

**MUTUALLY AGREED TERMS (MAT) BETWEEN ORGANIZATIONS
COMMERCIALY UTILIZING BIOLOGICAL RESOURCES AND ASSAM STATE
BIODIVERSITY BOARD FOR ACCESS AND BENEFIT SHARING OF
BIOLOGICAL RESOURCES**

FINANCIAL YEAR 2022-23

FIRST PARTY

..... registered office at Guwahati-781038,
.....

And

SECOND PARTY

The Member Secretary, Assam State Biodiversity Board, Aranya Bhawan, Panjabari,
Guwahati-781037

....., who is
undertaking activities referred to in Section 7 of the Biological Diversity Act 2002 and is
engaged in

That, the Assam State Biodiversity Board (herein will be referred to as Board), which is a
Statutory Autonomous Body constituted under Section 22 of the Biological Diversity 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 local communities.

That the Board established by the Government of Assam vide Gazette Notification No.
FRW.57/2005/311 dated: 29-09-2010 as per the provisions of Biological Diversity Act, 2002
is authorized to grant approval under Section 7 of the Biological Diversity Act, wherein the
applicant, if a citizen of India or a body corporate, association or organization which is
registered in India is obligated to intimate the Board in case of accessing or obtaining any
biological resource within the territorial jurisdiction of the state of Assam for commercial
utilization, or bio-survey and bio-utilization for commercial utilization.

That 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 the Biological Diversity Act, 2002 and
the Rule 18 (1) and Rule 22 of Assam Biodiversity Rules 2010 as amended in 2019, made
there under, for proper and equitable sharing of benefits from the biological resources and
guidelines on Access to Biological Resources and Associated Knowledge and Benefits
Sharing Regulations, 2014 issued by the National Biodiversity Authority and Ministry of
Environment and Forests and also as per Standard Operating Procedures for ABS notification
dated 19.11.2020.

That, as per the information furnished by the applicant in the prescribed Format-I and Form A, the applicant intends to access biological resources i.e. Agarwood for commercial utilization.

That, after examining the application in Format-I and Form A and being satisfied with the merit of the application, the Assam State Biodiversity Boards grants this approval for access to bioresources as mentioned in the submitted Format-I and Form A to, in the quantity proposed as mentioned in Form A i.e. for the Financial Year 2022-2023.

Accordingly, both the parties enter into this agreement for the proper and equitable sharing of the benefits from the utilization of biological resources with **Terms and Conditions** as follows:

1. The information submitted on the details of the bio-resource/resources, quantity accessed and any other information furnished in this regard are true and correct to the best of the Applicant's knowledge and belief, and the Applicant should undertake to inform the Board, any changes to the information that was previously submitted or information that has a bearing on the bio- resource/resources mentioned in Format – I and Form A.
2. In case any of the above information is found to be false or untrue or misleading or misrepresenting, the Board may initiate steps to withdraw the access granted and revoke the written approval-agreement as per Rule 19 (1) of the Assam Biodiversity Rules, 2010 (as amended in 2019).
3. The said approval for access shall be deemed to have taken effect from signing of this agreement and is valid up to 31/03/2023.
4. The applicant will ensure that the collection and the process for accessing the said bio-resource would be conducted in a sustainable manner. The applicant will also ensure that adequate information and training is provided to the collectors of the bio-resource/ resources keeping in mind the above mentioned condition.
5. The Applicant shall indemnify and hold harmless, the Board, for any loss or adverse impact on the bio- resource, biodiversity or the environment, the rights, livelihoods, and knowledge of local communities that are affected as a consequence of accessing the bio- resource mentioned in Format-I and Form A. The amount received by the Board from the Applicant as compensation for loss caused to the environment and other aspects mentioned above will be utilized by the Board for conservation purposes.
- 5.1 The Applicant shall be solely responsible 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, the Board shall be held responsible or liable for any such claims by third parties.

6. The Board also reserves the right withdraw the access granted and revoke the written approval-agreement
 - a. on the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed,
 - b. when the person has failed to comply with the terms of the approval-agreement
 - c. on failure to comply with any of the conditions of access
 - d. on account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods, and knowledge of local communities

as provided under Rule 19 of the Assam Biodiversity Rules, 2010 (as amended in 2019)..

7. The Board also reserves the right to cancel the former approval given to the Applicant on the following basis:
 - a. If, after acceptance, it is later known that the specific bio- resource/resources are classified / reclassified in the Endemic / Rare / Endangered / Threatened or likely to become threatened category due to such access.
 - b. If, after acceptance, it is later known that the certain bio-resource/resources are prohibited for access or use in any other Act / Rule.
 - c. If the access and the commercial utilization of the said bio-resource/resources leads to or is likely to result in an adverse effect on the livelihoods, culture, or indigenous knowledge of the local people
 - d. If the access and commercial utilization of the said bio-resource/resource results in or is likely to result in an adverse environmental impact which may be difficult to control and mitigate
 - e. If the access to the certain bio-resource/resources and its commercial utilization causes or may cause genetic erosion or affects the ecosystem function
 - f. If the access to certain bio-resources and commercial utilization is contrary to national interest and other related international agreements entered into by the country and the interest of the State of Assam.

as provided under Rule 20 of the Assam Biodiversity Rules, 2010 (as amended in 2019)..

8. The Board reserves the right to inspect and call for any information or documentation required at any time, from the Applicant, regarding the access and commercial utilization of the bio-resource/resources mentioned in Format- I and Form A.
9. The Precautionary, Sustainable use of natural resources and the Polluter Pays Principles ipso facto, as under the National Green Tribunal Act, 2010 may be invoked as remedial measures in case of violations under the Biological Diversity Act, 2002
10. This approval-agreement is granted on the condition that it should not be transferred or assigned to any third party, except as provided by law or under the express authority of the Board.
11. In case of a change in the Applicant Company's shareholding or management, which may include the closing down of business, the same shall be notified to the Board by the Applicant within a period of 90 days.
12. The contravention of the Terms and Conditions of the approval shall be punishable with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees every day during which the default continues as under Section 56 of the Biological Diversity Act. The offence of contravention of the stipulated terms and conditions for the approval are cognizable and non-bailable as under Section 58 of the Biological Diversity Act, 2002.
13. In case of non-performance of obligations as stated under the Terms and Conditions of this agreement, the Applicant shall be held liable under Indian Contract law.
14. Any amendments to the said approval letter can be made only with the consent of both the parties. i.e., the Board and the Applicant.
15. The aforesaid approval-agreement is made only for access to the said bio-resource/resources mentioned in Format-I and Form A for commercial utilization. The approval-agreement shall not be used by the Applicant and is not valid for any other related work.
16. In case the Applicant seeks to redress any grievances as regards the approval granted by the Board or any other related matters, he/she may file an application to the Chairperson of the Board before filing the matter before the Gauhati High Court.
17. In the event of any dispute arising after the approval of the Board is granted, the Chairperson of the Board will be referred to for the settlement of the dispute, whose decision will be final and valid to both parties.

18. This agreement for the effect of the benefit received from commercial use of biological resources will be considered as approval for access to biological resources under reference. Format-I and Form A dated submitted by the applicant, forms part of this approval-agreement (**Schedule A**).

19. The Board grants approval for access to the bio-resource under reference subject to benefit sharing by the Applicant from Since is a biological resource of high economic value, the benefit sharing is an upfront payment of 5 % (Five Percent), on the sale amount as per clause 6(iii) of the Standard Operating Procedures for Access and Benefit Sharing Notification of the Board dated 19.11.2020.

20. The applicant, will access offrom as specified in his application, at the rate of Rs for the financial year 2022-23.

21. Against the quantity permitted to be accessed by the applicant, the applicant shall pay a total ofi.e. 5% (Five Percent) of to the Board as ABS obligation amount, within one month from signing of this agreement.

22. The calculated ABS amount as per clause 21 above, may be paid either in the form of a Demand Draft drawn on any nationalized bank payable at Guwahati in favour of 'Assam State Biodiversity Board' or through Online Transfer mode in the following account of the Board:

Account No	: 32007181470
Account Name	: Assam State Biodiversity Board
Name of the Bank	: State Bank of India
Branch	: PBB Ganeshguri
IFSC Code	: SBIN0004134

23. After receipt of the ABS obligation amount mentioned in the clause 21 above, the Board shall issue a 'Certificate of Compliance' to the applicant.

24. The Applicant, if after obtaining approval from the Board for accessing said biological resource intends to-

(a) transfer the results of any research relating to the obtained biological resource for monetary consideration or otherwise, to any person who is not a citizen of India or citizen of India who is non-resident as defined in clause (30)

of section 2 of the Income-tax Act, 1961 or a body corporate or organization which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management, or

(b) apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained or any other relevant obligations as specified under the Biological Diversity Act, 2002 must seek approval of the National Biodiversity Authority as under Section 4 and Section 6 of the Biological Diversity Act, 2002

This Approval -Agreement has been entered into by the duly authorised representatives of the Board and the Applicant on this _____date of _____month of this_____ year and made effective from _____ and is valid upto 31.03.2023.

Signed by the duly authorized
Representative for the Applicant

Signed by the Authorized Officer of the
Assam State Biodiversity Board

Witness;

Signature
Name
Full address
Telephone Number

Witness;

Signature
Name
Full address
Telephone Number

Schedule A: Application made by the Applicant in Format-I and Form A