



The following document '**Material Transfer Agreement for Lexicon Knockout Mice**' should be signed by an AUTHORIZED ACADEMIC INSTITUTION OFFICIAL (e.g., a technology licensing officer). Please have them email the fully executed document to the MMRRC ICSC at service@mmrrc.org.

In an effort to improve efficiency, the MMRRC has now gone to an institutional version of this agreement that only requires a one-time signature by your institution official. Your institution official will then be sent any updates to Exhibit A of this agreement as new orders are received and processed for your institution from this collection.

You can check our [Institutional Genentech-Lexicon MTA fulfilled](#) page to see if your institution has already executed this agreement.

Please contact us at service@mmrrc.org if you have any questions or concerns regarding this new agreement.

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.*

**Materials Transfer Agreement
For
Lexicon Knockout Mice**

This Materials Transfer Agreement (this “Transfer Agreement”), effective _____ (“Effective Date”), is made by and between the Regents of the University of California, as represented by and solely limited to its Davis campus having a place of business at UC Davis InnovationAccess-Technology Transfer Services, University of California, Davis, 1850 Research Park Drive, Suite 100, Davis, CA 95618-6134 (“UC Davis”) and the Institution identified below (“Recipient” or “You”). UC Davis and Recipient are each individually referred to as a “Party” and collectively referred to as the “Parties.”

1. Definitions.

“*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, excluding the Originating Entities, that is not an Institution, including, without limitation, for-profit corporations and commercial spinoffs or spin-outs of a non-profit academic institution.

“*Field of Use*” means use for any research purpose, including research directed toward the discovery, development or commercialization of therapeutic and diagnostic products, resulting from any and all teaching, research and development activities conducted by faculty, researchers, students or other employees of Institution, whether or not resulting in patentable inventions and whether or not published, but excluding any fee-for-service contract research or breeding services conducted for the benefit of a third party.

“*Genentech*” means Genentech, Inc., a Delaware corporation.

“*Institution*” means any non-profit academic research institution or governmental agency.

“*KO Line*” means any of the knockout mouse lines received by UC Davis from Lexicon and/or Genentech pursuant to the Material Transfer Agreement between UC Davis, Lexicon and Genentech dated dated May 4, 2009 having a disruption of a particular Target Gene.

“*KO Mice*” means KO Lines in the form of live mice and any unmodified progeny or unmodified derivatives thereof.

“*Lexicon*” means Lexicon Pharmaceuticals, Inc., a Delaware corporation.

“*Loss*” means any cost, loss, settlement, award, judgment, liability, damages, or expense (including attorneys fees).

“*Materials*” means KO Mice delivered to You hereunder, along with any progeny thereof and any unmodified functional sub-unit or an expression product, including, but not limited to cells, tissues and other biological materials derived from such KO Mice or any of the foregoing that is included in any substance.

“*NIH*” means the National Institutes of Health.

“*Originating Entity*” means Genentech and/or Lexicon.

“*Target Gene*” means the specific gene that is the target for disruption.

2. Use and Deliveries. UC Davis is providing You with the Materials specified in Exhibit A attached hereto for You to use only in the Field of Use. Upon receipt of an original, signed version of this Transfer Agreement and payment of applicable administrative, shipping, and handling charges per KO Line, UC Davis shall deliver or cause to be delivered to You such Materials in reasonable quantities and forms, subject to availability and compliance with all customs and other laws and regulations applicable to the shipment and acceptance of the Materials.

3. Restrictions on Transfer and Use. You represent and agree that (a) You are an Institution and not a Commercial Entity; (b) You will use the Materials solely within the Field of Use and in accordance with all applicable laws and regulations, and (c) You have no right or authority to, and shall not without prior written authorization from Genentech and Lexicon, distribute, sell, or transfer any Materials to any third party or use any Materials in fee-for-service contract research or breeding services for the benefit of any Commercial Entity, Institution or any other third

party. However, You may transfer Materials to another Institution that executes a Materials Transfer Agreement governing such transfer which contains terms and conditions substantially similar to those contained in this Transfer Agreement.

4. Publications and Patents. Recipient is free to publish, present, display, disclose or seek patent or other intellectual property protection on any inventions arising from the use of Materials, without restrictions or obligations of any kind, so long as Recipient uses reasonable efforts to credit or otherwise acknowledge Lexicon and Genentech as the source of the Materials.

5. Disclaimers, Liability.

(a) **No Indemnity/Liability.** You acknowledge and agree that UC Davis, NIH, and the Originating Entities shall have no obligation to indemnify You for or any liability with respect to any Loss arising from any Claim arising from your use of the Materials, including, without limitation, the Materials (or any use thereof), infringement of any third party's intellectual property rights, or any Claim related to the performance, functionality, use or results of the Materials. Except to the extent prohibited by law, You assume all liability for Losses which may arise from your use, storage or disposal of the Materials.

(b) **NO REPRESENTATIONS OR WARRANTIES.** YOU ACKNOWLEDGE THAT THE MATERIALS ARE PROVIDED "AS-IS." ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, RELATED TO THE MATERIALS INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED. WITHOUT LIMITING THE FOREGOING, UC DAVIS AND THE ORIGINATING ENTITIES MAKE NO WARRANTY OF MUTAGENICITY OR GERMLINE TRANSMISSION OR THAT A MUTANT PHENOTYPE WILL BE OBSERVED IN ANY MATERIALS.

(c) **INDEMNIFICATION.** TO THE EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR NIH, OTHER U.S. GOVERNMENT LABORATORIES OR STATE INSTITUTIONS WHICH ARE PROHIBITED FROM DOING SO, YOU

AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE ORIGINATING ENTITIES, UC DAVIS AND NIH FOR ANY CLAIMS ARISING FROM YOUR USE OF THE MATERIALS.

6. EXCLUSION OF LIABILITY FOR CONSEQUENTIAL DAMAGES. UC DAVIS, NIH, AND THE ORIGINATING ENTITIES WILL NOT BE LIABLE TO YOU FOR DAMAGES ARISING OUT OF OR RELATED TO THIS TRANSFER AGREEMENT FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, COST OF PROCUREMENT OR SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES AND ANY INDIRECT, SPECIAL, INCIDENTAL, ECONOMIC OR CONSEQUENTIAL LOSS OR DAMAGE, LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY EVEN IF UC DAVIS, NIH OR THE ORIGINATING ENTITIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

7. Termination. In the event that Recipient is in default in the performance of any material obligation under this Transfer Agreement and the default has not been cured within thirty (30) days written notice of such default, UC Davis may terminate this Transfer Agreement and Recipient shall, as directed by UC Davis, return, destroy or dispose of all of the Material.

8. General.

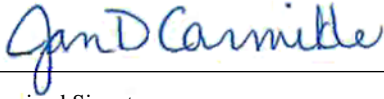
(a) This Transfer Agreement may not be assigned by You without UC Davis' express written consent. However, in the event of a Change of Control, this Transfer Agreement shall be binding upon your successor.

(b) This Transfer Agreement is the final and entire agreement regarding the subject matter herein, and supercedes all previous oral and written understandings, negotiations, term sheets, and agreements on the subject matter herein.

(c) This Transfer Agreement may not be revised, amended, interlineated, addended or otherwise modified by You without the prior written consent of UC Davis.

IN WITNESS WHEREOF, the Parties have each caused a duly authorized representative to execute this Transfer Agreement.

UC Davis



Authorized Signature

Jan D. Carmikle
Senior Intellectual Property Officer
Technology Transfer Services

Institution Name ("Recipient")

Authorized Signature

Printed Name

Title

Email Address

Telephone Number

Institution's Street Address

Institution's City, State and Postal Code

Country

