

# THE WILDLIFE CONSERVATION AND MANAGEMENT ACT

(No. 47 of 2013)

IN EXERCISE of the powers conferred by section 22 (8) of the Wildlife Conservation and Management Act, 2013, the Cabinet Secretary for Environment and Natural Resources, makes the following Regulations:-

## WILDLIFE CONSERVATION AND MANAGEMENT (BIO-PROSPECTING) REGULATIONS, 2016

### PART 1- PRELIMINARY

#### Citation and commencement

1. (1) These Regulations may be cited as the Wildlife Conservation and Management (Bio-prospecting) Regulations, 2016.  
  
(2) These Regulations shall come into force on the date of their publication in the Kenya Gazette.

#### Interpretation

2. In these Regulations, unless the context otherwise requires:

“access” means obtaining, possessing and using genetic resources conserved, both *in-situ* and *ex-situ*, including derived products and intangible components, for purposes of research, bio-prospecting, conservation, industrial application or commercial use;

“access permit” means a permit that allows a person to access genetic resources issued under Regulation 4 of the Environmental Management and Coordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006;

“access permit holder” means a natural or legal person, entity or agent obtaining access to biological resources, local practices, innovations, knowledge or technologies under Service given by the Service;

“accession” means a sample or specimen of biological or genetic resource held in any legally approved depository center, such as botanical gardens, herbaria or gene/bio banks;

“Act” means the Wildlife Conservation and Management Act, No. 47 of 2013;

“acquisition” means obtaining possession of biological material or resources, through collection, receipt or other approved means;

“affiliate” means any corporation, firm, Limited Liability Company, partnership or other entity that directly or indirectly controls or is controlled by or is under the common control of a party to an agreement;

“associated knowledge” means any know how or information and skills linked to biological material, genetic resource and derivatives thereof accessed from the provider;

“benefit sharing” shall mean, unless the context otherwise commands, the benefits arising from the use of the material(s), their progeny and derivatives and associated knowledge/traditional knowledge, practices and innovations. It may include both monetary and non-monetary returns such as up-front payments, royalties, salaries, institutional development and strengthening, technical and academic training, the transfers of technology and information exchange and sharing as specified in Mutually Agreed Terms, that are entered to as part of the bio-prospecting permit.

“biodiversity” means variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and ecological complexes of which they are part, and includes diversity within species, between species and ecosystems;

“biological resources” means genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity;

“bio-prospecting” means the exploration of biodiversity for valuable genetic and biochemical resources;

“bio-prospecting agreement” means a written agreement between the user and provider that includes Prior Informed Consent, Material Transfer Agreements, Mutually Agreed Terms and benefit sharing on biological resources;

“bio-prospecting permit” means a license granted by the Service permitting bio- prospecting in a specified area in Kenya;

“bio-technology” means any technological application that uses biological systems, living organisms or derivative thereof to make or modify products for specific uses;

“bio-trade” means collection, production, transformation and commercialization of goods and services derived from native bio-diversity under the criteria of environmental, social and economic sustainability;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to wildlife;

“Competent Authority”- shall refer to the service on matters of wildlife. that will grant prior informed consent and material transfer agreements and where applicable with local communities and landowners through established structures under the law.

“community” means a group of individuals or families who share a common heritage, interest, or stake in unidentifiable land, land based resources or benefits that may derived therefrom;

“conservation area” means an area designated for conservation of biodiversity, and includes both public and private land;

“control” means ownership directly or through one or more affiliates, of fifty per cent (50%) (or such lesser percentage which is the maximum allowed to be owned by a foreign entity in a particular jurisdiction) or more of the shares of stock entitled to vote for the election of directors ,in the case of a corporation, of fifty percent (50%) ( or such lesser percentage which is the maximum allowed to be owned by a foreign entity in particular jurisdiction ) or more of the equity interest in the case of any other type of legal entity as general partner in any partnership, or any other arrangement whereby a party controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity;

“Environment Authority” means the National Environment Management Authority established under section 7 of the Environment Management and Coordination Act, 1999;

“*ex-situ*” means a condition in which genetic resources are found outside their natural habitats;

“genetic resource” means any material of plant, animal, microbial or other origin containing functional units of heredity;

“hyper access” means harnessed multilateral access of biodiversity for application in innovation;

“*in-situ*” means a condition in which genetic resources are found in their ecosystems and natural habitats and, in the case of domesticated or cultivated species, in the cultural context in which their specific properties have been developed;

“indigenous knowledge” means a community or individual intellectual rights and community or individual knowledge;

“intangible component” means information held by persons, parties or communities that is associated with or regarding biological resources within the jurisdiction of Kenya;

“intellectual asset” means a product that contains input of human creativity, including but not limited to; intellectual product created by people working in an institution under employment agreements; visiting scientist/students agreements; collaborative agreements; funding donor/agreements; licenses and material transfer agreements; permission/license to published materials; photographs; art work; other products such as laboratory/field note books, software, publications, “know how” innovations and materials;

“intellectual property” means, intellectual property rights including patent rights, unpublished patent applications, any inventions, improvements and/or discoveries that may not be legally protectable, including all know-how, trade secrets, research plans and priorities, research results and related reports, statistical models and computer programmes and related reports, and market interest and product ideas of any of the parties in existence at the time of execution of a bio-prospecting agreement or subsequently developed or acquired independently from the agreement;

“know-how” means knowledge and skills that enable a person to accomplish a particular task or to operate a particular device or process;

“licensee” means the party obtaining rights under a license;

“licensor” means a party granting rights under a license agreement;

“Material Transfer Agreement” means a contract between the resource provider and the recipient on transfer of biological, genetic material and derivatives thereof, and includes a contract from an appropriate institution specified in these Regulations authorizing the use of biological resources and associated knowledge;

“Prior Informed Consent” means a certificate from Service showing prior acceptance of collector by the Service and the concerned community or land owner, to access biological resource, genetic resource or associated knowledge;

“product” means any subject invention and any commercially valuable or otherwise useful material, varieties, compound, isolate or useful combination of compounds, isolates or other materials discovered, recovered, obtained, derived, resulting or otherwise isolated from scientific research conducted on a research specimen or sample acquired from an authorized source, or any

derivative of such material or compound, or other isolate, or discovery which is or may be patentable or protected under Kenyan intellectual property laws and developed from research specimen acquired from the resource providers;

“protected area” means a clearly defined geographical space, recognized, dedicated and managed through legal or other effective means, to achieve long term conservation of nature with associated ecosystem services and cultural values; and includes national parks, national reserves, provisional wildlife conservation areas, wildlife conservancies and sanctuaries;

“provider” means the Service or land owner;

“Service” means the Kenya Wildlife Service established under section 6 of the Act;

“specimen” means any distinct part of biological resource or genetic resource including its derivatives or medium;

“specimens area of origin” means the geographical location from which the biological resource was obtained;

“technology” means the technical information, product standards, know-how, formulation systems, standards and data, equipment, procedures for the manufacture, and sales and marketing programs for the delivery of said product/products to the market or society;

“technology transfer” means the movement or flow of technical knowledge, data, designs, prototypes, materials, inventions, software, and or trade secrets from one organization to another organization or from one purpose to another, from one country to another and one region to another;

“user” the recipient of the biological resource or genetic resources and their derivatives including associated knowledge;

“utilization of genetic resources”

Utilization of genetic resources” means to conduct research and development on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology

“wildlife” means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya.

## Scope and Application

### 3. These Regulations shall apply to -

- (1) bio-prospecting activities involving utilization of wild biological resources in accordance with the Constitution of Kenya, 2010; the Act; Environmental Management and Coordination Act, No.8 of 1999; other relevant national legislations; and the Multilateral Environmental Agreements to which Kenya is a signatory;
- (2) bio-prospecting activities of any wild biological resources found in Kenya including wild species of flora and fauna and microorganisms, both (*in-situ* and *ex-situ*) and other wild biological resources sourced from Kenya and held in foreign *ex-situ* collections;
- (3) bio-prospecting activities conducted by both Kenyans and foreigners; and
- (4) bio-prospecting activities conducted within and outside protected areas in the country.
- (5) Access to wildlife genetic resources.

## Guiding Principles

### 4. The implementation of these Regulations shall be guided by the following principles-

- (1) hyper access;
- (2) recognition of indigenous knowledge rights;
- (3) fair and equitable sharing of benefits amongst communities and other stakeholders as the essence of distributive justice;
- (4) effective management of biodiversity based intellectual assets;
- (5) fair and equitable sharing of benefits;
- (6) fair compensation to indigenous knowledge holders;
- (7) cost of bio-prospecting access shall be facilitative and not prohibitive;
- (8) incentives shall be provided for protectors of biodiversity, individuals, communities, institutions; and
- (9) trust and commitment.

## Exemptions

5. (1) These Regulations shall not apply to benefits derived from the genetic resources listed under Annex I of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) to which Kenya is signatory.

(2) Notwithstanding sub-regulation (1) above, in case of bio-prospecting with wild genetic resources sourced from Kenya for improvement of species under Annex I of the ITPGRFA, these Regulations shall apply.

## **PART II- MANAGEMENT OF WILDLIFE RESOURCES**

### **Wildlife resources to vest in the state**

6. (1) Wildlife resources are listed as a National assets and vested in the State, subject to any rights granted by or under the Act or Regulations formulated under it.

(2) The service is the Competent National authority in charge of Wildlife with responsibility of granting various user rights

(3) The Service shall be the competent authority on granting Prior informed consent and negotiate for Mutually agreed terms on bio prospecting and utilization of Wildlife biological resources.

(4) (1) The Service shall exercise control over all wildlife resources on behalf of the National Government in accordance with the Act and the Regulations formulated under the Act.

(2) The Service shall regulate access to wildlife resources in Kenya for the benefits of the people of Kenya in accordance with the Act, these Regulations and the Regulations formulated under the Act.

## **PART III- ACCESS TO WILDLIFE RESOURCES FOR BIO-PROSPECTING**

### **Application for a permit**

7. (1) No person may, without a permit from the Cabinet Secretary on the advice of the Service—  
(a) engage in bio-prospecting involving any wildlife resources; or

(b) export from Kenya any wildlife resources for the purpose of bio-prospecting or any other kind of research.

(2) Any person desirous of undertaking bio- prospecting involving any wildlife resources may apply to the Authority for a permit in Form A in the First Schedule.

(3) A permit issued under these regulations shall be in Form B in the First Schedule.

8. (1) The Service in considering an application under these Regulations shall take into consideration the requirement of section 22 of the Act.
- (2) The service may process applications under these regulations on a digital platform with linkage with other institutions with concurrent mandate.

### **Issue of Bio-prospecting permit**

9. (1) The Service shall, within 60 days of receipt of an application for an access permit determine the application and communicate its decision in writing to the applicant.
- (2) Where the Service denies a permit it shall give reasons for the rejection and state recommendations to the applicant and allow a further application to be made within 30 days.

### **Conditions of Permit**

10. (1) All permits granted with respect of bio-prospecting shall be strictly used for the purpose for which they were granted.
- (2) There must be specified in any bio-prospecting permit issued under these Regulations-
- (a) the species of wildlife which the holder may utilize; and
  - (b) the maximum number of wildlife that the holder may utilize in any period;
- (2) The holder of a permit shall cause the permit to be displayed in a prominent position at a central and conspicuous at the address indicated on the permit.
- (3) The holder of a permit shall not handle, cause, or authorize any wildlife or wildlife resource to be handled except at the address or location specified on the permit.
- (4) The holder shall upon request by an authorized officer, produce the permit for inspection.

### **Duration of permit**

11. (1) A permit issued under these Regulations remains valid for the period specified in the permit:
- Provided that such a permit may be renewed through an application made in Form A prescribed in the First Schedule, and upon payment of the prescribed fee.
- (2) The application for renewal of permit must demonstrate reasonable cause as to why such a permit should be extended.



- (3) In considering an application for renewal of permit, the Service shall take into account-
- (a) the reason given by the applicant necessitating such an extension;
  - (b) likely impact of the extension on the affected species;
  - (c) benefit of such extension to the applicant, the species, community and human life; and
  - (d) any other factor the Service may consider necessary.

### **Variation of permit**

12. The Service may give direction for the changes and steps necessary for effective compliance with the terms of a research permit.

### **Revocation of permit**

13. (1) A permit issued under these Regulations may be revoked for any of the following reasons, among others-
- (a) fundamental breach of the terms of the permit;
  - (b) use of the wildlife resources for unauthorized purposes;
  - (c) if the wildlife resources in the permit holder's custody are in danger due to neglect and unlawful use; and
  - (d) if the Service determines that it is in the interest of the long-term conservation of the wildlife resource that the permit be revoked:

Provided that the Service shall communicate the intention to revoke a permit and give the permit holder 30 days to show cause why the permit should not be revoked.

- (2) Upon revocation, the Service shall take such steps as are necessary to safeguard and rehabilitate any animals in the custody of the prospector.

### **Materials Transfer Agreement**

14. (1) Access and transfer to any wildlife genetic resources within and outside the country is subject to Material transfer agreement between user and the Service

### **Prior Informed Consent**

15. A prior informed consent certificate in Form C in the First Schedule must be executed with the Service before the grant of a bio-prospecting permit.

### **Records**

**16.** (1) The holder of a permit shall keep and maintain records on the status of the wildlife resources being accessed and used, and capturing all other information as the Service may require, or as required under the law.

(2) The holder of the permit shall submit an annual report to the Service or the licensing authority indicating-

- (a) the impact on the wildlife resource being accessed;
- (b) the environmental impact of the access;
- (c) the impact on the community;
- (d) any discoveries or results from any research being conducted; and
- (e) any other relevant information.

**17.** The Service shall keep, manage and update as appropriate a register of all access permits granted by it and any other body, and the register shall be a public record of the authority and shall be accessible, in a prescribed manner, to any person.

**18.** (1) All wildlife resources collected shall have a duplicate deposited in a designated repository approved by the Service. The service in consultation with lead ex-situ agencies develop a list of designated National repositories

(2) All wildlife material collection, deposit and exchange shall be subject to a Material Transfer Agreement with a clear benefit sharing arrangement between the provider and the user.

(3) All Wildlife accessions shall be deposited at the approved designated repository ,catalogued shall bear an agreed Service barcode.

(4) Access to and utilization of wildlife material and related components collected from Kenya and deposited in any designated repository is subject to authorization by the Service.

(5) Utilization of collected wildlife material or genetic material in depositories without approval by the Service shall attract a penalty within the laws of Kenya;

(6) Benefits arising from utilization of the collected wildlife genetic material shall be shared in a fair and equitable manner as indicated in Second Schedule.

## **PART IV- ADMINISTRATION OF BENEFITS ARISING FROM BIO-PROSPECTING**

### **Contributions to the wildlife endowment fund**

19. A minimum of 10% of the bio-prospecting proceeds shall be contributed to the wildlife endowment fund established under section 23 of the Act.

The holder of a bio prospecting permit shall have the duty to disclose the proceeds from the bio prospecting venture.

### **Service to facilitate bio-trade**

- 20 .The Service will facilitate engagement in bio-trade through-
- (1) encouraging value addition on nature-based products at the community level;
  - (2) promotion of certification principles for sustainable wild harvesting for bio trade;
  - (3) putting in place a mechanism for a fair and equitable benefit sharing from bio trade between providers and users complying with the Convention on Biological Diversity, Nagoya Protocol and the Laws of Kenya;
  - (4) sharing of monetary benefits arising from bio-trade activities is as shown in Second Schedule.

### **Benefit sharing**

- 21.(1) Benefits shall include monetary and non-monetary benefits.
- (2) Monetary benefits include but not limited to -
- (a) access fees or fee per sample collected or acquired;
  - (b) up-front payments;
  - (c) milestone payments;
  - (d) payment of royalties;
  - (e) license fees in case genetic resources are to be utilized for commercial purposes;
  - (f) fees to be paid to trust funds supporting conservation and sustainable use of biodiversity;
  - (g) salaries and preferential terms where mutually agreed;
  - (h) research funding;
  - (i) joint ventures;

- (j) joint ownership of relevant intellectual property rights
- (k) Percentages of benefit sharing are defined in Second Schedule.

(3) Non-monetary benefits include and are not limited to –

- (a) sharing of research and development results;
  - (b) collaboration, co-operation and contribution in scientific research and development programmes, particularly biotechnological research activities;
  - (c) participation in product development;
  - (d) admittance to *ex-situ* facilities of genetic resources and to databases by participating institutions;
  - (e) transfer to Kenya of knowledge and technology under fair and most favorable terms, including concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including bio-technology, or that are relevant to the conservation and sustainable utilization of biological diversity;
  - (f) strengthening capacities for technology transfer to Kenya;
  - (g) institutional capacity building;
  - (h) training related to utilization of genetic resources with the full participation of Kenya and where possible, in Kenya;
  - (i) access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;
  - (j) institutional and professional relationships that can arise from access and benefit sharing agreements and subsequent collaborative activities; and
  - (k) joint ownership of relevant intellectual property rights.
- (4) Sharing of trans-boundary resources shall be handled in accordance with the relevant multilateral and bilateral agreements
- (5) Product development and marketing shall include-
- (a) exclusive supply of raw materials where applicable; and
  - (b) establishment of processing plants near the source and preferential trade with subsidized rates to the source.

## **PART V- INTELLECTUAL PROPERTY**

### **Intellectual property from genetic resource and associated knowledge**

22. All bio-prospecting activities will be subject to intellectual property value chain for optimum profits within the various applicable intellectual properties.

### **Intellectual property regimes to apply**

23. (1) Where a product from indigenous knowledge is upgraded in terms of packaging and/ or mass production, and no patentable innovation results, then other intellectual property regimes such as trademark(s), service mark(s), collective marks, geographical indications and know-how may be applicable.

(2) The researcher or inventor) shall be consulted to agree on the type of mark, the scope of product protection, countries of protection and mode of disposal or mark among others.

(3) Marketing of products derived from the country's biological resources shall use local institutions.

(4) The stakeholders shall also decide who spearhead the protection and where necessary, the firm or person to carry out the IP prosecution.

(5) Where the research introduces a new product or upgrades the indigenous knowledge product, the applicable intellectual property may be-

- (a) patent,
- (b) utility model;
- (c) industrial design, or
- (d) plant breeders rights.

(6) Where there was no indigenous knowledge but research added value, then the communities may not be involved on how the product is protected;

(7) Publications shall be after consultations with all stakeholders.

(8) Forms of copyrights and related rights, such as documentaries, cinematography, broadcasting, print media, pictures shall be done with stakeholder consultations:

Provided that a written agreement may be reached on the exploitation of the forms of intellectual property without repetitive stakeholder consultation.

### **Disclosure of intellectual property products**

24. (1) Intellectual property, including indigenous knowledge asset disclosure shall be a formal written description of the information.

(2) The written description shall be done by the research institutions through their competent experts; the inventors; industry; and any other stakeholder;

(3) All disclosure shall be subject to verification by the provider based on Prior Informed Consent

### **Role of research institutions**

25. Research institutions shall provide the platform for regulated utilization of genetic resources for research, development, commercialization and the sharing of benefits thereof through a fair and equitable manner.

### **Handling of a Disclosure**

26. (1) All institutions undertaking either bio-trade or utilization of genetic resource for research development and commercialization shall have in place disclosure mechanisms.

(2) The disclosure forms should include-

- (a) invention or innovation title;
- (b) names of all inventors and the degree of their contributions to the invention;
- (c) descriptions of the invention;
- (d) sponsorship, if any;
- (e) dates of conception and realization of invention;
- (f) material transfer agreement (if any);
- (g) Prior Informed Consent;
- (h) access permit (where applicable);
- (i) any other information that will be relevant;
- (j) any other agreement entered into, that is relevant to the invention.

### **Sensitization of researchers**

27. (1) The intellectual property management offices shall sensitize researchers on the importance to record invention as early as possible and as complete and accurate.

(2) The description shall be written to allow another person reading it to comprehend and reproduce the invention.

(3) The description shall be written preferably in a bound notebook with numbered pages, in ink, dated and signed.

### **Disbursement of monetary benefits**

28. (1) Disbursement of monetary benefits accrued from bio-prospecting ventures shall be through the established structures of the Service.

### **Enforcement and compliance**

29. Utilization of biological resources whether in the wild or held in *ex-situ* without acquiring the necessary approvals such as access permits, research clearance, Prior Informed Consent, Material Transfer Agreement and Mutually Agreed Terms from the Service for this purpose will attract a penalty in accordance with the law.

### **Monitoring and evaluation**

30. Monitoring and evaluation shall be carried out continuously through the established structures within the Service in collaboration with other relevant government agencies to ensure transparency and accountability.

**FIRST SCHEDULE**

**FORMS FOR APPLICATION AND RENEWAL OF BIO-PROSPECTING PERMIT**

**FORM A (To be completed in Triplicate)**

**THE REPUBLIC OF KENYA**

**THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013**

**Wildlife Conservation and Management (Bio-prospecting) Regulations, 2015**

**Regulation 7 (2) and 16 (1)**

**APPLICATION FOR A BIO-PROSPECTING PERMIT**

**PART I- DETAILS OF APPLICANT**

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**INDIVIDUAL APPLICANTS**

NAME OF APPLICANT \_\_\_\_\_

SEX M  F  (First) (Middle) (Surname)

ID NUMBER/ \_\_\_\_\_

PIN NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

TEL. NUMBER \_\_\_\_\_

**CORPORATE APPLICANTS**

NAME OF APPLICANT \_\_\_\_\_

REGISTRATION NUMBER \_\_\_\_\_ (Attach copy of certificate of registration)

PIN NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_ POSTAL CODE \_\_\_\_\_



TEL.  
NUMBER \_\_\_\_\_

Name of the contact person in regard to this application and the position held in the organization \_\_\_\_\_

**FOR ALL APPLICANTS**

Have you ever been convicted of any criminal violation relating to wildlife, in Kenya or in any other jurisdiction? Yes  No

If yes, please list and explain type of violation and country in which the violation occurred:

\_\_\_\_\_  
\_\_\_\_\_

Have you ever had a wildlife- related permit or license suspended or revoked?

Yes  No

If yes, explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART II- DETAILS OF PERMIT**

TYPE OF PERMIT \_\_\_\_\_

TYPE OF APPLICATION:

NEW APPLICATION

RENEWAL- PERMIT NUMBER \_\_\_\_\_ GRANTED ON \_\_\_\_\_

DURATION OF PERMIT \_\_\_\_\_

*(Where applicable, state period during the year in months for which permit is required)*

**PART III-DETAILS OF SPECIES**

TYPE OF SPECIES:

SCIENTIFIC NAME \_\_\_\_\_

COMMON NAME (if any) \_\_\_\_\_

PARTS TO BE TAKEN \_\_\_\_\_

\_\_\_\_\_  
*(E.g. flowering stems, fruits (nuts), seeds, leaves, whole plants, cuttings or other categories).*

APPROXIMATE NUMBER \_\_\_\_\_

**PART IV-DETAILS OF BIO PROSPECTING**

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NAME AND IDENTIFYING NUMBER OF RESEARCH PROJECT \_\_\_\_\_

NAME OF INSTITUTION \_\_\_\_\_

FACULTY \_\_\_\_\_

LAND TO WHICH APPLICATION RELATES \_\_\_\_\_

\_\_\_\_\_  
*(Specify and identify each piece of land to which this application relates by reference to lot, location, plot number, county.)*

**PART V-FINAL**

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OTHER DOCUMENTS (Check if attached)

- Payment of prescribed fee;
- Personal qualifications to perform the research;
- Bio-prospecting proposal of not less than 1000 words indicating;
- Location(s) where the bio-prospecting shall be conducted and where collected wildlife resources will be maintained;
- Name and address of the facility to be used as a study center;
- Proposed number of field assistants and technicians;

- Recommendation from the supporting Faculty or institution and in the case of an independent researcher, a recommendation from a recognized institution with a Faculty teaching or dealing in wildlife research or education
- Compliance with ethical issues

*I hereby apply for a permit and swear by signature that the information submitted in this application and supporting documents is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to criminal penalties. I further state that I will abide by all applicable laws, those governing wildlife and the terms and conditions of this permit.*

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

**OFFICIAL USE ONLY**

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NAME OF RECEIVING OFFICER \_\_\_\_\_

DATE \_\_\_\_\_

STATION \_\_\_\_\_

PERMIT APPROVED  DECLINED

If declined, reason \_\_\_\_\_

\_\_\_\_\_

**FORM B**

**THE REPUBLIC OF KENYA**

**THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013**

**Wildlife Conservation and Management (Bio-prospecting) Regulations, 2016**

**BIO-PROSPECTING PERMIT**

*Original*

*Not Transferable*

Permit No. \_\_\_\_\_

This permit is granted to \_\_\_\_\_

of ID/ REG NO. \_\_\_\_\_ and address \_\_\_\_\_

in accordance with Regulation 10 (3) of the Wildlife Conservation and Management (Bio-prospecting) Regulations, 2015 for \_\_\_\_\_

*(insert reason for permit)*

at \_\_\_\_\_

*(insert registered address)*

The holder of this permit is allowed to engage in bio-prospecting using \_\_\_\_\_

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*(insert resource to be utilized)* without contravention of the Act and the Regulations formulated therewith.

This permit is issued subject to the Act and the Regulations and may be suspended, cancelled or revoked should the holder breach any of the conditions of issue and those contained in the Regulations.

\_\_\_\_\_ being the holder of this permit undertakes to abide by the conditions of this permit and to promptly report to the Kenya Wildlife Service any matter within knowledge that may prejudice the interests, security and welfare of wildlife in Kenya.

Issued on \_\_\_\_\_

Valid until \_\_\_\_\_

SIGNED \_\_\_\_\_

DATE \_\_\_\_\_

**DIRECTOR GENERAL**

*KENYA WILDLIFE SERVICE*

**THE REPUBLIC OF KENYA**

**THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013**

**Wildlife Conservation and Management (Bio-prospecting) Regulations, 2016**

**Consent under regulation 15**

I \_\_\_\_\_, on behalf of /on my own behalf \_\_\_\_\_ aware of all my obligations pertaining to the bio-prospecting permit under the Regulations, duly consent to all its terms and conditions thereunder by appending my signature as hereunder.

.....  
**Director of**

**Dated this**      **day of**                      **20.....**

## SECOND SCHEDULE

### MONETARY BENEFIT SHARING ON GENETIC RESOURCES UTILIZED FOR RESEARCH, DEVELOPMENT AND COMMERCIALIZATION

#### 1. Use of Genetic Resources for Research, Development and Commercialization

Type of Benefit	Level of Contribution	National Government	County Government	Communities
Research fund	15% of the total research budget for administrative costs	60%	10%	30%*
Royalties	Minimum of 2% of total annual net sales	75%	10%	15%
Milestones payments	Negotiated based on potential	75%	10%	15%
Taxes	As per government policy	100%		
Fees	As per approvals	100%		

\*- where appropriate, in the event the bio prospecting project takes place on community land

#### 2. Use of Traditional/ Indigenous Knowledge Associated with Genetic Resources

Type of Benefit	Level of Contribution	National Government	County Government	Communities
Research fund (15% admin costs)	15% of the total research budget for administrative costs	60%	10%	30%
Royalties	Minimum of 15% total annual net sales	50%	10%	40%
Milestones payments	Negotiated based on potential	50%	5 %	45%
Taxes	As per government policy	100%		
Fees	As per approvals	100%		

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- i. Where more than one county or community is involved in sharing royalties, royalties will be shared equitably;
- ii. Benefiting county and community shall submit, upon notification of available benefits for disbursement, a proposed programme and budget to the national government. Such budget and programme shall be subject to audit on the utilization of the resources expended.

### 3. Benefits sharing on bio-trade

In a public funded venture to promote community nature based enterprises, benefits will be shared in the ratios: 15% to the National Government, 10% County, 35% Community, 40% Venture Company on Net profits based on investments and share contribution.

### 4. Institutional use of benefits

To ensure effective use of monetary benefits generated from bio-prospecting ventures and promote sustainable conservation and management of genetic resources in the country, such benefits shall be directed at conservation, research, governance, education and outreach, community development projects and training as presented in the table below.

<b>Institution</b>	<b>Conservation</b>	<b>Research</b>	<b>Administration/Governance</b>	<b>Ed. &amp; outreach</b>	<b>Development Projects</b>	<b>Training</b>
<b>National Government</b>	30%	40%	20%	10%		
<b>County</b>	30%	40%	20%	10%		
<b>Communities</b>			15%		60%	25%



## FIFTH SCHEDULE

### **Instruments of access**

The instruments of access and use shall include and not limited to:

- (1) Prior Informed Consent
- (2) Mutually Agreed Terms
- (3) Material Transfer Agreement
- (4) Access permit
- (5) Export/ import permit
- (6) Memoranda of Understanding
- (7) Collaborative Agreement
- (8) Letter of Implementation
- (9) Confidentiality Agreement
- (10) Research agreement
- (11) Research Permit
- (12) Environmental Impact Assessment clearance permit
- (13) Development Agreement
- (14) License Agreement
- (15) Lease agreement
- (16) Parties Royalty Distribution form

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