



ACCESS AND BENEFIT SHARING AGREEMENT

Between

GOENSHARI ZHELNGOSA GANODERMA DETSHEN, Zhelngosa, Chiwog, Goenshari
Gewog, Punakha Bhutan

And

PURE BHUTAN, 208, Startup Centre, Changzamtog, Thimphu Bhutan

Tel # +975 17932336, Email: happiness@purebhutan.life

And

NATIONAL BIODIVERSITY CENTRE, Ministry of Agriculture and Livestock,
Royal Government of Bhutan, P.O. Box 875, Serbithang Thimphu, Bhutan

11th April 2025



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ROYAL GOVERNMENT OF BHUTAN
Ministry of Agriculture and Livestock
National Biodiversity Centre
Serbithang: Thimphu, Bhutan



NBC/BRD/22/2024-2025/3980

April 11, 2025

ACCESS AND BENEFIT SHARING AGREEMENT (this "Agreement") made and entered into and executed on the 11th day of April, 2025

BETWEEN

PURE BHUTAN, a startup company holding trade license no: 1051519, based Startup Centre, Changzamtog, Thimphu Bhutan, Tel # +975 17932336, Email: happiness@purebhutan.life [hereinafter referred to as the "**User**";

And

GOENSHARI ZHELNGOSA GANODERMA DETSHEN, ZHELNGOSA, Chiwog, Goenshari Gewog, Punakha Bhutan [hereinafter referred to as the "**Provider**";

And

NATIONAL BIODIVERSITY CENTRE, Ministry of Agriculture and Livestock, Royal Government of Bhutan, Serbithang, Thimphu, P.O. Box 875, the Focal Point for Nagoya Protocol [hereinafter referred to as the "**National Focal Point**";

Hereinafter, the User and the Provider shall collectively be referred to as "Relevant Parties" and individually as "Relevant Party".

WHEREAS:

(A) the Convention on Biological Diversity (CBD) and the Nagoya Protocol (NP) to which Bhutan is a party establish frameworks for fair and equitable sharing of the benefits arising from the use of genetic resources;

(B) realizing the benefits that the country may accrue from regulating access to its genetic resources and ensuring fair and equitable sharing of benefits, the Biodiversity Act of Bhutan, 2022 was enacted to provide for detailed provisions relating to access to genetic resources and benefit sharing;

The Biodiversity Act of Bhutan 2022 implements these frameworks through provisions regulating access to genetic resources and associated traditional knowledge, and ensuring benefit sharing;

(C) the Competent National Authority (CNA) for this Agreement is an authority established by section 13 of the Biodiversity Act of Bhutan 2022 responsible for approving the access proposals based on the recommendation of the National Focal Point.


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- (D) the National Focal Point (NFP) is the entity vested with the responsibility to regulate access to genetic resources and benefit sharing in the country;
- (E) the User intends to access genetic resources specified in this Agreement from the Kingdom of Bhutan;
- (F) the Provider, through this agreement, furnishes the Prior Informed Consent (PIC) granting the access to genetic resources/traditional knowledge associated with genetic resources;
- (G) in consideration of the grant of access to genetic resources, the User is entitled to access and use the biological resource in accordance with this Agreement and will provide the Provider and the Royal Government of Bhutan represented by the National Biodiversity Centre (NBC) which will be channeled into the Bhutan Access and Benefit Sharing Fund, with the benefits specified herein.

NOW THEREFORE, the parties hereto hereby agree as follows:

Definitions

- a) In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

“Access Area” means the area from which the User will have access to the specified biological resources;

“Access to genetic resources” means the collection, transfer, or utilization of genetic resources from Bhutan irrespective of whether they are found *in situ* or *ex situ* for the purpose of conducting research or development on genetic biochemical composition of genetic resources including through the application of biotechnology;

“Access to traditional knowledge” means utilization of traditional knowledge associated with genetic resources for the purpose of conducting any research and commercial utilization;

“Act” means the Biodiversity Act of Bhutan, 2022 and includes any subsequent amendment or re-enactment of the Act;

“Bhutan Access and Benefit Sharing Fund” means a fund established to receive monetary benefits derived from the research and commercial utilization of Bhutan’s genetic resources or associated traditional knowledge or both;


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“Biological resources”

means plant, animal and micro-organism or parts thereof, their genetic material and by products with actual or potential use or value but excluding value added products;

“Commercial utilization”

includes applying for, obtaining or transferring intellectual property rights by sale or license or in any other manner, or commencement of product development, conducting market research or the sale of any resulting product;

“Genetic resources”

means all material of plant, animal, microbial or other origin containing functional units of heredity and includes the biochemical composition of genetic resources, genetic information regardless of the manner in which the genetic information is stored or knowledge of how the hereditary material works in an organism and derivatives;

“Product”

means material produced, obtained, extracted or derived through research and development activity;

“Prior Informed Consent”

means a process through which the National Focal Point seeks the consent of the providers of genetic resources or holders of associated traditional knowledge;

“Rules and Regulations”

means Biodiversity Rules and Regulations 2023, and includes any subsequent amendment or re-enactment of the Rules and Regulations;

“Provider”

means a person (individual or organization) named as Provider and includes their authorized representative, where the context permits;

“Third Party”

means any person or institution other than the Provider, the User or any collaborator under their control or supervision;

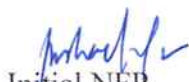
“User”

means a person (individual or organization) named as the User and includes their authorized representative, where the context permits.

Article 1 **Purpose**

The purpose of this agreement is to facilitate the access and sustainable utilisation of Bhutan’s biological resources and traditional knowledge while ensuring fair and equitable sharing of benefits between relevant parties of this agreement in accordance with the Biodiversity Act of Bhutan 2022.


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Article 2 Interpretation

1. Article heading is inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer.
2. Words importing a person include a partnership and a body whether corporate or otherwise.
3. A reference to any legislation includes any statutory modification substitution or re-enactment of such legislation.
4. The schedules form an integral part of this Agreement.

Article 3 Prior Informed Consent

This Agreement is made pursuant to the Prior Informed Consent (PIC) given by the Provider granting the access to genetic resources.

Article 4 Access

1. The User shall have access to the Genetic Resources as specified in Schedule A of this Agreement.
2. The User shall pay a sum of USD 500.00 (five hundred) or an equivalent fee in Ngultrum, calculated at the prevailing USD exchange rate on the day of signing of this Agreement, as a processing fee in accordance with section 88 of the Biodiversity Act of Bhutan 2022 and section 54 of the Biodiversity Rules and Regulations 2023. However, for this agreement, the payment is exempted to the user and shall be paid by NFP from the project to support the User in the initial phase of research and development as approved by the Competent National Authority (CNA) during the third meeting held on 17th February 2025.
3. The User shall pay a sum of USD 5000.00 (five thousand) or an equivalent fee in Ngultrum, calculated at the prevailing USD exchange rate on the day of signing of this Agreement, as a commitment fee. However, the payment can be made in a staggered manner as specified and mutually agreed in the scheduled C of this agreement as approved by the Competent National Authority (CNA) during the third meeting held on 17th February 2025. This is in accordance with section 88 of the Biodiversity Act of Bhutan 2022 and section 72 of the Biodiversity Rules and Regulations 2023.


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Article 5

Access Use Conditions

1. The User shall have access *only* to the genetic resource specified in Schedule A of this Agreement and undertakes to access and use the same in accordance with the conditions specified in this Agreement.
2. The User shall attach details of the commercial utilization of the genetic resources accessed in accordance with Schedule B of this Agreement.
3. Any use involving the genetic resource that is not expressly authorized by the provisions of this agreement shall be deemed to be expressly prohibited.
4. The User undertakes that it shall not allow any persons other than its authorized employees under its direct control and supervision to have access to the genetic resource that is the subject of this Agreement.
5. The User shall not obtain, transfer, and distribute any form of intellectual property rights associated with the genetic resource accessed under this agreement in any manner without informing and obtaining the approval of the NFP.
6. The User shall not transfer the results of research relating to genetic resources that is the subject of this Agreement to a third party without obtaining the approval of the NFP.
7. The User undertakes to comply with the existing national laws, regulatory mechanisms and international agreements or treaties for the access to genetic resources.

Provided that in case of conflict between the national laws and international agreement, the national laws shall prevail.

Article 6

Access Permits and Approval

The approval given under this agreement is without prejudice to any other permits or approval that may be required for the purpose of access to the genetic resource from any other authorities under any other laws in force in the territory of Bhutan.

Article 7

Third Party Transfer

1. Without the prior written approval of the CNA and the NFP, neither this agreement nor the approval granted hereunder shall be transferred or assigned in whole or in part by the User to a third party.


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2. In the event of any substantial changes in the management or shareholding of the User that alters the organizational or control structure of the User and includes changes brought by acquisition, merger, demerger or any other kind of corporate restructuring, the User shall ensure that the obligations under this agreement perpetuate and provide written notice to the NFP not less than thirty (30) days prior to initiating such changes.

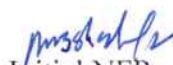
Article 8 Liabilities and Indemnification

1. A Relevant Party shall be solely responsible for any claims by third parties arising from its acts or omissions in the course of performing this agreement and under no circumstances shall the other Relevant Party be held responsible or liable for any such claims by third parties.
2. A Relevant Party shall indemnify the other Relevant Party and its employees from and against all claims, losses, damages, costs (including attorney fees), actions, suits or other proceedings, in any manner based upon, arising out of, related to, occasioned by or attributable to, any acts or conduct of the Relevant Party, its employees or agents, (whether by reason of negligence or otherwise) in the performance by or on behalf of the Relevant Party of the provisions of this agreement or any activity undertaken or purported to be undertaken pursuant to the terms of this agreement.

Article 9 Benefit Sharing

1. The User shall pay twenty (20) % of the amount incurred in the procurement of *Ganoderma lucidum* as a **monetary benefit** on such date as may be agreed between the relevant parties. Out of which fifteen (15) % shall be deposited into the Provider's group account and five (5) % to the Bhutan Access and Benefit Sharing (BABS) Fund as a joint contribution from the Provider and User.
2. The relevant parties agree to review and re-negotiate the benefit sharing arrangement outlined in section 9.1 based on the revenue generated from the sales of the product and upon liquidation of the commitment fee.
3. The User and NFP in partnership with the National Mushroom Centre may provide sustainable harvesting training and necessary tools for harvesting of *Ganoderma lucidum* to Provider, when necessary, as a **non-monetary benefits**.
4. The User shall buy minimum of 50 kgs of dried of *Ganoderma lucidum* collected by the Provider at Nu.3000/kg and the Provider shall annually supply agreed quantity of *Ganoderma*


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lucidum to the User for the production of *Ganoderma*-based products as agreed in this ABS agreement. Further, when available, the User shall buy the spores at Nu. 4000/kg.

5. The relevant parties agree to review and re-negotiate the price agreed in section 9.4 after **two years** from the date of signing of the agreement.
6. The price stipulated in section 9.4 shall be increased by 10% upon obtaining organic certification as an **incentive** for organic certification.
7. The User shall not buy *Ganoderma lucidum* from other communities even if it is offered at a lower price and similarly the Provider shall not sell *Ganoderma lucidum* to others, even if it is offered at a higher price until User's required volume is met.
8. In the event, the Provider are not able to supply the required volume of *Ganoderma lucidum* to the User, then the Provider may obtain them from other communities.

Article 10 Obligation of the Provider

The Provider has the obligation to facilitate access to the genetic resource that is the subject of this Agreement and shall also facilitate the acquisition of other permits if required by the relevant national laws upon request by the User.

Article 11 Termination

1. This agreement, unless terminated as provided herein, shall remain in effect for a period of **five (5) years** from the date of signing this agreement. In case the User continues the commercial utilization of the genetic resource mentioned in the agreement beyond the period initially agreed upon, the User shall apply for renewal to the National Focal Point for subsequent required period at which time a new agreement has to be affected with relevant provisions agreed upon mutually.
2. The Relevant Parties may terminate this Agreement at any time by mutual agreement in writing by giving sixty (60) days advance written notice of termination. or either Relevant
3. Party may terminate this agreement by a written notice on the happening of any of the following:
 - a) if the User does not make a payment due and fails to clear such non-payment within thirty (30) days after the date of notice in writing of such non-payment; or


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- b) if the User becomes insolvent or has a petition in bankruptcy, winding up filed for or against it, such termination shall be effective immediately upon the National Focal Point giving written notice to the User.
4. The NFP upon seek approval of the CNA may revoke access or approval granted to the User, if any of the following circumstances arise:
- a) on the basis of reasonable belief that the person accessing the said genetic resource has violated any of the provisions of the Act or the condition on which approval was granted;
 - b) when the person has failed to comply with the terms of the agreement;
 - c) on failure to comply with any of the use conditions; or
 - 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 communities.
- In the event of revocation of access or approval as mentioned above, this agreement shall automatically stand terminated.
5. Upon termination of this agreement, the User shall cease all use of the genetic resource and shall, upon request, return or destroy (at the option of the NFP) all genetic resources under its control or in its possession.
6. The NFP shall not be liable for any loss or damage whatsoever caused to the User due to revocation of approval for access and/ or termination of this agreement as provided in Article 11.3.
7. The User upon termination of the Agreement, agrees not use any of the data, results, or conclusions from the research on the accessed material for any purpose whatsoever without the prior approval of the NFP.

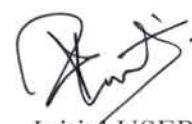
Article 12

Reports and Audit

1. The User shall submit to the National Focal Point yearly reports on the following:
- a) the quantity of genetic resource accessed;
 - b) the total quantity of the products produced by the use of the accessed genetic resources;
 - c) audited financial statements; and
 - d) any other related information sought by the National Focal Point by a written notice.


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2. The User shall keep accurate records (together with supporting documentation) appropriate to determine all amounts due to the Provider. Such records shall be retained for at least three (3) years following the end of the reporting period to which they relate.
3. In conducting audits in pursuant to Article 12, such person shall have access to all records which he reasonably believes to be relevant to the calculation of monetary benefit.

Article 13
Confidentiality

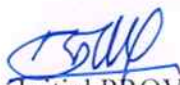
1. The Provider and the National Focal Point agrees to treat as confidential all confidential information marked as "CONFIDENTIAL" by the User and agrees that information disclosed in pursuance of this agreement relating to the formulations, including efforts to commercialize the formulations, shall be deemed confidential information.
2. The Provider and the National Focal Point shall, upon due review of the need for confidentiality, maintain the confidentiality of information pertaining to the User at the written request of the User.
3. Notwithstanding Article 13.1 and 13.2, confidential information may be disclosed to the extent required by any law or regulation or order of any governmental, administrative, or judicial authority having jurisdiction over any of the Parties.

Article 14
Notice

1. Wherever in this agreement, it is required or permitted that a communication, notice or demand be given or served on any party, such communication, notice or demand will be given in writing and in English and will be validly given or sufficiently communicated if forwarded by Registered post or e-mail:

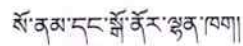
For the National Focal Point:

Program Director
National Biodiversity Centre
Ministry of Agriculture and Livestock
Serbithang Thimphu
Tel # 02-351417/351218 Fax # 02-351219
Post Box No. 875
Email address: kddorji@moal.gov.bt


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Chairman
Goenshari Zhelngosa Ganoderma Detshen
Zhelngosa, Chiwog, Goenshari Gewog, Punakha
Tel # +975 17477668

Founder
Pure Bhutan
Startup Centre, Changzamtog, Thimphu Bhutan
Tel # +975 17932336
Email: happiness@purebhutan.life

- ## Article 15
- ### Governing Law and Jurisdiction

Article 16 Arbitration

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Article 17 Severability

If at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable, either the legality, validity or enforceability of the remaining provisions will in any way be affected or impaired.

Article 18

Modification

No amendment or modification of this agreement shall be valid or binding upon the parties, unless agreed upon by both parties, made in writing, and signed on behalf of each of the Parties by their authorized representatives.

Article 19

Benefit of Agreement

This Agreement shall bind and inure to the benefit of the successors and assignees of the parties. However, none of the Relevant Parties may assign or delegate any of its rights or obligations herein without the prior written consent of other relevant party and the National Focal Point.

Article 20

Representations

Either Relevant Party represents to each other Relevant Party that it has the legal right and power to enter into this agreement or to perform its obligations under the terms of this agreement and the execution, delivery and performance of this agreement by it has been duly and validly authorized by all necessary action on its part.

Article 21

Miscellaneous

1. The User hereby agrees that this agreement shall not in any way constitute or be presumed to constitute a partnership, joint venture or joint enterprise in any way or for any purpose between the Relevant Parties hereto or make them in any way liable as partners of or as agents for one another.
2. The documents attached hereto as Schedules form an integral part of this agreement, and consists of:

Schedule A: Access to Genetic Resources

Schedule B: Details of Commercial Utilization of Genetic Resources

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Schedule C: Details of the staggered payment of the commitment fee by the User of the Genetic Resources to the National Focal Point.

3. Payments to be made under this Agreement shall be channeled through banking instruments except for payment in cash.

Article 21
Commencement

The agreement shall come into effect from the date of signing.

IN WITNESS WHEREOF the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names as of the day and year first above written.

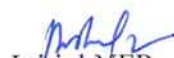
[NAME OF PROVIDER]

Witnessed By

.....
Mr. Lhab Tshering
Chairman
Goenshari Zhelngosa Ganoderma Detshen
Goenshari Punakha
Tel # 975 17477668

.....
Ms. Phub Lham
Member Secretary
Goenshari Zhelngosa Ganoderma Detshen
Goenshari Punakha
Tel # 975 17424953


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Ministry of Agriculture and Livestock
National Biodiversity Centre
Serbithang: Thimphu, Bhutan



[NAME OF USER]

Witnessed By:



.....
Mr. Ugyen Tshering
Pure Bhutan
Startup Centre, Changzamtog
Thimphu Bhutan
Tel # +975 17932336
happiness@purebhutan.life

.....

Leki Wangchuk
Biodiversity Supervisor
National Biodiversity Centre
Ministry of Agriculture and Livestock

[NATIONAL FOCAL POINT]

Witnessed By:

.....

.....
Mr. Mani Prasad Nirola
Dy. Chief Biodiversity Officer
National Biodiversity Centre
Ministry of Agriculture and Livestock

.....

.....
Mr. Kezang Wangchuk
Biodiversity Officer
National Biodiversity Centre
Ministry of Agriculture and Livestock

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National Biodiversity Centre
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Schedule A

ACCESS TO GENETIC RESOURCES

Sample of biological resources to be collected:

[*Ganoderma lucidum*]

Parts Used:

[Whole Fruit Body and Spores]

Access Area:

[Zhelngosa, Goenshari, Punakha Bhutan]

Time and Frequency of entry to access area:

[June and December, annually]

Purpose of Access:

[To make Ganoderma Tincture with health benefits under the ABS Framework]


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Schedule B

DETAILS OF COMMERCIAL UTILIZATION OF GENETIC RESOURCES

As per this Agreement, the User agrees to develop the following products under the ABS framework.

1. Ganoderma Tincture
2. Others, if any.

Schedule C

DETAILS OF THE STAGGERED PAYMENT OF THE COMMITMENT FEE BY THE USER OF THE GENETIC RESOURCES TO THE NATIONAL FOCAL POINT

In accordance with section 88 of the Biodiversity Act of Bhutan 2022 and section 72 of the Biodiversity Rules and Regulations 2023, the User shall pay a sum of USD 5000.00 (five thousand) or equivalent fee in Ngultrum, calculated at the prevailing US Dollar exchange rate on the day of signing of this Agreement as a commitment fee as per the following. The User shall pay the amount in the month of January annually.

Year	Amount (Nu) USD @85.7
Year 1: 2026	43,000.00
Year 2: 2027	43,000.00
Year 3: 2028	43,000.00
Year 4: 2029	43,000.00
Year 5: 2030	43,000.00
Year 6: 2031	43,000.00
Year 7: 2032	43,000.00
Year 8: 2033	43,000.00
Year 9: 2034	43,000.00
Year 10: 2035	43,000.00
Total	4,30,000.00


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