



The following document '**DELTA GEN STANDARD ACADEMIC LICENSE AGREEMENT**' should be signed by an AUTHORIZED ACADEMIC INSTITUTION OFFICIAL (e.g., a technology licensing officer). Please email the fully executed document to the MMRRC ICSC at service@mmrrc.org. The ICSC will process your request and forward to the appropriate MMRRC CENTER:

Should your institution require a paper copy, please send fully executed original to:

MMRRC ICSC Customer Service

University of California, Davis
Mouse Biology Program
2795 Second Street, Suite 400
Davis, CA 95618

Thank you!



Electronic document preferred; supporting paperless office concepts.

DELTAGEN STANDARD ACADEMIC LICENSE AGREEMENT

This Standard Academic License Agreement ("Standard License") is made by and between Deltagen, Inc. ("Deltagen" or "We"), having a place of business at 1031 Bing Street, San Carlos, California 94070, U.S.A., and the Academic Institution identified below ("Licensee" or "You"). Deltagen and Licensee are referred to collectively hereinafter as the "Parties" and individually as a "Party."

1. DEFINITIONS.

"Academic Institution" means any academic, non-profit or governmental entity or institution worldwide.

"Affiliate" of a Party means an entity controlling, controlled by, or under common control with such Party and shall be deemed to include any entity in which the Party owns or controls more than 50% of the entity's outstanding shares or securities.

"Change of Control" means a merger, acquisition or reorganization involving all or substantially all of the voting securities and/or assets of a Party.

"Claim" means any third party claim, demand, action or proceeding.

"Commercial Entity" means any entity that is not an Academic Institution, including for-profit corporations and commercial *spin-offs* or *spin-outs* from an Academic Institution.

"Contract Research" means research or development activities involving use of Deltagen Materials that are conducted by or at an Academic Institution where (a) such activities are directly or indirectly supported financially by a Commercial Entity, (b) the Commercial Entity, rather than the Academic Institution, is primarily responsible for establishing the research plan and goals of such activities, (c) the Commercial Entity obtains material rights (which includes an option to obtain an exclusive license of all commercial rights) in the intellectual property resulting from such activities, and (d) the Academic Institution does not retain material commercial rights to exploit such resulting intellectual property.

"Deltagen Materials" means any specific KO Lines licensed by You hereunder from time to time, and any copies (including regenerated or reowned lines) and unmodified portions or progeny thereof (specified in Exhibit A hereto).

"Embryos" means cryopreserved embryos derived from KO Mice.

"ES Cells" means cryopreserved embryonic stem cells used to make KO Mice.

"Field of Use" means use for research purposes, including research directed toward the discovery, development or commercialization of therapeutic and diagnostic products, resulting from (1) any and all teaching, research and development activities conducted by faculty, researchers, students and other employees of any Academic Institution, whether or not resulting in patentable inventions and whether or not published ("Academic Research"); (2) any and all research and development activities conducted at an Academic Institution pursuant to a United States Government Cooperative Research and Development Agreement (CRADA) or substantially similar agreement under the laws of another country; and (3) any and all Academic Research conducted at the facilities of an Academic Institution in conjunction with personnel of one or more Commercial Entities, whether or not such Academic Institution is generally financially supported by such Commercial Entities, whether or not personnel from such Commercial Entities participate in such activities and whether or not such Commercial Entities obtain or have the right to obtain ownership of or licenses to the resulting intellectual property; provided, however, that the Field of Use shall not include Contract Research.

"IP Rights" means Deltagen's and its Affiliates' current and future intellectual property rights covering Deltagen Materials, including, without limitation, all United States and foreign patents and patent applications, trade secrets and other intangible property rights, whether owned by Deltagen or any of its Affiliates or owned by third parties and licensed to Deltagen or any of its Affiliates.

"KO Line" means any of the knockout lines available from Deltagen pursuant to the NIH Contract, whether in the form of KO Mice, Embryos, Sperm or ES Cells, having a disruption in a particular Target Gene.

"KO Mice" means KO Lines in the form of live mice.

"Loss" means any cost, loss, settlement, award, judgment, liability, damages, or expense (including attorneys' fees).

"NIH Contract" means contract HHSN29120055550C (N01-ES-55550) issued by the National Institute of Environmental Health Sciences.

"Sperm" means cryopreserved spermatozoa obtained from male KO Mice.

"Target Gene" means the specific gene that is the target for disruption.

2. LICENSE GRANT AND DELIVERIES. We hereby grant You a perpetual, irrevocable (except in the case of material breach under Section 9), worldwide, royalty-free, fully-paid-up, non-transferable, non-sublicenseable, non-exclusive license under the IP Rights to use the Deltagen Materials specified in the Field of Use. Upon receipt of an original, signed version of this Standard License, We shall deliver or cause to be delivered to You such Deltagen Materials in reasonable quantities and forms, subject to availability and payment of applicable shipping and handling charges.

3. RESTRICTIONS ON TRANSFER. You acknowledge and agree that You have no right or authority to distribute or transfer any Deltagen Materials to any third party, other than: (i) to another Academic Institution that is also a party to a Standard License with Deltagen for such Deltagen Materials, even if such other Academic Institution does not receive any Deltagen Materials other than those You transfer to it; (ii) to a Commercial Entity that is otherwise independently licensed by Deltagen to use such Deltagen Materials; or (iii) to an academic research collaborator pursuant to a material transfer or other similar agreement that expressly restricts use to the Field of Use and prohibits further transfer of the Deltagen Materials to any third party.

4. TITLE. We retain all right, title and interest in and to the Deltagen Materials. You do not acquire any rights, express or implied, in the Deltagen Materials except as specified herein. Notwithstanding the foregoing, as between Deltagen and You, You will solely and exclusively own any novel results, discoveries and inventions obtained by You through authorized use of the Deltagen Materials (collectively, "New Inventions").

5. PUBLICATION AND PATENTING. You are free to publish, present, display, disclose or seek patent or other intellectual property protection on any New Inventions, with no restrictions or obligations of any kind, so long as You use reasonable efforts to credit or otherwise acknowledge Deltagen as the owner and creator of the Deltagen Materials.

6. REPRESENTATIONS. You represent that: (a) You are an Academic Institution and not a Commercial Entity; (b) You will use Deltagen Materials solely within the Field of Use (which excludes Contract Research); and (c) You will not make any unauthorized transfer of the Deltagen Materials.

7. DELTAGEN DISCLAIMERS.

(a) No Support. You acknowledge and agree that We have no obligation to directly or indirectly provide You any (a) technical support, maintenance or customer service relating to the Deltagen Materials, (b) consulting, training or knowledge transition services relating to the Deltagen Materials, and (c) enhancements or updates relating to the Deltagen Materials.

(b) No Indemnity. You acknowledge and agree that We have no obligation or liability to indemnify You for any Loss arising from any Claim that the Deltagen Materials (or any use thereof) infringe any third party's intellectual property rights, or related to the performance, functionality, use or results of the Deltagen Materials.

(c) NO REPRESENTATIONS OR WARRANTIES. YOU ACKNOWLEDGE THAT THE DELTAGEN MATERIALS ARE PROVIDED "AS-IS, WHERE-IS, WITH ALL FAULTS." WE DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, RELATED TO DELTAGEN MATERIALS INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

8. EXCLUSION OF LIABILITY FOR CONSEQUENTIAL DAMAGES. WE WILL NOT BE LIABLE TO YOU FOR DAMAGES ARISING OUT OF OR RELATED TO THIS STANDARD LICENSE FOR ANY LOSS OF USE,

