AGREEMENT FOR THE TRANSFER OF MUTANT MOUSE LINES TO THE AUSTRALIAN PHENOMICS FACILITY

To: THE AUSTRALIAN NATIONAL UNIVERSITY, an institution pursuant to the Australian National University Act 1991 (Cth) as represented by the AUSTRALIAN PHENOMICS FACILITY (“APF”)

Address: Building 117 Garran Road
          The Australian National University
          Canberra, ACT, 2600

From (Name of Institution): (“OWNER”)

Address of Owner:

Re: Mutant mouse strains identified in Annexure 1 (the “MATERIAL”).

RECITALS:

A. Established in 2002, the APF is an open-access Major National Research Facility that is one of the world's leading facilities for Australian and International researchers to elucidate the genome-phenome code. It provides services to researchers that include access to databases and collections of mouse models with specific gene alterations, either maintained as breeding nuclei or as cryopreserved germplasm, embryos or cells.

B. The Owner wishes to transfer the Material to the APF.

C. The APF and the Owner agree that the Material is transferred on the terms and conditions set out in this Agreement.

THE PARTIES AGREE:

1. The Owner agrees that it has developed and owns, or is the beneficial owner of, the Material and any information and rights relating to the Material.

2. The Owner warrants that it has the requisite authority, power and right to enter into this Agreement.

3. The Owner warrants that all necessary approvals (including those of the relevant Institutional Animal Ethics Committee and Office of Gene Technology (if required)) were obtained and followed during the creation and maintenance of the Material.

4. All relevant information about the Material will be provided by the Owner to the APF. This information will be made available to the public by the APF via the NHMRC Phenome Bank database and the IMSR (International Mouse Strain Resource) homepage. The APF may release information identifying the Owner to the public.

5. The Owner warrants that the Material and information about the Material that it provides to the APF is that which is described in this Agreement. The Owner acknowledges that the APF is relying on this warranty.

6. Intellectual property in the Material and any information relating to the Material will remain vested in the Owner.

5 April 2006
7. The Owner understands and agrees that the function of the APF is to archive the Material and to make the Material and information about it available to researchers (Recipients) for research and commercialisation purposes. To facilitate the APF’s function, the Owner grants the APF a permanent, irrevocable, royalty-free, world-wide, non-exclusive (including a right to sub-licence) licence to the intellectual property in the Material and any information relating to the Material provided to the APF pursuant to this Agreement provided that the APF exercises this licence in accordance with the following (the Owner must select which option it prefers):

☐ The APF may transfer the Material to a Recipient without the prior consent of the Owner. A database of all Material transfers made by the APF to Recipients will be maintained by the APF and made available to the Owner upon written request. Transfers of Material will be the subject of a written material transfer agreement between the APF and Recipient;

OR

☐ The APF may transfer the Material to a Recipient only with the prior consent of the Owner, such consent to be evidenced by the Owner providing the APF with a copy of a signed material transfer agreement between the Owner and the Recipient. If the Owner chooses this option, the Owner agrees that the APF is not responsible for negotiating, monitoring or enforcing the Owner’s material transfer agreement with the Recipient, nor will the APF have any liability for any use made of the Material by the Recipient or any consequence of such use. Subject to the terms of this Agreement, the APF will transfer the Material to the Recipient within 60 days of receipt of the Owner’s signed material transfer agreement.

8. The Owner agrees that it will be the first point of contact for Recipients wishing to negotiate a licence to commercially exploit the Material.

9. The Owner acknowledges and agrees that the APF may subcontract third parties to perform any or all of the archiving, distribution or other services that the APF provides.

10. The Owner agrees to pay the APF for any costs incurred by the APF for the transfer and storage of the Material prior to cryopreservation in accordance with the Schedule of Fees at Annexure 2. Payment of any fee will be made within thirty (30) days of receipt of a tax invoice by the Owner from the APF.

11. The APF reserves the right to withdraw the Material from its archive due to scientific or economic reasons. The APF will inform the Owner as soon as possible after withdrawal of the Material occurs.

12. The Owner acknowledges that if the Owner transfers the Material to the APF as cryopreserved embryos or germplasm, the Owner accepts the risk that it may not be possible to rederive the Material. The Owner understands that the APF will make a reasonable effort at re derivation. The APF will not be liable for the loss of the Material.

13. The Owner accepts that the APF will maintain the Material as appropriate for the overall benefit of the entire strain repository resource and that the Material may be maintained as a cryopreserved-only archive if demand is inadequate to justify maintenance of a breeding colony.

14. The Owner acknowledges and agrees that once a live colony is discontinued, there is a risk that it may not be possible to recover the Material from the cryo-repository. The Owner understands that the APF will make a reasonable effort at rederivation. The APF will not be liable for the loss of the Material.

15. The Owner understands that maintenance at the cryopreserved-only maintenance level implies additional time to rederive animals for distribution.

16. The APF (or its subcontractor) agrees to store the Material as a service to the Owner but will not, in any way whatsoever, be liable to the Owner or any third party for any loss, claim or demand made by the Owner, or made against the Owner by any other party, relating to the Material.
17. The Owner will defend, indemnify, and hold harmless the APF, and its officers, directors, employees and agents from and against any and all actions, judgements, liabilities, loses, damages, expenses, claims, suits and demands of whatever nature (‘the Losses’), arising from or connected with the donation, preservation, storage and handling of the Material by the APF, except to the extent that the Losses arose due to the negligence or wilful misconduct of the APF. The liability of the Owner under this clause will not extend to the transfer, storage, handling, use and disposal of the Material by any Recipient.

18. This Agreement will terminate on thirty (30) days prior written notice by either party. Upon the effective date of termination, the Owner may require the APF to return or destroy any remaining Material, except that the APF will not be responsible for the return or destruction of any Material transferred to any Recipient(s). The Owner acknowledges and agrees that a fee may be charged for returning or destroying any remaining Material.

19. This Agreement will be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties will be governed by the laws of the Australian Capital Territory and the federal laws of Australia, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and all courts competent to hear appeals from those courts.

20. No amendment, modification or waiver of any of the provisions of this Agreement will be valid unless in writing and signed by both parties.

21. No part of this Agreement may be assigned, delegated or subcontracted by any party to any other person or third party without the prior written approval of the other party.

22. Clauses 1, 2, 3, 5, 6, 7, 11, 12, 14, 16, 17 and 19 will survive termination.
Please sign two (2) copies of this Agreement and return one signed copy to the APF. The APF will then organise with the Owner to transfer the Material to APF.

**Executed as an Agreement:**

**SIGNED for and on behalf of the OWNER**
by
its duly authorised officer
in the presence of:

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Signature of witness

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Name of witness

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Address of Witness

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Date

Owner Scientist(s): I have read and understood the conditions outlined in this Agreement.

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Signature

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Date

**SIGNED for and on behalf of the AUSTRALIAN NATIONAL UNIVERSITY**
by
its duly authorised officer
in the presence of:

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Signature of witness

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Name of witness

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Address of Witness

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Date
ANNEXURE 1: MUTUANT MOUSE STRAINS

[Insert details of Mutant Mouse Strains]
ANNEXURE 2: Schedule of Fees

Shipment:
World Courier: $160
+ $15 per kilogram

Cage costs: $10 per cage