

MUTUALLY AGREED TERMS (MAT) TEMPLATE

INTRODUCTION

A mutually Agreed Term (MAT) or Memoranda of Agreement is a contract between resource providers and resource users that aims at creating transparent, and legally secure relations that are appropriate to the needs and intentions of all parties involved. The Terms and clauses in the agreement should meet the needs of both the resource providers and resource users (researchers). It legally operationalises the clauses agreed upon in the Prior Informed Consent (PIC) on access to and utilisation of biological resources and associated Traditional Knowledge (TK), including the fair and equitable sharing of resultant benefit in accordance with the Convention on Biological Diversity (CBD) particularly Articles 1, 8(j) and 15. The agreement may be considered for use in various scenarios of access to, utilisation and benefit sharing from biological resources including but not limited to inventories of biodiversity, research in systematics, ecology and evolution, identification and isolation of active compounds, and genetic research.

GOVERNING LAWS

This is governed by both the country's domestic legislations and key Multi-lateral Environmental Agreements the country is party to. The Multilateral Environmental Agreements include the CBD, Nagoya Protocol, Cartagena Protocol, CITES, ITPGRFA and the WIPO treaties among others. The domestic legislation governing the grant of PIC includes the Kenya Constitution 2010, the Environment (Management and Coordination) Act 2015 amendment, the Wildlife (Conservation and Management) Act 2013, Seed and Plant Variety Act 2016, Science, Technology and Innovation Act 2013, Traditional Knowledge and Cultural Expressions Act 2016, Forest Act 2016 and Biosafety Act 2012.

TITLE:

MEMORANDUM OF AGREEMENT FOR COLLABORATIVE RESEARCH ON

(Indicate here the title of the research program or project based on the particular biological resource to be accessed)

STAKEHOLDERS

(List here all the parties to the agreement as stated in the PIC)

ARRANGEMENT OF ARTICLES

Provide a table of contents for all the articles as they are in the body of the document

DETAILS OF THE PARTIES

In this section, provide the legal establishment of all the parties, including the physical address.

WHEREAS CLAUSES

State the guiding laws, the parties to the agreement and the areas of mutual agreements.

ARTICLE 1: DEFINITION AND INTERPRETATION OF TERMS

All key words are provided with a standard definition of the terms used in the Agreement as agreed by the

parties. The parties can opt to adopt a narrow or a broader definition.

ARTICLE 2: SCOPE

This section indicates the scope of the MoA in relation to the project/program activities

ARTICLE 3: OBJECTIVES

This brings out the principal objectives of the MoA and not of the project

ARTICLE 4: INSTITUTIONAL OBLIGATIONS

This section brings out the obligations of all the institutions both jointly and independently. The obligations are in relation to the strengths each party brings on board

4.1 Joint Partner Obligations

4.2 The ----- Partner institution

State the obligations of each partner institution

ARTICLE 5: ACCESS TO GENETIC RESOURCES AND ASSOCIATED KNOWLEDGE

State the terms of access to the particular biological resource to be accessed

ARTICLE 6: INTELLECTUAL PROPERTY (IP) RIGHTS AND PROTECTION

This article states how the IP arising from the utilisation of the accessed biological resource will be governed including generation, protection, commercialisation and share of resultant benefits

ARTICLE 7: TRANSFER TO THIRD PARTIES

Third parties are usually defined under Article 1. In this article, the modalities of bringing aboard an additional party, transfer of accessed biological resources, progenies, derivatives, compounds, products etc are spelt out

ARTICLE 8: BENEFITS SHARING

Provide here clauses on how benefits will be shared amongst the parties and the legal requirements

ARTICLE 9: CONFIDENTIALITY

State clauses that govern confidential information that may arise from the utilisation of the accessed resources and the related IP

ARTICLE 10: ADMINISTRATION OF THIS MEMORANDUM OF AGREEMENT

This article spells out how the MoA will be administered by the parties including any administrative offices to be set out

Article 11: REPORTS

Research Reports:

Payment reports

Copyright reports

Records

Verification of records

Donor narrative and financial reports
Declaration by the Users to the Provider
Legal, ethical and IP Reports
Final Report:

ARTICLE 12: SPECIFIC SUBSIDIARY AGREEMENTS

Include here clauses on subsidiary agreements that are related the MoA, including amendments

ARTICLE 13: LIMITATIONS

State all the limitations that bind the parties, including undertaking other collaborative activities

ARTICLE 14: NO LEGAL PARTNERSHIP

This article includes clauses on freedoms and legal bindings of the parties

ARTICLE 15: ASSIGNMENT

ARTICLE 16: ACKNOWLEDGEMENT AND COMMUNICATION

This article defines how parties are to publicly use the names of the other in relation to the project/program activities

ARTICLE 17: MONITORING AND EVALUATION

Monitoring and evaluation of activities within the project/program are clearly defined, including the provisions under the CBD

ARTICLE 18: INSURANCE LIABILITY AND INDEMNIFICATION

Indicate how insurance issues will be managed with the collaborative framework

ARTICLE 19: DURATION OF MoA

This section defines the effective date of the MoA, including clauses on termination

ARTICLE 21: AMENDMENT

ARTICLE 22: APPLICABLE LAW

All research using Kenya's biological resources are governed by the laws of Kenya

ARTICLE 23: DISPUTE RESOLUTION

State how any disputes will be handled amongst partners

ARTICLE 24. FORCE MAJEURE

Signing

In Witness whereof, this MoA has been signed in triplicate by the following duly authorised persons

Signed for

.....

Name:

Signature:

Date:.....

Witness

Signature:

Signed for

.....

Name:

Signature:

Date:.....

Witness

Signature: