

MEMORANDUM OF AGREEMENT /CONTRACT BETWEEN ORGANIZATIONS COMMERCIALY UTILIZING BIOLOGICAL RESOURCES AND KERALA STATE BIODIVERSITY BOARD FOR ACCESS AND BENEFIT SHARING OF BIOLOGICAL RESOURCES FOR THE FINANCIAL

YEAR 20..... - 20.....

First Party

Sri (authorized signatory
who is addressed as the Applicant

And

Second Party

The Member Secretary, Kerala Biodiversity Board Thiruvanthapuram

The...../the applicant is a private firm/organizations situated in Kerala, who is undertaking or intending to undertake any activity referred to in Section 7 of the Biodiversity Act 2002 and is engaged in commercial processing/ utilization of biological resources and production and sale of -----.

That, the Board which is a Statutory Autonomous Body constituted under the Section 22 of Biodiversity Act, 2002, having right over conservation, sustainable utilization and regulation of commercial usage of biological resources and has in addition rights over proper and equitable appropriation/sharing of benefits accrued through commercial utilization of bioresources for the welfare of communities. This agreement is arrived at in compliance of Section 7 read with Section 23 (b) and Section 23 (c) and Section 24 (1) and Section 24 (2) of Biodiversity Act, 2002 and the Rules made there under for proper and equitable sharing of benefits from the biological resources and guidelines for Access and Benefit sharing (2014) as issued by National Biodiversity Authority and Ministry of Environment and Forests and also as per other corresponding provisions laid by the National Biodiversity Authority.

That, as per the information furnished by the applicant in the prescribed format (Form I) the applicant has utilized a total of various biological resources for the production and sale of various -----products.

The applicant has furnished in prescribed format (Form A) the information regarding the bioresources accessed from bulk traders / traders or for trading within or outside the country

Where as per this memorandum of agreement the applicant has agreed for sharing of the benefits accrued to him/ the concerned firm through the commercial utilization of the various bioresources in such quantities as mentioned in the in Form A / Annexures for the financial year-----

Accordingly, both the parties enter into an agreement for the proper and equitable sharing of the benefits from the utilization of biological resources as follows;

1. That, this agreement is valid for the financial year-----.
2. That, the extraction of biological resources by the applicant is not more than the quantities as detailed in the Form A and Annexures
3. That, the applicant has purchased the mature biological resources only through various traders and hence the original source of all the biological resources is not known.
4. That, if in future the applicant extracts the biological resources directly from any specific locality/panchayat, he will furnish the details of the name, address, signature and photo id of the authorized persons for the collection for biological resources to the Board/Local Biodiversity Management Committee, mandatorily.
5. That, if in future the applicant extracts the biological resources directly from any specific panchayat, he will obtain proper permission from the Biodiversity Management Committee and the Board prior to the commencement of the same.
6. The Board has all the rights to enquire into all the information furnished by the applicant, inspect, evaluate and monitor at any time.
7. That, situated in State of Kerala (applicant) will pay to the Board all dues as per the prescribed graded percentages in accordance with A.B.S guidelines 2014 issued by the National Biodiversity Authority for the equitable sharing of the benefits out of the commercial utilization of biological resources which in turn is calculated based on Annual Gross Ex-Factory Sale minus Government Taxes.
8. That, the as per the information made available by the applicant the Annual Gross Ex-Factory Sale /turn over for the financial year..... is Rs.....(in words rupees.....). The applicant has not paid any other State Tax (CST and VAT). Hence, as per the information made available by the applicant a total of Rs..... (in words Rupeesonly) is to be equitably shared as per the Act.
9. That, the applicant has opted for regulation 4 out of the regulations 3 &4 as provided under A.B.S guidelines 2014 issued by Government of India. As per the provisions of

regulation 4, upto rupees one crore the equitable sharing at the rate of 0.1% is fixed. Accordingly, an amount of Rs.....(in words rupees..... only) is payable to the Board by the applicant. Hence the applicant will pay Rs.....(in words rupees..... only) to the Board.

10. As the financial year.....is over, hence the applicant will pay the entire amount in one installment to the Board on the date of agreement.
11. The Board will not have any responsibilities /relation with the profit and loss out of the business of commercial utilization of biological resources by the applicant and in all the circumstances the applicant is liable to pay the Board the ABS money to the Board.
12. The Board reserves all the rights to terminate or cancel the agreement for ABS on receipt of any complaint or suo-moto on following grounds-
 - (a) On the belief that the applicant has violated any of the conditions in the agreement or any of the provisions of the Act.
 - (b) The applicant failed to comply with the terms and conditions of the agreement
 - (c) That, the applicant has failed to comply with conditions laid down for the Access to the biological resources.
 - (d) In interest of environment/biodiversity conservation and circumstances related to overriding public interest.
 - (e) On deliberate wrongful information in the documents furnished by the applicant related to Access and sharing of benefits.
13. The prior sanction given to the applicant by the Board can also be cancelled on following grounds;
 - (a) On realization that any biological resource is classified/re-classified as Endemic/Rare/Endangered/Threatened Species.
 - (b) After sanction if, it is found that any biological resource are regulated under any other Acts or Rules.
 - (c) If, the access and commercial extraction of any biological resource has any adverse effect on livelihood of local citizens.
 - (d) If, the access and commercial extraction of any biological resource has any adverse effect on environment which is uncontrollable later.
 - (e) If, the access and commercial extraction of any biological resource has any adverse effect on ecology or gene pool.
 - (f) If, the access and commercial extraction of any biological resource has any adverse effect on National interest or it is found to be against the provisions of International agreements.
 - (g) If, the access and commercial extraction of any biological resource has any adverse effect on sustainable use of the same.

14. The prior sanction given can be cancelled in case of violation of any of the provisions of the Biodiversity Act/Rules and ABS guidelines 2014 by the applicant,
15. The applicant is liable/responsible for the collection of the biological resources from any sources as per the applicable laws and the Board is not responsible for the same.
16. Any amendments in the agreement can be done in future by the consent of both the parties.
17. That, the agreement is related only with the equitable sharing of benefits out of the commercial utilization of biological resources and this is not valid for any other purpose.
18. Any dispute arising after the agreement, has to be referred to the Chairman of the Board and whose decision shall be final and acceptable to both the parties.
19. That, this agreements which is entered upon for the sharing of benefits out of the commercial utilization of biological resources shall be treated as an approval/ certificate for the access to the biological resources.

On the basis of the above, this agreement is signed on

On behalf of the Ist party

Signature
Name,
Full address
Telephone No.

Witness;

Signature
Name,
Full address
Telephone No.

On behalf of the IInd party

Signature
Name,
Full address
Telephone No.

Witness;

Signature
Name
Full address
Telephone No.