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# REGISTRATION AND MONITORING OF TECHNOLOGY TRANSFER AGREEMENTS IN NIGERIA

The National Office for Technology Acquisition and Promotion (NOTAP) is a parastatal under the supervision of the Federal Ministry of Science and Technology. It was established by the NOTAP Act, Cap. N62 LFN 2004 to regulate the inflow of foreign technology into Nigerian economy and develop appropriate means of adapting the acquired technology.

The mandate is implemented through the evaluation, registration and monitoring of all technology transfer agreements signed by Nigerian entrepreneurs, institutions and their foreign technical partners. NOTAP evaluates the agreements in terms of its legal, economic and technical merits to the economy.

The National Office for Technology Acquisition and Promotion (NOTAP) in February 2020 released a new guideline for the registration and monitoring of technology transfer agreements in Nigeria. The guideline serves as a guide to applicants for registration of Technology Transfer Agreements and also to create awareness on the functions of the National Office in relation to monitoring of Technology Transfer Agreements.

The major operational activities of NOTAP includes the following:

- Registration of Technology Transfer Agreements
- Monitoring of Technology Transfer Agreements
- Technology Acquisition Activities
- Innovation Promotion
- Research-Industry Linkage
- NOTAP-Industry Partnership



## ***Requirements for Registration of Technology Transfer Agreements***

In order to register for technology transfer agreements in Nigeria, eligible companies need to follow some requirements. These sets of requirements are divided into the general requirements - applicable for all companies and also specific requirements- depending on the sector in which your business operates. For the purpose of this write-up, we shall be focusing on the general requirements.

The general requirements for technology transfer agreements in Nigeria are governed by the following set of rules:

- A. Technology Transfer Agreements should provide that the recipient enterprises in Nigeria acquires explicit rights for the use and exploitation of the technology in question and the terms of the contract should be clearly specified in the contract.
- B. In cases where the Nigerian enterprise is acquiring the right to use a process, the details of the right granted should be clearly specified and defined in the technology transfer agreement. In this connection, concepts such as “technical

information” or “technical services” should only be treated as complementary to the know-how.

C. Provision for capacity building must be part of all Agreements signed, and details on the Nigerians understudying the experts should be readily available/submitted, to ensure that skill is domesticated.

D. All contracts should make provision for deduction of appropriate local taxes, such as withholding tax, etc.

E. All agreements should incorporate research activities carried out in-house and also in collaboration with the Nigerian National Innovation System such as Universities, Research Institutes, private laboratories, Polytechnics, etc.

F. Companies which sell imported products should separate the net sales of the imported products from the net sales of the locally manufactured products and this should be reflected in their Audited Accounts. Payment of technology fees should be based only on the locally manufactured products.

G. All Nigeria Government Projects must be governed by Nigerian Laws of Arbitration and the seat of arbitration should be in Nigeria.

H. There would be no approval for agreement based on assembling of Completely Knocked Down (CKD) parts brought into the country except where such agreements require payment for only short term technical services relating to such project.

I. The scope of services in technology transfer agreements should clearly state the services to be rendered by the transferor/licensor.

J. The technology content of the agreement should state the methods for the domestication of technology, local raw material development, skills acquisition, etc.

K. A detailed plan for the domestication of the technology to be acquired in terms of substitution of the imported raw materials used in the manufacture of products under the agreement, acquisition of skills, etc, should be provided.

L. Any company sourcing over 75% of its raw materials from abroad will not enjoy enhanced technology transfer fees, particularly, if it has been in operation in Nigeria for more than 5 years without making efforts to source its raw materials locally. Companies in this category should render Technical Support Service and encourage indigenous entrepreneurs in that sector to produce raw materials or intermediary products that will meet the required standard.

M. Evidence of registration or pending registration of intellectual property in Nigeria, for example, trademark, patent, know-how at the Patent Registry should be provided where applicable.

N. Technology Transfer Agreements relating to food items such as bread, noodles, sausage, etc will no longer be approved because there is no technology content. Payment will only be approved where the agreement is for short technical services for installation, commissioning of plants, training, etc to enable the recipient company commence operation. However, 1-2% of net sales may be approved for a

start-up company involved in this type of business to enhance its smooth take off.

O. All fees for Technology Transfer Agreements relating to packaging using state of the art technology should be tied to profit before tax. However, where the transferee company's equity is wholly foreign owned, evidence of capital importation should be provided to enable transferors repatriate their earnings through Personal Home Remittance (PHR).

P. Details of expatriates including entry visas and other immigration documents should be submitted along with evidence of non-availability of skills in Nigeria.



- Q. Submission of Board Resolution authorising the Management of a transferee company to enter into a Technology Transfer Agreement with foreign technical partner on its behalf.
- R. Original copies of Annual Accounts should be submitted to the Office (not photocopies).
- S. In the telecom sector, no Trademark License Agreement is allowed as the reputation of the service provider has been considered by the Nigerian Communications Commission (NCC) before License is granted for provision of such services. However, for purposes of ownership and also to prevent infringement, Trademarks can be registered at the Patent and Trademark Registry, Federal Ministry of Commerce & Industry.

Sectors that Specific requirements apply to include the following:

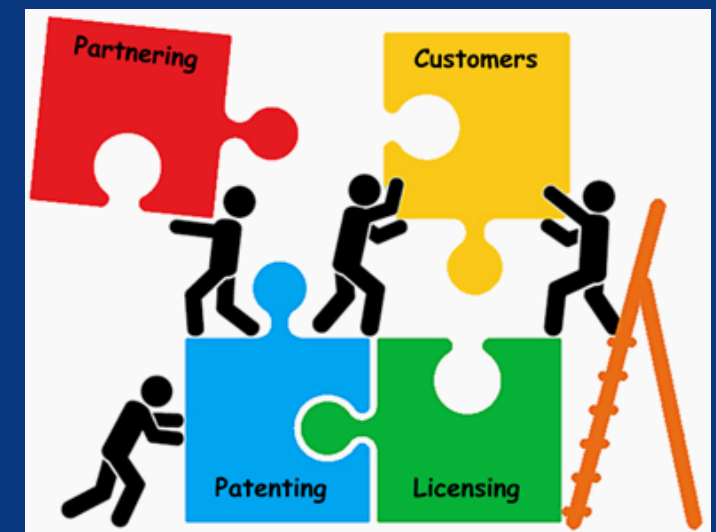
- Trademark Licence
- Technical Know-How
- Management Services
- Technical Services
- Consultancy
- Software License
- Franchise
- Research and Development (R&D)
- Trademark Licence and Technical Know-How Agreement
- Technical Know-How & Management Services
- Hotel Management Agreement
- Consultancy and Technical Know-How
- Value Added Services
- Shared Services

*Please refer to the guidelines (here) for more information about the specific requirements for these sectors.* [https://www.notap.gov.ng/sites/default/files/notap\\_tech\\_trans\\_agreement\\_revised\\_guidelines.pdf](https://www.notap.gov.ng/sites/default/files/notap_tech_trans_agreement_revised_guidelines.pdf)

# Applying for Registration of Technology Transfer Agreement

To apply for the registration of technology transfer agreement, the below must be followed:

1. **Apply with Company's letterhead:** Write a letter of application with your Company's letterhead addressed to the Director General of NOTAP within 30 days from the effective date of the Technology Transfer Agreement and make a payment of NGN50,000 through the NOTAP Portal.
2. **Complete the NOTAP forms:** Download the application forms on the website (here) and submit. <https://notap.gov.ng/content/technology-transfer-registration>
3. **Prepare your documents:** The relevant documents required are as follows:
  - a. A copy of the Application Form duly completed
  - b. Certificate of incorporation (for new companies).
  - c. Memorandum and Articles of Association of the company.
  - d. A copy of the Agreement to be registered.
  - e. A copy of the Questionnaire duly completed.
  - f. A copy of the feasibility study (for new companies).
  - g. Annual audited accounts for 3 years.
  - h. Evidence of Tax payment (Company Tax) for the last 3 years
  - i. Taxpayer Identification Number (TIN) (for new companies only)
  - j. Profile on Transferor/Technical Partner (Website, Brochure, etc)
  - k. Comprehensive training programme (number of personnel, skill or knowledge to be acquired).



4. **Pay applicable fees:** Please check the NOTAP website for the current fee.  
Check here <http://notap.gov.ng/>
5. **Evaluation stage:** The evaluation stage is divided into the technical evaluation, economic evaluation and legal evaluation stage. NOTAP evaluates your application based on the three stages above. Other aspects of evaluation include pre-execution evaluation and post-execution evaluation.
6. **Communication with Applicants:** After the evaluation stages, NOTAP communicates with the applicant on the success or otherwise of the application. NOTAP can either approve the agreement with conditions or without conditions or outrightly reject it. It is also important to note that NOTAP expects all companies whose agreement was approved to respond to them in a timely manner. This response is expected to be in writing. After the approval of the agreement, NOTAP still expects some documentation from the company. After this stage, the company is issued with the Certificate of Registration.
7. **Remittance of Approved Technology Fees:** After the issuance of certificate of registration to the applicant company, the next stage is for the company to approach its bank for remittance of the approved fee. The company is required to submit copies of the agreement and invoices (where applicable) stamped and the certificate of registration issued by NOTAP to the bank.



8. **Monitoring the implementation of technology transfer agreements:** The monitoring programme of NOTAP is divided into pre-monitoring and post-monitoring. The pre-monitoring involves the monitoring of new technology agreements signed for new investments of projects while the post-monitoring involves the monitoring of agreements submitted for renewal. After each monitoring visit, a report is generated based on the discussions and observations made.

### **Timelines:**

The estimated time frame for processing a technology transfer agreement by NOTAP from the date of filing the application by the Applicant to the issuance of confirmation of reasonableness is 60 Days subject to compliance with the registration requirements on the date of filing the application.

### **Conclusion**

It is important that a business seeking to transfer technology for the use of Nigerians or in Nigeria is expected to register with NOTAP. Due to the present focus on the ease of doing business by the Federal Government, it is expected that this new guideline will ease the registration process. Compliance with the new guideline will go a long way in easing the hitherto burden that business owners often face while registering with NOTAP.

If you are seeking to register your Technology Transfer Agreement or seeking advisory on this process, please Contact Us. <https://www.sooloruntimehin.com/contact/>