

## COMPANY INFORMATION SHEET

Hong Kong Exchanges and Clearing Limited and The Stock Exchange of Hong Kong Limited take no responsibility for the contents of this information sheet, make no representation as to its accuracy or completeness and expressly disclaim any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this information sheet.

Company Name (stock code): Fast Retailing Co., Ltd. (6288)

Stock Short Name: FAST RETAIL-DRS

This information sheet is provided for the purpose of giving information to the public about Fast Retailing Co., Ltd (the “**Company**”) as at the date specified. The information does not purport to be a complete summary of information about the Company and/or its securities.

### Responsibility statement

The directors of the Company (the “**Directors**”) as at the date hereof hereby collectively and individually accept full responsibility for the accuracy of the information contained in this information sheet and confirm, having made all reasonable inquiries, that to be the best of their knowledge and belief the information contained in this information sheet is accurate and complete in all material respects and not misleading or deceptive and that there are no other matters the omission of which would make an information inaccurate or misleading herein.

The Directors and Chief Financial Officer also collectively and individually undertake to publish on a yearly basis, when the Company publishes its annual report, this information sheet reflecting, if applicable, the changes to the information since the last publication.

### Summary Content

| Document Type                                        | Date              |
|------------------------------------------------------|-------------------|
| <b>A. Waivers</b>                                    |                   |
| Latest version .....                                 | November 28, 2024 |
| <b>B. Foreign Laws and Regulations</b>               |                   |
| Latest version .....                                 | November 28, 2024 |
| <b>C. Constitutional Documents</b>                   |                   |
| Latest version (certified English translation) ..... | November 27, 2025 |
| <b>D. Deposit Agreement</b>                          |                   |
| Latest version .....                                 | February 7, 2023  |
| <b>E. Deed Poll</b>                                  |                   |
| Latest version .....                                 | February 7, 2023  |

Date of this information sheet: November 27, 2025

Unless the context requires otherwise, capitalized terms used herein shall have the meanings given to them in the Company’s listing document (“**Listing Document**”) dated February 14, 2014 and references to sections of the Listing Document shall be construed accordingly.

## A. WAIVERS

*We have applied for, and have been granted, the waivers (other than the automatic waivers and the common waivers under the Joint Policy Statement) on the basis of circumstances which are specific to us. We will notify the Hong Kong Stock Exchange as soon as practicable in the event of any changes in Japanese laws and regulations which form the basis of the waivers (other than the automatic waivers and common waivers under the Joint Policy Statement) being applied for.*

### A. AUTOMATIC WAIVERS

| Relevant Rule waived      | Subject matter                                                                                                                                                                            |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rule 3.17                 | Compliance with the provisions regarding dealings in securities by directors in the Model Code in Appendix C3 to the Listing Rules                                                        |
| Rules 3.21 to 3.23        | Requirement to establish an audit committee (subject to conditions set out in the section headed "Directors and Senior Management — Board of Statutory Auditors" in the Listing Document) |
| Rules 3.25 to 3.27        | Requirement to establish a remuneration committee                                                                                                                                         |
| Rules 3.28, 3.29 and 8.17 | Requirements with respect to having a Hong Kong qualified company secretary                                                                                                               |
| Rules 4.06 and 4.07       | Contents of accountants' reports for notifiable transaction circulars                                                                                                                     |
| Chapter 7                 | Requirements relating to methods of listing (limited to issues outside the Hong Kong Stock Exchange's markets)                                                                            |
| Rule 8.09(4)              | Market capitalization requirements of options, warrants and other similar rights (limited to issues outside the Hong Kong Stock Exchange's markets)                                       |
| Rule 8.18                 | Requirements for issues of options, warrants and other similar rights (limited to issues outside the Hong Kong Stock Exchange's markets)                                                  |

| Relevant Rule waived                                                                        | Subject matter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rules 10.05, 10.06(2)(a) to (c), 10.06(2)(e), 10.06(4), 10.06(5), 10.07, 10.08 and 13.31(1) | Certain dealing restrictions and publication requirements relating to share repurchases and disposals and issues of securities (waivers from all such rules except Rules 10.07 and 10.08 are limited to an issuer that has confirmed with the SFC that it should not be considered a Hong Kong public company for the purpose of compliance with the Takeovers Code —see “Appendix V — Waivers — B. Additional Waivers Obtained — Ruling that We Are Not a Public Company in Hong Kong under the Takeovers Code” of the Listing Document for details) |
| Rules 13.11 to 13.23                                                                        | Certain specific public disclosure requirements (waiver from Rule 13.23(2) relating to compliance with Takeovers Code is limited to an issuer that has confirmed with the SFC that it should not be considered a Hong Kong public company for the purpose of compliance with the Takeovers Code — see “Appendix V — Waivers — B. Additional Waivers Obtained — Ruling that We Are Not a Public Company in Hong Kong under the Takeovers Code” of the Listing Document for details)                                                                    |
| Rule 13.25A                                                                                 | Next day disclosure requirements for changes in share capital                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Rule 13.27                                                                                  | Disclosure requirements relating to convertible equity securities (limited to issues outside the Hong Kong Stock Exchange’s markets)                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Rules 13.28 to 13.29                                                                        | Disclosures relating to issues under a general mandate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Rules 13.37 to Rule 13.38                                                                   | Certain matters relating to the publication of notices of AGMs and the appointment of proxies                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Rules 13.39(1) to (7) and 13.40 to 13.42                                                    | Shareholder meeting requirements (waivers from Rule 13.39(6) and (7) relating to independent board committee and independent financial adviser appointment are limited to cases other than where a spin-off proposal requires approval by shareholders of the parent — see also Rules 13.80 to 13.87, and Practice Note 15)                                                                                                                                                                                                                           |
| Rules 13.44 to 13.45                                                                        | Board meeting requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Rules 13.47, 13.48(2) and 13.49                                                             | Publication requirements for an issuer’s annual and interim reports and accounts                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| <b>Relevant Rule waived</b>                                          | <b>Subject matter</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rules 13.51(1), 13.51(2), 13.51B and 13.51C                          | Notification requirements relating to changes to articles of association, directors and various other changes (waiver from Rule 13.51(2) relating to notification of changes of directors is subject to the limitation that each new director or member of its governing body shall as soon as practicable submit to the Exchange the contact information and personal particulars required under rule 3.20 (in such form and manner prescribed by the Exchange from time to time). |
| Rules 13.52(1)(b) to (d), 13.52(1)(e)(i), (ii) and (iv) and 13.52(2) | Pre-vetting of circulars and announcements (waiver from Rule 13.52(1)(e)(iv) relating to pre-vetting of circulars and announcements for various transactions requiring shareholders' approval is limited to issues outside the Hong Kong Stock Exchange's markets)                                                                                                                                                                                                                  |
| Rule 13.67                                                           | Requirement to adopt rules governing dealings by directors no less exacting than those in the Model Code for directors' dealings                                                                                                                                                                                                                                                                                                                                                    |
| Rule 13.68                                                           | Shareholders' approval of directors' service contracts                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Rule 13.74                                                           | Disclosure of directors' details in a notice or circular                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Rules 13.80 to 13.87                                                 | Independent financial adviser requirements (limited to cases other than where a spin-off proposal requires approval by shareholders of the parent — see also Rules 13.39(6) and (7), and Practice Note 5)                                                                                                                                                                                                                                                                           |
| Rule 13.88                                                           | Appointment and removal of auditors                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Rules 13.89 and 13.91                                                | Compliance with the Corporate Governance Code in Appendix C1 and Environmental, Social and Governance Reporting Guide in Appendix D2                                                                                                                                                                                                                                                                                                                                                |
| Chapter 14                                                           | Notifiable transactions                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Chapter 14A                                                          | Connected Transactions                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Chapter 15                                                           | Certain matters relating to options, warrants and similar rights (limited to issues outside the Hong Kong Stock Exchange's markets)                                                                                                                                                                                                                                                                                                                                                 |

| <b>Relevant Rule waived</b>                 | <b>Subject matter</b>                                                                                                                                                                                                                |
|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chapter 16                                  | Certain matters relating to convertible equity securities (limited to issues outside the Hong Kong Stock Exchange's markets)                                                                                                         |
| Chapter 17                                  | Certain matters relating to share option schemes                                                                                                                                                                                     |
| Practice Note 4                             | Issues of new warrants to existing warrant holders (limited to issues outside the Hong Kong Stock Exchange's markets)                                                                                                                |
| Practice Note 15 (excluding paragraph 3(c)) | Rules relating to spin-off listings (limited to circumstances where the spun-off assets or businesses are not to be listed on the Hong Kong Stock Exchange's markets and the approval of shareholders of the parent is not required) |
| Paragraph 4(2) of Appendix A1               | Core Shareholder Protection Standard – As regard Directors                                                                                                                                                                           |
| Appendix C3                                 | Mode Code for Securities Transactions by Directors of Listed Issuers                                                                                                                                                                 |
| Appendix C1                                 | Corporate Governance Code and Corporate Governance Report                                                                                                                                                                            |
| Appendix D2                                 | Certain disclosure requirements for financial statements to be included in certain reports, documents and circulars of an issuer                                                                                                     |
| Appendix C2                                 | Environmental, Social and Governance Reporting Guide                                                                                                                                                                                 |

## B. ADDITIONAL WAIVERS OBTAINED

| Relevant Rule waived                                                                 | Subject matter                                                                                           | Page No. |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|----------|
| Rule 2.07A                                                                           | Corporate communications                                                                                 | 7        |
| Rules 3.10(2) and 3.11                                                               | Appointment of independent non-executive directors                                                       | 7        |
| Rules 4.01(1), paragraph 37 of Appendix D1E and paragraph 27(1) of Appendix D1F      | (no longer applicable)                                                                                   |          |
| Rule 9.09                                                                            | Dealing in securities by connected persons during a listing application process                          | 10       |
| Rule 11.18                                                                           | Requirements with respect to profit forecasts                                                            | 11       |
| Rule 13.25B                                                                          | Monthly return                                                                                           | 11       |
| Rule 13.36                                                                           | Pre-emptive rights (including general mandate requirements)                                              | 12       |
| Rule 13.46(2)(a)                                                                     | Distribution of annual report and accounts                                                               | 12       |
| Rule 13.70                                                                           | Announcement of nomination of directors                                                                  | 14       |
| Rule 13.73                                                                           | Notification to shareholders of certain events                                                           | 15       |
| Rule 19B.21                                                                          | Cancellation of HDRs upon repurchase                                                                     | 15       |
| Paragraph 26 of Appendix D1E and paragraph 20 of Appendix D1F                        | Disclosure requirements in respect of changes to share capital                                           | 17       |
| Paragraph 27 of Appendix D1E                                                         | Disclosure requirements in respect of share options                                                      | 17       |
| Paragraph 33(4) of Appendix D1E                                                      | Disclosure requirements in respect of pension schemes                                                    | 18       |
| Paragraphs 4(3) and 14 of Appendix A1                                                | Core Shareholder Protection Standard – As regard Directors and As regard Proceedings at General Meetings |          |
| Practice Note 5, paragraph 45(2) of Appendix D1E and paragraph 34(2) of Appendix D1F | Disclosure of interests information                                                                      | 21       |
| <b>Hong Kong Stock Exchange's Guidance Letters</b>                                   |                                                                                                          |          |
| Revised Guidance Letters GL37-12 and GL38-12                                         | Disclosure requirements in respect of indebtedness and liquidity                                         | 22       |
| <b>Takeovers Code</b>                                                                |                                                                                                          |          |
| Section 4.1 of the Takeovers Code                                                    | Provides the definition of a "public company in Hong Kong", to which the Takeovers Code applies          | 23       |

**Securities and Future Ordinance**

Part XV of the Securities and Futures Ordinance Disclosure of interests

24

## **CORPORATE COMMUNICATIONS**

### **Electronic Means**

Rule 2.07A of the Listing Rules provides that a listed issuer may send or otherwise make available to the relevant holders of its securities any corporate communication by electronic means, provided that the listed issuer has previously received from each of the relevant holders of its securities an express, positive confirmation in writing or the shareholders of the listed issuer have resolved in a general meeting that the listed issuer may send or supply corporate communications to shareholders by making them available on the listed issuer's own website or the listed issuer's constitutional documents contain provision to that effect, and in each case, certain conditions are satisfied.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with the requirements under Rule 2.07A of the Listing Rules on the following bases:

- the current legal and regulatory requirements we are subject to in Japan allow us to use electronic means for the issue of all Japanese corporate communications, with certain limited exceptions. Accordingly, we do not currently produce or send out any corporate communications to our Shareholders (with the exception of convocation notices of Shareholders' meetings) in printed form. Instead, we issue all corporate communications by making an announcement on the TSE and/or publishing a notice on our website;
- it would be impracticable for us to seek approval from each of our Shareholders to enable us to issue electronic communications given our diverse shareholder base and the number of countries in which our Shareholders reside; and
- we intend to publish TSE announcements as announcements on the Hong Kong Stock Exchange's website.

The waiver from strict compliance with the requirements under Rule 2.07A of the Listing Rules has been granted to us on the following conditions:

- we will issue all future corporate communications (including convocation notices for Shareholders' meetings) on our website in Japanese, English and Chinese and on the Hong Kong Stock Exchange's website in both English and Chinese;
- we will provide printed copies of our convocation notices to our Shareholders (in Japanese) and HDR Holders (in English and Chinese);
- we will publish a notice on the front page of our English and Chinese web pages whenever new corporate communications are issued; and
- we will provide HDR Holders after the Secondary Listing with an option to request that we send electronic copies of corporate communications (including convocation notices) in English and Chinese to the e-mail address provided by the HDR Holder as soon as practicable after the corporate communications have been published.

### **BOARD COMPOSITION**

Rule 3.10(2) of the Listing Rules requires that at least one of the independent non-executive directors must have appropriate professional qualifications or accounting or related financial management expertise.

Rule 3.11 of the Listing Rules provides, among other things, that an issuer shall immediately inform the Hong Kong Stock Exchange and publish an announcement if at any time it has failed to meet the requirement set out in Rule 3.10(2) of the Listing Rules regarding qualification of the independent non-executive directors, and that an issuer must appoint an independent non-executive director to meet the requirement set out in Rule 3.10(2) of the Listing Rules within three months after failing to meet the requirement.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with Rules 3.10(2) and 3.11 (in respect of our compliance with Rule 3.10(2)) of the Listing Rules such that:

- we will not need to appoint an independent non-executive director having appropriate professional qualifications or accounting or related financial management expertise; and
- we will not need to inform the Hong Kong Stock Exchange and publish an announcement if we fail to meet the requirement under Rule 3.10(2) of the Listing Rules, or appoint an independent non-executive director to meet the requirement set out in Rule 3.10(2) of the Listing Rules within three months after failing to meet such requirement,

as long as we have appointed a Statutory Auditor who has appropriate professional qualifications or accounting or related financial management expertise.

The waivers from strict compliance with the requirements under Rules 3.10(2) and 3.11 (in respect of our compliance with Rule 3.10(2)) of the Listing Rules have been granted to us on the following bases:

- the independence requirements with respect to, and the role played by, our Company's Board of Statutory Auditors are broadly commensurate with those under the Listing Rules;
- it would be inefficient and unduly burdensome for us to have to select a new independent non-executive Director and convene a Shareholders' meeting to appoint such Director within three months as required under the Listing Rules;
- the Companies Act requires disclosures to be made in the convocation notices to Shareholders of certain objective criteria and specified matters relevant to the appointment of directors and statutory auditors, so that the appointment is considered and made, on merit, against these objective criteria and relevant factors. These include, among other things, any material interests that the proposed Directors or Statutory Auditors have in us;
- we believe that the various requirements that we are subject to in Japan offer a level of protection to Shareholders that is at least commensurate with that offered by the Listing Rules and that the Shareholders are adequately protected through the Statutory Auditors system. See the section headed "Directors and Senior Management — Board of Statutory Auditors" in the Listing Document.

The waiver from strict compliance with the requirements under Rule 3.10(2) of the Listing Rules has been granted to us on the following conditions:

- we undertake to have at least one Statutory Auditor having the relevant professional qualification or accounting or related financial management expertise required under Rule 3.10(2) of the Listing Rules in addition to the requisite number of independent non-executive directors under the Listing Rules; and

- the independent non-executive directors would take into account the views of the Statutory Auditors in making any decisions in relation to the Company's affairs.

The waiver from strict compliance with the requirements under Rule 3.11 (in respect of our compliance with Rule 3.10(2)) of the Listing Rules has been granted to us on the following conditions that in the event we fail to meet the condition imposed for the waiver from Rule 3.10(2) of the Listing Rules (i.e., the undertaking to have at least one Statutory Auditor having the relevant professional qualification or accounting or related financial management expertise):

- we will immediately inform the Hong Kong Stock Exchange and make an announcement on the Hong Kong Stock Exchange's website; and
- we will appoint a Statutory Auditor or an independent non-executive director having the relevant professional qualification or accounting or related financial management expertise required under Rule 3.10(2) within three months from the date of non-compliance.

#### **BASIS OF PREPARATION OF ACCOUNTANTS' REPORT**

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with Rules 4.01(1), Paragraph 37 of Appendix D1E and Paragraph 27(1) of Appendix D1F of the Listing Rules so that we could publish our financial statements in accordance to the Generally Accepted Accounting Principles in Japan ("**JGAAP**") subsequent to listing. Given that we announced a change of accounting policy from JGAAP to International Financial Reporting Standards ("**IFRS**") on July 10, 2014 and that we will adopt IFRS in preparation of the Group's consolidated financial statements commencing with the financial year ending August 31, 2014, the waiver obtained with respect to Rules 4.01(1), Paragraph 37 of Appendix D1E and Paragraph 27(1) of Appendix D1F of the Listing Rules is no longer applicable.

## DEALING IN SECURITIES BY CONNECTED PERSONS DURING A LISTING APPLICATION PROCESS

Under Rule 9.09 of the Listing Rules, from four clear Business Days before the expected date on which the Listing Committee hearing is held to consider a company's listing application until listing is granted, there must be no dealing in the securities for which listing is sought by any of the Company's connected persons.

Under the Joint Policy Statement, this common waiver is subject to the following conditions:

- (a) the connected person(s):
  - (i) have no influence over the IPO process;
  - (ii) are not in possession of non-public inside information; and
  - (iii) can conduct dealings in the issuer's securities on markets outside the Hong Kong Stock Exchange that cannot be controlled by the issuer (e.g. a public investor who may become a substantial shareholder before the issuer lists on the Exchange or connected persons at the subsidiary level);
- (b) the issuer promptly releases any inside information to the public in its overseas jurisdiction(s) in accordance with the relevant laws and regulations; and
- (c) the issuer notifies the Hong Kong Stock Exchange of breaches of the dealing restriction by any of its connected persons during the restricted period.

On the grounds and subject to the conditions set out below, we have applied for, and the Hong Kong Stock Exchange has granted us, such common waiver in respect of any dealing by any Shareholder (other than the existing Directors and their associates):

- (a) the connected persons of the Company (other than the existing Directors and their associates) have no influence over the Listing process. As at the Latest Practicable Date, so far as we are aware, Mr. Tadashi Yanai, who is also a Director, was the only substantial Shareholder within the meaning of the Listing Rules;
- (b) we have not and will not disclose any price-sensitive information to any potential or actual substantial Shareholders (other than those who are privy to such information by virtue of being a Director or directly involved in the relevant subject matter, such as Mr. Tadashi Yanai who is a Director, as noted in the preceding paragraph (a) above);
- (c) given that the Shares are publicly traded on the TSE, we are not in a position to control dealings in the Shares by any other person (whether or not an existing Shareholder) or their associates who may, as a result of such dealing, become a substantial Shareholder within the meaning of the Listing Rules;
- (d) we agree that we will promptly release any inside information to the public in Japan in accordance with the relevant laws and regulations;
- (e) we agree that we will notify the Hong Kong Stock Exchange of any breaches of the dealing restrictions by any of our connected persons during the restricted period when we become aware of the same;

- (f) prior to the Listing Date, our Directors and their associates have not dealt in the Shares from four clear business days before the date of the Listing Committee hearing on the Company's listing application and will not deal in the Shares until listing is granted; and
- (g) after the Listing Date, in the event that an application is made by us for listing of any of our securities on the Hong Kong Stock Exchange, our Directors and their associates will not deal in the Shares from the time of submission of the formal application for listing until listing is granted.

## **REQUIREMENTS WITH RESPECT TO PROFIT FORECASTS**

Pursuant to Rule 11.18 of the Listing Rules, a profit forecast appearing in a listing document (other than one supporting a capitalization issue) should normally cover a period which is coterminous with the issuer's financial year-end. If, exceptionally the profit forecast period ends at a half year-end the Stock Exchange will require an undertaking from the issuer that the interim report for that half year will be audited. Profit forecast periods not ending on the financial year end or half year-end will not be permitted.

As noted in the section headed "Disclosure of Financial Guidance" in the Listing Document, the Financial Guidance provided in "Appendix III — Financial Guidance" in the Listing Document was not prepared specifically for the purposes of the Secondary Listing and was prepared in accordance with the TSE best practice guidelines, market practice of Japanese-listed companies and our past practice. There is no requirement for quarterly or interim financial statements in Japan to be audited. However, our Reporting Accountants will review the Company's interim financial statements for the period ending February 28, 2014 in accordance with the International Standard on Review Engagements 2410. As a listed company in Japan, the Company has adopted stringent internal control systems pursuant to the requirements of J-SOX.

In light of the above, we have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from Rule 11.18 of the Listing Rules.

## **MONTHLY RETURN**

Rule 13.25B of the Listing Rules requires a listed issuer to, by no later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the fifth business day next following the end of each calendar month, submit through HKEx-EPS, or such other means as the Hong Kong Stock Exchange may from time to time prescribe, for publication on the Hong Kong Stock Exchange's website a monthly return in relation to movements in the listed issuer's equity securities, debt securities and any other securitized instruments, as applicable, during the period to which the monthly return relates, in such form and containing such information as the Hong Kong Stock Exchange may from time to time prescribe (irrespective of whether there has been any change in the information provided in its previous monthly return).

Under the Joint Policy Statement, this common waiver is subject to the condition that the issuer can meet one of the following three conditions:

- (i) it has received a relevant partial exemption from Part XV of the SFO; or
- (ii) it publishes a "next day disclosure" in strict compliance with Rule 13.25A of the Listing Rules, regardless of the waiver of general effect from this Rule for secondary listed issuers; or
- (iii) it is subject to overseas laws or regulations that have a similar effect to Rule 13.25B of the Listing Rules and any differences are not material to shareholder protection.

We have applied for, and the SFC has granted us, a relevant partial exemption from Part XV of the SFO. On this basis, we have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from Rule 13.25B of the Listing Rules.

## **PRE-EMPTIVE RIGHTS (INCLUDING GENERAL MANDATE REQUIREMENTS)**

Rule 13.36 of the Listing Rules provides that the directors of an issuer must obtain the consent of the issuer's shareholders in a general meeting prior to allotting, issuing or granting any shares (or any securities convertible into shares or any options, warrants or similar rights to subscribe for any shares or such convertible securities). However, no such consent is required if the allotment, issuance or grant is made (i) pursuant to a share offering made to existing shareholders on a pro rata pre-emptive basis or (ii) pursuant to a general mandate granted by shareholders limited to an aggregate number of securities not exceeding 20% of the existing issued share capital of the issuer (plus, if applicable and separately approved by shareholders, the number of securities repurchased by the issuer since the granting of the mandate up to a maximum of 10% of the existing share capital of the issuer).

Under the Joint Policy Statement, a common waiver from the requirements under Rule 13.36 of the Listing Rules is subject to the condition that all offers of securities the issuer makes to its shareholders must be on a fair and equal basis and must not exclude Hong Kong shareholders.

There is no concept of pre-emptive rights (as defined in the Listing Rules) under Japanese law. A Japanese company may issue Shares or SARs or dispose its Treasury Stock by public offering without approval of its shareholders. In addition, Articles 199 and 201(1) of the Companies Act allow the board of directors of an issuer of a Japanese company to issue and allot its Shares or SARs to specific persons (whether or not they are shareholders) ("**Third Party Allotment**"), subject to applicable pre-filing and disclosure obligations of any Third Party Allotment and the terms of the allotment being not especially favorable to the proposed allottees. See "Appendix IV — Part A. Summary of Japanese Legal and Regulatory Matters — 20. Third Party Allotment" of the Listing Document for details.

On the basis that the Companies Act, the FIEA and the TSE Listing Regulations together provide significant protection to shareholders of companies listed on the TSE with regard to a Third Party Allotment (including, but not limited to, the requirement for an independent opinion on the necessity and suitability of a Third Party Allotment or Shareholders' approval prior to a Third Party Allotment and relevant disclosure requirements with respect to a Third Party Allotment), we have applied for, and the Hong Kong Stock Exchange has granted us, a common waiver from strict compliance with Rule 13.36 of the Listing Rules on the condition that all offers of securities that we extend to all of our Shareholders must be on a fair and equal basis and must not exclude the Shareholders in Hong Kong and the HDR Holders.

## **DISTRIBUTION OF ANNUAL REPORT AND ACCOUNTS**

Rule 13.46(2)(a) of the Listing Rules provides that an overseas issuer shall send to every member of the issuer and every other holder of its listed securities a copy of either its annual report including its annual accounts or its summary financial report, not less than 21 days before the date of the issuer's annual general meeting and in any event not more than four months after the end of the financial year to which they relate.

In Japan, a company established under the Companies Act is required to prepare financial documents in accordance with the Companies Act accounting rules and a company listed in Japan is also required to prepare financial information in accordance with the FIEA for potential investors. Before the AGM, we are required by the Companies Act to prepare our audited annual financial report and send it together with a business report to our Shareholders as part of the convocation notice for the AGM. Similar

to the practice in Hong Kong, such audited annual financial report has to be approved by the Board of Directors and will be sent to shareholders in the convocation notice. In addition, as a company listed on the TSE, we are required to prepare financial information in accordance with the FIEA for disclosure to potential investors in our annual securities reports and quarterly securities reports which are filed with the Local Finance Bureau and made public on the EDINET system. Further, such financial information required by the FIEA are publicized through disclosure requirements under the TSE Listing Regulations such as the preliminary announcement.

We must convene our AGM within three months after the day following the last day of each financial year. Given the short period of time between our financial year end and our AGM, we, in conformity with Japanese practice, issue a convocation notice to our Shareholders around early or mid-November which includes the audited financial report and the business report referred to above.

In light of the above disclosure arrangement, we are of the view that Japanese Shareholders, and the HDR Holders following the Secondary Listing, will not be unduly prejudiced owing to the extensive financial information provided by us in compliance with Japanese law. In addition to the audited financial report provided in the convocation notice published at least 14 days before the AGM, and the annual securities report which is published within three months of the financial year end, we also publish our results on a quarterly basis, which is more frequently than most Hong Kong listed companies.

As stated above, Japanese companies are required to hold their AGM within three months of their financial year end. As such, if we are required to comply Rule 13.46(2)(a) of the Listing Rules, we would have one month less than Hong Kong incorporated companies to produce our annual report, or two months and seven days opposed to three months and seven days when the 21 day notice period is applied. Meanwhile, we are required to prepare and issue, no later than 14 days before the AGM, a convocation notice (which includes a business report and the audited financial report prepared under IFRS and Japanese law if issued to Shareholders or a reference to a URL link where these documents may be electronically accessed if issued to HDR Holders). Further, we are also required to prepare our annual securities report within three months after the end of a financial year. Although we would be comfortable to comply with either the Japanese or the Hong Kong rules, it would be onerous, burdensome and practically difficult for us to comply the requirements in both markets at the same time as the two systems are designed for different reporting timeframes. Further, the limited additional benefit for the investors to receive reports prepared under both requirements would not justify the incremental costs incurred for such compliance.

The fundamental objective and principle of Rule 13.46(2)(a) of the Listing Rules is to ensure that shareholders and investors of a listed company are informed on a timely basis the annual financial and business operation results before the AGM. As required by the Companies Act and other relevant Japanese laws, the convocation notice of our Company would provide a business report and an audited financial report.

The business report would include overview of our key business status, such as, the progress and results of the business, capital expenditures and fund-raising, trends in assets and profit/loss in the most recent three fiscal years, corporate reorganizations, status of major subsidiaries, shares outstanding and major shareholders, share subscription rights, operation systems, and a status update of other important aspects of the business.

The audited financial report in the convocation notice includes material annual financial information such as the auditors' report and opinion, the consolidated statement of income, consolidated balance sheet, consolidated statement of changes in net assets, and notes to the consolidated financial

statements, and the same for the statements of our Company and of the Group on a consolidated basis, respectively.

We also noted the differences in specific disclosure requirements between the audited financial report in the convocation notice and the summary financial report required by Rule 13.46(2)(a). Although there are certain differences, both reports include sufficient information for investors to assess the material aspects of the financial results of the Group such as the auditor's opinion, consolidated income statement and balance sheet, consolidated statements of assets, notes to the statements, etc. We are of the view that despite the differences, both reports would be sufficient to provide shareholders with all material information about the annual financial performance of the Group before the AGM.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from Rule 13.46(2)(a) of the Listing Rules such that the business report and the audited financial report prepared under IFRS and Japanese law which is largely similar to our summary financial report that is required under Rule 13.46(2)(a) of the Listing Rules may be sent to the Shareholders and the HDR Holders through the Depositary not less than 14 days before the date of the AGM.

## **ANNOUNCEMENT OF NOMINATION OF DIRECTORS**

Rule 13.70 of the Listing Rules requires that an issuer publish an announcement or issue a supplementary circular upon receipt of a notice from a shareholder to propose a person for election as a director at the general meeting where such notice is received by the issuer after publication of the notice of meeting. The Note to Rule 13.70 of the Listing Rules further provides that the issuer must assess whether or not it is necessary to adjourn the meeting of the election to give shareholders at least 10 business days to consider the relevant information disclosed in the announcement or supplementary circular.

Under Article 304 of the Companies Act, a shareholder is permitted to propose an amendment to the matters included in an existing agenda of a shareholders' meeting without any prior notice if such an agenda is scheduled to be discussed and determined at such a shareholders' meeting. The matters included in the agenda may be amended and shareholders may propose a person for election as a director at any time before the relevant shareholders' meeting or even at the meeting, if the original agenda proposed the appointment of a new director, or directors, to the board of directors of the company. It is therefore not practicable for us to comply with Rule 13.70 of the Listing Rules to publish an announcement or issue a supplementary circular upon receipt of a notice from any of the Shareholders to propose a person for election as a Director, or to adjourn the shareholders' meeting to give our Shareholders at least 10 business days to consider the relevant information. On such basis, we have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with Rule 13.70 of the Listing Rules on the conditions that:

- we will make an announcement to inform our Shareholders of the amended agenda on our website (in English and Japanese), as long as it is made before the date of the relevant general meeting; and
- we will publish the above announcement on the Hong Kong Stock Exchange's website in English and Chinese.

## **NOTIFICATION TO SHAREHOLDERS OF CERTAIN EVENTS**

Rule 13.73 of the Listing Rules requires that in addition to any direction of the court, an issuer shall ensure that notice of every meeting of its shareholders or its creditors concerning the issuer (e.g. for winding up petitions, schemes of arrangement or capital reduction) is published in accordance with Rule 2.07C. The issuer shall dispatch a circular to its shareholders at the same time as (or before) the issuer gives notice of the general meeting to approve the transaction referred to in the circular. The issuer shall also provide its shareholders with any material information on the subject matter to be considered at a general meeting that comes to the directors' attention after the circular is issued by way of supplementary circular or announcement not less than 10 business days before the date of the relevant general meeting to consider the subject matter.

Under the Joint Policy Statement, this common waiver is subject to the condition that we are subject to overseas laws or regulations that have a similar effect (i.e., that notices are provided to Hong Kong shareholders) and any differences are not material to shareholder protection.

The TSE Listing Regulations and the FIEA require a listed company to make public disclosure of any material decisions that it makes with regard to its corporate actions (including winding up, execution of a merger agreement and capital reduction). In addition, if such transactions require a shareholder resolution at a shareholders' meeting, a listed company is required to dispatch a convocation notice to its shareholders at least two weeks prior to the date of such shareholders meeting. There will be no circumstances under which a Shareholders' meeting will be held without prior convocation notice being given to the Shareholders or the HDR Holders through the Depositary. Details of such transactions are required to be included in the relevant public disclosures made by the listed company and the convocation notice given by the listed company. In so far as it relates to creditors, the Companies Act requires certain procedures to be followed to ensure that the interests of creditors of a listed company are protected in certain events such as capital reduction or corporate reorganization by a listed company. A listed company is required to issue a notice to each creditor and/or issue a public notice at least one month prior to the effective date of any such events so that the creditors are made aware of such events. If any of the creditors objects to any such events, they may request the listed company to pay its receivables or provide a sufficient collateral, except for the situation where such events do not affect the company's ability to pay the relevant receivables. The requirements under the TSE Listing Regulations and the FIEA are broadly comparable to the requirements under Rule 13.73 of the Listing Rules and any differences are not material to shareholder protection. It would be unduly burdensome or inefficient for us to be subject to similar sets of requirements for notification to shareholders and creditors in such circumstances.

We have applied for, and the Hong Kong Stock Exchange has granted us, a common waiver from compliance with Rule 13.73 of the Listing Rules.

## **CANCELLATION OF HDRS UPON REPURCHASE**

Rule 19B.21 of the Listing Rules provides that if depositary receipts are purchased by the listed issuer, it shall surrender the purchased depositary receipts to the depositary. The depositary shall then cancel the surrendered depositary receipts and shall arrange for the shares represented by the surrendered depositary receipts to be transferred to the issuer and such shares shall be cancelled by the issuer.

Under the Book-Entry Act, Japanese listed companies are unable to issue physical share certificates in relation to listed shares. Japan operates a fully scripless clearing and settlement regime for transfers in

securities and all shares in the Company are presently held in uncertificated form. Further, the conditions and process for the cancellation or destruction of any HDRs that are purchased by us should also reflect the statutory position in Japan.

We have the ability to hold any Treasury Stock that it repurchases in treasury pursuant to Article 155 of the Companies Act and may dispose of such Treasury Stock, subject to the same rules that apply to an issuance of new Shares by it and in accordance with Article 199 of the Companies Act. Certain restrictions are in place in relation to the manner in which we may acquire Treasury Stock, and the rights of the Treasury Stock with respect to other Shares of the Company in issue. Under paragraph 1(ii) and (iii) of Article 461 of the Companies Act, the total value of Treasury Stock acquired by a company at any one time may not exceed the distributable amount of profits that such company has as at the date of such acquisition, although the Companies Act does not place a limit on the aggregate number of Treasury Stock being held by a Japanese company. Treasury Stock do not grant us the right to (i) vote at Shareholders' meetings; (ii) receive any dividend distributed; or (iii) any entitlement to any distribution rights that may be attributable to other Shareholders.

As at August 31, 2013, we held 4,177,164 Shares as Treasury Stock. We may dispose of Treasury Stock to any person, subject to a resolution of the Board of Directors, at such times and on such terms as the Board of Directors may determine, so long as the price of the re-issued Shares is not "especially favorable" to subscribers of the Shares. If the price of the re-issued Shares is "especially favorable", a special resolution of the general meeting of Shareholders is required. Under the TSE Listing Regulations, Treasury Stock held by Japanese listed companies are not delisted on their acquisition, but remain as listed securities of the relevant company. Thus, if we were to decide to offer any Treasury Stock, it would not be necessary to apply to the TSE for the re-listing of such Treasury Stock. However, when we offer our Treasury Stock for sale, we are required to comply with the same rules that apply to the issuance of new Shares, which requires, amongst other matters, a Board resolution approving the terms of such sale and publication of notice at least 14 days prior to the closing date of such sale.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with Rule 19B.21 of the Listing Rules to the extent that (i) the depositary shall not be required to arrange for any physical transfer of Shares to the Company for cancellation; and (ii) we shall have the ability to hold any Shares that it repurchases as Treasury Stock. As part of this waiver application, we have agreed with the Hong Kong Stock Exchange a list of modifications to a number of provisions under the Listing Rules which are necessary to enable us to hold our current and future Treasury Stock. For the full list of those modifications, see Appendix VI of the Listing Document.

The waiver has been granted to us on the following conditions:

- we will comply with the Companies Act in relation to the Treasury Stock and inform the Hong Kong Stock Exchange as soon as practicable in the event of any failure to comply with any waivers granted;
- we will inform the Hong Kong Stock Exchange as soon as practicable of any substantial change being made to the Treasury Stock regime in Japan;
- we will confirm our compliance with the conditions of this waiver in our subsequent annual reports and any convocation notice for Shareholders' meetings seeking Shareholders' approval of any share repurchase;

- we will comply with the relevant provisions in the event of any change in the regulatory regime and the Listing Rules regarding Treasury Stock in Hong Kong (subject to any waiver which may be sought by the Company); and
- we will provide an annual submission to the Hong Kong Stock Exchange regarding any further consequential modifications to the Listing Rules as a result of any changes in the Listing Rules or other applicable laws and regulations, and will have them agreed with the Hong Kong Stock Exchange in advance.

## **DISCLOSURE REQUIREMENTS IN RESPECT OF CHANGES TO SHARE CAPITAL**

Paragraph 26 of Appendix D1E and paragraph 20 of Appendix D1F of the Listing Rules require a prospective issuer to include particulars of any alterations in the capital of any member of the group within the two years immediately preceding the issue date of a listing document.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from compliance with paragraph 26 of Appendix D1E and paragraph 20 of Appendix D1F of the Listing Rules on the following bases:

- as we have approximately 100 subsidiaries in 21 different jurisdictions it is unduly burdensome for us to procure this information, which would not be material or meaningful to investors. By way of illustration, for the financial year ended August 31, 2013, the unaudited aggregate revenue of the principal operating subsidiaries in respect of which the relevant information is disclosed represents approximately 90% of the Group's total revenue. Accordingly, the remaining subsidiaries in the Group are insignificant to the overall results of the Group; and
- we have included particulars of changes in the share capital of the Company and the principal operating subsidiaries (which sales on an individual basis exceeds 5% of the Group's total sales and in aggregate contribute at least 70% of the Group's revenue for the last financial year), rather than all members of the Group, which can be found in "Appendix VII — Statutory and General Information — 4. Changes in Share Capital of our Major Subsidiaries" of the Listing Document. The principal operating subsidiaries in respect of which the particulars of changes in the share capital have been provided are those subsidiaries which, in the opinion of the Directors, principally affect the results, assets or liabilities of the Group and are consolidated by the Group in the preparation of the Group's financial statements in accordance with IFRS. Such principal operating subsidiaries include all of our subsidiaries whose sales on an individual basis exceed 5% of the Group's total sales for the financial year ended August 31, 2013 and other operating subsidiaries which, in the opinion of our Directors, also principally affect the results, assets or liabilities of the Group. For future listing documents issued by us, we will similarly include the particulars of changes in our share capital and the share capital of our subsidiaries whose sales on an individual basis exceed 5% of the Group's total sales for the last financial year and of such other operating subsidiaries which, in the opinion of our Directors, also principally affect the results, assets or liabilities of the Group and that such principal operating subsidiaries would in aggregate contribute at least 70% of the total revenue of the Group for the last financial year.

## **DISCLOSURE REQUIREMENTS IN RESPECT OF SHARE OPTIONS**

Under paragraph 27 of Appendix D1E of the Listing Rules, the Listing Document is required to include details of any capital of any member of the Group which is under option, or agreed conditionally or unconditionally to be put under option.

Full compliance with the relevant requirements would be unduly burdensome and that the waiver and the exemption will not prejudice the interests of the investing public as (i) only one grantee of the Stock Options is a Statutory Auditor and eight grantees of the Stock Options are our senior management members, and the remaining 943 of 952 grantees of the Stock Options are neither our or our subsidiaries, directors, Statutory Auditors, nor members of senior management (as at December 31, 2013); (ii) the grants of such Stock Options are highly sensitive and confidential among the grantees as they were granted on the basis of performance and contribution of each grantee; (iii) the Personal Information Protection Act prohibits us from disclosing personal data of such grantees without their prior consent; (iv) as our proposed listing amounts to “unpublished material information that would have a substantial effect on investment decisions” under Japanese insider trading regulations, if we seek the consent of each grantee (including, for example, the Directors of our subsidiaries) we would widen the circle of insiders who are aware of the proposed listing by disclosing such material information to these grantees, which would cause a significant risk of insider dealing in our Shares; (v) given the large number of grantees, obtaining the consent from each one of them would be extremely difficult, and even if consent was obtained from each one of them, disclosure of details of all the Stock Options would likely amount to an estimated 160 pages long, making the listing document unnecessarily lengthy and reader-unfriendly; and (vi) the grant and exercise in full of the Stock Options will not cause any material adverse change in our financial information.

The summary information relating to the Stock Options granted under the applicable resolutions in “Appendix VII — Statutory and General Information — E. Other Information — (i) Share Acquisition Rights” in the Listing Document should provide potential investors with sufficient information for them to assess these Stock Options in their respective investment decision-making process.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from strict compliance with the disclosure requirements under paragraph 27 of Appendix D1E of the Listing Rules on the following conditions:

- we will disclose in the Listing Document, for each of the SAR grantees who are our Directors, members of the senior management or Statutory Auditors, on an individual basis, all the particulars required by paragraph 27 of Appendix D1E of the Listing Rules;
- we will also disclose in the Listing Document, for the remaining grantees, on an aggregate basis, the aggregate number of Shares to be subscribed for, the exercise period of each option, the consideration paid for the options and the exercise price of the options;
- we will disclose in the Listing Document the aggregate number of Shares to be subscribed for under the SARs scheme, the percentage of our issued share capital represented by them, and the dilution effect and impact on earnings per share upon full exercise of the SARs; and
- we will make available for public inspection a full list of all our Directors, members of senior management and Statutory Auditors who have been issued the SARs with all the particulars required under paragraph 27 of Appendix D1E of the Listing Rules.

See “Appendix VII — Statutory and General Information — E. Other Information — (i) Share Acquisition Rights” in the Listing Document for the above information.

## **DISCLOSURE REQUIREMENTS IN RESPECT OF PENSION SCHEMES**

Paragraph 33(4) of Appendix D1E to the Listing Rules requires the disclosure of certain information in respect of pension schemes in the listing document.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from compliance with Paragraph 33(4) of Appendix D1E to the Listing Rules on the following bases:

- neither JGAAP (which we had previously used to prepare our financial statements prior to the switch to IFRS) nor the TSE Listing Regulations require disclosure of information relating to defined benefit plans;
- only a limited number of companies within our Group had defined benefits plans as at August 31, 2013, and our aggregate obligations under those plans was immaterial to our financial condition; and
- a similar disclosure requirement on defined benefits plans with respect to results announcements and annual and interim reports under paragraph 26(5) of Appendix D2 to the Listing Rules is automatically waived under the JPS.

## **REQUIREMENTS RELATING TO CONSTITUTIONAL DOCUMENTS**

Appendix A1 to the Listing Rules provides that the articles of association or equivalent document of an issuer must conform with the provisions set out in that appendix and, where necessary, a certified copy of a resolution of the board of directors or other governing body undertaking to comply with the appropriate provisions must be lodged with the Hong Kong Stock Exchange.

We set out below the comparable shareholders protection offered under the Japanese regime in respect of each of the relevant requirements under Appendix A1 and any differences between the Japanese law requirements and the requirements under the Listing Rules.

### **As regards definitive certificates**

Paragraph 2(2) of Appendix A1 requires that where the power is taken to issue share warrants to bearer, no new share warrant shall be issued to replace one that has been lost, unless the issuer is satisfied beyond reasonable doubt that the original has been destroyed. Our Articles contain no equivalent provision. Although we, as with all listed companies in Japan, use the JASDEC electronic settlement system for share transfers, we may issue certificates representing SARs unless they are subject to the book-entry system operated by JASDEC. Any holders of SARs who have lost certificates may not request the reissuance of their certificates until they have obtained a decision for invalidation by a court of justice in Japan as provided under Article 148(1) of the Non-Contentious Cases Procedures Act of Japan (Act No. 14 of 1898, as amended) (*hishoujiken tetsuzuki hou*), in accordance with Article 291 of the Companies Act. In view of the above, it would be onerous and unnecessary for us to amend our Articles to specifically comply with paragraph 2(2) of Appendix A1 as Shareholders are already adequately protected by the existence of Japan's scripless regime, as referred to above. Further, in respect of the HDRs, the Deposit Agreement provides the conditions and process for issuing new HDRs in the event that a HDR is lost, destroyed, stolen or mutilated in accordance with Rule 19B.16(o) of the Listing Rules. For details of this procedure, see the section headed "Listing, Terms of Depositary Receipts and Depositary Agreements, Registration, Dealings and Settlement — Terms of HDRs — Lost, Destroyed, Stolen or Mutilated HDR Certificates" in the Listing Document.

### **As regards Directors**

Paragraph 4(3) of Appendix A1 requires that where not otherwise provided by law, the issuer in general meeting shall have power by ordinary resolution to remove any director (including a managing or other executive director, but without prejudice to any claim for damages under any contract) before the expiration of his period of office. Although the Articles contain no equivalent provisions, paragraph 1 of Article 339 of the Companies Act provides Shareholders' meetings of our Company with similar power

though this power shall be exercised by us in general meeting by special resolution (i.e. two-thirds or more of Shareholders must vote in favor of the resolution). We will notify the Hong Kong Stock Exchange in the event that the requirement under paragraph 4(3) of the Listing Rules is no longer provided by law.

### **As regards Notices**

Paragraph 7(2) of Appendix A1 to the Listing Rules requires that an overseas issuer whose primary listing is or is to be on the Hong Kong Stock Exchange must give notice sufficient to enable members, whose registered addresses are in Hong Kong, to exercise their rights or comply with the terms of the notice. If the overseas issuer's primary listing is on another stock exchange, the Hong Kong Stock Exchange will normally be satisfied with an undertaking by the issuer to do so and will not normally request the issuer to change its articles to comply with Paragraph 7(2) of Appendix A1 to the Listing Rules where it would be unreasonable to do so. Although the Articles do not contain such a requirement, the Companies Act requires the Directors to dispatch a notice to the Shareholders no later than two weeks prior to the Shareholders' meeting. We will dispatch such notice to our Shareholders and the Depositary will dispatch such notice to the HDR Holders on the same day. See the section headed "Risk Factors — Risks relating to the Introduction, the Secondary Listing and the HDRs — HDR Holders will be reliant on the performance of several service providers. Any breach of those service providers of their contractual obligations could have adverse consequences for an investment in the HDRs" in the Listing Document.

### **As regards Disclosure of Interests**

Paragraph 12 of Appendix A1 to the Listing Rules requires that no powers shall be taken to freeze or otherwise impair any of the rights attaching to any share by reason only that the person or persons who are interested directly or indirectly therein have failed to disclose their interests to the company. The Articles do not contain any such restriction on the powers of the Company, but do not afford it the power to do so either. In practice there are no relevant provisions of the Articles or the Companies Act that would entitle the Company to take such steps.

### **As regards Untraceable Members**

Paragraph 13(2) of Appendix A1 to the Listing Rules requires that where power is exercised to sell the shares of a member who is untraceable it will not be exercised unless (a) during a period of 12 years at least three dividends in respect of the shares in question have become payable and no dividend during that period has been claimed; and (b) on expiry of the 12 years the issuer gives notice of its intention to sell the shares by way of an advertisement published in the newspapers and notifies the Hong Kong Stock Exchange of such intention. There is no equivalent restriction in the Articles. Article 197 of the Companies Act provides that in cases where notices have not reached a shareholder for five consecutive years and the shareholders of such shares have not received dividends or surplus for five consecutive years, a company shall be entitled to sell or auction the shares of such a shareholder. In exercising this right, a company is required to issue a public notice and make a demand to a shareholder or a registered pledgee of shares seeking no objection to such action at least three months before such sale or auction pursuant to Article 198 of the Companies Act. We confirm that in the event we exercise this right, public notice will be given to the Shareholders and the HDR Holders in Japan and Hong Kong and a demand will be made by us to the relevant Shareholder and by the Depositary to the relevant HDR Holder.

### **As regards Proceedings at General Meeting**

Paragraph 14 of Appendix A1 to the Listing Rules requires that, where any shareholder is, under the Listing Rules, required to abstain from voting on any particular resolution or restricted to voting only for or only against any particular resolution, any votes cast by or on behalf of such shareholder in contravention of

such requirement or restriction shall not be counted. To address the differences between the requirements under the Companies Act and the Listing Rules, we will adopt certain voluntary abstention process to approve any transaction agreement that is subject to Shareholders' approval under the provisions of the Listing Rules and in which a Shareholder has a material interest. See "Appendix IV — Summary of Legal and Regulatory Matters — Part B. Material Differences between the Hong Kong and Japanese Regimes in respect of Shareholder Protection Matters — Shareholder Protections under the Joint Policy Statement — Voting" in the Listing Document.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from compliance with paragraph 14 of Appendix A1 to the Listing Rules on the basis that the protections available to holders of our Shares and HDRs are comparable to those available under the Listing Rules on the conditions that:

- we and the Sole Sponsor confirm that they are of the view that:
  - (i) the substantive differences between the Articles and paragraph 14 (given the voluntary measures put in place by us) of Appendix A1 of the Listing Rules are not material;
  - (ii) the level of shareholder protection under the Articles, the Companies Act and the TSE Listing Regulations, and all other applicable Japanese legislation, regulation, regulatory guidance and practices taken as a whole is largely commensurate to the shareholder protection provided under paragraph 14 (given the voluntary measures put in place by us) of Appendix A1 of the Listing Rules, and any residual differences between the Articles and Appendix A1 of the Listing Rules are prominently disclosed in the Listing Document; and
- we undertake to dispatch a notice to our HDR Holders and non-registered HDR Holders via the Depository that is consistent with the arrangement for our existing Shareholders (i.e. no later than two weeks prior to the Shareholders' meeting).

## **DISCLOSURE OF INTERESTS INFORMATION**

Practice Note 5, paragraph 45(2) of Appendix D1E and paragraph 34(2) of Appendix D1F to the Listing Rules require the disclosure of interests information in respect of shareholders' and directors' interests to be included in the Listing Document.

Under the Joint Policy Statement, a common waiver from this requirement is subject to the conditions that the issuer must:

- (i) have received a relevant partial exemption from Part XV of the SFO;
- (ii) undertake to file with the Hong Kong Stock Exchange, as soon as practicable, any declaration of shareholding and securities transactions made to the overseas stock exchange by the directors, executive officers or substantial shareholders under relevant laws;
- (iii) disclose in present and future listing documents:
  - (a) in the same manner as required under the SFO, any such interests that were notified and published by the overseas exchange under the relevant law; and
  - (b) the relationship between its directors, officers, members of committees and their relationship to any controlling shareholder.

We have applied for, and the SFC has granted us and our Shareholders, a partial exemption from strict compliance with Part XV of the SFO (other than Divisions 5, 11 and 12 of Part XV of the SFO) in respect of disclosure of Shareholders' interests. Japanese laws and regulations require disclosure of interests by shareholders that are broadly equivalent to Part XV of the SFO. Relevant disclosure in respect of the Substantial Shareholder's interests can be found in the section headed "Substantial Shareholder" of the Listing Document. We undertake to file with the Hong Kong Stock Exchange, as soon as practicable, any declaration of shareholding and securities transactions filed with the FSA and notified to us under the FIEA (except for the Directors and the chief executive who are subject to the requirements of Part XV of the SFO and subject to the exemption of the timing requirements). For the avoidance of doubt, such undertaking relates to all large shareholder's declarations of shareholding and securities transactions filed with the FSA and notified to us under the FIEA, including regular Large Shareholder Reports made by large shareholders and simplified Large Shareholder Reports made by institutional large shareholders. The FSA and the Securities and Exchange Surveillance Commission (SESC) in Japan are responsible for monitoring and enforcing the disclosure of interest requirements in Japan that we are subject to and accordingly the filings are made with the FSA and not the TSE. We further undertake to disclose in present and future listing documents in the same manner as required under the SFO, any shareholding interests as disclosed under the Japanese laws and regulations (except for the Directors and the chief executive who are subject to the requirements of Part XV of the SFO and subject to the exemption of the timing requirements) and the relationship between our Directors, officers, members of committees and their relationship to any controlling shareholder. For the avoidance of doubt, we have disclosed the information required under paragraphs 41(4) and 45(1) of Appendix D1E and will disclose the information required under paragraphs 30 and 34(1) of Appendix D1F of the Listing Rules in respect of our Directors' and chief executive's interests. Relevant disclosure can be found in the section headed "Appendix VII — Statutory and General Information — D. Information about Directors — (iii) Disclosure of interests" of the Listing Document.

On the basis above, we have applied for, and the Hong Kong Stock Exchange has granted us, a common waiver from Practice Note 5, paragraph 45(2) of Appendix D1E and paragraph 34(2) of Appendix D1F to the Listing Rules.

See "Appendix IV — Summary of Legal and Regulatory Matters — Part B. Material Differences between the Hong Kong and Japanese Regimes in respect of Shareholder Protection Matters — Shareholder Protections in Hong Kong — Disclosure of Interests" and "Appendix V — Waivers — B. Additional Waivers Obtained — Disclosure of Interests" in the Listing Document.

## **THE HONG KONG STOCK EXCHANGE'S GUIDANCE LETTERS**

Paragraph 32 of Appendix D1E and Paragraph 24 of Appendix D1F to the Listing Rules require the disclosure of certain information with respect to the indebtedness and liquidity of the Group in the listing document. In this regard, although it is not a formal requirement under the Listing Rules, in accordance with the Hong Kong Stock Exchange's revised Guidance Letters GL37-12 and GL38-12 (effective as of October 1, 2013), the Hong Kong Stock Exchange normally expects that the latest date for indebtedness and liquidity disclosure, including, among other things, commentary on liquidity and financial resources such as net current assets (liabilities) position and management discussion on this position, in a listing document to be dated no more than two calendar months before: (a) the date of the application proof of the listing document and (b) the final date of the listing document.

We have carried out our annual audit and disclosed information relating to our indebtedness and liquidity in our annual report as at August 31, 2013. Given the proximity of the publication of our annual report to our filing date of the application proof of the listing document, it would be unduly burdensome

and inefficient for us to obtain written confirmation from creditors to update the indebtedness statement and to arrange for similar liquidity disclosures in the application proof of the listing document.

Similar considerations apply to the preparation of the Listing Document. As the Listing Document is published in February 2014, we are required to make the relevant indebtedness and liquidity disclosures no earlier than December 31, 2013. Given that we have included a report of our interim financial information for the period ending November 30, 2013 (i.e., our first quarter financial information), which has been reviewed in accordance with International Statement on Review Engagements 2410, it would be unduly burdensome for us to re-arrange information for similar liquidity disclosure on a consolidated basis shortly after the end of the first quarter of our financial year.

Strict compliance with the liquidity disclosure requirements would constitute additional one-off disclosure by us of our liquidity position on a date that would fall within the second quarter of our financial year (i.e., a date that would fall between November 30, 2013 and February 28, 2014), which would otherwise not required to be disclosed to Japanese investors under the TSE Listing Regulations because we are required to issue a report at the end and not in the middle of each quarter of our financial year. Such one-off disclosure is likely to confuse our existing investors and deviates from our customary practice and that of other TSE-listed companies.

In any event, if there are any material changes to such disclosures, we would be required to make an announcement pursuant to the TSE Listing Regulations and disclose relevant material facts in the Listing Document pursuant to the Listing Rules.

In the event that there is no material change to such disclosures, any similar disclosures made pursuant to the guidance of the Hong Kong Stock Exchange would not give additional meaningful information to investors.

We have applied for, and the Hong Kong Stock Exchange has granted us, a waiver from compliance with the timing requirements for indebtedness and liquidity disclosure in the listing document under the Hong Kong Stock Exchange's revised Guidance Letters GL37-12 and GL38-12 on condition that the reported date of indebtedness and liquidity information in the Listing Document must not exceed the Hong Kong Stock Exchange's requirement under the Guidance Letters by two calendar weeks (i.e. the time gap between the reported date of our indebtedness and liquidity information and the date of the listing document would be no more than two calendar months and two calendar weeks). See the section headed "Financial Information — Liquidity and Capital Resources" in the Listing Document.

## **RULING THAT WE ARE NOT A PUBLIC COMPANY IN HONG KONG UNDER THE TAKEOVERS CODE**

Section 4.1 of the Takeovers Code applies to takeovers, mergers and share repurchases affecting public companies in Hong Kong and companies with a primary listing in Hong Kong.

We have applied for, and the SFC has granted, a ruling that we are not a "public company in Hong Kong" for the purposes of Section 4.1. Therefore, the Takeovers Code does not apply to us. This ruling may be reconsidered by the SFC in the event of a material change in information provided or representations made to the SFC.

We are subject to the provisions of the FIEA regarding takeovers. See "Appendix IV — Summary of Legal and Regulatory Matters" in the Listing Document.

Further, we are subject to the provisions of the Companies Act, the FIEA and the TSE Listing Regulations regarding share repurchases. See “Appendix VII — Statutory and General Information — A. Further Information About our Company and its Subsidiaries — (v) Repurchase of our Shares” in the Listing Document.

## **DISCLOSURE OF INTERESTS**

We have applied for, and the SFC has granted:

- (a) us and our Shareholders, a partial exemption from strict compliance with Part XV of the SFO other than Divisions 5, 11 and 12 of Part XV of the SFO in respect of disclosure of Shareholders’ interests; and
- (b) any of our directors or chief executive, a partial exemption from strict compliance with the requirement to give notification of their interests within three business days after the day on which the relevant event occurs under section 348(1) of the SFO by extending the time of notification to within five business days after the day on which the relevant event occurs or comes to the director’s or chief executive’s knowledge under sections 341 and 347 of the SFO.

The partial exemption is subject to conditions. See “Appendix IV — Summary of Legal and Regulatory Matters — Part B. Material Differences between the Hong Kong and Japanese Regimes in respect of Shareholder Protection Matters — Shareholder Protections in Hong Kong — Disclosure of Interests” in the Listing Document.

## B. FOREIGN LAWS AND REGULATIONS

Part A of this Appendix set out a summary of certain provisions of our Articles, the Companies Act, certain TSE Listing Regulations and certain other Japanese laws and policies that may be relevant to investors. As the information contained below is in summary form, it does not contain all of the information that may be important to potential investors. Unless otherwise specified, there are no material provisions relating to the specific topics noted in Part A under our Articles, the Companies Act, the TSE Listing Regulations or other laws and policies (as the case may be).

Part B of this Appendix sets out a comparison of the applicable laws and regulations in Hong Kong and Japan on each of the key shareholder protection standards as set out in the Joint Policy Statement, as well as certain shareholder protections provided under the Listing Rules and the measures taken by us to address the differences, where applicable, between the relevant laws and regulations of Hong Kong and Japan.

### PART A. SUMMARY OF JAPANESE LEGAL AND REGULATORY MATTERS

#### 1. BACKGROUND

The Company was incorporated in Japan as a stock company (“*kabushiki kaisha*”) on May 8, 1963. The Articles of Incorporation comprise the Company’s constitution. The provisions normally set out in the memorandum of association and articles of association of a Hong Kong incorporated company are generally either contained in a Japanese company’s articles of incorporation or stipulated in the Companies Act.

The Articles of Incorporation of our Company were executed by the incorporator of our Company and certified by a notary public on or around the date of the incorporation. The Articles of Incorporation have been amended from time to time. The current Articles of Incorporation were last amended on November 26, 2009. An English translation of the Articles of Incorporation is available for inspection at the location specified in “Appendix VIII — Documents Available for Inspection” in the Listing Document.

#### 2. SUMMARY OF GENERAL PROVISIONS WITH RESPECT TO CORPORATE MATTERS

##### (a) Objects of our Company

###### Under our Articles:

The Articles of Incorporation of our Company set out detailed and exhaustive lists of the purposes for which the Company was formed, though they also allow our Company to undertake any business activities that are not explicitly stated in the Articles.

##### (b) Form of Company

###### Under our Articles:

Our Company was formed as a stock company (*kabushiki kaisha*) with a Board of Statutory Auditors.

###### Under the Companies Act:

Companies are categorized into stock companies (*kabushiki kaisha*) and partnership-type companies (*mochibun kaisha*). A partnership-type company is a generic concept that embraces so-called personal companies (*jinteki kaisha*) (that is, companies where there are strong personal connections

between its members and where a high degree of flexibility in structuring corporate governance within the organization is recognized), such as a partnership company (*gomei kaisha*), a limited partnership company (*goshi kaisha*) and a limited liability company (*godo kaisha*).

Companies are also categorized into public or non-public companies, and large or other companies. A public company (*kokai kaisha*) is defined as a company whose articles of incorporation do not require the approval of the company for the transfer of any share of one or more classes of the company's stock. On the other hand, a non-public company (*kabushiki joto seigen kaisha*) is a company where regarding each class of stock issued by it, transfer of any share is restricted under the articles of incorporation. Our Company is categorized as a public company. Companies whose balance sheet for the most recent fiscal year shows a capital of ¥500 million or more, or total liabilities of ¥20 billion or more are defined as large companies (*daigaisha*). There are certain differences in governance between large companies and other companies. Our Company is categorized as a large company. Under the Companies Act, a company may select several types of corporate governance structures.

Under the TSE Listing Requirements:

A listed company is required to be either (i) a company with a board of statutory auditors or (ii) a company with three committees. As noted above, our Company is a company with a Board of Statutory Auditors.

**(c) Matters with respect to share capital, share certificates and Share Acquisition Rights (*shinkabu yoyakuken*)**

Under our Articles:

The total shares most recently authorized by our Shareholders to be issued by our Company is 900,000,000 Shares (as at March 1, 2023). Our Company has adopted the unit share system (as described below) under which each unit will represent 100 Shares. Our Company is a Company Not Issuing Share Certificates (as also described below). The Company has only one class of shares.

Under the Companies Act:

**With respect to share capital:**

The share capital of a company is divided into shares. The amount of share capital is the amount paid in by those who are to become shareholders at the time of the establishment of the company, or the issuance of shares. Up to half of this amount is not required to be capitalized, but this amount has to be kept as a capital reserve. The amount of the share capital is subject to registration. The Companies Act permits a company to issue shares with specified rights that are not held by all shares.

**With respect to share certificates:**

The Companies Act defines a "Company Issuing Share Certificates" as a company the articles of incorporation of which have provisions to the effect that a share certificate representing its shares (or, in the case of a company with class shares, shares of all classes) shall be issued. A company which does not have provisions in its articles of incorporation to the effect that a share certificate represents its shares will be hereinafter referred to as a "Company Not Issuing Share Certificates".

In addition, under the Book-Entry Act and the listing rules of stock exchanges, a company listed on the Japanese stock exchange may not issue share certificates. The Shares of our Company are listed on

the TSE, and the Company does not issue any share certificates. Under the unit share system, Shareholders have, in principle, one vote per share. However, if a company adopts a unit share system, a vote is given not to each share, but to a unit of shares set by its articles of incorporation. One unit of shares cannot exceed 1,000 shares. Shareholders who hold shares below a unit are entitled to require the company to purchase these shares.

***With respect to Share Acquisition Rights (shinkabu yoyakuken):***

The Companies Act defines a SAR as a right by the exercise of which the holder is entitled to receive shares of the issuing company. SARs do not need to be combined with bonds. It is possible to grant SARs on their own as well as in combination with other financial products.

In order to offer a SAR, certain details need to be approved by a special resolution of the shareholders' meeting, including: (i) its details and number; (ii) whether it is issued in a gratuitous manner or not; and, (iii) if not, the amount of payment or the method of its calculation, etc. However, for public companies such as our Company, the board of directors may make this decision with certain exceptions described below.

If SARs are issued in a gratuitous manner and they comprise an especially favorable term to the subscriber, or if the issue price is especially favorable to the subscriber, the board of directors must explain why the SARs need to be issued in such a manner at the shareholders' meeting. For public companies, the terms of such issuance must be reported at the general shareholders' meeting and approved by a special resolution in such cases. According to a case decided by the Tokyo District Court on June 30, 2006, whether or not the issuance of SARs is made at an "especially favorable price/especially favorable conditions" is determined based on the price of the SARs at the time of issuance, calculated pursuant to the option pricing theory and considering factors such as the market price of the shares, exercise price of the SARs, exercise period of the SARs, interest rate, and volatility of the price of the shares ("**Fair Option Price**"). When the amount to be paid in upon issuance (or substantive consideration for SARs when they are issued without consideration) is significantly below the Fair Option Price, then in principle, the price or condition of the SARs is interpreted to be "especially favorable." SARs may be issued to the existing shareholders with or without consideration. In such cases, shareholders are entitled to subscribe to the share acquisition rights in proportion to their shareholding.

**(d) Matters relating to Directors**

***(i) Powers of the Board of Directors generally:***

*Under the Companies Act:*

The board of directors (except in companies with three committees within the board of directors) has the power to:

- determine the execution of the business of the company;
- supervise the carrying out of duties by directors; and
- appoint and dismiss representative directors.

Matters which fall within exclusive jurisdiction of the board of directors (decision-making in significant matters involving the execution of business) include the following:

- disposal or acquisition of significant assets;

- borrowing of a large amount;
- appointment and dismissal of important employees;
- establishment, change, and abolition of branches and other organizational units;
- significant matters involving the issuing of bonds;
- introduction of a system to ensure compliance of directors carrying out duties with the law and the articles of incorporation; and
- discharge of liabilities of managements, including directors and statutory auditors, in accordance with the Companies Act and its articles of incorporation

**(ii) Power to issue and allot shares**

Under our Articles:

Although there are no specific provisions, the Articles provide the total shares authorized to be issued by the Company (which was 900,000,000 Shares as at March 1, 2023).

Under the Companies Act:

Subject to certain exceptions, our Company may issue and allot Shares to any party by resolution of the Board of Directors.

**(iii) Power to dispose of the assets of our Company or any subsidiary**

Under the Companies Act:

A Representative Director or a Director who is authorized to execute certain operations has the power to dispose of the assets of our Company unless such assets are “significant assets” (whether an asset is considered significant is determined by, among other things, its value as compared to the company’s assets as a whole, its purpose and the frequency of such transactions) of our Company. Alternatively, neither the Directors nor the Board of the Directors of the Company have the power to dispose of any assets of any subsidiary of our Company.

**(iv) Compensation or payments to Directors for loss of office**

Under the Companies Act:

A Director dismissed by a resolution of the Shareholders in general meeting is entitled to demand damages arising from the dismissal from our Company, except in cases where there are justifiable grounds for such dismissal.

**(v) Loans and the giving of security for loans to Directors**

Under the Companies Act:

Loans and the giving of securities for loans to directors are not prohibited. However, if our Company makes loans to its Directors or gives security for loans to Directors, prior approval of the Board of Directors is required.

**(vi) The granting of financial assistance to purchase shares of our Company or our holding Company**

Under the Companies Act:

There is no specific restriction under the Companies Act on the provision of financial assistance by a company to another person for the purchase of, or subscription for, its own or its holding company's shares. However, if a company's act of financial assistance to another person is deemed to equate to an acquisition of Treasury Stock by the company for the account of the company, the regulations concerning the repurchase of its shares (noted in paragraph (m) below) apply to that act. Although there are no established rules as to what constitutes an "acquisition for the account of the company," in general, this should be determined from a comprehensive review as follows:

- (i) *terms of the financial assistance by the company to another person such as the creditworthiness of the person and collectability of the receivables including the collateral and interest;*
- (ii) *whether or not the terms of the purchase of, or subscription for, a company's shares (including the selection of the person from whom the shares are purchased, the price of the shares, and the timing of the purchase) are determined by that company's decision; and*
- (iii) *whether or not the control over the acquired shares in the company (including the authority to dispose of the shares and the right to receive dividends of surplus) belongs to that company.*

**(vii) Disclosure of interests in contracts with our Company or any of our subsidiaries**

Under the Companies Act:

If a Director is interested in any contract to be entered into by our Company, the disclosure to the Board of Directors of all material information regarding the transaction is required. However, there are no specific provisions concerning the disclosure of any interest by a Director in a contract to be entered into by a subsidiary of our Company.

**(viii) Remuneration**

Under the Companies Act:

Financial benefits received from a company as consideration for the execution of duties, such as compensation and bonuses of directors is determined by a resolution of the shareholders' meeting. The total amount of the directors' compensation may be determined by the resolution of a shareholders' meeting and each director's compensation may be determined by the board of directors or a director who has been authorized to determine it.

**(ix) Composition of the Board of Directors; retirement, appointment and removal of Directors and committees of the Board**

Under our Articles:

Our Company must have no less than three Directors and no more than fifteen Directors. The cumulative voting system for the election of Directors is excluded and the term of office of a Director will

end at the close of an annual general shareholders' meeting unless such Director is re-elected. The Representative Director shall be appointed by a resolution of the Board of Directors.

*Under the Companies Act:*

***General:***

It is mandatory for each company to have a director. Public companies, companies with three committees, and companies with a board of statutory auditors must have a board of directors. In these companies, there must be at least three directors. The board of directors must appoint representative directors from among the directors. Representative directors are empowered to carry out all judicial and extra-judicial acts involving the business of the company.

***Appointment:***

Directors must be appointed or dismissed on an annual basis at our annual general Shareholders' meeting. Shareholders representing over one-third of the votes need to be present, and an ordinary resolution of shareholders' meeting is required. When the appointment of two or more directors is on the agenda, shareholders may propose resorting to the cumulative voting system, but this can be excluded by the articles of incorporation. In almost all listed companies, including our Company, it is excluded.

***Term of office:***

The term of office of a director terminates at the close of the general meeting of shareholders relating to the last fiscal year ending within two years from the election of the director. However, such term may be shortened by the articles of incorporation or a resolution of a general meeting of shareholders.

***Qualifications of directors:***

Certain persons such as a legal person may not become a director of a company. However, a public company may not limit the qualifications of directors by requiring such directors to be one of its shareholders.

***Dismissal:***

Directors can be dismissed any time at the general shareholders' meeting by an ordinary resolution. for companies that have issued shares with a veto right regarding the dismissal of directors, such dismissal must also be approved at the meeting of shareholders of this class. In companies with shares to appoint a certain number of directors, dismissal of such directors so appointed requires the approval of this class of shareholders.

*Under the TSE Listing Regulations:*

Under the TSE Listing Regulations, a domestic company listed on the TSE must establish and appoint (i) a board of directors; (ii) a board of auditors or the three committees (meaning a committee specified in the Companies Act, including a nomination committee, an audit committee and a remuneration committee); and (iii) accounting auditors. For the protection of general investors, the TSE Listing Regulations also require a domestic listed company on the TSE to appoint at least one independent director/auditor or outside auditor who is unlikely to have conflicts of interest with general investors.

**(x) *Proceedings at Directors' meetings***

*Under our Articles:*

The chairman of the Board of Directors (or a Director determined in advance by the Board of Directors) shall convene a meeting of the Board of Directors and shall act as the chairperson of the meeting. Notice of the convocation of a meeting of the Board of Directors shall be sent to each Director and Statutory Auditor at least three days prior to the scheduled date of such meeting; however, such period may be shortened in cases of urgency, and the notice period may be set aside if all Directors and Statutory Auditors consent. A resolution of the Board of Directors shall be made by a majority of the Directors present at a meeting where the majority of the Directors entitled to participate in votes are present. The Directors may also pass written board resolutions by way of unanimous vote.

**(xi) *Borrowing powers***

*Under the Companies Act:*

A representative director or a director who is authorized to execute certain operations has the power to determine the execution of any such operation such as borrowing unless such borrowing is of a large amount (taking into account, among other things, the amount compared to the value of the Company as a whole, its purpose and the frequency of such borrowings).

**(xii) *Qualification shares***

No specific provisions under the Articles, the Companies Act or the TSE Listing Regulations.

**(xiii) *Indemnities granted in favor of Directors***

*Under our Articles:*

Our Company may discharge our Directors from liabilities owed to our Company by way of a resolution of a shareholders' meeting or a resolution passed in a meeting of the Board of Directors, or our Company may enter into an agreement with an external Director to the effect that his or her liability for damages shall be limited. If our Company enters into an indemnity with an external Director (being a director who has never been a representative director, an executive director, an executive officer or an employee of Group) then the maximum cap on his liability must be ¥5,000,000 (or such higher amount provided under Japanese law).

*Under the Companies Act:*

As described above.

**(xiv) *Directors' duties***

*Under the Companies Act:*

There is a mandate relationship between the company and the officers (the directors, the accounting adviser, and statutory auditors). As such, directors and others have a duty to act as good managers. Directors owe a fiduciary duty vis-à-vis the company: i.e., the duty to comply with the law, articles of incorporation, and the resolutions of the general shareholders' meeting, and loyally carry out their duties.

#### **(e) Alterations to our Articles**

##### Under the Companies Act:

Our Company may amend our Articles by a special resolution of our Shareholders in general meeting.

#### **(f) Alterations to capital**

##### Under the Companies Act:

##### ***Increases and reductions:***

The issued capital may be increased at the time of the issuance of shares and may be reduced by a special resolution of Shareholders in general meeting. However, where the share capital is reduced in order to cover the deficit, an ordinary resolution at the annual shareholders' meeting will suffice. When reducing the share capital (and the reserves), a procedure to protect the interests of creditors needs to be followed. The company must publicize the proposed reduction and inform creditors of their entitlement to an objection within a fixed period of no less than one month in the official gazette. The company also must individually notify known creditors, but this can be exempted under certain circumstances.

##### ***Splits, gratuitous allocations and consolidations***

A company may at any time split shares on issue into a greater number by a resolution of the board of directors. Under the Companies Act, a company may also allot any class of shares to the company's existing shareholders without any additional contribution by resolution of the board of directors, or gratuitous allocation; provided that, although treasury stock may be allotted to shareholders, any such gratuitous allocation will not accrue to any treasury stock. A company may at any time also consolidate its shares into a smaller number of shares by a special resolution of the general meeting of shareholders.

#### **(g) Variations of rights of existing shares or classes of shares**

##### Under the Companies Act:

A company is required to amend its articles of incorporation by way of special resolution in order to change the rights of our existing ordinary shares or to issue new classes of shares.

#### **(h) Matters with respect to Shareholders' meetings and voting requirements**

##### Under our Articles:

##### ***Ordinary Resolutions:***

There is no specific quorum requirement for meetings at which ordinary resolutions are passed. An ordinary resolution must be passed by a majority of the voting rights of the Shareholders present and entitled to vote at the relevant meeting.

##### ***Special Resolutions:***

A special resolution shall be passed if (1) Shareholders having one-third or more of the outstanding voting shares of the Company vote at the shareholders' meeting and (2) two-thirds or more of Shareholders vote in favor of the transaction.

Under the Companies Act:

**General:**

The shareholders' meeting is empowered to decide upon matters provided for in the Companies Act as well as all matters concerning, among other things, the organization, management and administration of the company. In companies with a board of directors, the general shareholders' meeting is empowered to decide only upon matters provided for in the Companies Act and in the articles of incorporation.

**Ordinary and special resolutions:**

In an ordinary resolution, the resolution shall be made by a majority of the voting rights of the shareholders present who are entitled to exercise their voting rights. Shareholders representing more than half of the votes need to be present. Quorum can be set by the articles of incorporation. In a resolution to appoint or dismiss directors or statutory auditors, among others, even by the articles of incorporation, the quorum cannot be set below one third. In a special resolution, the resolution shall be made by a majority of two thirds (where a higher proportion is provided for in the articles of incorporation, that proportion) or more of the votes of the shareholders present at the meeting where the shareholders holding a majority (where a proportion of one third or more is provided for in the articles of incorporation, that proportion or more) of the votes of the shareholders entitled to exercise their votes at the shareholders' meeting are present. Quorum can be set by the articles of incorporation but cannot be set below one third. A special resolution is required in certain matters, including:

- reverse stock split;
- issuance of new shares at a particularly favorable subscription price;
- issuance of share acquisition rights at a particularly favorable subscription price or particularly favorable conditions;
- distribution of dividend in kind without giving shareholders the rights to demand distribution in cash;
- acquisition at any time within two years after the incorporation of the company of assets that existed prior to such incorporation and which continue to be used for its business (*jigo-setsuritu*);
- merger;
- corporate split;
- share exchange and share transfer;
- assignment of the entire business or a significant part of the business; and
- dissolution of the company.

The requirements under the Companies Act in respect of the requirements relating to ordinary and special resolutions have been modified by operation of our Company's Articles as described above. See also "6. Transactions Requiring Shareholder Approval" in the Listing Document.

**(i) Voting rights, right to demand a poll and right to speak**

Under the Companies Act:

Shareholders (excluding (i) a shareholder who is prescribed as an entity in a relationship that may allow the company to have substantial control of such entity through the holding of one quarter or more of the votes of all shareholders of such entity or other reasons, (ii) the company itself in respect of the treasury stock, (iii) a shareholder who has less than one share unit, (iv) a class shareholder whose class shares do not carry voting rights and (v) a shareholder whose shares are to be repurchased pursuant to Paragraph 3 of Article 140, Paragraph 4 of Article 160 and Paragraph 2 of Article 175 of the Companies Act) have one vote per share or one vote per unit (for those who have adopted the unit share system). The method of voting is not restricted, and the chairperson of a shareholders' meeting generally may decide the voting method, which may include a vote by a show of hands or a standing or a poll, unless a resolution to adopt another voting method is made at the shareholders' meeting.

Under the Companies Act, shareholders of a Japanese company who are entitled to at least one vote at a general meeting have the right to speak at such general meeting. If any inquiries are made by the shareholders at a general meeting, the directors and/or statutory auditors must answer such inquiries except where: (i) such inquiries are not relevant to any agenda items for such general meeting; (ii) the common interests of the shareholders and/or personal interests of other shareholders may be jeopardized by the answering of such inquiries (e.g. where the inquiries are related to confidential information of the company or personal information of the other shareholders); (iii) any research or investigation is required to answer such inquiries (provided that the directors and/or statutory auditors may not decline answering such inquiries if such research or investigation can be conducted easily or the shareholders have given prior notice of such inquiries to the company which gives a reasonable period of time for the company to conduct such research or investigation); (iv) such inquiries are substantially the same inquiries as those which have already been made at such general meeting; or (v) the directors and/or statutory auditors have other valid reasons for not answering to such inquiries (e.g. such inquiries are likely made for the purpose of sabotaging such general meeting). HDR Holders holding 10,000 or more HDRs who wish to speak or demand a poll at Shareholders' meetings themselves will need to withdraw and convert at least 10,000 HDSs into Shares and become registered as Shareholders at the Shareholders' registry of the Company. Once the HDSs are converted into Shares, the Shares will automatically be listed on the TSE.

We have adopted the unit share system, under which each unit will represent 100 Shares. All unit holders holding a unit representing 100 Shares are entitled to one vote at a general meeting. Accordingly, 10,000 HDRs (i.e. equivalent to one unit of 100 Shares) will constitute one vote at a general meeting. All HDR Holders holding one HDR are entitled to one vote at the HDR level. HDR Holders may give voting instructions to the Depositary before a general meeting and the Depositary will vote for and on behalf of the HDR Holders (on a collective basis) at a general meeting in accordance with the terms of the Deposit Agreement. See "Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 2. Summary of General Provisions with respect to corporate matters — (i) Voting rights, right to demand a poll and right to speak" and "Risk Factors — Risks Relating to the Introduction, the Secondary Listing and the HDRs — HDR Holders are not Shareholders and must rely on the Depositary to exercise on their behalf the rights that are otherwise available to the Shareholders" in the Listing Document. See the sections headed "Listing, Terms of Depositary Receipts and Depositary Agreements, Registration, Delistings and Settlement — Terms of HDRs — Voting Rights" and "Risk Factors — Risks Relating to the Introduction, the Secondary Listing and the HDRs — HDR Holders are not Shareholders and must rely on the Depositary to exercise on their behalf the rights that are otherwise available to the Shareholders" in the Listing Document.

## **(j) Requirements for AGMs**

### Under our Articles:

The AGM of our Company must be convened within three months after the day following the last day of each financial year by a resolution of the Board of Directors. A chairman of the Board of Directors (or a Director determined in advance by the Board of Directors) is required to convene the meeting and act as the chairperson at that meeting. Our Company may also, when convening a meeting, use the Internet to disclose information relating to matters to be provided or indicated as reference materials for the meeting.

### Under the Companies Act:

A company is required to convene an annual shareholders' meeting within three months after the end of each financial year and must send a convocation of the AGM at least 14 days before the meeting.

## **(k) Notices of Shareholders meetings and business to be conducted thereat**

### Under the Companies Act:

Notice of convocation of a shareholders' meeting setting forth the time, place, purpose thereof and certain other matters set forth in the Companies Act and relevant ordinances, together with business report and financial results must be mailed to each shareholder having voting rights at least two weeks prior to the date set for such meeting. Such notice may be given to shareholders by electronic means, subject to the consent of the relevant shareholders. Further, certain items to be included in the business report and notes to financial results may be provided on the company's website, rather than mailed directly to individual shareholders pursuant to the provisions of its articles of incorporation.

## **(l) Transfers of Shares**

### Under our Articles:

No specific provisions. Our Company's shares are freely transferable.

### Under the Companies Act:

In principle, shares are freely transferable, but companies may place a restriction on the transfer of shares, for example, by making such transfer subject to the approval of the company. Transfer can be restricted to all the shares, or to a specific class of shares. Shares listed on a Japanese stock exchange are required to be freely transferable according to their relevant listing rules and our Company has not placed any transfer restriction on our Shares.

Transfer of shares in a Company Issuing Share Certificates shall not become effective unless the share certificates representing the shares are delivered; however, this does not apply to the transfer of shares arising out of the disposition of Treasury Stock (meaning shares in a company owned by that company itself). The subscriber for Treasury Stock in a Company Issuing Share Certificates becomes the shareholder of the shares on the day when the subscriber has paid contribution for the shares. The transfer of shares in a Company Issuing Share Certificates shall not be perfected against the company unless the name and address of the person who acquires those shares is stated or recorded in the shareholder registry.

Transfers of shares in a Company Not Issuing Share Certificates will become effective by the parties manifesting their intention to do so, and the transfer of shares will not be perfected against the company and other third parties unless the name and address of the person who acquires those shares is stated or recorded in the shareholder registry. Where Treasury Stock are disposed of, the subscriber for Treasury Stock in a Company Not Issuing Share Certificates will become the shareholder of the shares on the day when the subscriber has paid contribution for the shares.

If the Book-Entry Act applies to a company (for example, it applies to listed shares of companies listed on Japanese stock exchanges such as our Company), any transfer of shares becomes effective only through book-entry, and the title to the shares passes to the transferee at the time when the transferred number of shares is recorded in the transferee's account opened at an account managing institution, which may be a financial instrument trader (i.e. a securities firm), bank, trust company or other financial institution that meets the requirements prescribed by the Book-Entry Act.

#### **(m) Power for our Company to purchase its own Shares**

##### Under our Articles and the Companies Act:

Our Company may repurchase our Shares by a resolution of the general meeting of its Shareholders. In certain cases, our Company may also do so by way of a resolution of the Board of Directors.

##### Under the Companies Act:

Shares can be purchased from shareholders with their consent (i) from the market, (ii) via the tender offer procedure as provided by the FIEA, (iii) from all shareholders, or (iv) from a specific shareholder.

With respect to cases (i) and (ii) above, companies with a board of directors may, by the decision of the board of directors if the articles of incorporation allow, repurchase shares from the market or via the takeover bid procedure as provided by the FIEA. If the shares are repurchased from all shareholders (case (iii) above), an ordinary resolution of a shareholders' meeting is sufficient (listed companies however may not use this method of repurchase according to the FIEA and are required to conduct the takeover bid procedure). If the purchase is from a specific shareholder (case (iv) above), a special resolution of a shareholders' meeting is required. In case (iv) above, the name of this shareholder needs to be disclosed and approved at a general shareholders' meeting. Other shareholders are entitled to ask the company to include them as a seller, with certain exceptions. The source of funds for carrying out the share repurchase is restricted to the Distributable Amount (as defined in (o) below).

#### **(n) Power of any subsidiary to own securities in our Company**

##### Under the Companies Act:

Our subsidiaries may not acquire our Shares, subject to certain exceptions, such as their acquisition of them through Statutory Transactions governed by the Companies Act. Under the Companies Act, if any of our subsidiaries acquires our Shares through such a transaction, it would not be entitled to vote at any shareholders' meeting and is required to dispose of the acquired Shares at the earliest and most advantageous time.

## **(o) Dividends and other methods of distribution**

### Under our Articles:

Our Company is entitled to pay out dividends from surplus by a resolution passed at a shareholders' meeting and, in certain cases, may also do so by a resolution of Board of Directors (provided the Accounting Auditors provides an audit certificate and there are no qualifications to the Accounting Auditors report). Our Company is released from any obligation to pay dividends which have not been claimed after the lapse of three full years from the day on which such payment was made available. Further, the record dates for the payment of annual dividends and interim dividends are the last day of August and February of each year respectively (although the Company is also entitled to pay dividends from surplus by setting a record date).

### Under the Companies Act:

Under the Companies Act, the distribution of dividends takes the form of the distribution of surplus and the distribution of surplus may be made in cash and/or in kind, with no restrictions on the timing and frequency of such distributions. In order to pay out dividends, an ordinary resolution of a shareholders' meeting is required. In companies that (i) have Accounting Auditors, (ii) where the term of directors terminates on or prior to the close of the general meeting of shareholders relating to the last fiscal year ending within one year from the election of the director, and (iii) which have a board of statutory auditors or three committees (being a remuneration committee, nomination committee and audit committee), matters regarding the payout of cash dividends can be delegated to the board of directors by the articles of incorporation.

Dividends can be paid out from the distributable amount which is determined in accordance with the Companies Act (the "**Distributable Amount**"). Distributable Amount is the aggregate amount of other capital surplus and other retained earnings surplus at the end of the last fiscal year with a certain adjustment deducted by a certain amount such as the book value of the treasury stock. When paying dividends, the smaller amount of (i) 10% of the surplus so distributed, or (ii) an amount equal to one quarter of its share capital less the aggregate amount of capital reserve and profit reserve as at the date of such distribution needs to be set aside either as capital reserve or profit reserve until the aggregate amount of its capital reserve or profit reserve reaches one quarter of its share capital.

If the net assets of a company are less than ¥3 million, the company cannot pay dividends.

If the company paid dividends while the company did not have a Distributable Amount, directors and others responsible for the payment are under an obligation to pay back the company the amount paid out, unless that person proves that he was not negligent in carrying out his duties.

## **(p) Proxies**

### Under our Articles:

A Shareholder may exercise his or her voting rights by proxy through another Shareholder who has voting rights in our Company. In this case, the Shareholder or his or her proxy must submit a document proving such authority to the Company at each shareholders' meeting.

### Under the Companies Act:

Exercise of voting rights by a proxy is permitted under the Companies Act.

#### **(q) Calls of shares and forfeiture of shares**

##### Under the Companies Act:

Our Company cannot issue partly paid Shares, and therefore, our Company cannot make a call upon the Shareholders to pay any money unpaid on the Shares held by them. A special resolution of the shareholders' in general meeting is required if our Company wishes to merge or conduct other structural changes to our Company that may entail the forfeiture of any Shares in our Company. In order to protect minority shareholders, the Companies Act provides that in general, such shareholders who object to such a special resolution are entitled to receive the fair market value of such forfeited Shares from the relevant company.

#### **(r) Inspection of register of members**

##### Under our Articles:

No specific provisions. However, pursuant to the Articles our Company, we have entrusted the administration of our shareholder register to our shareholders register administrator, Mitsubishi UFJ Trust and Banking Corporation.

##### Under the Companies Act:

A company must keep the shareholder registry at its head office (or, in cases where there is a shareholder registry administrator, at its business office). Shareholders and creditors may make a request to inspect or copy the shareholder registry at any time during the company's business hours by giving reasons. The company is not entitled to refuse the request unless (i) the shareholder or creditor makes this request to pursue goals other than the investigation for the protection or exercise of his or her rights, (ii) the shareholder or creditor makes this request to obstruct the company's execution of business and to harm the joint interests of shareholders, (iii) the shareholder or creditor is in a business substantially in competition with the company, or is involved in the business, (iv) the shareholder or creditor makes the request in order to report facts to third parties for profit, knowledge of which is acquired by inspecting or copying the shareholder registry, or (v) the shareholder or creditor is a person who has reported facts, knowledge of which was acquired by inspecting or copying the shareholder registry, to third parties for profit during the last two years.

If it is necessary in order to exercise the rights of a member of the parent company of a company, he or she may, with the court's permission, make the request stated above with respect to the shareholder registry. In such cases, the reasons for the request must be disclosed.

#### **(s) Inspection of register of Directors**

##### Under the Companies Act:

There is no concept of a "register of directors" under Japanese law. However, the name of each Director and the name and address of the Representative Director are registered in the commercial register in accordance with the Companies Act.

## **(t) Inspection of other corporate records**

### Under the Companies Act:

#### **Accounting documents:**

Shareholders who have 3% (or, where a lesser proportion is prescribed in the articles of incorporation, that proportion) or more of the voting rights in the company, or of the issued shares are entitled to inspect and make a copy of the accounting documents by giving reasons. The company is not entitled to refuse the request unless (i) the shareholder makes this request to pursue goals other than the investigation for the protection or exercise of his or her rights, (ii) the shareholder makes this request to obstruct the company's execution of business and to harm the joint interests of shareholders, (iii) the shareholder is in a business substantially in competition with the company, or is involved in the business, (iv) the shareholder makes the request in order to report facts which he/she learns by inspecting or copying the account books or materials relating thereto to third parties for profit, or (v) the shareholder is a person who has reported facts which he/she has come to learn by inspecting or copying the account books or materials relating thereto to third parties for profit during the last two years.

If it is necessary in order to exercise the rights of a member of the parent company of a company, he or she may, with the court's permission, make the request stated above with respect to the account books or materials relating thereto. In those cases, the reasons for the request shall be disclosed.

#### **Commercial register:**

A stock company is required to register certain matters such as (i) the purpose of the company, (ii) its trade name, (iii) the location of the company, (iv) its share capital, (v) the total number of authorized shares, (vi) the details of shares, (vii) the number of share unit (if any), (viii) the total number of issued shares, (ix) the name, address and business office of the administrator of the shareholder registry (if any), (x) the matters regarding share acquisition rights, (xi) the names of directors, (xii) the names and addresses of representative directors, (xiii) if the company is a company with a board of directors, a company with Accounting Auditors, a company with statutory auditors, and/or a company with a board of statutory auditors, a statement to that effect, (xiv) if there are provisions in the articles of incorporation with regard to exemptions from liability of directors, accounting advisers, statutory auditors, executive officers or Accounting Auditors, such provisions of the articles of incorporation, (xv) there are provisions in the articles of incorporation with regard to the agreements for the limitation of liabilities assumed by outside directors, accounting advisers, outside statutory auditors or Accounting Auditors, such provisions of the articles of incorporation, (xvi) the URL for disclosure of certain information to be included in financial statements, and (xvii) the matters regarding public notice. In addition to the above, certain corporate actions such as acquisitions and disposals are also registered.

Anyone may inspect the commercial register at the legal affairs bureau having jurisdiction over the company.

## **(u) Procedures on dissolution and liquidation**

### Under the Companies Act:

#### **Dissolution:**

A company may dissolve itself by adopting a special resolution at a shareholders' meeting. Upon dissolution of the company, its director(s) will cease to serve in such directorial capacity and the former director(s) will become the liquidator(s) of the stock company by default, unless otherwise provided for in

its articles of incorporation or determined by a resolution at the shareholders' meeting. After the company is dissolved, it will continue to exist as a corporate entity. However, its sole purpose will be to liquidate itself. In other words, the dissolved company is not able to operate its business in the same manner as it did prior to the dissolution.

***Liquidation:***

Once the company is dissolved, it will then proceed to liquidate itself. Liquidation is a procedure for the company to wind-up its affairs and eventually cease to be a corporate entity. During this process, liquidators will act as representatives of the company, replacing such representatives who were the company's representative directors before the dissolution.

**(v) Amendments of Articles**

**Under the Companies Act:**

A company may amend its articles of incorporation by a special resolution of a shareholders' meeting, as a rule.

**(w) Untraceable members**

**Under the Companies Act:**

In cases where notices have not reached a shareholder for five consecutive years and the shareholder of such shares has not received dividends of surplus for five consecutive years, a company shall be entitled to sell or auction the shares of such a shareholder. In exercising this right, a company is required to make a public notice and make a demand to a shareholder or a registered pledgee of shares seeking no objection to such action at least three months before such sale or auction.

**(x) Statutory Auditors**

**Under our Articles:**

Our Articles specifically provide that our Company will have Statutory Auditors, a Board of Statutory Auditors and an Accounting Auditor, and that our Company must have at least three Statutory Auditors but no more than five Statutory Auditors. The Statutory Auditors of our Company may be elected by the passing of a resolution by a majority of shareholders holding at least one-third of the voting rights of the Company. Their remuneration must also be similarly approved. Statutory Auditors are appointed for a four year term and at least one of them must be a full-time Statutory Auditor. Statutory Auditors have the same rights to receive indemnification as the Directors. Notice of the convocation of a meeting of the Board of Statutory Auditors shall be sent to each Statutory Auditor at least three days before the scheduled date of such meeting; provided, however, such period may be shortened in cases of urgency, and the notice period may be set aside if all Statutory Auditors give their consent.

**Under the Companies Act:**

***General:***

Companies with a board of directors (except for companies with three committees) must have a statutory auditor. In addition, large companies must have a board of statutory auditors comprised of three or more statutory auditors.

**Statutory auditors:**

Statutory auditors are appointed and dismissed by the general shareholders' meeting. However, in order to dismiss a statutory auditor, a special resolution of the shareholders' meeting is required. The term of office of a statutory auditor terminates at the close of the general meeting of shareholders relating to the last fiscal year ending within four years from the election of the statutory auditor. However, such term may not be shortened even by the articles of incorporation.

Statutory auditors are responsible for auditing the executive actions of the directors, including ensuring the continuance of a sound corporate governance system, and additionally they have broad authority to oversee the company's audit functions, including: independently reviewing corporate documentation and financial statements; sharing information with, coordinating with and interviewing the Accounting Auditors; and dealing with any issues arising from the company's audit. In order to fulfill such responsibilities, the statutory auditors are given various authorities, such as the right to request that directors report to them regarding the company's business, the right to investigate the company's business and assets, and the right to demand that directors cease certain acts which are outside the scope or the purpose of the company, in violation of laws and regulations, or the articles of incorporation, if such acts are likely to cause substantial detriment to the company.

The Companies Act provides exemptions from liability for statutory auditors similar to those available to directors.

The compensation and other benefits for statutory auditors are determined by a resolution of a shareholders' meeting.

**Board of statutory auditors:**

The board of statutory auditors functions to facilitate the conduct by the statutory auditors of their duties and enables them to share information, allocate responsibilities among themselves and to determine auditing policy and their methods of investigation. In addition the board of statutory auditors is given the authority to consent to the appointment of statutory auditors and Accounting Auditors, and is required to prepare audit reports which are subject to inspection by shareholders and creditors. More specifically, the board of statutory auditors receives explanations from the company's Accounting Auditors on the company's annual auditing plan and other matters based on the annual audit report, when financial statements for the second quarter and full fiscal year are prepared.

The board of statutory auditors elects full-time statutory auditors from among its members.

**3. SUMMARY OF DISCLOSURE REQUIREMENTS****Under our Articles:**

Our Company is entitled to distribute our public notices electronically, though our Company must publish an announcement in the Nihon Keizai Shimbun newspaper in the event that such electronic distribution is impossible.

**Under the TSE Listing Regulations:**

To ensure the formation of fair market prices and to foster the sound development of a securities market, the TSE requires companies whose shares are listed on them to disclose in a timely manner all material information concerning corporate matters that may influence the investment decision making of investors under the TSE Listing Regulations.

The following is a summary of the matters that must be disclosed by a listed company under the TSE Listing Regulations. In each case they need to be disclosed immediately pursuant to the provisions of the enforcement rules of the TSE Listing Regulations (unless they are items that the TSE deem as matters whose effect on investors' investment decisions is of minor significance). The scope of the necessary disclosure obligations imposed by the TSE Listing Regulations are substantially the same.

***Decisions taken by a listed company (including where decisions are taken to not carry out the matters relating to the relevant decision):***

- (a) An offering of shares issued by a listed company or Treasury Stock to be disposed of by a listed company to persons who will subscribe for such shares, an offering of subscription warrants, or a secondary offering of shares or subscription warrants;
- (b) Shelf-registration (including its withdrawal) concerning to an offering or secondary offering prescribed in (a) above or commencement of a demand survey for such offering or secondary offering;
- (c) A decrease in amount of capital;
- (d) A decrease in amount of capital reserve or profit reserve;
- (e) Repurchase of Shares;
- (f) A gratis allotment of shares or a gratis allotment of subscription warrants, or shelf-registration concerning to a gratis allotment of subscription warrants (including its withdrawal) or commencement of surveys on demand or expected exercise of rights for such gratis allotment of subscription warrants;
- (g) Stock split or reverse stock split;
- (h) Dividend from surplus;
- (i) Share exchange;
- (j) Share transfer;
- (k) Merger;
- (l) Demerger;
- (m) Transfer or acquisition of all or part of the business;
- (n) Dissolution (excluding dissolution by means of a merger);
- (o) Commercialization of a new product or new technology;
- (p) Business alliance or dissolution of business alliance;
- (q) A transfer or acquisition of shares or equity interest leading to an entity becoming or ceasing to be a subsidiary;
- (r) Transfer or acquisition of fixed assets;

- (s) Lease of fixed assets;
- (t) Suspension or abolition of all or part of the business;
- (u) Application for delisting or withdrawal of registration of Shares to a Japanese stock exchange or an overseas stock exchange;
- (v) Petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings;
- (w) Commencement of a new business (including commercialization of sales of new products or provision of new services);
- (x) A takeover bid;
- (y) Request for a bid or any other onerous acquisition to compete with a takeover bid or an announcement of an opinion or a representation to shareholders concerning a takeover bid;
- (z) Issue of subscription warrants to officers or employees of a listed company or its subsidiaries, or any other grant of anything deemed to be a Stock Option or an issue of shares;
- (aa) Change in representative directors or representative executive officers (including officers who should represent a cooperative structured financial institution);
- (ab) Rationalization such as a reduction in personnel;
- (ac) Change in a trade name or a corporate name;
- (ad) Change in the number of shares for a share unit of a stock or abolition or introduction of the provisions for the number of shares for a share unit;
- (ae) Change in the end date of the business year;
- (af) Petition pursuant to the provisions of the Deposit Insurance Act of Japan (Act No. 34 of 1971, as amended);
- (ag) Petition for mediation in accordance with specified mediation procedures on the basis of the Act on Specified Mediation for Promoting Adjustment of Specified Liabilities, etc. of Japan (Act No.158 of 1999);
- (ah) Early redemption of all or part of a listed bond, listed convertible bond or listed exchangeable corporate bond or convocation of a bondholders meeting and any other important matters relating to rights concerning a listed bond, listed convertible bond or a listed exchangeable corporate bond;
- (ai) Matters accompanied by an increase in the total number of units of ordinary equity contributions;
- (aj) Change in certified public accountants who prepare audit certification of financial statements, etc. or quarterly financial statements, etc. contained in a securities report or a quarterly report;

- (ak) Putting notes on matters relating to the going concern assumption in financial statements, etc. or quarterly financial statements, etc.;
- (al) Shareholder services will not be entrusted to a shareholder services agent approved by the TSE;
- (am) Submission of internal control reports containing content to the effect that there is a material deficiency in the internal control system or that the evaluation result of the internal control system cannot be stated;
- (an) Amendment to the articles of incorporation;
- (ao) Change in contents and other schemes of a listed stock without voting rights, a listed stock with voting rights (limited to such stock issued by a company which issues multiple classes of stocks with voting rights), or a listed preferred stock (excluding a stock whose dividends are linked to a subsidiary); or
- (ap) In addition to the matters referenced in (a) through to the preceding (ao), important matters related to operation, business or assets of such listed company or such listed stock, etc. which have a remarkable effect on investors' investment decisions.

***Facts arising relative to a listed company:***

- (a) Damage arising from a disaster or damage which occurs in the course of business execution;
- (b) Change in major shareholders;
- (c) A fact which causes delisting of a specified security or options pertaining to a specified security;
- (d) Where a lawsuit or a claim relating to property rights is raised or a judgment is made as to such lawsuit or all or part of the action pertaining to such lawsuit is completed without a judicial decision;
- (e) Where a petition for a provisional disposition order seeking suspension of a business or any other disposition corresponding thereto is made, or there is a judicial decision on such petition, or all or part of the procedures for such petition are completed without a judicial decision;
- (f) Cancellation of a license, suspension of a business or any other disciplinary action corresponding to these on the basis of laws and regulations by an administrative agency or accusation of violation of laws and regulations by an administrative agency;
- (g) Change in controlling shareholders or other affiliated companies;
- (h) Petition or notification for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings, or execution of an enterprise mortgage by a creditor or any person other than such listed company (**"Bankruptcy"**);
- (i) Dishonor of a bill or a cheque (limited to where the reason is a shortage of funds to be paid) or suspension of trading by a clearing house (**"Dishonor"**);

- (j) Petition for commencement of bankruptcy proceedings, etc. pertaining to a parent company;
- (k) As a result of an occurrence of a Dishonor, Bankruptcy or a fact corresponding to these pertaining to a debtor or a main debtor concerning guarantee obligations, default of a right to obtain reimbursement against such main debtor is likely to occur where accounts receivable, loans or other receivables or such guarantee obligations against such debtors;
- (l) Suspension of trade with a main business partner (meaning a business partner with more than 10% of the total sales or of the total purchase amount in the previous business year; the same shall apply hereinafter) or suspension of trade with two or more business partners for the same reason or in the same period;
- (m) Exemption of obligations or extension of a repayment deadline (limited to an extension that the TSE deems equivalent to exemption of obligations) by a creditor or assumption or fulfillment of obligations by a third party;
- (n) Discovery of resources;
- (o) Claim for suspension of issue of a stock or a subscription warrant or disposition of treasury stock by shareholders;
- (p) Demand for convocation of a general shareholders' meeting by shareholders;
- (q) Market value of all or part of the securities held (limited to securities listed on a domestic stock exchange other than a share of a subsidiary of such listed company) falls below book values as of the end of a business year or a quarterly accounting period (an amount of value calculated on the basis of the closing prices of a stock exchange on such day (where no such closing prices are available, the closing prices of a stock exchange on a preceding day)) (limited to where such listed company adopts cost method as an evaluation method of securities);
- (r) Acceleration of obligations pertaining to a corporate bond;
- (s) Convocation of a meeting of bondholders for a listed bond, listed convertible bond or listed exchangeable corporate bond and other important facts pertaining to rights of a listed bond, listed convertible bond or listed exchangeable corporate bond;
- (t) Change in certified public accountants who prepare an audit certification, of financial statements, or quarterly financial statements, contained in a securities report or a quarterly report (excluding a case of disclosing the details pursuant to the provisions of the preceding item, where a body of a listed company which decides its business execution makes a decision on changing such certified public accountants, (including cases where the body makes a decision that it will not carry out matters pertaining to such decision));
- (u) A securities report or a quarterly review report to which audit reports or quarterly review reports prepared by two or more certified public accountants or audit firms (including audit reports or interim audit reports pertaining to certification corresponding to audit certification by certified public accountants or audit firms) are attached is not expected to be submitted within the period specified in the FIEA or has not been submitted within such period (except cases where the company has disclosed that such report is not expected to be submitted within such period), was submitted after such disclosure had been made, or has received approval related to extension of such period;

- (v) The fact that an audit report attached to financial statements, or a quarterly review report attached to quarterly financial statements has come to contain a “qualified opinion with exceptions” or “qualified conclusion with exceptions” of certified public accountants with making issues concerning a going concern assumption as exceptions, or an “adverse opinion”, “negative conclusion”, or a fact that “opinions are not expressed” or a fact “conclusions are not expressed” by a certified public accountant (in cases of a specified business company, these shall include a “qualified opinion with exceptions”, an “opinion that interim financial statements, etc. do not provide useful information”, and a fact that “opinions are not expressed” by a certified public accountant, etc. with making issues concerning a going concern assumption as exceptions);
- (w) An internal control audit report regarding an internal control report has come to contain an “adverse opinion” or a fact that “opinions are not expressed”;
- (x) Where a notice of cancelling a shareholder services agent agreement is received, there is a likelihood that the shareholder services will not be entrusted to a shareholder services agent approved by the TSE, or it has decided not to entrust that the shareholder services will not be entrusted to a shareholder services agent approved by the TSE; or
- (y) In addition to the facts referenced in (a) through to the preceding (w), matters relating to operation, business or assets of such listed company or important matters related to a listed stock, etc. which have a remarkable effect on investors’ investment decisions.

***Decisions taken by subsidiaries, etc. of a listed company (including where decisions are taken not carry out the matters relating to such decision):***

- (a) Share exchange;
- (b) Share transfer;
- (c) Merger;
- (d) Demerger;
- (e) Transfer or acquisition of all or part of the business (unless, immediately after the transfer or acquisition, (i) net assets will not change by 30%, (ii) revenue will not change by 10%, (iii) current profit will not change by 30% and (iv) net profit will not change by 30%);
- (f) Dissolution (excluding dissolution by means of a merger);
- (g) Commercialization of a new product or new technology;
- (h) Business alliance or dissolution of business alliance;
- (i) Transfer or acquisition of shares or equity interest leading to an entity becoming or ceasing to be a subsidiary;
- (j) Transfer or acquisition of fixed assets;
- (k) Lease of fixed assets;

- (l) Suspension or abolition of all or part of the business;
- (m) Petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings;
- (n) Commencement of a new business;
- (o) A takeover bid;
- (p) Change in a trade name or a corporate name;
- (q) Petition pursuant to the provisions of the Deposit Insurance Act;
- (r) Petition of arbitration by specific mediation procedures on the basis of the law on specified mediation for promoting adjustment of specified obligations, etc.; or
- (s) In addition to the matters referenced in (a) through to the preceding (r), important matters related to operation, business or assets of a subsidiary of such listed company which have a remarkable effect on investors' investment decisions.

***Facts arising relative to subsidiaries, etc. of a listed company:***

- (a) Damage arising from a disaster or damage which occurs in the course of business execution;
- (b) Where a lawsuit of a claim relating to property rights is raised or a judgment is made as to such lawsuit or all or part of the action pertaining to such lawsuit is completed without a judicial decision;
- (c) Where a petition for a provisional order seeking suspension of a business or any other disposition corresponding to this is made or there is a judicial decision on such petition or all or part of the proceedings for such petition are completed without a judicial decision;
- (d) Cancellation of a license, suspension of a business or any other disciplinary action corresponding to them on the basis of laws and regulations made by an administrative agency or accusation of violation of laws and regulations made by an administrative agency;
- (e) Petition for the commencement of Bankruptcy proceedings, by a creditor or any other person other than such subsidiary;
- (f) Dishonor;
- (g) Petition for the commencement of Bankruptcy proceedings, pertaining to a sub-subsidiary;
- (h) As a result of an occurrence of a Dishonor, Bankruptcy procedures, or a fact corresponding to these pertaining to a debtor or a main debtor concerning guarantee obligations, default of a right to obtain reimbursement against such main debtor is likely to occur where these are accounts receivable, loans or other receivables or such guarantee obligations against such debtors;
- (i) Suspension of trade with a main business partner or suspension of trade with two or more business partners for the same reason or in the same period;

- (j) Exemption of obligations or extension of a repayment deadline (limited to an extension that the TSE deems equivalent to exemption of obligations) by a creditor or assumption or fulfillment of obligations by a third party;
- (k) Discovery of resources; or
- (l) In addition to the facts referenced in (a) through to the preceding (k), important matters relating to operation, business or assets of such subsidiary which have a remarkable effect on investors' investment decisions.

***Decisions taken by a linked subsidiary of a listed company / Facts arising relative to a linked subsidiary of a listed company:***

- (a) Where a body which decides the business execution of a linked subsidiary decides to carry out certain transactions with such linked subsidiary; or
- (b) On the occurrence of certain events to a linked subsidiary.

***Information concerning the settlement of accounts of a listed company:***

- (a) The details of the account settlement (annual and quarterly) using earnings reports (*kessan tanshin*) (Summary) or quarterly earnings reports (*kessan tanshin*) (Summary);
- (b) Difference in estimated values newly calculated by a listed company or certain subsidiary of it compared to the last estimated values calculated by the listed company or the subsidiary with respect to sales, operating profits, ordinary profits or net income; or
- (c) The details of an estimated value of dividend calculated by a listed company.

Although the TSE Listing Regulations provide an extensive list of disclosure requirements, the TSE Listing Regulations also require listed companies to disclose important matters related to the operations, business or assets of such a listed company or its listed stock which have a remarkable effect on investors' investment decisions. This broad disclosure requirement means that issuers listed on the TSE are required to announce any material events affecting them.

Corporate matters to be disclosed under the TSE Listing Regulations shall generally be carried out using Timely Disclosure Network ("TDnet"). TDnet is an electric disclosure system and information disclosed under the TSE Listing Regulations by a listed company must be made available for public inspection for five years from the date of disclosure through the TDnet database service, such inspection being subject to fees. If the TSE deems that a listed company has breached the provisions regarding timely disclosure, such company may be delisted.

#### **4. CRITERIA FOR DELISTING**

***Under the TSE Listing Regulations:***

A listed issuer on the TSE may be delisted based on its own application and also under certain conditions as set forth in the criteria for delisting stocks in the TSE Listing Regulations.

In particular, the TSE may delist a listed issuer if the listed issuer imposes restrictions on transfers of its shares or a security of the listed issuer ceases to be subject to the book-entry transfer operation of a designated book-entry transfer institution.

The TSE may also see fit to delist a listed issuer, among other things, in the event that:

- (a) the listed issuer commits a material breach of the TSE Listing Regulations;
- (b) the number, market capitalization or public float of shares falls below the prescribed level;
- (c) the issuer has liabilities in excess of assets as of the end of the business year and the liabilities in excess of assets are not cleared within a year;
- (d) the issuer suspends its business activities; or
- (e) the TSE deems that delisting of the securities is appropriate for the public interest or the protection of investors.

## **5. PROTECTION OF MINORITY SHAREHOLDERS**

*Under the Companies Act:*

### ***Rights to demand that directors call a shareholders' meeting:***

Shareholders holding shares consecutively for the preceding six months or more (or, where a shorter period is prescribed in the articles of incorporation, that period or more) not less than three hundredths (3/100) (or, where a lesser proportion is prescribed in the articles of incorporation, that proportion) of the votes of all shareholders may demand that the directors, by illustrating the matters which shall be the purpose of the shareholders' meeting (limited to matters on which the shareholders may exercise their votes) and providing the reason for the calling of the shareholders' meeting.

In cases where (i) the calling procedure is not effected without delay after the demand stated above or where (ii) a notice is not dispatched for the calling of the shareholders' meeting which designates, as the day of the shareholders' meeting, a day falling within the period of eight weeks (or, where any period less than that is provided for in the articles of incorporation, that period) from the day of the demand, the shareholders who made the demand may proceed to call the shareholders' meeting with the court's permission.

### ***Rights to demand that directors add certain new matters to the agenda of a shareholders' meeting or to include a proposal in connection with a matter in the agenda stated in a convocation notice:***

For a company with a board of directors such as our Company, shareholders may demand that the directors include certain new matters to the agenda of a shareholders' meeting and/or demand that the directors include a proposal in connection with a matter in the agenda stated in the convocation notice. However, only shareholders who have held for the last six consecutive months or more (or, where a shorter period is prescribed in the articles of incorporation, that period or more) not less than 1% (or, where a lesser proportion is prescribed in the articles of incorporation, that proportion) of the votes of all shareholders or not less than 300 (or, where a lesser number is prescribed in the articles of incorporation, that number) votes of all shareholders may make such demand. Further, such demand shall be submitted no later than eight weeks (or, where a shorter period is prescribed in the articles of incorporation, that period or more) prior to the day of the shareholders' meeting.

In the case where a demand is made less than eight weeks (or, where a shorter period is prescribed in the articles of incorporation, that period or more) prior to the day of the shareholders' meeting, such

demand is deemed to be a demand made in respect of the agenda or convocation notice of the next shareholders' meeting. Our Articles have not prescribed a different notice period from the standard eight weeks' notice requirement for the submission of a shareholder's demand.

In addition, a shareholder who has held not less than 3% of the voting rights in a company for the last six consecutive months may request the directors to convene a shareholders' meeting. If the directors do not send out a convocation notice for such shareholders' meeting to be held and such shareholders' meeting is not convened by the directors within eight weeks from the date of such request, such requesting shareholder may convene a shareholders' meeting with court permission.

***Rights to propose an amendment to matters included in an existing agenda of a shareholders' meeting:***

A shareholder is permitted to propose an amendment to matters included in an existing agenda of a shareholders' meeting without any prior notice. The matters included in the agenda may be amended at any time before the relevant shareholders' meeting or even at the meeting.

Any matter demanded by shareholders to be added to an agenda of a shareholders' meeting or any matter in an existing agenda as amended by shareholders which is not supported by at least one-tenth of the votes of shareholders cannot be re-submitted for discussion and determination at another shareholders' meeting in the following three years.

***Derivative action:***

In a derivative action, shareholders are allowed to pursue the liability of directors vis-à-vis the company on its behalf. In addition to the recovery of the loss to the company, this system also functions as a deterrent against neglect of duties and wrongdoing by directors and other officers of the company. Shareholders who have held a share for six months or more (or, where a shorter period is prescribed in the articles of incorporation, that period or more) before taking action are entitled to require the company, in writing, to initiate an action to pursue the liability of directors, accounting adviser, statutory auditors, senior executive officers, Accounting Auditors, incorporators, directors and statutory auditors in the establishment procedure, and liquidators. However, if the action is intended for the unjust benefit of the plaintiff shareholder, or a third party, or to cause damage to the company, this does not apply. If the company does not take any action within 60 days of the request, the shareholder who made the request is entitled to initiate an action in pursuit of liability of the directors, accounting adviser or statutory auditors. If, by waiting sixty days, there is a likelihood of irrecoverable loss caused to the company, the shareholder may initiate an action straight away. Liability of directors can be capped (i) by a resolution of the general shareholders' meeting after the incident, or (ii) by the articles of incorporation in advance. However, if shareholders holding not less than three hundredths (3/100) (or, where a lesser proportion is prescribed in the articles of incorporation, that proportion) of the votes of all shareholders (excluding officers subject to the liability) state objections to such a cap during a specified period of time, the company is not permitted to give effect to the cap pursuant to the relevant provisions of the articles of incorporation.

***Under the TSE Listing Regulations:***

The TSE Listing Regulations require a listed company to establish a policy to protect minority shareholders ("**Policy for Protection of Minority Shareholders**") when the company has Controlling Shareholders (as defined below and such definition only applies to this section). The Policy for Protection of Minority Shareholders is required to include (i) a policy for establishment of a corporate structure; (ii) a decision making process; and (iii) a utilization of external independent bodies, for the purpose of

protection of minority shareholders, in accordance with the Guide on Preparation of Corporate Governance Reports.

A “Controlling Shareholder” under the TSE Listing Regulations means a parent company or a main shareholder (other than the parent company) who holds the majority of voting rights of a listed company after combining the voting rights held for its own account and the voting rights held by any of the entities specified in the following items:

- (a) a close relative of said main shareholder (meaning a relative within the second degree of kinship); and
- (b) a company (including a company, designated corporation, partnership, or other similar entities (including foreign entities that are equivalent to these entities)) whose majority voting rights are held by said main shareholder or a close relative specified in (a) above, and a subsidiary of said company.

Further, the TSE Listing Regulations require listed companies to disclose certain matters regarding Controlling Shareholders, including the company’s policy towards them and details of transactions with them, in the corporate governance report (“**Corporate Governance Report**”) and other disclosure documents. The TSE also requires a listed company to submit a report without delay any change has occurred in the information in a Corporate Governance Report. Furthermore, the TSE requires a listed company that has Controlling Shareholders to disclose matters including the following within three months from the last day of the fiscal year:

- (a) the trade name or corporate name of the parent company, the holding ratio of the parent company with respect to the voting rights of the listed company, and where applicable the trade name or corporate name of the stock exchange in Japan on which the stocks issued by the parent company or the foreign stock exchange on which the stocks issued by the parent company are listed or continuously traded;
- (b) in cases where the TSE approves exemption from disclosure of certain matters regarding Controlling Shareholders of the parent company, the reason for such approval;
- (c) the position of the parent company within the corporate group and relationship with the other parent companies;
- (d) matters related to transactions with the Controlling Shareholder (including its close relatives and its subsidiaries);
- (e) the implementation status of the Policy for Protection of Minority Shareholders; and
- (f) other information necessary for investors to understand the corporate information of the Controlling Shareholder appropriately.

It is conventional to disclose the following in respect of transactions with Controlling Shareholders: (i) name or trade name, (ii) location of head office, (iii) capital stock, (iv) description of business, (v) ratio of holding of voting rights, (vi) relationship with the reporting company, (vii) details of transaction, (viii) the amount of transaction, and (ix) other information such as trade balance at end of the financial year.

Furthermore, where a listed company has Controlling Shareholders and makes a decision to conduct certain material transactions between certain related persons including the Controlling

Shareholders, the TSE Listing Regulations require the listed company to obtain an opinion from a person who has no interest in such Controlling Shareholder that any decision on the matters will not be detrimental to the interests of minority shareholders of the listed company.

In addition, under the TSE Listing Regulations, if a third-party allotment that causes a dilution ratio of voting rights in excess of 300% is determined by the board of directors of a listed company, the company will be delisted, unless the TSE deems that the risk of such third-party allotment has little likelihood of harming the interests of investors. Under the TSE Listing Regulations, the dilution ratio is, as a general rule, calculated by the following formula:

$$\text{Dilution ratio} = \frac{\text{the number of votes concerning shares to be issued by the third party allotment in question (including the number of potential voting rights)}}{\text{the number of votes concerning issued and outstanding shares before the third party allotment}} \times 100.$$

In addition to the above, the TSE Listing Regulations require a listed company to (i) obtain an opinion from a person who is independent from the management of the company regarding the necessity and appropriateness of any third-party allotment, or (ii) confirm the intention of the shareholders by any means such as a shareholders' meeting in the case of a third-party allotment (1) that causes a dilution ratio of voting rights of 25% or more, or (2) when there is an expectation of a change of a Controlling Shareholder due to such allotment, unless the TSE deems that it is difficult for the listed company to conduct any of the procedures under (1) or (2) above due to reasons such as rapidly deteriorating financial situations.

## **6. TRANSACTIONS REQUIRING SHAREHOLDER APPROVAL**

### Under the Companies Act:

#### ***Requiring an ordinary resolution ("Shareholder Approval Transactions"):***

Certain corporate acts including:

- distribution of surplus (Article 454 of the Companies Act);
- repurchase of shares (Article 156(1) of the Companies Act);
- reduction of the amount of stated capital (Article 447(1) of the Companies Act);
- reduction of the amount of reserves (Article 448(1) of the Companies Act);
- increase of the amount of stated capital by way of reduction of the amount of surplus (Article 450 of the Companies Act);
- increase of the amount of reserves by way of reduction of the amount of surplus (Article 451); and
- appropriation of its surplus, including disposition of loss and funding of voluntary reserves (Article 356(1) of the Companies Act).

***Requiring a special resolution (“Special Shareholder Approval Transactions”):***

Transactions necessitating a special resolution are:

- any acquisition at any time within two years after the incorporation of the company of assets that existed prior to such incorporation and continues to be used for its business (*jigo-setsuritu*) (Article 467(1)(v) of the Companies Act);
- merger (absorption by another company) (Article 783(1), 795(1), 804(1) of the Companies Act);
- corporate split (separation of an existing company into two constituent parts) (Article 783(1), 795(1), 804(1) of the Companies Act);
- share exchange and share transfer (acquisition of the entire issued share capital of a target company in exchange for shares in a target company) (Article 783(1), 795(1), 804(1) of the Companies Act);
- assignment of entire business or significant part of business (Article 467(1), (2) of the Companies Act);
- reverse stock split (Article 180(2) of the Companies Act); (ii) Issuance of new shares at unfair subscription price. (Article 199(2), (3) of the Companies Act);
- issuance of share acquisition rights at unfair subscription price or unfair conditions (Article 238(2), (3) of the Companies Act);
- distribution of dividend in kind without giving shareholders the rights to demand distribution in cash (Article 454(4) of the Companies Act); and
- dissolution of the company (Article 471(iii) of the Companies Act).

***Requiring a special resolution passed by no less than a two-thirds majority vote of shareholders entitled to exercise votes at a general meeting at which at least half or more of the shareholders entitled to exercise their votes are in attendance (“Special Particular Shareholder Approval Transactions”):***

Mergers or share transfers involving the restructuring of the shares of a company such that they contain transfer restrictions, and amendments to a company’s articles of incorporation to install preemption rights or other transfer restrictions constitute special shareholders’ approval transactions.

***Corporate acts requiring unanimous shareholder approval (“Unanimous Shareholder Approval Transactions”):***

- Amendments to the articles of incorporation reclassifying all of the shares of the Company into shares subject to a statutory call option of the company (similar to redeemable shares) (Article 110 of the Companies Act);
- amendments to the articles of incorporation restricting certain shareholders from being entitled to require the company to purchase their shares on a share repurchase (Article 164(2) of the Companies Act);

- conversion to unlimited commercial partnership, limited commercial partnership company or limited liability partnership company (Article 776(1) of the Companies Act); and
- merger or share transfers in which all or part of consideration to the shareholders of a company to be absorbed or wholly acquired is the equity of an unlimited commercial partnership, limited commercial partnership company or limited liability partnership company (Article 783(2) of the Companies Act); and
- incorporation type merger in which each of unlimited commercial partnership, limited commercial partnership company or limited liability partnership company will be established.

Furthermore, in a qualified special resolution (*tokushu ketsugi*), the resolution must be made by (i) a majority (where a higher proportion is provided for in the articles of incorporation, that proportion) or more of the shareholders entitled to exercise their votes at the shareholders' meeting, being a majority of two thirds (where a higher proportion is provided for in the articles of incorporation, that proportion) or more of the votes of the shareholders, or (ii) half or more (where a higher proportion is provided for in the articles of incorporation, that proportion or more) of all shareholders, being a majority equating to three quarters (where a higher proportion is provided for in the articles of incorporation, that proportion) or more of the votes of all shareholders. Resolutions which require a type (i) qualified special resolution include the resolution to introduce restraints on transfer of shares. A type (ii) qualified special resolution is for the resolution to introduce or change differential treatment of shareholders with respect to distribution of surplus or residual assets, or voting rights, of a company whose articles of incorporation provides a transfer restriction on all of its shares. There are also cases where all shareholders' consent is required, for example, where the liability of directors or statutory auditors vis-à-vis the company is discharged.

## 7. ACCOUNTING AND AUDITING REQUIREMENTS

Regulation of accounting in the Companies Act is intended to (i) set the limit for paying out surplus; and (ii) provide information on the financial state of the company to creditors and shareholders.

Companies must prepare accurate accounting documents in a timely manner and keep them for ten years. Accounting must comply with the practice of corporate accounting which is generally accepted as fair and appropriate.

Companies are mandated to prepare financial statements and other documents for each financial year. These are:

- a balance sheet;
- a profit and loss report;
- a report on the changes of the amount of share capital during the financial year; and
- a business report.

Financial statements are subject to the audit of statutory auditors and accounting auditors when it has accounting auditors, and approval of the board of directors. They are then submitted to the general shareholders' meeting for the approval of shareholders (in the case where the company has an accounting auditors and fulfills certain requirements, the financial statement is not required to be approved by a shareholders' meeting and is required to be reported only).

The Companies Act mandates large companies which are subject to the obligation to submit annual securities reports according to the FIEA to prepare consolidated financial statements.

## **8. M&A (MERGERS, CORPORATE SPLIT, SHARE EXCHANGE, SHARE TRANSFER, BUSINESS TRANSFERS AND BUSINESS ASSUMPTION)**

### **(1) Mergers (*gappei*)**

Absorption type mergers (*kyushu gappei*) and new incorporation type mergers (*shinsetsu gappei*) are the two types of mergers available under the Companies Act. An absorption type merger is a merger whereby an existing company absorbs one or more other existing companies, while a new incorporation-type merger is a merger whereby a new company is incorporated to absorb one or more existing companies.

The company must seek a special resolution (which will pass if (1) shareholders having 1/3 or more of outstanding shares of the Company vote at the shareholders meeting, and (2) 2/3 or more voting shareholders approve the transaction under the Companies Act and the Articles of the Company at the general shareholders meeting if it conducts a merger, unless:

- (i) the company is the surviving entity in relation to the merger and the consideration to be paid to the shareholders of the counterparty (absorbed entity) is 20% or less of the net asset of the company,
- (ii) the company has 90% or more of the outstanding shares of the counterparty, or
- (iii) the counterparty has 90% or more of the outstanding shares of the company.

Shareholders who are opposed to the planned merger are entitled to require the respective company to purchase their shares at a fair price. Shareholders who have voting rights and have informed the company of their objection before the general shareholders' meeting and have voted against the merger, or shareholders who do not have voting rights, may exercise these rights. The appraisal right must be exercised within twenty days before the date the merger takes effect and the day before this date.

Since creditors may be affected by the merger, there is a procedure for the protection of creditors. The merging companies are under an obligation to publicly announce the merger in the official gazette and also to invite known creditors to come forward, if they object to the merger. By the articles of incorporation, companies may decide not to notify known creditors individually, but instead make an announcement in the daily papers, or notify the creditors by electronic means, in addition to the announcement in the official gazette.

If a creditor objects to the merger, the company needs to either (i) repay the debt even if it is not due, (ii) instead, provide collateral, or (iii) deposit an appropriate amount with a trust company or banks involved in trust business. However, the novelty since the 1997 amendments is that if there is no likelihood of the merger harming the creditors, these measures are not required.

Under the Companies Act, it has become permissible to use the stock of the parent of the surviving company as consideration in an acquisition or disposal, thereby enabling triangular mergers.

In mergers by setting up a new company, the merger takes effect by registration. In mergers by absorption, the rights and obligations of the extinguishing company are transferred to the surviving company in a comprehensive manner on the agreed date on which the merger takes effect.

Japanese law requires that certain general information is included in a convocation notice for an extraordinary shareholders' meeting ("**EGM**"), as well as certain other information, the content of which depends on the transaction(s) that is (or are) being contemplated. Regardless of the nature of the transaction any convocation notice must include (i) the date of the EGM; (ii) the place of the EGM and (iii) a list of matters to be resolved at the EGM.

In addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for merger contracts, the convocation notice must include the following key content requirements: (i) the reason for the proposed merger; (ii) the terms and conditions of the merger contract, (iii) the appropriateness of the consideration to be paid or received; (iv) the counterparty's financial documents (balance sheet / profit and loss statement / business report / auditor's report) of the latest financial year and (v) the counterparty's material subsequent events after the end of the latest financial year.

## **(2) Corporate split (*kaisha bunkatsu*)**

A corporate split is a process whereby a stock company or a limited liability company (*godo kaisha*) transfers all or part of the rights and obligations pertaining to a certain division of the company to another existing company or a newly established company. The separation of rights and obligations pertaining to a division of such a company to an existing company is called *kyushu bunkatsu* (absorption type corporate split), while the separation of rights and obligations pertaining to a division of such a company to a newly established company is called *shinsetsu bunkatsu* (new incorporation type corporate split). In each type of corporate split, as consideration for the separation of rights and obligations, the separating company will issue or pay shares, bonds, share acquisition rights, cash or other assets to the other company.

In a new incorporation type corporate split or an absorption type corporate split, the procedure is (i) the preparation of a plan for the split, or a contract of split; (ii) the making available of relevant documents for inspection; (iii) the approval by a general shareholders' meeting, (iv) the procedure for the protection of creditors; and (v) registration.

The plan or the contract of a split must be made available for inspection by shareholders and creditors in the same manner as mergers. The plan or the contract is subject to approval at the general shareholders' meeting of the splitting company and, in cases of spin-off to another existing company, also by shareholders of that company by a special resolution of a shareholders' meeting. Shareholders who are opposed to the split are granted an appraisal right as with a merger. The procedure for the protection of creditors of those companies is also available.

The company must seek a special resolution at the general shareholders' meeting if it conducts a corporate split unless:

- (i) the "corporate split" results in an establishment of a new company, and the company is the splitting entity in relation to the corporate split, and the net assets to be transferred are 20% or less of the total assets of the company,
- (ii) the "corporate split" results in a consolidation with an existing company, and the company is the splitting entity in relation to the corporate split, and the net assets to be transferred is 20% or less of the total asset of the company,
- (iii) the "corporate split" results in a consolidation with an existing company ("**Merging Entity**"), and the company is the Merging Entity, and the consideration to be paid to the counterparty (splitting entity) in relation to the corporate split is 20 or less of the net asset of the company,

- (iv) the “corporate split” results in a consolidation with an existing company, and the company has 90% or more of the outstanding shares of the counterparty, or
- (v) the “corporate split” results in a consolidation with an existing company, and the counterparty has 90% or more of the outstanding shares of the company.

As a rule, rights and obligations of the splitting company are transferred either to the newly established company or to the absorbing company. This also applies to employment contracts.

Japanese law requires that certain general information is included in a convocation notice for an EGM, as well as certain other information, the content of which depends on the transaction(s) that is (or are) being contemplated. Regardless of the nature of the transaction any convocation notice must include (i) the date of the EGM; (ii) the place of the EGM and (iii) a list of matters to be resolved at the EGM.

In addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for corporate splits, the convocation notice must include the following key content requirements: (i) the reason for the proposed corporate split; (ii) the terms and conditions of the corporate split contract or plan; (iii) the appropriateness of the consideration to be paid or received, (iv) the counterparty’s financial documents (balance sheet / profit and loss statement / business report / auditor’s report) of the latest financial year; (v) the counterparty’s material subsequent events after the end of the latest financial year and (vi) the articles of incorporation, directors, statutory auditors and accounting auditors of the newly-established corporation.

### **(3) Share exchange (*kabushiki kokan*) and share transfer (*kabushiki iten*)**

A share transfer (*kabushiki iten*) is a transaction whereby one or more companies create a new company and transfer all of their outstanding shares to that new company (i.e., creation of a newly incorporated company as their 100% parent) in return for shares, bonds, share acquisition rights, bonds with share acquisition rights or other assets of the new company.

A share exchange (*kabushiki kokan*) is a transaction whereby a stock company transfers all of its outstanding shares to an existing stock company or a limited liability company (*godo kaisha*) (i.e., conversion of an existing stock company to a wholly-owned subsidiary of another existing stock company or limited liability company (*godo kaisha*)) in return for shares, bonds, share acquisition rights, bonds with share acquisition rights or other assets of the company that will become a new parent of such stock company.

The company must seek a special resolution at the general shareholders’ meeting if it conducts a share exchange unless:

- (i) the company is the squeezing entity in relation to the share exchange and the consideration to be paid to the shareholder of the counterparty (target entity) is 20% or less of the net assets of the company,
- (ii) the company has 90% or more of the outstanding shares of the counterparty, or
- (iii) the counterparty has 90% or more of the outstanding shares of the company.

The company must seek a special resolution at the general shareholders’ meeting if it conducts a share transfer.

Japanese law requires that certain general information is included in a convocation notice for an EGM, as well as certain other information, the content of which depends on the transaction(s) that is (or are) being contemplated. Regardless of the nature of the transaction any convocation notice must include (i) the date of the EGM; (ii) the place of the EGM and (iii) a list of matters to be resolved at the EGM.

In addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for share exchange contracts, the convocation notice must include the following key content requirements: (i) the reason for the proposed share exchange; (ii) the terms and conditions of the share exchange contract; (iii) the appropriateness of the consideration to be paid or received, (iv) the counterparty's financial documents (balance sheet / profit and loss statement / business report / auditor's report) of the latest financial year and (v) the counterparty's material subsequent events after the end of the latest financial year.

Further, in addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for share transfer plans, the convocation notice must also include the following key content requirements: (i) the reason for the proposed share transfer plan; (ii) the terms and conditions of the share transfer; (iii) the company's financial documents (balance sheet / profit and loss statement / business report / auditor's report) of the latest financial year; (iv) the company's material subsequent events after the end of the latest financial year and (v) the articles of incorporation, directors, statutory auditors and accounting auditors of the newly-established corporation.

#### **(4) Business transfer (*jigyo joto*)**

A business transfer (*jigyo joto*) is a transaction whereby a stock company transfers all or a portion of its "business" (*jigyo*) to another entity. According to the judicial precedents, the term "business" (*jigyo*) is regarded to mean "a combination of assets and liabilities organized for a certain commercial purpose including a contractual relationship with its customers." Based on this standard, bare assets which do not by themselves constitute business operations are not regarded as "business" (*jigyo*).

The contract by a stock company to transfer all of or a significant portion of its "business" (*jigyo*) to another entity is subject to the special resolution of a shareholders' meeting unless;

- (i) the consideration to be paid by the transferee to the stock company is 20 % or less of the total assets of the stock company, or
- (ii) the transferee has 90% or more of the outstanding shares of the stock company.

Shareholders who opposed to the business transfer (*jigyo joto*) are given appraisal rights.

Japanese law requires that certain general information is included in a convocation notice for an EGM, as well as certain other information, the content of which depends on the transaction(s) that is (or are) being contemplated. Regardless of the nature of the transaction any convocation notice must include (i) the date of the EGM; (ii) the place of the EGM and (iii) a list of matters to be resolved at the EGM.

In addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for business transfers, the convocation notice must include the following key content requirements: (i) the reason for the proposed business transfer; (ii) the terms and conditions of the business transfer contract and (iii) the appropriateness of the consideration to be received.

## **(5) Business assumption (*jigyo yuzuriuke*)**

A business assumption (*jigyo yuzuriuke*) is a transaction whereby a stock company assumes all or a portion of its “business” (*jigyo*) from another entity. According to the judicial precedents, the term “business” (*jigyo*) is regarded to mean “a combination of assets and liabilities organized for a certain commercial purpose including a contractual relationship with its customers.” Based on this standard, bare assets which do not by themselves constitute business operations are not regarded as “business” (*jigyo*).

The contract by a stock company to assume all of the “business” (*jigyo*) from another entity is subject to the special resolution of a shareholders’ meeting unless;

- (i) the consideration to be paid by the stock company to the transferor is 20 % or less of the net assets of the stock company, or
- (ii) the transferor has 90% or more of the outstanding shares of the stock company. Shareholders

who opposed to the business assumption (*jigyo yuzuriuke*) are given appraisal rights. Japanese law

requires that certain general information is included in a convocation notice for an EGM, as well as certain other information, the content of which depends on the transaction(s) that is (or are) being contemplated. Regardless of the nature of the transaction any convocation notice must include (i) the date of the EGM; (ii) the place of the EGM and (iii) a list of matters to be resolved at the EGM.

In addition to the general content requirements for convocation notices noted above, for convocation notices which relate to gaining consent for business assumptions, the convocation notice must include the following key content requirements: (i) the reason for the proposed business assumption; (ii) the terms and conditions of the business assumption contract and (iii) the appropriateness of the consideration to be paid.

## **9. FINANCING OF COMPANIES**

Other than borrowing, companies may take measures to finance themselves as follows.

### **(1) Issuance of new shares**

The issuance of shares and the disposal of Treasury Stock are covered in the same section of the Companies Act as the offering of shares. When offering newly-issued shares or Treasury Stock that are being disposed of, either to the public or a third party, a company is required to determine, among other things, the following:

- the number of offered shares;
- the price to be paid or the method of calculating it;
- if there is an in-kind contribution, the content of the contribution and its value;
- the date or period of payment; and
- matters related to the increase of the capital and capital reserve when issuing shares.

These matters need to be decided at the general shareholders' meeting, but this can be delegated to the board of directors by a special resolution of a shareholders' meeting. In such cases, the maximum number of shares to be issued or disposed and the minimum amount of payment need to be determined. In public companies such as our Company, the above matters can be determined by the board of directors. However, this does not apply when the shares are issued or disposed of at an especially favorable price to the subscribers (whether or not a price is "especially favorable to the subscribers" is determined based on a reasonable balance between the interests of the company's existing shareholders and its own interest in achieving effective capital financing, considering various factors including: the company's share price prior to the date when the issue price is set; volatility of that share price; past trading volumes in the company's shares; the company's financial condition, profitability and level of dividends; the number of the company's issued shares and the number of new shares to be issued; trends in stock market conditions; and the estimated potential of the market to absorb these new shares, according to a precedent court case (Supreme Court of Japan, April 8, 1975)). In such case, a special resolution of the shareholders' meeting is required.

If the issuance of shares or the disposal of Treasury Stock is against the law or the articles of incorporation or was substantially unfair, shareholders are entitled to seek an injunction. Shareholders are also entitled to contest the validity of the issuance. In order to ensure the above rights of shareholders, where a public company offers shares to the public or a third party, the offer has to be publicized, or notified to shareholders at least two weeks prior to the date of paying in.

There are three types of issuances of new shares, depending on the allocation of newly-issued shares: (i) an allotment to shareholders, (ii) an allotment to a specified third party, and (iii) a public offer. The board of directors is entitled to decide to adopt either of the three methods above at its discretion.

In the case of an allotment to shareholders, upon resolution of the board of directors to give, at its discretion, existing shareholders the right to subscribe newly-issued shares in proportion to shareholding ratio. In the case of an allotment to a specified third party, shares may be offered to a specific third party. The party to whom the shares are to be allocated can be determined by the board of directors. In a public offer, newly-issued shares are offered to many unspecified people. The shares are underwritten by securities firms.

## **(2) Issuance of bonds**

The Companies Act defines a bond as any monetary claim owed by a company by allotment under the provisions of the Companies Act and which will be redeemed in accordance with the provisions on the matters listed in the items of the Companies Act.

There are straight bonds and bonds with share acquisition rights. The latter are bonds with share acquisition rights which are inseparable from the bond itself.

In cases where a company will issue bonds, the company must specify a bond manager and entrust the receipt of payments, the preservation of rights of a claim on behalf of the bondholders, and other administration of the bonds to that manager, unless the value of each bond is ¥100 million or more, or the total amount of the bonds divided by the minimum price of the bond is less than 50.

## **10. EXCHANGE CONTROL**

The Foreign Exchange and Foreign Trade Act of Japan (Act No. 228 of 1949, as amended) and the cabinet orders and ministerial ordinances thereunder (collectively, the "**Foreign Exchange Act**"), govern

certain matters relating to the issuance of equity-related securities by us and the acquisition and holding of shares of common stock by “exchange non-residents” and by “foreign investors” as hereinafter defined.

“Exchange non-residents” are defined under the Foreign Exchange Act as individuals who are not resident in Japan and corporations whose principal offices are located outside Japan. Generally branches and other offices of Japanese corporations located outside Japan are regarded as exchange non-residents, but branches and other offices located within Japan of non-resident corporations are regarded as residents of Japan. “Foreign investors” are defined to be (i) individuals not resident in Japan, (ii) corporations which are organized under the laws of foreign countries or whose principal offices are located outside Japan and (iii) corporations of which (a) 50% or more of the shares are held by (i) and/or (ii) above, (b) a majority of officers consists of non-resident individuals or (c) a majority of the officers having the power of representation consists of non-resident individuals. Under the Foreign Exchange Act, dividends paid on, and the proceeds of sales in Japan of, shares of common stock held by exchange non-residents in general may be converted into any foreign currency and repatriated abroad.

Under the Foreign Exchange Act, an acquisition of shares of a Japanese company listed on any Japanese stock exchange or traded on the over-the-counter market (“**OTC**”) in Japan, or the listed shares, by an exchange non-resident from a resident of Japan is generally not subject to a prior filing requirement.

In the case of a foreign investor acquiring listed shares (whether from a resident of Japan or an exchange non-resident, from another foreign investor or from or through a designated securities company) and as a result of such acquisition the number of shares held directly or indirectly by such foreign investor (including shares held by persons who agree to act in concert with such foreign investor in connection with the exercise of shareholders’ rights) would become 10% or more of our total issued shares, such acquisition constitutes a direct inward investment and the foreign investor is required to make a subsequent report on such acquisition to the Minister of Finance and other Ministers having jurisdiction over the business of the subject company, or to the competent ministers by the 15th day of the month following the month containing the date of acquisition. If a foreign investor (possibly including HDR Holders) fails to make a subsequent report or makes a false subsequent report, the foreign investor may be punished by imprisonment with work for not more than six months or a fine of not more than ¥500,000. Also, in the case of a company, if the representative person of the company such as a director, or an agent, employee, or other worker of the company fails to make a subsequent report or makes a false subsequent report with regard to the business or property of the company, the offender may be punished by imprisonment for not more than six months or by a fine of not more than ¥500,000, and the company may be liable to be punished by a fine of not more than ¥500,000. In certain exceptional cases, a prior filing is required and the competent ministers may recommend the modification or abandonment of the proposed acquisition and, if the foreign investor does not accept the recommendation, order its modification or prohibition. If a foreign investor (possibly including HDR Holders) acquires shares without a prior filing or makes prior filing containing a misstatement, the foreign investor may be punished by imprisonment for not more than three years or by a fine of not more than ¥1 million, or both. Also, in the case of a company, if the representative person of the company such as a director, or an agent, employee, or other worker of the company acquires shares without a prior filing or makes prior filing containing a misstatement with regard to the business or property of the company, the offender shall be punished by imprisonment for not more than three years or by a fine of not more than ¥1 million, or both, and the company is liable to be punished by a fine of not more than ¥1 million.

## 11. TAXATION

The discussion of Japanese taxation set forth below is intended only as a summary and does not purport to be a complete analysis or discussion of all the potential Japanese tax consequences for HDR Holders (evidencing HDSs representing shares of our common stock) who are non-resident individuals or non-Japanese corporations not having a permanent establishment in Japan (collectively referred to as “non-resident HDR Holders” in this section). As tax laws are frequently revised, the tax treatments described in this summary are subject to any future changes in applicable Japanese laws and/or double taxation conventions. This summary is not an exhaustive treatment of all possible tax considerations which may apply to specific investors under particular circumstances.

A non-resident HDR Holder is generally subject to a Japanese withholding tax on cash dividends. Split-up of shares and allotment of shares without consideration, in general, are not subject to Japanese withholding tax since they are characterized merely as an increase in the number of shares (as opposed to an increase in the value of the shares) from a Japanese tax perspective.

In the absence of any applicable treaty or agreement reducing the maximum rate of withholding tax, the standard rate of Japanese withholding tax applicable to dividends paid by Japanese corporations to non-resident HDR Holders (other than those who hold 3% or more of our Shares) is generally 15.315% on or before December 31, 2037 and 15% on or after January 1, 2038. Non-resident HDR holders who hold 3% or more of our Shares are generally subject to a withholding tax in Japan of 20.42% on or before December 31, 2037 and 20% on or after January 1, 2038.

Japan has income tax treaties, conventions or agreements whereby the above-mentioned withholding tax rate is reduced. For Japanese tax purposes, a treaty rate generally supersedes the tax rate under domestic tax law. If the tax rate under domestic tax law is lower than the treaty rate, the domestic tax rate applies.

Under the Hong Kong-Japan Tax Treaty, the Japanese withholding tax rate that applies to dividends payable to a beneficial owner of shares who is a Hong Kong resident will be reduced to 10%, provided that if the beneficial owner is a company that has directly or indirectly owned, for the six-month period ending on the date on which entitlement to the dividend is determined, at least 10% of the outstanding voting shares of the Japanese company that is paying the dividends, the tax rate will be reduced to 5%. As a general rule, a beneficial owner who is entitled to a reduced rate of Japanese withholding tax on payments of dividends is required to submit an Application Form for Income Tax Convention Regarding Relief from Japanese Income Tax on Dividends (together with other required forms and documents) in advance, through the withholding agent to the relevant tax authority before the payment of dividends. A beneficial owner who does not submit an application in advance may be entitled to claim a refund of withholding taxes withheld in excess of the rate under an applicable tax treaty from the relevant Japanese tax authority at its discretion by complying with certain subsequent filing procedures. A standing proxy for the beneficial owner may provide the application. The Hong Kong-Japan Tax Treaty would apply to a non-resident HDR Holder who is a resident of Hong Kong. The application form and information on the procedures to claim a refund of withholding taxes are available in Japanese and English on the website of Japan’s National Tax Agency at <http://www.nta.go.jp/tetsuzuki/shinsei/annai/joyaku/annai/pdf2/250.pdf>.

Gains derived from the sale outside Japan of HDSs of the Company by a non-resident HDR Holder are in general not subject to Japanese income or corporation taxes, except for any HDR Holder who substantially holds (i) 25% or more of the shares issued by the relevant Japanese corporation at any time during the taxable year of the sale or during two preceding years and (ii) transfers of 5% or more of the

outstanding Shares within one taxable year. In addition, the Hong Kong-Japan Tax Treaty also provides that capital gain tax delivered from transfer of shares can be imposed in the jurisdiction where the transferor of such shares is resident except for certain circumstances. As such, HDR Holders who are resident in Hong Kong are generally not subject to Japanese capital gain taxes.

Japanese inheritance taxes at progressive rates may be payable by an individual who has acquired HDSs as a legatee, heir or donee even though neither the individual nor the deceased nor the donor is a resident of Japan because any inheritance of HDRs underlying shares issued by a Japanese company may be regarded as those of shares of such Japanese company that are subject to Japanese inheritance taxes for the purpose of Japanese tax law.

## 12. TAKEOVER REGULATION IN JAPAN

### Compulsory Takeover Bid

A takeover bid (*koukai kaitsuke*) is regulated by the FIEA. If a party intends to purchase shares of companies that are required to submit annual security reports (including listed companies and OTC companies) or that issue specified listed securities, this must be done by tender offer (as described below) in the following cases (with several exceptions):

- (i) If the purchase is made outside the stock exchange market (including the OTC security market) and, after the purchase, the aggregate voting rights held by a purchaser making a takeover bid (the “**takeover bidder**”) and the certain related persons of the takeover bidder divided by the total voting rights of the target company (“**Total Voting Ratio**”) exceeds 5%. An exception applies if the aggregate number of sellers in the contemplated share purchase and the sellers of shares to the takeover bidder outside the stock exchange market (“**Total Sellers**”) equals ten or less in the 60 days before the day the purchase is made.
- (ii) If the purchase is made outside the stock exchange market (including the OTC security market), the number of Total Sellers is ten or less and the Total Voting Ratio exceeds one-third after the purchase.
- (iii) If the Total Voting Ratio exceeds one-third after the purchase, and the purchase is made by the methods of purchase prescribed by the Prime Minister (including purchasing through Tokyo Stock Exchange Trading Network System (ToSTNeT) of the TSE and certain off-floor trading methods).
- (iv) If, within three months:
  - over 5% of the voting shares are purchased outside the stock exchange market (including the OTC security market) or by the methods of purchase prescribed by the Prime Minister mentioned above;
  - a total of over 10% of the voting shares are obtained through the purchase (including purchases described in the preceding bullet point) or the issuance of new shares; and
  - the Total Voting Ratio exceeds one-third after the purchase or the issuance.

- (v) If, during the period in which another party's public offering is made, a party, whose Total Voting Ratio before the purchase exceeds one-third, purchases over 5% of the voting shares.
- (vi) In other specified cases set out in the relevant cabinet order.

### **Procedures for Takeover Bid — Tender Offer**

The takeover bidder commences the takeover bid procedures by first providing public notice of the commencement of the takeover bid (*koukai kaitsuke kaishi koukoku*) and then filing the takeover bid registration statement (*koukai kaitsuke todokedesho*). The takeover bid registration statement sets forth, among other things, the following: (i) the purpose of the acquisition, (ii) a description of negotiations related to the takeover bid, (iii) the floor offer price, (iv) an agreement with the target company and its directors, (v) information about the takeover bidder and the target company and (vi) any other information which would have a material effect on a shareholder's decision.

The takeover bidder solicits tenders from shareholders by delivering the takeover bid explanation statement (*koukai kaitsuke setsumeisho*) to them. On the other hand, the target company publicly announces its position for the takeover bid by filing the position statement report (*iken hyoumei houkokusho*) within ten (10) business days from the public notice for commencement of the takeover bid. When the target company puts questions to the takeover bidder in such position statement, the takeover bidder must file the report for responding to the questions (*tai shitsumon kaitou houkokusho*). The takeover bidder makes a public announcement of the results of the takeover bid on the day following the end of the offering period, files the takeover bid report (*koukai kaitsuke houkokusho*) and notifies the shareholders who tendered their shares for the takeover bid of such results. Finally the takeover bid is completed by exchanging the shares and the consideration on the settlement date.

### **Regulations of Terms of Takeover Bid**

#### **(i) Offer Price**

As a general rule, the terms and conditions of a takeover bid (including the offer price) must be uniform for all shareholders of the target company. Other than this general rule, no price restrictions are imposed under the FIEA. In particular, there is no requirement to offer a premium over the market price (a discounted takeover bid is also possible).

#### **(ii) Offer Period**

An offer period must not be less than 20 business days or more than 60 business days. Within this range, the takeover bidder may extend the initial offering period. The target company may request to extend the offering period if the initial period is less than 30 business days, and if it does so, the offering period will automatically become 30 business days.

#### **(iii) Cap and Floor on the Number of Shares**

The takeover bidder may put a cap and/or a floor on the number of shares to be purchased in a takeover bid. If the number of shares tendered exceeds the cap, a pro-rata purchase from the tendered shareholders is required. However, if the Total Voting Ratio is two-thirds or more, the takeover bidder may not set a cap and must purchase all the shares tendered.

(iv) Withdrawal of Takeover Bid

The takeover bidder is generally prohibited from withdrawing a takeover bid. However, if the takeover bidder stipulates in the public notice for commencement of the takeover bid and the takeover bid registration statement that it may withdraw the takeover bid if any important changes occur to the business or property of the target company or its subsidiary, or any other circumstances occur that would significantly impede the achievement of the purpose of the takeover bid, it may withdraw the takeover bid when such matters actually occur.

(v) Change in Terms of a Takeover Bid

Generally, the takeover bidder may only change the terms and conditions of a takeover bid when such changes are not unfavorable to shareholders of the target company. Decreasing an offer price, increasing a floor on the number of shares, decreasing a cap on the number of shares and shortening an offer period are all deemed to be changes that are unfavorable to shareholders and are therefore generally prohibited. However, for example, if the takeover bidder stipulates in the public notice for commencement of the takeover bid and the takeover bid registration statement that it may reduce the offer price when the target company conducts a share split or issues shares or stock acquisition rights to the existing shareholders for no value, it may reduce the offer price when such matters actually occur. The offering period should have at least 10 business days remaining after any change to the terms and conditions of a takeover bid, otherwise the offering period must be extended.

(vi) Prohibition of Purchase Outside a Takeover Bid

Generally, certain parties, including the takeover bidder, certain related persons of the takeover bidder and the securities company handling procedural matters for the takeover bid may not purchase shares of the target company outside the takeover bid during the offering period. However, for example, they may purchase the shares if the agreement for such purchase has already been disclosed in the public notice for commencement of the takeover bid and the takeover bid registration statement or if such purchase is made by the exercise of stock acquisition rights.

If a person (might include HDR Holders) has failed to submit a takeover bid registration statement, the person shall be punished by imprisonment for not more than five years or by a fine of not more than ¥5 million, or both, and in the case of a company, if the representative person of the company such as a director, or an agent, employee, or other worker of the company has failed to submit a takeover bid registration statement with regard to the business or property of the company, the offender shall be punished by imprisonment for not more than five years or by a fine of not more than ¥5 million, or both, and the company is liable to be punished by a fine of not more than ¥500 million. In addition, the Japanese regulator may impose an administrative penalty up to 25% of the aggregate amount of shares purchased by such offender (or 1.5 times of such amount if such offender has failed to comply with this regulations in the past five years).

Also, if a person (might include HDR Holders) submits a takeover bid registration statement containing a misstatement, the person shall be punished by imprisonment for not more than 10 years or by a fine of not more than ¥10 million, or both, and in the case of a company, if the representative person of the company such as a director, or an agent, employee, or other worker of the company submits a takeover bid registration statement containing a misstatement with regard to the business or property of the company, the offender shall be punished by imprisonment for not more than 10 years or by a fine of not more than ¥10 million, or both, and the company is liable to be punished by a fine of not more than ¥700 million. In addition, the Japanese regulator may impose an administrative penalty on such offender.

The amount of such administrative penalty is up to 25% of the aggregate amount calculated based on a closing price immediately prior to the date of the commencement of the takeover bid multiplied by the number of shares purchased by such offender (or 1.5 times of such amount if such offender has failed to comply with this regulations in the past five years).

## **HDR Holders**

In the event that a takeover bid is made to the Shares, each of the Shareholders (as defined in the Companies Act and the Book Entry Act) of the Company will be entitled to exercise their rights as Shareholders in respect of the takeover bid under the FIEA. Upon receiving notice of the takeover bid, HDR Holders will be entitled to exercise rights in respect of the takeover bid by instructing the Depositary as to whether to take up the offer or not. Accordingly, the Depositary would instruct the Custodian, as the holder of the shares underlying the HDRs, to act in accordance with the instructions of such HDR Holder(s). The Custodian will be a normal Shareholder of the Company holding the underlying shares in JASDEC and will be entitled to the same protections offered under Japanese law as any other Shareholder of the Company.

## **13. LARGE SHAREHOLDING REPORT**

### **Disclosure Obligations**

Persons who acquire title, or a call option, to equity securities including shares, SARs, bonds with SARs and similar securities issued or to be issued by a listed company ("**equity securities**") representing more than 5% of the outstanding voting rights ("**Large Volume Holder**"), are required to submit a large shareholding report ("**Large Shareholding Report**") in the form provided by the Cabinet Office Ordinance concerning Disclosure of Status of Large Volume Holding of Share Certificates (Ordinance of the Ministry of Finance No. 36 of 1990, as amended), to the director-general of the local finance bureau, and a copy thereof to the issuer of such equity securities and stock exchanges on which such shares are listed, within five (5) business days from the date on which such person has come to be a Large Volume Holder, pursuant to Article 27-23 of the FIEA. The Large Shareholding Report submitted by such Large Volume Holder must include, among other things, (a) the identity of the Large Volume Holder and its joint holders (together, "**Disclosing Parties**"); (b) the purpose for acquiring such equity securities; (c) the number and ratio of equity securities held by the Disclosing Parties; (d) details of the transaction regarding equity securities within a 60 day period; (e) material contracts regarding equity securities; and (f) details of the funds used by the Disclosing Parties to acquire such equity securities.

If a material change in any of the matters disclosed in a Large Shareholding Report occurs or holdings of equity securities increase or decrease by 1% or more, the Large Volume Holder must submit an amendment to the Large Shareholding Report within five business days of such change.

If a person has failed to submit a Large Shareholding Report or amendment thereto or submits such report or amendment containing a misstatement of material matters, that person is liable to be punished by imprisonment for not more than five years or issued a fine of not more than ¥5 million Yen, or both, and they will be liable to pay to the national treasury a surcharge equivalent to 1/100,000 of the total market value of the shares.

### **Timing and Method of Disclosure**

As mentioned above, Large Shareholding Reports and amendments thereto must be submitted within five business days of the relevant person or entity becoming a Large Volume Holder, or on the

occurrence of a material change or a change in their holding ratio of 1% or more, respectively. All Large Shareholding Reports and amendments thereto are required to be submitted through the EDINET (it is deemed by operation of law that a copy thereof is submitted to the stock exchange when such report is submitted through EDINET) and must be made available for public inspection for five years by the stock exchanges upon which the company's securities are listed and by the FSA.

Further, with respect to institutional investors such as banks, trust companies and insurance companies, there are exceptional reporting rules under the FIEA. Institutional investors may elect to submit a Large Shareholding Report and amendment thereto in the simplified special form within five business days after the record date (either the 2nd and 4th Monday (and 5th Monday, if any) of each month or the 15th day and the last day of each month) elected by such institutional investors. Such institutional investors must satisfy certain requirements such that the purpose of the institutional investors in obtaining the shareholding must not be to control the business of the company, the aggregate shareholding of the institutional investors and its joint holder must not exceed 10% and other certain requirements under the FIEA and its ordinances, to use this exceptional reporting rule.

#### **14. SALE-PURCHASE REPORT AND SHORT-SWING REGULATION**

Under the FIEA each shareholder of a company having 10 % or more of outstanding voting rights ("**Major Shareholders**") and its directors, statutory auditors and executive officers ("**Officers**") are subject to the following requirements and obligations:

##### **(a) Sale-purchase Report (Article 163)**

If a Major Shareholder or Officer sells or purchases (including derivative transactions with physical settlement or cash settlement) shares of a company, he/she is required to file a Sale-purchase Report setting forth details of such sale or purchase with the FSA by the 15th day of the month immediately following such sale or purchase. If a Major Shareholder (might include HDR Holders) or Officer fails to submit a report or submits a report containing a misstatement, such person shall be punished by imprisonment for not more than six months or by a fine of not more than ¥500,000, or both. Also, in the case of such offender is a company, if the representative person of the company such as a director, or an agent, employee, or other worker of the company has failed to submit a report or submits a report containing a misstatement with regard to the business or property of the company, the offender shall be punished by imprisonment for not more than six months or by a fine of not more than ¥500,000, or both, and the company is liable to be punished by a fine of not more than ¥500,000.

##### **(b) Short-swing Regulation (Article 164)**

If a Major Shareholder or Officer earns profits from either (i) purchase of the shares and sale of the shares conducted within a six-month period, or (ii) sale of the shares and purchase of the shares conducted within a six-month period, the company is entitled to make a claim for the profits from such purchase and sale or sale and purchase, as the case may be, ("**Profits**") against the Major Shareholder or Officer. The "purchase" and "sale" include derivative transactions with physical settlements or cash settlements.

Moreover, if the company does not make a claim for the Profits within 60 days after receipt of demand by a shareholder of the company, the shareholder may make a claim for the Profits against the Major Shareholder or Officer, as the case may be, on behalf of the company.

If the FSA considers that a Major Shareholder or Officer earned the Profits based on the Sale-purchase Report, the FSA will deliver the portion of the Sale-purchase Report, relevant to the Profits (“**Profit-related Document**”), to such Major Shareholder or Officer, and if he/she does not raise any objections on the basis of lack of sale or purchase as described in the Profit-related Document within 20 days, it will deliver the Profit-related Document to the company. The FSA will publicize the Profit-related Document 20 days after the delivery to the company.

**(c) Short-selling Regulation (Article 165)**

Major Shareholders and Officers are prohibited from short-selling of the shares beyond the amount of the shares owned by such Major Shareholder.

**15. NOTIFICATION REQUIREMENT UNDER THE ANTI-MONOPOLY ACT**

When a corporate investor (might include HDR Holders) that fulfils certain criteria, such as domestic turnover prescribed by the Anti-Monopoly Act, acquires shares (might include HDRs) exceeding 20% or 50% of voting rights, the corporate investor is required to file a report to Japan Fair Trade Commission prior to such acquisition.

**16. DISCLOSURE OF MATERIAL TRANSACTIONS WITH RELATED PARTIES IN THE FINANCIAL STATEMENTS**

Under the FIEA and the Consolidated Financial Statements Rule, the notes to financial statements which are disclosed pursuant to the FIEA, must include the details of “material” transactions with related parties (“**Related Party Transactions**”), including any controlling shareholders.

The Related Parties of a Japanese company include:

- (a) the parent companies of the company;
- (b) the unconsolidated subsidiaries of the company;
- (c) corporations, etc. that have the same parent company as the company;
- (d) other related companies (meaning a corporation, etc. which, or the subsidiaries of which, are able to effect material influence on the company’s financial and operating or business decision, through its relationship on capital contribution, personnel affairs, finance, technology or transactions);
- (e) affiliated companies of the company (meaning a corporation, etc. whose financial and operating or business decisions could be materially influenced by the company or a subsidiary of the company through its relationship on capital contribution, personnel affairs, finance, technology or transactions);
- (f) major shareholders of the company (meaning a shareholder who holds voting rights exceeding 10% of the voting rights held by all the shareholders in the name of him/herself or another person) and their close relatives (meaning relatives within the second degree of kinship);
- (g) officers of the company and their close relatives;
- (h) officers of the parent companies of the company and their close relatives;

- (i) officers of the material subsidiaries of the company and their close relatives;
- (j) a corporation in which the majority of voting rights are held by any one of the persons prescribed in (f) through (i) for his/her own account, and the subsidiaries of such corporation; and
- (k) the corporate pension provider for the employees of the company.

The items to be disclosed include:

- (a) in cases where the related parties are corporations, etc., the name, address, amount of capital stocks or contributions, content of business and the holding ratio of the voting rights that the company holds in the corporation, etc., or the holding ratio of the voting rights that the corporation, etc. holds in the company;
- (b) in cases where the related parties are individuals, the name, the occupation and the holding ratio of the voting rights that the related party holds in the company;
- (c) the relationship between the company and the related party;
- (d) the details of the transactions;
- (e) transaction amounts for each category of the transactions;
- (f) conditions of the transactions or policy of the determination thereof;
- (g) the balance, as of the end of a fiscal year, of the debts and credits generated by the relevant transactions for each account classification;
- (h) in cases where there has been an amendment to the conditions of the transactions, a note to that effect, details of the amendment and details of the influences on the consolidated financial statements caused by the amendment;
- (i) in cases where receivables owed by the related parties are classified as (i) receivables owed by a company that is not yet failed but has a substantial problem with payment or has high possibility thereof (*kashidaore kenen saiken*) or (ii) receivables that are a claim in bankruptcy or receivables owed by a company under rehabilitation, etc. (*kousei saiken tou*), the balance of the provision for possible loan loss as of the end of the relevant fiscal year, provision for doubtful accounts, etc. realized during the relevant fiscal year and bad-debt loss, etc. realized during the relevant fiscal year; and
- (j) in case where certain reserves are set relating the transaction between the company and the related party, and it is considered appropriate to be included in the notes to financial statements, items equivalent to the items prescribed in (i) above.

## 17. INSIDER TRADING REGULATIONS

Under the FIEA, any person (i) who is a company-related person, etc. of a company listed on the Japanese stock exchange, etc., ("**Listed Company, etc.**"), (ii) who has become aware of any material facts concerning business operations, etc., in connection with such Listed Company, etc. and (iii) who, prior to the time when the material facts concerning business operations, etc. have been publicly

disclosed, trades, etc. in the specified securities, etc. of such Listed Company, etc. is subject to criminal penalty for insider trading.

The terms “company-related person”, “material facts concerning business operations, etc.”, “publicly disclosure”, “trades, etc.” and “specified securities, etc.” above are defined under the FIEA, and the brief summary of them is as follows:

**(a) Company-related Person, etc. (Persons Subject to the Insider Trading Regulations)**

The term “company-related person” includes, among other things, (i) the officer, agent, employee, part-time worker, temporary worker, etc. of the of the Listed Company, etc. (including its parent company or subsidiary; hereinafter the same in this paragraph (a)), (ii) any shareholder of the Listed Company, etc. who has the right to request inspection of account books or a member of the Listed Company, etc.’s parent company who has the right, by obtaining permission from the court, to request inspection of account books under the Companies Act, (iii) any person having authority pursuant to any applicable law or regulation (such as public officers, etc., having authority pursuant to any applicable law or regulation, the right of permission, approval, etc. and the right of entry and inspection); (iv) any person who has concluded a contract or is involved in contractual negotiations with the Listed Companies, etc. and (v) officer, etc., of a corporation who has the right to request inspection of account books (as mentioned in item (ii) above), or a corporation of who has concluded a contract or is involved in contractual negotiations (as mentioned in item (iv) above).

In addition to the “company-related person”, any person for whom one year has not lapsed since the day on which he/she ceased to be a “company-related person” (**“former company-related person”**) is subject to the insider trading regulations. Moreover, (i) any person who has been informed of any material facts concerning business operations, etc. by the “company-related person” or “former company-related person” (**“recipient”**) and (ii) an officer, etc. of a juridical person to which a recipient of information in the course of business belongs, who obtained knowledge of material facts concerning business operations, etc. during the performance of duties regarding such recipient are also subject to the insider trading regulations.

**(b) Material Facts concerning Business Operations, etc.**

“Material facts concerning business operations, etc.” can be classified as follows:

**(i) A fact that has been determined by a company (“fact decided”)**

A “fact decided” includes the decision regarding an issuance of shares, subscription warrants, stock split, dividend from surplus, etc. and all of “facts decided” are similar to and, as a general rule, covered by the matters to be disclosed as “Decisions taken by a listed company (including where decisions is taken for not carrying out the matters relating to such decision)” and “Decisions taken by subsidiaries, etc. of a listed company (including where decisions is taken for not carrying out the matters relating to such decision)” under the TSE Listing Regulations.

**(ii) A fact that has occurred, irrespective of the intention of the company (“fact occurrence”)**

A “fact occurrence” includes a change in major shareholders, dishonor of a bill or a check or suspension of trade with a main business partner, etc., and all “facts occurrences” are similar to and, as a general rule, covered by the matters to be disclosed as “Facts arising

relative to a listed company” and “Facts arising relative to subsidiaries, etc. of a listed company” under the TSE Listing Regulations.

**(iii) A fact in connection with information regarding account settlement of a company (“Information regarding account settlement”)**

“Information regarding account settlement” is regarding sales, ordinary income, net income or dividend, etc., and , as a general rule, all of “Information regarding account settlement” is covered by the matters to be disclosed as “Information concerning the settlement of accounts of a listed company” under the TSE Listing Regulations.

**(iv) Other material fact (“sweep-up provision”)**

Other material fact is a sweep-up provision that includes any material fact pertaining to the operations, business or assets of the company, which would have a significant effect on the investment decisions of investors.

Please see the section headed “Part A. Summary of Japanese Legal and Regulatory Matters — 3. Summary of Disclosure Requirements” in the Listing Document for a summary of matters to be disclosed by a listed company under the TSE Listing Regulations.

**(c) Public Disclosure**

If a director who represents a Listed Company, etc. or a person who is authorized by that director publicly discloses a material fact concerning business operations, etc. to two or more news media, and if 12 hours have elapsed since such public disclosure, this conduct is considered “public disclosure.”

In addition, (i) if a securities report, etc. containing a statement regarding a material fact concerning business operations, etc. is made available for public inspection, or (ii) if a Listed Company, etc. reports a material fact concerning business operations, etc. in accordance with the regulations of the relevant stock exchange and such material fact is made available for public inspection on the homepage operated by such exchange, this conduct is also considered “public disclosure.”

**(d) Trades, etc.**

“Trades, etc.” include (i) the purchase, sale or other transfer or acquisition for value and (ii) securities index futures, security option trading, securities futures on a foreign financial instruments market or over-the-counter securities derivatives transactions.

**(e) Specified Securities, etc.**

Specified securities, etc. consist of “specified securities” and “related securities.” “Specified securities” include, among other things, (i) shares, corporate bonds, preferred securities, share warrants and share subscription rights, etc., and (ii) certificates, instruments or depositary receipts issued by a foreign juridical person, which have the nature of the above category (i), and which are listed on a Japanese stock exchange, etc. “Related securities” include certificates or instruments representing an option with respect to specified securities and the following securities: (i) investment trust beneficiary securities or investment securities, of which the trust assets are limited to specified

securities of the relevant Listed Company, etc.; and (ii) other bonds redeemable with another company's shares (including those issued by a foreign juridical person), etc.

In addition to the above, any person who is a person related to takeover bidders, etc. of the Listed Company, etc., prior to the disclosure concerning the performance of a takeover bids, etc., purchases (or, in the situation where a publicly disclosed takeover bid is to be discontinued and the discontinuation is yet to be publicly disclosed, sells) the shares, etc. of such Listed Company shall be punished by imprisonment for not more than five years or by a fine of not more than ¥5 million, or both. Also, if a representative person of a company such as a director, or an agent, employee, or other worker of a company violated the insider trading regulations with regard to the business or property of the company, the company is liable to be punished by a fine of not more than ¥500 million. In addition, any profits which are derived from insider trading are forfeited.

## **18. OBLIGATIONS OF HDR HOLDERS UNDER JAPANESE LAWS AND REGULATIONS**

HDR Holders will be subject to the following obligations under Japanese laws and regulations:

- Filing of large shareholding report under the FIEA (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 13. Large Shareholding Report” in the Listing Document).
- Filing of sale-purchase report and short-swing regulation for major shareholders under the FIEA (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 14. Sale-Purchase Report and Short-Swing Regulation” in the Listing Document).
- Certain reporting requirements under the Foreign Exchange and Foreign Trade Act of Japan (Act No. 228 of 1949, as amended) (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 10. Exchange Control” in the Listing Document).
- Notification requirement prior to the acquisition of shares under the Act Relating to Prohibition of Private Monopoly and Methods of Preserving Fair Trade of Japan (Act No.54 of 1947, as amended) (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 15. Notification Requirement under the Anti-Monopoly Act” in the Listing Document).
- Takeover regulations (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 12. Takeover Regulation in Japan” in the Listing Document).
- Certain trading regulations, including insider trading regulations (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 17. Insider Trading Regulations” in the Listing Document) under the FIEA.
- Taxation (see “Appendix IV — Summary of Legal and Regulatory Matters — Part A. Summary of Japanese Legal and Regulatory Matters — 11. Taxation” in the Listing Document).

We are of the view that it would be reasonable to consider that the relevant obligations of HDR Holders under Japanese law are addressed in the above description. However, the legal and regulatory implications depend on various factors in each case, and hence it is recommended that investors seek independent advice on possible obligations under Japanese law and regulations.

## 19. SHARE ACQUISITION RIGHTS

### (a) Legal framework for issuance of Share Acquisition Rights in Japan

Unlike in other jurisdictions, Japanese companies conventionally do not have underlying share option plans established for the purposes of setting out the basic terms of share options (such as the maximum number of the SARs that the directors or the administrators of the scheme are authorized to issue and the scope of the persons to whom the SARs may be issued) that will apply to all issues made under that plan. Instead, a company that issues SARs resolves the exact terms of the SARs by a resolution of the board of directors or a shareholders' meeting each time it intends to issue SARs in accordance with the Companies Act.

The terms of SARs to be determined by a shareholder resolution or a board resolution (the **"Terms of SARs"**) include the matters such as: (i) the number of the SARs to be issued and the contents of the SARs (e.g., the number of shares to be granted upon the exercise of the SARs or the method for calculating such number, the exercise price of the SARs or the method for calculating such price, the exercise period and any restriction on the transfer of the SARs); (ii) the amount to be paid for subscribing for the SARs or the method for calculating such amount; (iii) the date on which the SARs are to be allotted; and (iv) the date of payment for the subscription (if any). Depending on the situation of the issuance of SARs, the Companies Act determines whether such resolution is to be made at a board meeting or at a shareholders' meeting. For example, in a company that does not place a restriction on transfer of all classes of its shares (such as the Company), in principle the resolution of the Terms of SARs is made by the board.

However, under the Companies Act, the remuneration of directors and statutory auditors must be resolved at a shareholders' meeting unless otherwise provided for in the articles of incorporation. Therefore, if SARs are being issued to the Directors or Statutory Auditors of the Company as part of their remuneration, a Shareholders' resolution is required in addition to the Board or Shareholders' resolution that determines the Terms of SARs, unless the Articles of Incorporation provide otherwise.

The concept of SARs, which entitle the holders to acquire shares in a company by exercising such rights against the company, was introduced to the Companies Act (at that time, named the Commercial Code) in 2001. Prior to the introduction of share acquisition rights, a company granted Warrants, which entitle the holders to require the company to issue new shares to them, to directors and/or employees of the company as a form of remuneration. The concept of Warrants was abolished in 2006 and therefore, a company is no longer able to issue Warrants under Japanese law. Our Company has no outstanding Warrants.

### (b) Disclosure of issuance of Share Acquisition Rights by the Company to its directors and employees as remuneration (stock option)

When a company listed on the TSE determines the issuance of SARs to its directors and employees as remuneration (stock option), it is required to make an announcement which includes, among others, the following items in accordance with the TSE Listing Regulations: (i) the reason for issuance of SARs; (ii) category of grantees (e.g. employees); (iii) the number of grantees and SARs to be allotted; (iv) the class of shares to be issued upon exercise of the SARs; (v) the number of shares to be issued upon exercise of the SARs; (vi) total number of SARs; (vii) exercise price or the method used to calculate it; (viii) exercise period; (ix) conditions of exercise; (x) the amount of increase of stated capital and reserves upon the exercise of the SARs; (xi) treatment of SARs in connection with reorganization such as merger; (xii) the date of allotment of SARs; and (xiii) treatment of SARs in the case of issuance of certificates.

In addition, when a listed company determines the issuance of SARs to its directors and employees as remuneration (stock option), it is required to file an extraordinary report with DGLFB without delay which includes, among others, the following items in accordance with the FIEA: (i) name of SARs; (ii) the number of SARs; (iii) issue price; (iv) total issue price; (v) the class and the number of shares to be issued upon exercise of the SARs; (vi) exercise price; (vii) exercise period; (viii) conditions of exercise; (ix) the amount of increase of stated capital and reserves upon the exercise of the SARs; (x) matters regarding transfer restriction; (xi) the number of grantees and breakdown; (xii) the relationship between the company and its wholly-owned company when the SARs are granted to officers or employees of such a wholly-owned company; and (xiii) any arrangement between the company and the grantees.

Under the Companies Act, companies are required to prepare and disclose a business report annually. The following matters with respect to SARs which are issued to its directors and employees as remuneration (stock option) are required to be disclosed in the business report: (i) the date of the resolution of the meeting of board of directors; (ii) category of grantees (such as directors, outside directors, statutory auditors and employees) and the number of grantees in each category; (iii) issue price; (iv) exercise price; (v) exercise period; (vi) conditions of exercise; (vii) the number of outstanding SARs; and (viii) the class and the number of shares subject to the outstanding SARs.

Further, a listed company is required to prepare and disclose an SRS annually and a quarterly report in accordance with the FIEA. The following matters with respect to SARs which are issued to its director and employees as remuneration (stock option) are required to be disclosed in such report: (i) the date of the resolution of the meeting of board of directors; (ii) category of grantees and the number of the grantees in each category; (iii) the class of shares to be issued upon exercise of the SARs; (iv) the number of shares to be issued upon exercise of the SARs; (v) exercise price; (vi) exercise period; (vii) conditions of exercise; (viii) matters regarding transfer of the SARs; matters regarding payment in kind of exercise price; and (ix) matters regarding delivery of SARs in connection with reorganization such as a merger.

### **(c) Issuance of the SARs by the Company and its subsidiaries**

Set out below is a summary of the terms of the SARs which have been issued pursuant to resolutions of the board of directors or a shareholders' meeting of the Company or its consolidated subsidiaries pursuant to the Companies Act.

#### **(i) Purpose**

Under the Companies Act, there is no requirement for a company to resolve the purpose for issuing SARs. The TSE require, however, a listed company to publish the purpose of issuing SARs (including issuance of SARs as stock options to its or its subsidiaries' officers and/or employees) immediately after a resolution for the issuance of SARs to its or its subsidiaries' officers and/or employees has been passed. As the Company is listed at the TSE, the Company has published the purpose for issuing SARs each time it has issued SARs.

The SARs have mainly been issued for the purpose of providing an incentive to our Group's officers, such as directors, employees and other related persons, by permitting them to participate in the equity ownership of our Group through the issuance of the SARs.

**(ii) Eligibility**

Under the Companies Act, there are no restrictions on the eligibility of grantees of SARs. The eligibility of the grantees of the SARs has been determined each time the Company or the consolidated subsidiaries has issued SARs. The SARs have been generally issued to officers and employees of the Company, subsidiaries and affiliated companies.

**(iii) Number of shares authorized to be issued upon exercise of the SARs**

Under the Companies Act, the number of shares issued upon exercise of the SARs is to be determined by a resolution of the board of directors or a shareholders' meeting each time when a company issues SARs. However, the number of shares that the holders of SARs acquire upon the exercise of their SARs (except for those with respect to which the exercise period has not yet begun) may not exceed the total number of authorized shares subtracted by the total number of shares outstanding (excluding Treasury Stock).

The aggregate number of the Shares to be granted upon the exercise of the SARs of the Company is 231,700 Shares (based on filings made on or before the Latest Practicable Date).

**(iv) Maximum entitlement of each participant**

Under the Companies Act, a company decides, by a resolution of the board of directors or shareholders' meeting, how many and to whom it issues SARs each time it issues them. In principle, possible grantees do not have any entitlement to subscribe for them.

The numbers of the SARs were determined by way of a resolution at a board meeting or a shareholders' meeting each time the Company or its consolidated subsidiaries issued the SARs (the "**SAR Resolution**"), and all of the SARs have already been granted pursuant to the SAR Resolutions.

**(v) Exercise period**

Under the Companies Act, there are no restrictions on the exercise period of SARs. The exercise period is to be determined by a SAR Resolution. The exercise periods of the SARs are generally within ten years after the date of the resolution for the grant of the SARs.

**(vi) Minimum period prior to vesting of the SARs**

Under the Companies Act, the date for vesting SARs is to be determined by a SAR Resolution. The SARs were all vested on the respective vesting dates.

**(vii) Performance targets for exercise of the SARs**

Under the Companies Act, there are no restrictions relating to performance targets for the exercise of SARs. Under the SAR Resolutions, there is generally no performance target for exercise of the options.

**(viii) Amount payable on subscription for the SARs**

Under the Companies Act, the amount payable on subscription for SARs is to be determined by a SAR Resolution. However, a resolution by a two-thirds majority of a

shareholders' meeting is required if: (i) SARs are to be issued without monetary consideration and such issuance is "especially favorable" to the grantees of the SARs; or (ii) the amount payable for the SARs is "especially favorable" to the grantees (either (i) or (ii) being a Favorable Issuance). The directors of the issuing company must explain the reasons for the Favorable Issuance at the shareholders meeting.

Under the SAR Resolutions there is no requirement for a subscriber to pay consideration for subscription.

**(ix) *Basis of determination of exercise price***

Under the Companies Act, there are no restrictions on the exercise price. The exercise prices of the SARs or the methods for calculating such prices were determined by a SAR Resolution.

**(x) *Votes, dividends, transfer and other rights attaching to the underlying shares***

Under the Companies Act, there are no restrictions on the rights attaching to the underlying shares. The shares to be granted to the holders of the SARs upon exercise are ordinary shares of the issuing company and, therefore, the rights granted to the ordinary shares, such as voting rights, are attached to such shares.

**(xi) *Circumstances under which the SARs will automatically lapse***

Under the Companies Act, SARs will automatically lapse if: (i) the grantees have not paid the amount owed for the subscription by the due date; (ii) the grantee becomes unable to exercise their SARs; (iii) a company that issued SARs ceases to exist due to a merger; (iv) a company that issued SARs is absorbed into another company due to a corporate split and such absorbing company grants SARs to the grantee in exchange for the SARs of the company that issued the SARs prior to the corporate split; or (v) a company that issued SARs becomes a wholly-owned subsidiary of another company due to share exchange or share transfer and such other company grants SARs to the grantee in exchange for the SARs of the company.

Under the SAR Resolutions, the conditions under which the grantees become unable to exercise the SARs (and therefore the SARs automatically lapse), if any, have been determined by a board resolution or a shareholders' resolution, or by an individual agreement between each grantee and the issuing company when the SARs were issued. Such conditions may include where: (a) the grantee is sentenced to imprisonment; (b) the grantee waives the SARs in writing; (c) the SARs were granted to officers or employees of the Company or its subsidiaries and the grantee loses his/her title as an officer or employee without justifiable reason such as expiry of the term or mandatory retirement; (d) the grantee carries out fraudulent acts or breaches vocational obligations; and (e) the grantee files for bankruptcy, civil rehabilitation, special conciliation procedures or such procedures are filed against the grantee, or seizure, provisional seizure, provisional disposition or coercive collection is ordered against the grantee.

**(xii) *Adjustment of exercise price or number of shares subject to the SARs***

Under the Companies Act, there are no restrictions on how to adjust the exercise price or number of shares subject to SARs. Under the SARs, the adjustment of the exercise price and

the number of shares subject to SARs have been determined by a SAR Resolution and they are generally to be conducted using certain formulae.

**(xiii) Cancellation of unexercised SARs**

Under the Companies Act, if a company that has issued SARs intends to cancel SARs, such company has to acquire the SARs from the holders of SARs before canceling the SARs. In such case, the issuing company may not issue new SARs to the holders of SARs to be cancelled unless a new board resolution or shareholders' resolution for issuance of new SARs is made.

**(xiv) Transferability of the SARs**

Under the Companies Act, there are no restrictions on the transferability of SARs. The transferability of SARs is to be decided by a SAR Resolution. Under the SARs, transfer is prohibited or requires a board resolution.

**20. THIRD PARTY ALLOTMENT**

**(a) No equivalent concept of pre-emptive rights under Japanese law**

There is no concept of pre-emptive rights (as defined in the Listing Rules) under Japanese law. A Japanese company may issue Shares or SARs or dispose its Treasury Stock by public offering without approval of its shareholders. In addition, Articles 199 and 201(1) of the Companies Act allow a Japanese company to make a Third Party Allotment, subject to applicable pre-filing and disclosure obligations of any Third Party Allotment and the terms of the allotment being not especially favorable to the proposed allottees.

It is uncommon for a Japanese company to give shareholders rights to subscribe Shares or SARs. As such, shareholders' interests of a Japanese company are not protected in the same way under Japanese law as under Rule 13.36 of the Listing Rules. See "Appendix V — Waivers — B. Additional Waivers Obtained — Pre-emptive Rights (Including General Mandate Requirements)" in the Listing Document for details. However, the Companies Act, the FIEA and the TSE Listing Regulations together provide significant protection to shareholders of companies listed on the TSE with regard to a Third Party Allotment.

**(b) Shareholders' protection under the TSE Listing Regulations**

The TSE Listing Regulations impose certain requirements on Third Party Allotments. For example, Article 432 of the TSE Listing Regulations provides that if the shares being allotted represent more than 25% of the total issued shares prior to such allotment, or where there is a possibility that the controlling shareholder may change as a result of such allotment, the issuer must (and unless the issuer's financial situation is rapidly deteriorating and the relevant stock exchange deems it too difficult for the issuer to comply) either: (i) obtain the opinion of a person independent from the management regarding the necessity and suitability of such allotment; or (ii) seek the shareholders' approval in advance of the proposed allotment.

Further, according to Article 601(1)(xvii) of the TSE Listing Regulations and Article 601(13)(vi) of the Enforcement Rules of the TSE Listing Regulations, if our allotted Shares represent more than 300% of our total issued share capital prior to the Third Party Allotment, we will be delisted unless the TSE deems that the risk of the Third Party Allotment harming the interests of our Shareholders and the investors is low.

Where a listed company's controlling shareholder (as defined in the TSE Listing Regulations) wishes to participate in a Third Party Allotment, Article 441-2 of the TSE Listing Regulations requires the listed corporation to obtain an opinion from a third party independent from the controlling shareholder confirming that any decision by the listed corporation on the allotment will not be detrimental to the interests of minority shareholders of the corporation.

**(c) Shareholders' protection under the Companies Act**

Article 201(3) to (5) of the Companies Act requires the issuer to either notify the shareholders individually or make a public notification of the terms of the proposed Third Party Allotment at least two weeks before the intended allotment day, unless such terms have already been previously disclosed in accordance with the FIEA.

Under the Companies Act, a public company generally may issue any number of new shares to any parties within the number of the authorized shares as specified in the company's articles of incorporation or any number of new SARs subject to the restrictions mentioned below by a resolution of its board of directors. However, the Companies Act imposes certain restrictions on the issuance of shares by a public company to protect the existing shareholders from unfair dilution of their shareholdings. For example, under Articles 199(2) and 201(1), and 238(2) and 240(1) of the Companies Act, if a company issues: (i) the new shares at an especially favorable subscription price; or (ii) SARs at an "especially favorable" subscription price or with "especially favorable" conditions, the company would need to obtain the approval of its shareholders by way of a special resolution (Article 309(2)(v) and (vi) of the Companies Act). In the event that the company fails to obtain such shareholders' approval by way of a special resolution, shareholders of such company may petition a Japanese court for an injunction against the issuance of shares or SARs, subject to certain other requirements stipulated under the Companies Act.

**(d) Shareholders' protection under the FIEA**

We must file a SRS (which includes several matters regarding the Third Party Allotment described below and is disclosed to the public) in accordance with Articles 4(1) and 5(1) of the FIEA and must prepare a prospectus which includes certain information included in the SRS according to Article 13 of the FIEA in connection with Third Party Allotments. This SRS must be delivered to the investors (with certain exceptions such as qualified institutional investors) by the time the investors obtain the allotted shares.

The SRS is made publicly available through EDINET. The SRS must include the following information: (i) information on each allottee (e.g. name, address, stated capital, major equity holders and its holding ratio, the relationship between the issuer and the allottee, the reasons for the selection of the allottee, the number of shares to be allotted, policy for holding the shares, and details of the allottee to show whether the allottee has enough assets to acquire the allotted shares); (ii) share transfer restrictions attached to the allotted shares (if any); (iii) conditions of allotment of shares (e.g. details of the basis upon which the price of the shares to be allotted was calculated, whether the allotment was at a "favorable price" and the basis for our decision in such determination, and details of an opinion given by a statutory auditor or an independent third party); (iv) details of substantial shareholders after such Third Party Allotment; (v) details of any "large volume third party allotment" (i.e., whether or not the issuance of shares is a large volume third party allotment and why we are conducting this large volume third party allotment); (vi) the necessity of such large volume third party allotment (if applicable); and (vii) whether or not we have a plan for reverse stock split and its details (if applicable).

## **21. GENERAL**

Skadden Arps Law Office, the Company's legal counsel on Japanese law, has sent to the Company a letter of advice summarizing certain aspects of the Companies Act. This letter is available for inspection as referred to in "Appendix VIII — Documents available for inspection" in the Listing Document. Any person wishing to have a detailed summary of the Companies Act or advice on the differences between it and the laws of any jurisdiction which such person believes may be applicable to such person is recommended to seek independent legal advice.

### **PART B. MATERIAL DIFFERENCES BETWEEN THE HONG KONG AND JAPANESE REGIMES IN RESPECT OF SHAREHOLDER PROTECTION MATTERS**

#### **SHAREHOLDER PROTECTIONS IN JAPAN**

There are a number of protections available to our Shareholders, the key protections of which are outlined below.

##### **Supervision and Regulation in Japan**

As a listed company in Japan, we have adopted a stringent internal control system pursuant to the requirements of J-SOX, a legal framework for internal control provided in the FIEA for listed companies in Japan. J-SOX specifies additional requirements for financial reporting for listed companies in Japan. It also requires us to disclose management's report on internal control over financial reporting in its annual securities report. The independent auditors of the Company, audit and issue independent auditor's report on management's report, including any material weaknesses identified through the evaluation process by the independent auditors. Our Directors, Statutory Auditors and external auditors may be subject to criminal charges on non-compliance with J-SOX and may be held liable to compensate Shareholders for damages caused by false statements.

##### **Company's Corporate Governance and Shareholder Protection Policies**

We have established our corporate governance structure in accordance with the requirements of Japanese law. We have a total of nine Directors, of whom five are independent non-executive Directors. We have also established a Board of Statutory Auditors, which has functions and responsibilities equivalent to those of the audit committee under the Listing Rules. In addition to their audit function, the Statutory Auditors, all of whom are independent from our Company, have a wide range of supervisory role to ensure that the Directors comply with applicable laws and make prudent business decisions. They are entitled to conduct investigations into our business and demand the cessation of certain actions by Directors that are outside the scope of their powers, or in violation of the law. Our Statutory Auditors also have the responsibility for overseeing the risk management, internal control and compliance committees of our Company. Thus, they provide a useful check and balance to the powers of the Directors and provide certain protections to our Shareholders. See the section headed "Directors and Senior Management" in the Listing Document.

##### **TSE Listing Regulations and the FIEA**

We are subject to the TSE disclosure requirements, which are very similar in substance to the requirements under the Listing Rules. We are required to report financial results quarterly and annually, disclose price-sensitive information on a timely basis within the next business hour of the occurrence of the relevant event or, where the event occurs outside business hours, on the first business hour of the next business day, and disclose detailed extraordinary reports in respect of material transactions, such as

Statutory Transactions, and acquisitions or disposals valued at greater than certain applicable thresholds. The TSE Listing Regulations provide a detailed and exhaustive list of announceable events, which include those that are price-sensitive as well as a “sweep-up” provision that requires the disclosure of material events affecting our Company, which is similar in principle to the general duty of disclosure contained in the Listing Rules.

## **Protections under the Companies Act and the FIEA**

Japanese law provides certain additional rights to shareholders. Under the Companies Act, there are a number of retrospective actions that a Japanese company’s shareholders are entitled to bring against the company in the event that their rights have been marginalized or an abuse has been committed against the company. When a grossly improper resolution is made, including where such resolution is made as a result of a person having a special interest in the subject matter of the resolution, that resolution may be revoked by a court of justice of Japan within three months from the date of the relevant resolution by the petition of any shareholder in accordance with the Companies Act. Further, in the event that a Director or a Statutory Auditor breaches any of their duties to our Company, he/she would face civil liability for any penalties imposed on, or loss or damages incurred by, our Company as a result of such breach. In accordance with the Companies Act, Directors and Statutory Auditors are required to perform their duties in a loyal manner in compliance with all applicable laws and regulations, our Articles, and all resolutions of Shareholders’ meetings. Shareholders may bring derivative action against our Directors and Statutory Auditors for any breach of such duties. Further, Directors are re-elected on an annual basis by our Shareholders. As such, Shareholders have opportunities to challenge the tenure of any Director who has been acting in a way that is detrimental to the minority Shareholders/our Shareholders, which is an incentive to the Directors to act fairly and responsibly towards the minority Shareholders/our Shareholders.

## **SHAREHOLDER PROTECTIONS UNDER THE JOINT POLICY STATEMENT**

### **Amendment to constitutional documents**

Pursuant to Hong Kong law, any change to the constitutional documents of a company requires the approval of shareholders with a three-quarter majority vote in a general meeting. Under Japanese law, in order to amend the articles of incorporation, the resolution of the shareholders’ meeting shall be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders’ protection under Japanese law is similar to or comparable with that under Hong Kong law.

### **Variation of rights**

Pursuant to Hong Kong law, rights attached to any class of shares of a company may only be varied with the approval of shareholders with a three-quarter majority vote in a general meeting. Under Japanese law, in order to vary the rights attached to any class of shares, the resolution of the general shareholders’ meeting shall be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. Moreover, if a proposed amendment would be detrimental to shareholders of such class of shares, the resolution of the class shareholders’ meeting must be approved by at least two-thirds of the voting rights of the class shareholders present at a meeting where the class shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders’ protection under Japanese law is not materially different to that under Hong Kong law.

## **Liability to the company**

Pursuant to Hong Kong law, notwithstanding anything in the memorandum or articles of a company, any alteration in the constitutional document to increase an existing shareholder's liability to the company is not binding unless agreed by the shareholder in writing, either before or after the alteration is made. Under Japanese law, existing shareholders are not subject to any liability to the Company except to the extent of the amount payable in respect of the shares such existing shareholders subscribed or purchased when they acquired such shares. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **Winding up**

Pursuant to Hong Kong law, the voluntary winding up of a company must be approved by shareholders with a three-quarter majority vote in a general shareholders' meeting. Under Japanese law, in order to voluntarily wind up a company, the resolution of the shareholders' meeting must be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **Auditors**

Pursuant to Hong Kong law, the appointment, removal and remuneration of auditors must be approved by shareholders with a majority vote in a general shareholders' meeting. Under Japanese law, in order to appoint and approve the remuneration of the statutory auditors of a company, the resolution of the shareholders' meeting must be approved by a majority vote. Under Japanese law, the removal of the statutory auditors of a company requires a resolution of the shareholders' meeting to be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

## **Register of members**

Pursuant to Hong Kong law, a company must ensure that its branch register of members in Hong Kong is open to inspection by shareholders. Japanese law provides that a company must prepare and maintain a shareholders' register at its head office (or at the office of the administrator of the shareholders' register if the company has such an administrator) and make the shareholders' register available for reasonable inspection or copying during normal business hours. However, under Japan's Personal Information Protection Law, Japanese companies may not disclose the shareholders register to a non-shareholder of the relevant company. In the case of our Company, the Depositary will maintain in Hong Kong, and make available for inspection, a register of HDR Holders.

## **Compulsory Acquisition**

Pursuant to Hong Kong law, the minority shareholders of a company may be bought out or may require an offeror to buy out their interests if the offeror acquires nine-tenths in value of the shares for which the offer is made (or if the offer relates to shares of different classes, nine-tenths in value of the shares of that class). Japanese law provides that upon an offeror acquiring two-thirds of the voting rights of a company's shares, the offeror may compulsorily acquire the shares held by the remaining shareholders.

While there is no restriction in relation to the compulsory acquisition price, if the compulsory acquisition price is too low, the shareholders may, within three months from the day of the passing of the resolution of the shareholders' meetings regarding the compulsory acquisition, claim revocation of the resolution as a grossly improper resolution under the Companies Act. The FIEA also requires the offeror to make an offer to purchase all classes of shares with voting rights of the offeree company if such offeror owns, together with its related persons, two-thirds or more of the voting rights in the offeree company after the successful takeover. Where a shareholder has objected and voted against a compulsory acquisition resolution at a shareholders' meeting, or a shareholder does not have a voting right at the shareholders' meeting, such shareholder may request the company to repurchase his shares at a fair price under the Companies Act, and if the company and shareholder are not able to reach an agreement on the fair price within 30 days from the effective date of such compulsory acquisition resolution, such shareholder may petition a Japanese court to determine the fair price within 30 days from the expiry date of the 30-day discussion with the company.

Accordingly, the standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **Meetings**

Pursuant to Hong Kong law, a company is required to hold a general meeting each year as its annual general meeting. Not more than 15 months shall elapse between the date of one annual general meeting of a company and the next. Japanese law provides that a Japanese company must hold an annual general meeting within three months from the end of its financial year. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

## **Right to convene meetings**

Pursuant to Hong Kong law, shareholders holding not less than 5% of the paid-up capital of a company may require the company to convene an extraordinary general meeting and may request the company to circulate a resolution proposed by the requisitionists to members entitled to receive notice of that meeting. Japanese law provides that only shareholders that have held for the last six consecutive months not less than 3% of the votes in a company may request for a shareholders' meeting and if a shareholders' meeting is not held within eight weeks from the date such request was made, such shareholder may petition the court for a shareholders' meeting. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **Notice of meetings**

Pursuant to Hong Kong law, a company must ensure that any annual general meeting or any extraordinary general meeting at which a resolution that requires the approval of shareholders by three-quarter majority vote will be proposed shall be convened on at least 21 days' written notice, and that any other general meeting shall be convened on at least 14 days' written notice. Japanese law provides that companies must dispatch notice of a shareholders' meetings at least two weeks prior to the day of such meeting. The same notice period applies for special and ordinary resolutions. A shareholder is permitted to propose an amendment to any agenda item scheduled to be discussed and determined at a shareholders' meeting up to and including at the meeting itself, which can include the nomination of a director. This restricts the ability of shareholders to consider how they intend to vote without reasonable advance notice, however this remains a theoretical rather than an actual risk, owing to the scarcity of instances in which it has occurred.

## Voting

Pursuant to Hong Kong law, an overseas company must adopt general provisions as to meetings and voting on terms that are comparable to those required of a Hong Kong incorporated public company. Japanese companies have similar procedures for the distributions of notices and voting. Notice of shareholders' meetings will be published on our website as well as the website of the Hong Kong Stock Exchange. To address the differences between the requirements under the Companies Act and the Listing Rules, we will adopt the following voluntary abstention process with regard to voting at Shareholders' meetings:

- any transaction agreement that is subject to Shareholders' approval under the provisions of the Listing Rules and in which a Shareholder has a material interest will contain a condition precedent that we have to obtain a confirmation from our compliance advisor or another independent financial or legal advisor (the "**Expert**") that the resolution would have been successfully passed if the votes cast had excluded the abstaining Shareholders' votes;
- we will convene a Shareholder's meeting to seek Shareholder's approval pursuant to the condition precedent in such transaction agreement;
- we will appoint the Expert to review the vote counted by the share registrar and confirm that the resolution would have been successfully passed if the votes cast had excluded the abstaining Shareholders' votes under Rule 2.15 of the Listing Rules; and
- we will implement such transaction only if the condition precedent is satisfied (i.e. the Expert has provided the relevant confirmation).

We are of the view that the above voluntary measures should be permissible under the applicable Japanese laws and regulations that are currently in force as of the date of the Listing Document on the basis that (i) while there are no definitive provisions in the Companies Act, it is generally accepted that reasonable closing conditions, such as approval by regulatory authorities, may be included in a contract for a transaction that requires shareholder approval under the Companies Act; (ii) obtaining the Expert's confirmation pursuant to the voluntary abstention process would likely be regarded as a reasonable closing condition because the Company, as a listed company on the Hong Kong Stock Exchange, is required to comply with Rule 2.15 of the Listing Rules; and (iii) the closing condition would be disclosed to all Shareholders prior to the relevant Shareholders' meeting, and therefore, the Shareholders who vote on the transaction should be aware of, and vote on the basis of, the transaction as a package including that conditions.

## Proxies

Pursuant to Hong Kong law, proxies or corporate representatives may be appointed to attend general meetings and such proxies or corporate representatives should enjoy statutory rights, including the right to speak at such meetings. In addition, Hong Kong companies must insert a prominent statement of each shareholder's right to appoint proxies in the notice of general meeting. The Companies Act allows shareholders to appoint multiple proxies or corporate representatives subject to the company's articles of incorporation. It is common for Japanese companies to restrict the identity of proxies for orderly conduct of their shareholders' meetings. Our Articles provide that a Shareholder can only appoint another Shareholder to act as proxy, whereas Hong Kong law has no such restriction. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **Voting by poll**

Pursuant to Hong Kong law, shareholders must be able to demand a poll. Japanese law provides that a single shareholder may demand a vote on a proposal so long as it relates to a matter listed on the agenda for the shareholders' meeting. Furthermore, under the Companies Act, any shareholder may propose a specific method for voting at shareholders' meetings. We are required to use voting cards (the number of Shares held by the Shareholder is indicated on the voting card) which have the same effect of a vote by way of a poll. If a Shareholder is permitted to split his vote under Article 313 of the Companies Act, the relevant Shareholder is required to notify us that he will diversely exercise his or her votes and provide reasons for doing so no later than three days prior to the day of the shareholders meeting. There are no statutory forms of such notice under the Companies Act. In such cases, the relevant Shareholder will specify the number of votes "for" or the number of votes "against" the proposal in a separate sheet. These votes indicated on separate sheets and the votes by voting cards will be aggregated, which have the same effect of a vote by way of a poll.

Japanese companies with not less than 1,000 shareholders and Japanese listed companies (including our Company) have to adopt voting cards (which operate in a similar way to a ballot paper) as a voting method under the Companies Act (and the FIEA), and generally, we use such voting cards as the voting method for our Shareholders' meetings. Therefore, in practice, the voting method at our Shareholders' meetings is conducted by way of a poll in any case. In the event that the results of the relevant resolutions are known in advance of the meeting on the basis of the voting cards, there will either be a token count or a declaration of the results at the general meeting, in which case the meeting will have in effect been held by way of a poll. If the result of a resolution is undecided by the commencement of the general meeting, the chairperson will conduct a show of hands or poll by voting cards, but these votes will be aggregated with the voting cards and counted individually, thus the decision will, in effect, be taken by way of a poll. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

## **Appointment of directors**

Pursuant to Hong Kong law, the appointment of each director is required to be voted on individually. An unanimous approval of the shareholders is required to pass a resolution permitting appointment of two or more directors by a single resolution. Japanese law does not require the appointment of each director to be voted on individually except if the voting is conducted in writing (including by way of voting card). The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law as this is purely an administrative matter.

## **Declaration of interest**

Pursuant to Hong Kong law, a director is required to declare any material interest in any contract with a company at the earliest meeting of the board of directors of the company. A company is also required to include in any notice of its intention to move a resolution at a general meeting or class meeting particulars of the relevant interests of directors in the matter dealt with by the resolution. Under the Companies Act, a director must report all the material facts, including his/her interest, with respect to such transaction at the meeting of the board of directors to approve the relevant transaction prior to voting on it. Any such director with an interest in the transaction is not entitled to be counted in the quorum for voting on the transaction. Directors are not required to declare any material interest in any transaction with the company as soon as practicable after he/she is aware of such interest, but as the interest must be declared prior to approval of the transaction and the relevant director is not entitled to have his or her vote counted towards a quorum, this is not materially detrimental to shareholders. The

standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

### **Loans to directors**

Pursuant to Hong Kong law, a company may only make loans to a director in certain limited circumstances. The Companies Act does not contain specific provisions on loans to, or credit transactions with, directors, but such transactions will be governed by Article 356 and Article 365 of the Companies Act which restrict transactions that result in a conflict of interest. Although companies are not prohibited from entering into transactions with their directors, such transactions must be approved by a vote of the board of directors which excludes the interested director from voting and being counted for the quorum. The relevant director must also report all material facts relating to such transaction at the meeting of the board of directors and after such transaction takes place without delay. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

### **Payments to directors**

Pursuant to Hong Kong law, any payment to a director or past director of a company as compensation for loss of office or retirement from office is required to be approved by shareholders with a majority vote at a general meeting. Japanese law provides that any remuneration, compensation or other payment made to directors, statutory auditors, past directors or past statutory auditors of a company must be approved by shareholders of the company or be provided for in its articles of incorporation. Further, the aggregate amount of such payment to be made to directors as a whole must be approved at a shareholders' meeting and disclosed in the convocation notice for such meeting. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

### **Alteration of share capital**

Pursuant to Hong Kong law, any alteration of share capital in the company must be approved by shareholders with a majority vote in a general meeting. Japanese law provides that an increase in the number of authorized shares to be issued can only be made by an alteration of a company's articles of incorporation, which requires the resolution of the shareholders' meeting to be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

### **Reduction of share capital**

Pursuant to Hong Kong law, any reduction of share capital in a company must be subject to confirmation by the court or supported by a solvency statement given by all directors of the company and be approved by shareholders with a three-quarter majority vote in a general meeting. Japanese law permits a company to reduce its share capital without a court confirmation and instead by way of a resolution of the shareholders' meeting to be approved by at least two-thirds of the voting rights of the shareholders present at a meeting where the shareholders holding at least one-third of the voting rights who are entitled to exercise their voting rights are present. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

### **Redemption of shares**

Pursuant to Hong Kong law, a company may only redeem its shares out of distributable profits or fresh proceeds from a new issue of shares. Japanese law does not have a concept of redeemable shares, but any shares to be purchased by a company must be acquired from distributable profits. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

## **Distribution of assets**

Pursuant to Hong Kong law, a company may only distribute its assets to its shareholders out of realized profits and, if out of assets, the remaining net assets must not be less than the share capital plus undistributable reserves. Japanese law similarly provides that distributions may only be made out of distributable amounts. A company's distributable profits are the aggregate amount of capital surplus and retained earnings surplus at the end of the last fiscal year subject to certain adjustments. Our Articles permit forfeiture of dividends that remain unpaid within three years upon which payment was available, although Appendix A1 of the Listing Rules provides that this period should be six years. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law.

## **Financial Assistance**

Pursuant to Hong Kong law, a company is prohibited from giving financial assistance for the acquisition of its shares or shares in its holding company in certain circumstances. Although there are no specific provisions in the Companies Act that are intended to prevent financial assistance, giving direct or indirect financial assistance for the acquisition of its shares or shares in its holding company that results in a reduction of the net assets of a company would amount to a violation of fiduciary duty of directors and other officers, unless there is a reasonable ground for doing so. The standard of shareholders' protection under Japanese law is not materially different to that under Hong Kong law.

## **The International Organization of Securities Commission**

The Financial Services Agency, which is the statutory securities regulator of Japan, is a member of the International Organization of Securities Commission and a signatory of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information.

## **SHAREHOLDER PROTECTIONS IN HONG KONG**

Certain shareholder protections provided under the Listing Rules and the SFO, and the measures taken by us to address the differences, where applicable, between the relevant laws and regulations of Hong Kong and Japan are outlined below.

## **Disclosure of information**

Rules 13.11 to 13.23 of the Listing Rules require disclosure of information in relation to specific matters relevant to a company's business, including advances to an entity, financial assistance and guarantees to affiliated companies, the pledging of shares by the Controlling Shareholder, loan agreements with covenants relating to specific performance of the Controlling Shareholder, and breach of loan agreements by a company. Under the FIEA and the TSE Listing Regulations, we are subject to an exhaustive list of events that would trigger an announcement, submission or equivalent public disclosure obligation on us and a "sweep-up" provision which is provided in Article 402(ap) of the TSE Listing Regulations and the cabinet office ordinance promulgated under the FIEA which requires an announcement of any material event affecting us to be made on a timely basis within one business hour of the business day of its occurrence. Certain of those matters, such as financial assistance, do not affect a Japanese company and we will continue to follow the disclosure of information rules provided by the FIEA and the TSE Listing Regulations, and to adopt the general duty of disclosure in Rule 13.09(1) of the Listing Rules. We have been granted an automatic waiver under the Joint Policy Statement from strict compliance with Rules 13.11 to 13.23 of the Listing Rules. See "Appendix V — Waivers — A. Automatic Waivers" in the Listing Document.

We currently issue our corporate communications by making an announcement on the TSE website and/or by publishing a notice on our website. We will issue all future corporate communications required under the Listing Rules (including convocation notices for Shareholders' meetings) on our own website in Japanese, English and Chinese and on the Hong Kong Stock Exchange's website in both English and Chinese. In accordance with Rule 13.10B of the Listing Rules, we may make overseas regulatory announcements in English or Chinese or both. Such overseas regulatory announcements include announcements made by us on the TSE's website, but do not include any filings made by us or our Directors under the FIEA (certain filings required to be filed under the FIEA must be submitted through EDINET) unless they are otherwise also required to be disclosed under the TSE Listing Regulations. Information submitted through EDINET is available for public inspection. Accordingly, HDR Holders, Shareholders and the public should refer to the Company's website, the TSE website and EDINET for announcements and filings of the Company.

While most corporate transactions, such as merger, corporate demerger, share exchange and business transfer, are required to be disclosed under the FIEA and the TSE Listing Regulations and therefore will be disclosed by way of overseas regulatory announcements on the Hong Kong Stock Exchange's website, EDINET also includes certain filings which would not typically be treated as material information required to be disclosed under the Listing Rules in Hong Kong, for example, confirmations by us in relation to the appropriateness of the statements contained in the securities reports uploaded on EDINET and powers of attorney given by foreign shareholders to Japanese law firms to submit large shareholding reports on EDINET.

### **Notifiable transactions**

Chapter 14 of the Listing Rules contains provisions dealing with notifiable transactions. In particular, where a listed company enters into a "notifiable transaction", then depending on the size of the transaction, it will have to: (i) notify the Hong Kong Stock Exchange; (ii) make an announcement of the transaction; and/or (iii) obtain prior shareholders' approval of the transaction. The Companies Act provides that certain transactions involving statutory acquisition procedures, such as mergers, share exchanges, business assignments and corporate splits require prior shareholders' approval of the transaction as well as announcements and additional public disclosure pursuant to the TSE Listing Regulations and the FIEA. Other than these Statutory Transactions, no other acquisitions or disposals require Japanese companies to seek shareholder approval, although they may be announceable under the TSE Listing Regulations in the event that a company is listed on these stock exchanges. Thus, the standard of shareholders' protection under Japanese law and regulations is not directly comparable with Hong Kong law.

We have been granted an automatic waiver under the Joint Policy Statement from strict compliance with the rules contained in Chapter 14 of the Listing Rules.

We will continue to comply with the continuing obligations relating to acquisitions and disposals of assets effected as Statutory Transactions.

### **Connected transactions**

Chapter 14A of the Listing Rules contains provisions dealing with connected transactions. In particular, where a listed company enters into a "connected transaction", then depending on the size of the transaction, it will have to: (i) make an announcement of the transaction; (ii) report on the transaction in its next annual report; and/or (iii) obtain prior approval of the transaction of the shareholders independent of the transaction. We will continue to comply with the continuing obligations applicable to Related Party Transactions pursuant to the FIEA, the Consolidated Financial Statements Rule and the Companies Act, which restrict directors from voting on any board resolution approving the entry into a Related Party

Transaction that the relevant director has a material interest in. Thus, the standard of shareholder protection under Japanese law and regulations is not directly comparable with Hong Kong law.

We have been granted an automatic waiver under the Joint Policy Statement from strict compliance with the rules contained in Chapter 14A of the Listing Rules.

We will continue to comply with the continuing obligations relating to acquisitions and disposals of assets effected as Statutory Transactions.

### **Disclosure of interests**

Part XV of the SFO provides that: (i) the directors and the chief executive of a listed company must disclose their interests and short positions in the shares, underlying shares and debentures of the listed company and its associated corporations within a specified time period after the interests arise or change; and (ii) shareholders interested in 5% or more of any class of shares in a listed company (other than directors and chief executives of the listed company) must disclose their interests and short positions in the shares and underlying shares of the listed company within a specified time period after the interests arise or change. The FIEA provides that persons who acquire title to, or a call option for, equity securities (or who are authorized to exercise (or instruct the exercise of) the voting rights and other rights attached to, or who are authorized to invest in, equity securities) including shares, share acquisition rights, bonds with share acquisition rights and similar securities that are issued or to be issued by the company that represent more than 5% of the outstanding voting rights of the company are required to publicly disclose the relevant dealing and such interests. Further, such persons who submitted the large shareholding report are required to publicly disclose any further acquisition or any disposal of an interest by 1% or more in any equity securities. The standard of shareholders' protection under Japanese law is similar to or comparable with that under Hong Kong law in respect of substantial shareholders, however the requirements relating to disclosures of interested directors of Japanese companies are not directly comparable with Hong Kong law. Directors or statutory auditors of Japanese companies, who deal in any shares of the company, are obliged to file a "Sale-Purchase Report" with the FSA by the 15th day of the month immediately following such dealing pursuant to the FIEA, as well as to disclose their holdings in the listed company's securities in their annual and, on some occasions, quarterly reports.

We have applied for, and the SFC has granted:

- (a) us and our Shareholders, a partial exemption from strict compliance with Part XV of the SFO other than Divisions 5, 11 and 12 of Part XV of the SFO in respect of disclosure of Shareholders' interests; and
- (b) any of our directors or chief executive, a partial exemption from strict compliance with the requirement to give notification of their interests within three business days after the day on which the relevant event occurs under section 348(1) of the SFO by extending the time of notification to within five business days after the day on which the relevant event occurs or comes to the director's or chief executive's knowledge under sections 341 and 347 of the SFO.

The partial exemption is granted on the conditions that:

- (a) we must disclose in the listing documents in respect of the HDRs the grant of this partial exemption, setting out the relevant details including the listing rules requirements, scope of the exemption and the conditions imposed;

- (b) we must file with the Hong Kong Stock Exchange any disclosure of interests (except for directors and chief executives) made in Japan as soon as practicable on the basis that the Hong Kong Stock Exchange will publish these disclosures in the same way as those it receives from other listed corporations pursuant to Part XV of the SFO;
- (c) we must report to the SFC within 10 business days after the end of each calendar month the percentage of that month's average daily worldwide share turnover that took place on the Hong Kong Stock Exchange. The first report should cover the period from the Listing Date to the end of the month of listing and this obligation to report shall continue until such time as the SFC advises otherwise in writing and in any case for no less than 12 months following the listing. It should be noted that the SFC has subsequently advised us that the submission of such monthly share turnover reports is no longer required (we shall inform the SFC if there is any material change to the monthly average trading volume); and
- (d) we must advise the SFC as soon as practicable if there is any material change in any of the information which we have given to the SFC, including any significant or material change to the disclosure requirements in Japan and any exemption or waiver from the disclosure requirements in Japan so that the SFC may decide whether this partial exemption remains valid.

See also "Appendix V – Waivers – B. Additional Waivers Obtained – Disclosure of Interests Information" in the Listing Document.

## **C. CONSTITUTIONAL DOCUMENTS**

### **Articles of Incorporation**

#### Chapter 1: General Provisions

(Trade Name)

#### Article 1

The name of the Company is Kabushiki Kaisha FAST RETAILING and FAST RETAILING CO., LTD. in English.

(Purpose)

#### Article 2

The purpose of the Company shall be to engage in the following business activities:

- (i) Owning the shares or an interest of the companies and foreign companies engaging in the following business activities, thereby managing and controlling such company's business activities.
  - (1) Importing, planning, manufacture and sales of clothing and clothing accessories.
  - (2) Importing, planning, manufacture and sales of accessories.
  - (3) Exporting and importing, planning, manufacture and sales of shoes, shoe products and bags.
  - (4) Sales of cosmetics, skin care and hair care products.
  - (5) Planning and sales of information recording media such as compact discs.
  - (6) Management of golf driving ranges.
  - (7) Sales of golfing products.
  - (8) Management of restaurants.
  - (9) Planning, sales and purchase of advertising and public relations information media.
  - (10) Management and support of computer systems.
  - (11) Provision of corporate administration and management services to affiliated companies for management guidance purposes.
  - (12) Loans to, guarantees for, and investment in affiliated companies.
  - (13) Agency operations for non-life insurance.
  - (14) Lease and management of real estate.
  - (15) Management of corporate training facilities.
  - (16) Warehousing business and warehouse management business.
  - (17) Forwarding business.

- (18) Sales of fresh flowers, house plants and other vegetation, and artificial flowers.
  - (19) Planning and sales of magazines, books and other printed materials, stationery, daily necessities and miscellaneous goods.
  - (20) Exporting and importing, planning, manufacture and sales of medical supplies, hygiene products, and other items.
  - (21) The buying and selling of pre-owned clothing and other pre-owned clothing business activities governed by Secondhand Goods Business Act.
  - (22) All business which are incidental to or related to those set forth in preceding items.
- (ii) License for computer software and computer network system.
  - (iii) Lease and installation guide for computers and relating equipments.
  - (iv) Practicing, using, licensing, preserving and managing intellectual property rights (patent right, trademark right, utility model right, design right, copyright, and merchandising rights, etc.)
  - (v) Provision of corporate administration and management services to affiliated companies for management guidance purposes.
  - (vi) Loans to, guarantees for, and investment in affiliated companies.
  - (vii) Agency operations for non-life insurance.
  - (viii) Lease and management of real estate.
  - (ix) All business that are incidental to or related to those set forth in preceding items.

(Location of the Head Office)

#### Article 3

The head office of the Company shall be located in Yamaguchi city, Yamaguchi prefecture, Japan.

(Governing Bodies)

#### Article 4

In addition to the general meetings of shareholders and Directors, the Company shall establish the following governing bodies.

- (1) Board of Directors
- (2) Statutory Auditors
- (3) Board of Statutory Auditors
- (4) Accounting Auditors

(Method of Public Notice)

#### Article 5

The public notices of the Company shall be published via electronic media. However, where publication via electronic media is impossible due to unavoidable circumstances, the Company's public notices shall be published in the Nippon Keizai Shimbun (Nikkei).

## Chapter 2: Shares

(Total Number of Issuable Shares)

### Article 6

The total number of issuable shares of the Company is 900 million (900,000,000) shares.

(Number of Shares Per Unit and Non-issuance of Share Certificates Less Than One Unit)

### Article 7

The number of shares per unit of the Company is one hundred (100) shares.

(Right Concerning Shares Less Than One Unit)

### Article 8

The shareholders of the Company may not exercise rights in relation to the shares less than one unit that they own, except for those listed below:

- (i) Rights listed in each item under Article 189, Paragraph 2 of the Companies Act;
- (ii) Right to make a request pursuant to Article 166, Paragraph 1 under the Companies Act;
- (iii) Right to receive allotment of shares, and allotment of stock acquisition rights (*shinkabu yoyakukun*) in proportion to the number of shares owned by the shareholders; and
- (iv) Right to make the demand provided in the next Article.

(Demand for Adding to Holdings of Shares Less than One Unit)

### Article 9

The shareholders of the Company may demand, pursuant to the provisions of the Share Handling Regulations, the sale of such number of shares that, together with the number of shares less than one unit that they own, will constitute one share unit. Provided, however, that this shall not apply if the Company does not own the shares regarding such demand or otherwise provided in the Share Handling Regulations.

(Shareholder Register Manager)

### Article 10

1. The Company will have a shareholder register manager.
2. The shareholder register manager and its office location will be determined upon resolution by the Board of Directors and such determination will be notified publicly.
3. The preparation as well as keeping of the Company's shareholder register and stock acquisition rights ledgers, and other clerical work with regard to shareholder register and stock acquisition rights ledgers will be consigned to the shareholder register manager, and the

Company will not handle such work.

(Share Handling Regulations)

#### Article 11

Handling of the Company's shares and its fees shall be in accordance with the Share Handling Regulations determined by the Board of Directors, in addition to the laws or regulations or the Articles of Incorporation.

### Chapter 3: General Meetings of Shareholders

(Convocation of a General Meeting of Shareholders)

#### Article 12

1. An ordinary general meeting of shareholders of the Company shall be convened within three (3) months from the day immediately after the accounts closing date of each Business Year and extraordinary general meetings of shareholders shall be convened as necessary.
2. A general meeting of shareholders shall be held at a location in the local administrative district in which the head office is located, a location in a local administrative district adjacent to the local administrative district in which the head office is located, or other locations within any one of the wards in Tokyo.
3. Unless otherwise provided for in any laws or regulations, the Chairman of the Board of Directors shall convene a general meeting of shareholders upon resolution by the Board of Directors. If the Chairman of the Board of Directors is unable to act, another Director in the order of priority predetermined by a resolution of the Board of Directors shall convene a general meeting of shareholders.

(Record Date for Ordinary General Meetings of Shareholders)

#### Article 13

The record date for voting rights at ordinary general meetings of shareholders shall be the last day of August each year.

(Chairman)

#### Article 14

The Chairman of the Board of Directors shall take the chair at the general meeting of shareholders. If the Chairman of the Board of Directors is unable to act, another Director shall take his/her place in the order of priority predetermined by a resolution of the Board of Directors.

(Measures for Electronic Provision, Etc.)

#### Article 15

1. The Company shall, when convening a general meeting of shareholders, provide information contained in the reference materials for the general meeting of shareholders, etc. electronically.
2. Among the matters to be provided electronically, the Company may choose not to include all or part of the matters stipulated in the Ordinance of the Ministry of Justice in the paper copy to be sent to shareholders who have requested it by the record date for voting rights.

(Method of Resolution)

#### Article 16

1. Unless otherwise provided for in any laws or regulations or the Articles of Incorporation, resolutions of a general meeting of shareholders shall be adopted by a majority of the votes of the shareholders present at the meeting who are entitled to vote on the relevant resolution.
2. The resolutions provided under Article 309, Paragraph 2 of the Companies Act shall be made by two thirds or more of the votes of the shareholders at the meeting where the shareholders holding one third or more of the votes of the shareholders entitled to exercise their votes are present.

(Exercise of Voting Rights by Proxy)

#### Article 17

1. A shareholder may exercise his/her voting rights by appointing another shareholder with voting rights in the Company as his/her proxy.
2. In the case set forth in the preceding paragraph, the shareholder or proxy must submit to the Company a document evidencing the authority of that proxy for each general meeting of shareholders.

### Chapter 4: Directors and Board of Directors

(Number of Directors)

#### Article 18

The Company shall elect no less than three (3) and no more than fifteen (15)

Directors.

(Election of Directors)

#### Article 19

1. Directors shall be elected by a resolution of a general meeting of shareholders.
2. The election of Directors shall not be by cumulative voting.
3. The election of Directors shall be made by a majority of the votes of the shareholders where the shareholders holding one third or more of the votes of the shareholders entitled to exercise their votes are present.

(Term of Office of Directors)

#### Article 20

The term of office of the Directors shall expire at the conclusion of the ordinary general meeting of shareholders for the final business year ending within one (1) year from the time of their election as Directors.

(Representative and Managing Directors)

## Article 21

1. The Board of Directors shall elect, by its resolution, one Director & President, and may elect one Chairman of the Board of Directors, one Vice-Chairman of the Board of Directors, a number of Vice-presidents, and a number of both Senior Executive Directors and Executive Directors.
2. The Chairman of the Board of Directors and the Director & President shall represent the Company and execute its business.
3. The Board of Directors may elect, by its resolution, Directors to represent the Company, in addition to the Chairman of the Board of Directors and the Director & President.

(In-house Consultant and Advisor)

## Article 22

The Company may have an in-house consultant or an in-house advisor by the resolution of the Board of Directors.

(Remuneration for Directors)

## Article 23

The remuneration, bonuses, and other financial benefits (referred to after as "Remuneration") that the Company pays to Directors as consideration for executing duties shall be determined by a resolution of a general meeting of shareholders.

(Authority of the Board of Directors)

## Article 24

The Board of Directors shall determine the execution of important business of the Company, in addition to the matters specifically set forth in laws, regulations or the Articles of Incorporation.

(Convocation Notice of a Board of Directors Meeting)

## Article 25

1. A convocation notice of a Board of Directors meeting shall be dispatched to each Director and Statutory Auditor three (3) days or more prior to the date of the meeting. However, where necessary due to urgent circumstances, this notice period may be shortened.
2. A Board of Directors meeting may be held without the convocation procedures if all Directors and Statutory Auditors agree.

(Convener and Chairman of Board of Directors Meetings)

## Article 26

Unless otherwise provided for in laws or regulations, the Chairman of the Board of Directors shall convene Board of Directors meetings and shall take the chair at such meetings. If the Chairman of the Board of Directors is unable to act, another Director shall take his/her place in the order of priority predetermined by a resolution of the Board of Directors.

(Omission of Resolution of the Board of Directors)

## Article 27

Where all Directors has, either in writing or by electromagnetic medium, consented to a matter to be resolved by the Board of Directors, the Company deems that said resolution item has been approved by a resolution of the Board of Directors. This provision, however, does not apply where any objection is raised by any of Statutory Auditors.

(Exemption of Director Liability)

#### Article 28

Pursuant to the provisions of Article 426, Paragraph 1 of the Companies Act, the Company may, by a resolution of the Board of Directors, exempt its Directors (including those who used to be Directors) from liability to compensate for damages suffered due to their negligence in the execution of duties to the extent permitted by laws and regulations.

(Agreements Concerning Limitations on the Liability of Non-Executive Directors)

#### Article 29

Pursuant to Article 427, Paragraph 1 of the Companies Act, the Company may enter into agreements with Directors (excluding those who are Executive Directors, etc. as defined in Article 2, Item 15(a) of the Companies Act) to limit their liability to compensate for damages suffered due to their negligence in the execution of duties. However, the maximum amount of the compensation for damage under such agreement shall be the higher of either a predetermined amount equivalent to or in excess of five million yen (¥5,000,000) or the amount stipulated by laws or regulations.

### Chapter 5: Statutory Auditors and Board of Statutory Auditors

(Number of Statutory Auditors)

#### Article 30

The Company shall appoint no less than three (3) and no more than seven (7) Statutory

Auditors. (Election of Statutory Auditors)

#### Article 31

1. Statutory Auditors shall be elected by a resolution of a general meeting of shareholders.
2. The election of Statutory Auditors shall be made by a majority of the votes of the shareholders where the shareholders holding one third or more of the votes of the shareholders entitled to exercise their votes are present.

(Term of Office of Statutory Auditors)

#### Article 32

1. The term of office of the Statutory Auditors shall expire at the conclusion of the ordinary general meeting of shareholders for the final business year ending during the four (4) year period after their election as Statutory Auditors.
2. The term of office of a Statutory Auditor elected to fill a vacancy shall be the same as the remaining term of office of his/her predecessor.

(Full-Time Statutory Auditor)

#### Article 33

The Board of Statutory Auditors shall elect a full-time Statutory Auditor by its resolution.

(Remuneration for Statutory Auditors)

#### Article 34

Remuneration for Statutory Auditors shall be determined by a resolution of a general meeting of shareholders.

(Authority of the Board of Statutory Auditors)

#### Article 35

The Board of Statutory Auditors shall determine the matters related to the Statutory Auditors' execution of duties within the scope not to hinder the exercise of authority of each Statutory Auditor, in addition to the matters specifically set forth in laws or regulations or the Articles of Incorporation.

(Convocation Notice of a Board of Statutory Auditors Meeting)

#### Article 36

1. A convocation notice of a Board of Statutory Auditors meeting shall be dispatched to each Statutory Auditor three (3) days or more prior to the date of the meeting. However, where necessary due to urgent circumstances, this notice period may be shortened.
2. A Board of Statutory Auditors meeting may be held without the convocation procedures if all Statutory Auditors agree.

(Exemption of Statutory Auditor Liability)

#### Article 37

Pursuant to the provisions of Article 426, Paragraph 1 of the Companies Act, the Company may, by a resolution of the Board of Directors, exempt its Statutory Auditors (including those who used to be Statutory Auditors) from liability to compensate for damages suffered due to their negligence in the execution of duties to the extent permitted by laws and regulations.

(Agreements Concerning Limitations on the Liability of Statutory Auditors)

#### Article 38

Pursuant to Article 427, Paragraph 1 of the Companies Act, the Company may enter into agreements with Statutory Auditors to limit their liability to compensate damages suffered due to their negligence in the execution of duties. However, the maximum amount of the compensation for damage under such agreement shall be the higher of either a predetermined amount equivalent to or in excess of five million yen (¥5,000,000) or the amount stipulated by laws or regulations.

### Chapter 6: Accounting Auditors

(Election of Accounting Auditors)

#### Article 39

Accounting Auditors shall be elected by a resolution of a general meeting of shareholders.

(Term of Office of Accounting Auditors)

#### Article 40

1. The term of office of the Accounting Auditors shall expire at the conclusion of the ordinary general meeting of shareholders for the final business year ending during one (1) year after their election as Accounting Auditors.
2. Unless otherwise resolved at the ordinary general meeting of shareholders of the preceding paragraph, the Accounting Auditor is deemed to have been re-elected at said ordinary general meeting of shareholders.

(Remuneration for Accounting Auditors)

#### Article 41

Remuneration for Accounting Auditors shall be determined by the Representative Director upon obtaining consent from the Board of Statutory Auditors.

(Agreements Concerning Limitations on the Liability of Accounting Auditors)

#### Article 42

Pursuant to Article 427, Paragraph 1 of the Companies Act, the Company may enter into agreements with Accounting Auditors to limit their liability to compensate for damages suffered due to their negligence in the execution of duties. However, the maximum amount of the compensation under such agreement shall be the amount stipulated by laws or regulations.

### Chapter 7: Accounts

(Business Year)

#### Article 43

The business year of the Company shall begin on September 1 of each year and end on August 31 of the following year.

(Decision Making Organization of Dividends of Surplus)

#### Article 44

The Company shall determine the matters provided in each item under Article 459, Paragraph 1 of the Companies Act such as dividends of surplus, by the resolution of the Board of Directors and not by the resolution of the general meeting of shareholders unless otherwise provided in laws and regulations.

(Record Date for Dividends)

#### Article 45

1. The record date for year-end dividends of the Company shall be the last day of August each year.
2. The record date for interim dividends of the Company shall be the last day of February each year.
3. In addition to the preceding two paragraphs, the Company may distribute dividends upon determining a record date.

(Statute of Limitation on Dividends)

Article 46

1. Where assets to be distributed are monetary, if any shareholder fails to receive within three (3) full years from the date on which said distribution of assets became due and payable, the Company shall be exempted from its obligation to pay such dividends.
2. No interest shall accrue on unpaid dividends.

Supplementary Provisions

1. Notwithstanding the provisions of the amended Article 15 (Measures for Electronic Provision, Etc.), Article 15 of the pre-amended Articles of Incorporation (Internet Disclosure and Deemed Provision of Reference Materials for the General Meeting of Shareholders, Etc.) shall remain in force with respect to a general meeting of shareholders to be held by the last day of February 2023.
2. These supplementary provisions shall be deleted on March 1, 2023 or after the lapse of three months from the date of the general meeting of shareholders set forth in the preceding paragraph, whichever is later.

## D. DEPOSIT AGREEMENT

AMENDED AND RESTATED  
DEPOSIT AGREEMENT BETWEEN  
FAST RETAILING CO., LTD. AND  
JPMORGAN CHASE BANK,  
N.A. as Depositary



## TABLE OF CONTENTS

|                                                                                      | <u>Page</u> |
|--------------------------------------------------------------------------------------|-------------|
| PARTIES .....                                                                        | 1           |
| RECITALS .....                                                                       | 1           |
| Section 1. Certain Definitions .....                                                 | 1           |
| Section 2. HDRs .....                                                                | 5           |
| Section 3. Deposit of Shares .....                                                   | 5           |
| Section 4. Issue of HDRs .....                                                       | 6           |
| Section 5. Distributions on Deposited Securities .....                               | 6           |
| Section 6. Withdrawal of Deposited Securities .....                                  | 7           |
| Section 7. Substitution of HDRs .....                                                | 7           |
| Section 8. Cancellation and Destruction of HDRs .....                                | 7           |
| Section 9. The Custodian .....                                                       | 8           |
| Section 10. Registrar and Transfer Agent, Co-Registrars and Co-Transfer Agents ..... | 8           |
| Section 11. Lists of Holders .....                                                   | 9           |
| Section 12. Depositary's Agents .....                                                | 9           |
| Section 13. Successor Depositary .....                                               | 9           |
| Section 14. Reports .....                                                            | 10          |
| Section 15. Additional Shares .....                                                  | 10          |
| Section 16. Indemnification .....                                                    | 10          |
| Section 17. Notices .....                                                            | 11          |
| Section 18. Miscellaneous .....                                                      | 12          |
| Section 19. Governing Law .....                                                      | 12          |
| Section 20. Consent to Jurisdiction .....                                            | 12          |
| Section 21. Waiver .....                                                             | 15          |
| Section 22. Amendment and Restatement of Prior Deposit Agreement .....               | 16          |
| TESTIMONIUM .....                                                                    | 17          |
| SIGNATURES .....                                                                     | 17          |

## EXHIBIT A

### FORM OF FACE OF HDR ..... A-1

#### Introductory Paragraph ..... A-1

- (1) Issuance of HDSs ..... A-2
- (2) Withdrawal of Deposited Securities ..... A-3
- (3) Transfers of HDRs ..... A-3
- (4) Certain Limitations ..... A-4
- (5) Taxes..... A-4
- (6) Disclosure of Interests..... A-5
- (7) Fees and Charges of Depositary..... A-6
- (8) Available Information ..... A-8
- (9) Execution..... A-9

#### Signature of Depositary..... A-9

#### Address of Depositary's Office..... A-9

### FORM OF REVERSE OF HDR ..... A-10

- (10) Distributions on Deposited Securities ..... A-10
- (11) Record Dates..... A-11
- (12) Voting of Deposited Securities ..... A-11
- (13) Changes Affecting Deposited Securities ..... A-12
- (14) Exoneration ..... A-13
- (15) Resignation and Removal of Depositary; the Custodian ..... A-15
- (16) Amendment ..... A-15
- (17) Termination..... A-17
- (18) Appointment..... A-18
- (19) Waiver ..... A-18
- (20) Jurisdiction ..... A-19

## EXHIBIT B-1

### ACQUIRER CERTIFICATE .....B-1-1

## EXHIBIT B-2

### WITHDRAWAL CERTIFICATE..... B-2-1

## EXHIBIT C

### FORM OF DEED POLL ..... C-1

AMENDED AND RESTATED DEPOSIT AGREEMENT dated as of 7 February 2023 (the “**Deposit Agreement**”) **BETWEEN:**

1. **FAST RETAILING CO., LTD.**, a company incorporated in Japan with limited liability whose registered address is at 717-1 Sayama, Yamaguchi City, Yamaguchi 754-0894, Japan, and its successors (the “**Company**”), and

2. **JPMORGAN CHASE BANK, N.A.**, a national banking association organized under the laws of the United States of America whose principal place of business is at 383 Madison Avenue, Floor 11, New York, New York 10179, as depositary hereunder (the “**Depositary**”).

**WHEREAS:**

- (a) The Company was incorporated in Japan with limited liability on 1 May 1963.
- (b) As at the date hereof, the Shares (as defined herein) of the Company are listed on the Tokyo Stock Exchange.
- (c) The Company engaged in a secondary listing (the “**Listing**”) of its HDRs (as defined herein) on the main board of the Stock Exchange (as defined herein).
- (d) The Company and the Depositary entered into a Deposit Agreement, dated as of 17 January 2014 (the “**Prior Deposit Agreement**”) for the purposes set forth therein, for the creation of HDSs (defined below) representing the Shares so deposited and for the execution and delivery of HDRs (“**Prior Receipts**”) evidencing the HDSs;
- (e) The Company and the Depositary wish to amend and restate the Prior Deposit Agreement and the Prior Receipts;

**THE PARTIES HERETO AGREE** as follows:

**1.1 Certain Definitions.**

- (a) “**Articles of Incorporation**” means the articles of incorporation of the Company, as adopted by the Company’s shareholders on 26 November 2009, and as amended from time to time.
- (b) “**Beneficial Ownership**” means as to any HDS, any person or entity having a beneficial ownership interest in such HDS. A Beneficial Owner need not be the Holder of the HDR evidencing such HDS. If a Beneficial Owner of HDSs is not a Holder, it must rely on the Holder of the HDR(s) evidencing such ADSs in order to assert any rights or receive any benefits under this Deposit Agreement. The arrangements between a Beneficial Owner of HDSs and the Holder of the corresponding HDRs may affect the Beneficial Owner’s ability to exercise any rights it may have.
- (c) “**Book-Entry Act**” means the Act Concerning Book-Entry Transfer of Corporate Bonds, Stocks, etc. of Japan (Act No. 75 of 2001, as amended).
- (d) “**CCASS**” means the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited.

(e) **“CCASS Clearing Participant”** means a person admitted to participate in CCASS as a direct clearing or general clearing participant.

(f) **“CCASS Custodian Participant”** means a person admitted to participate in CCASS as a custodian participant.

(g) **“CCASS Investor Participant”** means a person admitted to participate in CCASS as an investor participant who may be an individual or joint individuals or a corporation.

(h) **“CCASS Participant”** means a CCASS Clearing Participant, CCASS Custodian Participant or a CCASS Investor Participant.

(i) **“Companies Act”** means the Companies Act of Japan (Act No. 86 of 2005, as amended).

(j) **“Companies Ordinance”** means the Companies Ordinance (Chapter 32 of the Laws of Hong Kong).

(k) **“Custodian”** means the agent or agents of the Depositary (singly or collectively, as the context requires) and any additional or substitute Custodian appointed pursuant to Section 9.

(l) The terms **“deliver”**, **“execute”**, **“issue”**, **“register”**, **“surrender”**, **“transfer”** or **“cancel”**, when used with respect to Book-Entry HDRs, shall refer to an entry or entries or an electronic transfer or transfers made through CCASS, and, when used with respect to HDRs in physical certificated form, shall refer to the physical delivery, execution, issuance, registration, surrender, transfer or cancellation of certificates representing the HDRs.

(m) **“Delivery Order”** is defined in Section 3.

(n) **“Deposited Securities”** as of any time means all Shares at such time deposited under this Deposit Agreement and any and all other Shares, securities, property and cash at such time held by the Depositary or the Custodian for the account of the Depositary on behalf of the Holders in respect or in lieu of such deposited Shares and other Shares, securities, property and cash.

(o) **“Distribution Compliance Period”** is defined in paragraph (3) of the form of HDR.

(p) **“HDR Register”** is defined in paragraph (3) of the form of HDR.

(q) **“HDRs”** means the depositary receipts executed and delivered hereunder by the Depositary as agent for the Company evidencing ownership of the HDRs representing the deposited Shares. HDRs may be either in physical certificated form or Book-Entry HDRs. HDRs in physical certificated form, and the terms and conditions governing the Book-Entry HDRs (as hereinafter defined), shall be substantially in the form of Exhibit A annexed hereto (the **“form of HDR”**). The term **“Book-Entry HDR”** means an HDR deposited in CCASS and traded and settled on a book-entry electronic basis. References to HDRs shall include certificated HDRs and Book-Entry HDRs, unless the context otherwise requires. The form of HDR is hereby incorporated herein and made a part hereof; the provisions of the form of HDR shall be binding

upon the parties hereto.

(r) **"HDSs"** means the Hong Kong Depositary Shares representing the interests in the Deposited Securities and evidenced by the HDRs issued hereunder. Subject to paragraph (13) of the form of HDR, each **"HDS"** evidenced by an HDR represents the right to receive 0.01 Share and a pro rata share in any other Deposited Securities.

(s) **"HKSCC"** means Hong Kong Securities Clearing Company Limited.

(t) **"Holder"** means the person or persons in whose name an HDR is registered as legal owner on the HDR Register.

(u) **"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China.

(v) **"JASDEC"** means the Japan Securities Depositary Center, Inc., or any successor entity thereto.

(w) **"Listing Document"** means the listing document originally issued by the Company on or around 14 February 2014 in connection with the initial listing of its HDRs.

(x) **"Listing Rules"** means the rules entitled the "Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited".

(y) **"Registrar"** means the HDR registrar appointed by the Depositary and the Company pursuant to Section 10 which shall be a member of an association of persons approved under section 12 of the Securities & Futures (Stock Market Listing) Rules.

(z) **"Regulation S"** means Regulation S, as promulgated under the Securities Act.

(aa) **"Removal Notice Date"** means the earliest date on which the Company provided notice of removal to the Depositary pursuant to Section 13 of this Deposit Agreement.

(bb) **"Resignation Notice Date"** means the date on which the Depositary first provided notice of its resignation to the Company pursuant to Section 13 of the Deposit Agreement.

(cc) **"Rule 144 and Rule 144A"** mean Rules 144 and 144A, respectively, under the Securities Act.

(dd) **"Securities Act"** means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, in each case as amended from time to time.

(ee) **"SFO"** means the Securities and Futures Ordinance (Cap 571 of the Laws of Hong Kong).

(ff) **"Shares"** mean the ordinary shares of the Company, and shall include the rights to receive Shares specified in paragraph (1) of the form of HDR.

(gg) **“Stock Exchange”** means The Stock Exchange of Hong Kong Limited.

(hh) **“Termination Date”** means the date this Deposit Agreement is terminated in accordance with paragraph (17) of the Form of HDR (Termination), which, for the avoidance of doubt, shall be either (i) the date fixed for termination in a notice of termination as contemplated therein or (ii) a date determined by the Depositary in the case of a termination pursuant to the last sentence of the first paragraph of paragraph (17) of the Form of HDR.

(ii) **“Transfer Office”** is defined in paragraph (3) of the form of HDR. As of the date of this Deposit Agreement, the address of the Transfer Office is: Computershare Hong Kong Investor Services Limited 46/F, Hopewell Centre, 183 Queen’s Road East, Wan Chai, Hong Kong.

(jj) **“Withdrawal Order”** is defined in Section 6.

**1.2** In this Deposit Agreement, unless otherwise specified:

1.2.1 references to “Recitals”, “Sections”, “Clauses”, “paragraphs”, “Exhibits” and “Schedules” are to recitals, sections, clauses, paragraphs and exhibits of and schedules to this Deposit Agreement;

1.2.2 a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;

1.2.3 references to a “company” shall be construed so as to include any company, corporation or other body corporate, whenever and however incorporated or established

1.2.4 references to a “person” shall be construed so as to include any individual, firm, company, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality)

1.2.5 references to writing shall include any modes of reproducing words in a legible and non-transitory form;

1.2.6 references to times of the day, unless otherwise specified, are to Hong Kong time;

1.2.7 headings to Clauses, Sections, Exhibits and Schedules are for convenience only and do not affect the interpretation of this Deposit Agreement;

1.2.8 the Exhibits, Schedules and Recitals form part of this Deposit Agreement and shall have the same force and effect as if expressly set out in the body of this Deposit Agreement, and any reference to this Deposit Agreement shall include the Exhibits, Schedules and Recitals; and

1.2.9 words in the singular shall include the plural (and vice versa) and words importing one gender shall include the other two genders.

**2. HDRs.** (a) HDRs in certificated form shall be engraved, printed or otherwise reproduced at the discretion of the Depositary in accordance with its customary practices in its Hong Kong depositary receipt business and in compliance with the requirements of all applicable laws and regulations, including the Listing Rules, and shall be substantially in the form set forth in the form of HDR, with such changes as may be required by the Depositary or the Company to comply with their obligations hereunder, any applicable law, regulation or usage or to indicate any special limitations or restrictions to which any particular HDRs are subject. HDRs issued in either certificated or book-entry form may be issued in denominations of any number of HDSs. HDRs in certificated form shall be executed by the Depositary by the manual or facsimile signature of a duly authorized officer of the Depositary. HDRs in certificated form bearing the facsimile signature of anyone who was at the time of execution a duly authorized officer of the Depositary shall bind the Depositary, notwithstanding that such officer has ceased to hold such office prior to the delivery of such HDRs.

(b) CCASS. The Company shall make arrangements for the HDRs to be accepted by HKSCC for deposit, clearance and settlement through CCASS. All HDRs held through CCASS will be registered in the name of HKSCC Nominees Limited. The Depositary undertakes to comply, on behalf of the Company, with the trading and settlement rules applicable to the Depositary set out in the Listing Rules, subject to the compliance by the Company hereto with the terms hereof and the payment of any and all charges, fees and expenses provided for by this Deposit Agreement.

**3. Deposit of Shares.** In connection with the deposit of Shares hereunder, the Depositary or the Custodian may require the following in form satisfactory to it: (a) a written order directing the Depositary to issue to, or upon the written order of, the person or persons designated in such order a Book-Entry HDR or HDRs evidencing the number of HDSs representing such deposited Shares (a “**Delivery Order**”); (b) proper endorsements or duly executed instruments of transfer in respect of such deposited Shares; and (c) instruments assigning to the Depositary, the Custodian or a nominee of either of them any distribution on or in respect of such deposited Shares or indemnity therefor. The Custodian shall keep a record of all deposits of Shares. As soon as practicable after the Custodian receives the Deposited Securities pursuant to any such deposit or pursuant to paragraph (10) or (13) of the form of HDR, the Custodian shall present such Deposited Securities for registration of transfer into the name of the Depositary, the Custodian or a nominee of either of them, to the extent such registration is practicable, at the cost and expense of the person making such deposit (or for whose benefit such deposit is made) and shall obtain evidence satisfactory to it of such registration. Deposited Securities shall be held by the Custodian for the account and to the order of the Depositary at such place or places and in such manner as the Depositary shall determine. Deposited Securities may be delivered by the Custodian to any person only under the circumstances expressly contemplated in this Deposit Agreement. To the extent that the provisions of or governing the Shares make delivery of certificates therefor impracticable, Shares may be deposited hereunder by such delivery thereof as the Depositary or the Custodian may reasonably accept, including, without limitation, by causing them to be credited to an account maintained by the Custodian for such purpose with the Company or an accredited intermediary, such as a bank, acting as a registrar for the Shares, together with delivery of the documents, payments and Delivery Order referred to herein to the Custodian or the Depositary or by causing them to be credited to an account maintained by the Custodian with JASDEC or an account management institution participating in the scripless book-entry settlement system operated by JASDEC. The Depositary hereby declares and confirms that it will hold all rights relating to the Deposited Securities and all money and benefits that it may receive in respect of the Deposited Securities for the sole

benefit of the Holders as bare trustee, subject only to payment of the remuneration and proper expenses of the depositary as provided for in this Deposit Agreement or as otherwise agreed between the Company and the Depositary and that such Deposited Securities shall not constitute proprietary assets of the Depositary, the Custodian or their nominees. For the avoidance of doubt, in acting hereunder, the Depositary shall have only those duties, obligations and responsibilities expressly specified in this Deposit Agreement and other than holding the Deposited Securities as bare trustee as set out herein, it does not assume any relations of trust for or with the Holder or any other person. Beneficial Ownership in Deposited Securities is intended to be, and shall at all times during the term of the Deposit Agreement continue to be, vested in the Beneficial Owners of the HDSs representing such Deposited Securities.

**4. Issue of HDRs.** After any such deposit of Shares, the Custodian shall notify the Depositary of such deposit and of the information contained in any related Delivery Order by letter, first class airmail postage prepaid, or, at the request, risk and expense of the person making the deposit, by SWIFT, telex or facsimile transmission. If, at any time, the Depositary deems it necessary or appropriate to comply with relevant securities laws, and at any time during the Distribution Compliance Period, the Depositary shall be entitled to obtain an executed acquirer certificate substantially in the form of Exhibit B-1 hereto (or in such other form as the Company shall approve) in connection with each such deposit from or on behalf of each person named in the Delivery Order to whom an HDR or HDRs is/are to be registered. After receiving such notice from the Custodian and any required acquirer certificate, the Depositary, subject to this Deposit Agreement, shall properly issue as agent of the Company at the Transfer Office, to or upon the order of any person named in such notice, an HDR or HDRs registered as requested and evidencing the aggregate HDSs to which such person is entitled.

**5. Distributions on Deposited Securities.** To the extent that the Depositary determines in its discretion that any distribution pursuant to paragraph (10) of the form of HDR is not practicable with respect to any Holder, the Depositary may make such distribution as it so deems practicable, including the distribution of foreign currency, securities or property (or appropriate documents evidencing the right to receive foreign currency, securities or property) or the retention thereof as Deposited Securities with respect to such Holder's HDRs (without liability for interest thereon or the investment thereof). To the extent the Depositary does not reasonably believe it will be permitted by applicable law, rule or regulation to convert foreign currency into Hong Kong dollars and distribute such Hong Kong dollars to some or all Holders, the Depositary may in its discretion distribute the foreign currency received by the Depositary to, or hold such foreign currency uninvested and without liability for interest thereon for the respective accounts of, the Holders entitled to receive the same. To the extent the Depositary holds such foreign currency, any and all costs and expenses related to, or arising from, the holding of such foreign currency shall be paid from such foreign currency thereby reducing the amount so held hereunder. In all instances where the Deposit Agreement or an ADR refers to a "public sale" or "private sale" (or words of similar import), (i) the Depositary shall not endeavor to effect any such public or private sale unless the securities to be sold are listed and publicly traded on a stock exchange and (ii) to the extent not so listed and publicly traded, the Depositary shall not conduct any auction, bidding or other sales process with respect thereto and, in lieu thereof, shall act in accordance with the termination provisions hereof. Furthermore, in the event the Depositary endeavors to make a public sale of Shares or other securities, such securities may be sold in a block sale/single lot transaction.

**6. Withdrawal of Deposited Securities.** A Holder may from time to time surrender the HDRs for cancellation and request for the Deposited Securities represented by the HDSs to be transferred to the name of the Holder, in each case in accordance with the terms of this Deposit Agreement provided that a Holder may only request for withdrawal of Shares represented by ten (10) HDRs or multiples thereof and any Holder requesting a withdrawal of Shares that are traded on the Tokyo Stock Exchange must have a securities account opened at an account management institution participating in the scripless book-entry settlement system operated by JASDEC, to which the Deposited Securities to be withdrawn will be credited. In connection with any surrender of an HDR for withdrawal of the Deposited Securities represented by the HDSs evidenced thereby, the Depositary may require (a “**Withdrawal Order**”) (i) proper endorsement in blank of such HDR (or duly executed instruments of transfer thereof in blank) and the Holder’s written order directing the Depositary to cause the Deposited Securities represented by the HDSs evidenced by such HDR to be withdrawn and delivered to, or upon the written order of, any person designated in such order, and (ii) details of any securities account(s) as designated by such Holder(s) to which the Shares representing the Deposited Securities to be withdrawn shall be credited, which securities account(s) shall be opened at JASDEC or an account management institution participating in the scripless book- entry settlement system operated by JASDEC. Directions from the Depositary to the Custodian to deliver Deposited Securities shall be given by letter, first class airmail postage prepaid, or, at the request, risk and expense of the Holder, by SWIFT, telex or facsimile transmission. Delivery of Deposited Securities may be made by the delivery of certificates (which, if required by law shall be properly endorsed or accompanied by properly executed instruments of transfer or, if such certificates may be registered, registered in the name of such Holder or as ordered by such Holder in any Withdrawal Order) or by such other means as the Depositary may deem practicable, including, without limitation, by transfer of record ownership thereof to an account designated in the Withdrawal Order maintained either by the Company or an accredited intermediary, such as a bank, acting as a registrar for the Deposited Securities or by causing them to be credited to the account at JASDEC or an account management institution participating in the scripless book-entry settlement system operated by JASDEC designated by the Holder. The Custodian shall keep a record of all withdrawals of Deposited Securities. The Company agrees to cooperate with the Depositary and to take all actions, and to instruct and cause any registrar of the Deposited Securities to take all such actions, as may be requested by the Depositary, or are otherwise necessary or required, to effectuate the withdrawal and transfer of the Deposited Securities upon any cancellation of HDRs by Holders and/or Beneficial Owners thereof.

**7. Substitution of HDRs.** The Depositary shall execute and deliver a new certificated HDR or Book-Entry HDR in exchange and substitution for any mutilated certificated HDR upon cancellation thereof or in lieu of and in substitution for such destroyed, lost or stolen certificated HDR, unless the Depositary has notice that such HDR has been acquired by a bona fide purchaser, upon the Holder thereof filing with the Depositary a request for such execution and delivery, a sufficient indemnity bond and satisfying any other reasonable requirements imposed by the Depositary. The Depositary will comply with the lost certificate replacement procedures applicable to shares set out in the relevant subsection(s) of Section 71A of the Companies Ordinance to the extent practicable.

**8. Cancellation and Destruction of HDRs.** All HDRs surrendered to the Depositary shall be cancelled by the Depositary. The Depositary is authorized to destroy HDRs in certificated form so cancelled in accordance with its customary practices.

**9. The Custodian.** The Custodian shall be appointed by the Depositary to hold the deposited Shares for the account of the Depositary on behalf of the Holders, segregated from all other property of the Custodian. Any Custodian acting hereunder shall be subject to the directions of the Depositary and shall be responsible solely to it. The Depositary reserves the right to add, replace, discharge or remove a Custodian, after consultation with the Company to the extent practicable. The Depositary will give prompt notice of any such action, which will be advance notice if practicable in accordance with the Listing Rules.

Any Custodian may resign from its duties hereunder by serving at least 45 days written notice to the Depositary at the address set out in Section 17. Any Custodian ceasing to act hereunder as Custodian shall deliver, upon the instruction of the Depositary, all Deposited Securities held by it to a Custodian continuing to act. The Depositary shall promptly notify the Company upon receipt of a written notice of resignation from a Custodian and shall make reasonable efforts to, and in any event within 45 days of such written notice of resignation and prior to a Custodian ceasing to act as Custodian, appoint a replacement Custodian.

Notwithstanding the foregoing, if the removal of a Custodian is made by the Depositary for the protection of the Holders (including, but not limited to, where (i) the Custodian has committed a material breach under the custodian agreement and the breach cannot reasonably be remedied or (ii) the Custodian has become insolvent, or there are legal restrictions for the appointment of the Custodian and the Depositary or the Company could reasonably be expected to incur a loss or liability if the Custodian is not removed), the Depositary is entitled to remove the Custodian immediately.

The Company agrees and undertakes that upon receipt of any notice of a change of any Custodian, it shall as soon as practicable, notify the Stock Exchange and make appropriate disclosure in accordance with the Listing Rules, including publishing an announcement regarding and in advance of the prospective change of the Custodian. The Depositary shall cooperate with the Company with regard to the content of any such announcement that is required under the Listing Rules or by the Stock Exchange.

Notwithstanding anything to the contrary contained in this Deposit Agreement (including the form of HDR), the Depositary shall not be responsible for, and shall incur no liability in connection with or arising from, any act or omission to act on the part of the Custodian except to the extent that any Holder has incurred liability directly as a result of the Custodian having (i) committed fraud or willful misconduct in the provision of custodial services to the Depositary or (ii) failed to use reasonable care in the provision of custodial services to the Depositary as determined in accordance with the standards prevailing in the jurisdiction in which the Custodian is located.

**10. Registrar and Transfer Agent, Co-Registrars and Co-Transfer Agents.** The Depositary shall appoint and may remove the (i) registrar, who will satisfy the Registrar requirements under the Listing Rules, to maintain the HDR Register and to register HDSs, HDRs and transfers, combinations, cancellations, withdrawals and split-ups of HDRs and to countersign HDRs in accordance with the terms of any such appointment and (ii) transfer agent for the purpose of effecting transfers, combinations, cancellations, withdrawals and split-ups of HDRs at designated transfer offices on behalf of the Depositary. The Depositary may appoint and remove (i) co-registrars to register HDRs, HDSs and transfers, combinations, cancellations, withdrawals and split-ups of HDRs and to countersign HDRs in accordance with the terms of any such appointment and (ii) co-transfer agents for the purpose of effecting transfers,

combinations, cancellations, withdrawals and split-ups of HDRs at designated transfer offices on behalf of the Depositary.

**11. Lists of Holders.** The Company shall have the right to inspect transfer records of the Depositary and its agents and the HDR Register, take copies thereof and require the Depositary and its agents to supply copies of such portions of such records as promptly as reasonably practical the Company may reasonably request. The Depositary or its agent shall furnish to the Company on or before the fifth day of every month a list of the names, addresses and holdings of HDSs by all Holders as of the last business day of the previous month.

**12. Depositary's Agents.** The Depositary may perform its obligations under this Deposit Agreement through any agent appointed by it, provided that the Depositary shall notify the Company of such appointment and shall remain responsible for the performance of such obligations as if no agent were appointed, subject to Section 14 of the form of HDR.

**13. Successor Depositary.** The Depositary may at any time resign as Depositary hereunder by written notice of its election to do so delivered to the Company, such resignation to take effect upon (and for the avoidance of doubt, the Depositary's duties as a depositary to cease only upon) the effective appointment of a successor depositary and its acceptance of such appointment as hereinafter provided. The Depositary may at any time be removed by the Company by providing no less than 90 days prior written notice of such removal to the Depositary, such removal to take effect the later of (i) the 90<sup>th</sup> day after such notice of removal is first provided, (ii) the appointment of a successor depositary and its acceptance of such appointment as hereinafter provided and (iii) any subsequent withdrawal of the Listing on the Stock Exchange. Notwithstanding the foregoing, if upon the resignation or removal of the Depositary a successor depositary is not appointed within the applicable 90-day period as specified in paragraph (17) of the form of HDR, then the Depositary may elect to terminate this Deposit Agreement and the HDR and the provisions of said paragraph (17) shall thereafter govern the Depositary's obligations hereunder. In case at any time the Depositary acting hereunder shall resign or be removed, the Company shall use its best efforts to appoint a successor depositary, which shall be a bank or trust company having an office in Hong Kong. Every successor depositary shall execute and deliver to its predecessor and to the Company an instrument in writing accepting its appointment hereunder, and thereupon such successor depositary, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor. The predecessor depositary, only upon payment of all sums due to it and on the written request of the Company, shall (i) execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder (other than its rights to indemnification and fees owing, each of which shall survive any such removal and/or resignation), (ii) duly assign, transfer and deliver all right, title and interest to the Deposited Securities to such successor, and (iii) deliver to such successor a list of the Holders of all outstanding HDRs. Any such successor depositary shall promptly mail notice of its appointment to such Holders. Any bank or trust company into or with which the Depositary may be merged or consolidated, or to which the Depositary shall transfer substantially all its Hong Kong depositary receipt business, shall be the successor of the Depositary without the execution or filing of any document or any further act. Any successor depositary, including in connection with any merger or consolidation of the Depositary, shall be acceptable to the Stock Exchange in accordance with the Listing Rules. The Company agrees and undertakes that upon receipt of any notice of resignation from the Depositary or its service of notice on the Depositary of the termination of its appointment, it shall as soon as practicable, notify the Stock Exchange and make appropriate disclosure in accordance with the Listing Rules, including publishing an

announcement in accordance with the Listing Rules. The Depositary shall cooperate with the Company with regard to the content of any such announcement that is required under the Listing Rules or by the Stock Exchange.

**14. Reports.** On or before the first date on which the Company makes any communication (including notices, reports or voting forms) available to holders of Deposited Securities or any securities regulatory authority or stock exchange, by publication or otherwise, such communications to be in dual English and Chinese format in the manner and to the extent required by the Listing Rules, the Company shall transmit to the Depositary copies thereof. After receiving such communications from the Company, the Depositary will, at the reasonable request of the Company and sufficient copies thereof (a) forward such communications to the Holders and (b) make available for inspection by Holders at the principal office of the Depositary copies of any such documents or communications received from the Company. The Company has delivered to the Depositary, the Custodian and any Transfer Office, a copy of all provisions of or governing the Shares and any other Deposited Securities issued by the Company and, promptly upon any change thereto, the Company shall deliver to the Depositary, the Custodian and any Transfer Office, a copy (in English or with an English translation) of such provisions as so changed. The Depositary and its agents may rely upon the Company's delivery thereof for all purposes of this Deposit Agreement and the Depositary shall have no liability for the accuracy or completeness of any thereof.

**15. Additional Shares.** Neither the Company nor any company controlling, controlled by or under common control with the Company shall issue additional Shares, rights to subscribe for Shares, securities convertible into or exchangeable for Shares or rights to subscribe for any such securities or shall deposit any Shares in Hong Kong under this Deposit Agreement, except under circumstances complying in all respects with all the relevant laws, rules and regulations, including, without limitation, the Securities Act, the Companies Ordinance, the Listing Rules (for the avoidance of doubt, except for the provisions of the Listing Rules which relevant waivers are granted by the Stock Exchange) and the SFO, the Companies Act, the Book-Entry Act, the rules of the Tokyo Stock Exchange, the rules of JASDEC, the Articles of Incorporation and the share handling regulations of the Company. The Depositary will use reasonable efforts to comply with written instructions of the Company not to accept for deposit hereunder any Shares identified in such instructions at such times and under such circumstances as may reasonably be specified in such instructions in order to facilitate the Company's compliance with securities laws in Hong Kong. At the reasonable request of the Depositary where it deems necessary, the Company will furnish the Depositary with legal opinions, in forms and from counsels reasonably acceptable to the Depositary, dealing with such issues requested by the Depositary.

**16. Indemnification.** The Company shall indemnify, defend and save harmless each of the Depositary, its affiliates and their respective directors, officers, employees, agents (acting in their capacities as agents of the Depositary) and affiliates, against any loss, liability or expense (including reasonable fees and expenses of legal advisers) which may arise out of acts performed or omitted (i) in connection with the provisions of this Deposit Agreement and of the HDRs, as the same may be amended, modified or supplemented from time to time in accordance herewith, except for any liability or expense directly arising out of the negligence or willful misconduct of the Depositary or its directors, officers or affiliates acting in their capacities as such hereunder or (ii) by the Company or any of its directors, officers, employees, agents and affiliates.

The indemnities set forth in the preceding paragraph shall also apply to any liability or expense which may arise out of any misstatement or alleged misstatement or omission or alleged omission in any registration statement, proxy statement, listing document, prospectus (or placement memorandum), or preliminary prospectus (or preliminary placement memorandum) relating to the offer, issuance, withdrawal or sale of HDSs or the deposit, withdrawal, offer or sale of Shares or any other report filed or furnished by the Company with any regulatory authority or stock exchange, except to the extent any such liability or expense arises out of (i) information relating to the Depositary or its agents (other than the Company), as applicable, furnished in writing by the Depositary expressly for use in any of the foregoing documents and not changed or altered by the Company or (ii) if such information is provided, the failure by the Depositary to state a material fact therein necessary to make the information provided, in light of the circumstances under which made or provided, not misleading.

Notwithstanding any other provision of this Deposit Agreement or the form of HDR to the contrary, neither the Depositary, nor any of its agents, shall be liable for any indirect, special, punitive or consequential damages (including, without limitation, legal fees and expenses or lost profits, in each case of any form incurred by any person or entity (including, without limitation, Holders and Beneficial Owners), whether or not foreseeable and regardless of the type of action in which such a claim may be brought.

The obligations set forth in this Section 16 shall survive the termination of this Deposit Agreement and the succession or substitution of any indemnified person.

**17. Notices.** Notice to any Holder shall be deemed given when first mailed, first class postage prepaid, to the address of such Holder on the HDR Register or received by such Holder. Failure to notify a Holder or any defect in the notification to a Holder shall not affect the sufficiency of notification to other Holders or to the Beneficial Owners of the HDSs evidenced by the HDRs held by such other Holders. With respect to Holders and Beneficial Owners, the Depositary's only notification obligations under this Deposit Agreement and the HDRs shall be to Holders. Notice to a Holder shall be deemed, for all purposes of the Deposit Agreement and the HDRs, to constitute notice to any and all Beneficial Owners of the HDSs evidenced by such Holder's HDRs. Notice to the Depositary or the Company shall be deemed given when first received by it at the address or by electronic transmission to the e-mail address set forth in (a) or (b), respectively, or at such other address or email address provided by the Depositary or the Company to the other, respectively, in the same manner as notices are required to be provided in this Section 17:

(a) JPMorgan Chase Bank, N.A.  
8 Connaught Road,  
Chater House, 20/F  
Central Hong Kong  
Tel: (852) 2800 1851  
E-mail Address: [DR\\_Global\\_CSM@jpmorgan.com](mailto:DR_Global_CSM@jpmorgan.com)

with a copy to:  
JPMorgan Chase Bank, N.A.  
383 Madison Avenue, Floor 11  
New York, New York, 10179  
Attention: Depositary Receipts Group  
E-mail Address: [DR\\_Global\\_CSM@jpmorgan.com](mailto:DR_Global_CSM@jpmorgan.com)

- (b) Fast Retailing Co., Ltd. Midtown Tower, Akasaka 9-7-1  
Minato-ku, Tokyo, 107-6231, Japan  
Attention: Treasury Department / Mr. Isao Hirota  
E-mail Addresses: [isao.hirota@fastretailing.com](mailto:isao.hirota@fastretailing.com), and [FRJP-GCM-Treasury@fastretailing.com](mailto:FRJP-GCM-Treasury@fastretailing.com)

Delivery of a notice by means of electronic messaging shall be deemed to be effective at the time of the initiation of the transmission by the sender (as shown on the sender's records) to the email address set forth above, notwithstanding that the intended recipient retrieves the message at a later date, fails to retrieve such message, or fails to receive such notice on account of its failure to maintain the designated e-mail address, its failure to designate a substitute e-mail address or for any other reason.

**18. Miscellaneous.** This Deposit Agreement is for the exclusive benefit of the Company, the Depositary, and their respective successors hereunder, and, except as otherwise provided for in the first paragraph of Section 16 hereof, shall not give any legal or equitable right, remedy or claim whatsoever to any other person. The Company and the Depositary will execute a deed poll in substantially the form set out in Exhibit C-1 hereto in favour of and in relation to the rights of the HDR Holders. If any provision contained in this Deposit Agreement or in the HDRs is, or becomes, invalid, illegal or unenforceable in any respect, the remaining provisions contained herein and therein shall in no way be affected thereby. This Deposit Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one instrument. Delivery of an executed signature page of this Deposit Agreement by facsimile or other electronic transmission (including ".pdf", ".tif" or similar format) shall be effective as delivery of a manually executed counterpart hereof. The Holders and Beneficial Owners from time to time shall be parties to this Deposit Agreement and shall be bound by all of the provisions hereof. A Beneficial Owner shall only be able to exercise any right or receive any benefit hereunder solely through the Holder of the HDR(s) evidencing the HDSs owned by such Beneficial Owner.

**19. Governing Law.** This Deposit Agreement, the HDSs and the HDRs shall be governed and construed in accordance with the laws of Hong Kong without giving effect to the application of any conflict of law principles thereof.

**20. Consent to Jurisdiction.** The Company irrevocably agrees that any legal suit, action or proceeding against or involving the Company brought by the Depositary arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted in any Hong Kong court, and irrevocably waives any objection that it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. The Company also irrevocably agrees that any legal suit, action or proceeding against or involving the Depositary brought by the Company, arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted only in Hong Kong court. Subject to the Depositary's arbitration rights with respect to Disputes (as defined below), the Depositary waives any objection that it may now or hereafter have to the laying of venue of any such proceeding in Hong Kong court. Notwithstanding the foregoing, the Depositary may institute and/or refer any such suit, action or proceeding to arbitration in accordance with the provisions of the Deposit Agreement, and thereupon any arbitral decision from such suit, action or

proceeding shall be deemed final and binding.

By holding or owning an HDR or HDS or an interest therein, Holders and Beneficial Owners each irrevocably agree that any legal suit, action or proceeding against or involving Holders or Beneficial Owners brought by the Company or the Depositary, arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted in a Hong Kong court, and by holding or owning an HDR or HDS or an interest therein each irrevocably waives any objection that it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding.

By holding or owning an HDR or HDS or an interest therein, Holders and Beneficial Owners each also irrevocably agree that any legal suit, action or proceeding against or involving the Depositary and/or the Company brought by Holders or Beneficial Owners, arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be only instituted in Hong Kong courts. Notwithstanding the foregoing, the Depositary may institute and/or refer any such suit, action or proceeding to arbitration in accordance with the following provisions of this Deposit Agreement, and thereupon, any arbitral decision from such suit, action or proceeding shall be deemed final and binding.

Notwithstanding anything in this Deposit Agreement to the contrary, each of the parties hereto (i.e., the Company, the Depositary and all Holders and Beneficial Owners) agrees that: (i) the Depositary may, in its sole discretion, elect to institute any dispute, suit, action, controversy, claim or proceeding directly or indirectly based on, arising out of or relating to this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, including without limitation any question regarding its or their existence, validity, interpretation, performance or termination (each, a "**Dispute**"; collectively, "**Disputes**") against any other party or parties hereto (including, without limitation, Disputes brought against Holders and Beneficial Owners), by having the Dispute referred to and finally resolved by an arbitration conducted under the terms set out below, and (ii) the Depositary may in its sole discretion require, by written notice to the relevant party or parties, that any Dispute brought by any party or parties hereto (including, without limitation, Disputes brought by Holders and Beneficial Owners) against the Depositary be referred to and finally settled by an arbitration conducted under the terms set out below. Any such arbitration shall, at the Depositary's election, be conducted either in New York, New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association or in Hong Kong following the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) with the Hong Kong International Arbitration Centre serving as the appointing authority, in each case as amended by this Section 20(d), and the language of any such arbitration shall be English. A notice of arbitration may be mailed to the Company at its address last specified for notices under this Deposit Agreement, and, if applicable, to any Holders at their addresses on the ADR Register, which notice to any such Holder, for the avoidance of doubt, shall be deemed, for all purposes of the Deposit Agreement and the ADRs, including, without limitation, the arbitration provisions contained in this paragraph, to constitute notice to any and all Beneficial Owners of the HDSs evidenced by such Holder's HDRs. In any case where the Depositary exercises its right to arbitrate hereunder, arbitration of the Dispute shall be mandatory and any pending litigation arising out of or related to such Dispute shall be stayed. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Notwithstanding anything contained herein to the contrary, and for the avoidance of doubt, the Company and

all Holders and Beneficial Owners from time to time of HDRs issued hereunder (and any persons owning or holding interests in HDSs) agree that any Hong Kong court shall have jurisdiction to hear and determine proceedings related to the enforcement of this arbitration provision and any arbitration award by the arbitrators contemplated and, for such purposes, irrevocably submits to the non-exclusive jurisdiction of such courts. Each of the parties hereto (i.e., the Company, the Depositary and all Holders and Beneficial Owners) agrees not to challenge the terms and enforceability of this arbitration clause, including, but not limited to, any challenge based on lack of mutuality, and each such party hereby irrevocably waives any such challenge. The number of arbitrators shall be three, each of whom shall (x) be disinterested in the Dispute, (y) have no connection with any party thereto, and (z) be an attorney experienced in international securities transactions. The Company and the Depositary shall each appoint one arbitrator, and the two arbitrators shall select a third arbitrator who shall serve as chairperson of the tribunal. If a Dispute shall involve more than two parties, the parties shall attempt to align themselves in two sides (i.e., claimant and respondent), each of which shall appoint one arbitrator as if there were only two parties to such Dispute. If either or both parties fail to select an arbitrator, or if such alignment (in the event there are more than two parties) shall not have occurred, within thirty (30) calendar days after the Depositary serves the arbitration demand or the two arbitrators fail to select a third arbitrator within thirty (30) calendar days of the selection of the second arbitrator, the Hong Kong International Arbitration Centre shall appoint the remaining arbitrator or arbitrators in accordance with its rules. The parties and the Hong Kong International Arbitration Centre, as the case may be, may appoint the arbitrators from among the nationals of any country, whether or not the appointing party or any other party to the arbitration is a national of that country. The arbitrators shall have no authority to award (A) damages against any party not measured by the prevailing party's actual damages or (B) any consequential, special or punitive damages against any party and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Deposit Agreement. In all cases, the fees of the arbitrators and other costs incurred by the parties in connection with such arbitration shall be paid by the party (or parties) that is (or are) unsuccessful in such arbitration. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or act in any arbitration in the interest of the general public or in a private attorney general capacity.

Notwithstanding the foregoing or anything in this Deposit Agreement to the contrary, any suit, action or proceeding against the Company based on this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted by the Depositary, and each of the Company, Holders and Beneficial Owners irrevocably submits to jurisdiction, in any competent court in Hong Kong, Japan, the United States and/or any other court of competent jurisdiction or by the Depositary through the commencement of an arbitration pursuant to the above paragraph and each irrevocably waives any objection which it might at any time have to any court in which court proceedings are permitted to be brought under the provisions of hereof and any claim of forum non convenient and further irrevocably agrees that a judgment in any proceedings brought in any such courts shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.

The Depositary hereby appoints King Ho of JPMorgan Chase Bank, N.A., 20/F Chater House, 8 Connaught Road Central, Hong Kong as its agent to receive on its behalf service of process in the courts of Hong Kong and the Company hereby appoints UNIQLO HONG KONG, LIMITED of 704-705, 7th Floor, Miramar Tower, No.132 Nathan Road, Tsim Sha Tsui, Kowloon,

Hong Kong, as its authorized agent (the "**Authorized Agent**") upon which process may be served in any such suit, action or proceeding arising out of or based on this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby which may be instituted by the Depositary or any Holder, and waives any other requirements of or objections to personal jurisdiction with respect thereto. Subject to the Company's rights to replace the Authorized Agent with another entity in the manner required were the Authorized Agent to have resigned, such appointment shall be irrevocable. The Company represents and warrants that the Authorized Agent has agreed to act as said agent for service of process, and the Company agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. The Company further hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents in any suit, action or proceeding against the Company, by service by mail of a copy thereof upon the Authorized Agent (whether or not the appointment of such Authorized Agent shall for any reason prove to be ineffective or such Authorized Agent shall fail to accept or acknowledge such service), with a copy mailed to the Company by registered or certified air mail, postage prepaid, to its address provided in Section 17 hereof. The Company agrees that the failure of the Authorized Agent to give any notice of such service to it shall not impair or affect in any way the validity of such service or any judgment or award rendered in any suit, action or proceeding based thereon. If, for any reason, the Authorized Agent named above or its successor shall no longer serve as agent of the Company to receive service of process, notice or papers, the Company shall promptly appoint a successor that is a legal entity with offices in London or New York, New York, so as to serve and will promptly advise the Depositary thereof. In the event the Company fails to continue such designation and appointment in full force and effect, the Company hereby waives personal service of process upon it and consents that any such service of process may be made by certified or registered mail, return receipt requested, directed to the Company at its address last specified for notices hereunder, and service so made shall be deemed completed five (5) days after the same shall have been so mailed.

To the extent that the Company or any of its properties, assets or revenues may have or may hereafter be entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, including any arbitration, from the giving of any relief in any respect thereof, from setoff or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution or judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment or arbitration award, in any jurisdiction in which proceedings may at any time be commenced, with respect to its obligations, liabilities or other matter under or arising out of or in connection with the Shares or Deposited Securities, the HDSs, the HDRs or this Deposit Agreement, the Company, to the fullest extent permitted by law, hereby irrevocably and unconditionally waives, and agrees not to plead or claim, any such immunity and consents to such relief and enforcement.

**21. Waiver.** EACH PARTY TO THIS DEPOSIT AGREEMENT (INCLUDING, FOR AVOIDANCE OF DOUBT, EACH HOLDER AND BENEFICIAL OWNER OF, AND/OR HOLDER OF INTERESTS IN, HDSS OR HDRS) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING AGAINST THE DEPOSITARY AND/OR THE COMPANY DIRECTLY OR INDIRECTLY ARISING OUT OF, BASED ON OR RELATING IN ANY WAY TO THE SHARES OR OTHER DEPOSITED SECURITIES, THE HDSs OR THE HDRs, THE DEPOSIT AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREIN

OR THEREIN, OR THE BREACH HEREOF OR THEREOF (WHETHER BASED ON CONTRACT, TORT, COMMON LAW OR ANY OTHER THEORY), INCLUDING, WITHOUT LIMITATION, ANY SUIT, ACTION, CLAIM OR PROCEEDING UNDER APPLICABLE SECURITIES LAWS.

**22. Amendment and Restatement of Prior Deposit Agreement.** The Deposit Agreement amends and restates the Prior Deposit Agreement in its entirety to consist exclusively of the Deposit Agreement, and each Prior Receipt is hereby deemed amended and restated to substantially conform to the form of HDR set forth in Exhibit A annexed hereto, except that, to the extent any portion of such amendment and restatement imposes or increases any fees or charges different from those set forth herein (other than charges in connection with foreign exchange control regulations, and taxes and other governmental charges, delivery and other such expenses), or otherwise materially prejudices any substantial existing right of Holders of Prior Receipts evidenced by such Prior Receipt, such portion shall not become effective as to such Holders with respect to such Prior Receipt until after the number of days specified in paragraph (16) of the form of HDR attached hereto in Exhibit A, such notice to be conclusively deemed given upon the mailing to such Holders of notice of such amendment and restatement which notice contains a provision whereby such Holders can receive a copy of the form of HDR.

**IN WITNESS WHEREOF** this Deposit Agreement has been executed on behalf of the parties hereto the day and year first before written.

## The Company

**SIGNED** by Tadashi Yanai, Chairman, President & CEO )  
on behalf of **FAST RETAILING CO., LTD.** )

Name: Tadashi Yanai  
Title: Chairman, President & CEO

in the presence of: \_\_\_\_\_ )

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The Depositary

**SIGNED** by Gregory A. Levendis, Executive Director )  
on behalf of **JPMORGAN CHASE BANK, N.A.** )

---

Name: Gregory A. Levendis  
Title: Executive Director

in the presence of: )

---

Name:  
Title:

in the presence of: )

**EXHIBIT A  
ANNEXED TO AND INCORPORATED IN  
DEPOSIT AGREEMENT**

**[FORM OF FACE OF HDR]**

|        |              |                                             |
|--------|--------------|---------------------------------------------|
| Number | No. of HDSs: |                                             |
|        |              | Each HDS represents<br>0.01 Share<br>CUSIP: |

HONG KONG DEPOSITARY RECEIPT

evidencing

HONG KONG DEPOSITARY SHARES

representing ORDINARY SHARES

of

FAST RETAILING CO., LTD.

(Incorporated under the laws of Japan with limited liability)

NEITHER THIS HDR, THE HDSs EVIDENCED HEREBY, NOR THE SHARES REPRESENTED THEREBY HAVE BEEN OR WILL BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR WITH ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES AND MAY BE RE-OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE LAWS OF THE STATES, TERRITORIES AND POSSESSIONS OF THE UNITED STATES GOVERNING THE OFFER AND SALE OF SECURITIES AND, PRIOR TO THE EXPIRATION OF THE APPLICABLE DISTRIBUTION COMPLIANCE PERIOD (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) ONLY (1) OUTSIDE THE UNITED STATES TO A PERSON OTHER THAN A U.S. PERSON (AS SUCH TERMS ARE DEFINED IN REGULATION S UNDER THE SECURITIES ACT) IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT, (2) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT. UPON THE EXPIRATION OF THE APPLICABLE DISTRIBUTION COMPLIANCE PERIOD (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT), THIS HDR, THE HDSs EVIDENCED HEREBY AND THE DEPOSITED SECURITIES REPRESENTED BY HDSs SHALL NO LONGER BE SUBJECT TO THE RESTRICTIONS ON TRANSFER PROVIDED IN THIS LEGEND, PROVIDED THAT AT THE TIME OF SUCH EXPIRATION THE OFFER AND SALE OF THE HDSs EVIDENCED HERBY AND THE DEPOSITED SECURITIES REPRESENTED THEREBY BY THE HOLDER THEREOF IN THE UNITED STATES WOULD NOT BE RESTRICTED UNDER THE SECURITIES LAWS OF THE UNITED STATES OR ANY STATE, TERRITORY OR POSSESSION OF THE UNITED STATES.

EACH HOLDER AND BENEFICIAL OWNER, BY ITS ACCEPTANCE OF THIS HDR OR A BENEFICIAL INTEREST IN THE HDSs EVIDENCED HEREBY, AS THE CASE MAY BE, REPRESENTS THAT IT UNDERSTANDS AND AGREES TO THE FOREGOING RESTRICTIONS.

JPMORGAN CHASE BANK, N.A., a national banking association organized under the laws of the United States of America, as depositary hereunder (the “**Depository**”), hereby certifies that \_\_\_\_ is the registered owner (a “**Holder**”) of \_\_\_\_ Hong Kong Depositary Shares (“**HDSs**”), each (subject to paragraph (13)) representing 0.01 ordinary shares (including the rights to receive Shares described in paragraph (1), “**Shares**” and, together with any other securities, cash or property from time to time held by the Depository in respect or in lieu of deposited Shares, the “**Deposited Securities**”), of Fast Retailing Co., Ltd., a corporation organized under the laws of Japan (the “**Company**”), deposited under the Amended and Restated Deposit Agreement dated as of 7 February 2023, (as amended from time to time, the “**Deposit Agreement**”) between the Company and the Depository. This Hong Kong Depositary Receipt (“**HDR**”) (which includes the provisions set forth on the reverse hereof) shall be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region of the People’s Republic of China without giving effect to the application of the conflict of law principles thereof. All capitalized terms used herein, and not defined herein, shall have the meanings ascribed to such terms in the Deposit Agreement.

(1) **Issuance of HDSs.** This HDR is one of the HDRs issued under the Deposit Agreement. Subject to the other provisions hereof, the Depository may so issue HDRs for delivery at the Transfer Office (as defined below) only against deposit of: (i) Shares in a form satisfactory to the Custodian; or (ii) rights to receive Shares from the Company or any registrar, transfer agent, clearing agent or other entity recording Share ownership or transactions. At the request, risk and expense of the person depositing Shares, the Depository may accept deposits for forwarding to the Custodian and may deliver ADRs at a place other than its office. Shares or evidence of rights to receive Shares may be deposited through (x) electronic transfer of such Shares to the account maintained by the Custodian for such purpose at JASDEC, (y) evidence satisfactory to the Custodian of irrevocable instructions to cause such Shares to be transferred to such account or (z) delivery of the certificates representing such Shares. If use of the JASDEC book-entry system in connection with the Shares is discontinued at any time for any reason, the Company shall make other book-entry arrangements (if any) that it determines, after consultation with the Depository, are reasonable. Subject to the further terms and provisions of this paragraph (1), the Depository, its affiliates and their agents, on their own behalf, may own and deal in any class of securities of the Company and its affiliates and in HDSs. In its capacity as Depository, the Depository shall not lend Shares or HDSs.

Every person depositing Shares under the Deposit Agreement represents and warrants that such (i) Shares are duly authorized, validly issued and outstanding, fully paid, nonassessable and legally obtained by such person, (ii) all pre-emptive and comparable rights, if any, with respect to such Shares have been validly waived or exercised, (iii) the person making such deposit is duly authorized so to do, (iv) the Shares presented for deposit are free and clear of any lien, encumbrance, security interest, charge, mortgage or adverse claim and (v) such Shares (A) are not “restricted securities” as such term is defined in Rule 144 under the Securities Act (“**Restricted Securities**”) unless at the time of deposit the requirements of paragraphs (c), (e), (f) and (h) of Rule 144 shall not apply and such Shares may be freely transferred and may otherwise be offered and sold freely in the United States or (B) have been registered under the Securities Act. Such representations and warranties shall survive the deposit and withdrawal of Shares, the issuance and cancellation of HDSs in respect thereof, the adjustment of the

Depository's records in respect of the HDRs and the transfer of such HDSs. The Depository may refuse to accept Shares for deposit if such action is deemed necessary or desirable by the Depository, in good faith, at any time or from time to time because of any requirement or law or rule of any government or governmental authority, body or commission or stock exchange or under any provision of this Deposit Agreement or for any other reason.

**(2) Withdrawal of Deposited Securities.** A Holder may from time to time surrender the HDRs for cancellation and request for the Deposited Securities represented by the HDSs to be transferred to the name of the Holder, in each case in accordance with the terms of the Deposit Agreement; provided that a Holder may only request for withdrawal of Shares represented by ten (10) HDRs or multiples thereof and any Holder requesting a withdrawal of Shares that are traded on the Tokyo Stock Exchange must have a securities account, opened at an account management institution participating in the scripless book-entry settlement system operated by JASDEC, to which the Deposited Securities to be withdrawn will be credited. Subject to paragraphs (4) and (5), upon surrender of (i) a certificated HDR in form satisfactory to the Depository at the Transfer Office, (ii) proper instructions and documentation in the case of a Book-Entry HDR, the Holder hereof is entitled to delivery at, or to the extent in dematerialized form from, the Custodian's office of the Deposited Securities at the time represented by the HDSs evidenced by this HDR, and (iii) with respect to withdrawals during the Distribution Compliance Period, receipt by the Depository of an executed certification substantially in the form of Exhibit B-2 annexed to this Deposit Agreement (or in such other form as the Depository shall approve) by or on behalf of such beneficial owner or Holder, as the case may be. To the extent HDSs surrendered are not in a multiple of ten (10), the Depository will only accept that number of HDSs that is a multiple of ten (10) and shall return any uncanceled HDSs to the Holder surrendering the same. At the request, risk and expense of the Holder hereof, the Depository may deliver such Deposited Securities at such other place outside the United States as may have been requested by the Holder.

**(3) Transfers of HDRs.** The Depository or its agent will keep, at a designated transfer office in Hong Kong (the "**Transfer Office**"), (a) a register (the "**HDR Register**") for the registration of HDRs and their Holders and the registration of issue, transfer, combination, split-up, withdrawal and cancellation of HDRs, which at all reasonable times will be open for inspection by Holders and the Company for the purpose of communicating with Holders in the interest of the business of the Company or a matter relating to the Deposit Agreement and (b) facilities for the delivery and receipt of HDRs. Subject to any applicable legal restrictions on transfer appearing on the face hereof, title to this HDR (and to the Deposited Securities represented by the HDSs evidenced hereby), when properly endorsed (in the case of HDRs in certificated form) or upon delivery to the Depository of proper instruments of transfer, is transferable by delivery with the same effect as in the case of negotiable instruments under the laws of Hong Kong; provided that the Depository, notwithstanding any notice to the contrary, may treat the person in whose name this HDR is registered on the HDR Register as the absolute owner hereof for all purposes and neither the Depository nor the Company will have any obligation or be subject to any liability under the Deposit Agreement to any holder of an HDR, unless such holder is the Holder thereof. Subject to the procedural requirements under paragraphs (4) and (5) and any applicable legal restrictions on transfer appearing on the face hereof, this HDR is transferable on the HDR Register and may be split into other HDRs or combined with other HDRs into one HDR, evidencing the aggregate number of HDSs surrendered for split-up or combination, by the Holder hereof or by duly authorized attorney upon surrender of this HDR at the Transfer Office properly endorsed (in the case of HDRs in certificated form) or upon delivery to the Depository of proper instruments of transfer and duly stamped as may

be required by applicable law; provided that the Depositary may close the HDR Register (or any portion thereof) at any time or from time to time when deemed expedient by it. Additionally, at the reasonable request of the Company, the Depositary may close the issuance book portion of the HDR Register solely in order to enable the Company to comply with applicable law; provided, that the Depositary shall have no liability and shall be indemnified by the Company in such event. All transfers of HDRs shall be effected by transfer in the usual or common form or in such other form as the Depositary may accept provided always that it shall be in such a form prescribed by the Stock Exchange and may be under hand only, or if the transferor or transferee is a nominee of CCASS, under hand or by machine imprinted signature or by such other means of execution as the Depositary may approve from time to time. At the request of a Holder, the Depositary shall, for the purpose of substituting a certificated HDR with a Book-Entry HDR, or vice versa, execute and deliver a certificated HDR or a Book-Entry HDR, as the case may be, for any authorized number of HDSs requested, evidencing the same aggregate number of HDSs as those evidenced by the certificated HDR or Book-Entry HDR, as the case may be, substituted. Nothing in this certificate or the Deposit Agreement affects the right of the Company under the Securities and Futures Ordinance (Cap 571 of the Laws of Hong Kong) to investigate the ownership of the Shares or title to this HDR (and to the Deposited Securities represented by the HDSs evidenced by them).

**(4) Certain Limitations.** Prior to the issue, registration, registration of transfer, split-up or combination of any HDR, the delivery of any distribution in respect thereof, the withdrawal of any Deposited Securities, and from time to time in the case of clause (b)(ii) of this paragraph (4), the Company, the Depositary or the Custodian may require: (a) payment with respect thereto of (i) any stamp duty, stock transfer or other tax or other governmental charge, (ii) any stock transfer or registration fees in effect for the registration of transfers of Shares or other Deposited Securities upon any applicable register and (iii) any applicable charges as provided in paragraph (7) of this HDR; (b) the production of proof satisfactory to it of (i) the identity of any signatory and genuineness of any signature and (ii) such other information, including without limitation, information as to citizenship, residence, exchange control approval, beneficial ownership of any securities, compliance with applicable law, regulations, provisions of or governing Deposited Securities and terms of the Deposit Agreement and this HDR, as it may deem necessary or proper; and (c) compliance with such regulations as the Depositary may establish consistent with the Deposit Agreement. The issuance of HDRs, the acceptance of deposits of Shares, the registration, registration of transfer, split-up or combination of HDRs, the withdrawal of Deposited Securities may be suspended, generally or in particular instances, when the HDR Register or any register for Deposited Securities or book-entry of the Shares is closed or when any such action is deemed advisable by the Depositary. Additionally, the withdrawal and delivery of Deposited Securities may be suspended or refused during any period when the transfer books of the Depositary are closed, or if any such action is deemed necessary or advisable by the Depositary or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission, or under any provision of this Deposit Agreement, or for any other reason.

**(5) Taxes.** If any tax or other governmental charges (including any penalties and/or interest) shall become payable by or on behalf of the Custodian or the Depositary with respect to this HDR, any Deposited Securities represented by the HDSs evidenced hereby or any distribution thereon, such tax or other governmental charge shall be paid by the Holder hereof to the Depositary and by holding or owning, or having held or owned, this HDR or any HDSs evidenced hereby, the Holder and all Beneficial Owners hereof and thereof, and all prior Holders and Beneficial Owners hereof and thereof, jointly and severally, agree to indemnify,

defend and save harmless each of the Depositary and its agents in respect of such tax or other governmental charge. Neither the Depositary, nor any of its agents, shall be liable to Holders or Beneficial Owners of the HDSs and HDRs for failure of any of them to comply with applicable tax laws, rules and/or regulations. Notwithstanding the Depositary's right to seek payment from current and former Beneficial Owners, the Holders hereof (and all prior Holders hereof) acknowledge and agree that the Depositary has no obligation to seek payment of amounts owing under this paragraph (5) from any current or former Beneficial Owner. The Depositary may refuse to effect any registration, registration of transfer, split up or combination hereof or, subject to the last sentence of paragraph (2), any withdrawal of such Deposited Securities until such payment is made. The Depositary may also deduct from any distributions on or in respect of Deposited Securities, or may sell by public or private sale for the account of the Holder hereof any part or all of such Deposited Securities, and may apply such deduction or the proceeds of any such sale in payment of such tax or other governmental charge, the Holder hereof remaining liable for any deficiency, and shall reduce the number of HDSs evidenced hereby to reflect any such sales of Shares. In connection with any distribution to Holders, the Company will remit to the appropriate governmental authority or agency all amounts (if any) required to be withheld and owing to such authority or agency by the Company; and the Depositary and the Custodian will remit to the appropriate governmental authority or agency all amounts (if any) required to be withheld and owing to such authority or agency by the Depositary or the Custodian. If the Depositary determines that any distribution in property other than cash (including Shares or rights) on Deposited Securities is subject to any tax that the Depositary or the Custodian is obligated to withhold, the Depositary may dispose of all or a portion of such property in such amounts and in such manner as the Depositary deems necessary and practicable to pay such taxes, by public or private sale, and the Depositary shall distribute the net proceeds of any such sale or the balance of any such property after deduction of such taxes to the Holders entitled thereto. In all instances where the Deposit Agreement or an HDR refers to a "public sale" or "private sale" (or words of similar import), (i) the Depositary shall not endeavor to effect any such public or private sale unless the securities to be sold are listed and publicly traded on a stock exchange and (ii) to the extent not so listed and publicly traded, the Depositary shall not conduct any auction, bidding or other sales process with respect thereto and, in lieu thereof, shall act in accordance with the termination provisions hereof. Furthermore, in the event the Depositary endeavors to make a public sale of Shares or other securities, such securities may be sold in a block sale/single lot transaction. Each Holder and Beneficial Owner agrees to indemnify the Depositary, the Company, the Custodian and any of their respective officers, directors, employees, agents and affiliates against, and hold each of them harmless from, any claims by any governmental authority with respect to taxes, additions to tax, penalties or interest arising out of any refund of taxes, reduced rate of withholding at source or other tax benefit obtained which obligations shall survive any transfer or surrender of HDSs or the termination of the Deposit Agreement.

**(6) Disclosure of Interests.** To the extent that the provisions of or any applicable laws and regulations governing any Deposited Securities may require disclosure of or impose limits on beneficial or other ownership of Deposited Securities, other shares or other securities of the Company and may provide for blocking transfer, voting or other rights to enforce such disclosure or limits, Holders and all persons holding HDRs agree to comply with all such disclosure requirements and ownership limitations and to comply with any instructions of the Company, the Depositary or any regulator in respect thereof. Holders and all persons holding HDRs should note that pursuant to the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948) ("FIEA"), persons who acquire title to, or a call option for, equity securities (or who are authorised to exercise (or instruct the exercise of) the voting rights and other rights

attached to, or who are authorised to invest in, equity securities) including shares, share acquisition rights, bonds with share acquisition rights and similar securities issued or to be issued by a listed company representing more than 5% of the outstanding voting rights (“**Large Volume Holder**”) are required to file a “large shareholding report” in the form provided by the Cabinet Office Ordinance concerning Disclosure of Status of Large Volume Holding of Share Certificates (Ordinance of the Ministry of Finance No. 36 of 1990, as amended), to the director-general of the local finance bureau, and a copy thereof to the issuer of such equity securities and stock exchanges on which such shares are listed, within five (5) business days from the date on which such person has come to be a Large Volume Holder pursuant to Article 27-23 of the FIEA. For the avoidance of doubt, HKSCC and HKSCC Nominees Limited (or any successor thereto) shall be exempted from any requirement to make any declaration or representations and/or to provide information on the nationality, identity and/or other particulars of the beneficial owners of the HDRs and the Company and the Depositary acknowledge that HKSCC and HKSCC Nominees Limited do not recognize the interest of the CCASS Participants’ clients in respect of HDRs deposited into CCASS. The Company reserves the right to instruct Holders to deliver their HDSs for cancellation and withdrawal of the Deposited Securities so as to permit the Company to deal directly with the Holder thereof as a holder of Shares and Holders agree to comply with such instructions. If reasonably requested by the Company, the Depositary agrees to cooperate with the Company in its efforts to inform Holders of the Company’s exercise of its rights under this paragraph and agrees to consult with, and provide reasonable assistance without risk, liability or expense on the part of the Depositary, to the Company on the manner or manners in which it may enforce such rights with respect to any Holder, provided, however, for the avoidance of doubt, the Depositary shall be indemnified by the Company in connection with the foregoing.

**(7) Fees and Charges of Depositary.** The Depositary may charge, and collect from (i) each person to whom HDSs are issued, including, without limitation, issuances against deposits of Shares, issuances in respect of Share Distributions, Rights and Other Distributions (as such terms are defined in paragraph (10)), issuances pursuant to a stock or share dividend, gratuitous allocation of shares or share or stock split declared by the Company, or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or the Deposited Securities, and (ii) each person surrendering ADSs for withdrawal of Deposited Securities or whose ADSs are cancelled or reduced for any other reason, US\$0.05 (HK\$0.40) for each HDS issued, delivered, reduced, cancelled or surrendered, or upon which a Share Distribution or elective distribution is made or offered (as the case may be). For the avoidance of doubt, HKSCC Nominees Limited, as the nominee for CCASS Participants, excluding its participants, shall not be liable to the Depositary for the payment or collection of any fees or charges and, accordingly, any reference in this Section 7 to “Holder” shall, in the case of HKSCC Nominees Limited being a Holder by being the registered owner of HDRs holding as nominee for the benefit of CCASS Participants, mean those CCASS Participants and not HKSCC Nominees Limited. The Depositary may sell (by public or private sale) sufficient securities and property received in respect of Share Distributions, Rights and Other Distributions prior to such deposit to pay such charge. The following additional fees, charges and expenses shall also be incurred by the Holders, the Beneficial Owners, by any party depositing or withdrawing Shares or by any party surrendering HDSs and/or to whom HDSs are issued (including, without limitation, issuances pursuant to a stock or share dividend, gratuitous allocation of shares or share or stock split declared by the Company or an exchange of stock regarding the HDSs or the Deposited Securities or a distribution of HDSs pursuant to paragraph (10)), whichever is applicable (i) a fee of at least US\$0.05 (HK\$0.40) per HDS twice a year for any dividend distribution made pursuant to the Deposit Agreement, (ii) a fee of HK\$2.50 per HDR certificate

for transfers made pursuant to paragraph (3) hereof, (iii) a fee of at least US\$0.05 (HK\$0.40) per HDS held for the direct or indirect distribution of securities other than HDSs or rights to purchase additional HDSs pursuant to paragraph (10) hereof (including, without limitation, distributions by the Company or any third-party) or the distribution of the net cash proceeds from the sale of any such securities, (iv) an aggregate fee of US\$0.05 (HK\$0.40) per HDS per calendar year (or portion thereof) for services performed by the Depositary in administering the HDRs (which fee may be charged on a periodic basis during each calendar year and shall be assessed against Holders as of the record date or record dates set by the Depositary during each calendar year and shall be payable at the sole discretion of the Depositary by billing such Holders or by deducting such charge from one or more cash dividends or other cash distributions), and (v) an amount for the reimbursement of such charges and expenses as are incurred by the Depositary and/or any of its agents (including, without limitation, the Custodian and charges and expenses incurred on behalf of Holders in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in connection with the servicing of the Shares or other Deposited Securities, the sale of securities (including, without limitation, Deposited Securities), the delivery of Deposited Securities or otherwise in connection with the Depositary's or its Custodian's compliance with applicable law, rule or regulation (which charges and expenses may be assessed on a proportionate basis against Holders as of the record date or dates set by the Depositary and shall be payable at the sole discretion of the Depositary by billing such Holders or by deducting such charge or expense from one or more cash dividends or other cash distributions). The Company will pay all other fees, charges and expenses of the Depositary and any agent of the Depositary (except the Custodian) pursuant to agreements from time to time between the Company and the Depositary, except: (i) stamp duty, stock transfer or other taxes and other governmental charges (which are payable by Holders or persons depositing Shares); (ii) a transaction fee per cancellation request (including through SWIFT, telex and facsimile transmission) as disclosed on the "Disclosures" page (or successor page) of [www.adr.com](http://www.adr.com) (as updated by the Depositary from time to time, "**ADR.com**") and any applicable delivery expenses (which are payable by such persons or Holders), and (iii) transfer or registration expenses for the registration or transfer of Deposited Securities on any applicable register in connection with the deposit or withdrawal of Deposited Securities (which are payable by persons depositing Shares or Holders withdrawing Deposited Securities; there are no such expenses in respect of the Shares as of the date of the Deposit Agreement). The above charges may at any time and from time to time be changed by agreement between the Company and the Depositary.

To facilitate the administration of various depositary receipt transactions, including disbursement of dividends or other cash distributions and other corporate actions, the Depositary may engage the foreign exchange desk within JPMorgan Chase Bank, N.A. (the "**Bank**") and/or its affiliates in order to enter into spot foreign exchange transactions to convert foreign currency into Hong Kong dollars ("**FX Transactions**"). For certain currencies, FX Transactions are entered into with the Bank or an affiliate, as the case may be, acting in a principal capacity. For other currencies, FX Transactions are routed directly to and managed by an unaffiliated local custodian (or other third-party local liquidity provider), and neither the Bank nor any of its affiliates is a party to such FX Transactions.

The foreign exchange rate applied to an FX Transaction will be either (i) a published benchmark rate, or (ii) a rate determined by a third-party local liquidity provider, in each case plus or minus a spread, as applicable. The Depositary will disclose which foreign exchange rate and spread, if any, apply to such currency on the "Disclosures" page (or successor page) of [ADR.com](http://ADR.com). Such applicable foreign exchange rate and spread may (and neither the Depositary,

the Bank nor any of their affiliates is under any obligation to ensure that such rate does not) differ from rates and spreads at which comparable transactions are entered into with other customers or the range of foreign exchange rates and spreads at which the Bank or any of its affiliates enters into foreign exchange transactions in the relevant currency pair on the date of the FX Transaction. Additionally, the timing of execution of an FX Transaction varies according to local market dynamics, which may include regulatory requirements, market hours and liquidity in the foreign exchange market or other factors. Furthermore, the Bank and its affiliates may manage the associated risks of their position in the market in a manner they deem appropriate without regard to the impact of such activities on the Company, the Depositary, Holders or Beneficial Owners. The spread applied does not reflect any gains or losses that may be earned or incurred by the Bank and its affiliates as a result of risk management or other hedging related activity.

Notwithstanding the foregoing, to the extent the Company provides Hong Kong dollars to the Depositary, neither the Bank nor any of its affiliates will execute an FX Transaction as set forth herein. In such case, the Depositary will distribute the Hong Kong dollars received from the Company.

Further details relating to the applicable foreign exchange rate, the applicable spread and the execution of FX Transactions will be provided by the Depositary on ADR.com. The Company, Holders and Beneficial Owners each acknowledge and agree that the terms applicable to FX Transactions disclosed from time to time on ADR.com will apply to any FX Transaction executed pursuant to the Deposit Agreement.

The right of the Depositary to receive payment of fees, charges and expenses as provided above shall survive the termination of the Deposit Agreement. If the Depositary resigns or is removed, such right shall extend for those fees, charges and expenses incurred prior to the effectiveness of such resignation or removal.

**(8) Available Information.** The Deposit Agreement, the provisions of or governing Deposited Securities and any written communications from the Company, which are both received by the Custodian or its nominee as a holder of Deposited Securities and made generally available to the holders of Deposited Securities, are available on the Company's English website at <http://www.fastretailing.com/eng/> and for inspection by Holders at the principal place of business of the Company in Hong Kong and at the Transfer Office. The Depositary will distribute copies of any such written communications to Holders when furnished by the Company. Until the expiration of the Distribution Compliance Period, whenever the Company is not subject to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, or exempt from reporting pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934, as amended, the Company shall provide the information described in Rule 144A(d)(4) under the Securities Act to or upon request of any Holder, beneficial owner of an interest in the HDRs or holder of Shares, and any prospective purchaser of HDSs or Shares designated by such Holder or beneficial owner. The Depositary does not assume any liability to any communication made by the Company to Holders.

**(9) Execution.** This HDR shall not be valid for any purpose unless executed by the Depositary by the manual or facsimile signature of a duly authorized officer of the Depositary.

Dated:

JPMORGAN CHASE BANK, N.A., as Depositary

By \_\_\_\_\_  
Authorized Officer

The Depositary's office is located at 383 Madison Avenue, Floor 11, New York, New York 10179.

## [FORM OF REVERSE OF HDR]

**(10) Distributions on Deposited Securities.** Subject to paragraphs (4) and (5), to the extent practicable, the Depositary will distribute to each Holder entitled thereto on the record date set by the Depositary therefor at such Holder's address shown on the HDR Register, in proportion to the number of Deposited Securities (on which the following distributions on Deposited Securities are received by the Custodian) represented by HDSs evidenced by such Holder's HDRs:

(a) Cash. Any Hong Kong dollars available to the Depositary resulting from a cash dividend or other cash distribution or the net proceeds of sales of any other distribution or portion thereof authorized in this paragraph (10) ("**Cash**"), on an averaged or other practicable basis, subject to (i) appropriate adjustments for taxes withheld, (ii) such distribution being impermissible or impracticable with respect to certain Holders, and (iii) deduction of the Depositary's and/or its agents' fees and expenses in (1) converting any foreign currency to Hong Kong dollars by sale or in such other manner as the Depositary may determine to the extent that it determines that such conversion may be made on a reasonable basis, (2) transferring foreign currency or Hong Kong dollars to Hong Kong by such means as the Depositary may determine to the extent that it determines that such transfer may be made on a reasonable basis, (3) obtaining any approval or license of any governmental authority required for such conversion or transfer, which is obtainable at a reasonable cost and within a reasonable time and (4) making any sale by public or private means in any commercially reasonable manner; provided, however, that in the event that any of the deposited Shares is not entitled, by reason of its date of issuance, or otherwise, to receive the full amount of such cash dividend or distribution, the Depositary shall make appropriate adjustments in the amounts distributed to the Holders of the HDRs issued in respect of such Shares; and provided, further, that in the event that the Company or the Depositary shall be required to withhold and does withhold from any cash dividend or other cash distribution in respect of any Deposited Securities an amount on account of taxes, the amount distributed on the HDRs issued in respect of such Deposited Securities shall be reduced accordingly. To the extent the Depositary does not reasonably believe it will be permitted by applicable law, rule or regulation to convert foreign currency into Hong Kong dollars and distribute such Hong Kong dollars to some or all Holders, the Depositary may in its discretion distribute the foreign currency received by the Depositary to, or hold such foreign currency uninvested and without liability for interest thereon for the respective accounts of, the Holders entitled to receive the same. To the extent the Depositary holds such foreign currency, any and all costs and expenses related to, or arising from, the holding of such foreign currency shall be paid from such foreign currency thereby reducing the amount so held hereunder.

(b) Shares. (i) Additional HDRs evidencing whole HDSs representing any Shares available to the Depositary resulting from a share or stock dividend, gratuitous allocation of shares, free distribution or share or stock split on Deposited Securities consisting of Shares (a "**Share Distribution**") and (ii) Hong Kong dollars available to it resulting from the net proceeds of sales of Shares received in a Share Distribution, which Shares would give rise to fractional HDSs if additional HDRs were issued therefor, as in the case of Cash.

(c) Rights. (i) Warrants or other instruments (including share acquisition rights) in the discretion of the Depositary representing rights to acquire additional HDRs in respect of any rights to subscribe for additional Shares or rights of any nature available to the Depositary as a result of a distribution on Deposited Securities ("**Rights**"), to the extent that the Company

timely furnishes to the Depositary evidence satisfactory to the Depositary that the Depositary may lawfully distribute the same (the Company has no obligation to so furnish such evidence), or (ii) to the extent the Company does not so furnish such evidence and sales of Rights are practicable, any Hong Kong dollars available to the Depositary from the net proceeds of sales of Rights as in the case of Cash, or (iii) to the extent the Company does not so furnish such evidence and such sales cannot practicably be accomplished by reason of the nontransferability of the Rights, limited markets therefor, their short duration or otherwise, nothing (and any Rights may lapse).

(d) **Other Distributions.** (i) Securities or property available to the Depositary resulting from any distribution on Deposited Securities other than Cash, Share Distributions and Rights ("**Other Distributions**"), by any means that the Depositary may deem equitable and practicable, or (ii) to the extent the Depositary deems distribution of such securities or property not to be equitable and practicable, any Hong Kong dollars available to the Depositary from the net proceeds of sales of Other Distributions as in the case of Cash.

The Depositary reserves the right to utilize a division, branch or affiliate of JPMorgan Chase Bank, N.A. to direct, manage and/or execute any public and/or private sale of securities hereunder. Such division, branch and/or affiliate may charge the Depositary a fee in connection with such sales, which fee is considered an expense of the Depositary contemplated above and/or under paragraph (7). Neither the Depositary nor any of its agents shall have any liability for the price received in connection with any sale of securities, the timing thereof or any delay in action or omission to act, nor shall it or any of its agents be responsible for any error or delay in action, omission to act, default or negligence on the part of the party so retained. Such Hong Kong dollars available will be distributed by checks drawn on a bank in the United States for whole dollars and cents. Fractional cents will be withheld without liability and dealt with by the Depositary in accordance with its then current practices. All purchases and sales of securities will be handled by the Depositary in accordance with its then current policies, which are currently set forth on the "Disclosures" page (or successor page) of ADR.com, the location and contents of which the Depositary shall be solely responsible for.

(11) **Record Dates.** The Depositary may, after consultation with the Company if practicable, fix a record date (which, to the extent applicable, shall be as near as practicable to any corresponding record date set by the Company) for the determination of the Holders who shall be responsible for the fee assessed by the Depositary for administration of the HDR program and for any expenses provided for in paragraph (7) hereof as well as for the determination of the Holders who shall be entitled to receive any distribution on or in respect of Deposited Securities, to give instructions for the exercise of any voting rights, to receive any notice or to act in respect of other matters and only such Holders shall be so entitled or obligated.

(12) **Voting of Deposited Securities.** As soon as practicable after receipt from the Company of notice of any meeting or solicitation of interests or intention to vote at any meeting or proxies of holders of Shares or other Deposited Securities, which notice must be sent by the Company to allow for practically reasonable time for the Depositary to distribute such notice as described herein, the Depositary shall distribute to Holders a notice (the "**Voting Notice**") stating (a) such information as is contained in such notice and any solicitation materials, (b) that each Holder on the record date set by the Depositary therefor will, subject to any applicable provisions of Japanese law and regulations and the Articles of Incorporation, be entitled to instruct the Depositary as to the exercise of the voting rights, if any, pertaining to

the Deposited Securities represented by the HDSs evidenced by such Holder's HDRs and (c) the manner in which such instructions may be given. Each Holder shall be solely responsible for the forwarding of Voting Notices to the Beneficial Owners of HDSs registered in such Holder's name. The Depositary shall have no liability hereunder if the obligations above are not complied with. There is no guarantee that Holders and Beneficial Owners generally or any Holder or Beneficial Owner in particular will receive the notice described above with sufficient time to enable such Holder or Beneficial Owner to return any voting instructions to the Depositary in a timely manner. Following actual receipt by the HDR department responsible for proxies and voting of Holders' instructions, the Depositary shall, in the manner and on or before the time established by the Depositary for such purpose, endeavor to vote or cause to be voted the Deposited Securities represented by the HDSs evidenced by such Holders' HDRs in accordance with such instructions insofar as practicable and permitted under the provisions of or governing Deposited Securities. The Depositary will not itself exercise any voting discretion in respect of any Deposited Securities. Notwithstanding anything contained in the Deposit Agreement or any HDR, the Depositary may, to the extent not prohibited by any law, rule or regulation or by the rules, regulations or requirements of the stock exchange on which the HDSs are listed, in lieu of distribution of the materials provided to the Depositary in connection with any meeting of or solicitation of consents or proxies from holders of Deposited Securities, distribute to the Holders a notice that provides Holders with or otherwise publicizes to Holders instructions on how to retrieve such materials or receive such materials upon request (i.e., by reference to a website containing the materials for retrieval or a contact for requesting copies of the materials). Holders are strongly encouraged to forward their voting instructions as soon as possible. For the avoidance of doubt, if the Voting Notice specifies that voting instructions must be delivered to a specified department of the Depositary, the voting instructions will not be deemed received until such time as such specified department of the Depositary has received such instructions, notwithstanding that such instructions may have been physically received by JPMorgan Chase Bank, N.A., as Depositary, prior to such time. To the extent permitted by the Company and the applicable provisions of Japanese law and regulations and the Articles of Incorporation, Holders may attend any meeting of holders of Shares or other Deposited Securities but may not vote in person at such meeting.

**(13) Changes Affecting Deposited Securities.** Subject to paragraphs (4) and (5), the Depositary may, in its discretion, amend this HDR or distribute additional or amended HDRs (with or without calling this HDR for exchange) or cash, securities or property on the record date set by the Depositary therefor to reflect any change in par value, split-up, consolidation, cancellation or other reclassification of Deposited Securities, any Share Distribution or Other Distribution not distributed to Holders or any cash, securities or property available to the Depositary in respect of Deposited Securities from (and the Depositary is hereby authorized to surrender any Deposited Securities to any person and, irrespective of whether such Deposited Securities are surrendered or otherwise cancelled by operation of law, rule, regulation or otherwise, to sell by public or private sale any property received in connection with) any recapitalization, reorganization, merger, consolidation, liquidation, receivership, bankruptcy or sale of all or substantially all the assets of the Company, and to the extent the Depositary does not so amend this HDR or make a distribution to Holders to reflect any of the foregoing, or the net proceeds thereof, whatever cash, securities or property results from any of the foregoing shall constitute Deposited Securities and each HDS evidenced by this HDR shall automatically represent its pro rata interest in the Deposited Securities as then constituted. Promptly upon the occurrence of any of the aforementioned changes affecting Deposited Securities, the Company shall notify the Depositary in writing of such occurrence and as soon as practicable after receipt of such notice from the Company, may instruct the Depositary to

give notice thereof, at the Company's expense, to Holders in accordance with the provisions hereof. Upon receipt of such instruction, the Depositary shall give notice to the Holders in accordance with the terms thereof, as soon as reasonably practicable.

**(14) Exoneration.** The Depositary, the Company, and each of their respective directors, officers, employees, agents and affiliates and each of them shall: (i) incur or assume no liability (including, without limitation, to Holders or Beneficial Owners) (A) if any present or future law, rule, regulation, fiat, order or decree of Japan, Hong Kong, the United States or any other country or jurisdiction, or of any governmental or regulatory authority or any securities exchange or market or automated quotation system, JASDEC, the provisions of or governing any Deposited Securities, any present or future provision of the Articles of Incorporation, any act of God, war, terrorism, epidemic, pandemic, nationalization, expropriation, currency restrictions, extraordinary market conditions, work stoppage, strike, civil unrest, revolutions, rebellions, explosions, cyber, ransomware or malware attack, computer failure or circumstance beyond its direct and immediate control shall prevent or delay, or shall cause any of them to be subject to any civil or criminal penalty in connection with, any act which the Deposit Agreement or this ADR provides shall be done or performed by it or them (including, without limitation, voting pursuant to paragraph (12) hereof), or (B) by reason of any non-performance or delay, caused as aforesaid, in the performance of any act or things which by the terms of the Deposit Agreement it is provided shall or may be done or performed or any exercise or failure to exercise any discretion given it in the Deposit Agreement or this HDR (including, without limitation, any failure to determine that any distribution or action may be lawful or reasonably practicable); (ii) incur or assume no liability (including, without limitation, to Holders or Beneficial Owners) except to perform its obligations to the extent they are specifically set forth in this HDR and the Deposit Agreement without gross negligence or willful misconduct and the Depositary shall not be a fiduciary or have any fiduciary duty to Holders or Beneficial Owners; (iii) in the case of the Depositary and its agents, be under no obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of any Deposited Securities, the HDSs or this HDR; (iv) in the case of the Company and its agents hereunder be under no obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of any Deposited Securities, the HDSs or this HDR, which in its opinion may involve it in expense or liability, unless indemnity satisfactory to it against all expense (including fees and disbursements of counsel) and liability be furnished as often as may be required; and (v) not be liable (including, without limitation, to Holders or Beneficial Owners) for any action or inaction by it in reliance upon the advice of or information from any legal counsel, any accountant, any person presenting Shares for deposit, any Holder, or any other person believed by it to be competent to give such advice or information and/or, in the case of the Depositary, the Company. The Depositary shall not be liable for the acts or omissions made by, or the insolvency of, any securities depository, clearing agency or settlement system. The Depositary shall not be responsible for, and shall incur no liability in connection with or arising from, the insolvency of any Custodian that is not a branch or affiliate of JPMorgan Chase Bank, N.A. The Depositary shall not have any liability for the price received in connection with any sale of securities, the timing thereof or any delay in action or omission to act nor shall it be responsible for any error or delay in action, omission to act, default or negligence on the part of the party so retained in connection with any such sale or proposed sale. Notwithstanding anything to the contrary contained in the Deposit Agreement (including the HDRs) and, subject to the further limitations set forth in this HDR, the Depositary shall not be responsible for, and shall incur no liability in connection with or arising from, any act or omission to act on the part of the Custodian except to the extent that any Holder has incurred liability directly as a result of the Custodian having (i) committed fraud or willful misconduct

in the provision of custodial services to the Depositary or (ii) failed to use reasonable care in the provision of custodial services to the Depositary as determined in accordance with the standards prevailing in the jurisdiction in which the Custodian is located. The Depositary, its agents and the Company may rely and shall be protected in acting upon any written notice, request, direction, instruction or document believed by them to be genuine and to have been signed, presented or given by the proper party or parties. The Depositary shall be under no obligation to inform Holders or Beneficial Owners about the requirements of the laws, rules or regulations or any changes therein or thereto of Japan, Hong Kong, the United States or any other country or jurisdiction or of any governmental or regulatory authority or any securities exchange or market or automated quotation system. The Depositary and its agents will not be responsible for any failure to carry out any instructions to vote any of the Deposited Securities, for the manner in which any voting instructions are given, for the manner in which any vote is cast or for the effect of any such vote. The Depositary may rely upon instructions from the Company or its counsel in respect of any approval or license required for any currency conversion, transfer or distribution. The Depositary and its agents may own and deal in any class of securities of the Company and its affiliates and in HDRs. Notwithstanding anything to the contrary set forth in the Deposit Agreement or an HDR, the Depositary and its agents may fully respond to any and all demands or requests for information maintained by or on its behalf in connection with the Deposit Agreement, any Holder or Holders, any HDR or HDRs or otherwise related hereto or thereto to the extent such information is requested or required by or pursuant to any lawful authority, including without limitation laws, rules, regulations, administrative or judicial process, banking, securities or other regulators. None of the Depositary, the Custodian or the Company, or any of their respective directors, officers, employees, agents or affiliates shall be liable for the failure by any Holder or Beneficial Owner to obtain the benefits of credits or refunds of non-U.S. tax paid against such Holder's or Beneficial Owner's income tax liability. The Depositary is under no obligation to provide the Holders and Beneficial Owners, or any of them, with any information about the tax status of the Company. None of the Depositary, the Custodian or the Company, or any of their respective directors, officers, employees, agents and affiliates, shall incur any liability for any tax or tax consequences that may be incurred by Holders or Beneficial Owners on account of their ownership or disposition of the HDRs or HDSs. The Depositary shall not incur any liability for the content of any information submitted to it by or on behalf of the Company for distribution to the Holders or for any inaccuracy of any translation thereof, for any investment risk associated with acquiring an interest in the Deposited Securities, for the validity or worth of the Deposited Securities, for the creditworthiness of any third party, for allowing any rights to lapse upon the terms of the Deposit Agreement or for the failure or timeliness of any notice from the Company. Notwithstanding anything herein or in the Deposit Agreement to the contrary, the Depositary and the Custodian(s) may use third-party delivery services and providers of information regarding matters such as, but not limited to, pricing, proxy voting, corporate actions, class action litigation and other services in connection herewith and the Deposit Agreement, and use local agents to provide services such as, but not limited to, attendance at any meetings of security holders of issuers. Although the Depositary and the Custodian will use reasonable care (and cause their agents to use reasonable care) in the selection and retention of such third-party providers and local agents, they will not be responsible for any errors or omissions made by them in providing the relevant information or services. The Depositary shall not be liable for any acts or omissions made by a successor depositary whether in connection with a previous act or omission of the Depositary or in connection with any matter arising wholly after the removal or resignation of the Depositary. The Company has agreed to indemnify the Depositary and its agents under certain circumstances. Notwithstanding any other provision of the Deposit Agreement or this ADR to the contrary, neither the Depositary nor any of its agents shall be

liable for any indirect, special, punitive or consequential damages (including, without limitation, legal fees and expenses) or lost profits, in each case of any form incurred by any person or entity (including, without limitation, Holders and Beneficial Owners of ADRs and ADSs), whether or not foreseeable and regardless of the type of action in which such a claim may be brought. No provision of the Deposit Agreement or this HDR is intended to constitute a waiver or limitation of any rights which Holders or Beneficial Owners may have under the Securities Act of 1933.

**(15) Resignation and Removal of Depositary; the Custodian.** The Depositary may resign as Depositary by written notice of its election so to do delivered to the Company, such resignation to take effect upon the effective appointment of a successor depositary and its acceptance of such appointment as provided in the Deposit Agreement. The Depositary may at any time be removed by the Company by no less than 90 days prior written notice of such removal, to become effective upon the later of (i) the 90th day after delivery of the notice to the Depositary and (ii) the appointment of a successor depositary and its acceptance of such appointment as provided in the Deposit Agreement. The Depositary may appoint substitute or additional Custodians and the term “**Custodian**” refers to each Custodian or all Custodians as the context requires. The Company agrees and undertakes that upon receipt of any notice of resignation from the Depositary or its service of notice on the Depositary of the termination of its appointment, it shall as soon as practicable, notify the Stock Exchange and make appropriate disclosure in accordance with the Listing Rules, including publishing an announcement regarding and in advance of the prospective resignation, removal and/or replacement of the Depositary.

**(16) Amendment.** The HDRs and the Deposit Agreement may be amended by the Company and the Depositary only in accordance with this clause.

- (i) Any amendment that imposes or increases any fees or charges payable on a per HDS basis under a single head of fee/charge mentioned in clause 7 above in respect of one HDR (other than stamp duty, stock transfer or other taxes and other governmental charges, transfer or registration fees, a transaction fee per cancellation request (including through SWIFT, telex or facsimile transmission), applicable delivery expenses or other such fees, charges or expenses), which shall become effective in accordance with clause 16(iii) below) (“**Relevant Fees or Charges**”) by 25% or HK\$1.00 (whichever is the lesser increase) or less from the Relevant Fees or Charges in effect at the time of such proposed amendment shall become effective 30 days after notice of such amendment shall have been given to the Holders and every Holder of an HDR at the time any such amendment to the Deposit Agreement so becomes effective shall be deemed, by continuing to hold such HDR, to consent and agree to such amendment and to be bound by the Deposit Agreement as amended thereby.
- (ii) In respect of any amendment that increases any Relevant Fees or Charges payable on a per ADS basis under a single head of fee/charge mentioned in clause 7 above in respect of one HDR by more than 25% or HK\$1.00 (whichever is the lesser increase) from the Relevant Fees or Charges in effect at the time of such proposed amendment, or any amendment (including any amendment that relate to any matter set out in Rule 19B.16(a) to (t) of the Listing Rules) that, at the direction of the Company in its sole opinion and absolute discretion (which shall be exercised with reasonable care), will prejudice any material rights of Holders, the Depositary shall provide Holders with a notice (“**Amendment Notice**”) of the

amendments and such Amendment Notice shall set out the period (which shall not be less than 21 days nor exceed 60 days from the date of the Amendment Notice) during which Holders shall be entitled to vote for or against such amendments, the record date for determining entitlement to vote, all necessary details regarding the procedures by which Holders may cast their votes, and the method and date on or by which the results of the votes will be notified to the Holders, and any Holder who does not vote (for whatever reason) in accordance with the terms and procedures set out in the Amendment Notice shall be taken to have abstained from voting. A proposal for any such amendment shall be approved by a majority of votes cast in favour, and votes must be cast by at least three Holders or, if there are fewer than three holders, by a majority of the Holders who cast their vote. For the avoidance of doubt, the Company shall have the sole and absolute discretion (which shall be exercised with reasonable care) to determine if any amendment will prejudice the substantial rights of the Holders. Any amendments or supplements which both (i) are reasonably necessary (as agreed by the Company and the Depositary) in order for the HDSs or Shares to be traded solely in electronic book-entry form and also (ii) do not in either such case impose or increase any fees or charges to be borne by Holders, shall be deemed not to prejudice any substantial rights of Holders. The Amendment Notice and other materials related to voting for each proposed amendment under this clause 16(ii) will be published on the website of the Stock Exchange.

- (iii) Subject, for the avoidance of doubt, to clause 16(ii) above in respect of amendments mentioned therein, any other amendments may be made by agreement between the Company and the Depositary and shall become effective in accordance with the terms of such agreement. Further, and without limiting the foregoing, if any governmental body or regulatory body should adopt new laws, rules or regulations which would require amendment or supplement of the Deposit Agreement or the form of HDR to ensure compliance therewith, the Company and the Depositary may amend or supplement the Deposit Agreement and the HDR at any time in accordance with such changed laws, rules or regulations. Such amendment or supplement to the Deposit Agreement in such circumstances may become effective before a notice of such amendment or supplement is given to Holders or within any other period of time as required for compliance. Notice of any such amendment to the Deposit Agreement or form of HDR shall not need to describe in detail the specific amendments effectuated thereby, and failure to describe the specific amendments in any such notice shall not render such notice invalid, provided, however, that, in each such case, the notice given to the Holders identifies a means for Holders to retrieve or receive the text of such amendment (i.e., upon retrieval from the Company's website or upon request from the Depositary).
- (iv) In no event shall any amendment impair the right of the Holder of any HDR to surrender such HDR and receive the Deposited Securities represented thereby, except in order to comply with mandatory provisions of applicable law (including the rules of the Tokyo Stock Exchange and the rules of JASDEC).
- (17) **Termination.** The Depositary shall, at any time at the written direction of the

Company, terminate the Deposit Agreement by mailing notice of such termination to the Holders at least 30 days prior to the Termination Date. The Depositary may also terminate the Deposit Agreement by mailing notice of such termination to the Holders at least thirty (30) days prior to the Termination Date if (i) forty five (45) days shall have expired after the Resignation Notice Date, (ii) ninety (90) days shall have expired after the Removal Notice Date, (iii) the Company is either bankrupt or insolvent, (iv) the Shares cease to be listed on an internationally recognized stock exchange, (v) the Company effects (or will effect) a redemption of all or substantially all of the Deposited Securities, or a cash or share distribution representing a return of all or substantially all of the value of the Deposited Securities, or (vi) there occurs a merger, consolidation, sale of assets or other transaction as a result of which securities or other property are delivered in exchange for or in lieu of Deposited Securities. Additionally, the Depositary may immediately terminate the Deposit Agreement, without prior notice to the Company, any Holder or Beneficial Owner or any other person if required by any law, rule or regulation relating to sanctions by any governmental authority or body, or if the Depositary would be subject to liability under or pursuant to any law, rule or regulation, or if otherwise required by any governmental authority or body, in each case as determined by the Depositary in its reasonable discretion.

If the Shares are not listed or quoted for trading on a stock exchange or in a securities market as of the Termination Date, then after the Termination Date (a) all Book-Entry HDRs shall cease to be eligible for Hong Kong trading and shall be considered HDRs issued on the HDR Register and (b) the Depositary or the Company shall use its reasonable efforts to ensure that the HDSs cease to be book-entry trading eligible so that no book-entry settlement system nor any of its nominees shall thereafter be a Holder. At such time as the HDSs cease to be trading eligible and/or no book-entry settlement system nor any of its nominees is a Holder, the Depositary shall (A) instruct its Custodian to deliver all Deposited Securities to the Company along with a general stock power that refers to the names set forth on the HDR Register and (B) provide the Company with a copy of the HDR Register (which copy may be sent by email or by any means permitted under the notice provisions of the Deposit Agreement). Upon receipt of such Deposited Securities and the HDR Register, the Company shall use its best efforts to issue to each Holder a Share certificate representing the Shares represented by the HDSs reflected on the HDR Register in such Holder's name and to deliver such Share certificate to the Holder at the address set forth on the HDR Register. After providing such instruction to the Custodian and delivering a copy of the HDR Register to the Company, the Depositary and its agents will perform no further acts under the Deposit Agreement and this HDR and shall cease to have any obligations under the Deposit Agreement and/or the HDRs. After the Company receives the copy of the HDR Register and the Deposited Securities, the Company shall be discharged from all obligations under the Deposit Agreement except (x) to distribute the Shares to the Holders entitled thereto and (y) for its obligations to the Depositary and its agents.

If the Shares are listed or quoted for trading on a stock exchange or in a securities market as of the date so fixed for termination, then instead of the provisions in the prior paragraph, after the Termination Date, the Depositary and its agents will perform no further acts under the Deposit Agreement and this HDR, except to receive and hold (or sell) distributions on Deposited Securities and deliver Deposited Securities being withdrawn. As soon as practicable after the Termination Date, the Depositary shall use its reasonable efforts to sell the Deposited Securities and shall thereafter (as long as it may lawfully do so) hold in an account (which may be a segregated or unsegregated account) the net proceeds of such sales, together with any other cash then held by it under the Deposit Agreement, without liability for interest, in trust for the pro rata benefit of the Holders of HDRs not theretofore surrendered. After

making such sale, the Depositary shall be discharged from all obligations in respect of the Deposit Agreement and this HDR, except to account for such net proceeds and other cash. After the date so fixed for termination, the Company shall be discharged from all obligations under the Deposit Agreement except for its obligations to the Depositary and its agents.

**(18) Appointment.** The Company hereby appoints the Depositary as depositary for the Deposited Securities and hereby authorizes and directs the Depositary to act on behalf of the Company in accordance with the terms set forth in the Deposit Agreement. Each Holder and each person holding an interest in HDSs, upon acceptance of any HDSs (or any interest therein) issued in accordance with the terms and conditions of the Deposit Agreement shall be deemed for all purposes to (a) be bound by the terms of the Deposit Agreement and the applicable HDR(s), (b) appoint the Depositary its attorney-in-fact, with full power to delegate, to act on its behalf and to take any and all actions contemplated in the Deposit Agreement and the applicable HDR(s), to adopt any and all procedures necessary to comply with applicable law and to take such action as the Depositary in its sole discretion may deem necessary or appropriate to carry out the purposes of the Deposit Agreement and the applicable HDR(s), the taking of such actions to be the conclusive determinant of the necessity and appropriateness thereof, and (c) acknowledge and agree that (i) nothing in the Deposit Agreement or any HDR shall give rise to a partnership or joint venture among the parties thereto, nor establish a fiduciary or similar relationship among such parties, (ii) the Depositary, its divisions, branches and affiliates, and their respective agents, may from time to time be in the possession of non-public information about the Company, Holders, Beneficial Owners and/or their respective affiliates, (iii) the Depositary and its divisions, branches and affiliates may at any time have multiple banking relationships with the Company, Holders, Beneficial Owners and/or the affiliates of any of them, (iv) the Depositary and its divisions, branches and affiliates may, from time to time, be engaged in transactions in which parties adverse to the Company or the Holders or Beneficial Owners and/or their respective affiliates may have interests, (v) nothing contained in the Deposit Agreement or any HDR(s) shall (A) preclude the Depositary or any of its divisions, branches or affiliates from engaging in any such transactions or establishing or maintaining any such relationships, or (B) obligate the Depositary or any of its divisions, branches or affiliates to disclose any such transactions or relationships or to account for any profit made or payment received in any such transactions or relationships, (vi) the Depositary shall not be deemed to have knowledge of any information held by any branch, division or affiliate of the Depositary and (vii) notice to a Holder shall be deemed, for all purposes of the Deposit Agreement and this HDR, to constitute notice to any and all Beneficial Owners of the HDSs evidenced by such Holder's HDRs. For all purposes under the Deposit Agreement and this HDR, the Holder hereof shall be deemed to have all requisite authority to act on behalf of any and all Beneficial Owners of the HDSs evidenced by this HDR.

**(19) Waiver.** EACH PARTY TO THE DEPOSIT AGREEMENT (INCLUDING, FOR AVOIDANCE OF DOUBT, EACH HOLDER AND BENEFICIAL OWNER OF, AND/OR HOLDER OF INTERESTS IN, HDSs OR HDRs) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING AGAINST THE DEPOSITARY AND/OR THE COMPANY DIRECTLY OR INDIRECTLY ARISING OUT OF, BASED ON OR RELATING IN ANY WAY TO THE SHARES OR OTHER DEPOSITED SECURITIES, THE HDSs OR THE HDRs, THE DEPOSIT AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREIN OR THEREIN, OR THE BREACH HEREOF OR THEREOF (WHETHER BASED ON CONTRACT, TORT, COMMON LAW OR ANY OTHER THEORY), INCLUDING, WITHOUT LIMITATION, ANY SUIT, ACTION, CLAIM OR PROCEEDING UNDER APPLICABLE SECURITIES LAWS.

**(20) Jurisdiction.** Notwithstanding the foregoing or anything in this Deposit Agreement to the contrary, any suit, action or proceeding against the Company based on this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted by the Depositary, and each of the Company, Holders and Beneficial Owners irrevocably submits to jurisdiction, in any competent court in Hong Kong, Japan, the United States and/or any other court of competent jurisdiction or by the Depositary through the commencement of an arbitration pursuant to the above paragraph and each irrevocably waives any objection which it might at any time have to any court in which court proceedings are permitted to be brought under the provisions of hereof and any claim of forum non convenient and further irrevocably agrees that a judgment in any proceedings brought in any such courts shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction. By holding or owning an HDR or HDS or an interest therein, Holders and Beneficial Owners each irrevocably agree that any legal suit, action or proceeding against or involving Holders or Beneficial Owners brought by the Company or the Depositary, arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be instituted in a Hong Kong court, and by holding or owning an HDR or HDS or an interest therein each irrevocably waives any objection that it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Additionally, by holding or owning an HDR or HDS or an interest therein, Holders and Beneficial Owners each also irrevocably agree that any legal suit, action or proceeding against or involving the Depositary and/or the Company brought by Holders or Beneficial Owners, arising out of or based upon this Deposit Agreement, the HDSs, the HDRs or the transactions contemplated herein, therein, hereby or thereby, may be only instituted in Hong Kong courts. Notwithstanding the foregoing, the Depositary may institute and/or refer any such suit, action or proceeding to arbitration in accordance with the provisions of the Deposit Agreement as described below, and thereupon, any arbitral decision from such suit, action or proceeding shall be deemed final and binding. Notwithstanding the above or anything in the Deposit Agreement to the contrary, in the Deposit Agreement each of the parties thereto (i.e., the Company, the Depositary and all Holders and Beneficial Owners) have agreed that: (i) the Depositary may, in its sole discretion, elect to institute any dispute, suit, action, controversy, claim or proceeding directly or indirectly based on, arising out of or relating to the Deposit Agreement, the HDSs, the HDRs or the transactions contemplated therein, herein, thereby or hereby, including without limitation any question regarding its or their existence, validity, interpretation, performance or termination (each, a "**Dispute**"; collectively, "**Disputes**") against any other party or parties (including, without limitation, Disputes brought against Holders and Beneficial Owners), by having the Dispute referred to and finally resolved by an arbitration conducted under the terms set out below, and (ii) the Depositary may in its sole discretion require, by written notice to the relevant party or parties, that any Dispute brought by any party or parties to the Deposit Agreement (including, without limitation, Disputes brought by Holders and Beneficial Owners) against the Depositary be referred to and finally settled by an arbitration conducted under the terms set out in the Deposit Agreement. Any such arbitration shall, at the Depositary's election, be conducted in Hong Kong following the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) with the Hong Kong International Arbitration Centre serving as the appointing authority, in each case as amended by Section 20 of the Deposit Agreement, and the language of any such arbitration shall be English, in each case as provided in the Deposit Agreement. Notwithstanding anything contained herein or in the Deposit Agreement to the contrary, and for the avoidance of doubt, the Company and all Holders and Beneficial Owners from time to time of HDRs issued hereunder (and any persons owning or holding interests in HDSs) agree that any Hong Kong court shall have

jurisdiction to hear and determine proceedings related to the enforcement of this arbitration provision and any arbitration award by the arbitrators contemplated and, for such purposes, irrevocably submits to the non-exclusive jurisdiction of such courts. Each of the parties hereto and to the Deposit Agreement (i.e. the Company, the Depositary and all Holders and Beneficial Owners) agrees not to challenge the terms and enforceability of the arbitration clause contained herein and in the Deposit Agreement, including, but not limited to, any challenge based on lack of mutuality, and each such party hereby irrevocably waives any such challenge.

EXHIBIT B-1  
TO  
DEPOSIT AGREEMENT

FORM OF ACQUIRER CERTIFICATE  
Certification of acquirers of HDRs or beneficial interests in HDRs upon deposit of  
Shares

[DATE]

JPMorgan Chase Bank, N.A., as Depositary  
383 Madison Avenue, Floor 11  
New York, New York, 10179  
Attention: Depositary Receipts Group

Re: FAST RETAILING CO., LTD.

Dear Sirs:

Reference is hereby made to the Amended and Restated Deposit Agreement, dated as of 7 February 2023 (as amended from time to time, the "**Deposit Agreement**"), between Fast Retailing Co., Ltd. (the "**Company**") and JPMorgan Chase Bank, N.A., as Depositary.

Capitalized terms used but not defined herein shall have the meanings given them in the Deposit Agreement. References to the Deposit Agreement include the certification and other procedures established by the Depositary pursuant to such agreement.

This certification and agreement is furnished in connection with the deposit of Shares and issuance of HDSs to be evidenced by one or more HDRs pursuant to Section 3 and Section 4, respectively, of the Deposit Agreement.

We acknowledge (or if we are a broker-dealer, our customer has confirmed to us that it acknowledges) that by depositing the Shares, the HDRs and the HDSs evidenced thereby to be issued upon such deposit have not been registered under the U.S. Securities Act of 1933, as amended (the "**Act**"), or with any securities regulatory authority of any state or other jurisdiction of the United States and may be re-offered, resold, pledged or otherwise transferred only in compliance with the Act and applicable laws of the states, territories and possessions of the United States governing the offer and sale of securities.

We certify that either:

A. We are, or at the time the Shares are deposited and at the time the HDRs are issued will be, the beneficial owner of the Shares and of the HDSs evidenced by such HDR or HDRs, and (i) we are not a U.S. person (as defined in Regulation S under the Act ("**Regulation S**")) and we are located outside the United States (within the meaning of Regulation S) and acquired, or have agreed to acquire and will have acquired, the Shares to be deposited, and the HDSs to be issued upon such deposit and evidenced by such HDR or HDRs, outside the United States (within the meaning of Regulation S), ii) we are not an affiliate (as such term is defined in Regulation C under the Act) of the Company or a person acting on behalf of such an affiliate

(as such term is defined in Regulation C under the Act), and (iii) we are not in the business of buying and selling securities or, if we are in such business, we did not acquire the securities to be deposited from the Company or any affiliate (as such term is defined Regulation C under the Securities Act) thereof in the initial distribution of HDSs and Shares.

OR

B. We are a broker-dealer acting on behalf of our customer; our customer has confirmed to us that it is, or at the time the Shares are deposited and at the time the HDRs are issued will be, the beneficial owner of the Shares and of the HDSs evidenced by such HDR or HDRs, and (i) it is not a U.S. person (as defined in Regulation S) and it is located outside the United States (within the meaning of Regulation S) and acquired, or has agreed to acquire and will have acquired, the Shares to be deposited, and the HDSs to be issued upon such deposit and evidenced by such HDR or HDRs, outside the United States (within the meaning of Regulation S), (ii) it is not an affiliate (as such term is defined in Regulation C under the Act) of the Company or a person acting on behalf of such an affiliate (as such term is defined in Regulation C under the Act), and (iii) it is not in the business of buying and selling securities or, if it is in such business, it did not acquire the securities to be deposited from the Company or any affiliate (as such term is defined Regulation C under the Securities Act) thereof in the initial distribution of HDSs and Shares.

We agree (or if we are a broker-dealer, our customer has confirmed to us that it agrees) that prior to the expiration of 40 days after the later of the commencement of the Listing of the HDSs and the Shares on behalf of the Company and the related closing, we (or it) will not offer, sell, pledge or otherwise transfer such HDRs, the HDSs evidenced thereby or the Shares represented thereby except outside the United States to a person other than a U.S. Person (as defined in Regulation S) in accordance with Regulation S, in either case in accordance with any applicable securities laws of any state of the United States.

Very truly yours,

[Name of Certifying Entity]

[By: \_\_\_\_\_  
Name:  
Title: ]

**EXHIBIT B-2  
TO  
DEPOSIT AGREEMENT**

**Certification of Persons Surrendering HDSs for the Purpose of  
Withdrawing Deposited Securities**

[DATE]

JPMorgan Chase Bank, N.A., as Depositary  
383 Madison Avenue, Floor 11  
New York, New York, 10179  
Attention: Depositary Receipts Group

Re: FAST RETAILING CO., LTD.

Dear Sirs:

Reference is hereby made to the Amended and Restated Deposit Agreement, dated as of 7 February 2023 (as amended from time to time, the "**Deposit Agreement**"), between Fast Retailing Co., Ltd. (the "**Company**") and JPMorgan Chase Bank, N.A., as Depositary.

Capitalized terms used but not defined herein shall have the meanings given them in the Deposit Agreement. References to the Deposit Agreement include the certification and other procedures established by the Depositary pursuant to such agreement.

The undersigned is (or is acting as agent for a person that is) surrendering HDR(s) or giving written instructions for the purpose of withdrawal of the Deposited Securities represented by the HDSs evidenced by such HDR(s) (the "**Shares**") or constituting the undersigned's beneficial interest in the HDR as provided for in paragraph (2) of the form of HDR pursuant to Section 6 of the Deposit Agreement. The undersigned hereby:

(i) acknowledges (or if it is a broker-dealer, its customer has confirmed to it in writing that it acknowledges) that the HDRs, the HDSs evidenced thereby and the Deposited Securities represented thereby have not been and will not be registered under the Securities Act of 1933, as amended (the "**Act**") or with any securities regulatory authority in any state or jurisdiction in the United States; and

(ii) certifies that either:

(a) it is not a U.S. Person (as defined in Regulation S under the Act) and it is located outside the United States (within the meaning of Regulation S under the Act), and either:

(x) it has sold or otherwise transferred, or agreed to sell or otherwise transfer and at or prior to the time of withdrawal will have sold or otherwise transferred, the HDRs or the Shares to persons other than U.S. Persons (as such term is defined in Regulation S under the Act) in

accordance with Regulation S under the Act, and it is, or prior to such sale or other transfer it was, the beneficial owner of the HDRs, or

(y) it has sold or otherwise transferred, or agreed to sell or otherwise transfer and at or prior to the time of withdrawal will have sold or otherwise transferred the HDRs or the Shares to a qualified institutional buyer (as defined in Rule 144A under the Act) in accordance with Rule 144A, and it is, or prior to such sale or other transfer it was, the beneficial owner of the HDRs, or

(z) it will be the beneficial owner of the Shares upon withdrawal, and accordingly, it agrees that, prior to the expiration of 40 days after the later of the commencement of the initial offering of HDRs and the Shares on behalf of the Company and the related closing, it will not offer, sell, pledge or otherwise transfer the Shares represented thereby except (A) to a person whom it (and anyone acting on its behalf) reasonably believes is a qualified institutional buyer within the meaning of Rule 144A under the Act in a transaction meeting the requirements of Rule 144A, or (B) to a person other than a U.S. Person (as defined in Regulation S) in accordance with Regulation S under the Act.

OR

(b) it is a qualified institutional buyer (as defined in Rule 144A under the Act) acting for its own account or for the account of one or more qualified institutional buyers; it has (or they have) agreed to acquire the HDRs or the Shares in a transaction which it understands is being made in reliance upon Rule 144A;

(iii) If it is a broker-dealer, it further certifies that it is acting for the account of its customer and that its customer has confirmed the accuracy of the representations contained in paragraph (ii) hereof that are applicable to it.

Very truly yours,  
[NAME OF CERTIFYING ENTITY]

[By: \_\_\_\_\_]  
Title \_\_\_\_\_ ]

**EXHIBIT C**  
**FORM OF AMENDED AND RESTATED DEED POLL**

**DEED POLL**

THIS AMENDED AND RESTATED DEED POLL is made in favour of Holders of Depositary Shares on 7 February 2023, by (i) Fast Retailing Co., Ltd., company incorporated in Japan with limited liability and its successors with registered office at 717-1 Sayama, Yamaguchi City, Yamaguchi 754-0894, Japan (the “**Company**”) and (ii) JPMorgan Chase Bank, N.A. (the “**Depositary**”).

**WHEREAS:**

(A) The Company has entered into an amended and restated deposit agreement dated as of 7 February 2023, with the Depositary relating to Shares of the Company in respect of which Depositary Shares have been issued (such agreement, as amended or supplemented, being hereinafter referred to as the “**Deposit Agreement**”).

(B) The Company intends to allow Holders to enforce certain specified obligations of the Company under the Deposit Agreement as if they were originally parties to the Deposit Agreement.

**NOW THIS DEED WITNESSETH AS FOLLOWS** and is made by way of deed poll:

1. Capitalised terms used but not otherwise defined herein shall have the meanings given to them in the Deposit Agreement.
2. The Company agrees that, if the Company fails to perform any obligation imposed upon it by the provisions of the Deposit Agreement, any Holder may enforce the relevant provisions of the Deposit Agreement as if it was a party to the Deposit Agreement and in the capacity of the “**Depositary**” named therein in respect of the number of Deposited Securities represented by the HDSs to which the HDRs held by the Holder relate. The Company further undertakes to indemnify the Holder for any loss arising from or incurred in connection with or otherwise relating to the enforcement by such Holder, as the case may be, of any such provisions.
3. The Company and the Depositary further agree, for the avoidance of doubt, that each Holder shall be able to enforce against the Company and the Depositary the rights to which it is entitled to under the Deposit Agreement and the HDRs pursuant to and in the terms set out in Section 18 of the HDRs.
4. This Deed Poll shall enure for the benefit of the Holders and their successors or assigns of Depositary Shares and shall be deposited with and held by the Depositary.
5. This Deed Poll shall be governed by, and shall be construed in accordance with, the laws of Hong Kong.
6. The courts of Hong Kong are to have jurisdiction to settle any disputes which may arise out of or in connection with this Deed Poll, and accordingly, any legal action or proceedings arising out of or in connection with this Deed Poll (“**Proceedings**”) may be brought in such courts. The Company irrevocably submits to the jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that

the Proceedings have been brought in an inconvenient forum. These submissions are made for the benefit of the Holders and shall not limit the right of the Holders to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

7. The Company irrevocably appoints UNIQLO HONG KONG, LIMITED of 704-705, 7th Floor, Miramar Tower, No.132 Nathan Road, Tsim Sha Tsui, Kowloon, Hong Kong, as its agent in Hong Kong to receive service of process in any Proceedings in Hong Kong. If for any reason the Company does not have such an agent in Hong Kong, it will promptly appoint a substitute process agent and notify the Holders and the Depositary of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

8. This Deed Poll and the obligations of the parties hereto shall be conditional upon the Deposit Agreement becoming unconditional in accordance with its terms within 60 days from the date of the Deposit Agreement. If this condition is not fulfilled, this Deed Poll shall forthwith terminate and neither the Company nor the Depositary shall have any right against or obligation towards the other party or any of the Holders.

SEALED WITH THE COMMON SEAL of )  
Fast Retailing Co., Ltd. )  
and SIGNED by )  
 )  
 )  
in the presence of )

SEALED WITH THE COMMON SEAL of )  
JPMorgan Chase Bank, N.A. )  
and SIGNED by )  
 )  
 )  
in the presence of )

**E. DEED POLL  
AMENDED AND RESTATED DEED POLL**

THIS AMENDED AND RESTATED DEED POLL is made in favour of Holders of Depositary Shares on 7 February 2023, by (i) Fast Retailing Co., Ltd., company incorporated in Japan with limited liability and its successors with registered office at 717-1 Sayama, Yamaguchi City, Yamaguchi 754-0894, Japan (the “**Company**”) and (ii) JPMorgan Chase Bank, N.A. (the “**Depositary**”).

WHEREAS:

(A) The Company has entered into an amended and restated deposit agreement dated 7 February 2023, with the Depositary relating to Shares of the Company in respect of which Depositary Shares have been issued (such agreement, as amended or supplemented, being hereinafter referred to as the “**Deposit Agreement**”).

(B) The Company intends to allow Holders to enforce certain specified obligations of the Company under the Deposit Agreement as if they were originally parties to the Deposit Agreement.

**NOW THIS DEED WITNESSETH AS FOLLOWS** and is made by way of deed poll:

1. Capitalised terms used but not otherwise defined herein shall have the meanings given to them in the Deposit Agreement.

2. The Company agrees that, if the Company fails to perform any obligation imposed upon it by the provisions of the Deposit Agreement, any Holder may enforce the relevant provisions of the Deposit Agreement as if it was a party to the Deposit Agreement and in the capacity of the “**Depositary**” named therein in respect of the number of Deposited Securities represented by the HDSs to which the HDRs held by the Holder relate. The Company further undertakes to indemnify the Holder for any loss arising from or incurred in connection with or otherwise relating to the enforcement by such Holder, as the case may be, of any such provisions.

3. The Company and the Depositary further agree, for the avoidance of doubt, that each Holder shall be able to enforce against the Company and the Depositary the rights to which it is entitled to under the Deposit Agreement and the HDRs pursuant to and in the terms set out in Section 18 of the HDRs.

4. This Deed Poll shall enure for the benefit of the Holders and their successors or assigns of Depositary Shares and shall be deposited with and held by the Depositary.

5. This Deed Poll shall be governed by, and shall be construed in accordance with, the laws of Hong Kong.

6. The courts of Hong Kong are to have jurisdiction to settle any disputes which may arise out of or in connection with this Deed Poll, and accordingly, any legal action or proceedings arising out of or in connection with this Deed Poll (“**Proceedings**”) may be brought in such courts. The Company irrevocably submits to the jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. These submissions are made for the benefit of the Holders and shall not limit the right of the Holders to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

7. The Company irrevocably appoints UNIQLO HONG KONG, LIMITED of 704-705, 7th Floor, Miramar Tower, No.132 Nathan Road, Tsim Sha Tsui, Kowloon, Hong Kong, as its agent in Hong

Kong to receive service of process in any Proceedings in Hong Kong. If for any reason the Company does not have such an agent in Hong Kong, it will promptly appoint a substitute process agent and notify the Holders and the Depositary of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

8. This Deed Poll and the obligations of the parties hereto shall be conditional upon the Deposit Agreement becoming unconditional in accordance with its terms within 60 days from the date of the Deposit Agreement. If this condition is not fulfilled, this Deed Poll shall forthwith terminate and neither the Company nor the Depositary shall have any right against or obligation towards the other party or any of the Holders.

SEALED WITH THE COMMON SEAL of )  
Fast Retailing Co., Ltd. )  
and SIGNED by Tadashi Yanai, Chairman, President & CEO )  
on behalf of **FAST RETAILING CO., LTD.** )

\_\_\_\_\_  
Name: Tadashi Yanai  
Title: Chairman, President & CEO

in the presence of: )

\_\_\_\_\_  
Name:  
Title:

The Depositary

JPMorgan Chase Bank, N.A. )  
and SIGNED by Gregory A. Levendis, Executive Director )  
on behalf of **JPMORGAN CHASE BANK, N.A.** )

\_\_\_\_\_  
Name: Gregory A. Levendis  
Title: Executive Director

in the presence of: )

\_\_\_\_\_  
Name:  
Title: