

Material transfer agreements: what's mine is mine

What is an MTA?

An MTA is a Materials Transfer Agreement.

When do you need an MTA?

An MTA is a contract to cover the exchange of tangible materials from one party to the other party, typically for research purposes. If you are the party providing another party with your proprietary materials, having an MTA in place will ensure that your materials are used for the specific purpose you intended, and that any intellectual property generated in the course of the other party's research or analysis is properly allocated. If you are receiving materials from another party, the MTA can be an important legal document to define each party's rights with respect to the results of any analysis performed on such materials.

What happens if I don't have an MTA or my MTA is not properly drafted?

Without an MTA, your proprietary materials could be reverse engineered, analyzed or used for purposes that are unacceptable to you. Your materials may even be transferred, sold or given to third-party competitors. A properly negotiated MTA will clearly define permitted uses of the proprietary materials and spell out applicable restrictions. There will also be provisions governing the allocation of risk regarding the use of materials that may be considered experimental with unknown safety and toxicity profiles.

Perhaps most importantly, an MTA will set forth the terms of use and ownership of data or intellectual property generated from the analysis of proprietary materials. These terms can range from simple joint ownership of new data and intellectual property to more complicated scenarios that contemplate upstream intellectual property rights as well as option rights to further develop and commercialize materials or intellectual property based on the results of the analysis.

What are alternatives to an MTA?

Depending on your business objectives, you may consider entering into a Sponsored Research Agreement, Feasibility Study, Service Agreement or License Agreement in lieu of an MTA.

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