

Model Procedures for granting approval or rejection of the prior intimation given by the applicant for accessing biological resources or associated knowledge for commercial utilisation under Section 7 of the BD Act, 2002, by the State Biodiversity Boards/ Union territory Biodiversity Councils

State Biodiversity Board, with the approval of the Board, may continue to follow the application form and fees prescribed in, respective State Rules for receiving the application for accessing the biological resource, including digital sequence information or knowledge associated thereto, for commercial utilisation till notification of the amended State Biological Diversity Rules.

Timelines: Upon submission of the prior intimation in an application form by the applicant, which is complete in all respects, shall be disposed of (grant approval or rejection) by the Board or Council, within a period of fifteen days from the date of receipt of the application.

1. Receipt of application

On receipt of the complete application form,

- (a) The officer or person concerned shall allot a reference number to the application.
- (b) See whether the requisite application fee has been received and, if so, arrange for deposit the same in the State Biodiversity Fund.
- (C) Issue a receipt for the application fee and forward the same to the applicant.

2. Status of the applicant

The officer or person concerned shall ensure that the applicant is covered under Section 7 of the BD Act. This shall be done by examining the identity proof and address proof of the applicant furnished along with the Form concerned.

Provided, if the applicant falls under Section 3(2) of the BD Act, applicant should apply to NBA in Form-2 seeking prior approval to access the biological resources including digital sequence information or knowledge associated thereto. Hence, the SBB/UtBC shall return the application to the applicant with the intimation that the NBA is the competent authority to grant approval under Section 3 of the BD Act.

3. Screening of the application

- (a) On receipt of the application, the officer or person concerned shall ensure that the applicant has filled in the respective columns appropriately and all the requisite documents (Address proof and identity proof of the applicant, authorisation letter for representative/ agents (if any), copies of board resolutions, etc.) are duly attached with the application form. If the application is complete in all respects and the requisite application fee has also been paid, then the application can be taken up for further processing.

(b) If the application form is incomplete and needs certain details or clarification, the information may be sought from the applicant within a period of fifteen days. In the event of no response or receipt of any ambiguous replies, such applications may be treated as closed/rejected with the approval of the Competent Authority and the applicant shall be informed accordingly without returning the application fee.

I) Purpose of access

(a) The officer or person concerned shall verify, whether the applicant has mentioned the exact purpose accessing the biological resources, i.e, for commercial utilisation.

(b) It should be noted that no application should be entertained by SBBs/UtBCs if the purpose is for

- Research or biosurvey and bio-utilisation of a biological resource including DSI or associated knowledge.
- Obtaining Intellectual Property Rights for inventions based on any research or information on a biological resource obtained from India,
- Transfer of results of research related to biological resources occurring in, or obtained from India, to any non-Indian/ non-Indian entity, as defined u/s 3(2) of the BD Act

II) Biological resource including digital sequence information or knowledge associated thereto

(a) The officer or person concerned shall verify whether the biological resources to be accessed are clearly specified in the application, along with common and scientific names, their parts and quantity.

(b) The officer or person concerned shall also verify if the biological resources, including digital sequence information or knowledge associated thereto, to be accessed is from wild (forest area), domestic, cultivated or sourced from traders, communities or intermediaries. In case of any discrepancy or lack of information, the same shall be got clarified from the applicant.

(c) If the applicant accessing the intermediate products such as extracts/ crude herbs/ combination of processed biological resource, the supplier of such biological resources also needs to get the approval of the SBB/UtBC for accessing biological resources to make such products and also supply them to the manufactures for making final products.

III) Geographical location

(a) The SBB/UtBCs is expected to entertain an application for access to biological resources only if the biological resources specified occur within the territorial jurisdiction of the State/UTs concerned. The officer or person concerned needs to verify the exact geographical location such as the name of the village, panchayat, block, taluk and district is within the

State from where the particular biological resource is proposed to be accessed (Wild/wild other than forest/ institutions/ cultivated).

(b) If the biological resource is proposed to be accessed from a trader or from the local market, institution, communities, etc. the officer or person concerned needs to verify that the complete details (Name, complete address, contact details, etc.) of such sources are also provided by the applicant. This is important while sharing the benefits with the concerned beneficiaries.

(c) In case a person other than the applicant is authorised to collect the biological resources, the name and contact details of the person so authorised have to be verified. The authorisation letter in favour of the person so authorised, needs to be obtained. A format of an authorization letter is appended as **Annex-01**.

IV) Quantity of biological resources

(a) The officer or person concerned shall verify the exact quantity of biological resources and their parts proposed to be collected from each geographical location. This exercise may also involve a judicious assessment of the availability of some of the biological resources depending on their particular parts to be gathered in light of sustainable harvesting.

(b) The officer or person concerned shall verify whether the applicant furnished the proposed period / duration for collection of biological resources. If the applicant is proposed to collect the biological resources in different time interval, SBB may call for reasons/ justification for the same from the applicant.

(c) If the applicant intends to access a large quantity/ number of biological resources, SBB may call for reasons/ justification from the applicant.

(d) The template for obtaining details of biological resources, parts, quantity and geographical location from the applicant are given below:

S. No.	Nature of biological resources			Part of biological resource	Genetic resources (DNA/RNA/ Gene and data of such resources	Quantity (g/n kg)	Duration of access	Source of access (Wild/ domestics/ institution/ market/repository)	Geographical location (Complete address/ Contact details of the Traders/ shop) in case of repositories, accession number to be provided	Threatened Status of biological resources
	Common name	Scientific Name	Name of the variety / Hybrid/ Breed							

V) Assessing the threat status or conservation value or high economic value

The officer or person concerned shall verify the threat (Rare, endangered and threatened) status of the biological resources sought to be accessed and evaluate whether obtaining the particular biological resources from their natural habitat is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity. The officer or person concerned shall also check the relevant notifications related to the threat status of the species particularly notification issued under Section 38 of the BD Act, BSI threatened species list, ZSI threatened species list, appendix of the Wildlife Protection Act, 1972, etc.

VI) Exemptions under the BD Act

While examining the applications received for access to biological resources, the examiner shall note that certain activities, as indicated below are exempted from the purview of the BD Act and not require the approval of the SBBs/ UtBCs:

- (i) Human genetic material is excluded from the definition of biological resources;
- (ii) Indian citizens or entities accessing biological resources occurring in or obtained from India, for the purposes of research or bio-survey and bio-utilization in India;

[Explanatory note: Indian citizens or entities need to obtain prior approval of NBA when they intend to obtain IPR on the results of research related to accessed biological resources and/ or associated knowledge obtained from India.]

- (ii) Accessing value added products, which are products containing portions or extracts of plants and animals in unrecognizable and physically inseparable form;

- (iv) Accessing biological resources, normally traded as commodities as and when notified by the Central Government under section 40 of the BD Act. *(for the specific purposes as indicated in the Notification)*

[Explanatory note: As per MoEFCC notification dated 7th April, 2016 & 07th November, 2017, a list of 421 items of biological resources are exempted from the purview of the BD Act when normally traded as commodities. The products that are derived from these listed items and traded as a matter of common practice are also to be treated as NTACs. However, the provisions of the BD Act shall apply to these items if there is an intention to use them for any other purpose.]

- (v) Accessing Codified traditional knowledge, cultivated medicinal plants and their products, local people and communities of the area, including growers and cultivators of biodiversity and to vaid, hakims and registered AYUSH practitioners only who have been practising indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood.

Provided that the user of the cultivated medicinal plants needs to obtain a Certificate of Origin from the BMC concerned as per Rule 19 of the BD (Amendment) Rules, 2025 to avail exemption under section 7 of the Act

(vi) Accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping, in India.

4. Consultation with Biodiversity Management Committees (BMCs)-Prior Informed Consent (PIC)

(a) In the event of accessing biological resources from wild or cultivated or from communities or traders, the SBB or UtBC may consult the BMC, as outlined in the state-specific Rules. Wherever no BMC is constituted, the SBB may consult the respective local body in the format prescribed in the ABS Regulations, 2025.

Provided, if the biological resources are proposed to be collected from the ex-situ collection like ZSI, BSI, ICAR, CSIR, NBPGR, IARI institutes, etc., the process of consultation may be dispensed with.

[Explanatory note: The biological resources in the ex-situ collections are having no threat to conservation. Hence, the BMC consultation may not be required.]

(b) After consulting the BMC or the local body, the SBB or UtBC may decide the approval or rejection of the application, wherever necessary, in consultation with the Expert Committee.

5. Consultation with an Expert Committee

(a) The SBB/UtBC may constitute an Expert committee having experts drawn from various fields for conclusive examination of the applications, determination of benefit sharing and advising the SBB on the techno-legal issues.

(b) The officer or person concerned may prepare an agenda on the application along with remarks of the SBB or UtBC and place the same before the expert committee for its consideration.

(c) SBB or UtBC may consult the Expert Committee, as and when required but not in all cases.

(d) Nevertheless, the Board of the SBB or UtBC (Governing Body) is the competent authority to decide either to accept or reject the recommendations of the EC.

6. Determination of benefit sharing

(a) With regard to the determination of benefit sharing, the SBB/UtBC shall follow Regulation 5 of the Biological Diversity (Access to Biological Resources and Knowledge Associated thereto and Fair and Equitable Sharing of Benefits) Regulations, 2025.

(b) When a particular biological resource is having high economic and conservation value, including species notified under Section 38, the benefit-sharing amount will be 20% higher than the slab prescribed in Regulation 5(7) and also an upfront payment not less than 5 % of the purchase price may be imposed, on a case-by-case basis.

(c) In the event of an IPR holder who obtained approval from the NBA under Section 6 of the BD Act, applying to SBB/ UtBC for access to biological resources for commercial utilisation, the SBB/UtBC shall not fix benefit sharing as the applicant is already under an obligation to the NBA for sharing the benefits, which are illustrated below:

- (i). If applicant is accessing biological resources for commercial utilisation before obtaining IPR, the benefit sharing shall be determined and collected by the concerned SBB/ UtBC.
- (ii). If IPR holder who obtained approval from NBA under section 6 of the Act, the benefit sharing shall be as decided by the NBA in the approval granted in the form of an agreement on mutually agreed terms(MAT). The SBB/UtBC can give approval only for accessing biological resources to undertake commercial utilisation.
- (iii). If the IPR is ceased or lapsed and applicant is accessing biological resources, the benefit sharing shall be determined and collected by the concerned SBB/ UtBC.

7. Exemptions from the ABS obligation are given below

(a) Any person having an annual turnover of more than one crore rupees shall submit an annual statement containing information regarding the biological resource consumed in the financial year in Form A, within three months of finalisation of annual income tax or corporate tax return in respect of that financial year.

(b) If entities manufacture products containing both cultivated and non-cultivated medicinal plants, the benefit-sharing payment shall not be payable in respect of the products as notified by the Ministry of Environment, Forest and Climate Change, in consultation with the Authority and Ministry of Ayush, from time to time.

8. Grant of approval

(a) The approval for accessing the biological resources shall be in the form of an agreement executed between the applicant and the competent authority of the SBB. A copy of model agreement adopted by the NBA is placed as **Annex-2** and it may be revised suitably for the use of SBB/UtBC.

(b) Upon approval of the Board/ Council, the SBB/UtBC shall send a draft agreement to the applicant with a request to send two copies of the duly signed agreement (on a non-judicial stamp paper of the value in vogue in the respective State) with witnesses' signatures to the SBB/UtBC for execution. Once the Competent Authority of the SBB/UtBC signs the agreement, one copy of the agreement shall be sent to the applicant, which will be construed

as the approval of SBB/UtBC to the intimation of access to the biological resources for the purpose requested.

(c) If the applicant does not sign the agreement as modified by the Board or Council, within a period of fifteen days, the application shall be closed with an intimation to the applicant.

(d) The Board or Council may revive the closed application on receipt of payment of half of the fee as applicable, within a period of ninety days.

(e) If a final decision is reached to the effect that no approval can be granted on an application, for any reason, such an application may be rejected by recording the reasons for non-consideration of the application. However, the applicants shall be given an opportunity to be heard before such rejection in the format as prescribed in Regulation 5 of the ABS Regulations, 2025.

Model

AUTHORISATION LETTER FOR AGENT/REPRESENTATIVE*

I/We/Mr./Ms./M/s.* _____ hereby authorize Mr./Ms./M/s.* _____ as my/our* agent/representative* to submit an application under **Form**.... of the (**name of the State specific Rules**) to the (**Name of the State Biodiversity Board**) for the purpose of obtaining the prior approval as required under the (**Name of the State Rules**) , for access to biological resources for commercial utilization or bio-survey and bio utilization for commercial utilization.*

I/We* hereby authorize and declare that all actions committed by the agent / representative* with regard to the above purpose and all communications by the agent/representative* with the (Name of the State) SBB in this regard shall bind me/us* entirely.

Signature of Applicant
(Common seal if applicable)

Signature of Agent
(Common seal if applicable)

Date:

Date:

Station:

Station:

Instructions

** Strike out whichever is not applicable*

The signature and seal (wherever applicable) in this authorisation letter must be in original.

The SBB shall construe that the signature and seal (wherever applicable) of the agent/representative as being verified and confirmed by the applicant.

Model

AGREEMENT FOR ACCESS AND BENEFIT SHARING

(Form-Access for Commercial Utilization)

(Under the Biological Diversity Act, 2002 as amended by the Biological Diversity (Amendment) Act, 2023 the Biological Diversity Rules, 2024 and Biological Diversity (Access to Biological Resources and Knowledge Associated thereto and Fair and Equitable Sharing of Benefits) Regulations, 2025 in force)

This Agreement is made and entered on thisday of 20..... at Chennai, India

Between

National Biodiversity Authority, a statutory body established under the Biological Diversity Act, 2002, as amended by *the Biological Diversity (Amendment) Act, 2023* having its head office at 5th Floor, TICEL Bio Park, Taramani, Chennai-600 113, Tamil Nadu, India (hereafter "**NBA**"), acting through and represented by the Member Secretary, NBA/authorized signatory of NBA, being the person authorized to execute this Agreement.

And

(In case of an Individual)

(...Fill in the name of the Applicant as it appears in the Form II), a citizen of (.....name of the country.....), residing at (.....residential address), hereafter the "Applicant".

[Or]

(In case of a Body Corporate, Association or Organisation)

*(...Fill in the name of the Applicant as it appears in the Form II...), registered/incorporated in (.....Fill in the name of the country.....) having its registered office at [...Fill in address], (hereafter the "**Applicant**"), acting through and represented by (.....Fill in the name of the authorised signatory and designation.....), being the person authorised to execute this Agreement on behalf of the Applicant as specified in Annex C.*

Hereafter, referred to as the "Parties" and individually as a "Party".

WHEREAS the NBA is the authority established under the Biological Diversity Act, 2002 *as amended by the Biological Diversity (Amendment) Act, 2023* (hereafter “**the Act**”) authorised to grant approval for the purpose set forth herein and to determine terms and conditions to secure fair and equitable sharing of benefits arising out of the use of biological resources, knowledge and practices associated with their use;

WHEREAS the Applicant has submitted an application in Form (Appl.No.) received on [.....] under the Biological Diversity Rules, 2024 (hereafter the “**Rules, 2024**”) to seek prior approval from NBA;

WHEREAS under the Rules and the Biological Diversity (Access to Biological Resources and Knowledge Associated thereto and Fair and Equitable Sharing of Benefits) Regulations, 2025, made under the Act, the approval shall be in the form of a written agreement duly executed between the Parties (hereafter the “**Agreement**”);

AND the Parties have entered into this Agreement for access and benefit sharing according to the terms and conditions set out below.

NOW the Parties agree as follows:

1. Definition

For the purpose of this Agreement, the expression “*Effective Date*” shall mean the date on which both the parties sign this Agreement. In case the parties sign on different dates, the effective date shall be the date signed by NBA.

2. Terms and Conditions of the Agreement

2.1 Grant of approval

The NBA hereby grants approval for accessing biological resources and/or knowledge associated there to associated knowledge as described in Annex A for the purpose of commercial utilisation subject to such other terms and conditions set forth in this Agreement.

2.2 Scope and extent

The approval is limited to the extent and for the purpose for which it is accorded under the appropriate Annexes.

2.3 Period

2.3.1 Period of Access – The Applicant shall obtain the approved biological resources within a period of..... [year/month] from the effective date of this Agreement. This period of access may be extended by way of an amendment under clause 13 of this Agreement.

2.3.2 Period of Agreement – This Agreement shall remain in force for a period of [year/month] from the effective date of this Agreement. The period of this Agreement

may be extended by way of an amendment to this Agreement under clause 13 of this Agreement.

2.3.3 Notwithstanding the above, this Agreement shall remain in force until the Applicant fulfils all the obligations as required under this Agreement. However, with respect to the benefit sharing obligations, the Applicant shall share benefits as specified under Schedule A of this Agreement as long as the Applicant derives monetary benefits out of the utilisation of the approved quantity of biological resources.

2.4 Transfer to third party or by operation of law

The rights conferred under this Agreement and the approval granted is non-transferable and non-assignable to any third party except as provided by law.

3. Obligations of the Applicant

3.1 The Applicant shall share benefits as stipulated under Schedule A.

3.2 The Applicant shall also pay such sum, if any, as levied by the Biodiversity Management Committee(s) for accessing or collecting the approved quantity of biological resources from its/their concerned jurisdiction(s).

3.3 The permission granted to the Applicant is limited to that grant by the NBA in Annex-B of Schedule B of this Agreement. All other activities of the Applicant which require NBA's prior approval will need to be applied separately in the concerned Form under Rules, 2024

3.4 The Applicant shall minimize environmental impacts of collecting activities.

3.5 The Applicant shall abide by all the terms and conditions of the Agreement and other related legislations in force including any clearances required from the concerned authorities, such as the Chief Wildlife Warden in protected areas and forest authorities in other forest areas.

3.6 The Applicant shall, in the event of any material changes in the management or the shareholding of the Applicant that alters the control structure of the Applicant including changes brought by a transfer of business units, acquisition, merger, demerger or any other kind of corporate restructuring, intimate and submit all related documents to NBA within 90 days from the completion of that event. Subsequent to the said intimation, NBA shall decide whether this Agreement shall be amended as per clause 13 or a fresh approval is required. NBA's decision in this regard shall be final.

3.7 The Applicant shall in the event of any breach of this Agreement pay such compensation commensurate with the damage incurred to the Republic of India or to the benefit claimers as decided by the appropriate forum.

3.8 Applicable *only in case of monetary benefits*) The Applicant shall keep all the relevant records that serve as a proof of the monetary benefits shared by the Applicant with NBA or the concerned benefit claimers as the case may be, together with supporting documents. This may be submitted to NBA as specified from time to time and such records shall be retained for at least three (3) years after the termination of this Agreement.

[And/Or]

(Applicable only in case of non-monetary benefits) The Applicant shall keep all the relevant records that serve as a proof of the non-monetary benefits shared by the Applicant with NBA or the concerned benefit claimers as the case may be, which may include documents, photographs, statements by benefit claimers, news articles etc. This may be submitted to NBA as specified from time to time and such records shall be retained for at least three (3) years after the termination of this Agreement.

- 3.9** NBA shall have the right to regulate /monitor the activities approved under this Agreement, by itself or through any appropriate agency as it may deem fit.
- 3.10** In case the Applicant intend to commercially utilize the biological resources for which access was approved under this Agreement, the Applicant shall take prior approval of NBA
- 3.11** In case the activities lead to an invention and an application for an IPR is made, prior approval of the NBA shall be obtained as required under Section 6 of the Act.
- 3.12** In case the applicant intends to transfer the results of Research to section 3(2) person for commercial purpose or otherwise, the applicant shall take prior approval from the NBA and in case of transfer of research results to Section 3(2) person for further research, the applicant (transferee) shall register with the NBA as required under Section 4 of the Act.

3.13 Status Reports

- 3.13.1 The Applicant shall submit a status report for each reporting year (April-March) not later than two months of the end of each reporting year in the prescribed format of NBA.
- 3.13.2 Non-submission of the status report within the stipulated time will be construed as a breach for which penalty may be imposed by NBA under clause 6 of this Agreement.

3.14 Deposit of voucher specimen

The Applicant shall deposit the voucher specimen of biological material/type specimens in the institutions notified as designated repositories by the Central Government and the applicant shall submit the receipt received from such designated repository to NBA within 30 days from the date of first access of the approved biological resources.

4. Fair and Equitable Benefit Sharing

- 4.1** The Applicant shall share benefits as per Schedule A in monetary mode.
- 4.2** The Applicant shall make the payment preferably [online transfer to the concerned account] or by demand draft or any other approved mode of payment, and the same shall be drawn in the name of “**National Biodiversity Fund**” (Account details to be included).

5. Notice

- 5.1** Any communication including serving notices under this Agreement, shall be in writing and communicated by Email, Registered/Speed post with acknowledgement due.

If addressed to NBA:

The Member Secretary, National Biodiversity Authority, 5th Floor, TICEL Bio Park, Taramani, Chennai-600 113, Tamil Nadu, India.

Email : secretary@nba.nic.in

If addressed to the Applicant(s):

_____ (Name and Registered address with pincode). Mobile No.

/[Telephone No.]: Country code _____; Email: _____

With a copy to the Authorized Representative/Attorney:

_____ (Name and Registered address with pincode). Mobile No. / [Telephone

No.]: Country code _____; Email: _____

- 5.2** Notice is deemed to have been given if duly communicated in accordance with the Indian Contract Act, 1872 and the Information Technology Act, 2000 and related Indian legislations.

- 5.3** Any change in the address/email/ of the Parties shall be notified to the other Party within **15 days** of such change by way of a notice.

6. Procedure for imposing penalty in case of breach:

Notwithstanding any of the clauses above, in addition to imposition of penalty, if the breach or default committed by the Applicant amounts to violation of any of the provisions of the Act, appropriate legal proceedings shall be initiated under Section 61 of the Act.

7. Termination and Revocation

- 7.1** Subject to clause 2.3, the Agreement shall stand automatically terminated on the completion of the period agreed between the Parties including the period of extension

agreed to, if any. On termination, the Applicant shall comply with the obligation under clause 7.3 of this agreement.

7.2 During the subsistence of this Agreement, the Applicant shall have an option to initiate termination of this Agreement by sending a request to NBA in the form of a letter stating valid reasons for the same. On receipt of the same, it shall be the discretion of NBA to accept or reject the reasons specified by the Applicant. In the event of its decision to terminate, NBA shall intimate the applicant in writing within 90 days of making the decision. On receipt of such communication from NBA, the applicant shall comply with clause 7.3 of this agreement.

7.3 Upon termination of the Agreement, the Applicant shall:

7.3.1 Immediately cease the use of all approved biological resources and/or knowledge associated thereto.

7.3.2 Pay all outstanding dues including the benefit sharing amount and submit status report dues, if any, by the Applicant within 45 days of the date of termination of this Agreement.

7.4 NBA may withdraw the approval granted and revoke this Agreement in case of occurrence of any of the conditions mentioned in Rule 17 of the Rules, 2024 or if the applicant performs activities contrary to any restriction or prohibition imposed by NBA or under the Act and Rules, 2024.

8. Liabilities and Indemnification

8.1 NBA shall not be liable for any loss or damage whatsoever caused to the Applicant due to revocation of approval for access and/or termination of this Agreement on any grounds whatsoever.

8.2 The Applicant shall be solely responsible (jointly and severally responsible in case of more than one applicant) for any claims by third parties arising from the Applicant's acts or omissions in the course of performing this Agreement and under no circumstances shall the NBA be held responsible or liable for any claims by such third parties.

8.3 The Applicant shall pay such sum for breach committed by the Applicant as determined by NBA under clause 6 of this Agreement which is in addition to the compensation commensurate with the damage incurred by the Republic of India or the benefit claimers that the Applicant is liable to pay as decided by the appropriate forum.

8.4 The Applicant shall indemnify and save NBA and its employees, members and officers, from and against all claims, demands, losses, damages, costs (including attorney fees), actions, suits or other proceedings, all in any manner based upon, arising out of, related to, occasioned by or attributable to, any acts or conduct of the Applicant, its employees or

agents, (whether by reason of negligence or otherwise) in the performance by or on behalf of the Applicant of the provisions of this Agreement or any activity undertaken or purported to be undertaken under the authority or pursuant to the terms of this Agreement.

8.5 NBA has no liability as to the safety of the results of the research or the biological resources and/or knowledge associated thereto involved in it, nor as to the accuracy or correctness of any research conducted on the biological resources and/or knowledge associated thereto. The Applicant assumes full responsibility for complying with rules, regulations and standards related to the results of the research or transfer of the biological resources and/or knowledge associated thereto.

9. Confidentiality

9.1 Upon request from the Applicant, NBA shall keep as confidential that information which is desired to be kept as confidential by the Applicant.

9.2 Notwithstanding the above, confidential information may be disclosed by NBA to the extent required by any law or regulation or order of any authority established by law having jurisdiction over any of the Parties or in the opinion of NBA such disclosure becomes necessary to deal with any emergency situations, or national or public interest.

10. Arbitration and Mediation:

10.1 In case any dispute or difference arises out of the interpretation of any clauses of the Agreement, either of the Parties may give the other Party a notice clearly identifying and providing details of the dispute. On receipt of such notice by the other Party, the Parties shall try to settle such dispute/difference amicably between them by negotiating in good faith within 30 days of the receipt of such notice.

10.2 If the dispute or difference is not resolved by such negotiations within the period mentioned, the dispute or difference shall be referred for Mediation or reconciliation or Arbitration through sole arbitrator appointed by the NBA.

10.3 The arbitration shall be governed by the Mediation Act 2023, Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The place of arbitration shall be at Chennai in India.

10.4 The award of the Arbitrator shall be final, conclusive and binding on the Parties. The Arbitrator shall be competent to decide whether any matter or dispute or difference referred to him falls within the purview of arbitration.

11. Governing Law and Jurisdiction

11.1 As regards all other aspects and the terms and conditions not provided for this in this

Agreement, they shall be governed by the provisions of the Act read with Rules and Regulations made thereunder.

11.2 This Agreement shall not in any way constitute or be presumed to constitute a partnership or a joint venture or a joint enterprise in any way or for any purpose between the Parties hereto or make the parties in any way liable as partners of or as agents for one another.

12. Severability

12.1 If any part of this Agreement is declared or held improper or unjustifiable or invalid by a Court of Law for any reason, the deficiency or invalidity of that part shall not affect the validity of the remainder which will continue in full force and effect and be construed as if the Agreement had been executed without the invalid portion.

12.2 However, the remainder of the Agreement shall not come into force unless the remainder is consistent with the declaration or order or judgment of the Court.

13. Amendment

No amendment to this Agreement shall be valid or binding upon the Parties, unless agreed upon by the Parties, in writing, and signed on behalf of each Party by their duly and legally authorized persons and such amendment shall be made as a supplementary agreement along with Annexes, as applicable.

14. Entirety of Agreement: This Agreement constitutes the culmination of all prior negotiations, understanding, representations and commitments and sets down the complete terms and conditions of Agreement between the parties as to the subject matter.

15. Annex and Schedules

15.1 The Schedules and their Annexes attached to this Agreement or Schedule that may be added subsequently by way of an amendment under the provisions of this Agreement shall form an integral part of this Agreement and shall be binding on the Parties.

15.2 This Agreement has been executed in duplicate, each of which shall be deemed to be original; one shall be retained by the NBA and other by the Applicant and both shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have signed in this Agreement on the day month and the year aforesaid in this Agreement.

.....

.....

Signed by the Authorized person of the Authority

Signed by the Applicant

For National Biodiversity Authority

For the Applicant

Witnesses

Witnesses

1. Signature

1. Signature

Name

Name

Address

Address

2. Signature

2. Signature

Name

Name

Address

Address

SCHEDULE A - BENEFIT SHARING COMPONENT

In case of benefit sharing in monetary mode

- (i) ***In case of no prior negotiation.*** The Applicant being a [trader/manufacturer] having purchased the biological resources directly from [Joint Forest Management Committee/Forest Dweller/Tribal cultivator/Gram Sabha], has agreed for a benefit sharing obligation of% (*in numerical as well as words*) of the purchase price of the biological resources or% (*in numerical as well as words*) of the annual ex-factory sale of the product which shall be worked out based on annual gross ex-factory sale minus government taxes.

[OR]

In case of prior negotiation. The applicant being a [trader/manufacturer] having purchased the biological resources directly from [Joint Forest Management Committee/Forest Dweller/Tribal cultivator/Gram Sabha], has agreed for a benefit sharing obligation of% (*in numerical as well as words*) of the purchase price of the biological resources or% (*in numerical as well as words*) of the annual ex-factory

sale of the product which shall be worked out based on annual gross ex-factory sale minus government taxes.

[OR]

Additional upfront payment in case of biological resources of high economic value. Since the biological resource is of high economic value, it is agreed to between the parties that a benefit sharing obligation of an upfront payment of% (*in numerical as well as words*) on the proceeds of [auction/sale amount] and the same shall be paid by the applicant.

[OR]

Option in case of benefit sharing on sale price. When the biological resources are accessed for commercial utilisation, the Applicant shall have an option to pay the benefit sharing of % of the annual ex-factory sale of the product which shall be worked out based on annual gross ex-factory sale minus government taxes will be paid by the Applicant.

Any person having an annual turnover of more than one crore rupees shall submit an annual statement containing information regarding the biological resource consumed in the financial year in Form A, within three months of finalization of annual income tax or corporate tax return in respect of that financial year.

[AND/OR]

In case of benefit sharing in non-monetary mode

The Applicant has agreed for a benefit sharing obligation in the form of non-monetary benefits as approved by NBA in the following manner:

- a) Providing institutional capacity building, including training on sustainable use practices, creating infrastructure and undertaking development of work related to conservation and sustainable use of biological resources;
- b) Transfer of technology or sharing of research and development results with Indian institutions/individuals/entities;
- c) Strengthening of capacities for developing technologies and transfer of technology to India and/or collaborative research and development programmes with Indian institutions/ individuals/ entities;
- d) Contribution/ collaboration related to education and training in India on conservation and sustainable use of biological resources;

- e) Location of production, research, and development units and measures for conservation and protection of species in the area from where biological resource has been accessed, contributions to the local economy and income generation for the local communities;
- f) Sharing of scientific information relevant to conservation and sustainable use of biological diversity including biological inventories and taxonomic studies;
- g) Conducting research directed towards priority needs in India including food, health and livelihood security focusing on biological resources;
- h) Providing scholarships, bursaries and financial aid to Indian institutions/ individuals preferably to regions, tribes/ sects contributing to the delivery of biological resources and subsequent profitability if any;
- i) Setting up of venture capital fund for aiding the cause of benefit claimers;
- j) Payment of monetary compensation and other non-monetary benefits to the benefit claimers as the NBA may deem fit.

SCHEDULE B - ANNEXES TO BE ATTACHED

ANNEX A - Details of biological resources and/or knowledge associated thereto and geographical locations

ANNEX B - Details of commercial utilization

ANNEX C- Authorization made by the Applicant (*if any*) for signing the Agreement and/or access the biological resources and/or knowledge associated thereto (*To be enclosed by the applicant*)

SCHEDULE C

Details of Identified Benefit Claimers (*To be filled by the applicant*)

Details of any other Benefits Shared with the Identified Benefit Claimers.

In case of change of beneficiaries/ Geo location of the Biological resources during the interim period, the applicant shall intimate to SBB/UtBC.