

General Terms and Conditions for the Exchange of Materials – Material issued to the BfR (Material Transfer-Terms and Conditions – Part B)

Insofar as the German Federal Institute for Risk Assessment (BfR - recipient) receives materials from another Party (provider), the following General Terms and Conditions shall govern the legal relationship, upon which the exchange of material is based, unless specifically agreed otherwise in writing. The activities of the BfR are guided by the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (ABS). The provider's General Terms and Conditions shall only be valid if the recipient has explicitly agreed to them and if they are not contrary to the provisions contained in the following. The provisions in particular with regard to ownership and usage rights are in the interest of the fulfilment of the tasks of the BfR within the framework of consumer health protection.

1. Definitions

Derivatives refers to biological material, which is an unaltered functional sub-unit or a product of the original material or its progeny (for example DNA and DNA-sequences of the original material or its progeny).

Material defines biological and chemical substances as well as reference materials, which typically, or within the scope of the respective exchange, are to be sampled or used in scientific experiments or studies. The term encompasses the original material as well as any Progeny or derivatives.

Progeny refers to all biological materials, which are obtained by the recipient via the reproduction of the original material and which are identical to the original material.

Third Parties are all legal or natural persons with the exception of the contract parties.

2. Unless specifically agreed otherwise in writing, the ownership of the material passes to the recipient at the point of transfer. This also includes the right to decide with regard to the further use of the material, including any unused material. To the extent that the provider owns the copyright or any other intellectual property rights in the material, the provider hereby assigns such rights to the recipient.
3. The provider guarantees that the material is free from third party rights, including property rights and that the use of the material will not infringe any third party patent or other proprietary right directly or indirectly linked with the provided material.
4. The provider shall give the recipient details of a contact person and responsible as principle investigator.
5. The provider shall completely indicate and disclose information on the original providing country of the material, the date of access and the source of the transferred material and any associated data upon request.
6. The provider warrants that the material has not been:
 - a. stolen or looted from their rightful owners or country of origin;
 - b. obtained by violent means (including during an armed conflict in the country of origin);
 - c. obtained in violation of the legislation of their country of origin (i.e. obtained without the necessary permits);

- d. exported illegally or illicitly from their country of origin;
 - e. imported illegally or illicitly into the country of the recipient.
7. Should results that are obtained through the use of the material be published, the recipient will indicate in the publication that the material was made available by the provider. Publications shall not require the provider's consent.
 8. The provider will forward information on the material supplied on request to the relevant national authority in the providing country.
 9. A fee for the release of the original material shall only be charged if this has expressly been agreed prior to said release.
 10. The parties undertake to preserve the confidentiality of any document, information or other material directly related to the subject of this Agreement that is duly classed as confidential in accordance with the General Data Protection Regulation, if disclosure could cause prejudice to the other party, unless the recipient is required to disclose information in order to comply with applicable laws or regulations or with a court or administrative order.
 11. Liability on the part of the recipient with regard to damages in connection with the material is excluded, subject to the provisions hereinafter. Liability for damages resulting from gross negligence or deliberate breach of duty on the part of the recipient and/or its corporate bodies and vicarious agents, as well as for damages arising from injury to life, body or health resulting from a deliberate or negligent breach of duty on the part of the recipient, its corporate bodies and vicarious agents remain unaffected.
 12. The provider must inform the recipient with regard to all qualities and risks pertaining to the material that are known to him, as well as unsuitable applications. This shall not apply if the recipient is already aware of the qualities, risks and/or non-suitable applications. Until the point of receipt of the original material by the recipient, responsibility for the associated protective measures including orderly packaging and shipment shall reside with the provider.
 13. German Law shall be exclusively applicable. Exclusive place of jurisdiction for all disputes arising from or in connection with this legal relationship shall be Berlin, Germany.