

## **NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement (this "Agreement") is entered into on [date], 20\*\* ("Effective Date"), between High Energy Accelerator Research Organization ("KEK"), with its principal office at 1-1 Oho, Tsukuba, Ibaraki, 305-0801, Japan, and [Company Name], a corporation with its principal office at [address] ("Company"). KEK and Company may be referred to in this Agreement collectively as the "Parties" and each individually as a "Party."

WHEREAS, pursuant to the terms and conditions of this Agreement, each Party is willing to disclose and provide to the other Party certain confidential information for the purpose of discussing and examining [●●●●●] (the "Purpose"), such confidential information to be disclosed mutually by and between the Parties;

WHEREAS, the Parties desire to set forth the terms and conditions under which each Party will use and hold such information in confidence;

NOW, THEREFORE, in consideration of these premises, and of the mutual promises and covenants contained herein, the Parties agree as follows:

### **1. Definitions**

"Disclosing Party" means the Party or its Representative that discloses or causes to be disclosed the Confidential Information to the other Party or its Representative. "Receiving Party" means the Party or its Representative that receives the Confidential Information.

"Confidential Information" shall mean any and all information which is disclosed by the Disclosing Party to the Receiving Party hereunder, in any manner or form, including without limitation, demonstration, device, apparatus, model, sample, software, storage medium, or documentation. Such information shall be clearly designated and marked as "Confidential" or "Proprietary," or if disclosed orally or visually, identified as confidential at the time of such disclosure and confirmed in writing within thirty (30) days of such disclosure. In addition, information which by its nature or circumstances of disclosure should reasonably be understood to be confidential shall also be treated as Confidential Information, even if not expressly marked or confirmed in writing.

Notwithstanding the foregoing, Confidential Information shall not include information which is or becomes public knowledge without fault of the Receiving Party, was already in possession of the Receiving Party without restriction, is obtained lawfully from a third party, or is independently developed by the Receiving Party.

"Representatives" means, with respect to each Party, such Party's directors, officers, employees, consultants, subcontractors, attorneys and agents.

## **2. Use of the Confidential Information**

The Receiving Party shall not use the Confidential Information other than for the Purpose, and shall safeguard it from unauthorized disclosure, using at least the same degree of care as it uses for its own confidential information of a similar nature.

## **3. Nondisclosure of the Confidential Information**

Except as may be required by law, the Receiving Party shall not disclose Confidential Information to any person or entity other than its Representatives who have a need to know and are bound by confidentiality obligations consistent with this Agreement.

## **4. Compelled Disclosure**

If the Receiving Party is required to disclose Confidential Information pursuant to law, regulation or court order, it shall notify the Disclosing Party promptly and cooperate to limit such disclosure.

## **5. Invention**

If any Representative of the Receiving Party makes an invention based on the Confidential Information, the Receiving Party shall notify the Disclosing Party promptly. Unless otherwise agreed in writing, any such invention shall be deemed to belong to the Disclosing Party. The Parties may, upon mutual written agreement, negotiate good faith terms for joint ownership or licenses where appropriate.

## **6. Term**

This Agreement shall be effective as of the Effective Date and shall expire one (1) year thereafter. The obligations of confidentiality shall survive for three (3) years after expiration or termination of this Agreement.

## **7. Return of Information**

The Confidential Information shall remain the property of the Disclosing Party. Upon the request of the Disclosing Party, the Receiving Party shall return to the Disclosing Party or destroy the Confidential Information disclosed from the Disclosing Party as well as any copies thereof.

## **8. Remedies**

In the event that either Party breaches this Agreement, such Party shall be liable for damages incurred by the other Party as a result of such breach. Each Party acknowledges and agrees that money remedies may not be a sufficient remedy for any breach of this Agreement by such Party, and the other Party may be entitled to specific performance and injunctive relief as remedies for any such breach. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement by such Party but will be in addition to all other remedies available at law or in equity to the other Party.

## **9. No Representations**

The Receiving Party understands and acknowledges that the Disclosing Party does not make any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information and the Disclosing Party expressly disclaims any and all liability to the Receiving Party or to any other person that may be based upon or relate to the use of the Confidential Information or any errors in or omissions from such information.

## **10. Liabilities**

Neither Party shall be liable to the other for consequential, punitive or special damages under this Agreement.

## **11. Governing Law**

This Agreement shall be governed by and construed under the laws of Japan without regard to conflict of law principles.

## **12. Settlement of Dispute**

Any dispute, controversy and/or difference which may arise out of, in relation to, or in connection with this Agreement, or the breach thereof, which cannot be amicably settled by mutual accord, shall be settled by arbitration in Tokyo, Japan in accordance with the rules of procedure of the Japan Commercial Arbitration Association. The judgment upon the award rendered by such arbitration shall be final and binding upon the Parties. Such award may if desired be entered in any court having jurisdiction or application may be made to such court for an order of enforcement.

## **13. No Commitment**

This Agreement shall not create a partnership, joint venture or relationship of trust or agency among the Parties. The Parties acknowledge that they are not under any legal obligation to enter into any definitive agreement, except for the confidentiality matters set forth in this Agreement. For the avoidance of doubt, neither Party shall be liable to or responsible for any damages or expenses for any failure to agree upon any definitive agreement.

## **14. Miscellaneous**

14.1 No License – No license or rights are granted by this Agreement to Confidential Information or related IP.

14.2 No Waiver – Failure to enforce any right shall not constitute waiver of future enforcement.

14.3 Assignment – Neither Party may assign this Agreement without prior written consent of the other Party.

14.4 Severability – If any provision is held invalid, the remaining provisions shall remain in force.

14.5 Entire Agreement – This Agreement constitutes the entire agreement regarding confidentiality.

14.6 Amendment – Any modification must be in writing signed by both Parties.

14.7 No Third Party Beneficiaries – This Agreement confers no rights on third parties.

14.8 Export – Each Party shall comply with all applicable export laws and regulations.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

|  |                         |
|--|-------------------------|
| KEK: High Energy Accelerator Research Organization | Company: [Company Name] |
| By: _____  | By: _____               |
| Name / Title: _Shoji Asai_____                     | Name / Title: _____     |