



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

**Access to Biological and Genetic Resources
and Associated Traditional Knowledge
Act 2 of 2017**
section 23

General Regulations

Government Notice 161 of 2021

(GG 7597)

came into effect when the Act was brought into force
on 1 November 2021 by GN 236/2021 **(GG 7673)**

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PART 1 PRELIMINARY

Definitions

1. In these regulations a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“applicant” means a person who applied for an access permit as contemplated in regulation 6;

“biotrade” means an activity relating to the commercial collection, processing and selling of products and services derived from biodiversity, particularly from biological resources, for domestic and international markets;

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“competent national authority” means the Ministry as referred to in section 6(4) of the Act;

“compliance certificate” means a certificate issued by the competent national authority certifying that the user has complied with -

- (a) these regulations and promoted transparency in the utilisation of biological and genetic resources and associated traditional knowledge;
- (b) the provisions of an access and benefit sharing agreement and material transfer agreement; and
- (c) the Act when the user accessed and transferred the biological or genetic resources and associated traditional knowledge;

“research and development facility” means the research and development facility on indigenous biological natural resources referred to in section 6(3)(u) of the Act;

“resource mobilisation strategy” means a process of getting resources from resource providers using different mechanism in order to implement the establishment of a research and development facility;

[The singular “mechanism” should be the plural “mechanisms” to be grammatically correct.]

“subsequent user” means a third party to whom a holder of an access permit transfers biological or genetic resources or associated traditional knowledge; and

“the Act” means the Access to Biological and Genetic Resources and Associated Traditional Knowledge Act, 2017 (Act No. 2 of 2017).

PART 2
OFFICE, BRANCH OFFICES AND RESEARCH AND DEVELOPMENT FACILITY

Functions of Office

2. In addition to the functions set out in section 6(3) of the Act, the Office has the following functions -

- (a) to co-ordinate all activities relating to access to biological and genetic resources and associated traditional knowledge in accordance with these regulations and the Act;
- (b) to establish an access and benefit sharing clearing house mechanism as a means for sharing information on access to biological and genetic resources and associated traditional knowledge;
- (c) to maintain a depository for all benefit-sharing agreements and materials transfer agreements and other documents relating to biological and genetic resources and associated traditional knowledge;
- (d) to establish administrative mechanisms for the implementation of matters relating to biological and genetic resources and associated traditional knowledge;

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- (e) in collaboration with relevant authorities, lead agencies, non-governmental organisations and other interested parties, to develop and implement an integrated communication, education, participation and awareness raising training programme for promoting the implementation of matters relating to biological and genetic resources and associated traditional knowledge;
- (f) to ensure that the transfer of technology and exchange of information in relation to biological or genetic resources is effected by the persons accessing the biological or genetic resources; and
- (g) to submit to the Minister reports relating to the implementation of these regulations, the Nagoya Protocol and the United Nations Convention on Biological Diversity.

Establishment of branch offices

3. (1) The Minister, on the recommendation of the Office, may establish branch offices in any part of Namibia for purposes of assisting the Office in dealing with matters relating to biological and genetic resources and associated traditional knowledge.

- (2) A branch office established under subregulation (1) consists of -
 - (a) a senior staff member duly appointed in accordance with the laws governing the appointment of staff members in the Public Service, who is the head of that branch office; and
 - (b) such number of staff members as may be necessary to perform and exercise the powers and functions of that branch office.

(3) In addition to any other functions that may be performed by a branch office in terms of the Act, the functions of the branch office established under subregulation (1) are to -

- (a) give guidance on application procedures and advice on compliance requirements under the Act;
- (b) receive applications for access permits and other applications relating to biological and genetic resources and associated traditional knowledge;
- (c) submit the applications contemplated in paragraph (b) to the Office;
- (d) provide timely reports to the Office on activities of the branch office; and
- (e) provide any other administrative support to the Office which are necessary for the implementation of the Act.

[The verb “are” in paragraph (e) should be “is” to be grammatically correct.]

Research and development facility

4. In order to establish a research and development facility as contemplated in section 6(3)(u), the Office must -

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- (a) in consultation with other relevant Ministries, identify opportunities for new product development and innovation from indigenous biological natural resources to support and promote access and benefit sharing, biotrade and bioprospecting in Namibia;
- (b) conduct a feasibility study and develop and present a business plan for the research and development facility to support and promote access and benefit sharing, biotrade and bioprospecting in Namibia as contemplated in that section; and
- (c) ensure that a resource mobilisation strategy for the establishment of the research and development facility is implemented in a timely and cost effective manner.

PART 3

**PRIOR INFORMED CONSENT, ACCESS PERMITS, BIOPROSPECTING ACTIVITIES
AND RESEARCH PROMOTING CONSERVATION AND SUSTAINABLE USE OF
BIOLOGICAL DIVERSITY**

Prior informed consent

5. (1) A person intending to approach right holders for obtaining prior informed consent in terms section 9(2) of the Act must first notify the Office of his or her intention to obtain prior informed consent on a form set out in Annexure 1.

- (2) On receipt of the notification contemplated in subregulation (1), the Office must -
 - (a) consult the right holders on the procedures to be followed in order to access biological and genetic resources and associated traditional knowledge; and
 - (b) advise the person contemplated in subregulation (1) on the procedures contemplated in paragraph (a) and, if necessary, when consultations on prior informed consent is to be held with the right holders.

[The verb "is" in paragraph (b) should be "are" to be grammatically correct.]

(3) To obtain prior informed consent from right holders, the person contemplated in subregulation (1) must -

- (a) comply with community protocols or customary practices, where such protocols or practices exist; and
- (b) comply with the advice given by the Office in terms of subregulation (2)(b).

(4) Consultations between the person referred to in subregulation (1) and the right holders must be conducted on a date, at a place and in a language agreed on by the person and the right holders.

(5) If there is any cost implications relating to the consultation referred to in subregulation (4), the costs must be determined and be paid as agreed upon by the person referred to in that subregulation and the right holders as set out in Annexure 6.

[The verb "is" should be "are" to be grammatically correct.]

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(6) If right holders decide to grant prior informed consent to the person referred to in subregulation (1), the consent must be given in triplicate on a form set out in Part A of Annexure 2.

(7) A person who obtains prior informed consent under subregulation (6) must -

- (a) submit one prior informed consent to the Office;
- (b) keep one prior informed consent for record purposes; and
- (c) give one prior informed consent to the right holders.

(8) Despite this regulation, right holders may grant their written prior informed consent together with an access and benefit sharing agreement.

(9) A prior informed consent granted under these regulations does not entitle the applicant to access biological or genetic resources and associated traditional knowledge but only enables the applicant to proceed with the application for an access permit.

Application for access permit

6. (1) A person who intends to apply for an access permit under section 8 of the Act must -

- (a) seek guidance from the Office or branch office on the application for an access permit;
- (b) disclose to the Office all material information regarding -
 - (i) the purpose for access permit and its usage;
 - (ii) the key role players on accessing biological and genetic resources and associated traditional knowledge; and
 - (iii) the possible benefits that may arise as a result of the access and utilisation of the biological or genetic resources and associated traditional knowledge;
- (c) make an application for an access permit on a form set out in Annexure 3; and
- (d) submit to the Office the application referred to in paragraph (c), together with -
 - (i) a copy of the prior informed consent issued under these regulations;
 - (ii) a copy of the access and benefit sharing agreement entered into in accordance with regulation 12; and
 - (iii) proof of payment of the access permit application fee set out in item 2 of Annexure 6.

(2) The Office may request further information from an applicant for purposes of the application for an access permit.

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(3) If the Office requests further information as contemplated in subregulation (2) the Office may only determine the application for an access permit if the requested information has been provided by the applicant to the satisfaction of the Office.

(4) Subject to subregulation (3), the Office must within 90 working days of receipt of an application for an access permit, determine the application and communicate its decision in writing to the applicant.

(5) The Office may not grant an access permit pertaining to biological and genetic resources which are listed as protected or threatened under the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975) or any other laws unless a permit or other authorisation regarding such resources is granted in terms of that Ordinance or such other laws.

(6) If the Office grants an application for an access permit, the Office -

- (a) must issue the access permit on a form set out in Annexure 4; and
- (b) may impose conditions on the access permit as it considers necessary.

(7) A person to whom an access permit has been granted in terms of subregulation (6) must pay the access permit fee set out in item 3 of Annexure 6.

(8) A user must abide by the conditions imposed on the access permit under subregulation (6).

(9) If the Office refuses an application for an access permit, the Office must, in writing, communicate its decision to the applicant and inform the applicant of the reasons for the refusal of the application.

(10) If the right holders refuse access to their biological or genetic resources or associated traditional knowledge as contemplated in subsection (4) of section 9 of the Act, the Office may only consider an application for an access permit submitted by the applicant after the Minister has exercised his or her powers in terms of subsection (5) of that section.

(11) A user -

- (a) must, on an annual basis or such alternative timeframe as determined by the Minister, submit a status report of research involving the biological or genetic resources, user's derivative products and intangible components to the Minister;
- (b) is liable for the costs of mitigating or remedying the impact of research of bioprospecting on the environment and socio-economic impacts; and
- (c) is restricted from sequencing any digital information derived from the biological and genetic resources without the written approval of the Office.

Bioprospecting activities

7. Regulations 5 and 6 apply with the necessary changes to a person who intends to undertake any bioprospecting activities.

Period of validity of access permit

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8. (1) An access permit issued under these regulations -
- (a) is valid for the period specified in that access permit; and
 - (b) is only applicable to the biological and genetic resources and associated traditional knowledge specified in that access permit.

(2) The Minister may, on request by a user, extend the period of an access permit if the Minister considers it appropriate to do so but the extension may not be for more than six months.

(3) An extension of an access permit in accordance with subregulation (2) is subject to payment of an access permit extension fee set out in item 4 of Annexure 6.

Renewal of access permit

9. (1) A user who intends to apply for the renewal of an access permit must -
- (a) make an application for the renewal of the access permit on a form set out in Annexure 3; and
 - (b) submit to the Office the application referred to in paragraph (a), together with -
 - (i) a copy of prior informed consent granted in accordance with regulation 5;
 - (ii) a copy of an access and benefit sharing agreement entered into in accordance with regulation 12; and
 - (iii) proof of payment of the access permit renewal fee set out in item 5 of Annexure 6.

(2) Despite subregulation (1)(b)(ii), the applicant and right holders may renegotiate the terms and conditions of the access and benefit sharing agreement and submit it to the Office.

(3) Before taking a decision whether to renew or whether not to renew an access permit, the Office must consider whether the -

- (a) user has complied with the conditions of the access permit granted and for which renewal is sought;
- (b) conservation status of the biological and genetic resources has been maintained by the user; and
- (c) biological and genetic resources have been sustainably used by the user.

(4) If the Office is satisfied that the user who applied for the renewal of an access permit complies with subregulation (3) and meets the requirements of the Act, the Office may -

- (a) grant the application for the renewal of the access permit; and
- (b) issue to the user the renewed access permit on a form set out in Annexure 4.

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Revocation or cancellation of access permit

10. (1) The Minister, after consulting the Office, may revoke or cancel an access permit if -

- (a) the user fails to comply with -
 - (i) the conditions imposed on the access permit;
 - (ii) terms and conditions of the access and benefit sharing agreement; or
 - (iii) any provision of the Act; or
- (b) there is need to protect the public interest, sustainable utilisation and the conservation of the biological diversity and the environment.

[The article “a” appears to be missing before the word “need”.]

(2) Before revoking or cancelling an access permit, the Minister must give written notice of his or her intention to revoke or cancel the access permit and invite the user to make representations within 30 working days from the date of such notice.

(3) The Office must publish the order revoking or cancelling the access permit in the access and benefit sharing clearing house mechanism and in any other form of publication and communicate the revocation or cancellation of the access permit to the affected community and rightholders.

Research promoting and encouraging conservation and sustainable use of biological diversity

11. (1) Subject to subregulation (2) and for purposes of Article 8(a) of the Nagoya Protocol, a person who intends to conduct non-commercial research which contributes to the conservation and sustainable use of biological diversity does not need to apply for an access permit.

(2) Despite subregulation (1), a person referred to in that subregulation must comply with any other law applicable to the carrying out of such research, including the obtaining of any research certificate or other applicable permit as may be required by such applicable law.

- (3) A person referred to in subregulation (1) must -
 - (a) notify the Office of his or her intention to conduct non-commercial research;
 - (b) sign a material transfer agreement with one of the terms and conditions clearly stipulating that the person must not use the research for any purpose other than to contribute to the conservation and sustainable use of biological diversity; and
 - (c) furnish the Office with copies of the research certificate or other permit contemplated in subregulation (2).

(4) Despite subregulation (1), a person conducting non-commercial research on associated traditional knowledge must -

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- (a) obtain prior informed consent from the right holders in accordance with regulation 5;
- (b) clearly identify potential benefits to the right holders, and the distribution of such benefits must be fair and equitable as contemplated in section 10 of the Act;
- (c) clearly identify any potential risks to the right holders;
- (d) protect the associated traditional knowledge, regardless of whether the knowledge is formally registered as an intellectual property right or is based on customary law or community rights of the right holders;
- (e) agree with the right holders on the collection, storage and use of research data;
- (f) consider the social and environmental impact of the research activity on the right holders; and
- (g) provide feedback to the right holders of the results of the research.

(5) This regulation does not exempt a person conducting non-commercial research which contributes to the conservation and sustainable use of biological diversity from complying with any other requirements of the Act or any other applicable law.

(6) A person who conducts non-commercial research on biological or genetic resources and associated traditional knowledge and who intends to change from non-commercial to commercial research must apply for an access permit in accordance with these regulations.

PART 4

**ACCESS AND BENEFIT SHARING AGREEMENTS AND BENEFITS ARISING FROM
 BIOLOGICAL AND GENETIC RESOURCES HELD BY STATE**

Access and benefit sharing agreements

12. (1) If prior informed consent is granted in accordance with regulation 5, the right holders and the person intending to access biological or genetic resources and associated traditional knowledge must enter into an access and benefit sharing agreement on a form set out in Part B of Annexure 2.

(2) Without derogating from the principle of freedom to contract, an access and benefit sharing agreement -

- (a) must be negotiated and entered into between the applicant and the right holders or their duly authorised representatives, and may be negotiated under the guidance of the Office and recorded in writing;
- (b) must include -
 - (i) the name and description of biological and genetic resources and associated traditional knowledge to be accessed;
 - (ii) time frame of access and other stages of utilisation;

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- (iii) modality and type of benefit sharing;
 - (iv) rights and responsibilities of the parties to the access and benefit sharing agreement;
 - (v) intellectual property rights;
 - (vi) termination of the access and benefit sharing agreement;
 - (vii) penalties for failure to comply with the access and benefit sharing agreement; and
 - (viii) jurisdiction in Namibia;
- (c) may not contain terms and conditions that are contrary to any provision of the Act or any other relevant law;
- (d) must be negotiated in good faith; and
- (e) must contain terms and conditions agreed to by the parties to the access and benefit sharing agreement.
- (3) In addition to the type of benefits contemplated in section 10(2) of the Act, an access and benefit sharing agreement may vary on a case by case basis, and may include -
- (a) socio-economic development of the local community or right holders;
 - (b) collaboration and sharing of information with academia and research institutions;
 - (c) participation of right holders, academia and research in the project of access to biological or genetic resources and associated traditional knowledge; or
 - (d) joint ownership of relevant forms of intellectual property rights.
- (4) During compliance monitoring the Office must ascertain if all benefits contained in an access and benefit sharing agreement have accrued or been paid to the right holders.

Benefits arising from biological and genetic resources held by State

13. (1) Where rights over biological and genetic resources are held by the State, any monetary benefits arising from accessing or using such resources must accrue to the State.

(2) The benefits referred to in subregulation (1) must be paid into the Environmental Investment Fund of Namibia.

PART 5
 MATERIAL TRANSFER AGREEMENTS

Material transfer agreements

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14. (1) A person who intends to transfer biological or genetic resources or associated traditional knowledge as contemplated in section 11 of the Act must -

- (a) enter into a material transfer agreement with the Office on a form set out in Annexure 5;
- (b) inform the Office and concerned right holders about -
 - (i) the quantities, quality and other specifications of the biological or genetic resources or associated traditional knowledge that the person intends to transfer; and
 - (ii) all findings from research and development on the biological or genetic resources or associated traditional knowledge, where applicable;
- (c) deposit duplicates of all specimens of the biological or genetic resources into a depository approved by the Office; and
- (d) deposit information of the particular intangible component of the biological or genetic resources or associated traditional knowledge to an institution designated by the Office.

(2) In addition to the documents required under section 11(1) of the Act, a person who is not a right holder may only transfer biological or genetic resources or their associated traditional knowledge if the person -

- (a) is in possession of prior informed consent;
- (b) is in possession of an access and benefit sharing agreement;
- (c) is in possession of an access permit;
- (d) has paid to the Office the biological or genetic resources or associated traditional knowledge transfer fee set out in item 6 of Annexure 6;
- (e) has entered into a material transfer agreement with the Office; and
- (f) has a compliance certificate issued by the competent national authority with information and relevant documents on -
 - (i) the date and place of access of the biological and genetic resources and associated traditional knowledge;
 - (ii) the description of the biological and genetic resources and associated traditional knowledge;
 - (iii) the origin from which the biological and genetic resources and associated traditional knowledge was directly obtained, as well as subsequent user of the biological and genetic resources and associated traditional knowledge;
 - (iv) the presence or absence of rights and obligations relating to access and benefit-sharing including rights and obligations regarding commercialisation; and

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(v) other access permits and relevant information, where applicable.

(3) A person may only transfer biological or genetic resources or associated traditional knowledge to a subsequent user if the subsequent user accepts to be bound by the terms and conditions of the material transfer agreement and the access and benefit sharing agreement entered into by that person and the right holders.

(4) Where access to biological and genetic resources is likely to have a significant impact on the environment, an assessment of that environment must be carried out in accordance with the Environmental Management Act, 2007 (Act No. 7 of 2007), before the conclusion of a materials transfer agreement.

(5) The parties to a material transfer agreement must clearly state the rights and obligations of the person contemplated in subregulation (1) and the subsequent user, in the material transfer agreement.

(6) A person who contravenes or fails to comply with subregulation (1), (2), (3), (4) or commits an offence and is liable to a fine not exceeding N\$30 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

PART 6
GENERAL PROVISIONS

Checkpoints

15. If any other organ of State is responsible for the management of specific biological and genetic resources, the Minister may negotiate with that organ of State and enter into a memorandum of understanding with that organ of State in order to designate that organ of State as a checkpoint to execute the monitoring obligations of Namibia in terms of the Nagoya Protocol as contemplated in section 6(3)(s) of the Act.

Appeal to Minister

16. (1) A person who intends to appeal against a decision of the head of the Office as contemplated in section 18 of the Act may appeal to the Minister within 30 days from the time the decision was communicated to the person by -

- (a) lodging a notice of appeal to the Minister; and
 - (b) serving a copy of the notice to any other party to the appeal.
- (2) A notice of appeal referred to in subregulation (1) must contain the following information -
- (a) the grounds upon which the appeal is sought;
 - (b) whether the appeal is sought in respect of the whole decision of the head of the Office or part of that decision, and if the appeal is in respect of part of the decision, which part of the decision;
 - (c) the remedy or redress sought; and

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(d) any other information which is relevant to the appeal.

(3) Upon receipt of the appeal the Minister may call for oral evidence by the parties to the appeal.

(4) The Minister must make his or her decision on the appeal and submit his findings to the parties within 60 working days of the appeal being lodged.

Appeal to High Court

17. If a party to an appeal lodged under regulation 16 feels aggrieved by the decision of the Minister made under that regulation, the party may within 30 days appeal to the High Court.

Manner of payment of fees

18. A person who is required to pay a fee or other monies payable under these regulations must effect payment by affixing a revenue -

- (a) stamp to the document concerned; or
- (b) franking machine impression on the document concerned.

ANNEXURES

To view content without printing, scroll down.

To print at full scale (A4), double-click the icon below.



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Annexures

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ANNEXURE 1

NOTIFICATION FOR PRIOR INFORMED CONSENT
(Section 9(2))
(Regulation 5)

Ref No:

I/we*
.....
.....
(Name and description of person notifying the Office)

of
.....
(address)

notify the Office of my/our* intention to seek prior informed consent from the following rightholder(s):
.....(competent national authority)
.....(Local Community)
.....(Owner)

on (date) (month) (year)

Date:

Signature:

FOR OFFICIAL USE ONLY

Notification received on.....

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ANNEXURE 2

PRIOR INFORMED CONSENT AND ACCESS AND BENEFIT SHARING AGREEMENT

(Sections 9 and 23(i))
(Regulation 5(6) or 12(1))

Ref No.

EXPLANATORY NOTE:

* Delete whichever is not applicable

Part A
Prior informed consent

I/we*
.....
(Name and description of right holder(s))

being the owner(s)/custodian(s) of the following biological resources/genetic resources and associated traditional knowledge*
.....
.....
.....
*(State the biological resources/genetic resources and associated traditional knowledge)**

located at
.....
*(State the location or geographical area of the biological resources/genetic resources and associated traditional knowledge)**

hereby grant to
.....
(State the name and address of applicant for prior informed consent)

prior informed consent to access the above stated biological resources/genetic resources and associated traditional knowledge found under my/our ownership/custody.*

This consent is valid from 20 to 20

This consent is granted subject to the following conditions:

- 1
- 2
- 3
- 4
- 5

The applicant(s) has/have* obtained the following mutual agreed terms and access and benefit sharing agreements:

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1

2

Signed at..... on this the of 20

.....
Right holder(s)

I/We* declare that I am/we are* willing to enter into mutually agreed terms with
..... (*right holder(s)*) on terms and conditions accepted by both
parties.*

.....
Applicant(s)

Part B
Access and Benefit Sharing Agreement

Ref No.

EXPLANATORY NOTE:

* Delete whichever is not applicable

I/we*
.....
(Name and description of right holder(s))

being the owner(s)/custodian(s) of the following biological resources/genetic resources and
associated traditional knowledge*

.....
.....
.....
*(State the biological resources/genetic resources and associated traditional knowledge)**

located at
.....
*(State the location or geographical area of the biological resources/genetic resources and
associated traditional knowledge)**

hereby enter into an access and benefit sharing agreement with
.....
.....
(State the name and address of applicant for prior informed consent)

may access the following the biological resources/genetic resources and associated
traditional knowledge:*

1

2

3

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for the purpose of
.....
.....

(State the purpose e.g. commercial, research, educational etc)

and we agree on the following conditions:

- 1
- 2
- 3
- 4
- 5
- 6

(State the conditions of the access and benefit sharing agreement and attach additional information where necessary)

Date of consent: 20

Signed at..... on this the of 20

.....
Right holder(s)	Applicant

Part C
General

*I/we hereby declare that to the best of my/our knowledge the information contained in this Access and Benefit Sharing Agreement is correct and true and that prior informed consent will only be used to apply to the Office for an access permit.**

Name of witnesses:	Signatures:
.....
.....
.....

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ANNEXURE 3

APPLICATION FOR ACCESS PERMIT
 (Section 8(1))
 (Regulation 6 and 9(1))

Ref No.....

1. DETAILS OF PERSON APPLYING FOR ACCESS PERMIT

DETAILS OF PERSON IN RESPECT OF WHOM ACCESS PERMIT MUST BE ISSUED				
Name:				
ID/Passport/Business Registration No:				
Contact Details		Tel:	Fax:	
	Email:			
Addresses Physical Address	Postal Address			
NO.	DETAILS OF KEY ROLE PLAYERS			
1.	Name:			
	Capacity:			
	ID/Passport/Business Registration No:			
	Contact Details	Tel:	Fax:	
		Email:		
	Addresses	Postal Address		
Physical Address				
2.	Name:			
	Capacity:			
	ID/Passport/Business Registration No:			
	Contact Details	Tel:	Fax:	
		Email:		
	Addresses	Postal Address		

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(If key role players (i.e. partners, researchers, subsequent users etc.) are more than two kindly attach an extended list following the same format set out in this table for key role players)

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2. DETAILS OF ACCESS PERMIT APPLICATION

A. TYPE OF APPLICATION ACCESS PERMIT *(Kindly tick the appropriate box):*

New application		
Renewal		Permit No.:
Extension		Permit No.:

B. PURPOSE FOR WHICH ACCESS PERMIT IS SOUGHT

Access only		Access and export	
-------------	--	-------------------	--

(Kindly tick the appropriate box)

Any other *(explain)*:

.....

.....

.....

.....

C. PARTICULARS RELATING TO THE PURPOSE FOR WHICH ACCESS PERMIT IS SOUGHT

- (i) What benefits may result from the granting of the access permit?
-
-
-
-
-
-
- (ii) What is the proposed methodology for achieving set objectives?
-
-
-
-
- (iii) What are the proposed time-frames for which access permit is sought?
-
-
-
-

[There is no (vi) in the Government Gazette as reproduced above.]

- (v) Any relevant environmental considerations including impacts of the collection of resources and proposed steps to minimise or remedy those impacts:
-
-
-
-
-
-

(Kindly attach a detailed project proposal to this application if requested to do so by the Office)

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ANNEXURE 4

ACCESS PERMIT
(Section 8(1)) (Regulation 6(6) or 9(4)(b))

Ref No.

Not Transferable

Permission is hereby granted to
.....
.....
(Name and description of applicant)

to access the following biological resources or genetic resources and associated traditional knowledge:
.....
.....
.....
*(Describe the biological resources/genetic resources and associated traditional knowledge)**

located at:
.....
.....
(State location or geographical area)

on condition that:
.....
.....
(State the conditions attached to access permit)

.....
Head of the Office

.....
Date

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ANNEXURE 5

MATERIAL TRANSFER AGREEMENT
(Section 11) (Regulation 14(1)(a))

Ref No.

This is given only as a guide and must be adjusted by those entering into the material transfer agreement as deemed suitable to all parties.

I/we*
.....

being the organ of State or competent national authority charged with the management of the genetic resources located at
.....
.....
(State location or geographical area)

have entered into a materials transfer agreement with:
..... (name of collector)
..... (hereby referred to as the applicant)

from:
(State origin of collector by nationality and institutional affiliation, etc. curriculum vitae of the person in charge and profiles of other involved persons are hereby attached)

On this day of

This agreement is valid for a period of years from the date of signature and may be renegotiated as found appropriate by both parties.

Biological or genetic resources or associated traditional knowledge transfer fee payable by the applicant:

Collector's access permit No.: Issued on:
(DD/MM/YYYY)

Particulars of biological or genetic resources and associated traditional knowledge transfer fee to be collected including:

- (a) type and quantity of genetic resources to be collected, as well as the specific tax to be collected;
- (b) a list of broader species categories;
- (c) duration of collection of the genetic resources;
- (d) location and site of storage or utilisation;
- (e) location and site of collection;

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The following are the purposes for which the collected material can be used:

.....
.....
.....
.....
.....
.....

Restrictions:

Should the applicant wish to use the material for new and additional use, the applicant is required to negotiate this agreement with the organ of State and competent national authority.

Transfer to third party is only allowable with the consent of the competent national authority, the organ of State and competent national authority signatory to this agreement.

Below are the itemised financial resources available or expected to be available:

Item	Amount Available
.....
.....
.....
.....
.....
.....
.....
.....

Research

Indicate where it will take place:

.....

How the research will be carried out:

.....
.....
.....
.....
.....
.....

Expected results of a research programme, both scientific and financial, including information on:

.....
.....
.....
.....
.....
.....

Identification of local bodies for collaboration in research and development – explain how they will collaborate:

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- (i)
-
-
- (ii)
-
-
- (iii)
-
-

Confidential Information

Put statement on how any confidential information must be treated.

Benefit sharing arrangements:

Expected kinds / types of benefits	Beneficiary*
.....
.....
.....
.....
.....
.....

** please attach separate sheet indicating the number of people expected to benefit, their names and location*

Depository:

A depository for representative samples or specimens and or intangible components of the biological or genetic resources and associated traditional knowledge to be collected has been designated as:

Access to Genetic Resources:

It is hereby stated that in relation to the genetic resources held inside Namibia, competent authority and organ of State must have access at any time. And for those biological or genetic resources and associated traditional knowledge to be taken or held outside Namibia, the applicant must allow reasonable access to the genetic resources.

Information Handling:

Everymonths/years, the applicant must inform the competent national authority or organ of State of the status of research and all discoveries from research involving the biological or genetic resources and associated traditional knowledge.

The applicant must also inform the competent national authority or organ of State about the environmental and socio-economic impacts of any on-going collection of biological or genetic resources and associated traditional knowledge during the period of collection.

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The applicant must submit a report about the status of the environment in the access area at the end of the collection period.

Technology transfer:

State how Namibia will benefit from the collection and use of the biological or genetic resources and associated traditional knowledge through the transfer of technology and knowledge:

.....
.....
.....
.....
.....
.....

Dispute settlement:

.....
.....

(Insert agreed modes of settling disputes arising from the interpretation and implementation of the agreement, including an arbitration)

Law applicable:

This Agreement is governed by the Laws of Namibia.

Amendments:

.....
.....

(Insert provisions that allow for amendment of the agreement and how this amendment must be made)

Signed by:

.....
Name of Applicant	Signature	Date
.....
Name of authorised representative of organ of state	Signature	Date
.....
Name of authorised representative of competent national authority	Signature	Date

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ANNEXURE 6

FEES PAYABLE

(Section 23(m))

(Regulation 5(5), 6(1)(d)(iii), 6(7), 8(3), 9(1)(b)(iii) or 14(2)(d))

1.	Consultation costs	Negotiable between the parties
2.	Access permit application fee	N\$ 500.00
3.	Access permit fee	N\$2 500.00
4.	Access permit extension fee	N\$ 500.00
5.	Access permit renewal fee	N\$1 500.00
6.	Biological or genetic resources or associated traditional knowledge transfer fee	Negotiable with Office on case-by-case basis