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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

(MARK ONE)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2005

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

COMMISSION FILE NUMBER: 000-30111

LEXICON GENETICS INCORPORATED  
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE

(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

76-0474169

(I.R.S. EMPLOYER  
IDENTIFICATION NUMBER)

8800 TECHNOLOGY FOREST PLACE  
THE WOODLANDS, TEXAS 77381  
(ADDRESS OF PRINCIPAL EXECUTIVE  
OFFICES AND ZIP CODE)

(281) 863-3000  
(REGISTRANT'S TELEPHONE NUMBER,  
INCLUDING AREA CODE)

Indicate by check mark whether the registrant (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding 12 months (or for such shorter period that the  
registrant was required to file such reports) and (2) has been subject to such  
filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant is an accelerated filer (as  
defined in Rule 12b-2 of the Exchange Act).

Yes  No

As of October 27, 2005, 64,537,089 shares of the registrant's common  
stock, par value \$0.001 per share, were outstanding.

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LEXICON GENETICS INCORPORATED

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FACTORS AFFECTING FORWARD LOOKING STATEMENTS

This quarterly report on Form 10-Q contains forward-looking statements. These statements relate to future events or our future financial performance. We have attempted to identify forward-looking statements by terminology including "anticipate," "believe," "can," "continue," "could," "estimate," "expect," "intend," "may," "plan," "potential," "predict," "should" or "will" or the negative of these terms or other comparable terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks outlined under "Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations - Risk Factors," that may cause our or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels or activity, performance or achievements expressed or implied by these forward-looking statements.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We are not under any duty to update any of the forward-looking statements after the date of this quarterly report on Form 10-Q to conform these statements to actual results, unless required by law.

## PART I - FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

## LEXICON GENETICS INCORPORATED

CONSOLIDATED BALANCE SHEETS  
(IN THOUSANDS, EXCEPT PAR VALUE)

ASSETS	AS OF SEPTEMBER 30, 2005 ----- (UNAUDITED)	AS OF DECEMBER 31, 2004 -----
Current assets:		
Cash and cash equivalents.....	\$ 23,120	\$ 14,612
Short-term investments, including restricted investments of \$430....	67,121	72,946
Accounts receivable, net of allowance for doubtful accounts of \$75...	1,698	5,345
Other receivables.....	-	1,052
Prepaid expenses and other current assets.....	3,433	4,793
	-----	-----
Total current assets.....	95,372	98,748
Property and equipment, net of accumulated depreciation of \$45,532 and \$41,892, respectively.....	85,996	84,573
Goodwill.....	25,798	25,798
Intangible assets, net of amortization of \$5,060 and \$4,160, respectively.....	940	1,840
Other assets.....	861	1,021
	-----	-----
Total assets.....	\$ 208,967	\$ 211,980
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable.....	\$ 3,751	\$ 7,574
Accrued liabilities.....	8,032	6,945
Current portion of deferred revenue.....	31,800	19,500
Current portion of long-term debt.....	4,736	4,691
	-----	-----
Total current liabilities.....	48,319	38,710
Deferred revenue, net of current portion.....	47,695	18,092
Long-term debt.....	32,384	32,940
Other long-term liabilities.....	715	644
	-----	-----
Total liabilities.....	129,113	90,386
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$.01 par value; 5,000 shares authorized; no shares issued and outstanding.....	-	-
Common stock, \$.001 par value; 120,000 shares authorized; 64,537 and 63,491 shares issued and outstanding.....	64	63
Additional paid-in capital.....	383,193	382,666
Deferred stock compensation.....	(5)	(20)
Accumulated deficit.....	(303,344)	(261,115)
Accumulated other comprehensive loss.....	(54)	--
	-----	-----
Total stockholders' equity.....	79,854	121,594
	-----	-----
Total liabilities and stockholders' equity.....	\$ 208,967	\$ 211,980
	=====	=====

The accompanying notes are an integral part of these consolidated financial statements.

LEXICON GENETICS INCORPORATED

CONSOLIDATED STATEMENTS OF OPERATIONS  
(IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)  
(UNAUDITED)

	THREE MONTHS ENDED SEPTEMBER 30,		NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004	2005	2004
Revenues:				
Collaborative research.....	\$ 13,520	\$ 11,492	\$ 36,174	\$ 27,997
Subscription and license fees.....	443	1,617	5,612	7,732
Total revenues.....	13,963	13,109	41,786	35,729
Operating expenses:				
Research and development.....	23,344	22,485	69,771	67,466
General and administrative.....	4,674	4,573	13,856	14,259
Total operating expenses.....	28,018	27,058	83,627	81,725
Loss from operations.....	(14,055)	(13,949)	(41,841)	(45,996)
Interest income.....	767	405	1,764	1,198
Interest expense.....	(833)	(833)	(2,465)	(1,829)
Other income, net.....	-	-	313	(4)
Net loss .....	\$ (14,121)	\$ (14,377)	\$ (42,229)	\$ (46,631)
Net loss per common share, basic and diluted....	\$ (0.22)	\$ (0.23)	\$ (0.66)	\$ (0.74)
Shares used in computing net loss per common share, basic and diluted.....	64,134	63,422	63,767	63,286

The accompanying notes are an integral part of these consolidated financial statements.

LEXICON GENETICS INCORPORATED

CONSOLIDATED STATEMENTS OF CASH FLOWS  
(IN THOUSANDS)  
(UNAUDITED)

	NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
Cash flows from operating activities:		
Net loss.....	\$ (42,229)	\$ (46,631)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation.....	7,835	7,976
Amortization of intangible assets, other than goodwill.....	900	900
Amortization of deferred stock compensation.....	(20)	827
Loss on disposal of property and equipment.....	10	-
Changes in operating assets and liabilities:		
Decrease in accounts receivable.....	4,699	4,558
(Increase) decrease in prepaid expenses and other current assets..	1,360	(88)
(Increase) decrease in other assets.....	160	(870)
Increase (decrease) in accounts payable and other liabilities.....	(2,665)	344
Increase (decrease) in deferred revenue.....	41,903	(4,172)
Net cash provided by (used in) operating activities.....	11,953	(37,156)
Cash flows from investing activities:		
Purchases of property and equipment.....	(9,391)	(6,753)
Proceeds from disposal of property and equipment.....	123	15
Decrease in restricted cash.....	--	14,372
Purchases of investments.....	(116,120)	(147,103)
Maturities of investments.....	121,891	173,720
Net cash provided by (used in) investing activities.....	(3,497)	34,251
Cash flows from financing activities:		
Proceeds from issuance of common stock.....	563	1,577
Proceeds from debt borrowings.....	--	34,000
Repayment of debt borrowings.....	(511)	(52,574)
Repayment of other long-term liabilities.....	--	(2,466)
Net cash provided by (used in) financing activities.....	52	(19,436)
Net increase (decrease) in cash and cash equivalents.....	8,508	(22,341)
Cash and cash equivalents at beginning of period.....	14,612	35,856
Cash and cash equivalents at end of period.....	\$ 23,120	\$ 13,515
	=====	=====
Supplemental disclosure of cash flow information:		
Cash paid for interest.....	\$ 2,095	\$ 1,281
Supplemental disclosure of non-cash investing and financing activities:		
Unrealized loss on investments.....	\$ (54)	\$ -
Reversal of deferred stock compensation, in connection with stock options.....	\$ 35	\$ 47
Retirement of property and equipment.....	\$ 4,327	\$ 298

The accompanying notes are an integral part of these consolidated financial statements.

LEXICON GENETICS INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
(UNAUDITED)

1. BASIS OF PRESENTATION

The accompanying unaudited consolidated financial statements of Lexicon Genetics Incorporated (Lexicon or the Company) have been prepared in accordance with generally accepted accounting principles for interim financial information and pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements.

In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the nine-month period ended September 30, 2005 are not necessarily indicative of the results that may be expected for the year ended December 31, 2005.

The accompanying consolidated financial statements include the accounts of Lexicon and its subsidiaries. Intercompany transactions and balances are eliminated in consolidation.

For further information, refer to the financial statements and footnotes thereto included in Lexicon's annual report on Form 10-K for the year ended December 31, 2004, as filed with the SEC.

2. RECLASSIFICATION

As of September 30, 2004 and December 31, 2003, Lexicon reclassified auction rate securities of \$53.6 million and \$46.1 million, respectively, from cash equivalents to short-term investments and, as of December 31, 2003, Lexicon reclassified \$42.6 million from restricted cash to short-term investments. The accompanying consolidated statement of cash flows for the nine months ended September 30, 2004 has been adjusted to reflect these reclassifications.

3. COMPREHENSIVE LOSS

Comprehensive loss is comprised of net loss and unrealized gains and losses on short-term investments, which are considered available-for-sale securities. Comprehensive loss for the three months ended September 30, 2005 was \$14.2 million, which includes a net loss of \$14.1 million and a \$33,000 unrealized loss on short-term investments. Comprehensive loss for the nine months ended September 30, 2005 was \$42.3 million, which includes a net loss of \$42.2 million and a \$54,000 unrealized loss on short-term investments.

4. NET LOSS PER SHARE

Net loss per share is computed using the weighted average number of shares of common stock outstanding during the applicable period. Shares associated with stock options and warrants are not included because they are antidilutive. There are no differences between basic and diluted net loss per share for all periods presented.

## 5. STOCK-BASED COMPENSATION

Lexicon's stock-based compensation plans are accounted for under the recognition and measurement provisions of Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees, and Related Interpretations." Under the intrinsic value method described in APB Opinion No. 25, no compensation expense is recognized if the exercise price of the employee stock option equals the market price of the underlying stock on the date of grant. Lexicon recognized stock-based compensation expense of \$0.8 million for the nine months ended September 30, 2004, primarily relating to option grants made prior to Lexicon's April 2000 initial public offering. All deferred stock compensation relating to these options was fully amortized as of January 31, 2004 when these options became fully vested.

The following table illustrates the effect on net loss and net loss per share if the fair value recognition provisions of Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (SFAS) No. 123 "Accounting for Stock Based Compensation," had been applied to all outstanding and unvested awards in each period:

	THREE MONTHS ENDED SEPTEMBER 30,		NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004	2005	2004
Net loss, as reported:.....	\$ (14,121)	\$ (14,377)	\$ (42,229)	\$ (46,631)
Add: Stock-based employee compensation expense included in reported net loss.....	-	-	(20)	827
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards.....	(2,679)	(3,842)	(8,936)	(12,590)
Pro forma net loss.....	\$ (16,800)	\$ (18,219)	\$ (51,185)	\$ (58,394)
Net loss per common share, basic and diluted				
As reported.....	\$ (0.22)	\$ (0.23)	\$ (0.66)	\$ (0.74)
Pro forma.....	\$ (0.26)	\$ (0.29)	\$ (0.80)	\$ (0.92)

## 6. DEBT OBLIGATIONS

Genentech Loan: On December 31, 2002, Lexicon borrowed \$4.0 million under a note agreement with Genentech, Inc. The proceeds of the loan are to be used to fund research efforts under the alliance agreement with Genentech. The note matures on December 31, 2005, but the Company may prepay it at any time. The Company may repay the note, at its option, in cash, in shares of common stock valued at the then-current market price, or in a combination of cash and shares, subject to certain limitations. The note accrues interest at an annual rate of 8%, compounded quarterly.

Mortgage Loan: In April 2004, Lexicon purchased its facilities in The Woodlands, Texas that were previously subject to a synthetic lease. The Company repaid the \$54.8 million funded under the synthetic lease with proceeds from a \$34.0 million third-party mortgage financing and \$20.8 million in cash. The mortgage loan has a ten-year term with a 20-year amortization and bears interest at a fixed rate of 8.23%. As a result of the refinancing, all restrictions on the cash and investments that had secured the obligations under the synthetic lease were eliminated.

## 7. COMMITMENTS AND CONTINGENCIES

In May 2002, Lexicon's subsidiary Lexicon Pharmaceuticals (New Jersey), Inc. leased a 76,000 square-foot laboratory and office space in Hopewell, New Jersey under an agreement which expires in June 2013. The lease provides for an escalating yearly rent payment of \$1.3 million in the first year,

\$2.1 million in years two and three, \$2.2 million in years four to six, \$2.3 million in years seven to nine and \$2.4 million in years ten and eleven. Lexicon is the guarantor of the obligations of its subsidiary under the lease. The Company is required to maintain restricted investments to collateralize the Hopewell lease. As of September 30, 2005, the Company had \$430,000 in restricted investments to collateralize a standby letter of credit for this lease.

#### 8. NEW AGREEMENT

In July 2005, Lexicon was awarded \$35 million from the Texas Enterprise Fund for the creation of a knockout mouse embryonic stem cell library containing 350,000 cell lines using Lexicon's proprietary gene trapping technology. Lexicon will create the library for the Texas Institute for Genomic Medicine (TIGM), a newly formed non-profit institute whose founding members are Texas A&M University, the Texas A&M University System Health Science Center and Lexicon. TIGM researchers may also access specific cells from Lexicon's current gene trap library of 270,000 mouse embryonic stem cell lines and will have certain rights to utilize Lexicon's patented gene targeting technologies. In addition, Lexicon will equip TIGM with the bioinformatics software required for the management and analysis of data relating to the library. The Texas Enterprise Fund has also awarded \$15 million to the Texas A&M University System for the creation of facilities and infrastructure to house the library.

Under the terms of the award, Lexicon is responsible for the creation of a specified number of jobs, reaching an aggregate of 1,616 new jobs in Texas by December 31, 2015. Lexicon will obtain credits based on funding received by TIGM and certain related parties from sources other than the State of Texas that it may offset against its potential liability for any job creation shortfalls. Lexicon will also obtain credits against future jobs commitment liabilities for any surplus jobs it creates. Subject to these credits, if Lexicon fails to create the specified number of jobs, the state may require Lexicon to repay \$2,415 for each job Lexicon falls short. Lexicon's maximum aggregate exposure for such payments, if Lexicon fails to create any new jobs, is approximately \$14.4 million, without giving effect to any credits to which Lexicon may be entitled. The Texas A&M University System, together with TIGM, has independent job creation obligations and is obligated for an additional period to maintain an aggregate of 5,000 jobs, inclusive of those Lexicon creates.



ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

OVERVIEW

We are a biopharmaceutical company focused on discovering and developing breakthrough treatments for human disease. We are using gene knockout technology to systematically discover the physiological functions of genes in living mammals, or in vivo. We generate our gene function discoveries using knockout mice - mice whose DNA has been altered to disrupt, or "knock out," the function of the altered gene. Our patented gene trapping and gene targeting technologies enable us to rapidly generate these knockout mice by altering the DNA of genes in a special variety of mouse cells, called embryonic stem cells, which can be cloned and used to generate mice with the altered gene. We employ an integrated platform of advanced medical technologies to systematically discover and validate which genes, when knocked out, result in a favorable medical profile with pharmaceutical utility. We then pursue those genes and the proteins they encode as potential targets for therapeutic intervention in our drug discovery programs.

We employ internal resources and drug discovery alliances to discover potential small molecule, antibody and protein drugs for in vivo-validated drug targets that we consider to have high pharmaceutical value. We use our own sophisticated libraries of drug-like chemical compounds and an industrialized medicinal chemistry platform to identify small molecule drug candidates for our in vivo-validated drug targets. We have established alliances with Bristol-Myers Squibb Company to discover and develop novel small molecule drugs in the neuroscience field; with Genentech, Inc. to discover therapeutic proteins and antibody targets; with N.V. Organon to discover, develop and commercialize novel biotherapeutics; and with Takeda Pharmaceutical Company Limited to discover new drugs for the treatment of high blood pressure. In addition, we have established collaborations and license agreements with many other leading pharmaceutical and biotechnology companies under which we receive fees and, in some cases, are eligible to receive milestone and royalty payments, for access to some of our technologies and discoveries for use in their own drug discovery efforts.

We derive substantially all of our revenues from drug discovery alliances, target validation collaborations for the development and, in some cases, analysis of the physiological effects of genes altered in knockout mice and technology licenses. To date, we have generated a substantial portion of our revenues from a limited number of sources.

Our operating results and, in particular, our ability to generate additional revenues are dependent on many factors, including our success in establishing research collaborations and technology licenses, expirations of our research collaborations, the success rate of our discovery efforts leading to opportunities for new research collaborations and licenses, as well as milestone payments and royalties, the timing and willingness of collaborators to commercialize products which may result in royalties, and general and industry-specific economic conditions which may affect research and development expenditures. Our future revenues from collaborations and alliances are uncertain because our existing agreements have fixed terms or relate to specific projects of limited duration. Our future revenues from technology licenses are uncertain because they depend, in large part, on securing new agreements. Subject to limited exceptions, we do not intend to offer subscriptions to our databases or make our compound libraries available for purchase in the future. Our ability to secure future revenue-generating agreements will depend upon our ability to address the needs of our potential future collaborators and licensees, and to negotiate agreements that we believe are in our long-term best interests. We may determine that our interests are better served by retaining rights to our discoveries and advancing our therapeutic programs to a later stage, which could limit our near-term revenues. Because of these and other factors, our operating results have fluctuated in the past and are likely to do so in the future, and we

do not believe that period-to-period comparisons of our operating results are a good indication of our future performance.

Since our inception, we have incurred significant losses and, as of September 30, 2005, we had an accumulated deficit of \$303.3 million. Our losses have resulted principally from costs incurred in research and development, general and administrative costs associated with our operations, and non-cash stock-based compensation expenses associated with stock options granted to employees and consultants prior to our April 2000 initial public offering. Research and development expenses consist primarily of salaries and related personnel costs, material costs, facility costs, depreciation on property and equipment, legal expenses resulting from intellectual property prosecution and other expenses related to our drug discovery and Genome5000 programs, the development and analysis of knockout mice and our other target validation research efforts, and the development of compound libraries. General and administrative expenses consist primarily of salaries and related expenses for executive, finance and other administrative personnel, professional fees and other corporate expenses, including information technology, facilities costs and general legal activities. In connection with the expansion of our drug discovery programs and our target validation research efforts, we expect to incur increasing research and development and general and administrative costs. As a result, we will need to generate significantly higher revenues to achieve profitability.

#### CRITICAL ACCOUNTING POLICIES

##### Revenue Recognition

We recognize revenues when persuasive evidence of an arrangement exists, delivery has occurred or services have been rendered, the price is fixed and determinable, and collectibility is reasonably assured. Payments received in advance under these arrangements are recorded as deferred revenue until earned.

Upfront fees and annual research funding under our drug discovery alliances are recognized as revenue on a straight-line basis over the estimated period of service, generally the contractual research term, to the extent they are non-refundable. Milestone-based fees are recognized upon completion of specified milestones according to contract terms. Fees for access to our databases and other target validation resources are recognized ratably over the subscription or access period. Payments received under target validation collaborations and government grants are recognized as revenue as we perform our obligations related to such research to the extent such fees are non-refundable. Non-refundable technology license fees are recognized as revenue upon the grant of the license, when performance is complete and there is no continuing involvement.

Revenues recognized from multiple element contracts are allocated to each element of the arrangement based on the relative fair value of the elements. The determination of fair value of each element is based on objective evidence. When revenues for an element are specifically tied to a separate earnings process, revenue is recognized when the specific performance obligation associated with the element is completed. When revenues for an element are not specifically tied to a separate earnings process, they are recognized ratably over the term of the agreement.

A change in our revenue recognition policy or changes in the terms of contracts under which we recognize revenues could have an impact on the amount and timing of our recognition of revenues.

## Research and Development Expenses

Research and development expenses consist of costs incurred for company-sponsored as well as collaborative research and development activities. These costs include direct and research-related overhead expenses and are expensed as incurred. Patent costs and technology license fees for technologies that are utilized in research and development and have no alternative future use are expensed when incurred.

Prior to preclinical development work, we are unable to segregate the costs related to research performed on drug candidates because the drug candidate is often not specifically identified until the later stages of our research. With the commencement of formal preclinical development in 2005, we will account on a program-by-program basis for the costs related to the development of the identified drug products.

## Goodwill Impairment

Goodwill is not amortized, but is tested at least annually for impairment at the reporting unit level. We have determined that the reporting unit is the single operating segment disclosed in our current financial statements. Impairment is the condition that exists when the carrying amount of goodwill exceeds its implied fair value. The first step in the impairment process is to determine the fair value of the reporting unit and then compare it to the carrying value, including goodwill. We determined that the market capitalization approach is the most appropriate method of measuring fair value of the reporting unit. Under this approach, fair value is calculated as the average closing price of our common stock for the 30 days preceding the date that the annual impairment test is performed, multiplied by the number of outstanding shares on that date. A control premium, which is representative of premiums paid in the marketplace to acquire a controlling interest in a company, is then added to the market capitalization to determine the fair value of the reporting unit. If the fair value exceeds the carrying value, no further action is required and no impairment loss is recognized. Additional impairment assessments may be performed on an interim basis if we encounter events or changes in circumstances that would indicate that, more likely than not, the carrying value of goodwill has been impaired.

## RESULTS OF OPERATIONS

Three Months Ended September 30, 2005 and 2004

Revenues. Total revenues and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	THREE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
Total revenues.....	\$ 14.0	\$ 13.1
Dollar increase.....	\$ 0.9	
Percentage increase.....	7%	

- Collaborative research - Revenue from collaborative research increased 18% to \$13.5 million primarily due to our recognition of revenues under our biotherapeutics collaboration with Organon, which was entered into in May 2005, and our award from the Texas Enterprise Fund for the creation of a knockout mouse embryonic stem cell library, which was entered into in July 2005. This was offset in part by the recognition in the prior year period of a performance milestone under our therapeutic protein and antibody target discovery alliance with Genentech.

- Subscription and license fees - Revenue from subscriptions and license fees decreased 73% to \$0.4 million primarily as a result of our termination in December 2004, of the collaboration term under our LexVision(R) database subscription program with Bristol-Myers Squibb.

Research and Development Expenses. Research and development expenses and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	THREE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
	-----	-----
Total research and development expense...	\$ 23.3	\$ 22.5
Dollar increase.....	\$ 0.8	
Percentage increase.....	4%	

Research and development expenses consist primarily of salaries and other personnel-related expenses, laboratory supplies, facility and equipment costs, third-party and other services. The change in the three months ended September 30, 2005 as compared to the corresponding period in 2004 resulted primarily from the following costs:

- Personnel - Personnel costs increased 5% to \$11.5 million primarily due to increased personnel to support the expansion of our drug discovery programs and merit-based pay increases for employees. Salaries, bonuses, employee benefits, payroll taxes, and recruiting and relocation costs are included in personnel costs.
- Laboratory supplies - Laboratory supplies expense decreased 18% to \$3.2 million due primarily to the bulk purchase of certain supplies in the prior year period.
- Facilities and equipment - Facilities and equipment costs increased 7% to \$5.2 million due primarily to higher utility costs.
- Third-party services - Costs associated with third-party services increased 44% to \$2.0 million primarily due to an increase in third-party contract research costs. Costs associated with third-party services include third-party contract research, subscriptions to third-party databases, technology licenses, and legal and patent fees.
- Other - Other costs increased by 4% to \$1.4 million primarily related to increased information technology costs.

General and Administrative Expenses. General and administrative expenses and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	THREE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
	-----	-----
Total general and administrative expense..	\$ 4.7	\$ 4.6
Dollar increase.....	\$ 0.1	
Percentage increase.....	2%	

General and administrative expenses consist primarily of personnel costs to support our research activities, facility and equipment costs and professional fees, such as legal fees. The change in the three months ended September 30, 2005 as compared to the corresponding period in 2004 resulted primarily from the following costs:

- Personnel - Personnel costs increased 10% to \$2.9 million due to increased personnel and merit-based pay increases for employees. Salaries, bonuses, employee benefits, payroll taxes, recruiting and relocation costs are included in personnel costs.
- Facilities and equipment - Facilities and equipment costs increased 7% to \$0.8 million due primarily to higher utility costs.
- Professional fees - Professional fees decreased 24% to \$0.4 million primarily due to lower legal fees.
- Other - Other costs decreased 12% to \$0.6 million.

Interest Income. Interest income increased 89% to \$0.8 million in the three months ended September 30, 2005 from \$0.4 million in the corresponding period in 2004 due to higher interest rates and higher average cash and investment balances.

Interest Expense. Interest expense remained unchanged at \$0.8 million in the three months ended September 30, 2005 and 2004.

Net Loss and Net Loss Per Common Share. Net loss decreased 2% to \$14.1 million in the three months ended September 30, 2005 from \$14.4 million in the corresponding period in 2004. Net loss per common share decreased to \$0.22 in the three months ended September 30, 2005 from \$0.23 in the corresponding period in 2004.

Our quarterly operating results have fluctuated in the past and are likely to do so in the future, and we believe that quarter-to-quarter comparisons of our operating results are not a good indication of our future performance.

Nine Months Ended September 30, 2005 and 2004

Revenues. Total revenues and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
	-----	-----
Total revenues.....	\$ 41.8	\$ 35.7
Dollar increase.....	\$ 6.1	
Percentage increase.....	17%	

- Collaborative research - Revenue from collaborative research increased 29% to \$36.2 million primarily due to our recognition of revenues under our biotherapeutics collaboration with Organon, which was entered into in May 2005, our hypertension drug discovery alliance with Takeda, which was entered into in July 2004, and our award from the Texas Enterprise Fund for the creation of a knockout mouse embryonic stem cell library. This was offset in part by the recognition in the prior year period of a performance milestone under our therapeutic protein and antibody target discovery alliance with Genentech and a decrease in revenues from the termination of our therapeutic protein discovery alliance with Incyte in June 2004.
- Subscription and license fees - Revenue from subscriptions and license fees decreased 27% to \$5.6 million primarily as a result of the termination in June 2004 and December 2004, respectively, of the collaboration term under our LexVision database subscription programs with Incyte Corporation and Bristol-Myers Squibb. The reduction was offset in

part by technology license fees received from Deltagen, Inc. in connection with the settlement of Lexicon's claim in Deltagen's bankruptcy proceedings.

Research and Development Expenses. Research and development expenses and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
	-----	-----
Total research and development expense...	\$ 69.8	\$ 67.5
Dollar increase.....	\$ 2.3	
Percentage increase.....	3%	

Research and development expenses consist primarily of salaries and other personnel-related expenses, laboratory supplies, facility and equipment costs, third-party and other services. The change in the nine months ended September 30, 2005 as compared to the corresponding period in 2004 resulted primarily from the following costs:

- Personnel - Personnel costs increased 8% to \$34.9 million primarily due to increased personnel to support the expansion of our drug discovery programs and merit-based pay increases for employees.
- Laboratory supplies - Laboratory supplies expense decreased 11% to \$9.6 million due primarily to the bulk purchase of certain supplies in the prior year period.
- Facilities and equipment - Facilities and equipment costs increased 4% to \$15.6 million primarily due to higher utility costs.
- Third-party services - Costs associated with third-party services increased 4% to \$5.4 million primarily due to an increase in third-party contract research costs, offset in part by the termination in June 2004 of our LifeSeq(R) Gold database subscription.
- Other - Other costs increased by 12% to \$4.1 million primarily related to increased information technology costs.

General and Administrative Expenses. General and administrative expenses and dollar and percentage changes as compared to the corresponding period in the prior year are as follows (dollar amounts are presented in millions):

	NINE MONTHS ENDED SEPTEMBER 30,	
	2005	2004
	-----	-----
Total general and administrative expense..	\$ 13.9	\$ 14.3
Dollar decrease.....	\$ 0.4	
Percentage decrease.....	3%	

General and administrative expenses consist primarily of personnel costs to support our research activities, facility and equipment costs and professional fees, such as legal fees. The change in the nine months ended September 30, 2005 as compared to the corresponding period in 2004 resulted primarily from the following costs:

- Personnel - Personnel costs increased 2% to \$8.3 million.
- Facilities and equipment - Facilities and equipment costs remain unchanged at \$2.3 million.

- Professional fees - Professional fees decreased 5% to \$1.4 million primarily due to decreased legal fees.
- Other - Other costs decreased 4% to \$1.8 million.

Interest Income. Interest income increased 47% to \$1.8 million in the nine months ended September 30, 2005 from \$1.2 million in the corresponding period in 2004 primarily due to higher interest rates and higher average cash and investment balances.

Interest Expense. Interest expense increased to \$2.5 million in the nine months ended September 30, 2005 from \$1.8 million in the corresponding period in 2004. The increase was attributable to interest expense on the \$34.0 million mortgage loan on our facilities in The Woodlands, Texas, which was entered into in April 2004.

Net Loss and Net Loss Per Common Share. Net loss decreased 9% to \$42.2 million in the nine months ended September 30, 2005 from \$46.6 million in the corresponding period in 2004. Net loss per common share decreased to \$0.66 in the nine months ended September 30, 2005 from \$0.74 in the corresponding period in 2004. Net loss includes stock-based compensation expense of \$0.8 million in the nine months ended September 30, 2004.

#### LIQUIDITY AND CAPITAL RESOURCES

We have financed our operations from inception primarily through sales of common and preferred stock, contract and milestone payments to us under our drug discovery alliance, target validation, database subscription and license agreements, equipment financing arrangements and leasing arrangements. From our inception through September 30, 2005, we had received net proceeds of \$295.4 million from issuances of common and preferred stock, including \$203.2 million of net proceeds from the initial public offering of our common stock in April 2000 and \$50.1 million from our July 2003 common stock offering. In addition, from our inception through September 30, 2005, we received \$312.3 million in cash payments from drug discovery alliances, target validation collaborations, database subscription and technology license fees, sales of compound libraries and reagents, and government grants, of which \$234.9 million had been recognized as revenues through September 30, 2005.

As of September 30, 2005, we had \$90.2 million in cash, cash equivalents and short-term investments (including \$0.4 million of restricted investments), as compared to \$87.6 million (including \$0.4 million of restricted investments) as of December 31, 2004. Cash provided by operating activities was \$12.0 million in the nine months ended September 30, 2005. This consisted primarily of the net loss for the period of \$42.2 million offset by non-cash charges of \$7.8 million related to depreciation expense and \$0.9 million related to amortization of intangible assets other than goodwill; a \$41.9 million increase in deferred revenue; and changes in other operating assets and liabilities of \$3.6 million. Cash used in investing activities was \$3.5 million in the nine months ended September 30, 2005, primarily due to purchases of property and equipment of \$9.4 million offset by net maturities of short-term investments of \$5.8 million.

In April 2004, we purchased our facilities in The Woodlands, Texas from the lessor under our previous synthetic lease agreement. In connection with such purchase, we repaid the \$54.8 million funded under the synthetic lease with proceeds from a \$34.0 million third-party mortgage financing and \$20.8 million in cash. The mortgage loan has a ten-year term with a 20-year amortization and bears interest at a fixed rate of 8.23%. As a result of the refinancing, all restrictions on the cash and investments that had secured our obligations under the synthetic lease were eliminated.

In May 2002, our subsidiary Lexicon Pharmaceuticals (New Jersey), Inc. signed a ten-year lease for a 76,000 square-foot facility in Hopewell, New Jersey. The term of the lease extends until June 30, 2013. The lease provides for an escalating yearly base rent payment of \$1.3 million in the first year, \$2.1 million in years two and three, \$2.2 million in years four to six, \$2.3 million in years seven to nine and \$2.4 million in years ten and eleven. We are the guarantor of the obligations of our subsidiary under the lease.

In December 2002, we borrowed \$4.0 million under a note agreement with Genentech. The proceeds of the loan are to be used to fund research efforts under our alliance with Genentech for the discovery of therapeutic proteins and antibody targets. The note matures on or before December 31, 2005, but we may prepay it at any time. We may repay the note, at our option, in cash, in shares of our common stock valued at the then-current market value, or in a combination of cash and shares, subject to certain limitations. The note accrues interest at an annual rate of 8%, compounded quarterly.

In July 2005, we were awarded \$35 million from the Texas Enterprise Fund for the creation of a knockout mouse embryonic stem cell library containing 350,000 cell lines. We will create the library for the Texas Institute for Genomic Medicine, a newly formed non-profit institute whose founding members are Texas A&M University, the Texas A&M University System Health Science Center and us. Under the terms of the award, we are responsible for the creation of a specified number of jobs, reaching an aggregate of 1,616 new jobs in Texas by December 31, 2015. We will obtain credits based on funding received by the institute and certain related parties from sources other than the State of Texas that we may offset against our potential liability for any job creation shortfalls. We will also obtain credits against future jobs commitment liabilities for any surplus jobs we create. Subject to these credits, if we fail to create the specified number of jobs, the state may require us to repay \$2,415 for each job we fall short. Our maximum aggregate exposure for such payments, if we fail to create any new jobs, is approximately \$14.4 million, without giving effect to any credits to which we may be entitled.

Our future capital requirements will be substantial and will depend on many factors, including our ability to obtain alliance, collaboration and technology license agreements, the amount and timing of payments under such agreements, the level and timing of our research and development expenditures, market acceptance of our products, the resources we devote to developing and supporting our products and other factors. Our capital requirements will also be affected by any expenditures we make in connection with license agreements and acquisitions of and investments in complementary technologies and businesses. We expect to devote substantial capital resources to continue our research and development efforts, to expand our support and product development activities, and for other general corporate activities. We believe that our current unrestricted cash and investment balances and revenues we expect to derive from drug discovery alliances, target validation collaborations and technology licenses will be sufficient to fund our operations through approximately the next two years. During or after this period, if cash generated by operations is insufficient to satisfy our liquidity requirements, we will need to sell additional equity or debt securities or obtain additional credit arrangements. Additional financing may not be available on terms acceptable to us or at all. The sale of additional equity or convertible debt securities may result in additional dilution to our stockholders.

#### DISCLOSURE ABOUT MARKET RISK

We are exposed to limited market and credit risk on our cash equivalents, which have maturities of three months or less at the time of purchase. We maintain a short-term investment portfolio which consists of U.S. government agency debt obligations, investment grade commercial paper, corporate debt securities and certificates of deposit that mature within twelve months and auction rate securities that mature greater than twelve months from the time of purchase, which we believe are subject to limited



market and credit risk. We currently do not hedge interest rate exposure or hold any derivative financial instruments in our investment portfolio.

We have operated primarily in the United States and substantially all sales to date have been made in U.S. dollars. Accordingly, we have not had any material exposure to foreign currency rate fluctuations.

## RISK FACTORS

Our business is subject to certain risks and uncertainties, including those referenced below:

### Risks Related to Our Company and Business

- we have a history of net losses, and we expect to continue to incur net losses and may not achieve or maintain profitability
- we will need additional capital in the future and, if it is not available, we will have to curtail or cease operations
- any sale of additional equity securities in the future may be dilutive to our stockholders
- we are an early-stage company, and we may not successfully develop or commercialize any therapeutics or drug targets that we have identified
- we face substantial competition in the discovery of the DNA sequences of genes and their functions and in our drug discovery and product development efforts
- we rely heavily on our collaborators to develop and commercialize pharmaceutical products based on genes that we identify as promising candidates for development as drug targets, and our collaborators' efforts may fail to yield pharmaceutical products on a timely basis, if at all
- we rely on several key collaborators for a significant portion of our revenues, the loss of any of which would negatively impact our business to the extent such losses are not offset by additional collaborators
- cancellations by or conflicts with our collaborators could harm our business
- we may be unsuccessful in developing and commercializing pharmaceutical products on our own
- we lack the capability to manufacture materials for preclinical studies, clinical trials or commercial sales and will rely on third parties to manufacture our potential products, which may harm or delay our product development and commercialization efforts
- we may engage in future acquisitions, which may be expensive and time consuming and from which we may not realize anticipated benefits
- if we lose our key personnel or are unable to attract and retain additional personnel, we may be unable to pursue collaborations or develop our own products
- any contamination among our knockout mouse population could negatively affect the reliability of our scientific research or cause us to incur significant remedial costs
- because all of our target validation operations are located at a single facility, the occurrence of a disaster could significantly disrupt our business

- our operating results have been and likely will continue to fluctuate, and we believe that period-to-period comparisons of our operating results are not a good indication of our future performance

#### Risks Related to Our Industry

- our ability to patent our inventions is uncertain because patent laws and their interpretation are highly uncertain and subject to change
- our patent applications may not result in enforceable patent rights and, as a result, the protection afforded to our scientific discoveries may be insufficient
- if other companies and institutions obtain patents relating to our drug target or product candidate discoveries, we may be unable to obtain patents for our inventions based upon those discoveries and may be blocked from using or developing some of our technologies and products
- issued or pending patents may not fully protect our discoveries, and our competitors may be able to commercialize technologies or products similar to those covered by our issued or pending patents
- we may be involved in patent litigation and other disputes regarding intellectual property rights and may require licenses from third parties for our discovery and development and planned commercialization activities, and we may not prevail in any such litigation or other dispute or be able to obtain required licenses
- we use intellectual property that we license from third parties, and if we do not comply with these licenses, we could lose our rights under them
- we have not sought patent protection outside of the United States for some of our inventions, and some of our licensed patents only provide coverage in the United States, and as a result, our international competitors could be granted foreign patent protection with respect to our discoveries
- we may be unable to protect our trade secrets
- our efforts to discover, evaluate and validate potential targets for drug intervention and our drug discovery programs are subject to evolving data and other risks inherent in the drug discovery process
- our industry is subject to extensive and uncertain government regulatory requirements, which could significantly hinder our ability, or the ability of our collaborators, to obtain, in a timely manner or at all, government approval of products based on genes that we identify, or to commercialize such products
- if our potential products receive regulatory approval, we or our collaborators will remain subject to extensive and rigorous ongoing regulation
- the uncertainty of pharmaceutical pricing and reimbursement may decrease the commercial potential of any products that we or our collaborators may develop and affect our ability to raise capital
- we use hazardous chemicals and radioactive and biological materials in our business; any disputes relating to improper handling, storage or disposal of these materials could be time consuming and costly

- we may be sued for product liability
- public perception of ethical and social issues may limit or discourage the use of our technologies, which could reduce our revenues

For additional discussion of the risks and uncertainties that affect our business, see "Item 1. Business - Risk Factors" included in our annual report on Form 10-K for the year ended December 31, 2004, as filed with the Securities and Exchange Commission.

#### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

See "Disclosure about Market Risk" under "Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations" for quantitative and qualitative disclosures about market risk.

#### ITEM 4. CONTROLS AND PROCEDURES

Our chief executive officer and chief financial officer have concluded that our disclosure controls and procedures (as defined in rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act")) are sufficiently effective to ensure that the information required to be disclosed by us in the reports we file under the Exchange Act is gathered, analyzed and disclosed with adequate timeliness, accuracy and completeness, based on an evaluation of such controls and procedures as of the end of the period covered by this report.

Subsequent to our evaluation, there were no significant changes in internal controls or other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.

PART II OTHER INFORMATION

ITEM 5. OTHER INFORMATION

On October 26, 2005, the compensation committee of our Board of Directors approved an additional annual retainer of \$15,000 for service as non-executive Chairman of our Board of Directors. All non-employee directors currently receive an annual retainer of \$15,000 for their service on the Board of Directors.

On October 26, 2005, the compensation committee also approved an additional annual option grant to the non-executive Chairman of our Board of Directors under our 2000 Equity Incentive Plan to purchase 10,000 shares of common stock at an exercise price equal to the fair market value of our common stock on the date of grant. All non-employee directors who have served in such capacity for six months currently receive an annual option to purchase 10,000 shares of common stock under our 2000 Non-Employee Directors' Stock Option Plan at an exercise price equal to the fair market value of our common stock on the date of grant.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits

EXHIBIT NO.	DESCRIPTION
10.1	-- Economic Development Agreements dated July 15, 2005, with the State of Texas and the Texas A&M University System
+10.2	-- Collaboration and License Agreement, dated July 15, 2005, with the Texas A&M University System and the Texas Institute for Genomic Medicine
10.3	-- Non-Employee Director Compensation
31.1	-- Certification of CEO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	-- Certification of CFO Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	-- Certification of CEO and CFO Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

+ Confidential treatment has been requested for a portion of this exhibit. The confidential portions of this exhibit have been omitted and filed separately with the Securities and Exchange Commission

(b) Reports on Form 8-K:

On July 18, 2005, we filed a Current Report on Form 8-K dated July 15, 2005 related to our entry into an Economic Development Agreement, dated July 15, 2005 with the State of Texas and the Texas A&M University System and a Collaboration and License Agreement, dated July 15, 2005, with the Texas A&M University System and the Texas Institute for Genomic Medicine.

On July 28, 2005, we filed a Current Report on Form 8-K dated July 28, 2005 related to our issuance of a press release reporting our financial results for the quarter ended June 30, 2005, which press release included our consolidated balance sheet data and consolidated statements of operations data for the period.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

LEXICON GENETICS INCORPORATED

Date: November 1, 2005

By: /s/ Arthur T. Sands

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Arthur T. Sands, M.D., Ph.D.  
President and Chief Executive Officer

Date: November 1, 2005

By: /s/ Julia P. Gregory

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Julia P. Gregory

Executive Vice President, Corporate  
Development and Chief Financial Officer

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ECONOMIC DEVELOPMENT AGREEMENT

BETWEEN

THE STATE OF TEXAS

AND

THE TEXAS A&M UNIVERSITY SYSTEM

AND

LEXICON GENETICS INCORPORATED

JULY 15, 2005

THIS AGREEMENT ("Agreement") is by and among the State of Texas (the "State"), acting by and through the Office of Economic Development and Tourism, a division within the Office of the Governor ("OOGEDT"), Texas A&M University System ("TAMUS") and Lexicon Genetics Incorporated ("Lexicon"). The State, TAMUS, and Lexicon are hereinafter referred to either individually as the "party," or collectively as the "parties." The Effective Date of this Agreement is July 15, 2005.

RECITALS

WHEREAS, Texas' low taxes, budgetary discipline, reasonable regulations and educated workforce continue to make the state a top location for businesses looking to expand or relocate; and

WHEREAS, the State desires to become a world leader in genomics and biotechnology; and

WHEREAS, TAMUS and Lexicon are known for research and development expertise and Lexicon is particularly known for its gene knockout technology and expertise; and

WHEREAS, gene knockout technology provides a means to systematically identify the physiological functions of genes, offering the promise of discovering new and more-effective ways to prevent and treat human and veterinary disease; and

WHEREAS, Lexicon employs more than 600 people in the State and had annual revenues in 2004 of approximately \$62 million; and

WHEREAS, TAMUS is a Texas public institution of higher education; and

WHEREAS, TAMUS and Lexicon have proposed a unique public-private collaboration for human and veterinary medical research that would be endowed with two (2) complete copies of a library consisting of three hundred fifty thousand (350,000) knockout mouse embryonic stem cell clones (the "OmniBank II Library") housed at two facilities, one being located in Houston and one being located in College Station; and

WHEREAS, TAMUS and Lexicon have proposed that such collaboration be implemented through the Texas Institute for Genomic Medicine ("TIGM"), a Texas non-profit corporation formed for such purpose; and

WHEREAS, it is in the State's interest to expand and improve the research and development capability of its public institutions of higher education, including by facilitating the concentration of expertise in particular areas of scientific research to enable the development of a platform for recruiting additional researchers and to obtain related funding from other sources; and

WHEREAS, the new facilities and programs related to TIGM are estimated to create at least 5,000 new full-time jobs for Texans, with an ultimate average annual payroll of more than \$450 million; and

WHEREAS, Article III, Section 52-A of the Texas Constitution expressly authorizes the State to use public funds for the public purposes of development and diversification of the economy of the State, the elimination of unemployment or underemployment in the State, or the development of commerce in the State; and

WHEREAS, SB 1771 of the 78th Texas Legislature established the Texas Enterprise Fund ("TEF") to be used with the express written approval of the Governor, Lieutenant Governor, and Speaker of the House of Representatives for economic development, infrastructure development, community development, job training programs, and business incentives, and HB 7 of the 78th Texas Legislature appropriated \$295 million from the Texas Economic Stabilization Fund to the TEF for the 2004-2005 biennium; and

WHEREAS, the State values Lexicon as a distinguished and important corporate citizen, and wishes to receive a commitment that Lexicon will expand its presence and payroll in Texas and provide the intellectual property resources to enable TAMUS and Lexicon to establish TIGM, and Lexicon wishes to provide such commitment; and

WHEREAS, TAMUS is willing to undertake commitments related to constructing and renovating facilities for TIGM and supporting the operations of TIGM to carry out its planned research and development activities, as well as to the creation of new jobs in the State; and

WHEREAS, the Governor, Lieutenant Governor, and Speaker have each approved a grant from the TEF to TAMUS and Lexicon, as evidenced in the letter attached as Exhibit A hereto; and

WHEREAS, to ensure that the benefits the State provides under this Agreement are utilized in a manner consistent with Article III, Section 52-a of the Texas Constitution, and other laws, TAMUS and Lexicon have agreed to comply with certain conditions and deliver certain performance, including achieving measurable job creation and retention commitments, in exchange for receiving these benefits; and

WHEREAS, the parties desire to have such proposals set forth in a valid, binding and enforceable agreement; and

WHEREAS, the State believes it is in the best public interest to enter into this Agreement for the reasons set forth above;



## AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

### 1. STATE OF TEXAS COMMITMENT

a. GRANT OF FUNDS FROM THE TEXAS ENTERPRISE FUND TO TAMUS. The State shall pay cash from the Texas Enterprise Fund to TAMUS in the amount of Fifteen Million Dollars (\$15,000,000) as soon as practicable following the execution of this Agreement (but no later than thirty (30) days after the Effective Date provided that all necessary documents for disbursement of the funds have been provided to the State as required), of which (i) Ten Million Dollars (\$10,000,000) shall be used by TAMUS to build a facility in College Station to house one copy of the OmniBank II Library and (ii) Five Million Dollars (\$5,000,000) shall be used by TAMUS to renovate existing space at the Institute of Biosciences and Technology ("IBT") at the Health Science Center in Houston to house the other copy of the OmniBank II Library, in each case in accordance with this Agreement.

b. GRANT OF FUNDS FROM THE TEXAS ENTERPRISE FUND TO LEXICON. The State shall pay cash from the Texas Enterprise Fund to Lexicon in the amount of Thirty-Five Million Dollars (\$35,000,000) as soon as practicable following the execution of this Agreement (but no later than thirty (30) days after the Effective Date provided that all necessary documents for disbursement of the funds have been provided to the State as required), including (i) Thirty Million Dollars (\$30,000,000) for the generation and delivery of the OmniBank II Library and related intellectual property licenses and (ii) Five Million Dollars (\$5,000,000) for the acquisition of bioinformatics software and related intellectual property licenses, in each case in accordance with this Agreement.

### 2. TAMUS AND LEXICON FUNDING CONDITIONS

TAMUS and Lexicon must meet all of the following "Funding Conditions" or will be subject to liquidated damages and/or repayment in accordance with this Agreement. The Funding Conditions are as follows:

a. ESTABLISHMENT OF THE TEXAS INSTITUTE FOR GENOMIC MEDICINE. TAMUS and Lexicon shall establish TIGM, the initial members of which shall be TAMUS (participating through Texas A&M University and the Texas A&M Health Science Center) and Lexicon. TAMUS and Lexicon shall provide the State with sufficient evidence to confirm TIGM's formation.

b. AGREEMENTS BETWEEN LEXICON AND TAMUS. TAMUS and Lexicon have entered into, and shall perform their obligations under, agreements with respect to the matters described in attached Exhibit B. TAMUS and Lexicon shall certify in writing to the State that the Agreements have been entered into and materially and substantially comply with the terms as set forth in Exhibit B.

It is understood that this Agreement does not grant the State, apart from TAMUS, any right to acquire intellectual property transferred to or developed by TIGM.

c. SECURITY. TAMUS shall provide the state with sufficient evidence that the State has been provided security for its investment by a pledge of the lease payments and other revenue from TIGM to TAMUS.

d. JOB TARGETS. TAMUS and Lexicon shall be responsible to the State for creating, in the aggregate, at least Five Thousand ("5,000") new Employment Positions in Texas by December 31, 2015, and TAMUS shall be responsible to the State for maintaining such new Employment Positions in Texas from December 31, 2015 to December 31, 2027. Each of TAMUS and Lexicon shall be responsible for the respective portions of such aggregate commitment set forth below (such portion representing the party's respective "Job Target") in accordance with the following schedule:

- (1) 94 jobs by December 31, 2006 (TAMUS portion 45; Lexicon portion 49),
- (2) 198 jobs by December 31, 2007 (TAMUS portion 73; Lexicon portion 125),
- (3) 357 jobs by December 31, 2008 (TAMUS portion 148; Lexicon portion 209),
- (4) 581 jobs by December 31, 2009 (TAMUS portion 280; Lexicon portion 301),
- (5) 894 jobs by December 31, 2010 (TAMUS portion 492; Lexicon portion 402),
- (6) 1,345 jobs by December 31, 2011 (TAMUS portion 832; Lexicon portion 513),
- (7) 1,801 jobs by December 31, 2012 (TAMUS portion 1,166; Lexicon portion 635),
- (8) 2,562 jobs by December 31, 2013 (TAMUS portion 1,657; Lexicon portion 905),
- (9) 3,573 jobs by December 31, 2014 (TAMUS portion 2,345; Lexicon portion 1,228), and
- (10) 5,000 jobs by December 31, 2015 (TAMUS portion 3,384; Lexicon portion 1,616).

For the purposes of this Agreement, "Employment Positions" shall be defined as jobs meeting all of the following criteria:

- (i) New full-time or full-time equivalent employment positions in Texas,
- (ii) With an average annual gross compensation (not including benefits) of at least \$60,000, which shall be adjusted for inflation but not to exceed 3% per year, such adjustment to occur first for the compensation standard applicable to 2007, and
- (iii) Which may include (A) in the case of Lexicon's portion of the commitment, positions with Lexicon and its affiliates in which Lexicon has a 50% or higher ownership interest, and (B) in the case of TAMUS's portion of the commitment, positions with TIGM, positions with TIGM members, positions with employers in the biotechnology or pharmaceutical industries, and other positions for which TIGM or TIGM members are significantly responsible for creating through efforts specifically targeted at attracting or creating biotechnology and pharmaceutical industry-related positions to Texas, in each case without duplication. For clarity, from and after December 31, 2015 (or earlier, if Lexicon has already satisfied its Job Target commitment in full), positions with Lexicon and its affiliates in which Lexicon has a 50% or higher ownership interest shall be included for purposes of TAMUS's commitment to the State to create and maintain new Employment Positions over the remaining term of the contract.

e. ANNUAL COMPLIANCE VERIFICATION. By January 31 of each year during the term of this Agreement, beginning in January 2007 and continuing every year thereafter through January 2028, for TAMUS, and January 2016, for Lexicon, each of TAMUS and Lexicon, as applicable, must deliver to OOGEDT a compliance verification signed by a duly authorized representative of the reporting party that shall certify the number of and generally describe the Employment Positions existing as of December 31 of the year preceding (an "Annual Compliance Verification"). There will be a total of twenty-two (22) Annual Compliance Verifications due, covering jobs created and maintained in years 2006 through 2027. TAMUS and/or Lexicon may, at its option, deliver an Annual Compliance Verification in January 2006 with respect to Surplus

Job Credits, if any, attributable to any new Employment Positions created in 2005. All Annual Compliance Verifications shall be in a form reasonably satisfactory to OOGEDT and shall provide appropriate back-up data for the Employment Position numbers provided.

### 3. LIQUIDATED DAMAGES

a. JOB TARGET. As set forth in Section 2.d above, annually during the term of this Agreement, through January 2028, TAMUS and, through January 2015, Lexicon must deliver to OOGEDT an Annual Compliance Verification demonstrating that their respective Job Targets have been met for the year just ended. The consequences to TAMUS or Lexicon of satisfying, failing to satisfy or exceeding its respective Job Target are as follows:

i. COMPLIANCE WITH JOB TARGET. If an Annual Compliance Verification demonstrates that the applicable party's Job Target has been met for the year just ended, then such party will be deemed to have met its obligations for such preceding year and no damages shall be due.

ii. FAILURE TO MEET JOB TARGET. If an Annual Compliance Verification that demonstrates that such party's Job Target has not been met for the year just ended, then OOGEDT may require the responsible party to pay liquidated damages in the amount of Two Thousand Four Hundred Fifteen Dollars (\$2,415) per job for every Employment Position by which it is short that year. It is understood that as a state agency, TAMUS may not, and does not, guarantee the obligations of Lexicon. Nor does Lexicon guarantee the obligations of TAMUS. Neither party shall have any obligation for any shortfalls in the Job Target obligations of the other party, and each party shall be responsible solely for its own payment obligations to the State.

iii. EXCEEDING JOB TARGET. If an Annual Compliance Verification demonstrates that such party's Job Target has been exceeded for the year just ended, such party will be deemed to have exceeded its Job Target obligations and will receive a "Surplus Job Credit" for each extra Employment Position generated and maintained above its Job Target for that year. For purposes of the foregoing, all Employment Positions created in 2005 will be considered Surplus Job Credits. TAMUS and Lexicon may utilize their respective earned Surplus Job Credits in any following year as follows:

A. such party may expend a Surplus Job Credit in lieu of paying liquidated damages in the amount of \$2,415 per job (for example, if a party owes liquidated damages in the amount of \$241,500 for 100 Employment Positions lacking in a particular year, it may discharge this amount by expending 100 Surplus Job Credits it has earned in prior years); or

B. such party may apply their respective Surplus Job Credits toward meeting their remaining Job Target for future years, such that if TAMUS and Lexicon accumulate enough Surplus Job Credits they will be deemed to have fulfilled all of its obligations under the Agreement, and will be released from the Agreement early (for example, if TAMUS and Lexicon accumulated at least 5,000 unused Surplus Job Credits by December 31, 2026, then TAMUS may apply these Surplus Job Credits forward to fulfill its Job Target for 2027, and may thereby fulfill its obligations and be released from the Agreement one year early).

b. OFFSETS FOR EXTERNAL FUNDING. One of the State's primary objectives under this Agreement is to support the development of TIGM as a national center of excellence in genomic medicine, which will require TIGM to successfully compete for available funding from sources other than the State. Generating such funding directly benefits the State. In light of these benefits, and without affecting TAMUS and Lexicon's expectation and intention of satisfying their respective Job Target commitments set forth in Section 2.d. above, TAMUS and Lexicon will be entitled to an offset against liabilities, if any, that they may incur for liquidated damages under Section 3.a. above, calculated as set forth below, on account of funds received by TIGM and, to the extent related to research using materials obtained from TIGM, by TIGM members directly or indirectly from funding sources other than the State, including, without limitation, all such funds received under grants and contracts from the National Institutes of Health, other federal government agencies, research institutes, foundations, and companies in the biotechnology and pharmaceutical industries.

The parties will collectively be entitled to an offset equivalent to the liquidated damages liability associated with the creation or maintenance of 5,000 jobs for one year for each \$25 million of such funding. A maximum of \$300 million of such external funding may be applied. The offset shall be allocated between Lexicon and TAMUS as follows:

i. One-half of such offset (e.g., for each \$25 million in such funding, an amount equivalent to the liquidated damages liability associated with the creation or maintenance of 2,500 jobs for one year) will be applied to reduce the amount of TAMUS's potential liquidated damages liability for shortfalls in achieving or maintaining its portion of the Job Target commitment.

ii. The other one-half of such offset will be applied to reduce the amount of Lexicon's potential liquidated damages liability for shortfalls in achieving or maintaining its portion of the Job Target commitment.

Lexicon and TAMUS will be entitled to proportional credit for funding amounts less than those set forth above. In any event, TAMUS agrees to be responsible for 5,000 jobs by December 31, 2016, and 5,000 jobs by December 31, 2017, and maintaining them, both in accordance with the provisions of this Agreement.

The offset contemplated above will be applied as follows:

(1) Lexicon's portion of the offset will be applied first to Lexicon's potential liquidated damages liability for shortfalls in achieving or maintaining its portion of the Job Target commitment in the final year of such commitment (2015) and thereafter to Lexicon's potential liquidated damages liability for each preceding year, until the potential liquidated damages liability for such year is fully accounted for by such offset.

(2) TAMUS's portion of the offset will be applied as follows: (A) eighty percent (80%) will be applied first to TAMUS's potential liquidated damages liability for shortfalls in maintaining the Job Target commitment in the final year of such commitment (2027) and thereafter to TAMUS's potential liquidated damages liability for each preceding year, until the potential liquidated damages liability for such year is fully accounted for by such offset, and (B) the remaining twenty percent (20%) of such offset may be applied to TAMUS's repayment liability for shortfalls in achieving or maintaining its portion of the Job Target commitment in such year(s) as TAMUS may designate.

c. TRANSITION AFTER LEXICON DISCHARGE OF ITS OBLIGATIONS. At such time as Lexicon has discharged its job related obligations as provided under this Agreement, then

- i. All unused Lexicon Surplus Job Credits shall transfer automatically to TAMUS,
- ii. All unused offset amounts allocated to Lexicon pursuant to Section 3.b.ii shall automatically transfer to TAMUS, and
- iii. Thereafter, all Employment Positions created or maintained by Lexicon and its affiliates shall be counted as TIGM created or maintained Employment Positions.

d. ADJUSTMENT FOR SALES TAX RATE CHANGES. The \$2,415 repayment penalty per Employment Position shall be proportionately reduced for the remainder of the contract in the event the State's sales tax rate is increased from the 6.25% rate in effect at the Effective Date.

#### 4. TAMUS AND LEXICON ADDITIONAL COMMITMENTS

##### a. OOGEDT AUDIT RIGHTS.

(i) DUTY TO MAINTAIN RECORDS. Each of TAMUS and Lexicon shall maintain adequate records to support its charges, procedures and performances to OOGEDT for all work related to this Agreement. Each of TAMUS and Lexicon also shall maintain such records as are reasonably deemed necessary by the OOGEDT and auditors of the State of Texas or United States, or such other persons or entities designated by the OOGEDT, to ensure proper accounting for the expenditure of funds provided under this Agreement and for the performance by each of them under this Agreement.

(ii) RECORDS RETENTION. Each of TAMUS and Lexicon shall maintain and retain for a period of four (4) years after the submission of the final expenditure report, or until full and final resolution of all audit or litigation matters which arise after the expiration of the four (4) year period after the submission of the final expenditure report, whichever time period is longer, the records described in Section 4(a)(i).

(iii) AUDIT TRAILS. Appropriate audit trails shall be maintained by Lexicon to provide accountability for updates and changes to automated personnel and financial systems. Audit trails maintained by Lexicon will, at a minimum, identify the changes made, the individual making the change and the date the change was made. An adequate history of transactions shall be maintained by Lexicon to permit an audit of the system by tracing the activities of individuals through the system. Lexicon's automated systems must provide the means whereby authorized personnel have the ability to audit and establish individual accountability for any action that can potentially cause access to, generation of, or modification of information related to the performances of this Agreement. Lexicon agrees that Lexicon's failure to maintain adequate audit trails and corresponding documentation shall create a presumption that the performances were not performed. As an agency of the State, TAMUS shall comply with applicable State law and policies as regards its accounting and auditing processes and procedures.

(iv) ACCESS. Each of TAMUS and Lexicon shall grant access to all paper and electronic records, books, documents, accounting procedures, practices or any other items relevant to the performance of this agreement to OOGEDT and auditors of the State of Texas, or such other persons or entities designated by OOGEDT for the purposes of

inspecting and auditing such books and records. All records, books, documents, accounting procedures, practices or any other items relevant to the performance of this agreement shall be subject to examination or audit by the OOGEDT and auditors of the State of Texas, or such other persons or entities designated by the OOGEDT in accordance with all applicable state and federal laws, regulations or directives. Each of TAMUS and Lexicon will direct any subcontractor with whom it has established a contractual relationship to discharge TAMUS and Lexicon's obligations to likewise permit access to, inspection of, and reproduction of all books and records of TAMUS and Lexicon's subcontractor(s) which pertain to this agreement. Notwithstanding the foregoing, it is recognized that the purpose for which access is to be granted is to monitor compliance with the express obligations of TAMUS and Lexicon hereunder, and that it would severely adversely affect the very objectives of this Agreement if confidential, proprietary technical or business data were to be released or become available to the public as a result of any examination by or on behalf of the State. Accordingly, TAMUS and Lexicon may, require that the State and its representatives, to the extent permitted by law, follow protocols designed to protect such information.

(v) LOCATION. Any such audit shall be conducted at TAMUS and Lexicon's principal place of business during TAMUS and Lexicon's normal business hours and at OOGEDT 's expense, provided all costs incurred by OOGEDT in conducting any such audit shall be reimbursed by TAMUS or Lexicon, as applicable, in the event such audit reveals a material discrepancy in the compliance with this Agreement, by TAMUS or Lexicon, as applicable.

(vi) REIMBURSEMENT. If any audit or examination reveals that TAMUS or Lexicon's reports for the audited period are not accurate for such period and that additional amounts of liquidated damages were owed to OOGEDT above what was paid or discharged with credits, then the applicable party (TAMUS or Lexicon) shall, within 30 days, pay to OOGEDT, or apply additional credits to discharge, such additional amounts.

(vii) CORRECTIVE ACTION PLAN. If any audit reveals any discrepancies or inadequacies which must be corrected to maintain compliance with this Agreement, the applicable party (TAMUS or Lexicon) agrees within thirty (30) calendar days after its receipt of the audit findings, to propose and submit to OOGEDT a corrective action plan to correct such discrepancies or inadequacies subject to the approval of the OOGEDT. Such party shall complete the corrective action approved by OOGEDT within thirty (30) calendar days after OOGEDT approves the corrective action plan, at the sole cost of the applicable party.

(viii) REPORTS. Each of TAMUS and Lexicon shall provide to OOGEDT periodic status reports in accordance with OOGEDT's audit procedures regarding TAMUS and Lexicon's resolution of any audit-related compliance activity for which TAMUS and Lexicon is responsible.

b. ANNUAL ECONOMIC IMPACT REPORTS; PERIODIC PROGRESS BRIEFINGS. By January 31 of each year during the term of this Agreement, beginning in January 2006 and continuing every year thereafter through January 2028, in a manner consistent with the need to protect privacy and the intellectual property of TAMUS, TAMUS will provide to OOGEDT annual reports on the general activities at and progress of TIGM (the "Annual Economic Impact Reports"). The Annual Economic Impact Reports will include an economic impact analysis, highlighting the direct and

indirect business and job creation and other economic benefits of TIGM to the State. Lexicon will provide to TAMUS a non-confidential summary to be used as an addendum to each Annual Economic Impact Report that will describe generally the activities of Lexicon in the State for the applicable year. TAMUS and Lexicon will also provide to OOGEDT periodic briefings on the activities of TIGM and Lexicon, respectively, in Texas (the "Periodic Progress Briefings") as reasonably requested by OOGEDT.

c. USE AND RETENTION OF TEXAS SUPPLIERS. Each of TAMUS and Lexicon will use reasonable efforts to use qualified Texas-based suppliers to provide products and services under this Agreement, provided however, TAMUS and Lexicon may in its sole discretion select suppliers and contractors based on program needs, scientific criteria, and industry standards.

d. FINANCIAL INFORMATION. Lexicon will furnish to OOGEDT a copy of Lexicon's year-end audited financial statements, which may be by reference to public filings. The financial statements of TAMUS, as a state agency, are available to OOGEDT.

e. INDEMNITY AND HOLD HARMLESS. Each of TAMUS, but only to the extent permitted by law, and Lexicon agrees to indemnify and hold the State, the maker of this grant, and its agents, officers, and employees harmless for any and all losses, claims, suits, actions, and liability, including any litigation costs, that arise from any act or omission of TAMUS and Lexicon, respectively, or any of its officers, employees, agents, contractors, assignees, and affiliates relating to the project for which this grant is made regardless of whether the act or omission is related to job creation or other stated purpose of the grant. Neither TAMUS nor Lexicon is responsible for the actions of the other or its officers, employees, agents, contractors, assignees, and affiliates.

## 5. DEFAULTS AND REMEDIES

Each of the following acts or omissions of TAMUS and Lexicon or occurrences shall constitute an act of default under this agreement:

a. FAILURE TO ESTABLISH TIGM. If TAMUS and Lexicon fail to establish TIGM for the purposes and in accordance to the terms of this Agreement by December 31, 2005, all funds advanced pursuant to this Agreement will be subject to an immediate refund to the State of Texas, plus interest at the rate of 4.2% per year.

b. FAILURE TO PAY LIQUIDATED DAMAGES FOR JOB CREATION. TAMUS or Lexicon, as applicable, shall have sixty (60) days after receiving written notice from the State demanding payment of outstanding damages owed by such party under Section 3 in which to pay such outstanding damages; provided, that if such damages are the subject of a good faith dispute, such period shall be extended until thirty (30) days after such dispute is resolved. If the responsible party does not pay after this period, all amounts that could potentially be claimed under Section 3 for such party's failure to meet its future job obligations shall become due and payable immediately on demand of the State of Texas.

c. FAILURE TO PROVIDE VERIFICATION. If after the end of a calendar year TAMUS or Lexicon fails to provide an Annual Compliance Verification by the later of the deadline therefor or 60 days after demand from OOGEDT, OOGEDT may make a good faith estimate, based on information available to OOGEDT, of the Employment Positions at TAMUS or Lexicon, as applicable, as of December 31 of that year and, if the estimated Employment Positions fall short of the Job Target, require corresponding liquidated damages in accordance with Section 3.a.ii.

above. Neither TAMUS nor Lexicon will be eligible to earn Surplus Job Credits for any such year for which it fails to provide an Annual Compliance Verification by the later of the deadline therefor or 60 days after demand from OOGEDT.

d. FAILURE TO PROVIDE ANNUAL ECONOMIC IMPACT REPORTS. Neither TAMUS nor Lexicon will be eligible to earn Surplus Job Credits for any year for which it fails to provide its portion of an Annual Economic Impact Report by the later of the deadline therefor or 60 days after demand from OOGEDT.

e. INTEREST ON OVERDUE PAYMENTS. Each of TAMUS and Lexicon shall pay interest on any overdue amounts owed by it to OOGEDT from the date due until paid at a rate of 4.2% per year.

## 6. GENERAL PROVISIONS

a. AUTHORITY. Each party represents that it has obtained all necessary authority to enter into this Agreement.

b. RELATIONSHIP OF PARTIES AND DISCLAIMER OF LIABILITY. The parties will perform their respective obligations under this Agreement as independent contractors and not as agents, employees, partners, joint venturers, or representatives of the other party. No party can make representations or commitments that bind any other party. Lexicon is not a "governmental body" by virtue of this Agreement or the use of TEF or other funding.

c. LIMITATION OF LIABILITY. In no event will any party be liable to any other party for any indirect, special, punitive, exemplary, incidental or consequential damages. This limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages.

d. TERM. The term of this Agreement commences on the Effective Date of the Agreement and continues until January 31, 2028, unless terminated earlier pursuant to the terms of this Agreement.

e. TERMINATION FOR CAUSE. Either party may terminate this Agreement for Cause upon thirty (30) days prior written notice to the other party. "Cause" is any failure to perform a material obligation under this Agreement within the specified time taking into consideration grace periods set forth herein; including a material breach of a Funding Condition. This Agreement may not be terminated if the alleged Cause is cured within the specified thirty-day period. The sole remedy for any termination for Cause (and for the "cause" giving rise to the termination) shall be that each party is relieved of its obligation to perform hereunder, however, following termination by the State, TAMUS and Lexicon will continue to be obligated to the State for liquidated damages and/or repayment of funds in accordance with applicable provisions of this Agreement.

## f. DISPUTE RESOLUTION AND APPLICABLE LAW.

(i) INFORMAL MEETINGS. The parties' representatives will meet as needed to implement the terms of this Agreement and will make a good faith attempt to informally resolve any disputes.



(ii) NON-BINDING MEDIATION. Except to prevent irreparable harm for which there is no adequate remedy at law, no party shall file suit to enforce this Agreement without first submitting the dispute to confidential, non-binding mediation before a mediator mutually agreed upon by the parties and conducted in accordance with the rules of the American Arbitration Association ("AAA").

(iii) APPLICABLE LAW AND VENUE. This Agreement is made and entered into in the State of Texas, and this Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the state of Texas, without regard to any otherwise applicable conflict of law rules or requirements that would require or permit the application of the law of another jurisdiction.

TAMUS and Lexicon agrees that any action, suit, litigation or other proceeding (collectively "litigation") arising out of or in any way relating to this Agreement, or the matters referred to therein, shall be commenced exclusively in the Travis County District Court or the United States District Court for the Western District of Texas, Austin Division, and hereby irrevocably and unconditionally consent to the exclusive jurisdiction of those courts for the purpose of prosecuting and/or defending such litigation. TAMUS and Lexicon hereby waive and agree not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that (a) TAMUS and Lexicon is not personally subject to the jurisdiction of the above-named courts, (b) the suit, action or proceeding is brought in an inconvenient forum or (c) the venue of the suit, action or proceeding is improper.

g. PUBLICITY. The parties agree to cooperate fully to coordinate with each other in connection with all press releases and publications regarding this Agreement.

h. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this agreement may be construed to be a waiver of the sovereign immunity of the State to suit.

## 7. MISCELLANEOUS PROVISIONS

a. COUNTERPARTS. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in establishing proof of this Agreement to produce or account for more than one such counterpart.

b. MERGER. This document constitutes the final entire agreement between the parties and supersedes any and all prior oral or written communication, representation or agreement relating to the subject matter of this Agreement.

c. SEVERABILITY. Any term in this Agreement prohibited by, or unlawful or unenforceable under, any applicable law or jurisdiction is void without invalidating the remaining terms of this said Agreement. However, where the provisions of any such applicable law may be waived, they are hereby waived by a party, as the case may be, to the fullest extent permitted by the law, and the affected terms are enforceable in accordance with the parties' original intent.

d. SURVIVAL OF PROMISES. Notwithstanding any expiration, termination or cancellation of this Agreement, the rights and obligations pertaining to payment or repayment of funds and/or liquidated damages, confidentiality, disclaimers and limitation of liability, indemnification, and any other provision implying survivability will remain in effect after this Agreement ends.

e. BINDING EFFECT. This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the parties and their successors and assigns and shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns and all other state agencies and any other agencies, departments, divisions, governmental entities, public corporations and other entities which shall be successors to each of the parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the parties hereto.

f. SUCCESSORS AND ASSIGNS. TAMUS and Lexicon, or any legal successor thereto or prior assignee thereof, may assign its rights and obligations under this Agreement, including by merger or operation of law, to any legal successor or any person or entity that acquires all or substantially all of its business and operations. In addition, with the prior written consent of the State, which consent shall not be unreasonably withheld or delayed, TAMUS and Lexicon, or any legal successor company thereto or prior assignee thereof, may assign its rights and obligations under this Agreement to any parent or wholly owned subsidiary that it currently has in place or later establishes, if it is constituted as a separate legally recognized business entity. Any such assignment will be made without additional consideration being payable to the State. This Agreement shall survive any sale, change of control or similar transaction involving TAMUS and Lexicon, any successor thereto or prior assignee thereof and no such transaction shall require the consent of the State.

g. FORCE MAJEURE. Neither Lexicon nor TAMUS shall be required to perform any obligation under this Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, natural disaster, or interruption of utilities from external causes.

h. NOTICE. All notices, requests, demands and other communications will be in writing and will be deemed given and received (i) on the date of delivery when delivered by hand, (ii) on the following business day when sent by confirmed simultaneous telecopy, (iii) on the following business day when sent by receipted overnight courier, or (iv) three (3) business days after deposit in the United States Mail when mailed by registered or certified mail, return receipt requested, first class postage prepaid, as follows:

If to the State to:

General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711  
Phone: 512-463-1788  
Fax: 512-463-1932

If to TAMUS to:

A&M System Building Suite 2043  
200 Technology Way  
College Station, TX 77845-3424

Attention: Chancellor

Telephone: (979) 458-6000  
Facsimile: (979) 458-6044

With a copy to:  
A&M System Building  
Suite 2043  
200 Technology Way  
College Station, TX 77845-3424

Attention: General Counsel  
Telephone: (979) 458-6122  
Facsimile: (979) 458-6150

If to Lexicon to:

Lexicon Genetics Incorporated  
8800 Technology Forest Place  
The Woodlands, Texas 77381  
Attn: Chief Executive Officer  
Copy to: General Counsel  
Phone: (281) 863-3000  
Fax: (281) 863-8010

{SIGNATURE PAGE FOLLOWS}

The parties have caused this Economic Development Agreement to be executed by their duly authorized representatives as of the date first specified above.

THE STATE OF TEXAS

\_\_\_\_\_  
GOVERNOR RICK PERRY

TEXAS A&M UNIVERSITY SYSTEM

\_\_\_\_\_  
CHANCELLOR

LEXICON GENETICS INCORPORATED

\_\_\_\_\_  
PRESIDENT & CEO

EXHIBIT A

LETTER FROM GOVERNOR, LIEUTENANT GOVERNOR AND SPEAKER APPROVING GRANT TO  
TAMUS AND LEXICON FROM THE TEXAS ENTERPRISE FUND

EXHIBIT B

AGREEMENTS BETWEEN LEXICON AND TAMUS.

TAMUS and Lexicon have entered into, and shall perform their obligations under, agreements with respect to the following matters:

- a. Lexicon's generation and delivery to TIGM of the OmniBank II Library. As among the State, TAMUS and TIGM, title to both copies of the library will be held in the name of TAMUS, and TAMUS will provide TIGM with access to the libraries pursuant to the arrangements described below.
- b. Restrictions for a specified period on Lexicon's ability to make a new library of gene trapped knockout mouse embryonic stem cell clones in direct competition with the OmniBank II Library, or grant any license to a third party the right under the relevant gene trapping patent rights and know-how to make such a library for such purposes. For clarity, no restrictions whatsoever will be imposed with respect to Lexicon's existing OmniBank library.
- c. Lexicon's licensing and delivery to TIGM of bioinformatics software for the management of data relating to the OmniBank II Library and the generation and phenotypic analysis of knockout mice.
- d. Lexicon's provision of services necessary at each of the two TIGM locations (A) to install the bioinformatics software and to load the software databases with the OmniBank II Library gene sequence data and (B) to train TIGM staff in the use of the OmniBank II Library and the bioinformatics software, and the generation, genotyping and phenotyping of knockout mice.
- e. Lexicon's grant to TIGM of (A) a non-exclusive license under the relevant gene trapping patent rights and know-how controlled by Lexicon to use the OmniBank II Library and to make, use and sell knockout mice derived therefrom, (B) a non-exclusive sublicense under specified gene targeting patent rights and know-how controlled by Lexicon to make (but not have made) and use gene targeted knockout mice, and (C) a non-exclusive license under the copyrights and know-how controlled by Lexicon to use the bioinformatics software delivered by Lexicon.
- f. Until the two copies of the OmniBank II Library are fully established and operational, access under specified terms and conditions to knockout mouse ES cell clones from Lexicon's existing OmniBank library, at an agreed-upon cost.
- g. TAMUS's lease to TIGM of the facilities constructed to house the OmniBank II Library.
- h. TIGM's responsibility to TAMUS for satisfying TAMUS's Job Target obligations set forth in this Agreement, in each case subject to the applicable Funding Offsets and Surplus Job Credits described below.
- i. TAMUS's furnishing to TIGM of the operating funds and/or in-kind services needed to fund TIGM's operations until it has established sufficient revenue to be self-sufficient,

but in no event shall TAMUS be obligated to furnish more than \$3 million in cumulative funds and in-kind services.

- k. TAMUS's right to receive the net assets of TIGM (including Lexicon licenses) upon its dissolution and to step in to protect the viability of the program if TIGM is failing to perform.
- l. TIGM's obligation to comply with reasonable financial and operating covenants in favor of TAMUS so long as TAMUS is exposed to the refund risk to the State
- m. Lexicon's and TAMUS's obligations to share information related to job creation and retention in advance of the due dates for the Annual Compliance Verifications (defined below) in order to determine and know in advance the content of their respective Annual Compliance Verifications; and including provisions for Lexicon to continue to report to TAMUS after Lexicon has satisfied its obligations to generate and maintain jobs the job activity of Lexicon and its affiliates that would allow TAMUS to prepare on a timely basis its Annual Compliance Verifications, with all appropriate credit for job creation and retention by Lexicon and its affiliates.

Confidential materials omitted and filed separately with the Securities and Exchange Commission. Asterisks denote omissions.

#### COLLABORATION AND LICENSE AGREEMENT

THIS COLLABORATION AND LICENSE AGREEMENT (this "Agreement") is dated as of July 15, 2005 (the "Effective Date") and is made by and among LEXICON GENETICS INCORPORATED, a Delaware corporation ("Lexicon"), THE TEXAS A&M UNIVERSITY SYSTEM ("TAMUS") for the benefit of TEXAS A&M UNIVERSITY ("TAMU") and the TEXAS A&M HEALTH SCIENCE CENTER ("TAMHSC"), and the TEXAS INSTITUTE FOR GENOMIC MEDICINE, a Texas non-profit corporation ("TIGM"). Lexicon, TAMUS and TIGM are sometimes referred to herein individually as a "party" and collectively as the "parties."

#### RECITALS

WHEREAS, Lexicon has technology for and expertise in the generation of mouse embryonic stem cell clones containing gene trap mutations that can be used in the production of knockout mice;

WHEREAS, Lexicon and TAMUS are interested in collaborating in the start-up and initial operations of TIGM, including the endowment of TIGM with a library of such mouse embryonic stem cell clones containing gene trap mutations;

WHEREAS, the State of Texas, acting by and through the Office of the Governor, Economic Development and Tourism (the "State"), has committed to provide fifty million dollars (\$50,000,000) in funding for the foregoing under an Economic Development Agreement, dated as of the Effective Date, among the State, Lexicon and TAMUS (the "Economic Development Agreement");

NOW, THEREFORE, in consideration of the premises and of the covenants herein contained, the parties hereto mutually agree as follows:

#### ARTICLE 1. DEFINITIONS

For purposes of this Agreement, the terms defined in this Article 1 shall have the respective meanings specified below:

1.1 "Academic Institution" means any university or non-profit entity.

1.2 "Affiliate" means any corporation, company, partnership, joint venture or firm that controls, is controlled by or is under common control with a party to this Agreement. For purposes hereof, "control" means (a) in the case of a corporate entity, direct or indirect ownership of more than fifty percent (50%) of the stock or shares entitled to vote for the election of directors; and (b) in the case of a non-corporate entity, direct or indirect ownership of more than fifty percent (50%) of the equity interests with the power to direct the management and policies of such non-corporate entity. For clarity, TIGM, as a non-profit corporation without stock, shares or equity interests, shall not be deemed an Affiliate of Lexicon or TAMUS.

1.3 "Bioinformatics Software" means the software described in Exhibit 1.3 for the management and analysis of data relating to the OmniBank II Library and the production, genotyping and phenotypic analysis of knockout mice.



1.4 "Commercial Entity" means any person or entity other than an Academic Institution or Government Agency.

1.5 "Confidential Information" means any proprietary information and data received by a party or its Affiliates (the "Receiving Party") from the other party or its Affiliates (the "Disclosing Party") in connection with this Agreement. Notwithstanding the foregoing, Confidential Information shall not include any part of such information or data that:

(a) is or becomes part of the public domain other than by unauthorized acts of the Receiving Party or its Affiliates;

(b) can be shown by written documents to have been already in the possession of the Receiving Party or its Affiliates prior to disclosure under this Agreement, provided such Confidential Information was not obtained directly or indirectly from the Disclosing Party under an obligation of confidentiality;

(c) can be shown by written documents to have been disclosed to the Receiving Party or its Affiliates by a Third Party, provided such Confidential Information was not obtained directly or indirectly from the Disclosing Party under an obligation of confidentiality; or

(d) can be shown by written documents to have been independently developed by the Receiving Party or its Affiliates without use of, or access to, Confidential Information of the Disclosing Party.

Specific Confidential Information of a Disclosing Party shall not be deemed to come under the foregoing exceptions merely because it is embraced by more general information that is or becomes part of the public domain, or is known by, disclosed to or independently developed by the Receiving Party.

1.6 "Control" or "Controlled" means, with respect to any (a) material, document, item of information, method, data or other know-how or (b) Patent Right or other intellectual property right, the possession (whether by ownership or license, other than by a license granted pursuant to this Agreement) by a party or its Affiliates of the ability to grant to the other party access, ownership, a license or a sublicense as provided herein under such item or right without violating the terms of any agreement or other arrangement with any third party as of the time such party would first be required hereunder to grant the other party such access, ownership, license or sublicense.

1.7 "Cover," "Covered" or "Covering" means, with respect to a Patent Right, that, but for rights granted to a person or entity under such Patent Right, the practice by such person or entity of an invention claimed in such Patent Right would infringe a Valid Claim included in such Patent Right, or in the case of a Patent Right that is a patent application, would infringe a Valid Claim in such patent application if it were to issue as a patent.

1.8 "Cre-Lox Patents" means the United States and foreign patents listed in Exhibit 1.8, and any continuations, continuations-in-part, divisionals, reissues, reexaminations or extensions of any of the foregoing. The terms "Cre" and "lox" (also referred to as "loxP") have the meanings as described and embodied by the Cre-Lox Patents.

1.9 "Development Plan" means the plan described in Exhibit 1.9 for the generation and delivery to TIGM of the OmniBank II Library.

1.10 "Diligent Efforts" means the carrying out of obligations or tasks by a party (or, as applicable, its Affiliates) in a sustained manner using good faith commercially reasonable and diligent efforts, which efforts shall be consistent with the exercise of prudent scientific and business judgment in accordance with the efforts such party devotes to products or research, development or marketing projects of similar scientific and commercial potential. Diligent Efforts requires that the party or its applicable Affiliates: (a) promptly assign responsibility for such obligations to specific employees who are held accountable for progress and monitor such progress on an on-going basis, (b) set and consistently seek to achieve specific and meaningful objectives for carrying out such obligations, and (c) consistently make and implement decisions and allocate resources designed to advance progress with respect to such objectives.

1.11 "Disclosing Party" has the meaning specified in Section 1.5 hereof.

1.12 "Economic Development Agreement" has the meaning specified in the recitals of this Agreement.

1.13 "Effective Date" means the date specified in the initial paragraph of this Agreement.

1.14 "Event of Default" means an event described in Section 9.3.1 hereof.

1.15 "Existing OmniBank(R) Library" means Lexicon's library of mouse embryonic stem cell clones with Selected Mutations in existence as of the Effective Date.

1.16 "Facilities" means the facilities funded under the Economic Development Agreement to house TIGM and the OmniBank II Library at TAMHSC's Institute of Biosciences and Technology in Houston, Texas and at TAMU's Research Park in College Station, Texas, as more fully described in Exhibit 1.16.

1.17 "Gene Trapping Patents" means the United States and foreign patents listed in Exhibit 1.17.

1.18 "Government Agency" means any agency or unit of any federal, national, state, provincial, county, city or other government, domestic or foreign.

1.19 "Joint Management Committee" has the meaning specified in Section 2.1.2 of this Agreement.

1.20 "Laws" means all laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of any federal, national, state, provincial, county, city or other political subdivision, domestic or foreign.

1.21 "Lexicon" has the meaning specified in the initial paragraph of this Agreement.

1.22 "Library Technology" means any inventions, information, methods, know-how, trade secrets or data, including, without limitation, the inventions Covered by the Gene Trapping Patents, that (a) are Controlled by Lexicon and (b) are utilized in the generation of the OmniBank II Library or Mutant Mice, but only to the extent so utilized; provided that Library Technology excludes the inventions Covered by the Cre-Lox Patents.

1.23 "Lox Mice" has the meaning specified in Section 3.1.1.2 of this Agreement.

1.24 "Materials" means Mutant Mice, Progeny and cells, tissues and other biological materials derived from any of the foregoing; provided that Materials shall not include cells, tissues or other biological materials that do not contain a Selected Mutation.

1.25 "Materials Access Agreement" has the meaning specified in Section 3.2 of this Agreement.

1.26 "Mutant Mouse" means mouse cell or mouse containing a Selected Mutation that is delivered to TIGM under this Agreement, whether as part of the OmniBank II Library or from the Existing OmniBank Library. A "line of Mutant Mice" means Mutant Mice having the same Selected Mutation.

1.27 "[\*\*]" shall mean all payments and other consideration received by TIGM and its Affiliates from Sublicensed Recipients [\*\*] for the generation or development of, or access to or licensing of, Materials (including, without limitation, for the delivery of Materials or the grant of a license under any intellectual property rights relating thereto), less any (a) freight, insurance and other transportation costs, (b) taxes (excluding federal, state or local taxes based on income), duties or other governmental charges imposed on the production, sale, importation, exportation or use, in each case that are actually paid by TIGM and its Affiliates with respect to the delivery of such Materials, (c) trade, quantity and cash discounts, (d) refunds, rebates, chargebacks, retroactive price adjustments and billing errors, and (e) allowances or credits due to rejections or returns.

1.28 "OmniBank II Library" has the meaning specified in Section 2.2.1.

1.29 "Patent Rights" means all existing patents and patent applications and all patent applications hereafter filed and patents hereafter issued, including, without limitation, any continuations, continuations-in-part, divisions, provisionals or any substitute applications, any patent issued with respect to any such patent applications, any reissue, reexamination, renewal or extension (including any supplemental protection certificate) of any such patent, and any confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing.

1.30 "Progeny" means mice, including successive generations thereof, that are produced, developed or derived by or on behalf of TIGM or Sublicensed Recipients directly or indirectly from a Mutant Mouse progenitor, including, without limitation, by breeding or rederivation; provided that Progeny shall not include mice that do not contain a Selected Mutation.

1.31 "Receiving Party" has the meaning specified in Section 1.5 hereof.

1.32 "Selected Mutation" means a specific mutation in a particular portion of a gene originally introduced by Lexicon in a mouse embryonic stem cell through the use of gene trapping technology.

1.33 "State" has the meaning specified in the recitals of this Agreement.

1.34 "Sublicensed Recipient" means any Academic Institution, Commercial Entity or Government Agency to which TIGM sells or licenses Materials under this Agreement.

1.35 "TAMHSC" has the meaning specified in the initial paragraph of this Agreement.

1.36 "TAMU" has the meaning specified in the initial paragraph of this Agreement.

1.37 "TAMUS" has the meaning specified in the initial paragraph of this Agreement.

1.38 "TIGM" has the meaning specified in the initial paragraph of this Agreement.

1.39 "Valid Claim" means either (a) a claim of an issued and unexpired patent which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, or (b) a claim of a pending patent application that has not been pending for more than seven (7) years and that has not been abandoned or finally rejected without the possibility of appeal or refiling.

## ARTICLE 2. COLLABORATION

### 2.1 General.

2.1.1 Overview. The parties intend to collaborate in the start-up and initial operations of TIGM, as set forth in this Article 2. In support of the foregoing and as set forth in the present Agreement, (a) Lexicon will develop and deliver to TIGM the OmniBank II Library, install and support the Bioinformatics Software, and provide training to TIGM's staff in the use of the OmniBank II Library and the production, genotyping and phenotyping of knockout mice; (b) TAMUS will construct and make available to TIGM the Facilities and will furnish to TIGM the operating funds and/or in-kind services needed to fund TIGM's operations as provided herein until TIGM has established sufficient revenue to be self-sufficient unless earlier dissolved; and (c) TIGM will use Diligent Efforts to obtain research grants and contracts, expand its membership and promote, through the development of its research operations and collaborations with third parties, the expansion of the biotechnology and pharmaceutical industries and associated employment in the state of Texas; in each case, subject to and in accordance with the terms of this Agreement.

2.1.2 Collaboration Management. Lexicon, TAMUS and TIGM shall establish a committee whose members shall be responsible for managing their respective efforts under this Agreement (the "Joint Management Committee"), including but not limited to the coordination (as between the parties) and management of the following matters:

(a) planning and implementation of the parties' efforts under this Agreement; and

(b) timely transfer of relevant information and progress reports in connection with the collaboration contemplated by this Agreement.

Lexicon, TAMUS and TIGM shall each appoint one member of its senior management and one member of its senior technical staff to the Joint Management Committee. The members of the Joint Management Committee initially designated by the parties are set forth in Exhibit 2.1.2. In addition, subject to the approval of the other parties, which approval shall not be unreasonably withheld, Lexicon, TAMUS and TIGM shall each assign a project coordinator (a) to act as a conduit for timely transfer of relevant information and progress reports in connection with the collaboration and (b) to be responsible for managing its day-to-day efforts under the collaboration. Subject to the approval of the other parties, which approval shall not be unreasonably withheld, each party shall have the right to replace its representatives on the Joint Management Committee and its project coordinator by giving written notice to the other parties.

2.1.3 Resources. The parties agree to commit to the collaboration the personnel and resources necessary to meet their respective responsibilities set forth in this Agreement.

2.1.4 Reports. Each party shall submit quarterly reports to the Joint Management Committee detailing its activities under this Agreement.

2.1.5 No Authority to Direct Actions of the Other Party. Although the parties acknowledge and agree that the coordination of their respective efforts under this Agreement is essential, each party shall retain the authority to direct, and the responsibility for, its own efforts under this Agreement. Nothing in this Article 2 shall be deemed to grant the Joint Management Committee the authority to direct the actions of Lexicon, TAMUS or TIGM or to modify the rights and obligations of the parties under this Agreement.

2.1.6 Further Discussions. With respect to any dispute among the parties to the collaboration, the parties will periodically consult with one another regarding the collaboration and discuss in good faith whether modifications or amendments to the Economic Development Agreement, Development Plan or this Agreement are advisable in light of the purposes of the collaboration contemplated hereby and the respective interests of the parties. No such modification or amendment shall be effective unless agreed to by each party, in its sole discretion, in accordance with Section 10.7.

## 2.2 Lexicon Obligations

2.2.1 Development and Delivery of OmniBank II Library and Mutant Mice.

2.2.1.1 Development of OmniBank II Library. Subject to the terms of this Agreement, Lexicon will generate and deliver to TIGM two (2) complete copies of a library consisting of three hundred fifty thousand (350,000) mouse embryonic stem cell clones with Selected Mutations, each identified by DNA sequence of its genomic integration site (the "OmniBank II Library"). Subject to the terms of this Agreement, Lexicon will use Diligent Efforts to generate and deliver the OmniBank II Library in accordance with the schedule set forth in the Development Plan. Lexicon will not purposefully exclude clones with Selected Mutations in any particular gene or genes from the OmniBank II Library.

2.2.1.2 Requests for Clones from Existing OmniBank Library. Subject to the terms of this Agreement, until the generation and delivery of the OmniBank II Library has been completed, TIGM may request mouse embryonic stem cell clones with Selected Mutations from the Existing OmniBank Library, and shall be provided with reasonable access to the database and search tools of Lexicon as may be necessary for TIGM to make such requests. Promptly following any such request, Lexicon shall notify TIGM of its acceptance or rejection thereof; provided that Lexicon may reject such requests only in the event that it has obligations under any collaboration or license agreement with a third party or an active bona fide internal discovery program with respect to knockout mice with a mutation in the same gene in which the requested embryonic stem cell clone has a Selected Mutation, in which concrete, verifiable laboratory studies have been initiated by Lexicon prior to the time of such request. In the event of its acceptance of such a request, Lexicon shall use Diligent Efforts to process mouse embryonic stem cell clones with a Selected Mutation in the requested gene and, provided that such clones pass Lexicon's quality control tests, to deliver a vial of such clones to TIGM.

2.2.1.3 Deliveries. Beginning no earlier than six (6) months following the Effective Date, Lexicon shall deliver notices to TIGM of the availability for shipment to

TIGM of embryonic stem cell clones comprising part of the OmniBank II Library or requested by TIGM from the Existing OmniBank Library. Promptly following its receipt of such notice, TIGM shall notify Lexicon confirming that it is prepared to accept such shipment. Lexicon shall be responsible for making shipping arrangements for all such materials; provided that TIGM shall be responsible for (a) paying all shipment and delivery charges in connection therewith and (b) obtaining, if desired, and paying for any insurance relating to such shipment. TIGM shall also be responsible for complying with all customs, regulations, veterinary handling procedures and protocols, and obtaining any and all permits, forms or permissions that may be required for TIGM to accept such shipments. All such materials will be shipped F.O.B. Lexicon. If TIGM fails to provide confirmation that it is prepared to accept a shipment within thirty (30) days after Lexicon's notice that such materials are available for shipment, TIGM shall pay Lexicon a storage and maintenance charge of Five Thousand Dollars (U.S.\$5,000) with respect to such shipment for each month or partial month thereafter until Lexicon receives such written confirmation. If TIGM fails to provide such written confirmation within three (3) months after Lexicon's delivery of such notice to TIGM, Lexicon shall be deemed to have delivered such materials and satisfied all of its obligations with respect thereto, and may dispose of such materials at its discretion.

2.2.1.4 Title to Physical Materials. As between the State, TAMUS and TIGM, title to the physical materials comprising the OmniBank II Library will be held in the name of TAMUS, and TAMUS will provide TIGM with access to the OmniBank II Library pursuant to the arrangements described below.

2.2.1.5 Restrictions on Creation of Competitive Library. For a period ending on the earliest to occur of (a) ten (10) years from the Effective Date, (b) the date on which Lexicon and TAMUS have accumulated funding offsets and surplus job credits sufficient to offset the full amount of the potential repayment penalty liability for shortfalls in achieving their collective job target commitments to the State under the Economic Development Agreement, and (c) the date that TIGM commences dissolution proceedings, but in no event earlier than the later of (i) five (5) years from the Effective Date and (ii) two (2) years following the satisfaction or earlier termination of Lexicon's obligations to generate and deliver to TIGM the OmniBank II Library, Lexicon will not make or commence making for a third party a new library of mouse embryonic stem cell clones with Selected Mutations under a license that would permit such party to use and sell such library in direct competition with the OmniBank II Library, or grant to a third party the right under the Gene Trapping Patents and related Library Technology to make such a library for such purposes. For purposes of the foregoing, the duplication of fifty percent (50%) or more of the clones represented in the Existing OmniBank Library for delivery to a third party under a license that would permit such party to use and sell such library in direct competition with the OmniBank II Library shall be deemed to constitute the making of a new library for such third party. For clarity, except as specifically provided in the foregoing sentence, no restrictions whatsoever will be imposed with respect to the Existing OmniBank Library.

2.2.1.6 Technical Difficulties. TIGM and TAMUS recognize that the generation of mouse embryonic stem cell clones with Selected Mutations involves a number of technologically complex steps and that technical obstacles may, on occasion, delay or, in the case of clones requested from the Existing OmniBank Library, even prevent such clones from being made available for shipment to TIGM. Lexicon shall promptly notify TIGM of any such technical obstacle and its estimate of the delay, if any, in the timelines

contemplated by the Development Plan and this Agreement for the delivery of mouse embryonic stem cell clones with Selected Mutations hereunder. Lexicon shall not be held liable or responsible to TIGM or TAMUS nor be deemed to have defaulted under or breached this Agreement for any such delay; provided, however, that (a) Lexicon shall use Diligent Efforts to limit any such delay and overcome the relevant technical obstacle as promptly as possible and (b), subject to Section 10.1, such delay does not extend the completion of the OmniBank II Library beyond the third anniversary of the Effective Date.

2.2.1.7 Third Party Rights. Lexicon shall not be obligated to develop or deliver a Mutant Mouse where Lexicon reasonably believes, with the advice of its counsel and after consultation with TIGM, that such action would infringe any valid intellectual property or contractual rights of a third party.

#### 2.2.2 Installation and Support of Bioinformatics Software.

2.2.2.1 Installation. Lexicon shall deliver the Bioinformatics Software to TIGM promptly following the Effective Date. Lexicon will provide services necessary to install the Bioinformatics Software on TIGM's computer systems at each of the two (2) locations housing a copy of the OmniBank II Library. TIGM shall be responsible for obtaining all necessary hardware and third party-software necessary to install and operate the Bioinformatics Software.

2.2.2.2 Support Services. Promptly following the installation of the Bioinformatics Software at TIGM, Lexicon shall provide initial training for TIGM's staff, at each of the two (2) locations housing a copy of the OmniBank II Library, in the operation and use of the Bioinformatics Software. During the period ending one year after the satisfaction or earlier termination of Lexicon's obligations to generate and deliver to TIGM the OmniBank II Library, Lexicon shall provide, at no additional charge to TIGM, (a) such services as may be necessary to load the databases relating to the Bioinformatics Software with the gene sequence data identifying clones in the OmniBank II Library, (b) reasonable training at each of the two (2) locations housing a copy of the OmniBank II Library on the use of the Bioinformatics Software and the database containing data relating to the OmniBank II Library and (c) reasonable telephone support of the Bioinformatics Software during business hours. For a period of five years from the Effective Date, Lexicon shall provide, at no additional charge to TIGM, all error corrections to the Bioinformatics Software that Lexicon makes in the course of its business.

2.2.2.3 Source Code Escrow Arrangements. At TAMUS or TIGM's request, Lexicon will make arrangements reasonably satisfactory to TAMUS and TIGM for an escrow of the source code, programmers notes and other materials that TIGM can access and use in the event that Lexicon becomes unable to perform the foregoing obligations.

2.2.3 Provision of Training in the Production of Knockout Mice. Promptly following the Effective Date, Lexicon shall provide reasonable training for TIGM's staff, at each of the two (2) locations housing a copy of the OmniBank II Library, in the production, genotyping and phenotyping of knockout mice.

## 2.3 TAMUS Obligations

2.3.1 Facilities. TAMUS shall make available to TIGM, on commercially reasonable terms, adequate facilities in Houston and College Station, Texas to house the OmniBank II Library and conduct its operations. In connection with the foregoing obligation, TAMUS shall use Diligent Efforts to complete the Facilities and lease the Facilities to TIGM on commercially reasonable terms, taking into account, in establishing such terms, the funding provided by the State to TAMUS under the Economic Development Agreement for TIGM's benefit.

2.3.2 Access to OmniBank II Library. TAMUS shall furnish TIGM with the use of the OmniBank II Library, and unless and until TIGM commences dissolution proceedings, TAMUS shall access the OmniBank Library only as a Sublicensed Recipient through TIGM.

2.3.3 Funding of TIGM Operations. TAMUS will furnish to TIGM the operating funds and/or in-kind services needed to fund TIGM's operations until it has established sufficient revenue to be self-sufficient, but in no event shall TAMUS be obligated to furnish more than three million dollars (\$3,000,000) in net cumulative funds or in-kind services.

## 2.4 TIGM Obligations

2.4.1 Operations. TIGM shall use Diligent Efforts to (a) obtain research grants and contracts, on its own and in collaboration with its members; (b) expand its membership, particularly with respect to Academic Institutions within the State of Texas; and (c) promote, through the development of its research operations and collaborations with third parties, the expansion of the biotechnology and pharmaceutical industries and associated employment in the State of Texas.

2.4.2 Reporting. Within ten (10) days after each calendar quarter, TIGM shall furnish to Lexicon and TAMUS a written quarterly report showing, in reasonable detail, funds received during the reporting period (and, to the extent not previously reported, during previous reporting periods) by TIGM and, to the extent related to research using materials obtained from TIGM, by TIGM members directly or indirectly from funding sources other than the State, including, without limitation, all such funds received under grants and contracts from the National Institutes of Health, other federal government agencies, research institutes, foundations, and companies in the biotechnology and pharmaceutical industries, together with evidence thereof (e.g., in the form of grant and contract documents or third party reports) that is sufficient to satisfy the standards of the Economic Development Agreement for purposes of establishing entitlement to funding offsets. Within ten (10) days after each calendar year, TIGM shall furnish to Lexicon and TAMUS a written annual report showing, in reasonable detail, "Employment Positions" (as defined in the Economic Development Agreement) for the year attributable to (a) TIGM, (b) TIGM members, (c) employers in the biotechnology or pharmaceutical industries, and (d) other positions for which TIGM or TIGM members are significantly responsible for creating through efforts specifically targeted at attracting or creating biotechnology and pharmaceutical industry-related positions to Texas, in each case without duplication, together with evidence thereof that is sufficient to satisfy the standards of the Economic Development Agreement for such purposes. TIGM shall keep complete and accurate records in sufficient detail to properly reflect its activities under this Agreement and to enable the preparation of the foregoing reports and supporting documentation, and shall require its members to provide it with periodic written reports and supporting information as may be reasonably necessary therefor. Each such report shall include a certification by TIGM as to the accuracy of the information contained therein.



2.4.3 Clawback Payment Obligation. TIGM shall pay TAMUS any obligation it may have under its job target commitment guarantee prior to the due date for TAMUS's payment to the State under the Economic Development Agreement.

2.5 Obtaining of TIGM Research Grants and Contracts. To effect the goals of the collaboration contemplated by this Agreement, Lexicon and TAMUS shall provide reasonable assistance to TIGM in its efforts to obtain research grants and contracts involving use of the OmniBank II Library, including, in the case of Lexicon, providing (a) scientific and technical information to support the submission of any grant or contract request and (b) technical support in the preparation of grant or contract requests. In furtherance of the foregoing, Lexicon and TAMUS will notify TIGM of opportunities for obtaining research grants and contracts from Government Agencies that either such party, in its respective discretion, deems suitable for application by TIGM or for joint application by TIGM, Lexicon and/or TAMUS. In addition, TIGM may request that Lexicon and/or TAMUS participate in joint applications with TIGM for research grants and contracts from Government Agencies in the event TIGM believes that such participation will improve the award potential for any such grant or contract; provided that neither Lexicon nor TAMUS shall have any obligation to participate in such application. To the extent TIGM, Lexicon and/or TAMUS elect to participate in any such joint application, each such participating party will provide reasonable cooperation to, and will coordinate efforts with, the other participating party or parties.

### ARTICLE 3. GRANTS OF RIGHTS

#### 3.1 Grants of Licenses.

##### 3.1.1 OmniBank II Library and Mutant Mice.

3.1.1.1 Library Technology. Subject to the terms of this Agreement, Lexicon hereby grants to TIGM a worldwide, non-exclusive right and license (without any right to grant sublicenses except to Sublicensed Recipients under the terms and subject to the conditions set forth in Section 3.2) under Lexicon's rights in the Library Technology, including, without limitation, any Patent Rights Controlled by Lexicon Covering the foregoing, (a) to use the OmniBank II Library and Mutant Mice obtained from the Existing OmniBank Library and (b) to make, use and sell Materials derived therefrom. TIGM's right under the foregoing license to sell Materials shall be subject to the conditions set forth in Section 3.2.

3.1.1.2 Cre-Lox Patents. The following provisions shall apply to the extent that a Mutant Mouse or Progeny contains one or more lox sites in its genome:

(a) Subject to the terms of this Agreement, Lexicon hereby grants to TIGM the non-transferable, non-exclusive right under Lexicon's rights in the Cre-Lox Patents to use, breed and cross-breed Mutant Mice and Progeny that contain one or more lox sites in their genome ("Lox Mice"), at the internal research facilities of TIGM, solely for research purposes; provided however, that TIGM shall not manipulate the genetic information at any lox site of a Lox Mouse by using the technology claimed by the Cre-Lox Patent Rights (including without limitation cross-breeding a Lox Mouse with a mouse containing DNA capable of expressing a Cre recombinase protein) or otherwise further practice under a Valid Claim of the Cre-Lox Patent Rights without first obtaining a license from DuPont Pharmaceutical Company or its successors.

(b) Upon TIGM's request, Lexicon will enter into agreement(s) with Sublicensed Recipients granting rights to such Sublicensed Recipients under Lexicon's rights in the Cre-Lox Patents substantially equivalent to those granted to TIGM in the foregoing subsection (a). TIGM shall not transfer any Lox Mice or any progeny or material in any way derived from such Lox Mice to any third party, except for such transfers as may be permitted pursuant to Section 3.2 to Sublicensed Recipients that have entered into such an agreement with Lexicon with respect thereto.

(c) No right is granted to TIGM to sell (or lease or otherwise transfer for consideration) or develop or manufacture for sale (or lease or other transfer for consideration) any product, the manufacture, use, sale or importation of which would infringe a Valid Claim of the Cre-Lox Patents, including but not limited to any product which is manufactured using a composition or method which would infringe a Valid Claim of the Cre-Lox Patents.

(d) Subject to the restricted non-exclusive license granted to TIGM, Lexicon (and its licensors as applicable) shall retain all rights under the Cre-Lox Patents with respect to the Lox Mice.

3.1.2 Bioinformatics Software. Subject to the terms of this Agreement, Lexicon hereby grants to TIGM a worldwide, non-exclusive right and license (without any right to grant sublicenses) to use the Bioinformatics Software, under the copyrights and know-how Controlled by Lexicon with respect thereto. TIGM shall have the right under the foregoing license to custom configure the Bioinformatics Software for its internal use.

3.1.3 Covenant Not to Sue. TIGM shall not assert or enforce, and shall obligate Sublicensed Recipients not to assert or enforce, against Lexicon, or any of Lexicon's licensees, any claim of an issued patent arising from the use by TIGM or a Sublicensed Recipient of Materials containing a Selected Mutation which claim would, absent a license, be infringed by, or otherwise prevent Lexicon or its licensees from, making, using, selling or importing transgenic or knockout mice having a mutation in the same gene as such Selected Mutation or cells, tissues and other biological materials derived therefrom.

3.2 Conditions of Sale and Use of Materials. Any sale or license of Materials by TIGM to a Sublicensed Recipient shall be made pursuant to an agreement between TIGM and such Sublicensed Recipient (a "Materials Access Agreement") that expressly (a) permits the use of Materials solely for the research purposes of such Sublicensed Recipient and its Affiliates and (b) prohibits the sale or transfer of Materials by such Sublicensed Recipient or its Affiliates to any third party; provided that such Materials Access Agreement may permit a Sublicensed Recipient or its Affiliates to transfer Materials, without receiving any consideration therefor, to (i) an Academic Institution or Government Agency subject to a material transfer agreement that contains terms substantially equivalent to those required above with respect to Materials Access Agreements or (ii) to a third party contractor for purposes of such contractor's performance of fee-for-service contract research services for such Sublicensed Recipient and its Affiliates, subject to a material transfer agreement that (A) permits the use of Materials by such contractor solely for the research purposes of such Sublicensed Recipient and its Affiliates, (B) assigns exclusively to such Sublicensed Recipient or its Affiliates any and all rights to all data and information generated or developed, and all discoveries and inventions made (including, without limitation, all patent and other intellectual property rights therein), by such contractor through use of such Materials, (C) prohibits the sale or transfer of such Materials by such contractor to any third party and (D) obligates such contractor to return or destroy such Materials upon the completion of its services for such Sublicensed Recipient or its Affiliates. TIGM and its Affiliates may use Materials constituting, or produced, developed or derived

from, a line of Mutant Mice in providing services to or for the benefit of a Sublicensed Recipient only if and to the extent that TIGM or its Affiliates have first sold or licensed Materials constituting, or produced, developed or derived from, the same line of Mutant Mice to such Sublicensed Recipient under a Materials Access Agreement. Each Materials Access Agreement shall expressly provide that Lexicon is an intended third-party beneficiary of such Materials Access Agreement with the right to enforce the terms and conditions described above. TIGM shall provide Lexicon with copies of any such Materials Access Agreement within thirty (30) days after execution and delivery thereof.

3.3 No Grant of Other Technology or Patent Rights. Except as otherwise expressly provided in this Agreement, under no circumstances shall a party hereto, as a result of this Agreement, obtain any ownership interest in or other right to any technology, know-how, patents, patent applications, gene or genomic sequence data or information, products, or biological materials of the other party, including items owned, controlled or developed by, or licensed to, the other party, or transferred by the other party to said party, at any time pursuant to this Agreement.

ARTICLE 4. PAYMENT OBLIGATIONS

4.1 Fees for Clones from Existing OmniBank Library. TIGM shall pay to Lexicon the fees specified below for each line of Mutant Mice requested from the Existing OmniBank Library (in the form of mouse embryonic stem cell clones) under Section 2.2.1.2 of this Agreement, which fee shall be payable within thirty (30) days after Lexicon's delivery of notice under Section 2.2.1.3 of the availability for shipment to TIGM of embryonic stem cell clones for such line of Mutant Mice.

TIMING OF REQUEST -----	FEE FOR EACH LINE OF MUTANT MICE REQUESTED -----
From the Effective Date until eighteen (18) months after the Effective Date	\$[**]
From eighteen months after of the Effective Date to thirty (30) months after the Effective Date	\$[**]
After thirty (30) months from Effective Date	\$[**]

Notwithstanding the foregoing, in the event that Lexicon has failed to satisfy its obligations with respect to the completion and delivery of the OmniBank II Library by the third anniversary of the Effective Date, subject to Section 10.1, TIGM shall have no obligation to pay the fee contemplated by this Section 4.1 with respect to requests made by TIGM under Section 2.2.1.2 of this Agreement following such date until Lexicon's obligations with respect to the completion and delivery of the OmniBank II Library are subsequently satisfied.

4.2 Cre-Lox Royalties. During the term of this Agreement, until the expiration or termination of the last to expire of any Valid Claim included in the Cre-Lox Patents, TIGM shall pay Lexicon a royalty of one percent (1%) of the gross invoice price to Sublicensed Recipients of Lox Mice, which royalty shall be payable upon Lexicon's execution and delivery of the agreement contemplated by Section 3.1.1.2(b) with such Sublicensed Recipient with respect to such Lox Mice.

4.3 Royalty on [\*\*].

4.3.1 Royalty Payment Obligations. During the term of this Agreement, TIGM shall pay Lexicon a royalty of ten percent (10%) of [\*\*] (subject to a minimum royalty in the amount

of ten thousand dollars (\$10,000), on a Sublicensed Recipient-by-Sublicensed Recipient and line-by-line basis, with respect to the sale or licensing to each Sublicensed Recipient of Materials derived from a line of Mutant Mice), which royalty shall be payable within thirty (30) days after the end of the calendar quarter in which such [\*\*] are received. Notwithstanding the foregoing, to the extent that TIGM is obligated to pay Lexicon a royalty on [\*\*] with respect to such Materials under the Sublicense Agreement of even date herewith between Lexicon and TIGM (e.g., in the event that the Materials consist of Progeny derived both from a line of Mutant Mice and from mice made under the Sublicense Agreement), subject to TIGM's payment of such royalty under the Sublicense Agreement, TIGM shall not be obligated to pay the royalty set forth in this Section 4.3.1 with respect to the same [\*\*].

4.3.2 Reporting. Within thirty (30) days after each calendar quarter, TIGM shall furnish to Lexicon a written quarterly report showing, in reasonable detail: (a) [\*\*] for the reporting period and (b) the calculation of royalties under Section 4.3.1, including the basis for each element thereof. TIGM shall keep complete and accurate records in sufficient detail to properly reflect its activities under this Agreement and to enable [\*\*] and the royalties payable hereunder to be determined.

4.3.3 Audit Rights. Upon the written request of Lexicon, TIGM shall permit an independent certified public accountant selected by Lexicon and acceptable to TIGM, which acceptance shall not be unreasonably withheld, to have access, at reasonable times and during normal business hours, to such records of TIGM and its Affiliates as may be reasonably necessary to verify the accuracy of the royalty reports described herein, in respect of any fiscal year ending not more than twenty-four (24) months prior to the date of such request. Lexicon and TIGM shall use commercially reasonable efforts to schedule all such verifications within forty-five (45) days after Lexicon makes its written request. All such verifications shall be conducted not more than once in, or with respect to, each calendar year. The report of Lexicon's independent certified public accountant shall be made available to both parties. In the event Lexicon's independent certified public accountant concludes that additional royalties were owed to Lexicon for such period, the additional royalties shall be paid by TIGM within thirty (30) days of the date Lexicon delivers to TIGM such independent certified public accountant's written report so concluding, unless such report contains manifest error. The fees charged by such independent certified public accountant shall be paid by Lexicon unless such audit discloses an underpayment of more than five percent (5%) of the amount due under this Agreement for the period in question, in which case TIGM will bear the full cost of such audit. Lexicon agrees that all information subject to review under this Section 4.3.3 is confidential and that Lexicon shall cause its independent certified public accountant to retain all such information in confidence.

4.4 No Withholding Taxes. All payments due hereunder shall be paid in full, without deduction of taxes or other fees that may be imposed by any government.

4.5 Interest on Late Payments. Any payments by TIGM to Lexicon that are not paid when due under this Agreement shall bear interest, to the extent permitted by applicable law, at one percent (1.0%) per month, calculated on the total number of days payment is delinquent.

4.6 Manner of Payment. Payments to be made by TIGM to Lexicon under this Agreement shall be payable in United States dollars and shall be paid by bank wire transfer in immediately available funds to such bank account in the State of Texas as is designated in writing by Lexicon from time to time.

## ARTICLE 5. INTELLECTUAL PROPERTY

### 5.1 Ownership of Intellectual Property.

5.1.1 Ownership by Lexicon of the Library Technology. Subject to the rights and licenses granted under this Agreement, Lexicon (and its licensors, as applicable) shall own and retain all rights to the Library Technology.

5.1.2 Ownership of Other Technology and Inventions. Except as set forth in Section 5.1.1, as between the parties, (a) each party shall own all patentable inventions and discoveries conceived or reduced to practice during the course of the performance of activities pursuant to this Agreement solely by employees, agents, consultants or contractors of such party and its Affiliates; and (b) the relevant parties shall jointly own all patentable inventions and discoveries conceived or reduced to practice during the course of the performance of activities pursuant to this Agreement jointly by employees, agents, consultants or contractors of such parties and their respective Affiliates. For purposes of the foregoing, inventorship shall be determined in accordance with U.S. patent law.

5.2 Prosecution and Enforcement of Patent Rights. Each party shall have the sole right, but not the obligation, to file, prosecute and maintain Patent Rights solely owned by such party, and to institute and direct legal proceedings against any person or entity believed to be infringing such patent rights. The relevant parties shall consult with each other regarding the filing, prosecuting and maintaining of Patent Rights jointly owned by such parties and the institution, prosecution and control of any action or proceeding with respect to infringement of any of such Patent Rights.

## ARTICLE 6. CONFIDENTIALITY

### 6.1 Nondisclosure Obligations.

6.1.1 General. Except as otherwise provided in this Article 6, during the term of this Agreement and for a period of five (5) years thereafter, each Receiving Party shall maintain the Confidential Information of each Disclosing Party in confidence and use it only for purposes specifically authorized under this Agreement.

6.1.2 Limitations. To the extent it is reasonably necessary or appropriate to fulfill its obligations or exercise its rights under this Agreement and subject to advance written notification to the Disclosing Party, a party may disclose Confidential Information it is otherwise obligated not to disclose under this Section 6.1 to its Affiliates, (sub)licensees, consultants and outside contractors, on a strict need-to-know basis for the purposes contemplated by this Agreement and on condition that such entities or persons agree to keep the Confidential Information confidential for the same time periods and to the same extent as such party is required to keep the Confidential Information confidential hereunder. Furthermore, a Receiving Party may request permission from the Disclosing Party to disclose such Confidential Information to the extent that such disclosure is reasonably necessary to obtain patents which such Receiving Party is permitted to obtain hereunder, which permission shall not be unreasonably withheld or delayed.

6.1.3 Required Disclosure. A Receiving Party may disclose Confidential Information pursuant to interrogatories, requests for information or documents, subpoena, civil investigative demand issued by a court or governmental agency or as otherwise required by law; provided, however, that the Receiving Party shall notify the Disclosing Party promptly upon receipt thereof,

giving (where practicable) the Disclosing Party sufficient advance notice to permit it to oppose, limit or seek confidential treatment for such disclosure; and provided, further, that the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required whether or not a protective order or other similar order is obtained by the Disclosing Party.

6.2 Injunctive Relief. The parties hereto understand and agree that remedies at law may be inadequate to protect against any breach of any of the provisions of this Article 6 by either party or their employees, agents, officers or directors or any other person acting in concert with it or on its behalf. Accordingly, each party shall be entitled to the granting of injunctive relief by a court of competent jurisdiction against any action that constitutes any such breach of this Article 6.

#### ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 Representations, Warranties and Covenants of Lexicon. Lexicon represents and warrants to and covenants with TIGM and TAMUS that:

7.1.1 Lexicon is a corporation duly organized, validly existing and in corporate good standing under the laws of the State of Delaware;

7.1.2 Lexicon has the corporate and legal right, authority and power to enter into this Agreement, and to extend the rights and licenses granted to TIGM and TAMUS in this Agreement;

7.1.3 Lexicon has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

7.1.4 upon the execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of Lexicon, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

7.1.5 the performance of Lexicon's obligations under this Agreement will not conflict with its charter documents or result in a breach of any agreements, contracts or other arrangements to which it is a party.

7.2 Representations, Warranties and Covenants of TIGM. TIGM represents and warrants to and covenants with Lexicon and TAMUS that:

7.2.1 TIGM is a non-profit corporation duly organized, validly existing and in corporate good standing under the laws of the State of Texas;

7.2.2 TIGM has the corporate and legal right, authority and power to enter into this Agreement, and to extend the rights and licenses granted to Lexicon and TAMUS in this Agreement;

7.2.3 TIGM has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

7.2.4 upon the execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of TIGM enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

7.2.5 the performance of its obligations under this Agreement will not conflict with TIGM's charter documents or result in a breach of any agreements, contracts or other arrangements to which it is a party.

7.3 Representations, Warranties and Covenants of TAMUS. TAMUS represents and warrants to and covenants with Lexicon and TIGM that:

7.3.1 TAMUS is a public educational institution duly organized, validly existing and in good standing under the laws of the State of Texas;

7.3.2 TAMUS has the legal right, authority and power to enter into this Agreement, and to extend the rights and licenses granted to Lexicon and TIGM in this Agreement;

7.3.3 TAMUS has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

7.3.4 upon the execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of TAMUS enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' and contracting parties' rights generally and except as enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

7.3.5 the performance of its obligations under this Agreement will not conflict with TAMUS's charter documents or result in a breach of any agreements, contracts or other arrangements to which it is a party.

7.4 Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY WITH RESPECT TO ANY MUTANT MOUSE OR PROGENY (INCLUDING THE MUTAGENICITY THEREOF), PATENT RIGHTS, GOODS, SERVICES, BACKGROUND MATERIALS OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT, AND EACH PARTY HEREBY DISCLAIMS WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO ANY AND ALL OF THE FOREGOING. IN ADDITION, THE PARTIES ACKNOWLEDGE THAT THE GENERATION OR USE OF BACKGROUND MATERIALS MAY BE COVERED BY ONE OR MORE VALID PATENTS OF THIRD PARTIES. EACH PARTY ACKNOWLEDGES THAT EXERCISE BY IT OF THE RIGHTS AND LICENSES GRANTED TO IT PURSUANT TO ARTICLE 3 HEREOF MAY BE COVERED BY ONE OR MORE VALID PATENTS OF THIRD PARTIES.

7.5 Limited Liability. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NONE OF THE PARTIES TO THIS AGREEMENT WILL BE LIABLE WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT UNDER ANY CONTRACT,

NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

#### ARTICLE 8. INDEMNITY

8.1 Breaches of Representations, Warranties and Covenants. Each party shall indemnify, defend and hold harmless the other parties, their Affiliates and their respective directors, officers, employees and agents from and against any and all liabilities, obligations, fees, including attorneys' fees and costs, expenses and losses resulting from any breach of any representation, warranty or covenant on the part of the indemnifying party contained in this Agreement.

8.2 Use of Materials. Each party hereto shall indemnify, defend and hold harmless all other parties hereto, their Affiliates and their respective directors, officers, employees and agents from and against any and all liabilities, obligations, fees, including attorneys' fees and costs, expenses and losses incurred in connection with a claim against the indemnified party by a third party based on any action or omission of the indemnifying party, its Affiliates or their respective agents or employees in connection with or relating to the sale, use, handling or storage of Materials by any such indemnifying party.

8.3 Procedure. If a party or any of its Affiliates or their respective directors, officers, employees or agents (collectively, the "Indemnitee") intends to claim indemnification under this Article 8, the Indemnitee shall promptly notify the other party (the "Indemnitor") of any loss, claim, damage, liability or action in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall assume the defense thereof with counsel selected by the Indemnitor and reasonably acceptable to the Indemnitee, provided, however, that an Indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the Indemnitee, if representation of such Indemnitee by the counsel retained by the Indemnitor would be inappropriate due to actual or potential differing interests between such Indemnitee and any other party represented by such counsel in such proceedings. The Indemnitor shall have the right to settle or compromise any claims for which it is providing indemnification under this Article 8, provided that the consent of the Indemnitee (which shall not be unreasonably withheld or delayed) shall be required in the event any such settlement or compromise would adversely affect the interests of the Indemnitee. The indemnity agreement in this Article 8 shall not apply to amounts paid in settlement of any loss, claim, damage, liability or action if such settlement is effected without the consent of the Indemnitor. The failure to deliver notice to the Indemnitor within a reasonable time after the commencement of any such action, if prejudicial to the Indemnitor's ability to defend such action, shall relieve such Indemnitor of any liability to the Indemnitee under this Article 8, but the omission so to deliver notice to the Indemnitor will not relieve it of any liability that it may have to any Indemnitee otherwise than under this Article 8. The Indemnitee under this Article 8, its employees and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigation of any action, claim or liability covered by this indemnification.

8.4 No Waiver of Sovereign Immunity. Notwithstanding the foregoing, the authority of TAMUS to indemnify a third party for a claim is limited to those claims for which sovereign immunity has been waived by the Texas legislature. Nothing in this Agreement or the actions undertaken by TAMUS, or its officers or employees, shall be construed as a waiver of sovereign immunity.

#### ARTICLE 9. EXPIRATION AND TERMINATION

9.1 Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall continue until the later of (a) the expiration or termination of the last to expire of any Valid Claim included in the Patent Rights Controlled by Lexicon Covering the Library Technology or (b) fifteen (15) years after the Effective Date



9.2 Termination Option. Subject to Sections 2.2.1.6 and 10.1, if Lexicon has not generated and delivered the notice contemplated by Section 2.2.1.3 with respect to the following percentages of the clones scheduled under the Development Plan to be delivered to TIGM by the relevant date set forth below, TIGM shall have the right, by delivering notice to Lexicon within ten (10) days of such date, to terminate the remaining obligations of Lexicon with respect to the generation and delivery to TIGM of the OmniBank II Library and receive a payment from Lexicon in the amount calculated as set forth herein.

DATE	PERCENTAGE OF AGGREGATE NUMBER OF CLONES SCHEDULED UNDER THE DEVELOPMENT PLAN TO BE DELIVERED BY SUCH DATE FOR WHICH LEXICON HAS DELIVERED THE NOTICE CONTEMPLATED BY SECTION 2.2.13	PERCENTAGE OF POTENTIAL RECAPTURE AMOUNT
First Anniversary of Effective Date	30%	66.7%
18 Months After Effective Date	50%	50.0%
Second Anniversary of Effective Date	70%	33.3%
30 Months After Effective Date	90%	16.7%

The "Potential Recapture Amount" to which the relevant percentage set forth in the table would be applied to determine the amount of such payment from Lexicon shall be equal to (a) the thirty million dollar (\$30,000,000) amount received by Lexicon from the State under the Economic Development Agreement for the generation and delivery to TIGM of the OmniBank II Library less (b) Lexicon's aggregate maximum potential liability for repayment penalties under the Economic Development Agreement with respect to shortfalls in satisfying its job target obligations thereunder. In the event TIGM duly exercises the right set forth in this Section 9.2, (i) TIGM shall be deemed to have elected such right to the exclusion of any claims under Section 9.3 below or otherwise that Lexicon's failure to deliver the number of clones contemplated by the Development Plan constitutes an Event of Default and (ii) Lexicon shall make the required payment within thirty (30) days of the notice thereof.

### 9.3 Termination for Cause.

9.3.1 Events of Default. An "Event of Default" by either party shall have occurred upon (a) the occurrence of a material breach of this Agreement if such party fails to remedy such breach within sixty (60) days after written notice thereof by the non-breaching party (thirty (30) days in the event of a party's failure to make a payment required hereunder) or, if remediation of such breach in sixty (60) days is not practicable, if such party fails to commence and diligently pursue such remediation during such 60-day period, or (b) the commencement of any proceeding in or for bankruptcy, insolvency, dissolution or winding up by or against such party that is not dismissed or otherwise disposed of within sixty (60) days thereafter.

9.3.2 Effect of an Event of Default. In the event of an Event of Default, the non-defaulting party shall have the right, at its option exercisable in its sole discretion, in addition to any other rights or remedies available to it at law or in equity (including, without limitation, specific performance, injunctive relief and damages) and subject to the limitations set forth in Sections 7.5 and 10.6 hereof, to terminate this Agreement upon sixty (60) days notice thereof to the other party, in which case (a) the licenses granted to the defaulting party pursuant to Article 3 shall terminate and (b) the defaulting party shall return to the non-defaulting party or, upon the non-defaulting party's written instruction, destroy all information, materials or documentation provided by the non-defaulting party pursuant to this Agreement.

9.4 Termination Without Cause. TIGM shall have the right to terminate this Agreement without cause at any time upon thirty (30) days written notice thereof to Lexicon. Upon any such termination, (a) the licenses granted to TIGM pursuant to Article 3 shall terminate, (b) TIGM shall return to Lexicon, or upon Lexicon's written instruction destroy, all information, materials or documentation provided to TIGM by Lexicon pursuant to this Agreement, and (c) Lexicon shall have no further obligation to TIGM or TAMUS under Article 2 or Section 9.2 of this Agreement.

9.5 Effect of Expiration or Termination of Agreement. The expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination. The provisions of Articles 4, 5, 6 and 8, Sections 7.4 and 7.5, and Sections 10.2 through 10.6 hereof shall survive the expiration or termination of this Agreement.

#### ARTICLE 10. MISCELLANEOUS

10.1 Force Majeure. Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fire, floods, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority; provided, however, that the party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure. The parties shall mutually seek a resolution of the delay or the failure to perform as noted above.

10.2 Assignment. This Agreement may not be assigned or otherwise transferred, in whole or in part, by either party without the consent of the other party; provided, however, that any party, without such consent, assign its rights and obligations under this Agreement (a) to any Affiliate, (b) in connection with a merger, consolidation or sale of such portion of a party's assets that includes rights under this Agreement to an unrelated third party or (c) in the case of TIGM, to TAMUS in connection with the dissolution of TIGM and distribution of TIGM's assets to TAMUS; provided, further, that such party's rights and obligations under this Agreement shall be assumed by its successor in interest in any such transaction and shall not be transferred separate from all or substantially all of its other business assets, including those business assets that are the subject of this Agreement. Any purported assignment in violation of the preceding sentence shall be void. Any permitted assignee shall assume all obligations of its assignor under this Agreement, unless the parties otherwise agree.

10.3 Severability. Each party hereby agrees that it does not intend to violate any public policy, statutory or common laws, rules, regulations, treaty or decision of any government agency or executive body thereof of any country or community or association of countries. Should one or more provisions of this Agreement be or become invalid, the parties hereto shall substitute, by mutual consent, valid provisions for such invalid provisions which valid provisions in their economic effect are sufficiently similar to the invalid provisions that it can be reasonably assumed that the parties would have entered into this Agreement with such valid provisions in lieu of such invalid provisions. In case such valid provisions cannot be agreed upon, the invalidity of one or several provisions of this Agreement shall not affect the validity of this Agreement as a whole, unless the invalid provisions are of such essential importance to this Agreement that it is to be reasonably assumed that the parties would not have entered into this Agreement without the invalid provisions.

10.4 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one of the notification parties hereto to the other shall be in writing, delivered personally or by facsimile (and promptly confirmed by telephone, personal delivery or courier) or courier, postage prepaid (where applicable), addressed to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and shall be effective upon receipt by the addressee.

If to Lexicon: Lexicon Genetics Incorporated  
8800 Technology Forest Place  
The Woodlands, Texas 77381  
Attention: President and Chief Executive Officer  
Telephone: (281) 863-3000  
Facsimile: (281) 863-8095

With a copy to: Lexicon Genetics Incorporated  
8800 Technology Forest Place  
The Woodlands, Texas 77381  
Attention: General Counsel  
Telephone: (281) 863-3000  
Facsimile: (281) 863-8010

If to TAMUS: A&M System Building  
Suite 2043  
200 Technology Way  
College Station, Texas 77845-3424  
Attention: Chancellor  
Telephone: (979) 458-6000  
Facsimile: (979) 458-6044

With a copy to: A&M System Building  
Suite 2043  
200 Technology Way  
College Station, Texas 77845-3424  
Attention: General Counsel  
Telephone: (979) 458-6122  
Facsimile: (979) 458-6150

If to TIGM: A&M System Building  
Suite 2043  
200 Technology Way  
College Station, Texas 77845-3424  
Attention: Executive Director  
Telephone: (979) 458-6000  
Facsimile: (979) 458-6044

All such communications shall be effective upon receipt.

10.5 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to the conflicts of law principles thereof.

10.6 Dispute Resolution. The parties hereby agree that they will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiations. If a controversy or claim should arise hereunder, the matter shall be referred to individuals designated for such purpose, respectively, by the chief executive officer of Lexicon, the chancellor of TAMUS and the president of TIGM. If the matter has not been resolved within thirty (30) days of the first meeting of the representatives of the parties (which period may be extended by mutual agreement) concerning such matter, the parties shall be free to pursue all available recourse both at law and in equity. Notwithstanding the foregoing provisions of this Section 10.6, with respect to any claim by Lexicon or TIGM that TAMUS has breached this Agreement, the following terms shall apply:

- (a) The dispute resolution process provided for in Chapter 2260 of the Texas Government Code ("Government Code") shall be used by the parties to attempt to resolve any claim by Lexicon or TIGM that TAMUS has breached the Agreement;
- (b) Any Lexicon or TIGM claim that TAMUS has breached this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, Lexicon or TIGM shall submit written notice, as required by subchapter B, to the Executive Vice Chancellor for Finance or a person with similar or equal authority. The notice shall specifically state that the provisions of Chapter 2260, subchapter B are being invoked. Compliance by Lexicon or TIGM with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code;
- (c) The contested case process provided in Chapter 2260, subchapter C, of the Government Code is Lexicon's and TIGM's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TAMUS if the parties are unable to resolve their disputes under the preceding paragraph; and
- (d) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TAMUS nor any other conduct of any representative of TAMUS relating to the contract shall be considered a waiver of sovereign immunity to suit to the extent such immunity can be claimed by TIGM. The submission, processing and resolution of Lexicon's or TIGM's claim is governed by the published rules adopted by the attorney general pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by Lexicon or TIGM, in whole or in part. The designated individual responsible on behalf of TAMUS for examining any claim or counterclaim and conducting any negotiations related thereto as required under section 2260.052 of H.B. 826 of the 76th Texas Legislature shall be the Executive Vice Chancellor for Finance.

10.7 Entire Agreement. This Agreement, together with the exhibits and appendices hereto and any confidentiality agreement(s) executed in contemplation of this Agreement, contains the entire understanding of the parties with respect to the subject matter hereof. All express or implied agreements and understandings, either oral or written, heretofore made are expressly merged in and made a part of this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by both parties hereto.

10.8 Publicity. Subject to the Texas Public Information Act, the parties each agree not to disclose any terms or conditions of this Agreement to any third party without consulting the other party prior to such disclosure. Notwithstanding the foregoing, prior to execution of this Agreement, the parties shall agree upon the substance of information that can be used as a routine reference in the usual course of business to describe the existence and general nature of this transaction, and each party may disclose such information without consulting the other parties. The parties may thereafter from time to time mutually agree on revisions to material to be used as a routine reference, which revisions shall be submitted by one party for the review and approval of the other parties at least ten (10) days prior to the anticipated use or disclosure of the revised material, such approval not to be unreasonably withheld. The terms of this Agreement shall be treated as the Confidential Information of the parties, and, except to the extent required by applicable law, shall not be disclosed to anyone (except for the parties' respective employees, consultants, agents and attorneys assisting in the review and negotiation of this Agreement who have a need to know the terms of this Agreement) without the written permission of the other parties. If any party desires to release a separate announcement relating to this Agreement, it shall first allow the other parties to approve in writing such proposed announcement; provided that such approval shall not be unreasonably withheld or delayed.

10.9 Headings. The captions to the several Articles and Sections hereof are not a part of this Agreement, but are merely guides or labels to assist in locating and reading the several Articles and Sections hereof.

10.10 No Partnership. It is expressly agreed that the relationship between Lexicon, TAMUS and TIGM shall not constitute a partnership, joint venture or agency. No party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on any other party, without the prior consent of such other party to do so.

10.11 Exports. The parties acknowledge that the export of technical data, materials or products is subject to the exporting party receiving any necessary export licenses and that the parties cannot be responsible for any delays attributable to export controls which are beyond the reasonable control of either party. TIGM agrees not to export or re-export, directly or indirectly, any information, technical data, the direct product of such data, samples or equipment received or generated under this Agreement in violation of any applicable export control laws or governmental regulations. TIGM agrees to obtain similar covenants from their licensees, (sub)licensees, or corporate partners, as the case may be, and contractors with respect to the subject matter of this Section 10.11.

10.12 Waiver. The waiver by either party hereto of any right hereunder or the failure to perform or of a breach by the other party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by said other party whether of a similar nature or otherwise.

10.13 Counterparts. 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.

IN WITNESS WHEREOF, the parties have caused their duly authorized officers to execute and deliver this Agreement as of the Effective Date.

LEXICON GENETICS INCORPORATED

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE TEXAS A&M UNIVERSITY SYSTEM

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE TEXAS INSTITUTE OF GENOMIC MEDICINE

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT 1.3

### BIOINFORMATICS SOFTWARE

The Bioinformatics Software is an online analytical and decision-support system that catalogs the in vivo characterization of all mouse embryonic stem cell clones contained in the OmniBank II Library. Users can assess and search a wide range of phenotypic information at different levels, including raw data, calculated graphs with annotated summaries, and statistical analysis for selected diagnostic areas, by means of a standard web browser. Information can be retrieved through an intuitive search interface by gene description and sequence, disease indication, keywords, related publications and statistical significance.

The Bioinformatics Software is broken down into two components: "Production" and "Analysis." The Production software is primarily a workflow system used in the generation and breeding of knockout mice. It is used in the production, gathering, and recording of all relevant data of the mice and tracks their lifecycle through the various projects to which they are assigned. The main processes of the Production software consist of microinjection and breeding. These components are used to ensure that all active participants in the breeding process know when an action needs to occur and when data is ready to be uploaded into the Analysis software.

The Analysis software is used to store data and analysis from phenotypic assays. The Analysis software currently supports data upload and data validation for a wide range of scientific equipment. It also provides tools for annotating and summarizing the physiological observations of knockout phenotypes compared to wild-type controls and background data.

The technical requirements for the Bioinformatics Software consist of the following:

#### Hardware Environment

Sun Enterprise 450  
Dual CPU UltraSPARC-II 400MHz  
Memory size: 2.0 Gb  
Two (2) 9 Gb Internal HDDs

#### Server Software Environment

Sun Solaris 8 Generic sun4u SPARC SUNW, Ultra-4

#### Server Software System

Oracle Server 9i from 8.1.6, plus appropriate client support files  
Apache with SSL module (TLS 1.0, RC4 with 128 bit encryption (High));  
RSA with 1024 bit exchange)/tomcat  
MySQL 3.23.33  
Apache 1.3x  
PHP 4.0.5  
PHP 4.07  
Java 1.4

EXHIBIT 1.8  
CRE-LOX PATENTS

COUNTRY	APPLICATION SER. NO.	PATENT NO.	ISSUE DATE	EXPIRY DATE
USA		4,959,317	9/25/90	9/25/2007
Canada		1,293,460	12/24/91	12/24/2008
Ireland		60421	7/8/94	10/6/2006
Japan	86/236385			
EPO		0 220 009	2/10/93	10/6/2006
Austria		E0085649	2/10/93	10/6/2006
Belgium		0 220 009	2/10/93	10/6/2006
France		0 220 009	2/10/93	10/6/2006
Great Britain		0 220 009	2/10/93	10/6/2006
Germany		3687734	2/10/93	10/6/2006
Greece		3007809	2/10/93	10/6/2006
Italy		0 220 009	2/10/93	10/6/2006
Luxembourg		0 220 009	2/10/93	10/6/2006
Netherlands		0 220 009	2/10/93	10/6/2006
Sweden		0 220 009	2/10/93	10/6/2006
Switzerland		0 220 009	2/10/93	10/6/2006



EXHIBIT 1.9

DEVELOPMENT PLAN

Lexicon will use Diligent Efforts to generate the OmniBank II Library by means of its gene trapping technology. This high-throughput method uses genetically-engineered retroviruses to infect mouse embryonic stem cells in vitro, integrate into the chromosome of the cell and deliver molecular traps for genes. The gene trap construct disrupts the function of the gene into which it integrates and enables determination of the genomic integration site and identity of the disrupted gene.

Lexicon will use Diligent Efforts to deliver to TIGM two (2) complete copies of the OmniBank II Library, each consisting of three hundred fifty thousand (350,000) mouse embryonic stem cell clones with Selected Mutations, each identified by DNA sequence of its genomic integration site, in accordance with the following schedule:

DATE	AGGREGATE NUMBER OF CLONES SCHEDULED TO BE AVAILABLE FOR DELIVERY BY SUCH DATE
6 Months After Effective Date	4,400
12 Months After Effective Date	73,520
18 Months After Effective Date	142,640
24 Months After Effective Date	211,760
30 Months After Effective Date	280,880
36 Months After Effective Date	350,000

EXHIBIT 1.16

FACILITIES

EXHIBIT 1.17  
GENE TRAPPING PATENTS

COUNTRY	APPLICATION/PUB. NO.	PATENT NO.	ISSUE DATE	EXPIRY DATE
PCT	PCT/US97/17791			
USA		6,136,566	10/24/00	10/4/2016
USA		6,207,371	3/27/01	10/4/2016
PCT	PCT/US98/16373			
USA		6,139,833	10/31/00	8/8/2017
PCT	PCT/US99/06474			
USA		6,080,576	6/27/00	4/8/2018
PCT	PCT/US99/27366			
USA		6,436,707	8/20/02	4/8/2018
USA		6,776,988	8/17/04	7/26/2019
USA		6,218,123	4/17/01	8/10/2019
USA		6,855,545	2/15/05	2/27/2017
USA		6,808,921	10/26/04	4/18/2018

EXHIBIT 2.1.2  
JOINT MANAGEMENT COMMITTEE

## Non-Employee Director Compensation

Each non-employee member of our Board of Directors currently receives the following cash compensation:

- an annual retainer of \$15,000 for service on the Board of Directors (\$30,000 for service as non-executive Chairman of the Board of Directors), prorated for any partial year of service;
- an annual retainer of \$15,000 for service on each committee of the Board of Directors of which he or she is a member (\$5,000 for service as chairman of any such committee), prorated for any partial year of service;
- a fee of \$2,500 for each meeting of the Board of Directors that he or she attends in person (\$500 for each telephonic meeting of the Board of Directors in which he or she participates); and
- a fee of \$1,000 for each committee meeting that he or she attends in person other than in connection with a meeting of the full Board of Directors (\$500 for each telephonic committee meeting in which he or she participates).

All directors are reimbursed for expenses in connection with attendance at Board of Directors and committee meetings.

Our 2000 Non-Employee Directors' Stock Option Plan provides for the grant of options to purchase shares of common stock to our non-employee directors. Non-employee directors first elected after the closing of our initial public offering receive an initial option to purchase 30,000 shares of common stock. In addition, all non-employee directors who have served in such capacity for six months receive an annual option to purchase 10,000 shares of common stock. All options granted under the non-employee directors' plan have an exercise price equal to the fair market value of our common stock on the date of grant.

The Chairman of our Board of Directors will receive an additional annual option under our 2000 Equity Incentive Plan to purchase 10,000 shares of common stock. All such options will have an exercise price equal to the fair market value of our common stock on the date of grant.

## CERTIFICATIONS

I, Arthur T. Sands, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Lexicon Genetics Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2005

/s/ Arthur T. Sands

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Arthur T. Sands, M.D., Ph.D.  
President and Chief Executive Officer

## CERTIFICATIONS

I, Julia P. Gregory, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Lexicon Genetics Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2005

/s/ Julia P. Gregory

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 Julia P. Gregory  
 Executive Vice President, Corporate Development  
 and Chief Financial Officer

CERTIFICATION

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350, as adopted), Arthur T. Sands, M.D., Ph.D., Chief Executive Officer of Lexicon Genetics Incorporated ("Lexicon"), and Julia P. Gregory, Chief Financial Officer of Lexicon, each hereby certify that:

1. Lexicon's Quarterly Report on Form 10-Q for the period ended September 30, 2005, and to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of Lexicon.

IN WITNESS WHEREOF, the undersigned have set their hands hereto as of the 1st day of November, 2005.

By: /s/ Arthur T. Sands  
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Arthur T. Sands, M.D., Ph.D.  
President and Chief Executive Officer

By: /s/ Julia P. Gregory  
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Julia P. Gregory  
Executive Vice President,  
Corporate Development and  
Chief Financial Officer