

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (this “Agreement”) is made and entered into effective as of [MONTH][DAY], [YEAR] (the “Effective Date”) by and between Keio University, having its principal place of business at 2-15-45 Mita, Minato-ku, Tokyo 108-8345, Japan (“University”), and [NAME OF COUNTERPARTY], having its principal place of business at [ADDRESS] (“Company”), in anticipation of each party disclosing confidential information to the other party for the purpose identified below:

Purpose: _____

The primary contacts for disclosing or receiving Confidential Information (as defined below) for the parties are as follows:

For University: _____

For Company: _____

In consideration of each party making confidential information available to the other party, the parties hereto hereby agree as follows.

1. As used herein, the term “Confidential Information” means any and all information furnished by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) in connection with the Purpose that (i) is in electronic, written or other tangible form and clearly marked as “Confidential”, or (ii) is disclosed orally or visually and designated as confidential at the time of the oral or visual disclosure and, further, within thirty (30) days after the oral or visual disclosure, the summary of which is furnished to Receiving Party in writing clearly marked as “Confidential”. The term “Confidential Information” does not, however, include information that (i) is or becomes within the public domain through no act of the Receiving Party or its Representatives (as defined below) in breach of this Agreement; (ii) is already in the Receiving Party’s possession without obligation of confidentiality at the time of disclosure and the Receiving Party; (iii) has been lawfully obtained by the Receiving Party from a third party having the right to make the disclosure who places no obligation of confidence upon the Receiving Party; or (iv) is independently developed by the Receiving Party without access to or use of the Confidential Information.
2. This Agreement applies to information that is disclosed from [the Effective Date][Month/Date/Year] through [Month/Date/Year] (the “End Date”), unless the End Date is extended upon written agreement of the parties.
3. The Receiving Party shall keep the Confidential Information confidential and shall not, without the Disclosing Party’s prior written consent, disclose any Confidential Information in any manner whatsoever, in whole or in part, to any third party; provided, however, that the Receiving Party may disclose the Confidential Information or portions thereof to its directors, officers, employees, advisors and, in the case of University, students, (the “Representatives”) (i) who need to know the Confidential Information to fulfill the Purpose and (ii) who have been advised of by the Receiving Party and have agreed to maintain the confidential nature of the Confidential Information. The Receiving Party agrees to be responsible for any and all breaches of this Agreement by its Representatives.
4. The Receiving Party shall use any Confidential Information solely for the Purpose and shall not use, directly or indirectly, any Confidential Information in whole or in part for any other purpose whatsoever. The Receiving Party shall protect all Confidential Information with at least the same degree of care with which the Receiving Party would treat Confidential Information of its own.

5. In the event that the Receiving Party or any of its Representatives are requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party shall (unless prohibited by applicable law) immediately notify the Disclosing Party of the existence, terms and circumstances surrounding such request or requirement, and consult with the Disclosing Party on the advisability of taking legally available steps to resist or narrow the request. In the event that disclosure of any Confidential Information is legally required, the Receiving Party or its Representatives, as the case may be, shall furnish only that portion of the Confidential Information which is legally required and exercise all reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded to such Confidential Information.
6. At any time upon the request of the Disclosing Party, the Receiving Party shall, at its own expense, promptly deliver to the Disclosing Party, or at the Disclosing Party's request, destroy, all copies of the Confidential Information (whether in written, electronic or other tangible format) in the Receiving Party's or its Representatives' possession that was delivered to the Receiving Party by the Disclosing Party. Notwithstanding the foregoing, the Receiving Party and its Representatives shall be permitted to retain Confidential Information that would be unreasonably burdensome to destroy (such as archived computer records) or to the extent required to comply with applicable law, rules or regulations, provided that any Confidential Information so retained herein shall remain subject to the terms of this Agreement.
7. Each party hereto agrees to comply with all applicable laws, rules and regulations, including Export Administration Regulations and Export Control Regulations of the United States of America, relating to the disclosure, export or re-export of technical data and products produced as a result of the use of such data, insofar as they relate to the information disclosed under this Agreement. Company covenants that it will not disclose to University any information that contains information, technology or data of which use, export, release or transfer is subject to any governmental restriction or prohibitions, including the U.S. Export Administration Regulations, without the prior written consent from University.
8. Neither Party makes any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information.
9. Neither party acquires any intellectual property rights or other rights in respect of Confidential Information except the limited right to the use as set forth herein.
10. Nothing in this Agreement shall be construed as obligating the parties hereto to enter into any subsequent agreement or relationship.
11. The Receiving Party hereby agrees to be responsible and liable for, and hold the Disclosing Party and its Representatives harmless from, any liabilities, damages, losses or costs (including reasonable attorneys' fees) which the Disclosing Party or any of its Representatives may incur as a result of any breach of this Agreement by the Receiving Party or any of its Representatives. Furthermore, each party hereto acknowledges that any unauthorized disclosure of the Confidential Information or other breach of this Agreement by the Receiving Party or any of its Representatives may cause irreparable harm to the Disclosing Party and that due to the nature of the Confidential Information, monetary damages alone would be inadequate compensation for such breach. Accordingly, each party agrees that, in addition to all other remedies available, the Disclosing Party shall be entitled to seek relief other than monetary compensation, such as injunctive relief, in the event of any actual or threatened breach of this Agreement by the Receiving Party or any of its Representatives.
12. The obligations of the parties with respect to the use and non-disclosure of the Disclosing

Party's Confidential Information under this Agreement expire three (3) years from the End Date.

13. This Agreement shall be governed by and construed in accordance with the laws of Japan.
14. Except with respect to actions seeking relief other than monetary compensation, any disputes, controversies or differences which may arise between the parties out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Rules of the Arbitration of the International Chamber of Commerce. Any arbitration award granted shall be final and binding on the parties and shall not be subject to appeal and shall be enforceable in any court of competent jurisdiction. The language for the arbitration procedure shall be [Japanese] and there shall be one arbitrator appointed in accordance with the said rules.
15. Any notice or communication required or permitted to be given hereunder shall be given in writing and either by personal delivery, by facsimile, by registered or certified mail (with all postage and other charges prepaid) or by e-mail to the address shown below. Any notice delivered by personal delivery, facsimile or e-mail shall be deemed given and effective at the time of delivery. Any notice delivered by registered or certified mail shall be deemed given at the end of the tenth business day after it is posted.

University:

[Title]

[Address]

Telephone: []

Fax: []

Email: []

Company:

[Title]

[Address]

Telephone: []

Fax: []

Email: []

16. This Agreement contains the entire agreement between the parties hereto concerning the confidentiality of the Confidential Information, and no provision of this Agreement may be waived, amended or modified, in whole or in part, nor any consent given, unless approved in writing by a duly authorized officer of the parties hereto. In the event that any provision of this Agreement is deemed invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. No rights or obligations hereunder shall be assignable without the prior written consent of the other party. This Agreement may be executed and delivered in separate counterparts, including by facsimile or other electronic transmission, each of which, when so executed and delivered, shall be deemed to be an original, but such counterparts shall together constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives as of the date first above written.

University:

Keio University

Company:

[NAME OF COUNTERPARTY]

Name:

Title

Name:

Title