

## NON-DISCLOSURE AGREEMENT

THIS non-disclosure agreement (the "Agreement") is made on the 12th day of March, 2018.

BETWEEN

- (1) \_\_\_\_\_ ("Company" or "Recipient") and
- (2) TMT International Observatory LLC ("TMT" or "Discloser") of 100 West Walnut Street; Suite 300; Pasadena, California 91124.
- (3) The parties to this Agreement may be referred to individually as "Party" and jointly as "Parties."

### RECITALS

- A. The TMT possesses competition-sensitive, business information and proprietary information from third parties that it must protect;
- B. The TMT is willing to disclose Confidential Information to the Company for the purpose of facilitating discussions and the performance of tasks between the Parties in connection with TMT Project and the design and fabrication of its Adaptive Optics system (the "Purpose") on the condition that the Company does not disclose the same to any third party nor make use of the Confidential Information in any manner except as set out below.

### AGREEMENT

The Parties agree as follows:

1. "Confidential Information" means confidential, competition-sensitive or proprietary information TMT is obligated to secure (which may include business, financial or technical data, machine-readable or interpreted information, information contained in physical components, mask works or artworks in written or other permanent form) that is delivered to the Recipient, bears the date of disclosure, and is visibly identified by clear and conspicuous markings as the Discloser's Confidential Information. A non-written disclosure shall be considered Confidential Information to the extent that such disclosure is orally identified as Confidential Information at the time of disclosure and is confirmed in writing by the Discloser. Such written confirmation shall: (i) sufficiently describe the information disclosed in detail, its scope, and the date and manner of disclosure; (ii) identify disclosers and recipients; (iii) be supplied within 30 days after oral disclosure; and (iv) refer to this Agreement.
2. The Parties agree that the Term of this Agreement shall be one (1) year from the effective date of this Agreement. The Recipient shall secure and not disclose Confidential Information disclosed under this Agreement for five (5) years from the date of disclosure by TMT ("Confidentiality Period"). The Confidentiality Period may be extended by the Parties through a written and executed amendment to this Agreement.
3. During the Confidentiality Period, the Recipient agrees not to disclose to any third party any Confidential Information without the Discloser's prior written authorization except to the Recipient's employees with a need to know and who agree to abide by nondisclosure terms comparable to those in this Agreement. The Recipient will maintain the confidentiality of the Confidential Information with at least the same degree of care that it uses to protect its own Confidential Information, but no less than a reasonable degree of care under the circumstances. Unless TMT provides prior, written consent otherwise, Confidential Information, or any part of derivative thereof, shall be used by the Recipient solely for the Purpose.
4. The Recipient will not be liable for the disclosure of any Confidential Information that is: (a) rightfully in the public domain other than by a breach of a duty to the Discloser; (b) rightfully received from

a third party without any obligation of confidentiality; (c) rightfully known to the Recipient without any limitation on use or disclosure prior to its receipt from the Discloser; (d) independently developed by the employees of the Recipient; or (e) generally made available to third parties by the Discloser without restriction on disclosure. Should the Recipient be faced with legal action or a requirement under U.S. Government regulations to disclose Confidential Information received under this Agreement, the Recipient shall, as soon as possible, notify the Discloser, and upon request of the Discloser shall reasonably cooperate in contesting such disclosure. Except in association with a failure to discharge the responsibilities set forth in this paragraph, neither Party shall be liable for any disclosures made pursuant to judicial action or U.S. Government regulations.

5. The Recipient will, upon receipt of a written request from the Discloser, make reasonable efforts to promptly destroy or return all of the Discloser's Confidential Information and copies (save for one copy for archival purposes) and immediately cease using the Confidential Information. At TMT's sole discretion, Recipient shall return or destroy the Confidential Information being held for archival purposes if so directed by TMT.

6. In this Agreement, references to the Recipient and the Discloser shall be deemed to include respectively any Affiliate. For this purpose, Affiliate shall mean any corporate member of the Party or any company controlling, controlled by or under common control with the relevant Party where control means direct or indirect ownership of at least 50% of the voting stock or interest in a company or control of the composition of the board of directors.

7. This Agreement does not create a joint venture, partnership or other form of business association between the Parties and does not obligate the Parties to enter into any such relationship. Both Parties understand and acknowledge that no license under any patents, trademarks, copyrights or mask works is granted to or conferred upon either Party in this Agreement or by the disclosure of any Confidential Information.

8. Neither Party has any obligation to disclose Confidential Information to the other. Either Party may terminate this Agreement at any time without cause upon written notice to the other Party, provided that each Party's obligations with respect to Confidential Information disclosed during the term of this Agreement will survive any termination. The failure of a Party to enforce a right under this Agreement will not be deemed a waiver of any subsequent right.

9. This Agreement shall be governed by and construed in accordance with the law of the State of California and the Parties hereby submit to the jurisdiction of the State of California.

Signed for and on behalf of  
COMPANY

Signature\_\_\_\_\_

Name\_\_\_\_\_

Position\_\_\_\_\_

Date\_\_\_\_\_

Signed for and on behalf of  
TMT International Observatory LLC

Signature\_\_\_\_\_

Name           Aki Fujii

Position       Business Manager

Date\_\_\_\_\_