

## ***What do MTAs do?***

*A Material Transfer Agreement (MTA) is a contractual agreement which governs the transfer of materials from the owner to a third party for research purposes only. Materials may include cultures, cell lines, germplasm, plasmids, nucleotides, proteins, bacteria, pharmaceuticals and other chemicals.*

## ***Why do we need MTAs?***

*The sharing of materials is widespread throughout the scientific community and is vital for the continuation and progress of research. It is becoming more common practice that most commercial organizations and an increasing number of academic and research institutions will only release materials if there is an MTA in place between the provider and the recipient. This agreement offers the provider a number of comforts which include identifying the material and restricting the use of the material to non-commercial research. This is imperative for the work of CGIAR Centres. MTAs can also reduce the legal liability for the recipient's use of the material, it serves as a type of disclaimer. Additionally, the terms of the agreement can help the provider gain access to the results of the research done by the third party on the material.*

## ***Who should sign an MTA?***

*MTAs are legally binding contracts. They place obligations and liabilities on the Centre involved, it is important that only authorised signatories of the Centre execute any MTAs.*

## ***Key Points we need to be included in an MTA***

*In order for an MTA to have legally binding effect it must address certain issues. These are discussed in outline below and within the model outgoing MTA provided for your information.*

### ***Introduction***

*Amongst the important issues to be negotiated within a MTA are publication rights, IP rights, governing law and indemnities. A brief summary of each issue is provided.*

#### ***Publication***

*Many MTAs from commercial organizations will seek to put restrictions on publication of research results. Whilst certain limitations are acceptable, publications should not be subject to unreasonable or indefinite time delays or the outright veto of the provider. Companies/Institutions should not be allowed to control the content of publications beyond the removal of their confidential information.*

#### ***Intellectual Property (IP) Rights***

*Ownership of any Intellectual Property generated as a result of externally funded research is vested in the Centre. The provider of the material should not be entitled*

*to free license or outright ownership of IP generated by the Centre. In general, it is unusual for the provider to be offered any consideration for the supply of materials, this should be agreed prior to signing of the MTA.*

### **Governing Law**

*Agreements should be subject to the national law of the Centre locality.*

### **Indemnities**

*In-coming MTAs frequently include indemnity clauses that require the Centre to accept certain liabilities in exchange for the use of material. This means that we can be asked to bear the economic responsibility for any and all costs, claims, loss, damages, expenses and liabilities that a third party may bring against the provider as a result of our use of the material. As a publicly funded research institute, the Centre does not normally agree to give indemnities.*

### **Things to look for in Incoming MTAs**

*All Centres are welcome to forward incoming MTAs to CAS for approval. However, if you feel comfortable assessing your own incoming MTAs, CAS advises that you consider the implication of the following issues should they arise.*

#### **Check which legal jurisdiction the agreement falls within.**

*Problems can arise if the MTA is governed by a foreign legal system, it is therefore advisable to ask that the agreement be governed by a legal system which is compatible with the Centre.*

#### **“Reach Throughs”**

*“Reach through” clauses enable third parties to identify and potentially claim rights that would otherwise be unavailable to them. Any such clauses should be avoided and if necessary removed from the agreement.*

#### **Payment**

*Centres are advised against signing MTAs which contain requests or a proviso of payment for research and/or materials.*

*If you have any doubt about whether an issue falls within these areas, please do not hesitate to contact CAS who will be happy to help you.*