

Collaborative Research Agreement

(Draft)

Kawasaki Institute of Industrial Promotion (the “**Institute**”) and [*Company Name*] (the “**Partner**”; the Institute and the Partner being collectively referred to as the “**Parties**” and each individually a “**Party**”) enter into this Collaborative Research Agreement (this “**Agreement**”) on the terms and conditions defined in the **Terms and Conditions of Agreement** attached to this Agreement, to conduct the collaborative research (the “**Collaborative Research**”) set out in the **Agreement Particulars** as follows.

Agreement Particulars

1. The Institute:	Kawasaki Institute of Industrial Promotion				
2. The Partner:					
3. Research Title:					
4. Research Purpose:					
5. Research Description:	(available detailed research program description to be annexed)				
6. Participants of Research (Additional member list to be annexed)		Name	Division / Title	Role in the Research	
	Principal Investigator of the Institute				
	Research Coordinator of the Institute (If provided)			Overall program coordination (Setting up meetings, Managing schedules, Checking milestones). Team Organization Chart to be annexed if applicable.	
	Principal Investigator of the Partner				
If Application for residency at the Institute is necessary, the name shall be listed.	The researcher from the Partner taking residency at the Institute			Application for the research activity made prior the residency.	Y or N

7. Research Schedule: (the detail to be annexed)	Milestones: Preliminary Report by the end of 1 st Year (DATE) Secondary Report by the end of 2nd Year (DATE) Final Report at the end of Research Period (DATE)			
8. Place of Research:				
9. Research Period:	From _____ through _____			
10. Payment for Research Expenses:	Research Costs (Article 7.1(1))	¥		
	Research Support Expense (Article 7.1(2))	¥		
	Research Fee (Article 7.1(3))	¥		
	Total	¥		
11. Provision of Facility and Equipment:		Facility Name	Equipment	
			Name	Specifications
	The Institute			
	The Partner			
12. Period for Confidentiality Obligations regarding Know-How:	Until three (3) years after the day immediately following the Research Completion Date			
13. Period of general Confidentiality Obligations:	Until three (3) years after the day immediately following the Research Completion Date			
14. Implementation Target Period:	Until three (3) years after the day immediately following the day when the Application is filed in any jurisdiction in respect of the relevant Intellectual Property Rights.			

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives. The Parties have prepared two originals of this Agreement, and shall each retain one original.

Execution Date: _____, _____

The Partner: _____

Signed by : _____
Title : _____

The Institute: Kawasaki Institute of Industrial Promotion
3-25-14 Tono-machi, Kawasaki-ku, Kawasaki-shi, Kanagawa, 210-0821 Japan

Signed by : Atsushi Miura_____

Title : Director_____

I, _____, named as the Principal Investigator of the Institute, acknowledges the obligations in this Agreement.

Signed by : _____

Title : Professor_____

(The Terms and Conditions of Agreement are attached hereto)

Terms and Conditions of Agreement

1 Definitions

For the purpose of this Agreement, the following terms are defined as follows:

- 1.1 **“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 is identified as a result in the achievement report or any intermediate report(s), which shall be prepared pursuant to Article 6 and relate to the purpose of the Collaborative Research.
- 1.2 **“Intellectual Property Rights”** means any and all world-wide intellectual property rights, including, but not limited to, patent rights, utility model rights, design rights, copyrights, trademark rights, know-how and the rights to obtain these rights.
- 1.3 **“Invention(s)”** includes any invention, idea, device, design, works of authorship, mark, know-how, and any other proprietary information, which is subject to the protection of the Intellectual Property Rights.
- 1.4 **“Application(s)”** means an application for a patent right, utility model right, trademark right or design right, a request for the registration of a circuit layout right, an application for the registration of a plant variety breeder’s right, and a request, registration and/or application (including provisional application) of any right in any jurisdiction that is the same as or equivalent to any of the foregoing.
- 1.5 **“Partner Designated Third Party”** means any entity to whom the Partner commits production or manufacturing in a license agreement, a joint application agreement or otherwise, through discussion between the Institute and the Partner.
- 1.6 **“Research Coordinator”** means a person of the Institute who has the right to coordinate the Collaborative Research, including but not limited to, managing daily works and schedules, and arranging meetings for confirming the progress.

2 Mutual Cooperation in Collaborative Research

- 2.1 Subject to the terms and conditions of this Agreement, the Institute and the Partner shall conduct the Collaborative Research in mutual cooperation.
- 2.2 The Institute and the Partner shall cooperate in proceeding with the Collaborative Research efficiently and productively with assistance of the Research Coordinator (if any).

3 Research Period

The research period of the Collaborative Research shall be as set forth in Paragraph 9 of the Agreement Particulars.

4 Researcher

- 4.1 The Institute and the Partner shall each assign a Principal Investigator set forth in Paragraph 6 of the Agreement Particulars who will manage the total progress of the Collaborative Research.
- 4.2 The Institute shall accept a Partner’s researcher, whom the Partner desires to engage in the

Collaborative Research in a laboratory of the Institute, as a collaborative researcher as listed in Paragraph 6 of the Agreement Particulars.

- 4.3 The Institute or the Partner may change, add or remove the Principal Investigator set forth in Articles 4.1 and any researcher set forth in 4.2 above, with the prior consent of the other Party.

5 Research Collaborator

- 5.1 If either Party needs to obtain the participation or collaboration of any person other than the listed researcher for the purpose of the conduct of the Collaborative Research, that Party may, upon obtaining the prior consent of the other Party, allow any person of the Institute or the Partner other than the listed researcher, including a student, to act as a research collaborator.

- 5.2 In the case provided in Article 5.1 above, the Party who obtained the participation of any research collaborator shall cause the person who will act as the research collaborator to comply with the terms and conditions of this Agreement. Any breach of this Agreement caused by any research collaborator shall constitute a breach of this Agreement by the Party who caused the participation of such research collaborator.

6 Completion of Collaborative Research and Preparation of Reports

- 6.1 The Collaborative Research shall be deemed to have been completed upon the occurrence of any event described below. The day when the Collaborative Research is deemed to have been completed shall be referred to as the “**Research Completion Date**”.

- (1) When both Parties agree that the Research Purpose set forth in Paragraph 4 of the Agreement Particulars has been achieved or realized;
- (2) When the Institute or the Partner determines that it is impossible or otherwise significantly difficult to achieve or realize the Research Purpose set forth in Paragraph 4 of the Agreement Particulars and both Parties agree with such determination, or the date that the Collaborative Research is discontinued pursuant to Article 11;
- (3) When the Research Period set forth in Paragraph 9 of the Agreement Particulars expires (or as extended under Article 11); or
- (4) Otherwise, when both Parties agree that the Collaborative Research is completed.

6.2 Achievement Report

Within thirty (30) days after the Research Completion Date, the Institute and the Partner shall make, in mutual cooperation, the achievement report with respect to any Research Result which has been obtained during the Research Period of the Collaborative Research.

6.3 Intermediate Report(s)

An intermediate report shall be prepared, at least at every year-end of each year of the Research Period in case such Research Period is over one year, by mutual cooperation of the Institute and the Partner for the purpose of checking progress of the Collaborative Research.

7 Allocation of Research Expenses

- 7.1 The Partner shall bear the following research expenses, which shall be required for the conduct of the Collaborative Research. The payment amount shall be as set forth in Paragraph 10 of the Agreement Particulars.

- (1) The expenses directly required for the conduct of the Collaborative Research, including, but not limited to, honoraria, travel expenses, facilities expenses,

expendable items expenses, and light, fuel and water expenses (other than ordinary expenses required for the maintenance and management of the Institute's facilities and equipment), plus any applicable consumption tax and local consumption tax (collectively, the "**Research Costs**").

- (2) The research support expenses required for ordinary maintenance and management of the Institute's facilities and equipment, which shall be determined pursuant to the applicable provision of the Institute's rules, plus any applicable consumption tax and local consumption tax (the "**Research Support Expense**").
- (3) Any expenses incurred to accept any researcher of the Partner pursuant to Article 4.2 above, subject to the applicable rules of the Institute, plus any applicable consumption tax and local consumption tax (the "**Research Fee**").

7.2 Even where the number of researchers is reduced under Article 4.3 above, any Research Fee that has already been paid pursuant to Article 8.1 shall not be refunded. If the number of collaborative researchers accepted by the Institute under Article 4.2 is increased, the Partner shall pay any Research Fee incurred as a result thereof.

8 Payment of Research Expenses

8.1 The Partner shall pay the Research Expenses set forth in Paragraph 10 of the Agreement Particulars by the due date of payment prescribed by the Institute in accordance with the applicable invoice issued by the Institute.

8.2 If the Partner fails to pay the Research Expenses by the due date of payment in accordance with Article 8.1, the Institute shall be entitled to charge the Partner delay charges at the rate of five percent (5%) per annum for the unpaid 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. Upon request from the Institute, the Partner shall pay such charges.

9 Ownership of Facilities, etc. Acquired by Research Expenses

Any and all facilities, equipment, supplies, etc., that are acquired using the Research Expenses set forth in Paragraph 10 of the Agreement Particulars shall be owned by the Institute.

10 Provision of Facilities and Equipment

10.1 The Institute and the Partner shall make available to the Collaborative Research their own facilities and equipment set forth in Paragraph 11 of the Agreement Particulars.

10.2 The Institute may use free of charge the equipment owned by the Partner which is set forth in Paragraph 11 of the Agreement Particulars, with the consent of the Partner, in order to make the same available for the use for the Collaborative Research. In this case, the ownership of such equipment may be transferred to the Institute free of charge upon agreement between the Institute and the Partner. The Institute shall retain custody of such equipment accepted from the Partner with the duty of care of a good manager, from the time of completion of the installation of that equipment until the transfer of the ownership to the Institute or commencement of the return of that equipment.

10.3 Any expenses required for the carrying-in, installation, removal and carrying-out of the equipment provided in Article 10.2 shall be borne by the Partner.

11 Discontinuation of Research or Extension of Period

If there arises any contingency that was not foreseeable at the outset of the Collaborative Research, including acts of God or any other force majeure or other unavoidable circumstance that causes any delay in the Collaborative Research, the Collaborative Research may be discontinued or the Research Period may be extended through discussion between the Parties. In such case, neither the Institute nor the Partner shall be liable for any damages, losses, liability, etc., which are incurred on the part of the other Party in conjunction with such discontinuation or extension of the Collaborative Research.

12 Treatment of Research Expenses, etc., at Completion of Research

- 12.1 If it becomes likely that, as a result of the extension of the Research Period of the Collaborative Research under Article 11, there would be a shortage in funds for the Research Expenses, the Institute shall immediately notify the Partner in writing. In such case, the Partner shall determine whether or not it will bear the shortage in the Research Expenses through discussion with the Institute.
- 12.2 If the Collaborative Research is discontinued in accordance with Article 11 or by the termination of this Agreement, where there is any unused surplus in the Research Costs paid pursuant to Article 8.1 above, the Partner may demand the Institute to refund the amount of such surplus. Upon demand from the Partner for the refund, the Institute shall accommodate the payment of such refund.
- 12.3 When the Institute has completed the Collaborative Research, the Institute shall return to the Partner any equipment accepted from the Partner pursuant to Article 10.2 with respect to which the ownership thereof has not been transferred to the Institute. Such equipment shall be returned in the state that it was in as of the Research Completion Date.

13 Notice of Inventions

If any researcher or research collaborator of either Party (collectively, a “**Researcher**”) has conceived any Invention as a result of the Collaborative Research, the Institute or the Partner shall promptly notify the other Party, and shall discuss with that Party regarding the share of ownership and the determination of whether or not to file an application for the Intellectual Property Rights which relate to such Invention.

14 Joint Intellectual Property

- 14.1 **TITLE TO INVENTIONS.** All Intellectual Property Rights for an Invention jointly conceived through the joint effort of the Researchers of both Parties as a result of the Collaborative Research shall be jointly owned by both Parties (the “**Joint Invention**” and “**Joint Intellectual Property Rights**”).
- 14.2 **APPLICATION FOR JOINT INVENTIONS.** The Parties shall, when the Parties agree to file an application for the Joint Invention, separately execute a joint application agreement in writing which sets forth the share of ownership of the Joint Intellectual Property Rights for the Joint Invention between the Institute and the Partner prior to filing an Application for such Joint Invention, and shall file an Application jointly for such Joint Invention at the Partner’s expense in accordance with the joint application agreement. If the Partner elects its license option as described in Article 14.3, the Parties will file an Application in such countries at the Partner’s costs and expenses.
- 14.3 **LICENSING OPTION.** In the event that the Application for the Joint Invention is filed in

any jurisdiction, the Partner has the exclusive option to elect from the following licenses by notifying in writing to the Institute within a certain period after the filing date for such Application as set forth in Article 16 (the “**Option Period**”). The Institute and the Partner shall enter into the license agreement after the discussion of the commercially reasonable terms and conditions within three (3) months after exercise of the option.

- A. a non-exclusive, non-transferable, royalty-bearing license without the right to sub-license (in a designated field of implementation), the Partner to implement the Joint Intellectual Property Rights for the Joint Invention in Japan and/or any other countries selected by the Partner; or
- B. an exclusive, non-transferable, royalty-bearing license with the right to sub-license (in a designated field of implementation), the Partner to implement the Joint Intellectual Property Rights for the Joint Invention in Japan and/or any other countries selected by the Partner.

15 Institute Intellectual Property

15.1 TITLE TO INVENTIONS. All Intellectual Property Rights for an Invention conceived through the sole effort of a Researcher of the Institute as a result of the Collaborative Research shall be solely owned by the Institute (the “**Institute Invention**” and “**Institute Intellectual Property Rights**”).

15.2 APPLICATION FOR THE INSTITUTE INVENTIONS. The Institute shall notify the Partner promptly after having made the Institute Invention, and may file an Application, after considering the Partner’s request to do so, at its own discretion for such Institute Invention. If the Partner exercises its license option for any countries as described in Article 15.3, the Partner shall notify the Institute and the Institute will file an Application in such countries.

15.3 LICENSING OPTION. In the event that the Application for the Institute Invention is filed in any jurisdiction, the Partner has the exclusive option to elect from the following licenses by notifying in writing to the Institute within the Option Period. The Institute and the Partner shall enter into the license agreement after the discussion of the commercially reasonable terms and conditions within three (3) months after exercise of the option.

- A. a non-exclusive, non-transferable, royalty-bearing license without the right to sub-license (in a designated field of implementation), the Partner to implement the Institute Intellectual Property Rights for the Institute Invention in Japan and/or any other countries elected by the Partner, provided that the Partner agrees to (i) demonstrate reasonable efforts to commercialize the Institute Invention in the public interest and (ii) pay all prosecution and maintenance costs in all countries, including Japan, in which the Partner is granted a non-exclusive license right under this paragraph; or
- B. an exclusive, non-transferable, royalty-bearing license with the right to sub-license (in a designated field of implementation), the Partner to implement the Institute Intellectual Property Rights for the Institute Invention in Japan and/or any other countries elected by the Partner; provided that the Partner agrees to (i) demonstrate reasonable efforts to commercialize the Institute Invention in the public interest and (ii) pay all prosecution and maintenance costs in all countries, including Japan, in which the Partner is granted an exclusive license right under this paragraph .

16 Option Period

16.1 The Option Period shall be up to eighteen (18) months from the filing date of the Application

in any jurisdiction of any Invention conceived as a result of the Collaborative Research, and shall be determined in a joint application agreement or other agreement in writing between the Parties.

- 16.2 If the Partner wishes to extend the Option Period during the first Option Period, the Partner shall request an extension from the Institute, and upon obtaining the Institute's consent, may extend the Option Period in writing.
- 16.3 If the Partner intends to use and profit from the Intellectual Property Rights related to any Invention conceived as a result of the Collaborative Research during the Option Period, the Partner shall consult with the Institute in advance.

17 Basic Understanding in Implementation of Research Result

With respect to the implementation of the Research Result including the Inventions, the Institute and the Partner shall discuss and/or negotiate, giving consideration to the following facts and requirements:

- (1) that the Intellectual Property Rights were acquired as a result of the Collaborative Research;
- (2) that one of the Institute's obligations is to use its Research Result for society in general;
- (3) that the Institute has no plan to commercialize or exploit the Intellectual Property Rights by itself;
- (4) that the relevant Intellectual Property Rights came from the Research Result, which was achieved as a result of incurring labor costs for the Researchers of each of the Parties in addition to the Research Expenses provided in Article 7, or as a result of the use of the Parties' respective facilities and/or equipment; and
- (5) that if any revenue is raised from the relevant Intellectual Property Rights, each of the Parties shall have the obligation to pay "**Reasonable Consideration**" as defined in Article 35 of the Japanese Patent Law to the Researcher of the Institute and/or the Partner who conceived the Invention relating to such Intellectual Property Rights, in accordance with their respective rules and other procedures.

18 Implementation by the Institute

Subject to the compliance with the confidentiality obligations under Articles 22, 26 and 27, the Institute may use the Research Result free of charge in its educational and research activities.

19 Grant of License to Third Parties

- 19.1 If, notwithstanding the fact that the Partner or Partner Designated Third Party entered into an exclusive license agreement with the Institute relating to the Intellectual Property Rights as a result of the exercise of the option by the Partner pursuant to Article 14.3(B) or 15.3(B), such party fails to implement such Intellectual Property Rights without a legitimate reason after the expiration of the period commencing from and including the day immediately following the day when the Application is filed in any jurisdiction of the relevant Intellectual Property Rights set forth in Paragraph 14 of the Agreement Particulars (the "**Implementation Target Period**"), the Institute may, after hearing the request of the Partner or any Partner Designated Third Party, terminate the exclusive license agreement entered into with the Partner or any Partner Designated Third Party, and grant a license of such Intellectual Property Rights to any third party (other than the Partner or any Partner Designated Third Party) (the "**Institute Designated Third Party**"); provided, however, that a different period from the Implementation Target Period may be agreed to in the exclusive license agreement.

- 19.2 Even where the Institute has granted a license to the Partner or any Partner Designated Third Party as a result of the exercise of the option by the Partner pursuant to Article 14.3 or 15.3, if it is found that the grant of such license significantly damages the public interest, the Institute may discuss such situation with the Partner after giving written notice to the Partner. If the relevant situation does not change regardless of such discussion, the Institute may, terminate the license to the Partner or any Partner Designated Third Party, and grant a license of such Intellectual Property Rights to any Institute Designated Third Party.
- 19.3 If the Partner exercised the option to implement the Intellectual Property Rights on a non-exclusive basis, the Institute may grant a license to any third party at its sole discretion; however, with respect to Joint Intellectual Property Rights, the Institute may grant a license to the Joint Intellectual Property Rights, upon or after the Application in any jurisdiction in respect of such Joint Intellectual Property Rights, to any third party, with the prior written consent of the Partner, which shall not be withheld without due cause.

20 Royalties

- 20.1 When the Partner or any Partner Designated Third Party intends to implement any Intellectual Property Rights related to any Invention conceived as a result of the Collaborative Research, the Partner shall pay, or cause such Partner Designated Third Party to pay, to the Institute a royalty, which shall be defined in the applicable license agreement.
- 20.2 With respect to the royalty which shall accrue when a license of the Joint Intellectual Property Rights is granted to any Institute Designated Third Party, the Party who handled the procedure of such license shall receive a handling fee, which shall be determined through discussion between the Institute and the Partner, and the remaining amount shall be allocated between the Parties reflecting their respective percentage share of ownership of the relevant Joint Intellectual Property.

21 Assignment of Ownership

The Parties may assign their respective ownership in the Joint Intellectual Property Rights only to such respective assignee(s) as are agreed between them after discussion.

22 Identification of Know-How

- 22.1 If either Party desires to keep confidential any proprietary information which was created as a result of the Collaborative Research, the Institute and the Partner shall promptly discuss and identify the same in writing.
- 22.2 If both Parties agree to keep such proprietary information confidential (the “**Know-How**”), then the Know-How shall not be disclosed to any third party without the prior written consent of the other Party. The confidentiality period for the Know-How starts from the day of identification of such Know-How to the end of the period set forth in Paragraph 12 of the Agreement Particulars; provided, however, the period may be changed by agreement of the Parties from the period set forth in Paragraph 12 of the Agreement Particulars.

23 Treatment of Materials, Know-How

Any copyrightable materials or Know-How created as a result of the Collaborative Research shall be treated in the same manner as set forth in Articles 14 through 21, and the Parties shall discuss and determine how to treat such materials and Know-how taking into account the basic understanding regarding the implementation of the Research Result as set forth in Article 17.

24 Provision of Information

- 24.1 The Parties shall mutually exchange or disclose at its discretion to the other Party any information, document and material (“Materials”) which it deems necessary for the conduct of the Collaborative Research, except those in respect of which any obligation of confidentiality is owed to a third party.
- 24.2 Each Party shall not use any Materials for any other purpose than the purposes of this Agreement without the written consent of the other Party. Further, each Party may enter into a separate agreement through discussion if the Parties desire to treat the Materials in a particular manner.
- 24.3 Each Party shall promptly return to the other Party after the Research Completion Date all Materials that were by the other Party provided on the condition that they be so returned.

25 Confidentiality

- 25.1 Neither Party shall disclose to any third party other than a Researcher or any person of either Party who needs to know the information in order to conduct and manage the Collaborative Research including Authorized TLO for the Institute (the “**Recipient**”) any information provided or disclosed by the other Party during the Collaborative Research which is marked as confidential at the time of the submission or disclosure from the other Party, or which is disclosed orally with a statement upon such disclosure that it is confidential and the disclosing Party notifies the other Party in writing within 30 days after the disclosure that such information is confidential (collectively the “**Confidential Information**”). Further, the Institute and the Partner shall cause the Recipients to hold such Confidential Information in confidence even after the Recipients leave their work position; provided, however, that Confidential Information shall not include any information which, it can be demonstrated:
 - (1) was already possessed by the receiving Party at the time of the provision or disclosure;
 - (2) was already part of the public domain at the time of the provision or disclosure;
 - (3) became a part of the public domain after the provision or disclosure without fault of the receiving Party;
 - (4) was lawfully acquired, without any confidentiality obligations, from a third party who has the legitimate right to such information;
 - (5) was independently developed by the receiving Party without reference to the Confidential Information disclosed by the other Party; or
 - (6) was excluded by the prior written consent of the other Party.
- 25.2 If either Party is required by a competent court or administrative institution to disclose any Confidential Information under any law or regulation, it may disclose such information to such court or administrative institution; provided, however, that:
 - (1) it shall advise, to the extent reasonably possible, the other Party of the content prior to the disclosure;
 - (2) it shall make the disclosure only to the extent that is subject to such lawful order to disclose;
 - (3) it shall expressly state in writing, upon disclosure, that such information is confidential; and
 - (4) it shall, in accordance with the applicable laws and regulations, take all reasonable steps to protect such information through consultation with the other Party, if possible.
- 25.3 Each Party shall, and shall ensure that its Recipients shall, not, without the prior written

consent of the other Party, use the Confidential Information for any purpose other than for this Agreement.

- 25.4 Articles 26.1 through 26.3 shall survive the Research Completion Date for the period set forth in Paragraph 13 of the Agreement Particulars first written above; provided, however, that such period may be extended or shortened upon written agreement by the Parties.

26 Public Release of Research Result

- 26.1 The Research Result shall, in principle, be publicly released in the light of social mission of the Institute. The Parties may disclose, announce or publicly release the Research Result (or where the Research Period continues for more than one year, the Research Result acquired in the relevant fiscal year) in accordance with the following procedure under this Article 27 (the “**Public Release of Research Result**”) in order to comply with the confidentiality obligations in Article 26.

- 26.2 If a Party desires the Public Release of Research Result, such Party (the “**Releasing Party**”) shall notify the other Party in writing of the contents of such release no later than 30 days prior to the scheduled day of the Public Release of Research Result. Further, the Releasing Party may clearly indicate in the Public Release of Research Result that the Research Result is the result of the Collaborative Research after obtaining the prior written consent of the other Party.

- 26.3 If the Party who is duly notified pursuant to Article 27.2 determines that the contents of the release are likely to conflict with any of its expected future interests, it shall, within fifteen (15) days after receipt of such notice, notify the Releasing Party in writing of the request of the modifications of the contents of the release, and the Releasing Party shall discuss such modifications with the other Party. The Releasing Party shall not, without the consent of the other Party, release any part of the contents of the release that the other Party has objected to pursuant to this Article 27.3; provided, however, that the other Party shall not unreasonably withhold such consent.

- 26.4 After one year from the day immediately following the Research Completion Date, the Releasing Party may issue the Research Result without notice to the other Party as provided in Article 27.2 above; provided, however, that such period may be extended or shortened by the written agreement of the Parties.

- 26.5 Until the release according to Article 27.4, the Research Result shall be kept in confidence until it is released in accordance with the procedures in Articles 27.1 through 27.3.

27 Termination of Agreement

- 27.1 If any of the following events occurs, either Party may demand in writing that the other Party remedy the situation within a reasonable remedial period, and may immediately terminate this Agreement in the event that such situation is not remedied within such period:

- (1) The other Party has committed any illegal, improper or unjust act; or
- (2) The other Party has breached any provision of this Agreement.

- 27.2 If any of the following events occurs, either Party may immediately terminate this Agreement by giving a written notice to the other Party:

- (1) The other Party has become subject to the disposition of revocation or suspension of business by the competent supervising authority;

- (2) The other Party has become subject to any provisional attachment, preservative attachment or auction or has become subject to the attachment for failure to pay tax; or
- (3) The filing for corporate arrangement, corporate reorganization, civil rehabilitation, bankruptcy or special liquidation has been made by or against the other Party, or when the other Party has become subject to the disposition of the suspension of banking transaction.

28 No Representation and Warranty

THE INSTITUTE MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE RESEARCH OR ANY INTELLECTUAL PROPERTY RIGHTS, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE.

IN NO EVENT SHALL THE INSTITUTE, ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, STUDENTS AND AFFILIATES, BE LIABLE FOR DAMAGES OF ANY KIND, INCLUDING ACTUAL, ORDINARY, INCIDENTAL, CONSEQUENTIAL, ECONOMIC DAMAGES OR INJURY TO PERSONS OR PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER THE INSTITUTE SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING. THIS ARTICLE 29 SHALL SURVIVE THE EXPIRATION OR ANY EARLIER TERMINATION OF THIS AGREEMENT.

29 Term of Agreement

29.1 The term of this Agreement shall be coterminous with the Research Period of the Collaborative Research.

29.2 The provisions of Article 5.2, Article 6.2, Article 8, Article 9, Article 10 (excluding Article 10.1), Articles 12 (excluding Article 12.1) through 27 (excluding Article 24.1), Article 29, Article 30.2 and Articles 32 through 36 shall survive after the expiration of this Agreement for the period provided (if any) in each of such provisions or until all the respective subject matters therein are no longer applicable.

30. Notice

All notices required or permitted to be given under this Agreement shall be in writing, and shall be given by an e-mail or facsimile or prepaid registered airmail letter to the addresses shown below or to such other addresses as the Parties may designate in writing. Notices given by e-mail or facsimile shall be deemed to have been received on the day following its dispatch, and notice given by registered airmail shall be deemed to have been received thirty (30) business days after mailing in case the date of such receipt cannot be identified.

The Institute:

Administration Office
Innovation Center of NanoMedicine (iCONM)
Kawasaki Institute of Industrial Promotion
3-25-14 Tono-machi, Kawasaki-ku, Kawasaki City,
Kanagawa Prefecture, Japan 210-0821
Attn: Legal Affairs Staff
Tel: (+81)44 589 5700 Fax: (+81)44 589 5706
E-mail: iconmkanri@kawasaki-net.ne.jp

The Partner:

[to be provided]

31 Use of Name

Neither Party will use the name of the other in any advertising or other form of publicity without written permission of the other. As an example for the Institute, the Partner shall not use the name of “Innovation Center of NanoMedicine” or any variation, adaptation or abbreviation thereof, or that of any of its trustees, officers, faculty, students, employees or agents, or any trademark owned by the Institute.

32 Force Majeure

Neither Party shall be responsible to the other for failure to perform any of the obligations imposed by this Agreement, provided such failure shall be occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence of soil, failure or destruction, in whole or in part, of machinery or equipment, or failure of supply of materials, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage or any other cause beyond its reasonable control.

33 Discussion

If it is necessary to provide for any matter that is not expressly set forth in this Agreement, the determination shall be made through discussion between the Parties.

34 Governing Law and Jurisdiction

34.1 This Agreement shall be governed by laws of Japan.

34.2 All disputes relating to this Agreement shall be submitted to the exclusive jurisdiction of the Tokyo District Court (main office) as the court of the first instance.

35 Export Controls/Economic Sanctions

35.1 The Partner agrees to comply with applicable export controls and economic sanctions laws and regulations. Further, the Partner remains solely responsible for complying with such laws and regulations in all instances, including obtaining all necessary export authorizations and licenses.

35.2 Before the Partner supplies, or otherwise makes available, to the Institute any materials, the Partner shall give written notice, as early as practicable, to the Institute of all applicable government restrictions or prohibitions, including those restrictions or prohibitions that apply to the Institute employees and contractors, on the use, export, release or transfer of such items, including, without limitation, the applicable munitions export controls regulations or any other applicable government security regulations.

(End of the Agreement)