

# Material Transfer Agreements

## Frequently Asked Questions:

### **1. What is a Material Transfer Agreement (MTA)?**

- A Material Transfer Agreement (MTA) is a legal contract that establishes the terms and conditions of the transfer of tangible research materials between the owner and the recipient.
- An MTA protects the rights of Creighton and the providing or receiving Creighton researcher, and records the transfer.

### **2. May I send material and then request an MTA?**

- No, if you send material without an MTA in place, you and Creighton do not have the legal protections that would exist under an MTA. There is nothing that obligates a recipient to later execute an MTA. MTAs must be in place prior to the shipment of the material.

### **3. What happens if I don't use an MTA?**

#### **If Receiving Materials:**

- You may be precluded from publishing the results of your research in cases where you received the material directly from a colleague or other source without obtaining authorized permission from the entity that owns the material.

#### **If Sending Material:**

- You may lose control over the material developed and its research use. The recipient will have no legal restrictions on further transferring the material to other institutions (whether non-profit or for-profit) or to other researchers. As well, the recipient or others may publish on the material before you do.
- You may cause yourself and Creighton to be liable for penalties or legal action arising from such transfer. If you transfer a research material that is governed by an existing agreement that restricts further transfer of the material, you may cause Creighton to be in violation (breach) of the existing agreement and expose Creighton and yourself to penalties or legal action.

### **4. Can a post-doctorate or other lab personnel request the transfer of materials?**

- Since the PI is responsible for the research, only he/she can request/authorize the transfer of materials.

**5. Can the Principal Investigator or others in the lab execute the MTA on behalf of Creighton University?**

- No, under Creighton policy, only an authorized official may negotiate and execute Material Transfer Agreements.

**6. How long does it take to complete an MTA?**

- In general, MTAs for receipt of materials from a U.S. government agency or Non-Profit organization are reviewed, processed, signed by a Creighton authorized official, and forwarded to the provider for countersignature within 10 working days. Creighton's Research & Compliance office will immediately forward a copy of the fully-signed MTA to the PI identified on the MTA request form.
- MTAs from For-Profit entities, or Non-Profit organizations outside the U.S., generally include restrictive terms that must be negotiated before the materials can be transferred. Such MTAs may require extensive document review. Creighton's Associate General Counsel for Regulatory Affairs will review the MTA and contact the provider to propose changes normally within 10 working days after receipt of the Provider's MTA and a completed MTA Request Form.
- MTAs for materials being sent from Creighton to a recipient will generally be drafted within 10 working days of receipt of the MTA Request Form. The Principal Investigator or his/her administrator will present Creighton's MTA to the recipient of the material. The time to complete the MTA negotiation will vary depending on the number and nature of revisions to the MTA requested by the recipient.

**7. What is involved in negotiating an MTA?**

- The time required to negotiate MTA terms is generally subject to several factors; the value and novelty of the material to be transferred, the complexity and number of terms to be negotiated, and the responsiveness of the entity providing or receiving the materials.
- If you are requesting the transfer of "state-of-the-art" materials, the MTA is more likely to include restrictive terms. If this is the case, the terms of the MTA may require significant negotiation before the materials can be transferred.
- In addition, delays in negotiation may also be caused by the number and complexity of changes to the MTA terms and conditions. Since an MTA is a legally binding agreement, changes frequently require extensive review and careful consideration by the provider and/or recipient. Also, when Creighton materials contain materials obtained from third parties, the time taken to obtain permission to transfer the materials can be significant.

**8. I do not intend to make any inventions, why can't Creighton just accept the invention (intellectual property) terms in the agreement?**

- Since materials transferred under MTAs are generally used in basic research directed toward gaining a fuller understanding of the subject under study, a particular result and/or invention may not be foreseen or identified at the beginning of the research.
- This means that if Creighton agrees to assign ownership of the invention, and an invention results from the research, the investigator-inventor would be unable to use the invention in his/her future research without the consent from the owner. This would have major implications on use of related data for other research. Additionally, if the investigator-inventor used government funds to conduct research with the transferred materials, Creighton could jeopardize its ability to receive government agency funding for future research.

**9. What are the procedures for Shipping Specimens or Biological Substances?**

- Specimens and/or biological substances (human or animal) resulting from medical practice and research may be considered a threat to the public health. Even though the threat may be negligible; such substances are still subject to regulations governing transport of hazardous materials under U.S. Department of Transportation (FAA) and Air Transportation Association (ATA) regulations. Prior to shipping any such material, contact John Baxter [JohnBaxter@creighton.edu](mailto:JohnBaxter@creighton.edu) .

**Please Note:** Failure to properly package, mark, label, or document the materials for shipping may result in substantial fines by the FAA or ATA.

**10. I am transferring human tissue, blood, or plasma to a site participating in a multi-site clinical study. Do I need to have an MTA in place before the transfer?**

- No, a separate MTA is not required for the transfer, provided that the transfer is for routine testing of the tissue, blood or plasma in connection with the clinical trial.

**Please Note:** If the material provided by Creighton is to be used by the receiving organization for its own research, an MTA is then required for the purpose of such research.