

**LICENSE AGREEMENT (“Agreement”)**

**BETWEEN:**

The IMG AS CR, the Institute of Molecular Genetics, v.v.i., of the Academy of Sciences of the Czech Republic duly organized and existing under the laws of the Czech Republic with its administrative offices at Prague 4, Videnska 1083, 142 20, Czech Republic

(“IMG AS CR”)

**AND:**

Genentech, Inc., a Delaware corporation, having a place of business at 1 DNA Way, South San Francisco, CA 94080, USA

(“GENENTECH”)

**WHEREAS:**

A. Dr. Jiri Forejt at IMG AS CR has been engaged in research during the course of which he has developed mice as described in Appendix A attached hereto,

B. It is IMG AS CR’s objective to exploit its technology for the public benefit, and to generate further research in a manner consistent with its status as a non-profit, research institution; and

C. GENENTECH and IMG AS CR’s have agreed to enter into this license on the terms and conditions set out in this Agreement.

**THE PARTIES AGREE AS FOLLOWS:**

**1.0**

**DEFINITIONS:**

- (a) **“Affiliated Company”** or **“Affiliated Companies”** means two or more corporations where the relationship between them is one in which one of them is a subsidiary of the other, or both are subsidiaries of the same corporation, or fifty percent (50%) or more of the voting shares of each of them is owned or controlled by the same person, corporation or other legal entity.
- (b) **“Commercial Purposes”** means the (i) [REDACTED] ; or (ii) [REDACTED].
- (c) **“Confidential Information”** means, with respect to a party (the **“Discloser”**), all information which is disclosed by the Discloser to the other party (the **“Recipient”**) under this Agreement and is clearly identified in writing as **“Confidential”** when disclosed by the Discloser or, in the case of information disclosed orally, is identified as Confidential at the time of the oral disclosure and is summarized and confirmed as Confidential in writing to the Recipient within thirty (30) days after oral disclosure to the Recipient.

Notwithstanding the foregoing, Confidential Information excludes information:

- (i) possessed by the Recipient prior to receipt from the Discloser, other than through prior disclosure by the Discloser hereunder, as evidenced by the Recipient’s business records;
  - (ii) published or available to the general public otherwise than through a breach of this Agreement;
  - (iii) obtained by the Recipient from a third party with a valid right to disclose it, provided that the third party is not under a confidentiality obligation to the Discloser; or
  - (iv) independently developed by employees, agents or consultants of the Recipient who had no knowledge of or access to the Discloser’s information as evidenced by the Recipient’s business records.
- (d) **“Effective Termination Date”** means the date on which the termination of this Agreement becomes effective under Article 13.
  - (e) **“IMG AS CR Trade-marks”** means any mark, trade-mark, service mark, logo, insignia, seal, design, symbol or device used by IMG AS CR in any manner at all.
  - (f) **“Start Date”** means August \_\_, 2016.
  - (g) **“Technology”** means the mice contained in Appendix A.
  - (h) **“Unmodified Derivatives”** means [REDACTED]

**2.0 PROPERTY RIGHTS IN AND TO THE TECHNOLOGY:**

2.1 GENENTECH acknowledges and agrees that, as between IMG AS CR and GENENTECH, IMG AS CR owns or controls all right, title and interest in and to the Technology.

**3.0 GRANT OF LICENSE:**

3.1 Subject to Article 3.3, IMG AS CR grants to GENENTECH a [REDACTED]  
[REDACTED]. Notwithstanding the foregoing, under this Agreement, GENENTECH will not have the right to:

- (a) [REDACTED];
- (b) [REDACTED]; and
- (c) [REDACTED] the Technology.

Notwithstanding the foregoing, GENENTECH shall have the right to [REDACTED]  
[REDACTED]

3.2 The license granted under this Agreement is granted only to GENENTECH and not to any Affiliated Companies.

3.3 As a condition of IMG AS CR granting this license, [REDACTED]

3.4 GENENTECH will give notice to IMG AS CR if it re-locates its chief place of business in another jurisdiction.

3.5 [REDACTED]

3.6 GENENTECH may purchase the mouse strain described in Technology from [REDACTED] as required immediately following full execution of the Agreement.

3.7 **DISCLAIMER OF WARRANTY:** IMG AS CR makes no representations, conditions or warranties, either express or implied, regarding the Technology. Without limitation, IMG AS CR specifically disclaims any implied warranty, condition or representation that the Technology

- (a) correspond with a particular description;
- (b) are of merchantable quality;
- (c) are fit for a particular purpose; or
- (d) are durable for a reasonable period of time.

IMG AS CR is not liable for any loss, whether direct, consequential, incidental or special, which GENENTECH or other third parties suffer arising from any defect, error or fault of the Technology or their failure to perform, even if IMG AS CR has been advised of the possibility of the defect, error, fault or failure. GENENTECH acknowledges that it has been advised by IMG AS CR to undertake its own due diligence regarding the Technology.

3.8 Nothing in this Agreement:

- (a) constitutes a warranty or representation by IMG AS CR as to title to the Technology or that anything made, used, sold or otherwise disposed of under the license granted in this agreement is or will be free from infringement of patents, copyrights, trade-marks, industrial design or other intellectual property rights; or
- (b) imposes an obligation on IMG AS CR to bring, prosecute or defend actions or suits against third parties for infringement of patents, copyrights, trade-marks, industrial designs or other intellectual property or contractual rights.

#### **4.0 INDEMNITY AND LIMITATION OF LIABILITY:**

4.1 GENENTECH indemnifies, holds harmless and defends IMG AS CR, its Board of Trustees, officers, employees, faculty, students, and agents against any and all third party claims (including all associated legal fees and disbursements actually incurred) arising out of GENENTECH'S

exercise of any rights under this Agreement, including without limitation against any damages or losses, consequential or otherwise, arising in any manner at all from or out of GENENTECH'S use of the Technology licensed under this Agreement by GENENTECH; provided, however, that GENENTECH shall not be obligated to defend, indemnify or hold harmless IMG AS CR or any other party under this Article 4.1 for the infringement of any patent belonging to a third party having a claim which reads on the Technology, or for any claims that arise from IMG AS CR'S gross negligence or wilful misconduct.

4.2 Notwithstanding the termination or expiry of this agreement, the obligations set out in this Article 4 will survive and continue to bind GENENTECH and its successors and assigns.

## **5.0 PUBLICATION:**

5.1 IMG AS CR is not restricted from presenting at symposia, national or regional professional meetings, or from publishing in journals or other publications, accounts of its research relating to the Technology, provided that such publication excludes GENENTECH'S Confidential Information.

5.2 GENENTECH shall be free to publish or publicly present the research and results under this Agreement.

5.3 The IMG AS CR and GENENTECH take note of the fact that the IMG AS CR is subject to the duty of publishing agreements governed by private laws mentioned in Act No. 340/2015 Sb., on a contract registry ("Contract Registry"). The IMG AS CR and GENENTECH agree with publication of this Agreement, as redacted in Appendix B, incorporated herein by reference, in the Contract Registry, including all non-redacted data in Appendix B. GENENTECH binds itself to document the reasons for non-publication of particular data of this Agreement to the IMG AS CR on the date of concluding this Agreement at the latest.

## **6.0 PRODUCTION AND MARKETING:**

6.1 GENENTECH will not use the IMG AS CR Trade-marks or make reference to IMG AS CR or its name in any advertising or publicity, without the prior written consent of IMG AS CR, except as required by governmental law, rule, or regulation. IMG AS CR will not use the GENENTECH trademarks or make reference to GENENTECH or its name in any advertising or publicity, without the prior written consent of GENENTECH, except as required by governmental law, rule, or regulation. Notwithstanding the foregoing, GENENTECH may acknowledge IMG AS CR as the source of the Technology in any scientific publications.

6.2 GENENTECH represents and warrants to IMG AS CR that it has the infrastructure, expertise and resources to handle the Technology with care and without danger to GENENTECH, its employees, agents, or the public.

## **7.0 INSURANCE:**

7.1 During the term of this Agreement, GENENTECH will procure and/or maintain insurance (including public liability and commercial general liability insurance), as would be acquired by a reasonable and prudent businessperson carrying on a similar line of business.

## **8.0 ASSIGNMENT & CHANGE OF CONTROL:**

8.1 GENENTECH will not assign, transfer, mortgage, pledge, financially encumber, grant a security interest, permit a lien to be created, charge or otherwise dispose of any or all of the rights granted to it under this Agreement without the prior written consent of IMG AS CR.

**9.0**                    **GOVERNING LAW:**

9.1                    This Agreement is governed by, and will be construed in accordance with, the laws of the Switzerland.

**10.0**                   **ARBITRATION:**

10.1                   Any and all claims, disputes or controversies arising under, out of, or in connection with the License Agreement, which shall not have resolved by good faith discussions between the parties, shall be resolved by a final and binding arbitration under the commercial rules of the American Arbitration Association, the venue of such arbitration to be in London, England.

**11.0**                   **NOTICES:**

11.1                   All payments, reports and notices or other documents that a party is required or may want to deliver to any other party will be delivered:

- (a)                    in writing; and
- (b)                    either by personal delivery or by registered or certified mail (with all postage and other charges prepaid) at the address for the receiving party as set out in Article 11.2 below or as varied by any notice.

Any notice personally delivered is deemed to have been received at the time of delivery.

11.2                    Addresses for delivery of notices:

If to IMG AS CR:            Dr. Jiri Forejt, Institute of Molecular Genetics, AS CR, Videnská 1083, 142 20, Prague 4, Czech Republic.

If to the GENENTECH:            Genentech, Inc.  
1 DNA Way, [REDACTED]  
South San Francisco, CA 94080  
Attention: [REDACTED]  
Facsimile: [REDACTED]

with a copy to:

Genentech, Inc.  
1 DNA Way, [REDACTED]  
South San Francisco, CA 94080  
Attention: Corporate Secretary  
Facsimile: [REDACTED]

**12.0**            **TERM:**

12.1            The term of this agreement (i) starts on the Start Date and the obligation of the payment in Article 3.3, and (ii) expires the [REDACTED] after GENENTECH'S receipt of the last mouse strain from the list of mouse strains set forth in Appendix A.

**13.0**            **TERMINATION OF AGREEMENT:**

13.1            IMG AS CR may, at its option, terminate this Agreement with immediate effect by giving further notice to GENENTECH if one or more of the following events of default occurs and, after notice to GENENTECH by IMG AS CR, the event of default is not cured within thirty (30) days of the receipt of the notice:

- (a)            GENENTECH becomes insolvent, as evidenced, for example (without limitation) by the appointment of a receiver, a receiver manager, the issuance of financial statements which according to US GAAP would render GENENTECH insolvent, the termination of a majority of the GENENTECH's employees, the vacation of the GENENTECH's chief place of business for any purpose other than its relocation or GENENTECH ceasing or threatening to cease carrying on business;
- (b)            any execution or other process of any court becomes enforceable against the GENENTECH, or if any similar process is levied on the rights under this agreement or on any money due to DEFG and is not released or satisfied by GENENTECH within 30 days from the process becoming enforceable or being levied;
- (c)            any resolution is passed or order made or other steps taken for the winding up, liquidation or other termination of the existence of the GENENTECH other than by acquisition by or merger with another entity in which GENENTECH is not the surviving entity;
- (d)            the Technology becomes subject to any security interest, lien, charge or encumbrance in favour of any third party claiming through the GENENTECH;
- (e)            if GENENTECH breaches any of Articles 3.1 or 10;

13.2            If this agreement is terminated under Article 13.1, GENENTECH will make all outstanding royalty payments to IMG AS CR as set out under Article 3.3, and IMG AS CR may proceed to enforce payment of all outstanding royalties or other monies owed to IMG AS CR and to exercise any or all of the rights and remedies available under this Agreement or otherwise available by law or in equity, successively or concurrently, at the option of IMG AS CR.

13.3            GENENTECH may terminate this agreement by giving IMG AS CR thirty (30) days' advance written notice.

13.4            This Agreement may be terminated upon mutual written agreement between the parties.

13.5            Within ten (10) business days of the Effective Termination Date, GENENTECH will destroy all Technology in its possession or control and has no further right of any nature at all in the Technology. Notwithstanding the foregoing, within ten (10) business days of the Effective Termination Date, GENENTECH may, upon GENENTECH's election, destroy Unmodified Derivatives or remain bound by the terms of this Agreement as they pertain to Unmodified Derivatives.

**14.0**                    **MISCELLANEOUS COVENANTS OF GENENTECH AND IMG AS CR:**

14.1                    Each of GENENTECH and IMG AS CR represents and warrants to the other that it is a corporation duly organized, existing and in good standing under the laws of the state in which it is incorporated and has the power, authority and capacity to enter into this agreement and to carry out the transactions contemplated by this agreement, all of which have been duly and validly authorized by all requisite corporate proceedings.

14.2                    Each of GENENTECH and IMG AS CR will comply with all laws, regulations and ordinances, whether Federal, State, Provincial, County, Municipal or otherwise, with respect to the Technology and this Agreement.

14.3                    GENENTECH will pay interest on all amounts due and owing to IMG AS CR under this Agreement but not paid by GENENTECH on the due date, at the rate of 1 % per month. The interest accrues on the balance of unpaid amounts from time to time outstanding, from the date on which portions of the amounts become due and owing until payment in full.

**15.0**                    **GENERAL:**

15.1                    Nothing contained in this Agreement is to be deemed or construed to create between the parties a partnership or joint venture. No party has the authority to act on behalf of any other party, or to commit any other party in any manner at all or cause any other party's name to be used in any way not specifically authorized by this Agreement.

15.2                    Subject to the limitations in this Agreement, this Agreement operates for the benefit of and is binding on the parties and their respective successors and permitted assigns.

15.3                    No condoning, excusing or overlooking by any party of any default, breach or non-observance by any other party at any time or times regarding any terms of this Agreement operates as a waiver of that party's rights under this Agreement. A waiver of any term, or right under, this Agreement will be in writing signed by the party entitled to the benefit of that term or right, and is effective only to the extent set out the written waiver.

15.4                    No exercise of a specific right or remedy by any party precludes it from or prejudices it in exercising another right or pursuing another remedy or maintaining an action to which it may otherwise be entitled either at law or in equity.

15.5                    Headings in this agreement are for reference only and do not form a part of this Agreement and are not be used in the interpretation of this Agreement.

15.6                    All terms in this Agreement which require performance by the parties after the expiry or termination of this Agreement, will remain in force despite this Agreement's expiry or termination for any reason.

15.7                    Part or all of any Article that is indefinite, invalid, illegal or otherwise voidable or unenforceable may be severed from this Agreement and the balance of this Agreement will continue in full force and effect.

15.8                    This Agreement sets out the entire understanding between the parties and no changes to this Agreement are binding unless signed in writing by the parties to this Agreement.

15.9                    Time is of the essence of this Agreement.

15.10 In this Agreement, unless the contrary intention appears, the singular includes the plural and vice versa and words importing a gender include other genders.

15.11 This Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same Agreement. For purposes of executing this Agreement, a facsimile (including a PDF image delivered via email) copy of this Agreement, including the signature pages, will be deemed an original.

[Signatures Follow]



SIGNED BY THE PARTIES and effective as of the Start Date.

For the IMG AS CR

\_\_\_\_\_ Date \_\_\_\_\_

Name:

Title:

For GENENTECH, INC.

\_\_\_\_\_ Date \_\_\_\_\_

Name:

Title:



Appendix A  
Technology

Appendix B  
Agreement for Publication in Contract Registry