**Joint Research Agreement**

This Joint 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 Joint 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 Joint Research and belong to NU or the Company and the individuals that fall under Article 3, Paragraph 3 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 Joint Research.

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

NU and the Company shall conduct the following joint research pursuant to this Agreement (the “**Joint Research**”):

1. Research Title:
2. Purpose and Details:
3. Research Term: The term of the Joint Research shall be from the effective date of this Agreement to [*Month*][*Date*], 20[ ].
4. Research Allocation: As provided in Exhibit 1 hereto.
5. Research Location: [ ]
6. **Individuals Involved in the Joint Research**
7. NU and the Company shall each respectively cause the individuals listed in Exhibit 1 hereto to participate in the Joint Research as Researchers.
8. NU shall accept the Company’s Researchers who engage in the Joint Research at NU’s research location as corporate researchers.
9. If NU and the Company desire to additionally and respectively cause an individual who belongs to NU or the Company to participate in the Joint Research as a Researcher, they shall give the other party prior written notice thereof.
10. **Preparation of the Research Report**

NU and the Company shall prepare a written report on the Research Results acquired during the term of the Joint Research (the “**Report**”).

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 Joint Research; provided, however, that, if necessary after the designation, such term may be extended or shortened upon consultation between NU and the Company.
5. **Joint Research Expenses**
6. The Company shall bear the direct and indirect costs provided in Exhibit 2 hereto as well as the research fees for the corporate researchers (the “**Joint Research Expenses**”).
7. The Company shall pay the Joint Research Expenses provided in the preceding Paragraph pursuant to an invoice issued by NU’s finance manager within thirty (30) days commencing from the day following the date of the issuance of the invoice (the “**Payment Deadline**”). Remittance fees and any other payment costs shall be borne by the Company.
8. If the Company fails to pay the Joint Research Expenses provided in Paragraph 1 by the Payment Deadline, the Company shall pay a late charge at a rate of three percent (3%) per annum of the unpaid amount, for the number of days from the day following the date of the Payment Deadline to the payment date.
9. If there is a shortage of Joint Research Expenses during the term of this Agreement, NU and the Company shall immediately notify the other party in writing. Promptly thereafter, NU and the Company shall consult on the Joint Research Expenses that may run short.
10. **Accounting**

The accounting of the Joint Research Expenses as provided in the preceding Article shall be performed by NU; provided, however, that the Company will be entitled to make a request to NU for to access the accounting-related documents for this Agreement. Thereupon, NU shall accept such request for access from the Company.

1. **Ownership of Equipment, etc., Acquired with the Joint Research Expense**

Equipment and the like acquired with the Joint Research Expenses listed in Exhibit 2 hereto shall belong to NU.

1. **Supply of Facilities and Equipment**
2. For the purpose of the Joint Research, NU and the Company shall provide and supply respective facilities and equipment necessary for conducting the Joint Research.
3. NU will be entitled to, for the purpose of the Joint Research, receive the equipment owned by the Company listed in Exhibit 3 hereto, free-of-charge, upon the consent of the Company and use such equipment jointly. NU shall maintain the equipment that it has received from the Company with the duty of care of a good manager during the time period from the completion of the installation thereof to the return thereof.
4. The expenses necessary for the shipment and installation of the equipment provided in the preceding Paragraph shall be borne by the Company.
5. **Termination of the Joint Research and Extension of the Research Period**

In the case of a natural disaster or any other event beyond the control of the parties, upon consultation between NU and the Company, the Joint Research may be terminated or the research term may be extended. In an event thereof, NU or the Company will not incur any liability thereto.

1. **Application for Intellectual Property Rights, etc.**
2. If an Invention is created in the course of the Joint Research, NU and the Company shall promptly and mutually notify the other thereof. The contents of the notice shall include title and summary of the Invention, the inventor’s name, scheduled application date, plan for any publication and desire for foreign filing. The notice shall be in writing and the addressee shall be as provided in Exhibit 4 hereto.
3. NU and the Company shall, in accordance with their respective rules and the like, determine whether or not it is possible to be transferred or assigned, from their respective Researchers, the Intellectual Property Rights in the Inventions created in the course of the Joint Research.
4. If an Invention is solely created by the Researchers of one party in the course of the Joint Research, that party shall solely hold the Intellectual Property Rights in that Invention, and upon confirmation from the other party, that party may proceed solely with procedures such as filing of applications for such Invention. The costs for such filing and maintenance of rights for that Invention shall be borne by the party that makes the filing or the like.
5. In the case of the preceding Paragraph, if a party desires to file or the like for an Invention held solely by the other party, and the other party does not make any filing or the like for that Invention, the Invention shall be assigned by the other party to that party in accordance with an assignment agreement to be separately executed between them, and that party shall make a filing or the like at its own expense.
6. The Intellectual Property Rights in the Inventions jointly created by Researchers from both parties in the course of the Joint Research shall be held by both parties, and both parties shall make a filing or the like jointly in accordance with a joint application agreement to be executed between them separately. The ownership ratio between NU and the Company in such Inventions will, as a general rule, be fifty percent (50%) each and, if there is any particular reason otherwise, the ratio will be determined upon consultation between NU and the Company at the time of the separate execution of such joint application agreement.
7. In the case of the preceding Paragraph, if a party does not desire to make a joint application for an Invention, the other party may, in accordance with an assignment agreement to be executed separately, hold the entire ownership in the Intellectual Property Rights therein upon assignment. In such a case, the party which has become the sole holder of the Intellectual Property Rights may solely make the filing or the like.
8. **Foreign Applications**
9. The provisions of the preceding Article will apply to applications for registration of, and maintenance of, the Intellectual Property Rights (excluding copyrights and Know-How) in the Inventions in foreign countries (“**Foreign Applications**”).
10. NU and the Company shall make the Foreign Applications upon consultation between them.
11. **Licensing to Use Intellectual Property Rights Held by NU**
12. NU shall not use by itself the Intellectual Property Rights in the Inventions resulting from the Joint Research and held solely by NU (“**NU Owned Intellectual Property Rights**”); provided, however, that NU may use, free-of-charge, the Inventions covered by the NU Owned Intellectual Property Rights for examination, research or educational purposes even after the licensing under Paragraph 3 of this Article or the assignment under Article 15 of this Agreement.
13. If the Company or Company’s appointee notifies NU that it wishes to non-exclusively use the NU Owned Intellectual Property Rights, NU shall grant a non-exclusive license to do so in accordance with a licensing agreement to be executed separately.
14. If the Company or Company’s appointee notifies NU that it wishes to exclusively use the NU Owned Intellectual Property Rights, NU shall grant an exclusive license to do so to the notifying party in accordance with a licensing agreement to be executed separately.
15. If, during and after the second year of the term of the exclusive license pursuant to Paragraph 3 of this Article for certain NU Owned Intellectual Property Rights, the recipient of such license does not use the relevant NU Owned Intellectual Property Rights without any justifiable reason, NU may, upon listening to the opinions of such recipient, grant a license to do so to a party other than the Company or Company’s appointee (the “**Third Party**”). In such case, the Company shall consent to such licensing.
16. 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 opinion of the Company, grant a license to do so for the relevant NU Owned Intellectual Property Rights to a Third Party.
17. **Use of Jointly-Held Intellectual Property Rights**
18. NU shall not use by itself the Intellectual Property Rights in the Inventions resulting from the Joint Research that are held jointly by NU and the Company (“**Jointly-Held Intellectual Property Rights**”); provided, however, that NU may use, free-of-charge, the Inventions covered by the Jointly-Held Intellectual Property Rights for examination, research or educational purposes even after the licensing under Paragraph 3 of this Article or the assignment under Article 15 of this Agreement.
19. The Company may use by itself, or cause Company’s appointee to non-exclusively use, the Jointly-Held Intellectual Property Rights. In such case, NU shall consent to such license of the Jointly-Held Intellectual Property Rights.
20. If the Company or Company’s appointee notifies NU that it wishes to exclusively use the Jointly-Held Intellectual Property Rights, NU shall grant an exclusive license to do so to the notifying party in accordance with a licensing agreement to be executed separately.
21. If, during and after the second year of the term of the exclusive license pursuant to Paragraph 3 of this Article for certain Jointly-Held Intellectual Property Rights, the Company or its designee does not use the relevant Jointly-Held Intellectual Property Rights without any justifiable reason or do not submit a concrete plan of research and development for the use thereof, NU may, upon listening to the opinions the Company or its designee of such recipient, grant a license to do so to a Third Party. In such case, the Company shall consent to such licensing.
22. If neither the Company nor Company’s appointee notifies NU that it desires to exclusively use the Jointly-Held Intellectual Property Rights, NU may, upon listening to the opinions of the Company, grant a license to do so for the relevant Jointly-Held Intellectual Property Rights to a Third Party. In such case, the Company shall consent to such licensing.
23. **Assignment of Interests**

NU may assign its interest in the NU Owned Intellectual Property Rights or the Jointly-Held Intellectual Property Rights at any time only to the Company or Company’s appointee upon consultation between NU and the Company in accordance with an assignment agreement to be executed separately.

1. **Royalty**
2. The royalty for using the NU Owned Intellectual Property Rights by the Company or Company’s appointee shall be separately provided in the relevant licensing agreement.
3. If Company’s appointee uses the Jointly-Held Intellectual Property Rights, the royalty to be provided separately in the relevant licensing agreement shall be distributed respectively in proportion to the interests therein held by NU and the Company. Furthermore, if the Company exclusively uses the Jointly-Held Intellectual Property Rights on its own, the Company shall pay NU royalty which will be separately provided in the relevant joint application agreement or licensing agreement.
4. The royalty for using the Jointly-Held Intellectual Property Rights by a Third Party shall be distributed respectively in proportion to the interests therein held by NU and the Company.
5. **Patent Fees, etc.**
6. If the Company or Company’s appointee wishes to exclusively use the Jointly-Held Intellectual Property Rights, the Company shall bear the entire amount of costs and the like for filing applications, patent fees and the like related to the Jointly-Held Intellectual Property Rights (“**Application Costs**”).
7. If the Company or Company’s appointee desires to non-exclusively use the Jointly-Held Intellectual Property Rights, NU and the Company shall consult and determine the ratio of the Application Costs they will respectively bear.
8. **Information Exchange**
9. NU and the Company shall mutually provide or disclose to each other information and materials necessary for conducting the Joint Research except for those with respect to which NU and the Company assume confidentiality obligations pursuant to an agreement with a party other than NU and the Company.
10. NU shall return the materials provided to NU pursuant to this Article after the completion or the cancellation of the Joint Research.
11. **Confidentiality**
12. NU and the Company shall not disclose or divulge, to parties other than the Researchers listed in Exhibit 1 hereto, any information provided by the other party for conducting the Joint Research which the other party indicates at the time of the provision or disclosure is confidential, or, if such information is disclosed orally, the other party explicitly indicates at the time of the disclosure, is confidential and the other party notifies the receiving party in writing within thirty (30) days after the disclosure, is confidential (the “**Confidential Information**”). Furthermore, NU and the Company shall cause the Researchers to assume obligations to maintain the confidentiality of the Confidential Information while they belong to, and after they leave, NU or the Company, as the case may be. The provisions of this Paragraph do not apply to any information that falls under any of the following:
13. Information which the receiving party can prove that was already in its possession when disclosed or became known;
14. Information that was already publicly known when disclosed or became known;
15. Information that became publicly known for reasons not attributable to the receiving party after disclosure thereof;
16. Information which the receiving party can prove was lawfully obtained from a third party with authority for the disclosure thereof;
17. Information which the receiving party can prove was independently obtained or developed without reliance on the information disclosed by the other party; or
18. Information subsequently disclosed with the disclosing party’s prior written approval for subsequent disclosure thereof.
19. Notwithstanding the preceding Paragraph, NU and the Company may disclose the Confidential Information to their respective officers and employees besides the Researchers listed in Exhibit 1 hereto who have a need to know it provided that such officers and employees are subject to the confidentiality obligations provided in this Agreement while they belong to, and after they leave, NU or the Company, as the case may be.
20. Without the prior written consent of the other party, NU and the Company shall not use the Confidential Information for any purposes other than the purpose of the Joint Research.
21. 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 Joint Research; provided, however, that NU and the Company may extend or shorten the term upon consultation.
22. **Research Results**
23. After the completion of the Joint Research, NU and the Company may make disclosure or announcement of, or make publicly available, Research Results obtained by the Joint Research (the “**Research Publication**”) subject to compliance with the confidentiality obligations provided in the preceding Article, provided that the timing and method thereof shall be determined upon consultation between NU and the Company. For the avoidance of any doubt, under no circumstance may the Know-How be disclosed without the prior written　consent of the other party.
24. In the case of the preceding Paragraph, the party seeking Research Publication (the “**Publication Requesting Party**”) shall notify the other party in writing of the contents of the Research Publication at least thirty (30) days prior to the date on which it desires to make the Research Publication. Furthermore, the Publication Requesting Party may, with the other party’s written approval, explicitly indicate the contents of the Research Publication which have been acquired as a result of the Joint Research.
25. If the party notified pursuant to the preceding Paragraph finds that there is a matter in the contents in such notice which will or may harm its expected future benefits, that party shall, within fifteen (15) days of receipt of such notice, notify the Publication Requesting Party in writing of a change in the technological information to be disclosed, announced or made publicly available, and the Publication Requesting Party shall fully consult with that party. The Publication Requesting Party shall not, without the other party’s prior written consent, make publicly available the portion of such technological information which will or is found to possibly damage, by the Research Publication, the other party’s expected future benefits, provided that the other party shall not unreasonably withhold such consent.
26. The time period during which the notice must be made by the Publication Requesting Party under Paragraph 2 of this Article shall be five (5) years commencing from the date immediately following the date of the completion of the Joint Research; provided, however, that NU and the Company may extend or shorten such period upon consultation.
27. Notice between the Researchers of NU and the Researchers of the Company shall suffice as the notice provided in Paragraphs 2 and 3.
28. **Participation of, and Cooperation by, the Research Collaborators**
29. If either of NU or the Company finds, in the course of the performance of the Joint Research, it necessary to procure participation of, or cooperation by, an individual other than the Researchers, upon the other party’s prior written consent, it may have an individual other than the relevant Researchers participate in the Joint Research as a Research Collaborator.
30. In order for an individual other than the Researchers to become a Research Collaborator, the party that has made a request for the other party’s consent to add the individual other than the Researchers as a Research Collaborator shall cause the individual who will become the Research Collaborator to comply with the terms of this Agreement.
31. 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.
32. **Termination**
33. NU may terminate this Agreement in the event that Company fails to make payment for the Research Expenses under Article 6, Paragraph 1 by the Payment Deadline.
34. NU and the Company may terminate this Agreement if the other party falls under any of the following events and fails to cure such event within the time period provided in the notice thereof:
35. the other party commits an act constituting misconduct or bad faith in relation to the performance of this Agreement; or
36. the other party breaches this Agreement.
37. **Indemnification**

If a party falls under any of the events 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 Article 2, Item (3).
3. The provisions of Articles 4, 5, 11 through 20 and 23 will remain in full force and effect after the expiration or termination of this Agreement pursuant to the terms and subject matter respectively provided in such Articles.
4. If this Agreement expires or is terminated upon agreement of the parties and if there is any amount remaining out of the direct costs to be paid pursuant to the provisions of Article 6, the parties shall consult and settle such remaining amounts.
5. If this Agreement expires or is terminated upon an agreement of the parties, NU shall return to the other party the equipment that it has accepted from the other party pursuant to the provisions of Article 9. In such case, the costs necessary for removal shall be borne by the Company.
6. **Foreign Exchange and Foreign Trade Act**
7. 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.
8. 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.
9. **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.

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

Exhibit 1 (Re: Articles 1, 2, 3 and 19)

|  |  |  |  |
| --- | --- | --- | --- |
|  | Name: | Department and Title: | Role in the Joint Research |
| NU: | \* |  |  |
| Company: | Corporate Researcher(s): |  |  |
| Researcher(s) in the Company’s Facilities: |  |  |

\*) Research representative.

Exhibit 2 (Re: Articles 3, 6, 8, 22 and 24)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Direct Costs: | Indirect Costs: | Research Fees Related to the Corporate Researcher(s): | Total: |
| Joint Research Expenses Paid by the Company: | JPY [ ] | JPY [ ] | JPY [ ] | JPY [ ] |

Exhibit 3 (Re: Articles 9 and 24)

|  |  |  |  |
| --- | --- | --- | --- |
| NU’s Facilities: | Company Equipment Accepted by NU’s Facilities: | | |
| Name: | Type and Specifications: | Quantity: |
|  |  |  |  |

Exhibit 4 (Re: Article 11)

|  |  |  |
| --- | --- | --- |
|  | Department and Title: | Contact Information: |
| NU: | General Manager, Department of Research Planning and Promotion, Industry-University Collaboration Division | TEL: +81-25-262-7613  FAX: +81-25-262-7513  e-mail: kenkyo@adm.niigata-u.ac.jp |
| Company: |  |  |