

Entrusted Research Agreement (Draft)

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

Agreement Particulars

1. The University:	The University of Tokyo			
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 University			
	Research Coordinator of the University (If provided) (Overall program coordination (Setting up meetings, Managing schedules, Checking milestones) . Team Organization Chart to be annexed if applicable.
7. Research Schedule: (the details to be annexed)	Milestones: Preliminary Report by the end of 1st Year (DATE) Secondary Report by the end of 2nd Year (DATE) Final Report at the end of Research Period (DATE)			
8. Place for Performing Research				
9. Research Period:	From _____ through _____			
10. Payment for Research Expenses:	Research Costs (Article 7.1(1))	¥ _____		
	Indirect Cost (Article 7.1(2))	¥ _____		
	Grand Total	¥ _____		
11. Provision of Facility and		Facility	Equipment	

Equipment:		Name	Name	Specifications	Qty
	The University				
	The Partner				
12. Period for Confidentiality Obligations regarding Know-How:	Until 3 years after the day immediately following the Research Completion Date				
13. Period of general Confidentiality Obligations:	Until 3 years after the day immediately following the Research Completion Date				
14. Implementation Target Period:	Until 5 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 University: The University of Tokyo
7-3-1 Hongo, Bunkyo-ku, Tokyo

Signed by : _____
 Title : _____

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

Signed by : _____
 Title : _____

(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 Entrusted 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 Entrusted 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 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 University and the Partner.
- 1.6 “**Research Coordinator**” means a person of the University who has the right to coordinate the Entrusted Research, including but not limited to, managing daily works and schedules, and arranging meetings for confirming the progress.

2 Mutual Cooperation in Entrusted Research

Subject to the terms and conditions of this Agreement, the University shall conduct the Entrusted Research.

3 Research Period

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

4 Researcher

- 4.1 The University shall assign the Principal Investigator set forth in Paragraph 6 of the Agreement Particulars who will manage the total progress of the research as its researcher to participate in the Entrusted Research.
- 4.2 The University may change the Principal Investigator set forth in Article 4.1 above, with the prior consent of the Partner.

5 Research Collaborator

- 5.1 If the University needs to obtain the participation of any person other than the listed researcher for the purpose of the conduct of the Entrusted Research, the University may, upon obtaining the prior consent of the Partner, allow any person of the University other than the listed researcher, including a student, to act as a research collaborator.

6 Completion of Entrusted Research and Preparation of Reports

- 6.1 The Entrusted Research shall be deemed to have been completed upon the occurrence of any event described below. The day when the Entrusted 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 University 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 Entrusted Research is discontinued pursuant to Article 11; or
- (3) When the Research Period set forth in Paragraph 9 of the Agreement Particulars expires (or as extended under Article 11).

- 6.2 Achievement Report(s)

Within thirty (30) days after the Research Completion Date, the University shall make the achievement report with respect to any Research Result which has been obtained during the Research Period of the Entrusted Research.

- 6.3 Intermediate Report

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, for the purpose of checking the progress of the Entrusted Research.

7 Allocation of Research Expenses

The Partner shall bear the following research expenses, which shall be required for the conduct of the Entrusted 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 Entrusted 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 University’s facilities and equipment), as well as the research support expenses which shall be determined pursuant to the applicable provision of the University's rules, plus any applicable consumption tax and local consumption tax (collectively, the “**Research Costs**”).
- (2) The expenses required for ordinary maintenance and management of the University’s facilities and equipment (the “**Indirect Cost**”).

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 University in accordance with the applicable invoice issued by the University.

- 8.2 If the Partner fails to pay the Research Expenses by the due date of payment in accordance

with Article 8.1, the University shall be entitled to charge the Partner delay charges at the rate of five percent (3%) 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 University, 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 University.

10 Provision of Facilities and Equipment

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

10.2 The University 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 Entrusted Research. In this case, the ownership of such equipment may be transferred to the University free of charge upon agreement between the University and the Partner. The University 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 University 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 Entrusted Research, including acts of God or any other force majeure or other unavoidable circumstance that causes any delay in the Entrusted Research, the Entrusted Research may be discontinued or the Research Period may be extended through discussion between the Parties. In such case, neither the University 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 Entrusted 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 Entrusted Research under Article 11, there would be a shortage in funds for the Research Expenses, the University 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 University.

12.2 If the Entrusted 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 University to refund the amount of such surplus. Upon demand from the Partner for the refund, the University shall accommodate the payment of such refund.

12.3 When the University has completed the Entrusted Research, the University 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 University. 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 the University (collectively, a “**Researcher**”) has conceived any Invention as a result of the Entrusted Research, the University shall promptly notify the Partner.

14 Intellectual Property

14.1 TITLE TO INVENTIONS. All Intellectual Property Rights for an Invention conceived as a result of the Entrusted Research shall be solely owned by the University.

14.2 APPLICATION FOR INVENTIONS. The University shall notify the Partner promptly after having made the Invention under Article 14.1, and may file an Application at its own discretion for such Invention. If the Partner exercises its license option for any countries as described in Article 14.3, the Partner shall notify the University and the University will file an Application in such countries.

14.3 LICENSING OPTION. In the event that the Application for the Invention is filed in any jurisdiction, the Partner has the exclusive option to elect from the following licenses by notifying in writing to the University within a certain period after the filing date for such Application as set forth in Article 15 (the “**Option Period**”). The University 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 Intellectual Property Rights for the 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 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 Intellectual Property Rights for the 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 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 .

15 Option Period

15.1 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 Entrusted Research, and shall be determined in an option agreement in writing between the Parties.

15.2 If the Partner wishes to extend the Option Period during the first Option Period, the Partner shall request an extension from the University, and upon obtaining the University’s consent, may extend the Option Period in writing.

15.3 If the Partner intends to use and profit from the Intellectual Property Rights related to any Invention conceived as a result of the Entrusted Research during the Option Period, the Partner

shall consult with the University in advance.

16 Basic Understanding in Implementation of Research Result

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

- (1) that Intellectual Property Rights were acquired as a result of the Entrusted Research;
- (2) that one of the University's obligations is to use its Research Result for society in general;
- (3) that the University 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 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, the University shall have the obligation to pay "**Reasonable Consideration**" as defined in Article 35 of the Japanese Patent Law to the Researcher of the University who conceived the Invention relating to such Intellectual Property Rights, in accordance with the University's respective rules and other procedures.

17 Implementation by the University

Subject to the compliance with the confidentiality obligations under Articles 22, 24 and 25, the University may use the Research Result free of charge in its educational and research activities.

18 Grant of License to Third Parties

- 18.1 If, notwithstanding the fact that the Partner or the Partner Designated Third Party entered into an exclusive license agreement with the University relating to the Intellectual Property Rights as a result of the exercise of the option by the Partner pursuant to Article 14.3(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 University 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 "**University Designated Third Party**"); provided, however, that a different period from the Implementation Target Period may be agreed to in the exclusive license agreement.
- 18.2 Even where the University 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, if it is found that the grant of such license significantly damages the public interest, the University 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 University may, terminate the license to the Partner or any Partner Designated Third Party, and grant a license of such Intellectual Property Rights to any University Designated Third Party.

19 Royalties

- 19.1 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 Entrusted Research, the Partner shall pay, or cause such Partner Designated Third Party to pay, to the University a royalty, which shall be defined in the applicable license agreement.

20 Identification of Know-How

- 20.1 If either Party desires to keep confidential any proprietary information which was created as a result of the Entrusted Research, the University and the Partner shall promptly discuss and identify the same in writing.
- 20.2 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, that the period may be changed by agreement of the Parties from the period set forth in Paragraph 12 of the Agreement Particulars.

21 Treatment of Materials, Know-How

Any copyrightable materials or Know-How created as a result of the Entrusted Research shall be treated in the same manner as set forth in Articles 14 through 19, 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 16.

22 Provision of Information

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

23 Authorized Technology Licensing Organizations

The University may entrust some of the tasks as set forth in Articles 14 through 22 to an authorized technology licensing organization (“**Authorized TLO**”, an organization authorized under the Law Promoting Technology Transfer from Universities to Industry (Law No. 52 of 1998), and in this Agreement refers to TODAI TLO Ltd. or the Foundation for the Promotion of Industrial Science). The University shall ensure that the Authorized TLO complies with the University’s obligations under this Agreement.

24 Confidentiality

- 24.1 The Partner shall not disclose to any third party other than any person of the Partner who needs to know the information in order to conduct and manage the Entrusted Research (the “**Recipient**”) any information provided or disclosed by the University during the Entrusted

Research which is marked as confidential at the time of the submission or disclosure from the University, or which is disclosed orally with a statement upon such disclosure that it is confidential and the University notifies the Partner in writing within 30 days after the disclosure that such information is confidential (collectively the “**Confidential Information**”). Further, the Partner shall cause the Recipients to hold such Confidential Information in confidence even after the Recipient 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) becomes 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 and/or acquired 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.
- 24.2 If the Partner 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 University 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 University, if possible.
- 24.3 The Partner shall, and shall ensure that its Recipients shall, not, without the prior written consent of the University, use the Confidential Information for any purpose other than for this Agreement.
- 24.4 Articles 24.1 through 24.3 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.

25 Public Release of Research Result

- 25.1 The Research Result shall, in principle, be publicly released in the light of social mission of the University. The University 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) with a written notice to the Partner stating the contents of such release no later than 30 days prior to the scheduled day of the public release of the Research Result. Further, the University may clearly indicate that the Research Result is the result of the Entrusted Research after obtaining the prior written consent of the Partner.
- 25.2 The Partner may disclose, announce or publicly release the Research Result only after it was released by the University pursuant to Article 25.1. If the Partner so desires to release the Research Results, it shall notify the University in writing of the contents of such release no later than 30 days prior to the scheduled day of such release.

26 Termination of Agreement

26.1 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.

26.2 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.

27 No Representation and Warranty

THE UNIVERSITY 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 UNIVERSITY, 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 UNIVERSITY SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING. THIS ARTICLE 27 SHALL SURVIVE THE EXPIRATION OR ANY EARLIER TERMINATION OF THIS AGREEMENT.

28 Term of Agreement

28.1 The term of this Agreement shall be coterminous with the Research Period of the Entrusted Research.

28.2 The provisions of Article 6.2, Article 8, Article 9, Article 10 (excluding Article 10.1), Articles 12 (excluding Article 12.1) through 25 (excluding Article 22.1), Article 27, Article 28.2 and Articles 30 through 34 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.

29. 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 University:

[to be provided]

The Partner:

[to be provided]

30 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 University, the Partner shall not use the same of "University of Tokyo" 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 University.

31 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.

32 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.

33 Governing Law and Jurisdiction

33.1 This Agreement shall be governed by laws of Japan.

33.2 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.

34 Export Controls/Economic Sanctions

34.1 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.

34.2 Before the Partner supplies, or otherwise makes available, to the University any materials, the Partner shall give written notice, as early as practicable, to the University of all applicable government restrictions or prohibitions, including those restrictions or prohibitions that apply to the University employees and contractors, on 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)