

SPII RULES DOCUMENT

Matching and Partnership Schemes

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Note: The dti reserves the right to amend, revise, cancel, and interpret any of the guidelines on an ongoing basis.



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SPII Rules

1. PREAMBLE

1.1 Purpose of the SPII Guideline Document (SGD)

The document is intended to serve as a convenient reference for use by the SPII Evaluation Panel and by consultants engaged in the evaluation of SPII Matching and Partnership Scheme applications. The document is intended to serve as a convenient reference for use by the SPII Evaluation Panel and by consultants engaged in the evaluation of SPII Matching and Partnership Scheme applications

2. BASIC PRINCIPLES OF THE SPII PROGRAMME

2.1 General statement of purpose/intent of scheme

The Support Programme for Industrial Innovation is intended to promote technology development within South Africa through the provision of financial assistance for the development of innovative, competitive products and/or processes.

2.2 Basic principles

The SPII Matching Scheme provides financial assistance in the form of a taxable non-repayable grant of 50% of qualifying costs incurred in pre-competitive development activity associated with a specific development project up to a maximum grant amount R3.0 million. The SPII Partnership Scheme is based on similar rules as the Matching Scheme, but with a minimum grant amount of R3.0 million repayable in the form of a levy based on a percentage of sales over a fixed number of years. The levy percentage and repayment period is set at the time of the award.

3. QUALIFYING COMPANIES AND INDUSTRIES

3.1 SA registered companies. (Refer 3.3)

All South African registered enterprises engaged in pre-competitive development activity in manufacturing or related industrial fields, or software development, which is intended to lead to commercialization of the product being developed, may apply for SPII assistance. In the case of companies and close corporations, it is not necessary that the majority of equity be held by South African individuals or companies.

3.1.1 For the Matching Scheme:

Financial assistance under the Matching Scheme is provided in the form of a non-repayable grant of between 50 and 75% (depending on the BEE, women and people with disabilities shareholding) of the “qualifying” costs incurred during the technical development stage up to a maximum grant amount of three million Rand (R3 000 000) per project.

Financial assistance under the Matching Scheme is also provided to large companies on a 50% matching basis. A large company is as defined in the Small Business Act of 2003.

The incentives for BEE and women participation provided under both the PPD and Matching Schemes do not apply to large companies.

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For enterprises with 25% BEE shareholding – the grant is 50%; for enterprises with >25% but ≤ 50% BEE shareholding or ≥ 50% women / people with disabilities shareholding – the grant is 65%; and for enterprises BEE shareholding > 50% - the grant is 75%.

3.1.2 For Partnership Scheme:

The Partnership scheme promotes large-scale technology development within South African industries. The scheme provides financial support to commercially viable technological innovation products or process projects and shares in both risks and returns. In considering support for a project under the Partnership Scheme, there should be a clear indication of the causality (additionality) that will follow from the support.

Financial support under the Partnership Scheme is provided in the form of a conditionally repayable grant of 50% of the qualifying costs incurred in the development activity, with a minimum grant amount of three million Rand (R3 000 000) per project repayable on successful commercialisation of the project. Repayments is generally in the form of a levy.

3.2 Enterprises with direct or indirect state shareholding may qualify if they are registered taxpaying entities, with an arms' length relationship to associated Government parties, and do not receive any other government funding to finance the envisaged (SPII) project directly and/or indirectly, (e.g. through sub-contracting).

3.3 Companies with more than 50% IDC shareholding will not be eligible for SPII support.

4. GENERAL CRITERIA

4.1 South African based development and subsequent production.

The major proportion of the development project must take place in South Africa. (Refer 7.4.5).

Similarly, it must be intended that the subsequent production of the product will take place in South Africa. This particularly applies to the production envisaged at the time of the evaluation, as reflected in the sales projections included in the report to the SPII Evaluation Panel.

4.2 Intellectual property rights to reside in a South African registered company.

4.2.1 In the case of the SPII Matching Scheme, Intellectual Property Rights developed as a result of a project supported by the SPII Matching Scheme must reside in a South African registered company from the initiation of development activity until 3 years after the completion of the project. (The completion date is the date of payment of the final milestone).

4.2.2 In the case of the SPII Partnership Scheme, the Intellectual Property Rights developed as a result of a project supported by the SPII Partnership Scheme must reside in a South African registered company and shall be owned by the IDC and the applicant in proportion to the respective contributions of the SPII Partnership Scheme and the applicant. This co-ownership shall endure for the term of the contract (as defined in the agreement) after which ownership of the IDC portion will revert back to the applicant.

4.3 Compliance with international standards.

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Products developed with support from the SPII Scheme must (where applicable) comply with relevant National and International Standards.

4.4 Multiple applications from the same company

Only one application may be considered from any company at a time. Subsequent applications will only be considered on completion/cancellation/withdrawal of a project.

4.5 Valid SARS tax clearance certificate at time of application

The applicant together with the application document and again together with each milestone payment request must furnish a valid South African Revenue Service Tax Clearance Certificate.

4.6 Projects that are completed within 6 months from the date of application will not be considered for SPII support.

5. PROJECTS WHICH DO NOT QUALIFY

5.1 Product/process development for a single client

Products and processes developed for a single client do not qualify for SPII support.

5.2 Basic and applied research The SPII Scheme does not support basic and applied research.

5.3 Projects more than 50% complete at time of application (for applicants < R5m TA)

The SPII Scheme does not support projects, which are more than 50% complete at the time of application. An exception may be made for applicants with total assets less than R5 million.

5.4 SPII grant contribution in relation to the total project costs should be significant.

In the case of the SPII Matching Scheme, the SPII grant must cover at least 20% of the total project costs. In the case of SPII Partnership Scheme, a lesser proportion may be considered.

5.5 A project receiving other government funding

A project, which receives any other government funding, may not receive support from the SPII Scheme

5.6 Military projects

Projects of a military nature will not receive SPII support unless the product/process being developed will also have a substantial general commercial/civilian application.

5.7 Projects where the commercialisation is restricted by licensed technology.

Projects where some of the technology is licensed from a third party and the license agreement restricts the commercial application will not qualify for SPII support.

6. INNOVATION CRITERIA

6.1 Basic principle Support for pre-competitive development (excluding research) of new products/processes that involve a global technological advance.

6.2 Software applications

Innovation refers to new and unique products/processes that may be incremental, novel and radical. For a product to be considered innovative for SPII it should at least confirm to all of the following:

- Functionally unique and advanced
- Efficient
- Lower cost
- If process driven it should be a substantial improvement of the original process
- The innovation should predominantly be the result of technical development as opposed to research/studies and should emphasise technical innovation.

Software innovation includes projects where:

- A new and unique product with clear benefits is developed. These benefits can range from new unique features to specific attributes that have never been seen in a product before.
- A unique enhancement to a product with clear benefits is developed. The new features added to the product are such that the entire product can be seen to be innovative.
- A new software development, which provides substantial efficiency improvements. These improvements could for example include a product being substantially easier to use or being substantially faster.

Refer to Annexure 1 for greater detail.

6.3 Special Case - Generic pharmaceuticals

Refer to Annexure 2.

7. QUALIFYING COSTS

7.1 Commencement date

Only costs incurred after the commencement date shall qualify. The commencement date shall be the date on which a complete application is received by the SPII administration.

7.2 Salary and labour costs

7.2.1 General :

Only the costs of personnel directly involved in the project and contributing technical inputs are qualifying costs. Amounts claimed must not be out of line with the amount of such salaries/drawings prior to the date of application. Where there is an inconsistency in this respect, a proper motivation must be provided.

e.g. general salary increase or promotion, which should be to the satisfaction of SPII.

7.2.2 Basis

Qualifying remuneration is based on the total annual salary package of each individual. This would normally be the amount contained in the person's letter of appointment. Equipment such as desks, computers, telephones and office space are not included. The hourly salary rate is calculated by dividing the qualifying remuneration by 2016 working hours per annum. The maximum hourly rate which may be claimed is R295 per hour. Qualifying costs will also be determined for the project team based on the approved rate and hours approved for the project, supported by relevant payslips and other documentation.

7.2.3 Overtime

Overtime will only qualify if this is specifically paid and the maximum hourly rate will be the salary rate as calculated in terms of 7.2.2 above - no double/enhanced time will be allowed.

7.2.4 Management costs

Only the costs of executive or managerial personnel including directors, directly involved on the project qualify and only to the extent that such personnel are contributing technical inputs. The maximum time allocated for this category may not exceed 50%.

Project management as it pertains to the development process is regarded as a qualifying cost.

7.2.5 Shareholders, Directors, Members and Owners

Personnel-related costs for such persons only qualify if the actual cash has been paid out to them or has been transferred to their loan account. This must be supported by a IT3(a) and proof that this has been submitted to SARS.

As a guideline the hourly rate of support will be determined after comparison with the amount paid in the preceding year divided by 2016 working hours.

A maximum of 134 hours per month may be claimed.

7.3 Material costs

7.3.1 Direct materials for prototype or model

Qualifying material costs comprises material of a non-capital nature consumed during the direct development and manufacture of prototypes and models.

7.4 Subcontractors

7.4.1 General principle

Where the subcontracted items are eligible for support (i.e. the costs would be regarded as qualifying costs if the subcontracted work was carried out by the applicant), and the subcontractor is at "arm's length", the subcontracting costs are regarded as qualifying costs.

7.4.2 Subcontracting relationships which are not "arms length"

In instances where it is considered that a subcontractor is not at "arms length", expenditure by the subcontractor is to be treated as if incurred by the applicant and must be subject to the same rules as applied to the applicant.

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7.4.3 Subcontractor costs greater than 20% of total project costs.

Where the costs of a single subcontractor or group of related subcontractors comprises more than 20% of the total project costs, it is required that the subcontractor or group of subcontractors agree that the costs charged will be subject to audit by SPII against the same criteria as would apply to the applicant.

Where total subcontracting costs amount to more than 40% of the total project costs, then all subcontractors comprising more than 10% of the total project costs must agree that the costs charged will be subject to audit by SPII against the same criteria as would apply to the applicant. Where subcontractors utilised differ from those proposed in the approved application and project plan, prior written consent from the IDC of the change would be a requirement for the approval of these subcontractors as qualifying costs.

7.4.4 Government funded institutions as subcontractors.

Government funded institutions such as universities, technicons and CSIR may act as subcontractors. (See 3.3)

7.4.5 Foreign subcontractors

In exceptional cases where foreign subcontracting is a crucial component of the development project, and the subcontracting cannot be done in South Africa, such costs may be regarded as qualifying costs but such qualifying costs will be limited to 10% of the total qualifying project costs. In the case of the SPII Matching Scheme the maximum qualifying portion of such costs cannot exceed R300 000.

7.5 Tooling costs – general

7.5.1 General approach

The costs of design, compiling mechanical drawings, building models and prototypes of tooling up to the stage of the completion of the project are qualifying costs. All costs relating to manufacturing or production is/are excluded.

It is also acknowledged that in certain projects this is not applicable(viz. Software)

7.6 Tooling costs – Specially approved item

7.6.1 Tools which are used for both development and production

Tooling that is purchased, or the manufacture of which is subcontracted, and which can be used for both development and commercialization, may be considered as a qualifying cost on a pro-rata basis and will be considered as a specially approved item.

7.7 Capital equipment - Specially approved items.

7.7.1 Capital equipment items which are required specifically for the development.

Capital items which are required specifically for the development project are qualifying costs. Each such item is considered individually at the time of the evaluation of the application and must be identified as a specially approved item. Where a capital item may also be used/hired

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during the production/commercialization phase, or where the item will have a realizable market value at the end of the development phase, the cost attributed to the development phase must be determined using a motivated pro-rating method.

7.8 Computer hardware and software costs.

7.8.1 Exceptions to non-qualifying nature of computer hardware and software costs.

In general, any costs related to computer hardware or software are non-qualifying costs (See item 8.6.1 & 8.6.2). Where software (e.g. process software) will form an integral and inseparable part of, and will be essential for the functioning of the prototype and eventual product, such software may be approved, on a case by case basis, as a qualifying cost. This will not include any type of licensed software.

7.9 Patent costs

7.9.1 General principle

The costs incurred in respect of the lodging of patent applications are regarded as qualifying costs. The type of patent, the registering authority and the applicable country or countries needs to be specified. The qualifying portion of patent costs is limited to 20% of the total SPII qualifying project costs. Patent costs are treated as a specially approved item. The patent must be registered in the company's name.

7.10 Travel costs.

7.10.1 Limitation on local and foreign travel costs (See 8.8.3) In the case of the SPII Matching Scheme, qualifying travel costs are limited to R6000 for local travel and R25 000 for overseas travel.

In the case of the SPII Partnership Scheme, a maximum of 2% of the grant will be allowed against qualifying travel costs.

7.10.2 Acceptable travel costs

Qualifying travel costs are restricted to those required development purposes and are limited to economy class airfares for one person per trip who must be an employee of the company who is directly involved with the technical development.

7.11 Licensing costs

7.11.1 Acceptable qualifying licensing costs.

Where it is necessary to license or pay royalties for technology (excluding software) which is required in the development phase of a project, these costs will be considered on merit as qualifying costs, subject to the limitation in 7.11.2 below.

7.11.2 Local and foreign licensing costs limited to 10% of project costs.

The qualifying portion of local or foreign licensing costs or royalties shall be limited to 10% of the total qualifying project costs.

7.12 Trials

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7.12.1 Product trials

The cost of product technical development trials may be accepted as qualifying costs and will be regarded as a specially approved item. The qualifying cost of the trials is limited to 20% of the total SPII qualifying project costs.

7.12.2 Clinical trials

The cost of clinical trials may be accepted as qualifying costs and will be regarded as a specially approved item. The qualifying cost of the trials is limited to 20% of the total SPII qualifying project costs. However clinical trials will not be supported in isolation.

7.13 Documentation

7.13.1 Preparation of development related, user, maintenance and specification manuals

The cost of the preparation/compilation of development related operating, user, maintenance and specification manuals are qualifying costs. The cost of printing such documents is a non-qualifying cost.

7.14 Quality assurance

7.14.1 Quality assurance of the development process

The costs of the in-house quality assurance and control of the development process are regarded as qualifying costs.

7.14.2 Quality assurance manual for product being developed

The costs of preparation of the quality assurance manual for the product being developed are regarded as qualifying costs. (See 8.11.1)

7.15 Product certification

7.15.1 Quality or performance certification

The cost of product quality or other certification (e.g. SABS, DIN, CE compliance) are qualifying costs and are specially approved items. Where applicable, SANAS accredited laboratories must be used.

8. NON-QUALIFYING COSTS

8.1 Costs incurred prior to commencement date.

Costs incurred prior to the commencement date are non-qualifying costs.

8.2 Cost types which are always regarded as non-qualifying costs.

General management costs, marketing, production, administration, support personnel, commissions, vehicle hire, interest, allocated costs of overheads and services (e.g. rent,

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electricity, telephone), statutory costs, consultants/brokerage/application preparation/processing fees (paid directly or otherwise) and foreign exchange contingencies are non-qualifying costs. Value Added Tax (VAT) is also a non-qualifying cost.

8.3 Salary and labour costs

8.3.1 Costs not substantiated by timesheets

Costs that are not substantiated with time sheets are non-qualifying costs.

8.3.2 Non-guaranteed costs e.g. bonuses etc

Any non-guaranteed payments such as profit or performance bonuses and share options are non-qualifying costs.

8.3.3 Statutory staff related costs.

Statutory staff related costs such as RSC levies, SDL payments, UIF contributions are non-qualifying costs.

8.4 Material costs

8.4.1 Materials for production

Materials consumed within the production environment are non-qualifying costs

8.4.2 Materials for inventory

Materials purchased for stockholding or for the production of products for stockholding are non-qualifying costs.

8.5 Tooling costs

8.5.1 Tooling which will only be used for production and general-purpose use.

The cost of tooling, which is purchased, or the manufacture of which is subcontracted, and which will be used only in production of the product will be a non-qualifying cost. (See 7.6.1)

8.6 Computer hardware and software costs

8.6.1 Computer hardware

All computer hardware costs, even though used in the development, are non-qualifying costs. This includes desktops, notebooks or palmtops or components thereof such as CPU's, hard drives or memory and computer peripherals such as printers, scanners, monitors and modems. The material and labour costs of any computer related installation are also non-qualifying costs. Computer hardware includes all industrial related computer equipment. Exceptions to the above will be approved on a case-by-case basis.

8.6.2 Computer software

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With the exception noted in 7.8.1, any software acquired for the development, including software licenses, any generic business software (e.g. word processors, spreadsheet software, CAD and CAM software, solid modeling software), business process software (e.g. accounting packages) and the development of in-house software and software tools are non-qualifying costs. This is also applicable to industrial related software.

8.7 Patent costs

8.7.1 Cost of defending patents.

The costs of defending patents are non-qualifying costs.

8.8 Travel costs

8.8.1 Travel not related to the development of project.

Travel costs, which are not related to the development of the product/process, are non-qualifying costs. An example of such non-qualifying costs is those costs related to the marketing of the product.

8.8.2 Attendance of seminars, workshops, training courses and conferences

Travel costs to attend seminars, conferences, training courses and workshops are non-qualifying costs.

8.8.3 Travel costs types which not acceptable.

Costs such as accommodation, car hire, taxies, trains, meals, laundry and tips are non-qualifying costs. Travel costs related to any type of public holiday will not qualify.

8.9 Trials

8.9.1 Marketing trials

The cost of marketing trials and tests are non-qualifying costs.

8.10 Documentation

8.10.1 Marketing documents.

The cost of the preparation/compilation and production of marketing related documents such as brochures and pamphlets are non-qualifying costs.

8.11 Quality assurance

8.11.1. The costs of company ISO certification are non-qualifying costs.

8.12 Maintenance

8.12.1 All maintenance and related costs are non qualifying

9. PARTNERSHIP SCHEME

9.1 Applicability of Matching Scheme Guidelines to Partnership Scheme applications

The rules pertaining to the eligibility of companies for support and to the extent to which costs qualify or do not qualify for support are the same for the SPII Matching and Partnership Schemes unless otherwise specified in these rules.

9.2 Calculation of repayment levy and required IRR%

The Partnership Scheme repayment levy is calculated as the percentage of the projected value of sales, paid bi-annually, over a specific number of years (typically for 5 years starting at the first year of recorded sales) which will give a certain nominal Internal Rate of Return (IRR). The required IRR is periodically reviewed and is currently 3% + prime.

9.3 Investigation Fee

In the case of the SPII Partnership Scheme, an investigation fee, equal to 1% of the grant amount, is payable on signature of the agreement. This fee is refundable, without interest, at completion of the final milestone.

10. MILESTONE AUDITS AND PAYMENTS

10.1 10 % excess rule for early milestones

In the event that the actual SPII portion of the initial milestones exceeds the budgeted grant amount, for that milestone, then up to 10% excess above the approved amount for that milestone may be paid, subject to the final milestone budgeted grant amount being at least 20% of the total grant amount approved.

10.2 Tax certificate

SPII grant recipients must produce a valid SARS Tax Clearance Certificate together with each request for a milestone payment.

10.3 Prepayment not allowed

No payment of milestone claims prior to the attainment of the milestone deliverables can be made.

10.4 Final Milestone

In the case of the SPII Matching Scheme, the approved amount for the final milestone must be at least 20% of the grant amount.

11. GUIDELINES FOR CONSULTANTS

- 11.1 SPII Consultants may not prepare applications, and are subject to the following terms as per their contract with SPII:
- 10.1 The Consultant warrants that, to the best of its knowledge, it does not, and is not likely to have any conflict of interest in the performance of this Agreement. If a conflict or risk of conflict of interest arises (without limitation, because of work undertaken for any person other than IDC), the Consultant will immediately give notice of the conflict of interest, or the risk of it, to IDC.
 - 10.2 The Consultant will take all reasonable measures to ensure that its employees, agents and subcontractors do not engage in any activity or obtain any interest, which is in conflict with providing the Services to IDC fairly and independently. The Consultant will immediately give notice of any conflict of interest relating to the activities of interest of any of its employees, agents or subcontractors to IDC.
 - 10.3 If IDC is given notice of a conflict of interest pursuant to clause 10.1 or 10.2, IDC may proceed in accordance with clause 11 to terminate this Agreement.
 - 10.4 Notwithstanding anything to the contrary, the Consultant undertakes that it will not, at any time while this Agreement is in force:
 - 10.4.1 Charge any fees (including that for referral/preparation) to a prospective or current applicant for SPII funding, in respect of the Services being rendered in relation to the application;
 - 10.4.2 Unless agreed with IDC, engage the services of any other consultant/sub-contractor to perform any function related to the Services.

12. ANNEXURES

The following templates are appended:

- 12.1 Software Innovation Annexure 1
- 12.2 Generic Pharmaceutical Annexure 2

ANNEXURE 1:

SUPPORT PROGRAMME FOR INDUSTRIAL INNOVATION (SPII): SOFTWARE INNOVATION

Background

Software consists of a very fragmented range of products and technologies. It includes retail and off-the-shelf software, different market and product types such as operating systems, applications and solutions. This includes Internet security software, embedded control software, enterprise resource solutions, 3D-modelling software, databases etc. The same applies to technologies and programming languages used.

Purpose

The purpose of this document is to serve as a reference for what software innovation is in the context of projects requesting SPII funding and aims to provide clarity on the criteria for when software projects should be considered to be innovative.

Innovation

Innovation refers to new and unique products/processes that may be incremental, novel and radical. For a product to be considered innovative for SPII it should be:

- Functionally unique and advanced
- More efficient
- Lower cost
- If process driven it should be a substantial improvement/change of the original process
- The innovation should predominantly be the result of technical development as opposed to research/studies and should emphasise technical innovation.

Software innovation includes projects where

- A new and unique product with clear benefits is developed. These benefits can range from new unique features to specific attributes that have never been seen in a product before.
- A unique enhancement to a product with clear benefits is developed. The new features added to the product are such that the entire product can be seen to be innovative.
- A new software development which provides substantial efficiency improvements. These improvements could include a product being substantially easier to use, being substantially faster etc.

Examples of Software Innovation

Software projects are many and diverse with a plethora of variations and applications. To assist with determining the innovativeness of a software project, the following outline should be used as a guide

A: NEW PRODUCT/PROGRAMME

New software products/programmes will be considered innovative if they offer substantial functionality or cost savings that is not available in other products on the market.

Innovation can apply to a new algorithm, a solution allowing a substantial integration of existing programs, a product suite or a single product.

Criteria to be considered in terms of innovation (either Yes or No):

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- Utilising a different Operating system: No Supporting different Bit length (e.g. 64 bit instead of 32 bit): No
- Developing a product to support additional Hardware or Software Compatibility: No
- Creation of a new Algorithm or new functionality: Yes

The innovativeness of the product will only be evaluated on the basis of new functionality of the product

B: NEW METHODOLOGY/LANGUAGE/TOOLBOX

Software methodologies will be considered as innovative if the processes involved are substantially different from existing methodologies and if they offer a substantial benefit to software development. The innovation will only be applicable to the development of the methodology itself and not to products developed using the new methodology. These products will need to qualify as innovative in their own right to qualify for funding.

A new language can be considered innovative if it does not currently exist and will offer significant benefit to the software community.

New tool boxes may be considered as new software products and the innovativeness be assessed on the following basis

Criteria that may be considered in terms of innovation:

- The process improvement must be measurable, together with the hardware evaluation that must be measurable as well.
- Improved flexibility (viz. Bit length (32 to 64) etc.) will not be considered as innovative in this category
- Functionality- this innovative feature must be evaluated and should be substantial

C: UPGRADE OF EXISTING PACKAGES

Product upgrades will be considered as innovative only if they offer substantial additional functionality that is not available in competing products.

- The functionality of the package must be increased substantially
- A change to support a new operating system will not be considered innovative.

D: PAY FOR SERVICES TYPE PACKAGES

These will not be considered for SPII support in isolation.

- Enabling existing package for the web-type applications and internet coupling development will not be considered as a qualifying activity
- ASP type packages will not be considered if ASP is the core objective of the development

E: COMBINING TWO BEST OF BREED PRODUCTS TO DEVELOP A NEW ROBUST PRODUCT (INTEGRATION)

Integration will be considered as innovative if the components have never been combined before and if the resultant product provides significant functionality not available in competing products.

- This will be considered on a case-by-case basis, subject to the development being sufficiently innovative



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F: GENERAL

- Software applications that aim to serve a single client will not qualify for SPII support.
- Embedded software development will only be considered for support under exceptional circumstances. It will be considered if it represents a minor component of the development.
- Any project that results in intellectual property restrictions imposed by exclusivity agreements or similar will not qualify for support if they inhibit the optimal commercialisation of the project.

DEFINITION OF TERMS

In order to assist with a common understanding of what the numerous variations of software mean and the difference between them, the following definitions are provided as a guide:

New Software Product

A new software product relates to a product, which consists entirely, or largely (>50%) of software alone. An example is a software application such as Microsoft Excel.

New Languages

A new software language refers to the definition and development of a programming language and associated compiler. The product would be the language and/or the compiler and not a product developed through using the new language.

New Tool Boxes

New tool boxes (which typically consist of libraries of functions etc for use by third parties) should be considered as new software products.

Integration

Integration refers to the combining of software and/or hardware so as to create a new product/system. This typically could include taking some existing modules, developing some new modules and putting them into a new system.

Embedded Software

Embedded software refers to microprocessor-based software, which is embedded within a hardware device. An example is the software running in some washing machines.

Web software

Web software refers to software, which requires a web server and allows for remote access of information by multiple users. Examples include Internet and intranet applications.

Software methodologies

Software methodologies refer to the processes involved in developing software

Limited Software Content Products

Products containing limited software content refer to projects where 50% or less of the product development costs consists of software.

Algorithms and subroutines

Algorithms and subroutines refer to software logic and functions that form part of a software development.

Product Upgrades

Upgrades can refer to any of the above categories of software and involve a modification to an existing product. This could include bug fixes, addition of new functionality etc.



ANNEXURE 2

SPECIAL CASE - GENERIC PHARMACEUTICALS

While not strictly speaking an innovative activity, applications from manufacturers of generic pharmaceutical products for the support of the development of the process to manufacture a generic product may be considered if the development project has substantial technological merit. The aspect of possible patent infringement needs to be rigorously addressed and the following applies:

1. The application must comply with all the SPII criteria according to the SPII policy guidelines as set out in the application documentation
2. There must be clarity on the patent status of the generic product, not only in the country of manufacture (in this case South Africa), but also in countries to which the generic product is to be exported. The applicant must provide legal opinions from known reputable patent lawyers in the country/countries where the product will be distributed or exported in order to ensure that no patent infringement will occur in the said country/countries.
3. The applicant must provide reasons for not applying for a patent on the product/process. .
4. The following clauses must be included in the SPII Agreement:
 - a. Payback of the grant by the company to the IDC, if the company infringes on any aspect of Intellectual Property Rights (IPR).
 - b. Assurances by the applicant that **the dti** cannot be held liable for legal action regarding the support to a company that develops a generic medicine for which a patent may exist.



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