

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Agreement, made and entered into as of this _____ day of _____, 20____, between Sony Corporation (“Sony”), having its principal office at 7-1 Konan 1-chome, Minato-ku, Tokyo 108-0075, Japan and _____ (“Company”), having its principal office at _____
(Company and Sony are collectively, the “Parties” and respectively, the “Party”),

WITNESSETH:

WHEREAS, the Parties wish to exchange certain information which may be confidential and proprietary to a disclosing Party, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing premise and mutual covenants hereinafter contained, the Parties hereby agree as follows:

SECTION 1. DEFINITION:

- (1) “**Disclosure Period**” shall mean the period from _____, _____, _____ to _____, _____, _____.
- (2) “**Confidentiality Period**” shall mean, with respect to the Confidential Information disclosed by Company, the Disclosure Period and one (1) year thereafter, and with respect to the Confidential Information disclosed by Sony, the period commencing from the first day of Disclosure Period and ending on the day when such Confidential Information falls under any of events as set forth in Section 3 (1) first.
- (3) “**Disclosing Party**” shall mean the Party so identified below who will disclose its Confidential Information hereunder, and “**Receiving Party**” shall mean the Party receiving the Confidential Information of the other Party hereunder:

Disclosing Party: ☒ Sony ☒ Company (Check either or both, as appropriate)

- (4) “**Subject of Disclosure**”:
The information disclosed hereunder relates to the following subject of disclosure (the “**Subject of Disclosure**”):

By Sony: Detail of qualification criteria as a licensee of the E-mount system specifications, list of required documents for application for a licensee and other information regarding to the application for licensee of the E-mount system specification which are provided by Sony to Company after the execution of this Agreement, and the terms and conditions of the license agreement for E-mount system specification, if Company is qualified.

By Company: Business and operation information of Company provided by Company to Sony pursuant to the list of required documents for application for a licensee as provided by Sony to Company after the execution of this Agreement.

- (5) **“Confidential Information”** shall mean any and all confidential, proprietary or secret information, documents and/or materials which are disclosed by the Disclosing Party relating to its Subject of Disclosure during the Disclosure Period and are clearly marked “Confidential” or other marking of similar nature by the Disclosing Party at the time of disclosure to the Receiving Party or, if orally or visually disclosed, or otherwise difficult to so mark due to the nature of such Confidential Information, are identified as confidential by the Disclosing Party at the time of disclosure and confirmed by a written resume with “Confidential” marking or other marking of similar nature to be issued to the Receiving Party within thirty (30) days after the date of such disclosure.
- (6) **“Purpose”**:
Purpose of disclosure of the Confidential Information hereunder (the **“Purpose”**) shall be for Sony to determine the eligibility of Company as a potential licensee of the E-mount system specifications.

SECTION 2. NON-DISCLOSURE OBLIGATIONS:

- (1) During the Confidentiality Period, the Receiving Party shall keep in confidence and not disclose or disseminate to any third party the Confidential Information of the other Party and shall not use such Confidential Information for any purpose other than the Purpose.
- (2) In order to protect the Confidential Information of the other Party as required in Paragraph (1) above, the Receiving Party shall, during the Confidentiality Period, undertake the following:
- (i) not to disclose such Confidential Information to any person other than its officers and employees whose duties justify a need-to-know and who have executed a written instrument in which such officers and employees have agreed not to disclose and to hold confidential all confidential information, inclusive of those of third parties, which may be disclosed to them or to which they may have access during the course of their duties;
 - (ii) to use the same degree of care, but not less than a reasonable degree of care, to avoid disclosure, publication or dissemination of such Confidential Information as the Receiving Party would use with respect to its own confidential information, (by way of example, employing a secured transmission method even if transmission of such Confidential Information is permitted hereunder, and at any time not commingling with any other company’s information) and to ensure that all tangible materials relating to or containing such Confidential Information be maintained in specific area or storages which are secluded from any access of third parties or its officers or employees whose duties do not justify a need-to-know and plainly marked to indicate the confidential nature thereof to prevent unauthorized use or reproduction thereof;
 - (iii) not to make a reproduction (including, but not limited to, copy or reproduction by taking photographs) of such Confidential Information which is clearly marked “Do Not Copy” or other marking of similar nature at the time of disclosure, or if orally or visually disclosed, or otherwise difficult to so mark due to the nature of such Confidential Information, instructed by the Disclosing Party not to copy or reproduce at the time of disclosure and confirmed by a written resume with “Do Not Copy” marking or other marking of similar nature to be issued to the Receiving Party within thirty (30) days after the date of such disclosure, without the Disclosing Party’s prior written consent;
 - (iv) at the Disclosing Party’s request, to provide the Disclosing Party with a written report as to how such Confidential Information is kept, stored and/or used by the Receiving Party;

- (v) at the Disclosing Party's request and in accordance with the Disclosing Party's instruction, either (a) to return promptly to the Disclosing Party any and all portions of such Confidential Information together with all copies and reproductions thereof, if any or, (b) to destroy or erase any and all portions of such Confidential Information together with all copies and reproductions thereof, if any, and provide the Disclosing Party with a written certificate of such destruction or erasure; and
- (vi) to notify the Disclosing Party immediately of any suspected, potential, or actual divulcation, loss or theft of materials embodying such Confidential Information, or breach of any confidentiality obligation hereunder.

SECTION 3. EXCLUSIONS:

- (1) Notwithstanding the provisions of Section 2 hereof, the obligations set out therein shall not apply to any portion of the Confidential Information of the other Party which:
 - (i) was already known to the Receiving Party at the time of disclosure;
 - (ii) is or becomes accessible to the public through no fault of the Receiving Party;
 - (iii) is obtained by the Receiving Party from a third party lawfully in possession thereof without restriction on disclosure or use; or
 - (iv) is independently ascertained or developed by or for the Receiving Party without use of such Confidential Information.
- (2) If the Receiving Party is required to disclose any of the Confidential Information of the other Party by government authorities or required by law, ordinance, rule, regulation or court order applicable to the Receiving Party, notwithstanding the provisions of Section 2 hereof, the Receiving Party may so disclose such Confidential Information; provided that the Receiving Party shall take reasonable steps to obtain confidential treatment of such Confidential Information and shall make reasonable efforts to give the Disclosing Party prior written notice of such requirement together with a copy of the information to be disclosed.

SECTION 4. WARRANTY, NO LICENSE AND NO COMMITMENTS:

- (1) Company represents and warrants that the Confidential Information disclosed by it shall be accurate and reliable.
- (2) Disclosure of the Confidential Information hereunder shall by no means constitute any option, grant or license to the Receiving Party under any patent, copyright, know-how or other intellectual property rights now or in the future held or otherwise controlled by the Disclosing Party.
- (3) It is understood and agreed that the disclosure and receipt of the Confidential Information hereunder shall by no means result in any obligation on the part of either Party to enter into any further agreement or realize any transaction with the other with respect to the subject matter hereof or otherwise.
- (4) It is understood and agreed that each Party may now market or have under development products and/or services which are competitive with products and/or services now offered or

which may be offered by the other Party. Subject to the terms and conditions of this Agreement, discussions or communications between the Parties will not serve to impair the right of either Party by itself or through any third party to develop, make, use, procure and/or market products or services now or in the future which may be competitive with those offered by the other Party, nor require either Party to disclose any planning or other information to the other Party.

- (5) It is understood and agreed that any information, documents and/or materials other than the Confidential Information which are disclosed by a Party during the course of discussion for the Purpose are not subject to confidentiality obligations or trade secret protection, contractual or otherwise, unless such information, documents and/or materials are otherwise protected under any other agreement between the Parties.

SECTION 5. MISCELLANEOUS:

- (1) Each Party acknowledges that the unauthorized use or disclosure of its Confidential Information by the Receiving Party would cause irreparable harm and significant injury to the Disclosing Party and monetary compensation may not be sufficient to cure the same. Accordingly, should such unauthorized use or disclosure occur or be likely to occur, the Disclosing Party shall be entitled to all appropriate relief, including injunctive and other equitable relief, to enforce the provisions of this Agreement. Sections 5 (9) and 5 (10) shall not preclude either Party from seeking injunctive relief from a court of competent jurisdiction.
- (2) Either Party's failure to enforce any of the terms and conditions of this Agreement at any time shall by no means affect, limit or waive such Party's right thereafter to enforce and compel strict compliance with every term and condition hereof.
- (3) Neither this Agreement nor any of the rights and obligations hereunder shall be assignable or transferable, in whole or in part, to any third party without prior written consent of the other Party. Any assignment or attempted assignment in violation of the provisions of this Section shall be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective Parties and any of their authorized successors, representatives, and administrators.
- (4) Notices required to be given hereunder shall be in writing, costs prepaid, and addressed to the Parties at the addresses first set forth above, or to such other address as may be designated by a written notice given in accordance with this Section. Any such notices shall be deemed properly given when (i) delivered personally; (ii) five (5) days past after having been sent by registered air mail; or (iii) two (2) days past after deposit with a commercial overnight courier.
- (5) This Agreement constitutes the complete agreement between the Parties with respect to the subject matter of this Agreement, and supersedes and cancels any and all prior communications discussions, understandings or agreements, written or oral, between the Parties with respect to the subject matter hereof.
- (6) In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be

changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or court decisions.

- (7) No amendment or supplement to or modification of this Agreement shall be effective unless otherwise made in writing and signed by a duly authorized representative of both Parties.
- (8) This Agreement shall become effective as of the first date of the Disclosure Period.
- (9) This Agreement and any disputes related to or arising out of this Agreement shall be governed in all respects by the laws of Japan without reference to any choice or conflict of laws principles.
- (10) Any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement shall be settled by arbitration in Tokyo, Japan. Such arbitration shall be conducted in accordance with the Rule of Arbitration of International Chamber of Commerce by three (3) arbitrators. Sony and Company shall each appoint one (1) arbitrator and these appointed arbitrators shall in turn appoint a third arbitrator. The language of the arbitration shall be English. The cost for arbitration shall be borne by either Party or both Parties as determined by the arbitration award. The arbitration award shall be final and binding on the Parties with respect to such a controversy, claim or breach, and the Parties agree to be bound thereby and act accordingly.

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT upon the date first set above.

Sony:
Sony Corporation

Company:

By _____
Name:
Title:

By _____
Name:
Title: