional Knowledge Digital Library.

12. CSIR & USER Contact

USER	CSIR/NISCAIR (Provider)
	Mr. V K Gupta, Director, National Institute of Science Communication And Information Resources, Dr. K S Krishnan Marg New Delhi – 110 012, India Email: vkg@niscair.res.in Phone: 91-11-25846024, 25848385

13. Execution Authority

The persons whose signatures appear below certify that they are authorized to enter this agreement on behalf of the party for whom they sign.

USER	CSIR/NISCAIR (Provider)
Signature _____ Name _____ Designation _____ Address _____ _____ _____	Signature _____ Name _____ Designation _____ Address _____ _____ _____
e-mail :	e-mail :
Phone:	Phone:
Fax:	Fax:
<i>In presence of (witness)</i>	<i>In presence of (witness)</i>
1. _____	1. _____
2. _____	2. _____