(Tentative Translation)

Guidelines on the Derivation and Distribution of Human Embryonic Stem Cells

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Although the derivation and utilization of human embryonic stem (ES) cells have the potential to contribute significantly to the development of medicine and biology, they require careful consideration given the bioethical issues involved, including the use of human embryos, which have the emerging potential of human life, and the fact that human ES cells have been derived by destroying human embryos and have the potential to differentiate into any type of human cell.

Based on the "Report on the Human Embryo Research Focusing on Human Embryonic Stem Cells" (March 6, 2000, Subcommittee of Human Embryo Research, Bioethics Committee, Council for Science and Technology), "Basic Ideas on the Handling of Human Embryos" (July 23, 2004, Council for Science and Technology Policy) and "Desirable Production and Use of Human Somatic Cell Nuclear Transfer Embryos for Research Purposes (First Report)" (February 1, 2008, Bioethics and

Biosafety Commission, Council for Science and Technology Policy), the Minister of Education, Culture, Sports, Science and Technology hereby establishes these Guidelines in an effort to secure the proper derivation and distribution of human ES cells, by providing for fundamental matters to be observed from bioethical viewpoints, so that human dignity may never be violated in such activities.

Chapter I General Provisions

(Definitions)

Article 1 In these Guidelines, the meanings of the terms listed in the following items should be as prescribed respectively in those items:

(i) Embryo　An embryo prescribed in Article 2, paragraph (1), item (i) of the Act on Regulation of Human Cloning Techniques (Act No. 146 of 2000; hereinafter referred to as the "Act")

(ii) Human embryo　An embryo of a human being (including an embryo with the genetic information of a human being)

(iii) Human fertilized embryo　A human fertilized embryo prescribed in Article 2, paragraph (1), item (vi) of the Act

(iv) Human somatic cell nuclear transfer (SCNT) embryo　A human somatic cell nuclear transfer embryo prescribed in Article 2, paragraph (1), item (x) of the Act

(v) Human embryonic stem (ES) cell　A cell obtained from a human embryo or produced by the division of such a cell, excluding on embryo, which has pluripotency (the capability to differentiate into endodermal, mesodermal and ectodermal cells) and retains the ability to proliferate by itself or is presumed to have an ability similar thereto

(vi) Differentiated cell　A cell differentiated from a human ES cell, which results in the cell no longer having the property of a human ES cell

(vii) Derivation　Production of cells with a specific property

(viii) First category derivation　Derivation of human ES cells by using human fertilized embryos (except that listed in the next item)

(ix) Second category derivation　Production of human SCNT embryos and derivation of human ES cells by using produced human SCNT embryos

(x) Deriving institute　An institute that derives human ES cells

(xi) First category deriving institute　An institute that carries out first category derivation

(xii) Second category deriving institute　An institute that carries out second category derivation

(xiii) First category donor medical facility　A medical facility that receives donations of human fertilized embryos to be used for first category derivation and　transfers such embryos to first category deriving institutes

(xiv) Second category donor medical facility　A medical facility that receives donations of unfertilized eggs or human fertilized embryos (hereinafter referred to as "unfertilized eggs, etc.") necessary for producing human somatic cell nuclear transfer embryos to be used for second category derivation and transfers such unfertilized eggs, etc. to second category deriving institutes

(xv) Somatic cell donor facility　A facility that receives donations of human somatic cells (hereinafter simply referred to as "somatic cells") necessary for producing human somatic cell nuclear transfer embryos to be used for second category derivation and transfers such cells to second category deriving institutes

(xvi) Distributing institute　An institute that distributes and maintains human ES cells deposited by deriving institutes for the purpose of distributing such human ES cells to third parties

(xvii) Utilizing institute　An institute that utilizes human ES cells (exceptinstitutes that utilize human ES cells at places of business outside Japan [hereinafter referred to as "overseas utilizing institutes"])

(xviii) Derivation plan　A plan concerning the derivation and distribution (except distribution to overseas utilizing institutes) of human ES cells by a deriving institute

(xix) Overseas distribution plan　A plan concerning the distribution of human ES cells to an overseas utilizing institute by a deriving institute or distributing institute

(xx) Utilization Plan　A plan concerning the utilization of human ES cells by a utilizing institute

(xxi) Derivation director　A person in a position to oversee the derivation and distribution of human ES cells in a deriving institute

(xxii) Distribution director　A person in a position to oversee the distribution of human ES cells in a distributing institute

(xxiii) Informed consent　Consent given out of one's own free will based on the provision of a sufficient explanation

(Scope of Application)

Article 2 The derivation and distribution of human ES cells (limited to those pertaining to basic research) should be carried out appropriately pursuant to the provisions of these Guidelines.

(Consideration for Human Embryos and Human ES Cells)

Article 3 A person handling human embryos and human ES cells should handle such embryos and cells conscientiously and carefully so as not to violate human dignity, by taking into consideration that human embryos are the beginning of human life and that human ES cells have been derived by destroying human embryos and have the potential to differentiate into any type of human cell.

(Free Donation of Human Embryos)

Article 4 A human embryo used for the derivation of human ES cells should be donated free, except for necessary expenses.

Chapter II Derivation of Human ES Cells

Section 1 Requirements for Derivation

(Requirements for Derivation of Human ES Cells)

Article 5 The derivation of human ES cells should be allowed only when the following requirements are satisfied:

(i) A policy on the utilization of human ES cells that satisfies the requirements for utilization prescribed in the Guidelines on the Utilization of Human Embryonic Stem Cells (Public Notice of MEXT No. 157 of 2009) should be indicated.

(ii) The derivation of new human ES cells should have scientific rationality and should be necessary in light of the policy on utilization prescribed in the preceding item.

(Requirements for Human Embryos Used for Derivation)

Article 6 (1) A human fertilized embryo used for first category derivation should satisfy the following requirements:

(i) The human fertilized embryo should be a human fertilized embryo that has been produced for use in assisted reproductive technology, but is no longer planned to be used for said purpose, where the intention of the donor has been confirmed with regard to destroying said human fertilized embryo.

(ii) The human fertilized embryo should be one for which appropriate informed consent has been given with regard to its use for the derivation of human ES cells.

(iii) The human fertilized embryo should be stored frozen.

(iv) The human fertilized embryo should be one within 14 days from fertilization (excluding the period during which it has been stored frozen).

(2) The number of human fertilized embryos donated by a first category donor medical facility to a first category deriving institute should be limited to the number absolutely essential for deriving the human ES cells.

(3) A first category deriving institute should use the donated human fertilized embryo for deriving the human ES cells without delay.

(4) Human somatic cell nuclear transfer embryos used for second category derivation should be limited to those that have been produced based on the Guidelines on the Handling of Specified Embryos (Public Notice of MEXT No. 83 of 2009; hereinafter referred to as the "Guidelines on Specified Embryos").

(Handling of Human Embryos within Deriving Institute)

Article 7 Human embryos and unfertilized eggs should be appropriately handled in a deriving institute by a medical doctor or under his/her guidance.

Section 2 Derivation System

(Criteria for a Deriving Institute)

Article 8 A deriving institute should satisfy the following requirements:

(i) The deriving institute should have sufficient facilities, personnel, financial basis and technical capability for deriving and distributing human ES cells.

(ii) The deriving institute should have in place rules on technical and ethical matters to be observed with regard to the derivation and distribution of human ES cells.

(iii) The deriving institute should have an ethical review board.

(iv) The deriving institute should have in place a plan (hereinafter referred to as the "education and training plan") for providing the necessary education and training for improving technical capability and ethical awareness concerning the derivation and distribution of human ES cells.

(Operations of a Deriving Institute)

Article 9 (1) In addition to the derivation of human ES cells, a deriving institute should carry out the following operations:

(i) Distribute and maintain human ES cells that have been derived by said deriving institute (including the case of depositing such human ES cells to a distributing institute for distribution and maintenance)

(ii) Receive already-distributed human ES cells that have been processed by a utilizing institute, and distribute and maintain such processed human ES cells (limited to cases that are reasonable for the development of research utilizing human ES cells)

(iii) Provide technical training on the handling of human ES cells to researchers who implement a utilization plan (limited to those in which human ES cells derived by said deriving institute are utilized through distribution from said deriving institute)

(2) A deriving institute should prepare and keep records on the derivation, maintenance, distribution, return and deposit of human ES cells.

(3) A deriving institute should cooperate in submitting materials, accepting investigations and any other measures found to be necessary by the Minister of Education, Culture, Sports, Science and Technology concerning the derivation, maintenance, distribution, return and deposit of human ES cells.

(Head of a Deriving Institute)

Article 10 (1) The head of a deriving institute should perform the following duties:

(i) Confirm the propriety of the derivation plan and any change to the derivation plan and approve the implementation thereof pursuant to Articles 13 through 16

(ii) Confirm the propriety of the overseas distribution plan and approve the implementation thereof pursuant to Article 53

(iii) Ascertain the progress and/or results of the derivation of human ES cells as well as the status of the distribution, return and deposit of human ES cells and, if necessary, give instructions to the derivation director regarding matters such as any relevant points of concern and points for improvement

(iv) Supervise the derivation, distribution and deposit of human ES cells

(v) Communicate these Guidelines widely and thoroughly within the deriving institute and ensure the observance thereof

(vi) Formulate an education and training plan on the derivation and distribution of human ES cells and implement education and training based on it

(vii) Establish an implementation system for the technical training prescribed in paragraph (1), item (iii) of the preceding Article

(2) The head of a deriving institute may not serve concurrently as the derivation director; provided, however, that this should not apply to the case where a person who acts for the head of the deriving institute in performing the duties set forth in the preceding paragraph has been appointed pursuant to the rules prescribed in Article 8, item (ii).

(3) In the case referred to in the proviso to the preceding paragraph, the term "the head of a/the deriving institute" in the provisions of these Guidelines (excluding the preceding paragraph) should be deemed to be replaced with "a person who acts for the head of a/the deriving institute in performing the duties of the head of the deriving institute" and the term "the head of the deriving institute or the head of the distributing institute" in Article 53, paragraph (1) should be deemed to be replaced with "the head of the deriving institute or the head of the distributing institute (including a person who acts for the head of the deriving institute in performing the duties of the head of the deriving institute).

(Derivation Director)

Article 11 (1) The derivation director should perform the following duties:

(i) Examine the scientific and ethical propriety of the derivation plan or any change thereto based on the materials and information available in Japan and/or abroad concerning the derivation of human ES cells

(ii) Prepare a document containing the derivation plan (hereinafter referred to as the "written derivation plan") or a document containing the contents of and reasons for any change to the derivation plan (referred to as the "written amendment to the derivation plan" in Article 16, paragraphs (1), (3) and (6)) based on the results of the examination set forth in the preceding item

(iii) Prepare a document containing the overseas distribution plan (referred to as the "written overseas distribution plan" in Article 45, paragraph (1), item (iv) and Article 53, paragraphs (1) through (3) and paragraph (8), item (i))

(iv) Oversee the derivation, distribution and deposit of human ES cells, and give the necessary instructions to researchers

(v) Confirm as needed that the derivation of human ES cells is appropriately implemented in accordance with the written derivation plan

(vi) Confirm as needed that the distribution and deposit of human ES cells are appropriately implemented

(vii) Take the procedures prescribed in Article 17, paragraphs (1) and (2) and Article 18, paragraph (1)

(viii) Order researchers who implement the derivation plan or overseas distribution plan to participate in education and training based on the education and training plan on the derivation and distribution of human ES cells and, if necessary, provide any other education and training on the derivation and distribution of human ES cells

(ix) Provide the technical training prescribed in Article 9, paragraph (1), item (iii)

(x) In addition to what is prescribed in the preceding items, take any necessary measures for overseeing the derivation, distribution and deposit

(2) One derivation director should be assigned to each derivation plan, and he/she should have ethical awareness regarding human ES cells, have experience in deriving ES cells from animal embryos as well as any other sufficient expert knowledge and technical capability on the derivation of human ES cells, and be capable of performing precisely the duties listed in the items of the preceding paragraph.

(Ethical Review Board of a Deriving Institute)

Article 12 (1) The ethical review board of a deriving institute should carry out the following operations:

(i) Comprehensively review the scientific and ethical propriety of the derivation plan or any change thereto and submit opinions to the head of the deriving institute on matters such as the appropriateness of the plan or the change thereto and any relevant points of concern and points for improvement, in conformity with these Guidelines

(ii) Comprehensively review the propriety of the overseas distribution plan and submit opinions to the head of the deriving institute on matters such as the appropriateness of the plan and any relevant points of concern and points for improvement, in conformity with these Guidelines

(iii) Receive reports on the progress and the results of the derivation and the status of the distribution, return and deposit, carry out investigations if necessary, and submit opinions to the head of the deriving institute on matters such as any relevant

points of concern and points for improvement

(2) The ethical review board of a deriving institute should prepare and keep records on the process of the review set forth in items (i) and (ii) of the preceding paragraph.

(3) The ethical review board of a deriving institute should satisfy the following requirements:

(i) The ethical review board should consist of experts in biology, medicine and law, persons having adequate insight to state opinions on bioethics and persons capable of stating opinions from the standpoint of the general public so as to be able to comprehensively review the scientific and ethical propriety of the derivation plan and the propriety of the overseas distribution plan.

(ii) The members of the ethical review board should include two or more persons who do not belong to the juridical person to which said deriving institute belongs.

(iii) The members of the ethical review board should include two or more men and two or more women.

(iv) Any researcher who implements said derivation plan or overseas distribution plan, any interested persons of the derivation director or any relatives of the derivation director up to the third degree of kinship should not take part in the review.

(v) An appropriate administrative procedure that would guarantee the freedom and independence of the activities of the ethical review board should be set in place.

(vi) Rules on the constitution, organization and administration of the ethical review board, disclosure of the contents of its meetings and other necessary procedures required for reviewing a derivation plan and overseas distribution plan should be set in place and disclosed.

(4) In addition to what is listed in the preceding paragraph, the ethical review board of a second category deriving institute should satisfy the following requirements:

(i) The experts in medicine set forth in item (i) of the preceding paragraph should include persons having insight into regenerative medicine and medical doctors having excellent insight into the medicine which the donors of unfertilized eggs, etc. receive.

(ii) The majority of the members of the ethical review board should consist of those who do not belong to the second category deriving institute.

(5) When administering the ethical review board, the contents of its meetings should be disclosed except for the matters that are specified to be kept undisclosed pursuant to the rules prescribed in paragraph (3), item (vi).

Section 3 Derivation Procedure

(Approval of Head of a Deriving Institute)

Article 13 (1) When deriving human ES cells, the derivation director should prepare a

written derivation plan in advance and seek the approval of the head of the deriving institute for the implementation of the derivation plan.

(2) The written derivation plan set forth in the preceding paragraph should contain the following matters:

(i) The name of the derivation plan

(ii) The name and address of the deriving institute and the name of the head of the deriving institute

(iii) The names, brief backgrounds, research achievements and records of education and training of the derivation director and researchers, and their respective roles to be played in the derivation plan

(iv) An explanation concerning the human embryos used for the derivation

(v) The policy on the utilization of human ES cells after the derivation

(vi) The purpose and necessity of the derivation

(vii) The method and period of the derivation

(viii) An explanation concerning the distribution

(ix) An explanation concerning the criteria for the deriving institute

(x) An explanation concerning informed consent

(xi) An explanation concerning the cell donor facility (a first category donor medical facility in the case of carrying out first category derivation and a second category donor medical facility and somatic cell donor facility in the case of carrying out second category derivation; the same should apply hereinafter)

(xii) An explanation concerning the ethical review board of the cell donor facility

(xiii) Any other necessary matters

(3) The written explanation set forth in Article 24, paragraph (3) should be attached to the written derivation plan set forth in paragraph (1) in the case of carrying out first category derivation, and the written explanations set forth in Article 30, paragraph (3) and Article 36, paragraph (3) in the case of carrying out second category derivation, respectively.

(Hearing of Opinion of Ethical Review Board of a Deriving Institute)

Article 14 (1) The head of a deriving institute should, when requested by the derivation director to give approval for the implementation of the derivation plan pursuant to paragraph (1) of the preceding Article, seek the opinion of the ethical review board of the deriving institute on the propriety of the plan and confirm the conformity of the plan with these Guidelines based on said opinion.

(2) With regard to the derivation plan of which conformity with these Guidelines has been confirmed pursuant to the provisions of the preceding paragraph, the head of a deriving institute should obtain the consent of the heads of all of the cell donor facilities pertaining to said derivation plan.

(3) When giving consent to the derivation plan, the head of a cell donor facility should

hear the opinion of the ethical review board of said facility.

(4) The head of a cell donor facility should, when giving consent to the derivation plan, notify the head of the deriving institute by attaching documents indicating the process and results of the review by the ethical review board of said facility.

(Confirmation by the Minister of Education, Culture, Sports, Science and Technology)

Article 15 (1) When giving approval for the implementation of the derivation plan, the head of a deriving institute should receive confirmation from the Minister of Education, Culture, Sports, Science and Technology with regard to the conformity of said derivation plan with these Guidelines after the termination of the procedures set forth in the preceding Article.

(2) In the case referred to in the preceding paragraph, the head of the deriving institute should submit to the Minister of Education, Culture, Sports, Science and Technology the following documents.

(i) A written derivation plan to which the written explanation set forth in Article 13, paragraph (3) is attached

(ii) Documents indicating the process and results of the review by the ethical review board of the deriving institute and the ethical review boards of all of the cell donor facilities pertaining to said derivation plan, documents containing matters concerning the ethical review boards of said institute and facilities, and copies of the rules on the constitution, organization and administration of the ethical review boards of said institute and facilities, disclosure of the contents of their meetings and other necessary procedures required for reviewing a derivation plan

(iii) A copy of the rules on technical and ethical matters to be observed with regard to the derivation and distribution of human ES cells

(3) The Minister of Education, Culture, Sports, Science and Technology should, when requested to provide the confirmation set forth in paragraph (1), seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the conformity of the derivation plan with these Guidelines, and provide confirmation based on said opinion.

(Change to the Derivation Plan)

Article 16 (1) The derivation director should, when intending to change any of the matters listed in Article 13, paragraph (2), items (i) and (iii) through (xii), prepare a written amendment to the derivation plan and seek the approval of the head of the deriving institute in advance. In this case, the head of the deriving institute who has been requested to give the approval should seek the opinion of the ethical review board of the deriving institute on the propriety of said change and confirm the conformity of said change with these Guidelines based on said opinion.

(2) The head of a deriving institute should, when the contents of the change to the

derivation plan for which confirmation set forth in the preceding paragraph has been provided relate to a cell donor facility, obtain the consent of the head of said cell donor facility with regard to said change. In this case, the head of said cell donor facility, who has been requested to give consent, should hear the opinion of the ethical review board of said cell donor facility.

(3) When giving the approval set forth in paragraph (1), the head of a deriving institute should receive confirmation from the Minister of Education, Culture, Sports, Science and Technology with regard to the conformity of said change with these Guidelines. In this case, the head of the deriving institute should submit to the Minister of Education, Culture, Sports, Science and Technology the following documents in addition to the written amendment to the derivation plan.

(i) Documents indicating the process and results of the review by the ethical review board of the deriving institute pertaining to said change

(ii) In the case prescribed in the preceding paragraph, documents indicating the process and results of the review by the ethical review board of the cell donor facility pertaining to said change

(4) The Minister of Education, Culture, Sports, Science and Technology should, when requested to provide the confirmation set forth in the preceding paragraph, seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the conformity of said change with these Guidelines, and provide confirmation based on said opinion.

(5) The head of a deriving institute should, when any change has been made to the matters listed in Article 13, paragraph (2), item (ii), promptly notify the Minister of Education, Culture, Sports, Science and Technology to that effect.

(6) The derivation director should, when intending to change any of the matters listed in Article 13, paragraph (2), item (xiii), prepare a written amendment to the derivation plan and seek the approval of the head of the deriving institute in advance.

(7) The head of a deriving institute should, when having given the approval set forth in the preceding paragraph, promptly report the ethical review board of the deriving institute to that effect, and notify the Minister of Education, Culture, Sports, Science and Technology to that effect.

(8) The Minister of Education, Culture, Sports, Science and Technology should, when the notification set forth in the preceding paragraph has been given, report on the matters pertaining to said notification to the Bioethics and Biosafety Commission under the Council for Science and Technology.

(Report on Progress of Derivation)

Article 17 (1) The derivation director should report on the progress of the derivation of human ES cells, the status of the distribution, return and deposit of human ES cells and the status of the handling of the donated unfertilized eggs, etc. and somatic cells

as needed to the head of the deriving institute and the ethical review board of the deriving institute.

(2) The derivation director should, when human ES cells have been derived, promptly prepare and submit to the head of the deriving institute a document containing that fact and the names of the human ES cell lines derived (referred to as a "written derivation report" in the next paragraph).

(3) The head of a deriving institute should, when he/she has received the submission of a written derivation report, promptly submit a copy thereof to the ethical review board of the deriving institute and the Minister of Education, Culture, Sports, Science and Technology.

(4) The head of a deriving institute should, during the period in which the deriving institute maintains the human ES cells it has derived, report on the status of the distribution, return and deposit of said human ES cells to the Minister of Education, Culture, Sports, Science and Technology at least once a year.

(Termination of a Derivation Plan)

Article 18 (1) The derivation director should, when a derivation plan has been terminated, promptly prepare and submit to the head of the deriving institute a document containing that fact and the results of the derivation (referred to as a "written derivation plan completion report" in the next paragraph).

(2) The head of a deriving institute should, when he/she has received the submission of a written derivation plan completion report, promptly submit a copy thereof to the ethical review board of the deriving institute and the Minister of Education, Culture, Sports, Science and Technology.

(3) A deriving institute should, when a derivation plan has been terminated, achieve appropriate handling of human ES cells by such means as transferring the human ES cells it possesses to a distributing institute.

(Disclosure of Research Results)

Article 19 (1) The research results obtained through the derivation of human ES cells should be disclosed, in principle.

(2) A deriving institute should, when disclosing the research results obtained through the derivation of human ES cells, clearly indicate that said derivation of human ES cells has been carried out in conformity with these Guidelines.

(Coordination of Operations Concerning a Deriving Institute)

Article 20 (1) Two or more institutes may carry out the operations of a deriving institute in collaboration with each other.

(2) In the case referred to in the preceding paragraph, each institute should include in its written derivation plan explanations on the role-sharing and the responsibilities of

the respective institutes, and each institute should hear the opinion of the ethical review board established in said institute with regard to the derivation plan or any change thereto (except changes pertaining to the matters listed in Article 13, paragraph (2), items (ii) and (xiii)).

Chapter III Donation of Human Fertilized Embryos Necessary for Deriving Human Embryonic Stem Cells

Section 1 Donation of Human Fertilized Embryos Necessary for First Category Derivation

(Criteria for a First Category Donor Medical Facility)

Article 21 A first category donor medical facility should satisfy the following requirements:

(i) The first category donor medical facility should have a sufficient track record and abilities concerning the handling of human fertilized embryos.

(ii) The first category donor medical facility should have established an ethical review board.

(iii) The first category donor medical facility should have taken sufficient measures to protect the personal information of the donors of human fertilized embryos.

(iv) The first category donor medical facility should have clearly established methods to confirm the donors' intention with regard to destroying the human fertilized embryos and other procedures concerning the handling of human fertilized embryos.

(Ethical Review Board of a First Category Donor Medical Facility)

Article 22 (1) The ethical review board of a first category donor medical facility should carry out the operations to comprehensively review the scientific and ethical propriety of the derivation plan or any change thereto and submit opinions to the head of the first category donor medical facility on matters such as the appropriateness of the plan or the change thereto and any relevant points of concern and points for improvement, in conformity with these Guidelines.

(2) The ethical review board of a first category donor medical facility should prepare and keep records on the process of the review set forth in the preceding paragraph.

(3) The ethical review board of a first category donor medical facility should satisfy the following requirements:

(i) The ethical review board should consist of experts in biology, medicine and law, persons having adequate insight to state opinions on bioethics and persons capable of stating opinions from the standpoint of the general public so as to be able to comprehensively review the scientific and ethical propriety of a derivation plan.

(ii) The members of the ethical review board should include two or more persons who do not belong to the juridical person to which said first category donor medical

facility belongs.

(iii) The members of the ethical review board should include two or more men and two or more women.

(iv) Any researcher who implements said derivation plan, any interested persons of the derivation director or any relatives of the derivation director up to the third degree of kinship should not take part in the review.

(v) An appropriate administrative procedure that would guarantee the freedom and independence of the activities of the ethical review board should be set in place.

(vi) Rules on the constitution, organization and administration of the ethical review board, disclosure of the contents of its meetings and other necessary procedures required for reviewing a derivation plan should be set in place and disclosed.

(4) When administering the ethical review board, the contents of its meetings should be disclosed except for the matters that are specified to be kept undisclosed pursuant to the rules prescribed in item (vi) of the preceding paragraph.

(Procedure of Informed Consent)

Article 23 (1) A first category donor medical facility should obtain the informed consent of the donors of the human fertilized embryos necessary for first category derivation (husband and wife [except those who are in a de facto relationship similar to husband and wife without having given the notification of marriage] who have donated the germ cells necessary for producing said human fertilized embryos; hereinafter the same should apply in this section) with regard to using the human fertilized embryos for said first category derivation.

(2) The informed consent set forth in the preceding paragraph should be indicated in writing.

(3) When obtaining the informed consent set forth in paragraph (1), the first category donor medical facility should satisfy the following requirements, while giving sufficient consideration to the feelings of the donors of the human fertilized embryos:

(i) The first category donor medical facility should not take unfair advantage of the situation of the donors of human fertilized embryos.

(ii) The first category donor medical facility should not request a person who lacks the capability to consent to donate human fertilized embryos.

(iii) The first category donor medical facility should have confirmed the intention of the donors of human fertilized embryos in advance with regard to destroying the human fertilized embryos.

(iv) The first category donor medical facility should allow the donors of human fertilized embryos the necessary time for determining whether or not to donate.

(v) The first category donor medical facility should preserve said human fertilized embryos for at least 30 days after the informed consent has been obtained.

(4) The donors of human fertilized embryos may revoke their informed consent during

the period when said human fertilized embryos are being preserved.

(Explanation on Informed Consent)

Article 24 (1) The explanation pertaining to the informed consent prescribed in paragraph (1) of the preceding Article should be given by the first category deriving institute.

(2) A first category deriving institute should have a person who is nominated by the head of said first category deriving institute from amongst persons belonging to said first category deriving institute (except the derivation director) provide the explanation set forth in the preceding paragraph.

(3) A person who has been nominated by the head of a first category deriving institute pursuant to the provisions of the preceding paragraph should, when providing the explanation set forth in paragraph (1), give the explanation to the donors of human fertilized embryos in an easy-to-understand manner by presenting a written explanation containing the following matters:

(i) The purpose and method of the derivation of human ES cells

(ii) The fact that the human fertilized embryos will be destroyed in the derivation process and any other matters on the handling of the donated human fertilized embryos

(iii) The expected utilization method of the human ES cells and the results thereof

(iv) The fact that the conformity of the derivation plan with these Guidelines has been confirmed by the first category deriving institute, the first category donor medical facility and the State

(v) The fact that the personal information of the donors of the human fertilized embryos will not be transferred to the first category deriving institute and any other concrete methods for protecting such personal information

(vi) The fact that, because human fertilized embryos are donated free, the donors will receive no reward in the future

(vii) In cases where there is a possibility that the human ES cells may be analyzed genetically, a statement to that effect and the fact that those genetic analyses will not identify specific individuals

(viii) In cases where there is a possibility that germ cells will be produced from human ES cells, a statement to that effect and the fact that human embryos will not be produced using the said germ cells.

(ix) The fact that, because the donors of the human fertilized embryos are not identified from the human ES cells, research results and any other information concerning said human ES cells cannot be disclosed to the donors of the human fertilized embryos

(x) The possibility that the process of deriving the human ES cells and the research results obtained from the research utilizing the human ES cells may be disclosed at

such occasions as academic meetings

(xi) The fact that the human ES cells will be maintained at the first category deriving institute for a long period and are distributed free to utilizing institutes

(xii) The possibility that, in the case where useful results have been obtained from the human ES cells (including the differentiated cells), patent rights, copyrights or other intangible property rights or economic interests may arise from those results and the fact that they will not belong to the donors of the human fertilized embryos

(xiii) The fact that the manifestation of an intention to donate or not to donate does not bring any advantage or disadvantage to the donors of the human fertilized embryos

(xiv) The fact that the human fertilized embryos will be preserved at the first category donor medical facility for at least 30 days after the consent has been obtained as well as the method of preservation, and the fact that the consent can be revoked during the period when said human fertilized embryos are preserved as well as the method of revocation

(xv) Any other necessary matters

(4) A first category deriving institute should, when providing the explanation set forth in paragraph (1), take appropriate measures to protect the personal information of the donors of human fertilized embryos, and should deliver respectively the written explanation set forth in the preceding paragraph and a document indicating that said explanation has been provided (referred to as the "explanation certificate" in paragraph (1) of the next Article) to the donors of the human fertilized embryos and copies thereof to the first category donor medical facility.

(5) A first category deriving institute should give the explanation set forth in paragraph (1) accurately based on the latest scientific knowledge.

(Confirmation of Informed Consent)

Article 25 (1) The head of a first category donor medical facility should confirm the document set forth in Article 23, paragraph (2), the written explanation set forth in paragraph (3) of the preceding Article and the explanation certificate, and should hear the opinion of the ethical review board of said first category donor medical facility with regard to the appropriate receipt of the informed consent based on the derivation plan.

(2) The head of a first category donor medical facility should, when transferring human fertilized embryos to a first category deriving institute, notify the first category deriving institute in writing that he/she has carried out the confirmation set forth in the preceding paragraph.

(3) When the head of a first category deriving institute has received the notice set forth in the preceding paragraph, he/she should submit a copy of said notice to the Minister of Education, Culture, Sports, Science and Technology.

(Protection of Personal Information of Donors of Human Fertilized Embryos)

Article 26 (1) Persons engaged in first category derivation should make their utmost efforts to protect the personal information of the donors of human fertilized embryos.

(2) In light of the gist of the preceding paragraph, a first category donor medical facility should, when transferring human fertilized embryos to a first category deriving institute, take the necessary measures so that said human fertilized embryos cannot be compared with the personal information of the donors of the human fertilized embryos.

Section 2 Donation of Unfertilized Eggs Necessary for Second Category Derivation

(Criteria for a Second Category Donor Medical Facility)

Article 27 (1) A second category donor medical facility should satisfy the following requirements:

(i) The second category donor medical facility should have a sufficient track record and abilities concerning the handling of unfertilized eggs, etc.

(ii) The second category donor medical facility should have established an ethical review board.

(iii) The second category donor medical facility should have taken sufficient measures to protect the personal information of the donors of unfertilized eggs, etc.

(iv) The second category donor medical facility should have clearly established methods to confirm the donors' intention with regard to donating unfertilized eggs, etc. and other procedures concerning the handling of human fertilized embryos.

(2) When the donors of unfertilized eggs, etc. are receiving medical care at a second category donor medical facility, the second category donor medical facility should allocate a medical doctor in charge of explanation (a medical doctor who gives the donors of unfertilized eggs, etc. an explanation on the method of said donation and the handling after the donation and has excellent insight into medical care in the field of obstetrics and gynecology) and a coordinator (a person who provides the donors of unfertilized eggs, etc. with information and consultation services and coordinates among the persons concerned with regard to said donation, and is not an interested person of the donors and has excellent insight into second category derivation and medical care in the field of obstetrics and gynecology).

(Ethical Review Board of a Second Category Donor Medical Facility)

Article 28 (1) The ethical review board of a second category donor medical facility should carry out the operations to comprehensively review the scientific and ethical propriety of the derivation plan or any change thereto and submit opinions to the head of the second category donor medical facility on matters such as the appropriateness of the plan or the change thereto and any relevant points of concern

and points for improvement, in conformity with these Guidelines.

(2) The ethical review board of a second category donor medical facility should prepare and keep records on the process of the review set forth in the preceding paragraph.

(3) The ethical review board of a second category donor medical facility should satisfy the following requirements:

(i) The ethical review board should consist of experts in biology, medicine and law, persons having adequate insight to state opinions on bioethics and persons capable of stating opinions from the standpoint of the general public so as to be able to comprehensively review the scientific and ethical propriety of the derivation plan.

(ii) The members of the ethical review board should include two or more persons who do not belong to the juridical person to which said second category donor medical facility belongs.

(iii) The members of the ethical review board should include two or more men and two or more women.

(iv) Any researcher who implements said derivation plan, any interested persons of the derivation director or any relatives of the derivation director up to the third degree of kinship should not take part in the review.

(v) An appropriate administrative procedure that would guarantee the freedom and independence of the activities of the ethical review board should be set in place.

(vi) Rules on the constitution, organization and administration of the ethical review board, disclosure of the contents of its meetings and other necessary procedures required for reviewing a derivation plan should be set in place and disclosed.

(vii) The experts in medicine set forth in item (i) should include persons having insight into regenerative medicine and medical doctors having excellent insight into the medicine which the donors of unfertilized eggs, etc. receive.

(viii) The majority of the members of the ethical review board should consist of those who do not belong to the second category deriving institute.

(4) When administering the ethical review board, the contents of its meetings should be disclosed except for the matters that are specified to be kept undisclosed pursuant to the rules prescribed in item (vi) of the preceding paragraph.

(Procedure of Informed Consent)

Article 29 (1) A second category donor medical facility should obtain the informed consent of the donors of the unfertilized eggs, etc. necessary for second category derivation and any other persons whose intention to donate should be confirmed (hereinafter referred to as the “donors, etc.” in this section) with regard to using the unfertilized eggs, etc. for said second category derivation.

(2) The informed consent set forth in the preceding paragraph should be indicated in writing.

(3) When obtaining the informed consent set forth in paragraph (1), the second

category donor medical facility should satisfy the following requirements, while giving sufficient consideration to the feelings of the donors, etc.:

(i) The second category donor medical facility should not take unfair advantage of the situation of the donors, etc.

(ii) The second category donor medical facility should not request a person who lacks the capability to consent, a person who carries out second category derivation or any other person concerned to donate unfertilized eggs, etc.

(iii) The second category donor medical facility should have confirmed the intention of the donors, etc. in advance with regard to destroying the unfertilized eggs, etc.

(iv) The second category donor medical facility should allow the donors, etc. the necessary time for determining whether or not to donate.

(v) The second category donor medical facility should not transfer said unfertilized eggs, etc. to a second category deriving institute for at least 30 days after the informed consent has been obtained.

(vi) The second category donor medical facility should, when receiving the donation of unfertilized eggs, etc. listed in item (ii) or (iii) of paragraph (5) of Article 9 of the Guidelines on Specified Embryos (except those in a frozen state), confirm that the donors of the unfertilized eggs, etc. are those who have received assisted reproductive technology in the past and that the donors of the unfertilized eggs, etc. have offered to donate in advance.

(vii) A member of the ethical review board or a person designated by the ethical review board (limited to those who do not participate in said second category derivation and are not the interested persons of the donors of the unfertilized eggs, etc.) should have confirmed the appropriateness of the procedure pertaining to the consent to donate through an interview with the donors of the unfertilized eggs, etc. (except when receiving the donation of frozen unfertilized eggs and when receiving the donation of human fertilized embryos after the termination of assisted reproductive technology provided to the donors of the unfertilized eggs, etc.).

(Explanation on Informed Consent)

Article 30 (1) The explanation pertaining to the informed consent set forth in paragraph (1) of the preceding Article should be given pursuant to Article 10, paragraph (2) of the Guidelines on Specified Embryos.

(2) A second category deriving institute should have a person who is nominated by the head of said second category deriving institute from amongst persons belonging to said second category deriving institute (except the derivation director) provide the explanation set forth in the preceding paragraph.

(3) A person who has been nominated by the head of a second category deriving institute pursuant to the provisions of the preceding paragraph should, when providing the explanation set forth in paragraph (1), give the explanation to the

donors, etc. in an easy-to-understand manner by presenting a written explanation containing the matters listed in the items of Article 10, paragraph (2) of the Guidelines on Specified Embryos.

(4) A second category deriving institute should, when providing the explanation set forth in paragraph (1), take appropriate measures to protect the personal information of the donors of unfertilized eggs, etc., and should deliver respectively the written explanation set forth in the preceding paragraph and a document indicating that said explanation has been provided (referred to as the "explanation certificate" in paragraph (1) of the next Article) to the donors, etc. and copies thereof to the second category donor medical facility.

(5) A second category deriving institute should give the explanation set forth in paragraph (1) accurately based on the latest scientific knowledge.

(Confirmation of Informed Consent)

Article 31 (1) The head of a second category donor medical facility should confirm the document set forth in Article 29, paragraph (2), the written explanation set forth in paragraph (3) of the preceding Article and the explanation certificate, and should hear the opinion of the ethical review board of said second category donor medical facility with regard to the appropriate receipt of the informed consent based on the derivation plan.

(2) The head of a second category donor medical facility should, when transferring unfertilized eggs, etc. to a second category deriving institute, notify the second category deriving institute in writing that he/she has carried out the confirmation set forth in the preceding paragraph.

(3) When the head of a second category deriving institute has received the notice set forth in the preceding paragraph, he/she should submit a copy of said notice to the Minister of Education, Culture, Sports, Science and Technology.

(Protection of Personal Information of Donors of Unfertilized Eggs, etc.)

Article 32 (1) Persons engaged in second category derivation should make their utmost efforts to protect the personal information of the donors of unfertilized eggs, etc.

(2) In light of the gist of the preceding paragraph, a second category donor medical facility should, when transferring unfertilized eggs, etc. to a second category deriving institute, take the necessary measures so that said unfertilized eggs, etc. cannot be compared with the personal information of the donors of the unfertilized eggs, etc.

Section 3 Donation of Human Somatic Cells Necessary for Second Category Derivation

(Criteria for a Somatic Cell Donor Facility)

Article 33 (1) A somatic cell donor facility should satisfy the following requirements:

(i) The somatic cell donor facility should have established an ethical review board.

(iii) The somatic cell donor facility should have taken sufficient measures to protect the personal information of the donors of somatic cells.

(iv) The somatic cell donor facility that receives the donation of the somatic cells listed in item (i) or (iii) of paragraph (6) of Article 9 of the Guidelines on Specified Embryos should be a medical facility.

(iv) The somatic cell donor facility that receives the donation of the somatic cells listed in Article 9, paragraph (6), item (iii) of the Guidelines on Specified Embryos should include medical doctors who have considerable experience in taking somatic cells and are not the interested persons of the donors.

(Ethical Review Board of a Somatic Cell Donor Facility)

Article 34 (1) The ethical review board of a somatic cell donor facility should carry out the operations to comprehensively review the scientific and ethical propriety of the derivation plan or any change thereto and submit opinions to the head of the somatic cell donor facility on matters such as the appropriateness of the plan or the change thereto and any relevant points of concern and points for improvement, in conformity with these Guidelines.

(2) The ethical review board of a somatic cell donor facility should prepare and keep records on the process of the review set forth in the preceding paragraph.

(3) The ethical review board of a somatic cell donor facility should satisfy the following requirements:

(i) The ethical review board should consist of experts in medicine and law, persons having adequate insight to state opinions on bioethics and persons capable of stating opinions from the standpoint of the general public so as to be able to comprehensively review the scientific and ethical propriety of the derivation plan.

(ii) The members of the ethical review board should include two or more men and two or more women.

(iii) Any researcher who implements said derivation plan should not take part in the review.

(iv) An appropriate administrative procedure that would guarantee the freedom and independence of the activities of the ethical review board should be set in place.

(v) Rules on the constitution, organization and administration of the ethical review board, disclosure of the contents of its meetings and other necessary procedures required for reviewing a derivation plan should be set in place and disclosed.

(4) When administering the ethical review board, the contents of its meetings should be disclosed except for the matters that are specified to be kept undisclosed pursuant to the rules prescribed in item (v) of the preceding paragraph.

(Procedure of Informed Consent)

Article 35 (1) A somatic cell donor facility should obtain the informed consent of the donors of the somatic cells necessary for second category derivation and any other persons whose intention to donate said somatic cells should be confirmed (hereinafter referred to as the "donors, etc." in this section) with regard to using said somatic cells for said second category derivation; provided, however, that this should not apply to the case where the somatic cell donor facility receives the donation of the somatic cells listed in Article 9, paragraph (6), item (ii) of the Guidelines on Specified Embryos for which information pertaining to the donors of said somatic cells is not available.

(2) The informed consent set forth in the preceding paragraph should be indicated in writing.

(3) When obtaining the informed consent set forth in paragraph (1), the somatic cell donor facility should satisfy the following requirements, while giving sufficient consideration to the feelings of the donors, etc.:

(i) The somatic cell donor facility should not request a person who lacks the capability to consent, a person who carries out second category derivation or any other person concerned to donate somatic cells.

(ii) The somatic cell donor facility should allow the donors, etc. the necessary time for determining whether or not to donate.

(iii) The somatic cell donor facility should not transfer said somatic cells to a second category deriving institute for at least 30 days after the informed consent has been obtained.

(iv) The somatic cell donor facility should, when receiving the donation of the somatic cells listed in Article 9, paragraph (6), item (iii) of the Guidelines on Specified Embryos, confirm that all of the following requirements are satisfied:

(a) The donors of the somatic cells have offered to donate in advance.

(b) A member of the ethical review board of the somatic cell donor facility or a person designated by said ethical review board (limited to those who do not participate in said second category derivation and are not the interested persons of the donors of the somatic cells) has confirmed the appropriateness of the procedure pertaining to the consent to donate through interview with the donors of the somatic cells.

(Explanation on Informed Consent)

Article 36 (1) The explanation pertaining to the informed consent set forth in paragraph (1) of the preceding Article should be given pursuant to Article 10, paragraph (2) of the Guidelines on Specified Embryos as applied mutatis mutandis by replacing terms pursuant to the provisions of Article 11, paragraph (1) of the Guidelines on Specified Embryos, as well as pursuant to Article 11, paragraphs (2) and (3) of the Guidelines on Specified Embryos.

(2) A second category deriving institute should, when giving the explanation set forth

in the preceding paragraph, have a person who is nominated by the head of said second category deriving institute from amongst persons belonging to said second category deriving institute (except the derivation director) provide the explanation set forth in the preceding paragraph.

(3) A person of a somatic cell donor facility who provides the explanation and a person who has been nominated by the head of a second category deriving institute pursuant to the provisions of the preceding paragraph should, when providing the explanation set forth in paragraph (1), give the explanation to the donors, etc. in an easy-to-understand manner by presenting a written explanation containing the matters listed in the items of Article 10, paragraph (2) of the Guidelines on Specified Embryos as applied mutatis mutandis by replacing terms pursuant to the provisions of Article 11, paragraph (1) of the Guidelines on Specified Embryos, and in the items of Article 11, paragraph (2) of the Guidelines on Specified Embryos.

(4) A second category deriving institute should, when providing the explanation set forth in paragraph (1), take appropriate measures to protect the personal information of the donors of somatic cells, and should deliver respectively the written explanation set forth in the preceding paragraph and a document indicating that said explanation has been provided (referred to as the "explanation certificate" in paragraph (1) of the next Article) to the donors, etc. and copies thereof to the somatic cell donor facility.

(5) A somatic cell donor facility and second category deriving institute should give the explanation set forth in paragraph (1) accurately based on the latest scientific knowledge.

(Confirmation of Informed Consent)

Article 37 (1) The head of a somatic cell donor facility should confirm the document set forth in Article 35, paragraph (2), the written explanation set forth in paragraph (3) of the preceding Article and the explanation certificate, and should hear the opinion of the ethical review board of said somatic cell donor facility with regard to the appropriate receipt of the informed consent based on the derivation plan.

(2) The head of a somatic cell donor facility should, when transferring somatic cells to a second category deriving institute, notify the second category deriving institute in writing that he/she has carried out the confirmation set forth in the preceding paragraph.

(3) When the head of a second category deriving institute has received the notice set forth in the preceding paragraph, he/she should submit a copy of said notice to the Minister of Education, Culture, Sports, Science and Technology.

(Protection of Personal Information of Donors of Somatic Cells)

Article 38 (1) Persons engaged in second category derivation should make their utmost efforts to protect the personal information of the donors of somatic cells.

(2) In light of the gist of the preceding paragraph, a somatic cell donor facility should, when transferring somatic cells to a second category deriving institute, take the necessary measures so that said somatic cells cannot be compared with the personal information of the donors of the somatic cells; provided, however, that this should not apply to the case where the second category deriving institute requires information pertaining to the diseases of the donors of the somatic cells and the somatic cell donor facility has obtained the consent of the donors, etc. and the approval of the ethical review board of the somatic cell donor facility.

Chapter IV Distribution of Human Embryonic Stem Cells

Section 1 Requirements for Distribution

(Requirements for Human ES Cells to be Distributed)

Article 39 Human ES cells to be distributed should be limited to those that satisfy the following requirements:

(i) The human ES cells should be those that have been derived based on these Guidelines or those that have been distributed from overseas based on the Guidelines on the Utilization of Human Embryonic Stem Cells.

(ii) The human ES cells should be those that have been deposited or transferred for free, except for necessary expenses.

(Requirements for Distribution to a Utilizing Institute)

Article 40 (1) The distribution of human ES cells to a utilizing institute may be carried out only when the following requirements are satisfied:

(i) Human ES cells should be distributed only to utilizing institutes that implement a utilization plan based on the Guidelines on the Utilization of Human Embryonic Stem Cells.

(ii) Human ES cells should be distributed for free, except for necessary expenses.

(2) A deriving institute or a distributing institute should, when a request for the distribution of human ES cells has been made by a utilizing institute that implements a utilization plan based on the Guidelines on the Utilization of Human Embryonic Stem Cells, distribute the human ES cells unless there are unavoidable circumstances.

(Requirements for Distribution to an Overseas Utilizing Institute)

Article 41 The distribution of human ES cells to an overseas utilizing institute may be carried out only when the following requirements are satisfied:

(i) Human ES cells should be distributed only to overseas utilizing institutes that have concluded a contract based on an overseas distribution plan that has been confirmed by the Minister of Education, Culture, Sports, Science and Technology as

prescribed in Article 53, paragraph (7).

(ii) Human ES cells should be distributed for free, except for necessary expenses.

Section 2 Distributing Institute

(Criteria for a Distributing Institute)

Article 42 A distributing institute should satisfy the following requirements:

(i) The distributing institute should have sufficient facilities, personnel, technical and managerial capabilities and financial basis for carrying out the distribution, etc. (the distribution, receipt of deposits and maintenance; the same should apply hereinafter) of human ES cells.

(ii) The distributing institute should have in place rules on technical and ethical matters to be observed with regard to the distribution, etc. of human ES cells and on matters concerning the management of human ES cells.

(iii) The distributing institute should have established an ethical review board.

(iv) The distributing institute should have a track record concerning the distribution of animal or human cells.

(v) The distributing institute should have in place an education and training plan concerning the distribution, etc. of human ES cells.

(Operations of a Distributing Institute)

Article 43 (1) In addition to the distribution, etc. of human ES cells, a distributing institute should carry out the following operations:

(i) Receive already-distributed human ES cells that have been processed by a utilizing institute, and distribute and maintain such processed human ES cells (limited to the cases that are reasonable for the development of research utilizing human ES cells)

(ii) Provide technical training on the handling of human ES cells to persons who implement a utilization plan (limited to those in which human ES cells that have been distributed by said distributing institute are utilized) based on the Guidelines on the Utilization of Human Embryonic Stem Cells

(2) A distributing institute should prepare and keep records on the distribution, etc. and return of human ES cells.

(3) A distributing institute should cooperate in submitting materials, accepting investigations and any other measures found to be necessary by the Minister of Education, Culture, Sports, Science and Technology concerning the distribution, etc. and return of human ES cells.

(Head of a Distributing Institute)

Article 44 (1) The head of a distributing institute should perform the following duties:

(i) Confirm the propriety of the overseas distribution plan and approve the

implementation thereof pursuant to Article 53

(ii) Ascertain the status of the distribution, etc. and return of human ES cells and, if necessary, give instructions to the distribution director regarding matters such as any relevant points of concern and points for improvement

(iii) Supervise the distribution, etc. of human ES cells

(iv) Communicate these Guidelines widely and thoroughly within the distributing institute and ensure the observance thereof

(v) Ascertain the status of the distribution, etc. and return

(vi) Regularly report on the actual results of the distribution of human ES cells received by deposit from a deriving institute to the head of said deriving institute

(vii) Formulate an education and training plan on the distribution, etc. of human ES cells and implement education and training based on it

(viii) Establish an implementation system for the technical training prescribed in item (ii) of paragraph (1) of the preceding Article

(2) The head of a distributing institute may not serve concurrently as the distribution director.

(Distribution Director)

Article 45 (1) The distribution director should perform the following duties:

(i) Oversee the distribution, etc. of human ES cells, and give the necessary instructions to researchers

(ii) Confirm as needed that the distribution, etc. of human ES cells is appropriately implemented

(iii) Make the necessary reports to the head of the distributing institute and the ethical review board of the distributing institute on the status of the distribution, etc. and return of human ES cells

(iv) Order researchers who implement a plan concerning the establishment of said distributing institute (hereinafter referred to as the "establishment plan") or an overseas distribution plan to participate in education and training based on the education and training plan on the distribution, etc. of human ES cells and, if necessary, provide any other education and training for improving the technical capabilities and ethical awareness concerning the distribution, etc. of human ES cells

(v) Provide the technical training prescribed in Article 43, paragraph (1), item (ii)

(vi) Prepare a written overseas distribution plan

(vii) In addition to what is prescribed in the preceding items, take any necessary measures for overseeing the distribution, etc. of human ES cells

(2) One distribution director should be assigned in each distributing institute, and he/she should have ethical awareness, and sufficient expert knowledge and technical capability regarding human ES cells, and be capable of performing precisely the

duties listed in the items of the preceding paragraph.

(Establishment Review Board)

Article 46 (1) An ethical review board concerning the establishment of a distributing institute (hereinafter referred to as the "establishment review board") should carry out the operations to comprehensively review the propriety of the establishment plan and submit opinions to the head of an institute intending to establish a distributing institute on matters such as the appropriateness of the plan and any relevant points of concern and points for improvement, in conformity with these Guidelines.

(2) The establishment review board should prepare and keep records on the process of the review set forth in the preceding paragraph.

(3) The establishment review board should satisfy the following requirements:

(i) The establishment review board should consist of experts in biology, medicine and law, persons having adequate insight to state opinions on bioethics and persons capable of stating opinions from the standpoint of the general public so as to be able to comprehensively review the propriety of the establishment plan.

(ii) The members of the establishment review board should include two or more persons who do not belong to the juridical person to which the institute that intends to become a distributing institute belongs.

(iii) The members of the establishment review board should include two or more men and two or more women.

(iv) Any researcher who implements said establishment plan, any interested persons of the distribution director or any relatives of the distribution director up to the third degree of kinship should not take part in the review.

(v) An appropriate administrative procedure that would guarantee the freedom and independence of the activities of the establishment review board should be set in place.

(vi) Rules on the constitution, organization and administration of the establishment review board, disclosure of the contents of its meetings and other necessary procedures required for reviewing an establishment plan should be set in place and disclosed.

(4) When administering the establishment review board, the contents of its meetings should be disclosed except for the matters that are specified to be kept undisclosed pursuant to the rules prescribed in item (vi) of the preceding paragraph.

(Procedure Concerning Establishment of a Distributing Institute)

Article 47 (1) The head of an institute that intends to become a distributing institute should prepare a document containing the establishment plan (referred to as the "written establishment plan" in paragraph (3) and paragraph (4), item (i)) and receive confirmation from the Minister of Education, Culture, Sports, Science and Technology

with regard to the conformity of the establishment plan with these Guidelines.

(2) The head of the institute that intends to receive the confirmation set forth in the preceding paragraph should establish an establishment review board in advance and seek its opinion with regard to the propriety of the establishment plan.

(3) A written establishment plan should contain the following matters:

(i) The name and address of the institute and the name of the head of the institute

(ii) The organization and personnel framework for carrying out the distribution, etc. of human ES cells

(iii) The name, brief background, track record regarding the handling of human ES cells or research achievements concerning human ES cells and record of education and training of the distribution director and his/her role to be played in the distributing institute

(iv) The names, brief backgrounds, track records regarding the handling of human ES cells or research achievements concerning human ES cells and records of education and training of the researchers and their respective roles to be played in the distributing institute

(v) The facilities and equipment for handling the distribution, etc. of human ES cells and the management framework thereof (including the floor plans of the facilities and arrangement plans of the equipment for handling the distribution, etc. of human ES cells and the arrangement plan of the management system)

(vi) An explanation concerning the human ES cells to be received by deposit or transfer

(vii) An explanation concerning the rules on technical and ethical matters to be observed with regard to the distribution, etc. of human ES cells and on matters concerning the management of human ES cells

(viii) The framework of the ethical review board

(ix) The contents of the education and training plan concerning the distribution, etc. of human ES cells

(x) Any other necessary matters

(4) The head of the institute that intends to receive the confirmation set forth in paragraph (1) should submit to the Minister of Education, Culture, Sports, Science and Technology the following documents:

(i) A written establishment plan

(ii) Documents indicating the process and results of the review by the establishment review board

(iii) Documents containing matters concerning the establishment review board, and a copy of the rules prescribed in item (vi) of paragraph (3) of the preceding Article

(iv) Documents containing matters concerning the ethical review board of the distributing institute, and a copy of the rules prescribed in item (vi) of paragraph (3) of the preceding Article as applied mutatis mutandis by replacing terms pursuant to

the provisions of Article 49, paragraph (2)

(v) A copy of the rules on technical and ethical matters to be observed with regard to the distribution, etc. of human ES cells and on matters concerning the management of human ES cells

(vi) Documents indicating the financial basis for continuously carrying out the distribution, etc. of human ES cells

(vii) Documents indicating the track record concerning the distribution of animal or human cells

(5) The Minister of Education, Culture, Sports, Science and Technology should, when requested to provide the confirmation set forth in paragraph (1), seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the conformity of the establishment plan with these Guidelines, and provide confirmation based on said opinion.

(6) The Minister of Education, Culture, Sports, Science and Technology should, when having provided the confirmation set forth in the preceding paragraph, make a public announcement to that effect.

(Change to the Establishment Plan)

Article 48 (1) The head of a distributing institute should, when intending to change any of the matters listed in item (ii), (iii), (v) or (vi) of paragraph (3) of the preceding Article, receive confirmation from the Minister of Education, Culture, Sports, Science and Technology with regard to the conformity of said change with these Guidelines after hearing the opinion of the ethical review board of the distributing institute on the propriety of said change in advance. In this case, the head of the distributing institute should submit to the Minister of Education, Culture, Sports, Science and Technology a document containing the contents of and reasons for said change and documents indicating the process and results of the review by the ethical review board pertaining to said change.

(2) The Minister of Education, Culture, Sports, Science and Technology should, when requested to provide the confirmation set forth in the preceding paragraph, seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the conformity of said change with these Guidelines, and provide confirmation based on said opinion.

(3) The head of a distributing institute should, when any change has been made to any of the matters listed in paragraph (3), items (i), (iv) and (vii) through (x) of the preceding Article, notify the Minister of Education, Culture, Sports, Science and Technology to that effect. In this case, when said change pertains to change to any of the matters listed in items (iv) and (vii) through (ix) of said paragraph, the head of the distributing institute should hear the opinion of the ethical review board of the distributing institute on the propriety of said change in advance.

(4) The Minister of Education, Culture, Sports, Science and Technology should, when a notification set forth in the preceding paragraph (except those pertaining to change to any of the matters listed in item (i) of paragraph (3) of the preceding Article) has been given, report on the matters pertaining to said notification to the Bioethics and Biosafety Commission under the Council for Science and Technology.

(Ethical Review Board of a Distributing Institute)

Article 49 (1) The ethical review board of a distributing institute should carry out the following operations:

(i) Comprehensively review the propriety of a change to the establishment plan and submit opinions to the head of the distributing institute on matters such as the appropriateness of the change and any relevant points of concern and points for improvement, in conformity with these Guidelines

(ii) Comprehensively review the propriety of the overseas distribution plan and submit opinions to the head of the distributing institute on matters such as the appropriateness of the plan and any relevant points of concern and points for improvement, in conformity with these Guidelines

(iii) Receive reports on the status of the distribution, etc. and return of human ES cells, carry out investigations if necessary, and submit opinions to the head of the distributing institute on matters such as any relevant points of concern and points for improvement

(2) The provisions of Article 46, paragraphs (2) through (4) should apply mutatis mutandis to the requirements and administration of the ethical review board of a distributing institute. In this case, the term "establishment review board" in these provisions should be deemed to be replaced with "ethical review board of the distributing institute," the term "propriety of the establishment plan" should be deemed to be replaced with "propriety of a change to the establishment plan and the overseas distribution plan," the term "institute that intends to become a distributing institute" should be deemed to be replaced with "distributing institute," the term "any researcher who implements said establishment plan" should be deemed to be replaced with "any researcher who implements said establishment plan or overseas distribution plan," and the term "reviewing an establishment plan" should be deemed to be replaced with "reviewing an establishment plan and overseas distribution plan."

(Report on Progress of Distribution)

Article 50 (1) The distribution director should report on the status of the distribution, etc. and return of human ES cells as needed to the head of the distributing institute and the ethical review board of the distributing institute.

(2) The head of a distributing institute should report on the status of the distribution, etc. and return of human ES cells to the Minister of Education, Culture, Sports,

Science and Technology at least once a year

(Termination of Operations of a Distributing Institute)

Article 51 (1) The head of a distributing institute should, when intending to terminate or suspend the operations of the distributing institute, seek the opinion of the ethical review board of the distributing institute and receive confirmation from the Minister of Education, Culture, Sports, Science and Technology with regard to the handling of human ES cells after the termination or suspension.

(2) The Minister of Education, Culture, Sports, Science and Technology should, when requested to provide the confirmation set forth in the preceding paragraph, seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the propriety of the handling of human ES cells after the termination or suspension of the operations of the distributing institute, and provide confirmation based on said opinion.

(3) The Minister of Education, Culture, Sports, Science and Technology should, when having provided the confirmation set forth in paragraph (1), make a public announcement to the effect that said operations have been terminated or suspended.

Section 3 Distribution to Overseas Utilizing Institutes

(Criteria for an Overseas Utilizing Institute)

Article 52 For the time being, an overseas distribution plan should be formulated for distribution to an overseas utilizing institute that satisfies the following requirements:

(i) The overseas utilizing institute should observe the relevant country's national laws and regulations or guidelines equivalent thereto with regard to the handling of human ES cells and differentiated cells.

(ii) The overseas utilizing institute should not distribute or transfer the human ES cells that it has received by distribution to any other institutes.

(iii) The overseas utilizing institute should, when it has terminated the utilization of human ES cells, dispose of the remaining human ES cells based on the agreement with the deriving institute or distributing institute that has distributed said human ES cells, or return or transfer them to the deriving institute or distributing institute that has distributed said human ES cells.

(iv) The overseas utilizing institute should not generate an individual through the transplantation of embryos produced by utilizing human ES cells into a human or animal uterus or through any other method, introduce human ES cells into a human embryo or human fetus, or produce human embryos using germ cells produced from human ES cells.

(v) The overseas utilizing institute should not utilize human ES cells for a commercial

purpose.

(vi) The overseas utilizing institute should not carry out clinical research applying human ES cells or cells originating therefrom to the human body or utilize human ES cells in medicine and in its related fields.

(vii) The overseas utilizing institute should have taken sufficient measures to protect personal information.

(viii) The overseas utilizing institute should take any other necessary measures for the appropriate handling of human ES cells.

(ix) The overseas utilizing institute should, in the event of violating the criteria for an overseas distribution plan prescribed in this Article, return human ES cells to the deriving institute or distributing institute that has distributed the human ES cells.

(Procedure for Distribution to an Overseas Utilizing Institute)

Article 53 (1) When distributing human ES cells to an overseas utilizing institute, the derivation director or distribution director should prepare a written overseas distribution plan in advance and seek the approval of the head of the deriving institute or the head of the distributing institute for the implementation of the overseas distribution plan.

(2) The written overseas distribution plan set forth in the preceding paragraph should contain the following matters:

(i) The name of the overseas distribution plan

(ii) The name and address of the deriving institute or distributing institute and the name of the head of the deriving institute or the head of the distributing institute

(iii) The name of the derivation director or distribution director

(iv) The name and address and the name of the country of the location of the overseas utilizing institute to which human ES cells are to be distributed

(v) The method of distribution

(vi) The period of utilization by the overseas utilizing institute to which human ES cells are to be distributed

(vii) The source of supply of the human ES cells to be distributed and the name of the human ES cell line

(viii) An explanation concerning the criteria for the overseas utilizing institute

(ix) Any other necessary matters

(3) The derivation director or distribution director should attach to the written overseas distribution plan a copy of a document indicating that the utilization of human ES cells by the overseas utilizing institute to which the cells will be distributed has been approved based on the relevant country's national laws and regulations or guidelines equivalent thereto and Japanese translations thereof.

(4) The head of a deriving institute or the head of a distributing institute should, when requested to give the approval set forth in paragraph (1), seek the opinion of the

ethical review board of the deriving institute or distributing institute on the propriety of the plan and confirm the conformity of the plan with these Guidelines based on said opinion.

(5) When giving approval for the implementation of an overseas distribution plan, the head of a distributing institute should seek the consent of the head of the deriving institute that has derived said human ES cells with regard to the distribution under said overseas distribution plan.

(6) The head of a deriving institute should give the consent set forth in the preceding paragraph unless there are unavoidable circumstances.

(7) When giving approval for the implementation of an overseas distribution plan, the head of a deriving institute or the head of a distributing institute should receive confirmation from the Minister of Education, Culture, Sports, Science and Technology with regard to the conformity of said overseas distribution plan with these Guidelines after the termination of the procedures set forth in paragraphs (4) and (5).

(8) In the case referred to in the preceding paragraph, the head of the deriving institute or the head of the distributing institute should submit to the Minister of Education, Culture, Sports, Science and Technology the following documents:

(i) The written overseas distribution plan

(ii) Documents indicating the process and results of the review by the ethical review board of the deriving institute or that of the distributing institute

(9) The Minister of Education, Culture, Sports, Science and Technology should seek the opinion of the Bioethics and Biosafety Commission under the Council for Science and Technology on the conformity of the overseas distribution plan with these Guidelines, and provide confirmation based on said opinion.

Chapter V Miscellaneous Provisions

(Coordination with Relevant Administrative Organs)

Article 54 The Minister of Education, Culture, Sports, Science and Technology should closely coordinate with the Minister of Health, Labour and Welfare and the Minister of Economy, Trade and Industry by such means as providing information, by taking into consideration that the derivation and distribution of human ES cells is closely related to medicine and its related fields.

(Public Announcement of Nonconformity to Guidelines)

Article 55 The Minister of Education, Culture, Sports, Science and Technology should, when there has been a person whose derivation or distribution of human ES cells was found not to conform to the criteria provided by these Guidelines, make a public announcement to that effect.

Supplementary Provisions

(Effective Date)

Article 1 These Guidelines should come into effect as from the day of promulgation.

(Repeal of Guidelines on the Derivation and Utilization of Human Embryonic Stem Cells)

Article 2 The Guidelines on the Derivation and Utilization of Human Embryonic Stem Cells (Public Notice No. 84 of the Ministry of Education, Culture, Sports, Science and Technology, 2009; referred to as the "old Guidelines" in the next Article) should be repealed.

(Transitional Measures)

Article 3 A derivation plan, establishment plan or overseas distribution plan that has been confirmed by the Minister of Education, Culture, Sports, Science and Technology pursuant to the provisions of the old Guidelines at the time of the enforcement of these Guidelines should be deemed to have received the confirmation set forth in Article 15, paragraph (1), Article 47, paragraph (1) or Article 53, paragraph (7), respectively.

(Review of Guidelines)

Article 4 (1) The Minister of Education, Culture, Sports, Science and Technology should review the provisions of these Guidelines if necessary, by taking into consideration such factors as the progress of research in life sciences and trends of society.

(2) The review set forth in the preceding paragraph should be carried out based on the opinion of the Council for Science and Technology Policy.