AGREEMENT FOR THE TRANSFER OF MATERIAL FROM THE AUSTRALIAN PHENOMICS FACILITY OF THE AUSTRALIAN NATIONAL UNIVERSITY

From: 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):

Address of Recipient:

Re: Mutant mouse strain identified as _______________________________ (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 Recipient has requested the above-identified Material.

C. The APF and the Recipient agree that the Material, which has been donated to the APF under licence, is transferred on the terms and conditions set out in this Agreement.

D. The Owner of the Material: ____________________________ (Name)

______________________________________ (Institution)

THE PARTIES AGREE:

1. The Material is the property of a third party not related to the APF (“the Owner”) and is made available through the APF to the Recipient as a service to the research community. Intellectual property in the Material and any information relating to the Material will remain vested in the Owner.

2. The Recipient acknowledges that the APF relies on the Owner to identify, provide and explain the Material and that the APF conducts no testing of its own to determine the accuracy or authenticity of the Material provided to the Recipient. The Recipient accepts all responsibility for ensuring that the Material provided to it under this Agreement suits the purpose for which it will be used. Except as provided by law, the liability of the APF is limited, at the discretion of the APF, to (a) where possible, resupply of the Material; or (b) refund of some, or all, of the fees charged by the APF under clause 17.

3. The Material will be transferred to and used only at the Recipient under the direction of __________________________________________ (“Recipient Scientist”).
4. For the term of this Agreement, the APF grants the Recipient a royalty-free, world-wide, non-exclusive licence to the intellectual property in the Material and any information relating to the Material to use the Material for academic and non-commercial research purposes. Intellectual property created through the use of the Material will vest in the Recipient.

5. The Material will be used for academic and non-commercial research purposes only. If the Recipient wishes to use the Material for commercial purposes, it should contact the Owner to negotiate necessary licences and consents.

6. The Recipient and the Recipient Scientist will not further distribute the Material to any other parties or transfer the Material to another institution or organisation without the express written consent of the APF.

7. The Material is not for use in human subjects under any circumstances, including but not limited to clinical trials and diagnostic testing purposes.

8. The Recipient agrees to inform the APF, on request, of the results of the research using the Material. The Recipient further agrees to:

   a. on request, provide the APF (which may in turn provide the Owner) with a copy of any publication containing results obtained in the course of the research using the Material; and
   b. acknowledge the Owner and the APF as the providers of the Material in any publication or presentation of such results.

9. Any Material delivered pursuant to this Agreement is experimental in nature and may have hazardous properties. The APF and the Owner make no representations and extend no warranties of any kind, either expressed or implied. There are no express or implied warranties of merchantability or fitness for a particular purpose, or that the use of the Material will not infringe any patent, copyright, trademark, or other proprietary rights. The Recipient agrees that all animal and human materials have the potential for carrying viruses, latent viral genomes and other infectious agents.

10. By accepting the Material, the Recipient agrees to assume sole responsibility for the safe transfer, handling, storage, use and disposal of the Material, including any consequential loss or damage suffered by the Recipient as a consequence of obtaining the Material. The Recipient will defend, indemnify and hold harmless, the APF and the Owner, their officers, directors, employees, and agents against any and all claims, including liabilities, demands, damages, expenses (including legal fees and expenses), costs, loses, actions, suits and proceedings of any kind, arising from or connected with this Agreement and the Recipient’s acceptance, transfer, use, storage, handling and disposal of the Material. The Recipient will maintain a sufficient policy or policies of insurance to cover the indemnity provided under this Agreement. The Recipient will provide evidence of such insurance upon written request by the APF and will provide the APF thirty (30) days prior written notice of cancellation or non-renewal of its coverage.

11. This Agreement will terminate on thirty (30) days written notice by any party. Upon the effective date of termination, the APF may request that the Recipient return or destroy any remaining Material. In the event that the APF terminates this Agreement of its own accord, other than for breach of this Agreement, for cause such as imminent health risk, the APF may, in its sole discretion, defer the effective date of termination for a period of up to one year, upon request from the Recipient, to permit completion of research in progress.

12. Nothing in the Agreement will create or be construed to create any obligation to the Recipient except as expressly set out in this Agreement, or any a partnership or joint venture between the parties or any obligation, express or implied on the part of the APF or the Owner to enter into any other agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and there are no other promises, representations or understanding, written or oral, between the parties. This Agreement may not be changed except by written instrument signed by all parties. This
Agreement may not be assigned, whether by operation of law or otherwise, delegated, or subcontracted, without the prior written consent of the APF.

13. The Recipient agrees to use the Material in compliance with all-applicable statutes and regulations.

14. For research conducted within Australia, the Recipient must provide the APF with proof of approval from Recipient’s Institutional Animal Ethics Committee and where necessary approval from the Office of Gene Technology Transfer prior to receipt of Material.

15. This Agreement may not be assigned without the prior written consent of the APF.

16. Except as provided in this Agreement, the Recipient agrees to refrain from using the name of the APF in publicity or advertising without the prior approval of the APF.

17. The Recipient agrees to pay the APF $___________ for preparation and distribution costs (excluding freight charges). Charges for freight must also be paid by the Recipient. Payment of any fee will be made within thirty (30) days of receipt of a tax invoice by the Recipient from the APF.

18. 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 the courts to hear appeals from those courts.

19. Clauses 1, 9, 10 and 16 will survive termination.

Please sign two (2) copies of this Agreement and return one copy to the APF. The APF will then organise with the Recipient to transfer the Material to the Recipient.
Executed as an Agreement:

**SIGNED for and on behalf of the RECIPIENT**

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

Recipient Scientist(s): I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the Material

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Signature

---------------------------------------------
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

---------------------------------------------
Address of Witness

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Date