

Instructions for Completing

MPO KO Mouse Model Ready-To-Sign Agreement

1. Please insert the following information into the agreement:
 - Opening paragraph: today's date, your company's name, state of incorporation, and primary address
 - Section 2.7: your company's name
 - Section 16.1: the appropriate contact for Notices for your company and UC Case Number
 - Signature block: your company's name
 - Exhibit A: the appropriate financial contact for your company
2. Have the appropriate officer of the company sign duplicate copies of the agreement.
3. Return two signed copies of the agreement to:

The Regents of the University of California
University of California, Los Angeles
Office of Intellectual Property
11000 Kinross Avenue, Suite 200
Los Angeles, CA 90095-1406

Attention: Director
Ref: Ready-to-Sign Agreement

4. The Office of Intellectual Property (OIP) will sign both agreements, keep one for OIP's records and return the other original to the address and contact noted on the agreement. At the same time, OIP will generate an invoice for the upfront fee. Once the payment of the upfront fee is received by OIP, the mice strain that you have elected to license will be made available from Jackson Laboratories.
6. If you have any questions about completing the agreement, please call 310-794-0558.

NON-EXCLUSIVE LICENSE & BAILMENT AGREEMENT

This Non-Exclusive License and Bailment Agreement (the “**Agreement**”) is made and is effective this _____ day of _____, _____ (the “**Effective Date**”) between **THE REGENTS OF THE UNIVERSITY OF CALIFORNIA** (“**The Regents**”), a California corporation having its corporate offices located at 1111 Franklin Street, 12th Floor, Oakland, California 94607-5200, acting through The Office of Intellectual Property – Industry Sponsored Research of the University of California, Los Angeles, located at **11000 Kinross Avenue, Suite 200, Los Angeles, CA 90095-1406**, and _____ (“**Licensee**”), a _____ corporation having a principal place of business at _____.

1. BACKGROUND

- 1.1 The Regents has certain rights to original material known as *Mouse Model Deficient for the Myeloperoxidase (MPO) Gene* (“**Original Material**”) developed at the University of California, Los Angeles by Aldons Lulis and Marie Brennan (“**Inventors**”) described in **UC Case No: 1998-608** and claimed in Regents’ Property Rights as defined below.
- 1.2 The Original Material was developed by or in the laboratory of employees of The Regents in which case such employees are obligated to assign their right, title and interest in and to the Original Material to The Regents.
- 1.3 The Regents wishes that Regents’ Property Rights be developed and utilized to the fullest extent so that the benefits can be enjoyed by the general public.
- 1.4 Licensee wishes to acquire a non-exclusive license to said Original Material to use in the Licensed Field of Use.
- 1.5 The Original Material was developed in the course of research supported by the National Institutes of Health.
- 1.6 Both parties recognize and agree that the Original Material is not patented and, for their mutual convenience in valuing the rights granted in this Agreement, a license issue fee and maintenance fees will be paid.

The parties agree as follows:

2. DEFINITIONS

- 2.1 “**Original Material**” means mice with a null myeloperoxidase (MPO) gene as described in *Increased atherosclerosis in myeloperoxidase-deficient mice*. J Clin Invest 107(4):419-30 and Section 1.1 and made available to Licensee pursuant to this Agreement.
- 2.2 “**Biological Material(s)**” means: (a) the Original Materials, their progeny or unmodified functional subunits thereof; (b) any material which incorporates the Original Materials, their

progeny or unmodified functional subunit; (c) material contained in or produced by the Original Materials, including secreted or encoded products obtained by Licensee from the Original Materials, or fragments or derivatives thereof derived by Licensee from Original Materials; or (d) any material similar to a material described in (c) above, produced by Licensee using chemical synthesis or any other method based on use of the Original Materials.

- 2.3 **“Modifications”** means materials created by or on behalf of Licensee which contain or incorporate the Biological Materials, including but not limited to the results of any cross-breeding of the Biological Materials thereof to other non-naturally occurring lines or strains, and any offspring or other materials derived therefrom such as cells, cell lines, tissues, sperm, blood, proteins or other compositions contained in or components of any such modifications of the Biological Materials.
- 2.4 **“Regents' Property Rights”** means The Regents' personal proprietary rights in the Biological Materials, including ownership rights and rights in know-how embodied in the Biological Materials.
- 2.5 **“Licensed Field of Use”** means any use of the Biological Material for internal research purposes. The Licensed Field of Use specifically excludes any use of Biological Material which requires regulatory approval, including any in vitro and in vivo diagnostic or therapeutic applications, any in vivo use for whatever purpose, as well as distribution and/or resale of Biological Materials.
- 2.6 **“Licensed Territory”** means worldwide.
- 2.7 **“Affiliate”** means any corporation or other business entity in which Licensee owns or controls, directly or indirectly, at least fifty percent (50%) of the outstanding stock or other voting rights entitled to elect directors. In any country where the local law does not permit foreign equity participation of at least fifty percent (50%), then “Affiliate” means any company in which Licensee owns or controls, directly or indirectly, the maximum percentage of outstanding stock or voting rights that is permitted by local law.

3. BAILMENT

- 3.1 At least one breeding pair of existing Original Material shall be made available from Jackson Laboratories. Licensee shall pay all the associated shipping and handling costs (along with mice costs if obtained from Jackson Laboratories).
- 3.2 Subject to the limitations set forth in this Agreement, The Regents hereby grants to Licensee a non-exclusive license (the **“License”**) under Regents' Property Rights, within the Licensed Field of Use and Licensed Territory to breed and use Biological Material to the extent The Regents may lawfully grant such rights. For the avoidance of doubt, Affiliates have no rights hereunder.
- 3.3 Licensee shall not sell any products developed from the use of or incorporating the Biological Materials or sublicense the rights granted hereunder. Licensee shall not transfer or sublicense Biological Materials or any animal, vector or system in which Biological Materials are contained to any third party.
- 3.4 Title to tangible material comprising the Biological Materials is owned by The Regents and is not transferred to Licensee under this Agreement. The Regents is free to transfer or grant rights in the Biological Materials to third parties for commercial or noncommercial purposes, and The

Regents may use the Biological Materials (or any related material or technology in which The Regents has rights) for educational and research purposes, including public disclosure of research results. Unless the Original Materials are obtained from Jackson Laboratories, Licensee shall transfer samples of Biological Materials developed under this Agreement to The Regents, from time to time, upon reasonable request by The Regents.

- 3.5 All Modifications together with data, results, technology, information, discoveries, inventions, know-how, conclusions and/or other related information made, obtained or developed by or on behalf of Licensee in its use of the Biological Material shall be owned exclusively by Licensee (“**Licensee Intellectual Property**”); provided, however, that Licensee acknowledges that The Regents retains ownership of Biological Materials included or incorporated within Licensee Intellectual Property (the “**Related Licensee Intellectual Property**”) and that any such Related Licensee Intellectual Property, including without limitation cross bred progeny, are subject to the provisions of this Agreement. Irrespective of The Regents’ ownership of Biological Material, The Regents has no right to acquire Modifications, including but not limited to cross bred progeny, made by or on behalf of Licensee. Subject to the foregoing, Licensee shall have the sole and exclusive right to use all Licensee Intellectual Property for any purpose with the exception of Related Licensee Intellectual Property which may only be used under the terms of this Agreement.

4. SPONSOR RIGHTS

- 4.1 This Agreement is subject to all of the terms and conditions of Title 35 United States Code Sections 200 through 212, and Licensee agrees to take all reasonable action necessary on its part as licensee to enable The Regents to satisfy its obligation thereunder, relating to Original Material.

5. CONSIDERATION

- 5.1 Licensee will pay to The Regents a noncreditable, non-refundable license issue fee of **twenty five thousand dollars (\$25,000.00)**. Upon receipt of payment, Original Materials will be made available to Licensee. Licensee shall not transfer Biological Material to any third party without prior written consent from The Regents.
- 5.2 Licensee must pay to The Regents a license maintenance fee of **ten thousand dollars (\$10,000.00)** beginning on the one-year anniversary date of the Effective Date of this Agreement and continuing annually on each anniversary date of the Effective Date for the life of the agreement. The license maintenance fees are non-refundable.
- 5.3 All payments to The Regents shall be in U.S. Dollars.

6. LIFE OF THE AGREEMENT

- 6.1 Unless otherwise terminated by operation of law or by acts of the parties in accordance with the terms of this Agreement, this Agreement is in force from the Effective Date recited on page one and remains in effect until fifteen (15) years from the Effective Date.
- 6.2 Upon termination of this Agreement, Licensee will have no further right to any Biological Materials.

6.3 Any expiration or termination of this Agreement will not affect the rights and obligations set forth in the following Articles:

Paragraph 3.3

Paragraph 3.4

Paragraph 3.5

Paragraph 6.2

Article 9 DISPOSITION OF BIOLOGICAL MATERIALS AND MODIFICATIONS ON HAND UPON TERMINATION;

Article 10 USE OF NAMES AND TRADEMARKS;

Article 12 LIMITED WARRANTY;

Article 13 INDEMNIFICATION;

Article 14 LIMITATIONS OF LIABILITY; and

Article 19 GOVERNING LAW.

7. TERMINATION BY THE REGENTS

7.1 If Licensee violates or fails to perform any material term of this Agreement, then The Regents may give written notice of the default (“**Notice of Default**”) to Licensee. If Licensee does not repair the default within sixty (60) days after the effective date of the Notice of Default (“**Period to Cure**”), then The Regents has the right to terminate this Agreement and the License by a second written notice (“**Notice of Termination**”) to Licensee. If The Regents sends a Notice of Termination to Licensee, then this Agreement automatically terminates on the effective date of this notice. Termination does not relieve Licensee of its obligation to pay any royalty or fees owing at the time of termination and does not impair any accrued right of The Regents.

8. TERMINATION BY LICENSEE

8.1 Licensee has the right at any time to terminate this Agreement in whole or with respect to any portion of Regents' Property Rights by giving written notice to The Regents. This notice of termination will be subject to Article 16 (NOTICES) and will be effective ninety (90) days after the effective date of the notice.

8.2 Any termination in accordance with Paragraph 8.1 does not relieve Licensee of any obligation or liability accrued prior to termination. Nor does termination rescind anything done by Licensee or any payments made to The Regents prior to the effective date of termination. Termination does not affect in any manner any rights of The Regents arising under this Agreement prior to termination.

9. DISPOSITION OF BIOLOGICAL MATERIALS AND MODIFICATIONS ON HAND UPON TERMINATION

- 9.1 If this Agreement is terminated by either party, Licensee shall destroy all Biological Materials under Licensee's control at the time of termination and shall provide The Regents with written assurance of the Biological Materials' destruction within thirty (30) days of the effective date of termination. Licensee, at its discretion, will also either destroy Modifications, or remain bound by the terms of this Agreement as it applies to Modifications.

10. USE OF NAMES AND TRADEMARKS

- 10.1 Nothing contained in this Agreement confers any right to use in advertising, publicity or other promotional activities any name, trade name, trademark or other designation of either party hereto (including contraction, abbreviation or simulation of any of the foregoing). Unless required by law, Licensee is expressly prohibited from using the name "The Regents of the University of California" or the name of any campus of the University of California in advertising, publicity, or other promotional activity, without written permission of The Regents.

11. CONFIDENTIALITY

- 11.1 The Regents are free to release to the inventors and senior administrators employed by The Regents the terms and conditions of this Agreement. If such release is made, The Regents shall give notice of the confidential nature and shall request that the recipient does not disclose such terms and conditions to others. If a third party inquires whether a license to Regents' Property Rights is available, The Regents may disclose the existence of this Agreement and the extent of the grant in Article 3 (BAILMENT) to such third party, but will not disclose the name of Licensee or any other terms or conditions of this Agreement, except where The Regents are required to release information under either the California Public Records Act, a governmental audit requirement or other applicable law.

12. LIMITED WARRANTY

- 12.1 The Regents warrants that it has the lawful right to grant this license and bailment to Licensee.
- 12.2 This license and bailment and the associated Biological Materials are provided **WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESSED OR IMPLIED. THE REGENTS MAKES NO REPRESENTATION OR WARRANTY THAT ANY BIOLOGICAL MATERIAL WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.**
- 12.3 Licensee **SHALL USE THE BIOLOGICAL MATERIALS WITH CAUTION AND PRUDENCE IN ANY EXPERIMENTAL WORK, SINCE ALL OF THE BIOLOGICAL MATERIALS' CHARACTERISTICS ARE NOT KNOWN. Licensee SHALL NOT USE THE BIOLOGICAL MATERIALS IN HUMANS UNDER ANY CIRCUMSTANCES. IN NO EVENT WILL THE REGENTS BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM EXERCISE OF THIS LICENSE AND BAILMENT OR THE USE OF BIOLOGICAL MATERIALS.**

- 12.4 Nothing in this Agreement will be construed as:
- 12.4a A warranty or representation by The Regents as to the validity or scope of any Regents' Property Rights.
 - 12.4b A warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of patents or other proprietary rights of third parties.
 - 12.4c Conferring by implication, estoppel or otherwise any license or rights under any patents of The Regents other than Regents' Property Rights as defined herein.
 - 12.4d Obligating The Regents to furnish any know-how not provided in the Biological Materials.

13. INDEMNIFICATION

- 13.1 Licensee will indemnify, hold harmless and defend The Regents, its officers, employees, agents, and the sponsors of the research that led to the Original Materials, the inventors in Regents' Property Rights and their respective employers from and against any and all liability, claims, suits, losses, damages, costs, fees and expenses resulting from or arising out of exercise of this Agreement. Indemnification includes but is not limited to products liability. If The Regents, in its sole discretion, believes that there will be a conflict of interest or it will not otherwise be adequately represented by counsel chosen by Licensee to defend The Regents in accordance with this Paragraph 14.1, then The Regents may retain counsel of its choice to represent it. If The Regents selects its own counsel, the parties agree that The Regents will provide, in advance, cost estimates from its counsel and the parties will discuss the cost estimates and mutually agree on the amount to be paid by Licensee.
- 13.2 During the term of this Agreement and for three (3) years following its termination or expiration, the Licensee, at its sole cost and expense, must insure its activities in connection with this Agreement and obtain, keep in force and maintain Comprehensive or Commercial Form General Liability Insurance (contractual liability included), or an equivalent program of self insurance, with limits as follows:
- | | | |
|-------|--|-------------|
| 13.2a | Each occurrence | \$500,000 |
| 13.2b | Products/completed operations aggregate | \$1,000,000 |
| 13.2c | Personal and advertising injury | \$500,000 |
| 13.2d | General aggregate (commercial form only) | \$1,000,000 |
- 13.3 Licensee will obtain, keep in force and maintain Worker's Compensation Insurance as legally required in the jurisdiction in which Licensee is doing business.
- 13.4 The Regents shall notify Licensee in writing of any claim or suit brought against The Regents in respect of which The Regents intends to invoke the provisions of this Article 13 (INDEMNIFICATION). Licensee shall keep The Regents informed on a current basis of its defense of any claims under this Article 13 (INDEMNIFICATION).

14. LIMITATIONS OF LIABILITY

14.1 **THE REGENTS WILL NOT BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST BUSINESS, ENHANCED DAMAGES FOR INTELLECTUAL PROPERTY INFRINGEMENT OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SPECIAL DAMAGES SUFFERED BY LICENSEE, JOINT VENTURES, AFFILIATES OR DEVELOPMENT PARTNERS ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE REGENTS WILL NOT BE LIABLE FOR ANY CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF THE REGENTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

15. NOTICES

15.1 Any notice or payment required to be given to either party must be sent to the respective address given below and is effective: (a) on the date of delivery if delivered in person, (b) five (5) days after mailing if mailed by first-class certified mail, postage paid, or (c) on the next business day if sent by overnight delivery. Either party may change its designated address by written notice.

For Licensee:

Attention: _____

For The Regents:

**The Regents of the University of California
University of California, Los Angeles
Office of Intellectual Property
11000 Kinross Avenue, Suite 200
Los Angeles, CA 90095-1406**

**Attention: Director
Ref: UC Case No. 1998-608**

15.2 Licensee shall furnish to The Regents the completed form entitled "AGREEMENT MANAGEMENT – CONTACT INFORMATION," attached hereto as "EXHIBIT A," upon execution of the Agreement and incorporated herein by this reference.

16. ASSIGNABILITY

- 16.1 This Agreement is binding upon and inures to the benefit of The Regents, its successors and assignees, but it is personal to Licensee and assignable by Licensee only with the written consent of The Regents. The consent of The Regents will not be required if the assignment is in conjunction with the transfer of all or substantially all of the business of Licensee to which this license relates.

17. LATE PAYMENTS

- 17.1 For each fee not received by The Regents when due, Licensee must pay to The Regents a simple interest charge of ten percent (10%) per annum to be calculated from the date payment was due until it was actually received by The Regents.

18. WAIVER

- 18.1 The waiver of any breach of any term of this Agreement does not waive any other breach of that or any other term.

19. GOVERNING LAW

- 19.1 **THIS AGREEMENT IS TO BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.** Disputes between the parties regarding this agreement will utilize only trial courts within California for disputes that go to court.

20. GOVERNMENT APPROVAL OR REGISTRATION

- 20.1 If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, Licensee will assume all legal obligations to do so. Licensee will notify The Regents if it becomes aware that this Agreement is subject to a United States or foreign government reporting or approval requirement. Licensee will make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

21. COMPLIANCE WITH LAWS

- 21.1 Licensee will comply with all applicable international, national, state, regional, and local laws and regulations in performing its obligations hereunder. Licensee will observe all applicable United States and foreign laws with respect to the transfer of Biological Material and related technical data to foreign countries, including and without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations.

22. MISCELLANEOUS

- 22.1 The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of, this Agreement.
- 22.2 This Agreement is not binding upon the parties until it has been signed below on behalf of each party, in which event it becomes effective as of the date recited on page one.
- 22.3 No amendment or modification of this Agreement will be valid or binding upon the parties unless made in writing and signed by each party.
- 22.4 This Agreement embodies the entire understanding of the parties and supersedes all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.
- 22.5 If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable as long as a party's rights under this Agreement are not materially affected. In lieu of the unenforceable provision, the parties will substitute or add as part of this Agreement a provision that will be as similar as possible in economic and business objectives as was intended by the unenforceable provision.
- 22.6 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile, Portable Document Format (PDF) or photocopied signatures of the parties will have the same legal validity as original signatures.

Both The Regents and Licensee have executed this Agreement in duplicate originals by their authorized officers on the dates written below:

	THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
By _____ <i>Signature</i>	By _____ <i>Signature</i>
Name: _____	Name: <u>Emily Loughran</u>
Title: _____	Title: <u>Director of Licensing</u>
Date: _____	Date: _____

EXHIBIT A
AGREEMENT MANAGEMENT – CONTACT INFORMATION

Licensee Name: _____ UC Control No: _____

FINANCIAL CONTACT:

LAST NAME, FIRST NAME: _____

COMPANY TELEPHONE: _____

TITLE: _____

COMPANY NAME: _____

COMPANY FAX: _____

ADDRESS: _____

ADDRESS: _____

EMAIL: _____

CITY, STATE, ZIP: _____

CODE, COUNTRY