



MATERIAL TRANSFER AGREEMENTS

Presented by

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What is a Material Transfer Agreement?

- A contract that governs the transfer of tangible research materials between two organizations
- The MTA defines the rights of the provider and the recipient with respect to the materials and any derivatives

(continued)



What is a Material Transfer Agreement? [2]

- Biological materials (such as reagents, cell lines, plasmids and vectors) are the most frequently transferred materials, but MTAs may also be used for other types of materials, such as chemical compounds and even some types of software



When Do You Need an MTA?

- Ongoing collaboration with the provider or receiver
- Material is proprietary or treated as trade secret
- Infectious, hazardous or subject to special regulations
- Liability concerns

(continued)



When Do You Need an MTA? [2]

- Publication issues
- Restrictions on access to the material
- Ownership rights to research results or inventions resulting from the material's use



Uniform Biological Material Transfer Agreement (UBMTA)

- <http://www.niehs.nih.gov/techxfer/ubmta.htm>
- The PROVIDER retains ownership
- The RECIPIENT retains ownership of MODIFICATIONS
- Is to be used solely for teaching and academic research purposes

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [2]

- Will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER
- Is to be used only at the RECIPIENT organization and only in the RECIPIENT SCIENTIST's laboratory under the direction of the RECIPIENT SCIENTIST or others working under his/her direct supervision

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [3]

- Will not be transferred to anyone else within the RECIPIENT organization without the prior written consent of the PROVIDER
- Requests for the MATERIAL from anyone other than those persons working under the RECIPIENT SCIENTIST

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [4]

- Distribution of substances created by the RECIPIENT through the use of the ORIGINAL MATERIAL only if those substances are not PROGENY, UNMODIFIED DERIVATIVES or MODIFICATIONS
- Distribution of MODIFICATIONS to NONPROFIT ORGANIZATION(S) for research and teaching purposes only

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [5]

- MODIFICATIONS for COMMERCIAL PURPOSES
- No express or implied licenses or other rights are provided to the RECIPIENT

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [6]

- If the RECIPIENT desires to use or license the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES, the RECIPIENT agrees, in advance of such use, to negotiate in good faith with the PROVIDER to establish the terms of a commercial license
- Inventions made by the RECIPIENT through the use of the MATERIAL
- Experimental in nature/no warranties

(continued)



Uniform Biological Material Transfer Agreement (UBMTA) [7]

- Liability for damages
- No delay in publication of research findings resulting from the use of the MATERIAL or the MODIFICATIONS
- Appropriate acknowledgement of the source of the MATERIAL in all publications
- Compliance with all applicable statutes and regulations



Material Transfer from Industry to Academia

- For transfer of materials from industry, the academic/non-profit is often required to use an agreement written by the company providing the materials
- More restrictions than the UBMTA
- Industrial MTAs often contain language that conflicts with basic academic rights or places restrictions on investigators
- Rights to inventions arising from use of the material or rights to future inventions



Issues in MTAs

- Confidentiality
 - When confidential information is exchanged along with the material, the company may request that such information not be further disclosed
 - Information may be required for publication of those results

(continued)



Issues in MTAs [2]

- Delay in publication
 - Companies often demand a review period for the investigator's manuscripts, abstracts or hard-copies of presentation materials

(continued)



Issues in MTAs [3]

- Use of materials in sponsored research projects
 - MTAs may prohibit the use of the material in research that is subject to licensing or consulting obligations to any third party, including the sponsor of the research project

(continued)



Issues in MTAs [4]

- Definition of material
 - May include not only the original material, but also modifications or derivatives made from the material that incorporate the investigator's original ideas or concepts
 - The provider could own the results of the investigator's research

(continued)



Issues in MTAs [5]

- Intellectual property
 - MTAs may preempt ownership rights
 - Intellectual property restrictions may prevent the institution from obtaining or conveying rights to future licensees



Geographic Considerations

- May be subject to regulations regarding transport, handling and entry
- Agricultural and hazardous materials are examples of materials that may require special consideration
- May be regulated by Export Administration Regulations (EARs) or International Traffic in Arms Regulations (ITARs)



Compliance Issues

- MTAs for live animals or custom antibodies
 - Animal care
- MTAs for human tissue
 - Human subjects/IRB
- MTAs for hazardous materials
 - Health and safety compliance procedures
- MTAs from Industry
 - Conflict of interest



Transfer from Academia To Industry

- If the material is proprietary, the MTA may include confidentiality provisions and future licensing provisions as a precursor to a license agreement
- Liability in its use of the material

Questions and Answers

