Dated [\*]

**Shareholders’ Agreement**

by and among

[Name of “Company”]

and

its Shareholders

Japan Association of Corporate Directors

[CHAPTER 1: DEFINITION AND INTERPRETATION 4](#_Toc139830805)

[Article 1.1 (Definition) 4](#_Toc139830806)

[Article 1.2 (Interpretation) 4](#_Toc139830807)

[CHAPTER 2: CAPITAL STRUCTURE 4](#_Toc139830808)

[Article 2.1 (Capital Structure) 5](#_Toc139830809)

[CHAPTER 3: DIVIDENDS AND LIQUIDATION PREFERENCE 5](#_Toc139830810)

[Article 3.1 (Dividends) 5](#_Toc139830811)

[Article 3.2 (Liquidation Preference) 5](#_Toc139830812)

[Article 3.3 (Deemed Liquidation) 5](#_Toc139830813)

[CHAPTER 4: STOCK OPTION 5](#_Toc139830814)

[Article 4.1 (Stock Option) 6](#_Toc139830815)

[CHAPTER 5: CORPORATE GOVERNANCE 6](#_Toc139830816)

[Article 5.1 (GMS) 6](#_Toc139830817)

[Article 5.2 (Board: Members) 6](#_Toc139830818)

[Article 5.3 (Board: Administration) 7](#_Toc139830819)

[Article 5.4 (Reserved Matters) 7](#_Toc139830820)

[Article 5.5 (Reporting) 7](#_Toc139830821)

[CHAPTER 6: FOUNDER’S OBLIGATIONS 7](#_Toc139830822)

[Article 6.1 (Founder’s Obligation) 7](#_Toc139830823)

[CHAPTER 7: SHARE RELATED MATTER 8](#_Toc139830824)

[Article 7.1 (Pre-emptive Right) 8](#_Toc139830825)

[Article 7.2 (Transfer of Shares) 8](#_Toc139830826)

[Article 7.3 (Right of First Refusal) 9](#_Toc139830827)

[Article 7.4 (Tag-Along Right) 9](#_Toc139830828)

[Article 7.5 (Capital Policy) 10](#_Toc139830829)

[Article 7.6 (Conversion) 10](#_Toc139830830)

[CHAPTER 8: INDEMNIFICATION AND TERM 11](#_Toc139830831)

[Article 8.1 (Indemnification) 11](#_Toc139830832)

[Article 8.2 (Term) 11](#_Toc139830833)

[CHAPTER 9: MISCELLANEOUS 12](#_Toc139830834)

[Article 9.1 (Confidentiality) 12](#_Toc139830835)

[Article 9.2 (No Assignment) 13](#_Toc139830836)

[Article 9.3 (Cost and Expense) 13](#_Toc139830837)

[Article 9.4 (Notification) 13](#_Toc139830838)

[Article 9.5 (Entire Agreement) 13](#_Toc139830839)

[Article 9.6 (Force Majeure) 13](#_Toc139830840)

[Article 9.7 (Counterparts) 14](#_Toc139830841)

[Article 9.8 (Language) 14](#_Toc139830842)

[Article 9.9 (Severability) 14](#_Toc139830843)

[Article 9.10 (Waiver) 14](#_Toc139830844)

[Article 9.11 (Governing Law) 14](#_Toc139830845)

[Article 9.12 (Dispute Settlement) 14](#_Toc139830846)

[Schedule 1.1 (Definition) 20](#_Toc139830847)

[Schedule 2.1 (Capital Structure) 22](#_Toc139830848)

[Schedule 3.1 (Dividends Preference Scheme) 23](#_Toc139830849)

[Schedule 3.2 (Liquidation Preference Scheme) 24](#_Toc139830850)

[Schedule 3.3 (Deemed Liquidation Event) 25](#_Toc139830851)

[Schedule 4.1 (Terms of Stock Option) 26](#_Toc139830852)

[Schedule 5.4 (Reserved Matters) 27](#_Toc139830853)

[Schedule 5.5 (Reporting) 28](#_Toc139830854)

[Schedule 6.1 (Concurrent Office), 29](#_Toc139830855)

[Schedule 9.4 (Notification) 30](#_Toc139830856)

(The remainder of this page is intentionally left blank)

This Shareholders’ Agreement (the “Agreement”) is entered into on [Date] by and among:

(1) [Name of “Company”], a corporation duly organized and existing under the Laws of [Country], having its registered office located at [Registered Address] (the “Company”);

(2) [Name of “Founder”], a natural person, [Country] citizen, residing at [Address] (the “Founder”);

(3) [Name of “Founder”], a natural person, [Country] citizen, residing at [Address] (the “Founder”);

(4) [Name of “Investor”], a corporation duly organized and existing under the Laws of [Country], having its registered office located at [Registered Address] (the “Investor”); and

(5) [Name of “Investor”], a corporation duly organized and existing under the Laws of [Country], having its registered office located at [Registered Address] (the “Investor”).

The Company, the Founder(s) and the Investor(s) are collectively referred to as the “Parties” or individually as the “Party”.

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

# CHAPTER 1: DEFINITION AND INTERPRETATION

## Article 1.1 (Definition)

1.1.1 Unless otherwise defined herein, the meanings of the capitalized terms used in this Agreement shall be as defined in Schedule 1.1 (Definition).

## Article 1.2 (Interpretation)

1.2.1 In this Agreement:

(a) words importing the singular shall, unless the context otherwise requires, include the plural and　vice versa;

(b) a reference to any document (including but not limited to this Agreement) or Laws shall be deemed to refer to such document or Laws as it may be amended, extended, novated, consolidated, supplemented, substituted or renewed from time to time;

(c) a reference to “JPY”, “yen” or “¥” is to Japanese yen, the lawful currency of Japan; and

(d) a reference to time is to Tokyo, Japan time.

1.2.2 The headings in this Agreement are for convenience only and shall not affect its interpretation.

1.2.3 Any Schedule or Exhibit to this Agreement shall be considered as part of this Agreement, and references to this Agreement shall include its Schedules and Exhibits.

1.2.4 An Article or Schedule or Exhibit, unless the context otherwise requires, is a reference to an Article of, or a Schedule or an Exhibit to this Agreement.

# CHAPTER 2: CAPITAL STRUCTURE

## Article 2.1 (Capital Structure)

2.1.1 The Shareholders and the Shares held by each Shareholder shall be set forth in Schedule 2.1 (Capital Structure).

# CHAPTER 3: DIVIDENDS AND LIQUIDATION PREFERENCE

## Article 3.1 (Dividends)

3.1.1 The Company shall provide in its Articles of Incorporation that the structure for the dividends of surplus shall be consistent with that outlined in Schedule 3.1 (Dividends Preference Scheme).

3.1.2 In the case where any provision of the Articles of Incorporation is inconsistent with the provisions of Schedule 3.1 (Dividends Preference Scheme), the Company shall amend the Articles of Incorporation to align with the provisions of the said Schedule, and the Shareholders shall take all necessary actions to do so.

## Article 3.2 (Liquidation Preference)

3.2.1 The Company shall provide in its Articles of Incorporation that the structure for the distribution of residual assets shall be consistent with that outlined in Schedule 3.2 (Liquidation Preference Scheme).

3.2.2 Article 3.1.2 shall apply mutatis mutandis to cases where any provision of the Articles of Incorporation is inconsistent with the provisions of Schedule 3.2 (Liquidation Preference Scheme).

## Article 3.3 (Deemed Liquidation)

3.3.1 In the event of the occurrence of a Deemed Liquidation Event as defined in Item (1) through Item (5) of Schedule 3.3 (Deemed Liquidation Event), the consideration payable to the Shareholders (if such consideration is other than cash, a reasonable value of such consideration shall be evaluated by [the Majority Investor]), after calculating the amount each Shareholder is entitled to receive in accordance with Schedule 3.2 (Liquidation Preference Scheme) on the assumption that only those Shareholders who have consented to the occurrence of such Deemed Liquidation Event are the Shareholders, shall be distributed in an amount equal to such calculated amount.

3.3.2 [The Majority Investor] may, upon the occurrence of the event set forth in Item (6) of Schedule 3.3 (Deemed Liquidation Event), seek the dissolution and liquidation of the Company by notice to the Company and the other Shareholders, and the distribution shall be made in accordance with Schedule 3.2 (Liquidation Preference Scheme). In this case, the other Shareholders shall take all necessary actions to do so.

3.3.3 The Company shall include in its Articles of Incorporation all necessary provisions to ensure the execution of the distribution scheme provided for Article 3.3.1 and Article 3.3.2.

3.3.4 Article 3.1.2 shall apply mutatis mutandis to cases where any provision of the Articles of Incorporation is inconsistent with the provisions of Article 3.3.1 or Article 3.3.2.

# CHAPTER 4: STOCK OPTION

## Article 4.1 (Stock Option)

4.1.1 The Company may, as an incentive plan for its Employees and advisors, issue stock options for its Common Shares under the terms and conditions set forth in Article 4.1.2 and other reasonable conditions; provided, however, that the number of Common Shares to be issued upon exercise of the stock options shall not exceed [15] % (on a fully diluted basis) of the total number of Shares issued by the Company if all such stock options were exercised.

4.1.2 The Company and Shareholders hereby acknowledge and confirm that the stock options set forth in Article 4.1.1 contain the terms and conditions set forth in Schedule 4.1 (Terms of Stock Option).

# CHAPTER 5: CORPORATE GOVERNANCE

## Article 5.1 (GMS)

5.1.1 Each Common Share and Series A Preferred Share carries one voting right per Share.

5.1.2 The GMS shall operate in accordance with the Companies Act and the Articles of Incorporation.

## Article 5.2 (Board: Members)

5.2.1 The Company shall have a Board, the number of which shall not exceed [\*] members.

5.2.2 The following person (the “Nominator”) shall have the right to nominate the number of Directors as specified in each item (the person nominated is referred to as the “Nominee” and the Director appointed on the basis of nomination by the Majority Investor is referred to as the “Investor’s Director”) and may also remove the Directors which such Nominator has nominated:

(a) Majority Founder: [1]; and

(b) Majority Investor: [1].

 Other members of the Board, if any, shall be appointed by the GMS in accordance with the Companies Act and the Articles of Incorporation.

5.2.3 The Company and the Shareholders shall, upon the occurrence of nomination or removal by the Nominator pursuant to Article 5.2.2, take all necessary actions to appoint or remove such Director, and the Shareholders shall vote at a GMS in favor of the appointment or removal of such Director. The Nominator shall, in the event of a vacancy in the office of Director to which it is entitled to appoint (whether by death, resignation, removal or otherwise) or in the event that it determines that such position should be replaced by another person, have the right to nominate another person as a Director to fill such position.

5.2.4 The Nominator shall nominate as a Director a person who has the enough qualifications to contribute to the enhancement of the Company’s corporate value. The Nominator shall ensure that the Nominee nominated by the Nominator complies with his/her duty of confidentiality to the Company and the Nominator shall also ensure that the Nominee understands that its duty of care and fiduciary duty are owned to the Company as a Director.

5.2.5 The Company shall enter into a Limited Liability Agreement (*Sekinin-Gentei-Keiyaku*) as provided for in Article 427 of the Companies Act with a Director nominated pursuant to Article 5.2.2, provided that the Director meets the statutory requirements. The Shareholders shall take all necessary actions to execute the aforementioned agreement. Upon request by the Nominator and fulfillment of the statutory requirements, the Company shall, at its own expense, ensure that the Directors nominated by the Nominator are covered by directors and officers liability insurance.

5.2.6 Each of the Nominators who have not made a nomination under Article 5.2.2 [and Qualified Investors] may nominate an observer to attend the meeting of the Board; provided, however, that the observer shall not have voting rights at the meeting of the Board.

## Article 5.3 (Board: Administration)

5.3.1 The Company shall hold a meeting of the Board at least once every [\*] months.

5.3.2 The Chairperson shall, or any director may when necessary request the Chairperson to, convene a meeting of the Board.

5.3.3 The Company shall take all necessary actions to enable the Board to hold meetings by video/telephone conference style (including, but not limited to, establishing relevant Board rules and other internal protocols, as well as implementing a suitable system to enable such meetings).

5.3.4. The Company shall take all necessary actions (including incorporating necessary provisions into the Articles of Incorporation, as required by Article 370 of the Companies Act) to enable the Board to adopt resolutions through written resolutions.

5.3.5 The Company shall prepare minutes in English [/Japanese] within [ten (10)] business days from the date the meeting of the Board is held.

5.3.6 Except as provided in this Article 5.3, the Company shall operate the Board in accordance with the Companies Act and the Articles of Incorporation.

## Article 5.4 (Reserved Matters)

5.4.1 In order for the Company to make any decision with respect to any matter set forth in Schedule 5.4 (Reserved matters), the prior written consent of the [Majority Investor / Investor’s Director (or a majority of Investor’s Directors if there are two or more Investor’s Directors; the same shall apply hereinafter in this Article 5.4)] shall be required; provided, however, that such consent shall not be unreasonably withheld and shall be deemed to be given if no response is received by the Company within [fifteen (15)] days of the Company’s request for such consent. For the avoidance of doubt, “prior” in Article 5.4.1 means prior to the resolution or approval of the Company’s Board or GMS, if such resolution or approval is required for the implementation of such matters.

5.4.2 The decision-making right to accept or reject set forth in Article 5.4.1 above shall be exercised with the aim of maximizing the corporate value of the Company.

## Article 5.5 (Reporting)

5.5.1 If the Company decides on any of the matters set forth in Schedule 5.5 (Reporting), or if any of the matters therein arises with respect to the Company, then the Company shall report such matter to each Shareholder by the deadline set forth therein.

# CHAPTER 6: FOUNDER’S OBLIGATIONS

## Article 6.1 (Founder’s Obligation)

6.1.1 [The Founder / Mr./Ms. \*] shall not resign as a Director prior to his/her term of office without the prior written consent of [the Majority Investor] and shall not refuse to be re-elected as a Director at the expiration of his/her term of office.

6.1.2 The Founder shall fully commit to the business of the Company. The Founder shall not concurrently, except as provided in Schedule 6.1 (Concurrent Office), serve as a director, officer, employee or any other similar position of any other company or organization without the prior written consent of [the Majority Investor], nor shall the Founder hold any share, stock option or other interest in any other company or organization without the prior written consent of [the Majority Investor].

6.1.3 The Founder shall not directly or indirectly engage in any business that competes with the Company’s business, either by himself or by a third party, while he is an Employee, or until [two (2)] years have elapsed after he ceases to be an Employee.

6.1.4 The Founder shall not directly or indirectly recruit, solicit or hire, or attempt to recruit, solicit or hire, any person who is an Employee, either by himself or by a third party, while he is an Employee, or until [two (2)] years have elapsed after he ceases to be an Employee.

# CHAPTER 7: SHARE RELATED MATTER

## Article 7.1 (Pre-emptive Right)

7.1.1 In the case where the Company intends to newly issue Shares to a third party or a part of Shareholders (the “Original Issuee” in this Article 7.1), the Company shall provide written notice to each Shareholder, [forty-five (45)] days prior to the issuance, specifying the amount to be paid and other terms and conditions of such issuance (the notification is referred to as the “Share Issuance Notification” in this Article 7.1). Each Shareholder shall be entitled, to the extent permitted by Laws, to subscribe for a sufficient number of Shares to maintain their Shareholding Ratio immediately prior to the issuance on the same terms and conditions as specified in the Share Issuance Notification (the right to subscribe the Shares pursuant to this Article 7.1.1 is referred to as the “Pre-emptive Right”).

7.1.2 Each Shareholder, who wishes to exercise the Pre-emptive Right, shall provide the Company written notice of its intention to exercise its Pre-emptive Right (the “Pre-emptive Right Notification”) within [twenty (20)] days of receipt of the Share Issuance Notification. In the case where a Shareholder fails to provide a Pre-emptive Right Notification within this period, such Shareholder shall forfeit its Pre-emptive Right with respect to the issuance of such Shares. Subsequently, the Company may, within [twenty (20)] days after the expiration of the said period, issue to the Original Issuee the portion of the Shares for which the Pre-emptive Right has not been exercised on substantially the same terms and conditions specified in the Share Issuance Notification.

7.1.3 Each Shareholder shall not be obliged to exercise its Pre-emptive Right. [Provided, however, that if [such Shares are issued in a Down Round Financing and] a Shareholder fails to exercise its Pre-emptive Right, then such Shareholder will not be able to exercise its Pre-emptive Right in any subsequent issuance of new Shares.]

## Article 7.2 (Transfer of Shares)

7.2.1 The Founder shall not transfer, encumber or otherwise dispose (collectively referred to simply as “transfer” in this Article 7.2, Article 7.3 and Article 7.4) its Shares to any third party including the Company without the prior written consent of [the Majority Investor].

7.2.2 Even if a Founder who has obtained the prior written consent of [the Majority Investor] set forth in Article 7.2.1 and/or an Investor wishes to transfer its Shares to a third party, the transfer shall not be effected unless the following conditions are satisfied:

(a) it has followed the procedures set forth in Articles 7.3 and Article 7.4; and

(b) it has entered into a deed of adherence with the transferee to the effect that it assumes the status, rights and obligations hereunder of the transferor.

## Article 7.3 (Right of First Refusal)

7.3.1 If a Shareholder wishes to transfer all or part of its Shares to a third party (including other Shareholders), such Shareholder (the “Proposed Assignor”) shall, prior to the transfer, provide written notice to the other Shareholders (the “Notified Shareholders”) and the Company (the notification is referred to as the “Proposed Notification”) specifying that:

(a) the class and total number of the Shares to be transferred (the “Proposed Share”);

(b) the name and address of the counterparty to the proposed transfer (the “Proposed Assignee” in this Article 7.3 and Article 7.4); and

(c) the transfer price per Share and other terms and conditions of the proposed transfer.

7.3.2 Notified Shareholders may request to purchase all or part of the Proposed Shares at the price and on the terms and conditions as specified in the Proposed Notification (the “Right of First Refusal”). A Notified Shareholder who wishes to exercise the Right of First Refusal shall, within [fifteen (15)] days of receipt of the Proposed Notification, provide written notice of its intention to exercise the Right of First Refusal to the Proposed Assignor (the notification is referred to as the “RFR Notification”).

7.3.3 In the case where two or more Notified Shareholders wish to exercise the Right of First Refusal and the total number of Shares requested to be purchased exceeds the number of Proposed Shares, then the Proposed Shares shall be allocated to each Notified Shareholder wishing to exercise the right in proportion to the percentage of Shares held by each of them.

7.3.4 If a RFR Notification is provided by a Notified Shareholder, the Proposed Assignor shall be obliged to transfer to such Notified Shareholder the number of Proposed Shares that it is entitled to receive. The Company and the Shareholders must take all necessary actions to make such transfer effective.

## Article 7.4 (Tag-Along Right)

7.4.1 If the Founder is the Proposed Assignor, and all of the Proposed Shares are not purchased by the Right of First Refusal, and the Proposed Assignor further intends to transfer the remaining Proposed Shares (the “Remaining Shares” in this Article 7.4) to the Proposed Assignee, then the Proposed Assignor shall provide written notice (the notification is referred to as the “2nd Proposed Notification”) to the Notified Shareholders and the Company to do so.

7.4.2 The Notified Shareholders (other than the Founder) may, by written notice to the Proposed Assignor within [fifteen (15)] days of receipt of the 2nd Proposed Notification (such notice is referred to as the “TAR Notification”), request the Proposed Assignor to sell the Shares held by them to the Proposed Assignee therewith on the same terms and conditions as specified in the Proposed Notification (such right is referred to as the “Tag-Along Right” and the Notified Shareholder who exercises the right is referred to as the “TAR Shareholder”).

7.4.3 The number of Shares that a TAR Shareholder may transfer under such right is calculated by the following formula:

|  |  |  |
| --- | --- | --- |
| The number of Shares = | A \* B |  |
| C + D |  |

 “A” means the number of the Remaining Shares.

 “B” means the number of the Shares held by such TAR Shareholder.

 “C” means the number of the Shares held by the Proposed Assignor (after deduction of Shares for which Right of First Refusal was exercised).

 “D” means the total of the Shares held by all of the TAR Shareholders.

7.4.4 Upon receipt of the TAR Notification, the Proposed Assignor shall cause the Proposed Assignee to purchase the Shares calculated in Article 7.4.3 above from the TAR Shareholder and pay the TAR Shareholder the consideration for the transfer.

7.4.5 The Company and the Shareholders shall take all necessary actions to ensure that the transfer under the Tag-Along Right is effective.

## Article 7.5 (Capital Policy)

7.5.1 The Shareholders shall make their best endeavor to achieve an optimal capital policy for the Company’s sustainable growth and maximization of corporate value.

|  |
| --- |
|  |
| 【参考訳】7.5.1 Shareholdersは、Companyの持続的な成長と企業価値の最大化のために最適な資本政策を実現するよう最大限の努力を行う。 |
|  |

## Article 7.6 (Conversion)

7.6.1 The holders of the Series A Preferred Shares may, at any time, convert their Series A Preferred Shares into Common Shares subject to the provisions of the Laws and Articles of Incorporation.

7.6.2 The Company may convert all of its Series A Preferred Shares into Common Shares on a date to be determined by a resolution of the Board if any of the following events occurs:

(a) the Board decides to apply for an IPO on a stock exchange and the Company receives a request from the lead-managing underwriter for the listing that the Series A Preferred Shares should be converted into Common Shares; or

(b) the Majority Investor agrees to convert all of the Series A Preferred Shares into Common Shares.

 In the case where the Shares are not listed due to rejection, withdrawal, dismissal or cancellation of listing approval after the Company’s application for the IPO, then the Company shall revert the converted Common Share back to a Series A Preferred Share, and the Shareholders shall take all necessary actions to do so.

7.6.3 In the event of a conversion set forth in Article 7.6.1 or Article 7.6.2, the number of the Common Shares to be delivered for each Series A Preferred Share shall be calculated as follows:

|  |  |  |
| --- | --- | --- |
| The number of Common Shares = | the Series A Paid-in Amount |  |
| the Series A Conversion Price |  |

 The “Series A Paid-in Amount” shall be [\*] yen.

 The “Series A Conversion Price” shall be initially the same amount as the Series A Paid-in Amount. However, the Series A Conversion Price will be appropriately adjusted in the event of a *Share Split* (*Kabusiki-no-Bunkatsu*), a *Consolidation of Shares* (*Kabushiki-no-Heigo*), an *Allotment of Shares without Contribution* (*Kabushiki-Musho-Wariate*) or any other event provided for in the Articles of Incorporation.

7.6.4 The Series A Conversion Price shall be adjusted in accordance with the Broad-based Weighted Average Adjustment in any of the following cases:

(a) the Company issues Common Shares at a price below the Series A Conversion Price; or

(b) the Company issues Shares that are convertible into Common Shares and the price per Common Share (as determined by the Board) delivered upon conversion of such Shares is less than the Series A Conversion Price.

7.6.5 The Company shall provide in its Articles of Incorporation that the terms and conditions for the conversion of the Series A Preferred Share shall be consistent with that outlined in this Article 7.6.

7.6.6 Article 3.1.2 shall apply mutatis mutandis to cases where any provision of the Articles of Incorporation is inconsistent with the provisions of Article 7.6.

# CHAPTER 8: INDEMNIFICATION AND TERM

## Article 8.1 (Indemnification)

8.1.1 Each Party (the “Indemnifier”) shall indemnify and hold harmless the other Party and its Employees (collectively “Indemnitees”) from and against any loss (including consequential losses such as loss of profits, loss of revenue and loss of data), costs (including legal costs), damages, claims or expenses which are incurred or suffered by such Indemnitees as a result of any attributable breach or failure of covenant or obligation given hereunder by the Indemnifier.

8.1.2 None of the Parties shall be liable for any claim for indemnification pursuant to Article 8.1.1 above unless it has received a written notice of that claim, specifying (in reasonable details) the nature of the claim and the amount claimed.

## Article 8.2 (Term)

8.2.1 This Agreement shall take effect on the date hereof and shall terminate in the event of any of the following:

(a) all Parties unanimously agree in writing to terminate this Agreement;

(b) the Company applies for an IPO;

(c) the Company is dissolved and liquidation is completed; or

(d) Shareholders no longer hold any Shares.

 Notwithstanding Item (b) above, in the case where the Shares are not listed due to rejection, withdrawal, dismissal or cancellation of listing approval after the Company’s application for the IPO, the rights and obligations of the Parties hereunder shall become effective again retroactively from the date of application.

 Notwithstanding Item (c) and Item (d) above, (i) Article 8.2.3 shall apply if these cases arise from Reorganization; and (ii) this Agreement shall remain in full force and effect until the distribution of the consideration to the Shareholders is completed in accordance with Article 3.3.1 if these cases arise from a Deemed Liquidation Event.

 Notwithstanding Item (d) above, in the case where any Party does not own Shares at the time of execution hereof, this Agreement shall become effective in relation to such Party on the condition that such Party acquires the Share. In addition, if any of the events set forth in Article 8.2.1 (c) occurs with respect to any of the Parties, this Agreement shall terminate only in relation to such Party against whom such event occurred.

8.2.2 Termination of this Agreement shall be effective prospectively and, except as otherwise provided herein, no accrued rights and obligations shall be affected by termination.

8.2.3 In the event of a Reorganization of the Company (in the case of a corporate split, a corporate split in which the shares of the successor company or the newly established company are distributed as surplus), whereby the Shareholders acquire shares of a company other than the Company (the “NewCo”) (except as provided in Article 8.2.1 (e)), this Agreement shall remain in effect between the Parties hereto as if such NewCo were the Company, and the Parties hereto shall use their best endeavor to transfer the Company’s contractual status under this Agreement to the NewCo. Provided, however, that if the Reorganization is a corporate split, this Agreement with respect to the Company shall coexist with a new shareholders’ agreement (the “New SHA”) with respect to the NewCo, and the Parties shall use their best endeavor to include the NewCo as a party to the New SHA.

# CHAPTER 9: MISCELLANEOUS

## Article 9.1 (Confidentiality)

9.1.1 None of the Parties shall disclose a Confidential Information to any third party, without prior written consent of the Discloser, except:

(a) any disclosure as required under Laws, provided that the Recipient shall, where reasonably possible and permitted by Laws, give the Discloser written notice prior to any such disclosure;

(b) any disclosure when it is necessary to consult with attorneys, certified public accountants, tax accountants, or other professionals who are legally obligated to maintain confidentiality;

(c) any disclosure made by the Recipient to the Employees and advisors of the Recipient, and to those of its Affiliates for the purpose of this Agreement, provided that the Recipient shall ensure that such person treats such information as confidential and not to disclose to any third party except as may be required under this Article 9.1; or

(d) any disclosure made by the Recipient to a potential investor who is considering investing into the Company, provided that the Recipient shall ensure that such potential investor treats such information as confidential and not to disclose to any third party except as may be required under this Article 9.1.

9.1.2 For the purpose of this Article 9.1, the “Discloser” means the Party who discloses or provides the Confidential Information to the other Party, and the “Recipient” means the Party who receives the Confidential Information from the Discloser.

9.1.3 For the purpose of this Article 9.1, the “Confidential Information” means the fact of the existence and execution of this Agreement, and all information disclosed by the Discloser (including by the Employees of the Discloser) to the Recipient in relation to the Discloser, including but not limited to all information regarding the business, operations or financial conditions of the Discloser. Provided, however, that the Confidential Information shall not include the following information:

(a) information which is already in the public domain at the time when it is disclosed or provided to the Recipient;

(b) information which enters the public domain after it is disclosed or provided to the Recipient, other than by a breach of any obligation of confidentiality hereunder;

(c) information which is already in the Recipient’s possession at the time when it is disclosed or provided to Recipient, other than by a breach of any obligation of confidentiality hereunder;

(d) information which was received by the Recipient on a non-confidential basis from a third party who is duly authorized to disclose such information; or

(e) information which is independently developed by the Recipient without any use of the Confidential Information.

9.1.4 The obligation set forth in this Article 9.1 shall endure, even after the termination of this Agreement, except and until such Confidential Information enters into the public domain.

9.1.5 None of the Parties shall make any press release or public announcement concerning the transactions contemplated by this Agreement without the prior written consent of the other Party.

## Article 9.2 (No Assignment)

9.2.1 None of the rights or obligations under this Agreement may be assigned or transferred by any Party without the prior written consent of the other Party.

## Article 9.3 (Cost and Expense)

9.3.1 Each Party shall be responsible for its own taxes, costs and expenses incurred by it in connection with the negotiation, preparation, execution and performance of this Agreement and other related documents contemplated herein.

## Article 9.4 (Notification)

9.4.1 Any notice or other communication given under this Agreement shall be in writing and may be delivered personally or sent by post or email to the Party to be served at its address as set forth in Schedule 9.4 (Notification) or to an alternative address, person or email address specified by the Party due to receive the relevant notice by not less than [ten (10)] days’ written notice to the other Party before the relevant notice is dispatched.

9.4.2 Unless there is evidence that it was received earlier, a notice is deemed given if:

(a) delivered personally, when left at the address set forth in Schedule 9.4 (Notification); and

(b) sent by email, the sender of any such email has not received an email from the applicable server indicating a delivery failure.

## Article 9.5 (Entire Agreement)

9.5.1 This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and supersedes any previous arrangement, understanding or agreement between them relating to the same subject matter.

## Article 9.6 (Force Majeure)

9.6.1 Upon the occurrence of a Force Majeure, each Party shall immediately notify in writing the other Party of such event and furnish a written notice of the details of such event and reasons for non-performance, partial non-performance or delayed performance.

9.6.2 None of the Parties shall claim for damages caused by the Force Majeure.

9.6.3 The Parties shall immediately take measures to resume performance of this Agreement upon termination of the Force Majeure.

## Article 9.7 (Counterparts)

9.7.1 This Agreement may be signed in any number of counterparts, each of which when executed and delivered is an original and all of which taken together constitute one and the same document.

## Article 9.8 (Language)

9.8.1 This Agreement has been made in English. If this Agreement is translated into any language other than English, this English version shall be the original and prevail.

## Article 9.9 (Severability)

9.9.1 If any provision of this Agreement is declared or becomes unenforceable, invalid or illegal for any reason whatsoever, including a decision by any court or panel of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect.

9.9.2 If any provision of this Agreement that is declared or becomes unenforceable, invalid or illegal would be enforceable or valid if some part of the provision were deleted or modified, then the Parties shall consult with each other to apply such deletion or modification as mutually agreed to be necessary to make it enforceable or valid.

## Article 9.10 (Waiver)

9.10.1 Except to the extent this Article 9.10 is inconsistent with any other provision in this Agreement or Laws, all rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available under Laws.

9.10.2 No failure on the part of any Party to exercise or delay in exercising any right hereunder shall be deemed a waiver thereof, nor shall any single or partial exercise preclude any further or other exercise of such or any other right.

## Article 9.11 (Governing Law)

9.11.1 This Agreement is governed by and construed in accordance with the Laws of [Japan].

## Article 9.12 (Dispute Settlement)

9.12.1 The Tokyo District Court shall have exclusive jurisdiction in the first instance over any and all legal disputes arising out of or in connection with this Agreement. [/ All disputes, controversies or differences arising out of or in connection with this Agreement shall be finally settled by arbitration in accordance with [the Commercial Arbitration Rules of The Japan Commercial Arbitration Association]. The place of the arbitration shall be [Tokyo, Japan].]

 (The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF**, the signatures of the duly authorized persons of the Parties are affixed below.

[Name of “Company”]

By:

Name:

Title:

(The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF**, the signatures of the duly authorized persons of the Parties are affixed below.

[Name of “Founder”]

By:

Name:

Title:

(The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF**, the signatures of the duly authorized persons of the Parties are affixed below.

[Name of “Founder”]

By:

Name:

Title:

(The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF**, the signatures of the duly authorized persons of the Parties are affixed below.

[Name of “Investor”]

By:

Name:

Title:

(The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF**, the signatures of the duly authorized persons of the Parties are affixed below.

[Name of “Investor”]

By:

Name:

Title:

(The remainder of this page is intentionally left blank)

# Schedule 1.1 (Definition)

|  |  |
| --- | --- |
|  |  |
| **Anti-Social Forces** | *Organized Crime Groups* (“*Boryoku-Dan*” as defined in Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991)), member of the *Organized Crime Groups*, persons for whom five (5) years have not passed since they ceased to be members of the *Organized Crime Groups*, quasi-members of the *Organized Crime Groups*, related companies of the *Organized Crime Groups*, corporate racketeer (*Sokai-Ya*), a person or a member of an entity engaging in criminal activities under the pretext of conducting a social campaign or political activities, or a criminal group specialized in intellectual property crime or other similar persons |
| **Articles of Incorporation** | the articles of incorporation (*Teikan*) of the Company, as amended from time to time |
| **Board** | the board of directors (*Torishimariyaku-Kai*) of the Company at any relevant time |
| **Chairperson** | a chairperson of the Board at any relevant time |
| **Common Share** | a common share issued by the Company |
| **Companies Act** | the Companies Act of Japan (Act No. 86 of 2005), as amended from time to time |
| **Director** | a director (*Torishimari-Yaku*) of the Company at any relevant time |
| **Down Round Financing** | a financing round where the investment amount per share is lower than the investment amount per share in the most recent financing round |
| **Employee** | directors (*Torishimari-Yaku*), officers (*Shikko-Yakuin*), statutory auditors (*Kansa-Yaku*), employees, or any other similar person |
| **GMS** | the general meeting of shareholders of the Company at any relevant time |
| **IPO** | listing of Shares on a stock exchange (including foreign stock exchanges) |
| **Laws** | with respect to a person, any laws, regulations, rules, measures, guidelines, treaties, judgments, determination, orders or notices of any Governmental Authority or stock exchange that are applicable to such person |
| **Majority Founder** | holder(s) of Common Shares who, on its own or jointly with other holders, hold a majority of the outstanding Common Shares |
| **Majority Investor** | holder(s) of Series A Preferred Shares who, on its own or jointly with other holders, hold a majority of the outstanding Series A Preferred Shares |
| **Broad-based Weighted Average Adjustment** | conversion price adjustment rules based on the following formula:CP2 = CP1 \* (A+B) / (A+C)CP2 = Series A Conversion Price in effect immediately after new issuanceCP1 = Series A Conversion Price in effect immediately prior to new issuanceA = the number of Common Shares outstanding immediately prior to new issuance (treating for this purpose as outstanding all Common Shares issuable upon exercise of options outstanding immediately prior to such new issuance or upon conversion of convertible securities (including the Series A Preferred Share) outstanding (assuming exercise of any outstanding options therefor) immediately prior to such new issuance) B = aggregate consideration received by the Company with respect to the new issuance divided by CP1C = number of Shares issued in the subject transaction |
| **Qualified Investor** | a holder of [ten (10)] % or more of the Series A Preferred Shares on its own |
| **Reorganization** | *Merger* (*Gappei*), *Company Split* (*Kaisha-Bunkatsu*), *Share Exchange* (*Kabushiki-Kokan*), *Share Transfer* (*Kabushiki-Iten*), *Share Delivery* (*Kabushiki-Kofu*), and other reorganizations other than Deemed Liquidation Events |
| **Series A Preferred Share** | a series A preferred share set forth in the Articles of Incorporation of the Company |
| **Share** | a share issued by the Company |
| **Shareholder** | a shareholder in the Company at any relevant time |
| **Shareholding Ratio** | ratio of the number of voting rights in Shares held by a Shareholder to the total number of voting rights in the Company’s outstanding Shares |
| **Statutory Auditor** | the *Statutory Auditor* (*Kansa-Yaku*) of the Company at any relevant time |

(The remainder of this page is intentionally left blank)

# Schedule 2.1 (Capital Structure)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Category** | **Name of Shareholder** | **Class** | **Number** | **Ratio** |
| Founder | [Name] | Common Share | [\*] shares | [\*]% |
| [Name] | Common Share | [\*] shares | [\*]% |
| Investor | [Name] | Series A Preferred Share | [\*] shares | [\*]% |
| [Name] | Series A Preferred Share | [\*] shares | [\*]% |
| Total | [\*] shares | 100.0% |

(The remainder of this page is intentionally left blank)

# Schedule 3.1 (Dividends Preference Scheme)

(1) In the event of a distribution of surplus, the Company shall fix the total amount to be distributed to all holders of Shares (the “Total Dividend Amount”), and shall first pay to the holders of Series A Preferred Shares, prior to the holders of Common Shares, up to an amount equal to [\*]%of the Series A Paid-in Amount (as defined in Article 7.6.3) per Series A Preferred Share (the “Series A Preferred Dividend Amount”).

(2) If the Total Dividend Amount is less than the aggregate amount of the Series A Preferred Dividend Amount payable in respect of the Series A Preferred Shares (the “Series A Preferred Total Dividend Amount”), then in lieu of the Series A Preferred Dividend Amount, the Company shall pay an amount per Series A Preferred Share calculated as follows:

|  |  |  |
| --- | --- | --- |
| Amount= | Total Dividend Amount |  |
| the total number of Series A Preferred Shares |  |

 In such case, the difference between the Series A Preferred Total Dividend Amount and the Total Dividend Amount shall not be cumulative to the dividend amount paid on the Series A Preferred Shares in the following fiscal year.

(3) If the Total Dividend Amount exceeds the Series A Preferred Total Dividend Amount, such excess amount (the “Excess Dividend Amount”) shall be paid to both the holders of Common Shares and the holders of Series A Preferred Shares, and the amount payable for each Share shall be calculated as follows:

|  |  |  |
| --- | --- | --- |
| Amount= | Excess Dividend Amount |  |
| the total number of Shares issued |  |

 (The remainder of this page is intentionally left blank)

# Schedule 3.2 (Liquidation Preference Scheme)

(1) In the event of a distribution of the residual assets, the Company shall fix the total amount to be distributed to all holders of Shares (the “Total Liquidation Amount”), and shall first pay to the holders of Series A Preferred Shares, prior to the holders of Common Shares, up to an amount equal to [\*] times of the Series A Paid-in Amount (as defined in Article 7.6.3) per Series A Preferred Share (the “Series A Preferred Liquidation Amount”).

(2) If the Total Liquidation Amount is less than the aggregate amount of the Series A Preferred Liquidation Amount payable in respect of the Series A Preferred Shares (the “Series A Preferred Total Liquidation Amount”), then in lieu of the Series A Preferred Liquidation Amount, the Company shall pay an amount per Series A Preferred Share calculated as follows:

|  |  |  |
| --- | --- | --- |
| Amount= | Total Liquidation Amount |  |
| the total number of Series A Preferred Shares |  |

(3) If the Total Liquidation Amount exceeds the Series A Preferred Total Liquidation Amount, such excess amount (the “Excess Liquidation Amount”) shall be paid to both the holders of Common Shares and the holders of Series A Preferred Shares, and the amount payable for each Share shall be calculated as follows:

|  |  |  |
| --- | --- | --- |
| Amount= | Excess Liquidation Amount |  |
| the total number of Shares issued |  |

 (The remainder of this page is intentionally left blank)

# Schedule 3.3 (Deemed Liquidation Event)

(1) An assignment or transfer of Shares that result in more than 50% of the total voting rights of the Company’s outstanding Shares being acquired by a third party;

(2) A *Merger* (“*Gappei*” as defined in the Companies Act) in which the total number of voting rights that all Shareholders immediately prior to the *Merger* will hold with respect to the post-merger company will be less than 50% of the total number of voting rights of the outstanding shares of such post-merger company;

(3) A *Share Exchange* (“*Kabushiki-Kokan*” as defined in the Companies Act) where the total number of voting rights held by all Shareholder immediately prior to the *Share Exchange* with respect to the wholly owning parent company after the *Share Exchange* is less than 50% of the total number of voting rights of the outstanding shares of such wholly owning parent company;

(4) A *Share Delivery* (“*Kabusiki-Kofu*” as defined in the Companies Act) in which the total number of voting rights held by all Shareholders immediately prior to the *Share Delivery* with respect to the parent company after the *Share Delivery* is less than 50% of the total number of voting rights of the outstanding shares of such parent company;

(5) A *Share Transfer* (“*Kabushiki-Iten*” as defined in the Companies Act) where the total number of voting rights to be held by all Shareholders immediately prior to the *Share Transfer* with respect to the wholly owning parent company after the *Share Transfer* is less than 50% of the total number of voting rights of the outstanding shares of that company; or

(6) A *Transfer of Business* (“*Jigyo-no-Joto*” as defined in the Companies Act) or *Company Split* (“*Kaisha-Bunkatsu*” as defined in the Companies Act) in which the Material Part of the Company’s business is transferred to a third party and the consideration therefor is paid to the Company. For the purpose of this Item (6), “Material Part” means assets equivalent to 50% or more of the Company’s total assets or sales equivalent to 50% or more of the Company’s total sales.

 (The remainder of this page is intentionally left blank)

# Schedule 4.1 (Terms of Stock Option)

Employee Stock Option shall contain the following terms:

(1) Option Vesting: The Employee Stock Option issued and allotted to a holder (the “Option Holder”) shall vest and become exercisable as to twenty-five (25) % thereof at the end of the first year following the date of issuance, and as to seventy-five (75) % thereof on a monthly basis over the following three years.

(2) Acceleration: In the event of the Deemed Liquidation Event if:

(i) the Option Holder is terminated without cause by the Company or its successor within [twelve (12)] months after the Deemed Liquidation Event becomes effective; or

(ii) the Option Holder terminates his employment or consulting relationship with the Company or its successor for good reason within [twelve (12)] months after the Deemed Liquidation Event becomes effective,

 then, the Employee Stock Option issued and allotted to such Option Holder shall become fully accelerated and fully vested immediately prior to the effective date of such termination.

 (The remainder of this page is intentionally left blank)

# Schedule 5.4 (Reserved Matters)

(1) Amendments to the Articles of Incorporation;

(2) Implementation of each transaction contemplated as a Deemed Liquidation Event;

(3) Dissolution of the Company, or a petition for commencement of *Bankruptcy* proceedings (*Hasan*), *Civil Rehabilitation* proceedings (*Mijin-Saisei*), *Corporate Reorganization* proceedings (*Kaisha-Kosei*), *Special Liquidation* (*Tokubetsu-Seisan*), or other similar proceedings thereof;

(4) Issuance of new Shares or new stock options (except for the stock options allowed to be issued under Article 4.1) unless the same ranks junior to the Series A Preferred Share with respect to its rights, preferences and privileges;

(5) *Consolidation of Shares* (*Kabushiki-no-Heigo*);

(6) Creation and modification of a business plan of the Company (the “Business Plan”)

(7) Commencement of new business by the Company or its subsidiaries;

(8) Discontinuance or change of Company’s business being conducted at the time of execution hereof;

(9) Investments in or other acquisitions of equity interests in third parties in excess of [\*] yen made by the Company or its subsidiaries; and

(10) (i) sales, leases, mortgages and other dispositions of assets in excess of [\*] yen per transaction; (ii) purchases, leases or other acquisitions of assets in excess of [\*] yen per transaction; and (iii) borrowings, issuance of bonds, guarantees or other obligations in excess of [\*] yen per transaction; however, provided, that any of these items are excluded if they are contemplated in a Business Plan.

 (The remainder of this page is intentionally left blank)

# Schedule 5.5 (Reporting)

(1) Within 30 days of the end of each fiscal year:

(i) annual business plan (including budget plan) for the upcoming fiscal year.

(2) Without delay after the end of each fiscal year (at the latest within 90 days from the end of each fiscal year):

(i) balance sheet, profit and loss statement, cash flow statement and other financial statements for the relevant fiscal year; and

(ii) copies of tax returns for the relevant fiscal year.

(3) By 25th of each month:

(i) balance sheet as of the end of the previous month, income statement and trial balance for the previous month; and

(ii) statement of cash receipts and disbursement for the following month (if any).

(4) Immediately upon the occurrence of any change in the contents:

(i) Articles of Incorporation;

(ii) the Company’s shareholder register (*Kabnusi-Meibo*) and share option register (*Shinkabu-Yoyakuken-Genbo*); and

(ii) the Company’s certificate of registered information.

(5) Immediately upon the occurrence of any such matter:

(i) occurrence of a disaster;

(ii) suspension of payment by the Company or other credit uncertainty;

(iii) a third party files for bankruptcy proceedings against the Company;

(iv) the commencement of litigation against the Company by a third party; and

(v) any matter that may have a material adverse effect on the Company’s business, assets, liabilities, financial condition, results of operations, credit standing, cash flow or future earnings plans or prospects.

 (The remainder of this page is intentionally left blank)

# Schedule 6.1 (Concurrent Office),

* [\*]

(The remainder of this page is intentionally left blank)

# Schedule 9.4 (Notification)

|  |
| --- |
| **To [Name of Company]** |
| Name (PIC) | [\*] |
| Address | [\*] |
| E-mail | [\*] |
| **To [Name of Founder]** |
| Name (PIC) | [\*] |
| Address | [\*] |
| E-mail | [\*] |
| **To [Name of Founder]** |
| Name (PIC) | [\*] |
| Address | [\*] |
| E-mail | [\*] |
| **To [Name of Investor]** |
| Name (PIC) | [\*] |
| Address | [\*] |
| E-mail | [\*] |
| **To [Name of Investor]** |
| Name (PIC) | [\*] |
| Address | [\*] |
| E-mail | [\*] |

(The remainder of this page is intentionally left blank)