

A Primer on Material Transfer Agreements

Background

A Material Transfer Agreement (known as MTA) is a contract governing the transfer of a tangible material from a provider to a recipient. Examples of tangible materials are plant or microbial cultures, plasmids, nucleotides, proteins and chemicals. In the case of the University of Georgia and the University of Georgia Research Foundation, Inc. (UGARF) an MTA would be with another university, a non-profit organization or a company.

It is essential that an MTA be put in place before materials are sent to a recipient or accepted from a provider. The purpose of an MTA is to avoid misunderstanding between the parties and to protect the interests of both parties.

An MTA should address the following topics.

- **Description of the material.** *Provide a description that can be well understood and interpreted at a later date should questions arise about the identification of the materials.*
- **Definition of progeny, modifications and derivatives of the material.** *Because many of the materials being transferred are biological in origin, the MTA should clarify not only what the material is but also how progeny, modifications and derivatives are governed under the MTA.*
- **Agreement by the recipient to not transfer the material to any third party.** *This is fundamental to the reason for having an MTA and would be expected by any providing party.*
- **Description defining and limiting the recipient's use of the material for a specified purpose.** *Usually, the materials are being provided for research use only and for a specified field of research. (The University of Georgia Research Foundation, Inc. uses MTAs to provide proprietary materials to a company in order for the company to determine if it is interested in obtaining a license from UGARF for commercial use.)*
- **Ownership of data and freedom to publish.** *Some MTAs from companies will include language granting ownership of the data to the company. Some of these MTAs also limit the researchers right to publish his/her research results. These terms should not be accepted and can usually be modified by negotiation.*
- **Ownership of intellectual property arising from use of the materials.** *Some MTAs will define the provider as the owner of any intellectual property developed by use of the materials. Except in unusual circumstances, this is not acceptable and rights to intellectual property should be determined by inventorship. It is sometime reasonable for a company providing a material to be granted an option to obtain a license to inventions developed at UGA by use of the company's material. This option would be granted with restrictions which protect the interest of the university and comply with appropriate regulations.*

- **Reports of the results of the use of the material.** *It is reasonable for the provider to require a report from the recipient on the results of their use of the materials.*
- **Agreement to the legal jurisdiction that governs the agreement.** *UGARF and UGA cannot agree to any jurisdiction other than the State of Georgia. We often receive MTAs that require the jurisdiction of the providing party's state. This can usually be addressed by negotiation.*
- **Indemnification and liability of the parties.** *UGARF and UGA cannot agree to indemnify or hold harmless the providing or recipient institution. This sometimes presents difficulties with companies but we are generally successful in removing that requirement.*
- **Termination of the agreement and whether the materials should be returned or destroyed by the recipient upon termination.** *It is desirable to be explicit about the date of termination and the required disposition of the materials upon termination.*
- **An MTA may also contain a definition of “confidential information” and include terms that require both parties to protect the confidential information of the other party.** *When only information and no material are being transferred it is more appropriate to use a Confidentiality Agreement.*

Process for Completing a Material Transfer Agreement

If you are the recipient of an MTA, forward all original copies to the Technology Commercialization Office (TCO), attention Kim Fleming, 627 Boyd Graduate Studies Research Center. The MTA will be reviewed, negotiated for changes if necessary and signed by an authorized official at UGA. You can mail the MTAs via campus mail or send an electronic version to ksf@ovpr.uga.edu.

A form called “Request for Institutional Approval” will need to be completed and attached with the MTA. Your original signature is required on the form; therefore, the form must be sent via mail. The form can be found at <http://www.ovpr.uga.edu/forms/ugarf.html>.

TCO will return the MTA to the providing company or university for signature. A copy of the fully executed MTA will be mailed to you with a cover letter reminding you of the confidentiality clause. The original MTA will be kept in TCO. You may call (706) 542-5929 if you have any questions regarding the MTA process.

If you wish to send materials to a recipient, send your request to TCO, attention Kim Fleming. A technology manager in TCO will prepare (and negotiate, if needed) the MTA and obtain the signatures from the company or university. Upon receiving the fully executed MTA, a copy will be sent to you for your files.