**Funded Research Agreement**

This Funded Research Agreement (the “**Agreement**”) has been entered into by and between Niigata University ("**NU**") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the "**Company**") as of [*Month*][*Date*], 20[ ], with the following terms and conditions set forth below.

1. **Definitions**

For the purpose of this Agreement, the following terms have the definitions provided below:

* 1. the term “**Research Results**” means technological results, such as inventions, ideas, designs, copyrighted works and know-how, related to the purpose of the Funded Research (as defined below), which have been acquired pursuant to this Agreement and confirmed as the results in a report thereon; and
  2. the term “**Intellectual Property Rights**” means:
     1. patent rights, utility model rights, design rights, layout-design exploitation rights (*kairo-haichi-riyou-ken*), breeder’s rights (*ikuseisha-ken*) and rights to register such rights, as well as rights that are equivalent thereto in foreign countries;
     2. copyrights in copyrighted works in computer programs and databases, as well as rights that are equivalent thereto in foreign countries; and
     3. rights in technological information that is treated confidentially and has value as an asset (the “**Know-How**”).
  3. the term “**Inventions**” means technological results such as inventions, ideas, creations, cultivation results and concepts that are covered by the Intellectual Property Rights;
  4. the term “**use**” and “**using**” the Intellectual Property Rights means exploitation of the Inventions provided in Patent Act, Utility Model Act, Design Act, Act Concerning the Circuit Layout of Semiconductor Integrated Circuits, Plant Variety Protection and Seed Act, the Copyright Act and any other laws and regulations on the Intellectual Property Rights of a country in which such rights are protected, as well as use of Know-How; and
  5. the term “**Researchers**” means the individuals listed in Exhibit 1 hereto who engage in the Funded Research and belong to NU or the Company and the individuals that fall under Article 5, Paragraph 2 of this Agreement. In addition, the term “**Research Collaborators**” means individuals who are not listed in Exhibit 1 hereto and are not provided in Article 3, Paragraph 3 of this Agreement, but who collaborate in the Funded Research.

1. **Title of the Funded Research, etc.**

NU shall perform the following research (the “**Funded Research**”) upon Company’s consignment:

1. Research title:
2. Purpose and Details:
3. Researcher:
4. Required Research Expenses yen
5. Research Term: The term of the Joint Research shall be from the effective date of this Agreement to [*Month*][*Date*], 20[ ].
6. Furnished materials:
7. Research location:
8. **Research Results Report**

NU shall submit a report regarding the Research Results (the “**Report**”) to Company after the completion of the Funded Research.

1. **Designation of Know-How**
2. NU and the Company shall, upon consultation, promptly designate certain Research Results in the Report as Know-How.
3. When designating the Research Results as Know-How, the term of confidentiality for such Know- How shall be explicitly specified.
4. The term of the confidentiality as provided in the preceding Paragraph shall be determined upon consultation between NU and the Company; provided that, as a general rule, such term shall be five (5) years from the day following the date of the completion of the Funded Research; provided, however, that, if necessary after the designation, such term may be extended or shortened upon consultation between NU and the Company.
5. **Conducting Research**
6. NU shall conduct the Funded Research at its own responsibility and hold Company harmless in relation to the same; provided, however, that Company shall indemnify NU for NU’s losses due to defects in the materials furnished by Company to NU.
7. NU shall provide Company with advanced written notice when a new person at NU participates in the Funded Research as the Researcher.
8. **Subcontracting**
9. NU shall not subcontract the Funded Research to any third party without the prior written consent of Company.
10. NU shall not assign the rights or obligations under this Agreement to any third party without the prior written consent of Company.
11. **Funded Research Expenses**
12. Company shall reimburse NU for all expenses related to the Funded Research (“**Funded Research Expenses**”) within 30 days following the date of issuance of an invoice by NU (the “**Due Date**”). Company shall bear all expenses related to the payment of such Research Expenses including, but not limited to, bank transfer fees.
13. In the event that Company fails to reimburse NU for the Funded Research Expenses by the Due Date, Company shall pay NU a late charge at a rate of 3% per annum of the unpaid Funded Research Expenses, for the number of days from the day following the Due Date to the actual date of payment.
14. In the case that there is a shortfall in the Funded Research Expenses, NU shall promptly notify Company in writing. The parties shall mutually consult regarding such shortfall promptly after such notice.
15. **Accounting**

NU shall perform the accounting for the Funded Research Expenses; provided that upon Company’s request to access the documents related to such accounting for this Agreement, NU shall allow Company such access.

1. **Ownership of Equipment acquired with the Funded Research Expenses**

Any equipment acquired with the Funded Research Expenses shall belong to NU.

1. **Installation of Furnished Materials**
2. Company shall bear the expenses for the installation of materials furnished by Company to NU.
3. NU shall maintain such materials with the duty of care of a good manager from the time of completion of such installation until the commencement of their return.
4. **Termination of the Funded Research, Extension of the Research Term**

The Funded Research may be terminated or the term for the Funded Research may be extended due to events beyond the control of the parties, including but not limited to, natural disasters, upon mutual consultation. In such case, the parties shall not incur liability for any loss related thereto.

1. **Application for Intellectual Property Rights**

In the case that NU has not applied for Intellectual Property Rights arising from the Funded Research and belonging to NU, if Company or Company’s appointee desires to apply for such rights, subject to a separately executed assignment agreement, NU shall assign such rights to Company or the Company’s appointee and Company shall apply for such rights at its sole cost and expense.

1. **Foreign Applications**

The provisions of the preceding Article shall apply to the registration and maintenance of Intellectual Property Rights (excluding copyrights and Know-How) related to Inventions in foreign countries (“**Foreign Applications**”).

1. **Licensing of Intellectual Property Rights of NU**
2. NU shall not use the Intellectual Property Rights associated with the Funded Research on its own (“**NU Owned Intellectual Property Rights**”).
3. If Company or Company B’s appointee notifies NU that it desires to use any NU Owned Intellectual Property Rights on a non-exclusive basis, NU shall grant Company or Company’s appointee, as the case may be, a non-exclusive license to do so in a separately executed licensing agreement; provided that NU may continue to use the NU Owned Intellectual Property Rights free-of-charge for experimentation, research or educational purposes.
4. If Company or the Company’s appointee notifies NU that it desires to exclusively use the NU Owned Intellectual Property Rights, NU shall grant an exclusive license to do so to Company or Company’s appointee, as the case may be, by entering into a separate license agreement.
5. If the recipient of the exclusive license of Paragraph 3 of this Article does not use the NU Owned Intellectual Property Rights pursuant to such license without any justifiable reason within 2 years from the grant of such license, NU may grant a license for the NU Owned Intellectual Property Rights to an individual other than Company or Company’s appointee (the “**Third Party**”) after discussion with the recipient of such license. In such a case, Company shall give its consent for the grant of the license to the Third Party.
6. If neither the Company nor Company’s appointee notifies NU that it desires to exclusively use the NU Owned Intellectual Property Rights, NU may, upon listening to the opinions of the Company, grant a license to do so for the relevant NU Owned Intellectual Property Rights to a Third Party.
7. **Royalty**

The royalty for Company or the Company’s appointee to use the NU Owned Intellectual Property Rights pursuant to the non-exclusive or an exclusive license shall be set forth in a separate license agreement.

1. **Information Disclosure**
2. Company shall disclose to NU its information and knowledge related to the Funded Research to the extent that such disclosure is necessary for NU to conduct the Funded Research.
3. NU shall return the materials provided to NU pursuant to this Article after the completion or the cancellation of the Funded Research.
4. **Confidentiality**
5. Neither party shall disclose or divulge to any individuals other than the Researchers defined in Article 2, any technical or business information disclosed by the other party in relation to, or becomes known through the Funded Research, provided that the following information is excluded from this provision:
6. Information which the receiving party can prove that was already in its possession when disclosed or became known;
7. Information that was already publicly known when disclosed or became known;
8. Information that became publicly known for reasons not attributable to the receiving party after disclosure thereof;
9. Information which the receiving party can prove was lawfully obtained from a third party with authority for the disclosure thereof;
10. Information which the receiving party can prove was independently obtained or developed without reliance on the information disclosed by the other party; or
11. Information subsequently disclosed with the disclosing party’s prior written approval for subsequent disclosure thereof.
12. NU shall not use any technical or business information which Company disclosed to NU or obtained through the Funded Research, except for the purposes of the Funded Research unless NU has obtained prior written consent from Company for such disclosure.
13. The preceding three (3) paragraphs will be effective from the effective date of this Agreement and will remain in full force and effect for five (5) years after the completion or termination of the Funded Research; provided, however, that NU and the Company may extend or shorten the term upon consultation.
14. **Publication**
15. Upon completion of the Funded Research, the parties may disclose, release or publish the Research Results (the “**Publication**”) on the condition that they observe the preceding Article. Irrespective of any situation, neither party shall disclose the Know-How without the prior written consent of the other party.
16. In the case of the preceding Paragraph, the party making the Publication (the “**Publishing Party**”) shall notify the other party in writing of the contents of the Publication at least 30 days prior to the date of Publication.
17. The party notified pursuant to the preceding Paragraph shall notify the Publishing Party in writing of the modifications to the information which the Publishing Party is willing to disclose or publish if the notified party finds that the Publication of such information will or might harm its expected future benefits, within 15 days after the receipt of the notice pursuant to the preceding Paragraph. The Publishing Party shall not disclose the portion of such information the notified party finds harmful or potentially harmful, without the prior written consent of the notified party, provided that the notified party shall not unreasonably withhold such consent.
18. The period during which Publishing Party must make the notice pursuant to Paragraph 2 of this Article shall be five (5) years from the day immediately following the date of the completion of the Funded Research; provided that the parties may, upon mutual consultation, extend or shorten such period.
19. **Participation and Cooperation of Research Collaborators**
20. When a party finds it necessary to have an individual other than Researchers conduct Funded Research, with the prior written consent of the other party, that party may have an individual other than the Researchers participate in the Funded Research as a Research Collaborator.
21. In the case an individual other than a Researcher becomes a Research Collaborator, the party who sought consent to use such Research Collaborator shall cause such Research Collaborator to comply with the terms and conditions of this Agreement.
22. If a Research Collaborator makes an Invention as the result of the Joint Research, the provisions of Article 11 will apply *mutatis mutandis* to such Invention.
23. **Termination**
24. NU may terminate this Agreement in the event that Company fails to make payment for the Research Expenses under Paragraph 4 of Article 2 by the Due Date.
25. Each party may terminate this Agreement if the other party falls under any of the following circumstances, and the other party fails to remedy such circumstances within the period provided in the notice to do so:
26. The other party commits any act that constitutes misconduct or bad faith in relation to its performance of this Agreement; or
27. The other party breaches any term or condition of this Agreement.
28. **Indemnification**

If a party falls under any of the circumstances set forth in the preceding Article or it or any of its Researchers or Research Collaborators commits an act constituting willful misconduct or gross negligence, such party shall indemnify the other party for the other party’s losses and damages.

1. **Term and Termination Procedures**
2. The term of this agreement shall be the term set forth in the Item 5 of Article 2.
3. Notwithstanding the expiration or early termination of this Agreement, Articles 3, 4, 12 through 18 and 21 will remain in full force and effect pursuant to the terms and subject matter respectively provided in such Articles.
4. Upon the expiration or termination of this Agreement by mutual consent, if any amount of the Funded Research Expenses: and to be paid pursuant to Article 7 remain, the parties shall consult and agree on the allocation of such remaining Research Expenses.
5. **Foreign Exchange and Foreign Trade Act**
6. If NU and the Company export or provide goods or technology provided by the other party in accordance with this Agreement, they shall take necessary procedures, such as acquisition of an export permit, in accordance with Foreign Exchange and Foreign Trade Act and other relevant laws and regulations.
7. NU and the Company shall not use any goods or technology provided, supplied or loaned by the other party in accordance with this Agreement for the purpose of designing, manufacturing, using, storing and the like of weapons of mass destruction and the like, and shall not export or provide, either directly or indirectly, such goods or technology when it becomes aware that they will be used for such purpose.
8. **Consultation**

Any matter not set foth herein and necessary to be prescribed shall be settled upon mutual consultation between the parties.

1. **Governing Law and Jurisdiction**
2. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of Japan without any regard to conflicts of law rules thereunder.
3. The Niigata District Court shall have the exclusive jurisdiction for the first instance on any disputes in connection with this Agreement.

[*The remainder of this page is intentionally left blank.*]

**IN WITNESS WHEREOF**, NU and the Company have caused this Agreement to be executed in duplicate with the signature of their respective authorized representative, each retaining one (1) copy.

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| NU:  8050 Ikarashininocho, Nishi-ku,  Niigata-shi, Niigata-ken, Japan  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name:  Title: President  Date: | Company:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name:  Title:  Date: |