

DONATION AGREEMENT

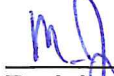
This DONATION AGREEMENT ("Agreement"), effective as of September 21, 2018, is entered into by and between Genentech, Inc., with an office at 1 DNA Way, South San Francisco, California 94080 ("Genentech") and Horizons School located at One Santa Barbara Road, Pleasant Hill, CA 94523 ("Recipient").

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. Material: Genentech agrees to donate to Recipient, and Recipient agrees to accept from Genentech, the material set forth in Exhibit A attached hereto ("Material"), at the times and in the manner set forth in this Agreement and Exhibit A.
2. Transfer. At the moment of receipt of possession of the Material by Recipient ("Transfer"), Genentech hereby absolutely and forever donates, transfers, assigns and conveys to Recipient all of Genentech's present and future right, title and interest in and to the Material, to have and to hold the same forever. Title and risk of loss to the Material shall transfer to Recipient as of the Transfer. Upon receipt of the Material, Recipient shall provide Genentech with a receipt describing the type and quantity of Material and date and time of receipt. All expenses and costs related to the Transfer and this Agreement, including, without limitation, costs of removal, transportation and disposition of the Material, shall be at Recipient's sole cost and expense.
3. No Warranties. THE MATERIAL ARE DONATED ON AN "AS IS - WHERE IS" BASIS WITH ALL FAULTS, LATENT AND PATENT. GENENTECH MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE NATURE, QUALITY OR CONDITION OF THE MATERIAL, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR OTHERWISE. RECIPIENT FURTHER ACKNOWLEDGES THAT GENENTECH MAKES NO CLAIMS OF WARRANTIES AS TO THE SUITABILITY, RELIABILITY, OR SAFETY OF THE MATERIAL, AND THAT RECIPIENT ACCEPTS AND USES THE MATERIAL ENTIRELY AT ITS OWN RISK.
4. Limitation of Liability. IN NO EVENT SHALL GENENTECH BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, HOWEVER CAUSED AND ARISING UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT OR TORT (INCLUDING PRODUCTS LIABILITY, STRICT LIABILITY AND NEGLIGENCE), AND WHETHER OR NOT GENENTECH WAS OR SHOULD HAVE BEEN AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL GENENTECH'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE MATERIAL EXCEED THE NET AMOUNT GENENTECH HAS ACTUALLY RECEIVED FROM RECIPIENT UNDER THIS AGREEMENT.

5. Release of Liability. Recipient hereby releases Genentech, its affiliates, employees, agents, shareholders, officers and directors, from all liability arising from, or related to, the Material or Genentech's donation of the Material to Recipient. Recipient expressly waives and relinquishes all rights or benefits which it has or may have under Section 1542 of the Civil Code of the State of California to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Agreement. Section 1542 states as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."



Recipient's Initials

6. Indemnification. Recipient shall indemnify, defend, protect and hold harmless Genentech, its affiliates, employees, agents, shareholders, officers and directors, from and against all causes of action (including any negligent acts), claims, damages, liens, demands, costs, expenses and liabilities, and including attorney's fees and court costs, arising in favor of any persons (including agents and employees of Genentech) which, to the maximum extent permitted by law, arises out of, or results from, Recipient's (or its employee's, agent's or subcontractor's): breach of this Agreement; activities while at or in the vicinity of Genentech's facility; activities in connection with Recipient's performance of this Agreement; and/or use or disposition of the Material.
7. Permits and Authorizations Required by Law. Recipient represents and warrants to Genentech that Recipient possesses and/or will obtain all the necessary federal, state and local governmental permits and authorizations required to acquire, remove, use, transport, sell, recycle or otherwise properly dispose of the Material. Recipient shall comply with all applicable laws, codes and ordinances in connection with its performance of this Agreement. Recipient shall use personnel qualified to conduct the activities contemplated by this Agreement.
8. Health, Safety and Environment. Recipient warrants that it will take all steps necessary to properly and adequately warn, educate, train, and supervise its employees, agents, and any other third parties who come into contact with the Material (including, but not limited to, Recipient's successors and assigns), regarding any special handling or other precautions prior to transporting, using, disposing, or otherwise handling the Material, including, without limitation, the requirements of any federal, state, local or administrative agency, ordinance, law, rule or regulation relating to hazardous materials. While at Genentech's facility, Recipient shall comply with Genentech's security and any and all other safety requirements, including but not limited to, Genentech's contractor health and safety policies then in effect.
9. Confidentiality.
- 9.1 Definitions: "Genentech Confidential Information" means all information (a) disclosed by or on behalf of Genentech to Recipient, either in writing or orally, (b) about Genentech and obtained by Recipient from a third party under an obligation not to disclose such information, (c) created by Recipient or Genentech, or (d) observed by Recipient on the premises of Genentech, in each case, in connection with this Agreement.
- 9.2 Exclusions: Genentech Confidential Information does not include information that: (a) was already in the possession of Recipient before Recipient obtained such information in connection

with this Agreement, as evidenced by Recipient's written records, (b) is or becomes publicly available through no fault of Recipient, or (c) is obtained by Recipient from a third party not bound by any obligation not to use or disclose such information.

9.3 Obligations: Recipient agrees not to use Genentech Confidential Information for any purpose, except as necessary to perform the Services. Recipient agrees not to disclose any Genentech Confidential Information to any third party without Genentech's prior written consent, except as set forth in the following sentence. Recipient may disclose Genentech Confidential Information to the extent required under applicable law, provided Recipient provides Genentech with reasonable advance notice of the disclosure. The obligations under this Section 9 shall survive for a period of ten (10) years after the termination or expiration of this Agreement.

10. Insurance Requirements: During the term of this Agreement, Recipient will obtain and maintain, at its own expense, the following coverage:

- a) Commercial General Liability: Recipient shall maintain commercial general liability coverage for limits no less than \$1,000,000 per occurrence. The policy form shall be an "occurrence" form. If claims made, Recipient shall maintain coverage including completed operations for a minimum of five (5) years following the Transfer.
- b) Automobile Liability: If coming on Genentech's site, Recipient shall maintain automobile liability coverage with limits not less than \$1,000,000 each accident; and the policy definition of automobile shall include owned autos, hired or non-owned autos.
- c) Additional Insured: Recipient shall name Genentech as an additional insured by endorsement on Commercial General Liability and Automobile Liability policy. Recipient's insurance shall primary and non-contributory with any insurance maintained by Genentech.
- d) Financial Rating: The insurance required pursuant to the Section above shall be carried with insurance companies with an A.M. Best's rating of A-VII or better.
- e) Certificate of Insurance: If requested, Recipient shall provide Genentech with its certificate of insurance evidencing the insurance coverage set forth in this Section. Recipient shall provide to Genentech, at least thirty (30) days prior written notice of any cancellation, non-renewal or material change if any, of such insurance coverage.

11. Miscellaneous:

11.1 Termination: Genentech may terminate this Agreement for any reason or no reason at any time prior to the Transfer by providing written notice of termination to Recipient.

11.2 Assignment: Neither party may assign, subcontract or delegate this Agreement or any of its rights or obligations hereunder without the other party's advance written consent.

11.3 Independent Contractor: Recipient is an independent contractor, and nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, employment, franchise, agency or fiduciary relationship between the parties.

11.4 Amendment; Waiver: Except as otherwise expressly provided in this Agreement, no amendment to this Agreement shall be effective unless made in writing and executed by an authorized representative of each party. A party's failure to exercise, or delay in exercising,

any right, power, privilege or remedy under this Agreement shall not (a) operate as a waiver thereof or (b) operate as a waiver of any other right, power, privilege or remedy. A waiver will be effective only upon the written consent of the party granting such waiver.

- 11.5 Severability: If any of the provisions of this Agreement are held to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall be replaced by legal, valid and enforceable provisions that will achieve to the maximum extent possible the intent of the parties, and the other provisions of this Agreement shall remain in full force and effect.
- 11.6 Survival; Remedies: Sections 3 through 9 and 11, shall survive any termination of this Agreement. The rights and remedies of each party provided by this Agreement are cumulative and are not exclusive of any rights and remedies provided by law or equity.
- 11.7 Governing Law: This Agreement shall be governed by and construed under the laws of the State of California, without regard to conflict of laws principles.
- 11.8 Entire Agreement: This Agreement contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements between the parties with respect to such subject matter, whether written or oral.
- 11.9 Counterparts: This Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same Agreement. For purposes of executing this Agreement, a facsimile (including a PDF image delivered via email) copy of this Agreement, including the signature pages, will be deemed originals.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first referenced above by their respective duly authorized signatory.


Genentech, Inc.

By: _____

Name: Ragnar von Schiber

Title: Associate Director,
Corporate & Employee Giving

RECIPIENT


10-25-16
Michael Jimenez, Assistant Superintendent

By: _____

Name: Heather Morelli

Title: Principal

EXHIBIT A

1. The Material consists of the following materials, for use in the Horizons High School CTE Health Careers Education Program:

- Qty 1: Exam table (room 1)
- Qty 4: Mayo Stands
- Qty 1: Rolling Exam Stool
- Qty 2: IV Poles
- Qty 1: Titmus vision screener
- Qty 1: Standing scale

2. Genentech shall make the Material available to Recipient at the following location: Genentech T9 Warehouse, located at 540 Forbes Ave, SSF, CA 94080, at a time or times to be mutually agreed upon by the parties.

* * *

Genentech Health Center Equipment for Donation

| Item | Make | Model | # of units | Estimated Value per unit | Total estimated value | Claimed by |
|------------------------|--------|-------|------------|--------------------------|-----------------------|---|
| Exam table (room 1) | | | 1 | \$1,395.00 | \$1,395.00 | Horizons School HS CTE Health Careers Program |
| Mayo Stands | | | 4 | \$50.00 | \$200.00 | Horizons School HS CTE Health Careers Program |
| Rolling Exam Stool | | | 1 | \$100.00 | \$100.00 | Horizons School HS CTE Health Careers Program |
| IV Poles | | | 2 | \$99.00 | \$198.00 | Horizons School HS CTE Health Careers Program |
| Titmus vision screener | Titmus | V4 | 1 | \$1,895 | \$1,895.00 | Horizons School HS CTE Health Careers Program |
| Standing scale | | | 1 | \$298 | \$298.00 | Horizons School HS CTE Health Careers Program |
| | | | | | \$4,086.00 | TOTAL |