(TRANSLATION)

**Collaborative Research Agreement**

**(Draft)**

The University of [ ] (the “**University**”) and [*Company Name*] (the “**Collaborator**”) enter into this Collaborative Research Agreement (this “**Agreement**”) to conduct the collaborative research (the “**Collaborative Research**”) set out in the Agreement Particulars as follows.

(Agreement Particulars)

|  |  |
| --- | --- |
| 1. Research Title: |  |
| 2. Research Purpose: |  |
| 3. Research Description: |  |
| 4. Researchers | Division | Name | Department / Title | Role in the Research |
| The University |  |  |  |
| The Collaborator |  |  |  | Dispatch of Personnel |
| Y or N |
| 5. Place of Research: |  |
| 6. Research Period: | From [MM/DD/YYYY] through [MM/DD/YYYY] |
| 7. Payment of Research Expenses | Division | Research Expenses |  |
| The University | ¥ [　　　　　　]  | ― |
| The Collaborator | ¥ [　　　　　　] |  |
| Total | ¥ [　　　　　　] | ¥ [　　　　　　] |
| Aggregate Amount | ¥ [　　　　　　] |
| 8. Facility and Equipment | Division | Facility Name | Equipment |
| Name | Specifications | Qty |
| The University |  |  |  |  |
| The Collaborator |  |  |  |  |
| 9. Period for Confidentiality Obligations regarding Know-How: | Until [ ] years after the day immediately following the completion date of the Collaborative Research (or where the research period continues for more than one year, the end of each fiscal year) |
| 10. Period of general Confidentiality Obligations: | Until [ ] years after the day immediately following the completion date of the Collaborative Research (or where the research period continues for more than one year, the end of each fiscal year) |
| 11.Ownership of Intellectual Property Rights Relating to Research Results | The University | Sole Ownership of University Intellectual Property (Article 13(1)) |
| The Collaborator | Sole Ownership of Collaborator Intellectual Property (Article 13(1)) |
| 12. The Parties’ rights to the Research Results (including licenses, options) | The University | Royalty-Free, Non-Exclusive License of Collaborator Intellectual Property for Research Purposes (Article 15(2)) |
| The Collaborator | Royalty-Free, Non-Exclusive License of University Intellectual Property for Joint-Research Purposes (Article 14(1))Option for Non-Exclusive License/Exclusive License/Assignment for University Intellectual Property (Article 14(2)) |

(NO FURTHER TEXT ON THIS PAGE)

**Article 1 (Definitions)**

For the purpose of this Agreement, the meanings of the terms set forth in the following items shall be as prescribed in those items.

(1) “**Research Result(s)**” means any technical result acquired based on the Collaborative Research, including, but not limited to, any invention, idea, design, copyrightable work and know-how which relates to the purpose of the Collaborative Research.

(2) “**Intellectual Property Rights**” mean those listed below:

　A.　The patent rights prescribed in the Patent Act (Act No. 121 of 1959), the utility model rights prescribed in the Utility Model Act (Act No. 123 of 1959), the design rights prescribed in the Design Act (Act No. 125 of 1959), the trademark rights prescribed in the Trademark Act (Act No. 127 of 1959), the layout-design exploitation rights prescribed in the Act on the Circuit Layout of a Semiconductor Integrated Circuits (Act No. 43 of 1985), the breeder’s rights prescribed in the Plant Variety Protection and Seed Act (Act No. 83 of 1998) and the rights corresponding to each of the aforementioned rights in foreign countries;

　B.　The rights to obtain patent prescribed in the Patent Act, the rights to obtain a utility model registration prescribed in the Utility Model Act, the rights to obtain a design registration prescribed in the Design Act, the rights deriving from an application for trademark registration prescribed in the Trademark Act, rights to obtain a registration of the establishment of a layout-design exploitation right, the rights to obtain a variety registration and the rights corresponding to each of the aforementioned rights in foreign countries;

　C. Copyrights in computer program works and database works (“**Computer Program, Etc.**”) prescribed in the Copyright Act (Act No. 48 of 1970) and the rights corresponding to the aforementioned rights in foreign countries, and

　D.　Technical information which may be kept secret and has proprietary nature specified pursuant to the provision of Article 20 (the “**Know-How**”).

(3) “**Invention(s)**” means inventions that are subject to patent rights, devices which are subject to utility model rights, creations which are subject to design rights or layout-design exploitation rights, trademarks which are subject to trademark rights and the bred varieties which are subject to breeder’s rights.

(4) “**Application(s)**” means an application for a patent right, utility model right, trademark right or design right, an application for the registration of a layout-design exploitation right, an application for the registration of a variety registration for a breeder’s right, and a request, registration and/or application (including provisional application) of the rights corresponding to each of the aforementioned rights in foreign countries.

(5) “**Application Expenses**” mean the expenses required for the Applications for Intellectual Property Rights, etc., which are paid to organizations such as the Japan Patent Office, courts, etc., or to external experts, such as patent attorneys who do not belong to either the University or the Collaborator.

(6) “**Implementation**” of, or “to implement”, Intellectual Property Rights means the acts prescribed in Article 2, Paragraph 3 of the Patent Act, the acts prescribed in Article 2, Paragraph 3 of the Utility Model Act, the acts prescribed in Article 2, Paragraph 3 of the Design Act, the acts prescribed in Article 2, Paragraph 3 of the Trademark Act, the acts prescribed in Article 2, Paragraph 3 of the Act on the Circuit Layout of a Semiconductor Integrated Circuits, the acts prescribed in Article 2, Paragraph 5 of the Plant Variety Protection and Seed Act, any and all acts of exploitation of copyrightable works and the use of the Know-How.

**Article 2 (Research Title, Etc.)**

The University and the Collaborator shall conduct the collaborative research set forth in Paragraphs 1 to 3 of the Agreement Particulars (the “**Collaborative Research**”).

**Article 3 (Research Period)**

The research period of the Collaborative Research shall be as set forth in Paragraph 6 of the Agreement Particulars.

**Article 4 (Researchers)**

1.　The University and the Collaborator shall each assign the person set forth in Paragraph 4 of the Agreement Particulars as the participants in the Collaborative Research.

2.　The University shall accept the Collaborator’s researchers, whom the Collaborator desires to engage in the Collaborative Research in a laboratory of the University, as collaborative researchers.

3.　The University or the Collaborator may change, add to, or remove the researchers set forth in Article 4.1 with the prior consent of the other party.

**Article 5 (Allocation and Payment of Research Expenses)**

1.　The University shall bear the research expenses set forth in Paragraph 7 of the Agreement Particulars, and the Collaborator shall bear the research expenses [and research fee] set forth in Paragraph 7 of the Agreement Particulars, respectively.

2.　The Collaborator must pay the research expenses set forth in the invoice issued by the University by the due date of payment specified in the relevant invoice.

3.　If the Collaborator fails to pay the research expenses by the prescribed due date of payment, the Collaborator shall additionally pay delay charges at the rate of five percent (5%) per annum for the outstanding amount, on a daily pro-rata basis, covering the period from and including the day immediately following the due date for payment, up to and including the day of actual payment.

**Article 6 (Accounting)**

1.　The accounting procedures for the research expenses set forth in Article 5 shall be conducted by the University.

2.　The Collaborator may request the University allows for the inspection of the accounting documents relating to this Agreement. If the Collaborator makes such request for inspection, the University must comply with the same. Provided, however, that if any information of a third party will be disclosed as a result of the inspection or copying of such accounting documents, the University may refuse the inspection and copying of the relevant part after stating to the Collaborator the reason for refusal.

**Article 7 (Facilities, Etc., Acquired Using the Research Expenses)**

　The facilities, etc., that are acquired using the research expenses set forth in Paragraph 7 of the Agreement Particulars shall be owned by the University.

**Article 8 (Provision, Etc., of Facilities and Equipment)**

1. The University and the Collaborator shall make their respective facilities and equipment as set forth in Paragraph 8 of the Agreement Particulars, available for the use in the Collaborative Research.

2.　The University shall accept from the Collaborator the equipment owned by the Collaborator set forth in Paragraph 8 of the Agreement Particulars, with the consent of the Collaborator, free of any compensation. The University shall jointly use the said equipment with the Collaborator, for the use in the Collaborative Research. In this case, the ownership of said equipment may be transferred to the University free of charge upon agreement between the University and the Collaborator. The University shall retain custody of such equipment accepted from the Collaborator, with the duty of care of a good manager, from the time of completion of the installation of such equipment until the commencement of the return of the same.

3.　Any expenses required for the carrying-in, installation, removal and carrying-out of the equipment provided in Article 8.2 shall be borne by the Collaborator.

**Article 9 (Discontinuation of Research or Extension of Period)**

1.　If there arises any act of God or other unavoidable circumstance, the University and the Collaborator may discontinue the Collaborative Research through discussion with the other party, or may extend the research period of Collaborative Research if agreed upon with the other party through such discussion. In such case, neither the University nor the Collaborator shall be liable for any damages incurred by the other party caused by such discontinuation or extension.

2.　If it is found that continuation of the Collaborative Research is difficult due to retirement or transfer to another institution of any researcher, etc., of the University the University may discontinue the Collaborative Research through discussion with the Collaborator. In such case, the University shall not be liable for any damages incurred by the Collaborator caused by such discontinuation.

3.　If it becomes likely that, as a result of the extension of the research period of the Collaborative Research, there is or would be a shortage in funds for research expenses that the Collaborator paid to the University pursuant to the provision of Article 5, the University and the Collaborator shall discuss whether or not the Collaborative Research should be continued. In such a case, if the Collaborator does not provide additional funds for such shortage, the University may discontinue the Collaborative Research, taking into account the result of the discussion with the Collaborator.

**Article 10 (Completion of Research)**

　The Collaborative Research shall be completed upon the occurrence of any of the following events:

(1) The research period set forth in Paragraph 6 of the Agreement Particulars expires;

(2)The Collaborative Research conducted before the expiration of the research period is completed;

(3) This Agreement is terminated pursuant to Article 25, or

(4) The University and the Collaborator agreed that the Collaborative Research is complete.

**Article 11 (Treatment of Research Expenses upon Discontinuation of Research)**

If the Collaborative Research is discontinued pursuant to Article 9 or the termination of the Agreement, where there is any unused amount in the research expenses paid pursuant to Article 5, the Collaborator may request the University to refund such unused amount.

**Article 12 (Preparation of Achievement Report in Accordance with Completion of Research)**

Within [ ] days, after the day immediately following the completion of the Collaborative Research, the University and the Collaborator shall prepare, in mutual cooperation, an achievement report with respect to any Research Results that have been obtained during the implementation period of the Collaborative Research.

**Article 13 (Title to Intellectual Property Rights)**

1.　Among the Intellectual Property Rights relating to any Inventions conceived in connection with the Collaborative Research (the “**Subject Inventions**”) (the “**Subject Intellectual Property Rights**”), those relating to the Inventions belonging to [technical field] shall be owned by the University, and those relating to the Inventions belonging to any technical field other than [technical field] shall be owned by the Collaborator (Hereinafter, the Inventions belonging to [technical field] as designated in this Article shall be referred to as the “**University’s Inventions**”, and the Intellectual Property Rights relating to the University’s Inventions shall be referred to as the “**University’s Intellectual Property Rights**”. Further, the Inventions belonging to any technical field other than [technical field] as designated in this Article shall be referred to as the “**Collaborator’s Inventions**”, and the Intellectual Property Rights relating to the Collaborator’s Inventions shall be referred to as the “**Collaborator’s Intellectual Property Rights**”.).

2.　The University shall, with regard to the University’s Intellectual Property Rights, and the Collaborator shall, with regard to the Collaborator’s Intellectual Property Rights, in accordance with their respective rules, acquire or have assigned to it, the Intellectual Property Rights relating to the relevant Inventions from the researchers, etc. who conceived the relevant Inventions.

**Article 14 (Handling of the University’s Inventions and the University’s Intellectual Property Rights)**

1.　The University may implement the University’s Inventions on its own behalf, provided that the University complies with the Know-How confidentiality obligations specified in Article 20 and the confidentiality obligations specified in Article 21.

2.　The University shall grant the Collaborator with a royalty-free non-exclusive license to implement the University’s Inventions for the purpose of implementing the Collaborative Research.

3.　The Collaborator may opt for any of (1) to (3) below with regard to the University’s Inventions and the University’s Intellectual Property Rights [prior to the Applications/within [　] months from the Applications]:

(1) the non-exclusive right to implement the University’s Inventions [with/without consideration] for purposes other than implementation of the Collaborative Research;

(2) the exclusive right to implement the University’s Inventions [with/without consideration], or

(3) the right to acquire the University’s Intellectual Property Rights for a consideration.

4.　The Collaborator may, with the prior written consent of the University, change the option it made pursuant to the provision of the preceding Paragraph to any other option set forth in the said Paragraph. Provided, however, that if the Collaborator requests that the University gives such consent, the University shall not withhold such consent without a just cause.

**Article 15 (Handling of the Collaborator’s Inventions and the Collaborator’s Intellectual Property Rights)**

1.　The Collaborator may implement the Collaborator’s Inventions on its own behalf, provided that the Collaborator complies with the Know-How confidentiality obligations specified in Article 20 and the confidentiality obligations specified in Article 21.

2.　The Collaborator shall grant the University with a royalty-free non-exclusive license to implement the Collaborator’s Inventions for the purpose of implementing the Collaborative Research and other research purposes.

**Article 16 (Royalty)**

1.　If the University implements the Collaborator’s Inventions for the Collaborative Research and other research purposes, it does not need to pay any royalty.

2. If the Collaborator non-exclusively implements the University’s Inventions, for the purpose of implementing the Collaborative Research, it does not need to pay any royalty.

3.　If the license arising from the exercise by the Collaborator of the option pursuant to (1) or (2) of Paragraph 3 of Article 14 requires consideration, the royalty to be paid by the Collaborator to the University and any other conditions of licensing shall be determined by the University and the Collaborator after mutual consultations.

4.　If the Collaborator exercised the right to acquire for consideration pursuant to (3) of Paragraph 3 of Article 14, the Collaborator shall pay the University the transfer consideration separately agreed upon between the University and the Collaborator.

　[Sample royalty provisions

　①The Collaborator shall pay by [(i) cash (ii) issuing stock options ] to the University a royalty fee calculated by [ ] % of the [Net Selling Price] of products using the Object Intellectual Property sold within [ ] months between [MM/DD/YY ] and [MM/DD/YY] of each year, by within [ ] days of [MM/DD/YY] and [MM/DD/YY]

 ②The Collaborator shall pay [ ] within [ ] days of the effective date of this Agreement

 ③The Collaborator shall pay the following royalties upon the completion of the research phase in [(i) cash (ii) issuance of stock options].

　 (1) Payment of [ ] within [ ] days of completion of [Phase 1]

　 (2) Payment of [ ] within [ ] days of completion of [Phase 2]

　 (3) Payment of [ ] within [ ] days of completion of [Phase 3]

 ④Collaborator shall pay the following royalty by [(i) cash/ (ii) stock options of the equivalent amount]

　 (1) Payment of [ ] within [ ] days of the effective date of this Agreement

　 (2) Payment of [ ] within [ ] days of completion of [Phase 1]

　 (3) Payment of [ ] within [ ] days of completion of [Phase 2]

　 (4) Payment of [ ] within [ ] days of completion of [Phase 3]

 (5)The Collaborator shall pay the University a royalty fee of calculated by [ ] % of the [Net Selling Price] of products using the Object Intellectual Property sold within [ ] months between [MM/DD/YY] and [MM/DD/YY] of each year, by within [ ] days of [MM/DD/YY] and [MM/DD/YY].

 ⑤The License shall be without consideration.］

**Article 17 (Filing of Applications for Intellectual Property Rights)**

　Applications for the Subject Intellectual Property Rights shall be made as set forth below.

(1) Applications for the University’s Intellectual Property Rights shall be made solely by the University.

(2) Applications for the Collaborator’s Intellectual Property Rights shall be made solely by the Collaborator.

**Article 18 (Filing of Applications in Foreign Countries)**

　Applications in foreign countries for the Intellectual Property Rights arising from the Subject Intellectual Property Rights shall be made in the same manners as those set forth in the preceding Article.

**Article 19 (Expenses for Filing of Applications)**

　The expenses for filing the Applications set forth in the preceding two (2) Articles shall be borne in the manner set forth below.

(1)　In the event the Collaborator is non-exclusively implementing the University’s Inventions, such expenses shall be borne either [(i) by the University] or (ii) jointly [by the University and the Collaborator].

(2) In the event the Collaborator is exclusively implementing the University’s Inventions, such expenses shall be borne solely by the Collaborator.

(3) With regard to the Collaborator’s Inventions, such expenses shall be borne by the Collaborator.

**Article 20 (Know-How and Computer Program, Etc.)**

1.　If any Know-How was created as a result of the Collaborative Research, the relevant party shall, after mutual consultations, promptly notify the other party and identify the same in writing.

2.　Any identified Know-How shall be kept confidential from the date of identification and during the period set forth in Paragraph 9 of the Agreement Particulars and shall not be disclosed to a third party without the written consent of the other party.

3.　The handling of any identified Know-How and any Computer Program, Etc. created from the Collaborative Research shall be separately determined by the University and the Collaborator through mutual consultations in accordance with the handling of the Intellectual Property Rights relating to the Inventions conceived in connection with the Collaborative Research specified in Article 13 to Article 19.

**Article 21 (Confidentiality)**

1.　Neither the University nor the Collaborator may disclose or divulge to any third party other than the researchers designated in Article 4, any technical and/or operational information which is disclosed or provided by the other party upon implementation of the Collaborative Research and is expressly marked as confidential at the time of the provision or disclosure by the other party or which is orally disclosed and is expressly indicated as confidential at the time of the oral disclosure and which is notified by the disclosing party to the other party in writing within thirty (30) days from the disclosure (the “**Confidential Information**”). The University or the Collaborator shall impose upon the relevant researcher, an obligation to keep confidential the information it received from the other party even after the relevant researcher has left their work position. Provided, however, that the above shall not apply to any information which falls under any of the following:

(1) any information which is proven to be already held by the receiving party at the time of the disclosure or provision thereof;

(2) any information that was already a part of the public domain at the time of the disclosure or provision thereof;

(3) any information that became a part of the public domain after the disclosure or provision thereof for a reason not attributable to the receiving party;

(4) any contents which are proven to be obtained lawfully from a third party with due authority;

(5) any information which is proven to be independently developed or obtained by the receiving party without reference to the information disclosed or provided by the other party; or

(6) any information which was excluded by the prior written consent of the other party.

2.　Neither the University nor the Collaborator may use the Confidential Information for any purpose other than the Collaborative Research. Provided, however, that the above shall not apply if the prior written consent of the other party is obtained.

3.　The effective term set forth in the preceding two (2) Paragraphs shall start from the commencement date of the Collaborative Research set forth in Article 3　 and include the period set forth in Paragraph 10 of the Agreement Particulars. Provided, however, that such period may be extended or shortened after mutual consultations between the University and the Collaborator.

**Article 22 (Public Release of Research Results)**

1.　The Research Results shall, in principle, be publicly released. Provided, however, that upon the public release, the Know-How confidentiality obligations specified in Article 20 and the confidentiality obligations specified in Article 21 shall be complied with.

2.　The University shall notify the Collaborator in writing of the purpose, place and contents of the public release no later than [ ] days prior to the public release.

3.　If the Collaborator determines that the public release is likely to materially conflict with the interests of the Collaborator, the Collaborator shall notify the University of that effect in writing within [ ] days of the receipt of the notice set forth in the preceding Paragraph and the University shall determine the extent and manner of the public release after holding mutual consultations with the Collaborator.

4.　After [ ] years from the day immediately following the completion date of the Collaborative Research, the University shall comply with the Know-How confidentiality obligations specified in Article 20 and the confidentiality obligations specified in Article 21 and may publicly release the Research Results without notice to the Collaborator. Provided, however, that such period may be extended or shortened after mutual consultations between the University and the Collaborator.

5.　The University and the Collaborator may, with the prior written consent of the other party, indicate upon any release or public disclosure or public release of the Research Results, that the relevant Research Results were obtained through the Collaborative Research.

**Article 23 (Prohibition of Assignment)**

　Neither the University nor the Collaborator may assign to a third party the contractual status under this Agreement or any rights or obligations arising from this Agreement without obtaining the prior written consent of the other party. The above applies regardless of whether or not the assignment arises from a merger or assignment of the whole or any part of the businesses relating to the purpose of this Agreement.

**Article 24 (Effective Term)**

1.　The term of this Agreement shall be coterminous with the research period of the Collaborative Research.

2.　The provisions of Article 20, Article 21, Article 27, and Article 28 shall survive the expiration of this Agreement.

**Article 25 (Termination)**

1. If any of the following events occur, the University or the Collaborator may demand that the other party remedy the situation within [ ] days, and immediately terminate this Agreement in the event that such situation is not remedied within such period:

(1) The other party has committed any unlawful or unjust act with regard to the execution or performance of this Agreement, or

(2) The other party has breached any provision of this Agreement.

2. If the Collaborator falls under any of the following events, the University may immediately terminate this Agreement without making any demand to the Collaborator.

(1) The filing for bankruptcy, civil rehabilitation, corporate reorganization, or special liquidation is made by or against the Collaborator;

(2) The Collaborator has become subject to a disposition of suspension of banking transaction or a suspension of payment has occurred in the Collaborator, or

(3) The Collaborator has become subject to provisional attachment, or has become subject to a disposition of delinquency in paying taxes and other public charges.

**Article 26 (Elimination of Anti-social Forces)**

1.　The University and the Collaborator (in the case of a corporation, including its officers and employees) shall represent and warrant to the other party the following Items:

　(i)　It does not fall under an organized crime group, an organized crime group member, an organized crime group associate member, a person for whom five (5) years have not yet passed since the time when it ceased to be an organized crime group member, a company related to an organized crime group, a corporate racketeer, a group engaging in criminal activities under the pretext of conducting political activities or religious activities or social campaigns, a crime group specialized in intellectual crimes or any other person equivalent thereto (collectively, “**Anti-social Forces**”);

　(ii)　It is not a party who allows Anti-social Forces to utilize its name to execute this Agreement, and

　(iii)　It does not conduct or use a third party to conduct the following acts:

　　A.　act of using threatening behavior or violence toward the other party; or

　　B.　act of obstructing the business of the other party or defaming the other party by the use of fraudulent means or force.

2.　If the University or the Collaborator falls under any of the Items set forth above, the other party may terminate this Agreement without making any demand:

(i) if it was discovered that it made any statement that violates the commitment set forth in (i) of the preceding Paragraph;

(ii) if it was discovered that it made a contract in violation of the commitment set forth in (ii) of the preceding Paragraph; or

(iii) if it conducted any act which violates the commitment set forth in (iii) of the preceding Paragraph.

3. Neither the University nor the Collaborator shall be liable for any damages that the other party may incur due to the termination of this Agreement pursuant to the preceding Paragraph.

**Article 27 (Damages)**

　If the University or the Collaborator incurs any damages, due to any of the events set forth in Article 26 or by a willful act or gross negligence of the other party, it may claim against the other party for such damages which shall be limited to the direct damages it incurred.

**Article 28 (Governing Law and Jurisdiction)**

1.　This Agreement shall be governed by the laws of Japan.

2.　All disputes relating to this Agreement shall be submitted to the exclusive jurisdiction of the [　　　] District Court as the court of first instance.

IN WITNESS WHEREOF, the University and the Collaborator have caused this Agreement to be executed in duplicate originals and shall each retain one (1) original.

Execution Date: ,

(The University) [　 Address　]

 [　 Name 　]

 President　[　　　　　　]

(The Collaborator) [　 Address　]

 [　 Name　 ]

 Representative Director [　]