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## Limited Partnership Act for Investment (Act No. 90 of 1998)

### Chapter 1 General Provisions

#### Article 1 (Purpose)

This Act is for the purpose of promoting the smooth provision of capital to Enterprises and to promote their sound growth and development by establishing a system of limited partnership agreements for conducting investment in Enterprises which agreements provide for separate categories of general partners having unlimited liability and limited partners having limited liability, and thereby contributing to the economic vitality of our country.

#### Article 2 (Definitions)

- (1) "Enterprise" under this Act shall mean a juridical person (excluding foreign juridical persons) or an individual carrying on business.
- (2) "Investment LPS" means a partnership that is formed from general partners and limited partners pursuant to a limited partnership agreement for investment as set forth in paragraph 1 of the following Article.

#### Article 3 (Limited Partnership Agreement for Investment)

- (1) A limited partnership agreement for investment (hereinafter a "Partnership Agreement") shall take effect upon agreement by the parties to invest capital and jointly to carry out any or all of the following business activities:
  - (i) Acquisition and holding of shares issued by business corporations (*Kabushiki Kaisha*) upon their establishment and acquisition and holding of

- equity shares issued by a limited liability company (*yugen kaisha*) or company partnership (*kigyo kumiai*) upon their establishment;
- ( ii ) Acquisition and holding of shares, Share Options (meaning share options prescribed in Article 280-19(1) of the Commercial Code (Act no. 48 of 1899), with the same to apply hereinafter in this paragraph), or Bond with Share Options, Etc. (meaning bond with share options as set forth in Article 341-2(1) of the Commercial Code and other bond instruments prescribed by Cabinet Order as being equivalent to bond with share options, with the same to apply hereinafter in this paragraph) issued by joint stock companies and acquisition and holding of equity shares of a limited liability company or a company partnership;
  - ( iii ) Acquisition and holding of those securities prescribed in Article 2(1) of the Securities and Exchange Act (Act no. 25 of 1948) (excluding shares, Share Options and Bond with Share Options, Etc., but including rights that are to be represented by securities listed in items (i) to (v-iii) and (vii) to (x) of said provision (excluding Bond with Share Options, Etc.) and are deemed to be securities by the provisions set forth in Article 2(2) of said Act) and which are bonds (excluding Bond with Share Options, Etc.) or other fund raising securities stipulated as such by Cabinet Order as contributing to the procuring of capital by an Enterprise (such bonds and other securities hereinafter, "Designated Securities")- but in the case of "Specified Designated Securities" (meaning such Designated Securities issued by an Enterprise other than (x) a business corporation of which issued shares, Share Options, and Bond with Share Options, Etc. are held by an Investment LPS (excluding (ix) below, hereinafter a "Partnership") or (y) a limited liability company or a company partnership of which equity shares are held by a Partnership, (such business corporation, limited liability company or corporate partnership hereinafter referred to as "Specified Company, Etc.") pursuant to preceding items (i) and (ii)), limited to cases of acquisition or holding where one of the general partners has promised that, if the period of holding by the Partnership of said Designated Securities that are Specified Designated Securities exceeds the period prescribed by Cabinet Order, the general partner will purchase said Specified Designated Securities, on the day of expiry of such period.
  - ( iv ) Acquisition and holding of monetary claims against an Enterprise (in the case of monetary claims against an Enterprise other than a Specified Company, Etc. (hereinafter in this item referred to as "Specified Monetary Claims"), limited to cases of acquisition and holding where one or more general partners has promised that, if the period of holding of said monetary claims which are Specified Monetary Claims exceeds the period prescribed by Cabinet Order, the general partner will purchase said Specified Monetary Claims on the day of expiry of such period);
  - ( v ) New loans to an Enterprise;
  - ( vi ) Acquisition and holding of industrial property or copyrights (including granting a license to use the rights relating thereto) owned by an Enterprise;
  - ( vii ) Acquisition and holding of equity investment in a Silent Partnership

- (*tokutei kumiai*) Agreement (meaning a silent partnership agreement under Article 535 of the Commercial Code, and likewise hereinafter) of which a party is a Specified SME, Etc. (refers to Small and Medium Enterprises (meaning persons listed in each item of Article 2(1) of the Small and Medium Sized Enterprises Basic Act (Act No. 154 of 1963) and other persons to whom the provision of capital has been prescribed by Cabinet Order as being especially important, and likewise hereinafter) but is not an Investment Manager (*tôshi eigyosha*) (a person carrying on the investment business, and likewise in (ix) below), or trust beneficial rights (limited to rights to receive distributions of earnings or profit arising from business carried on by a Specified SME, Etc.);
- (viii) Provision of management-related advice or technical guidance to an Enterprise of which the Partnership owns shares, equity interest, Share Options, Bond with Share Options, Etc., Designated Securities, monetary claims, industrial property, copyrights or trust beneficial rights pursuant to any of the preceding items;
- (ix) Investment in Investment Partnership, Etc. (meaning an Investment LPS, or a partnership formed by a partnership agreement as prescribed in Article 667(1) of the Civil Code (Act No. 89 of 1896) by virtue of promises to carry on the investment business, or similar organizations located in a foreign country, with the same to apply hereafter) and investment based on Anonymous Partnership Agreements having an Investment Manager as a party (hereinafter collectively referred to in this item as "Capital Investment, Etc. in Investment Partnership") where the ratio of the amount of said Capital Investment, Etc. in Investment Partnership in any one Investment Partnership, Etc. or Investment Manager to the total amount of capital contribution by all the partners in the Investment LPS (if the partners capital investment, commitment (the maximum amount that each partner has promised to invest, and likewise hereafter in this item) is stipulated in the Partnership Agreement, the total of such amounts) does not exceed the ratio prescribed by Cabinet Order (excluding Capital Investment, Etc. in Investment Partnership described in (a) and (b) below (referred to as "Specified Capital Investment, Etc. in Investment Partnership" in item (xi)-b, below)):
- (a) Capital investment in an Investment Partnership, Etc. of which a general partner of the Investment LPS (if there are more than one general partners, any one of them, with the same applying in (b)) executes the business or in other Investment Partnership, Etc. prescribed by Cabinet Order as being one which is in the position (relationship) of having effective control over the execution of the business of the Investment LPS.
- (b) Capital investment based on a Silent Partnership Agreement having as a party a general partner of the Investment LPS or other person as may be prescribed by Cabinet Order.
- (x) Business activities ancillary to the business described in the preceding items as prescribed by Cabinet Order;
- (xi) The business activities listed below that are carried out to the extent that,

- as prescribed by Cabinet Order, there is no hindrance to the conduct of the business activities set forth in any of the preceding items:
- (a) Acquisition and holding of shares, Share Options, Bond with Share Options, Etc., Designated Securities issued by a foreign juridical person, or, equity shares in a foreign juridical person, or instruments similar to the same.
  - (b) Specified Capital Investment, Etc. in Investment Partnership ; and
  - (xii) Investment of surplus cash to be made in accordance with the manner determined by Cabinet Order in order to accomplish the purposes of the Partnership Agreement.
- (2) The written contract of the Partnership Agreement (hereinafter the "Partnership Contract") shall stipulate the matters listed below and be signed by or bear the name and seal of each of the partners:
- ( i ) The businesses of the Partnership;
  - ( ii ) The name of the Partnership;
  - ( iii ) The location of the office of the Partnership;
  - ( iv ) The names and addresses of the partners and the classification of general partner or limited partner for each of the partners;
  - ( v ) The amount of one unit of investment;
  - ( vi ) The date on which the Partnership Agreement takes effect; and
  - ( vii ) The duration of the existence of the Partnership.
- (3) Notices or announcements to be made to a Partnership may be addressed to the location of an office of the Partnership or to the address of a general partner.
- (4) The total number of partners shall not exceed the number to be prescribed by Cabinet Order.

#### Article 4 ( Registration )

- (1) A matter for which registration is required pursuant to the provisions of this Act may not be asserted against a third party without knowledge until after the registration of such matter has been completed.
- (2) A person who through intention or negligence has made a false registration on a matter for which registration is required pursuant to the provisions of this Act may not assert the falsity of said matter against a third party acting in good faith.

#### Article 5 ( Name )

- (1) A Partnership shall include in its name the phrase "Investment LPS."
- (2) An entity which is not a Partnership may not include in its name the phrase "Investment LPS."
- (3) The provisions of Articles 19 through 21 (Trade Name) of the Commercial Code shall apply *mutatis mutandis* with respect to the name of a Partnership.
- (4) In the event that a limited partner consents to its family, personal or business name being included in the name of the Partnership, the limited partner shall have the same responsibilities as the general partners for any liabilities of the Partnership that are incurred upon or after such use of the limited partner's name in the name of the Partnership.

## **Chapter 2 Rights and Obligations of the Partners**

### **Article 6 ( Investment by Partners )**

- (1) Each of the partners shall own at least one unit of investment.
- (2) A partner's investment in the Partnership may be made only in the form of cash or other properties.
- (3) The cash value of one unit of investment shall be uniform.

### **Article 6-2 ( Qualifications of Partners of Specified Partnerships, Etc. )**

- (1) Persons qualified to be limited liability partners of a Specified Partnership (meaning a Partnership other than a Partnership of which the Partnership Agreement includes a commitment to engage wholly or partly in the business of acquiring and holding unlisted shares (refers to shares that are neither listed on a share exchange prescribed in Article 2(16) of the Securities and Exchange Act nor registered on the registry of OTC traded securities prescribed in Article 75(1) of said act) issued by a business corporation that corresponds to a Specified SME, Etc.) or other business prescribed by Cabinet Order (referred to hereinafter as "the Business of acquiring shares, etc. of unlisted small or medium sized enterprises") shall be qualified institutional investors as defined in Article 2 (3) - 1 of said Act or other persons prescribed by Cabinet Order.
- (2) Where a partnership other than a Specified Partnership becomes a Specified Partnership by reason of amendment of its partnership agreement, any limited liability partner of such partnership who was not qualified to be such a partner under paragraph 1 shall thereupon lose its qualification as a partner.

### **Article 7 ( Manner of Management of the Partnership Etc. )**

- (1) The general partners shall manage the operations of a Partnership.
- (2) In the case that there are two or more general partners, the management of the Partnership's businesses shall be determined by a majority of the general partners.
- (3) Each general partner may execute routine business of the Partnership in its sole discretion notwithstanding the provisions of the preceding paragraph; provided, however, that the foregoing shall not apply where any general partner objects to such act of the general partner before its completion.
- (4) In the event that the general partners carry out acts other than the business activities listed in Article 3(1), the partners may not ratify such act. The same shall apply in the event that any persons other than the general partners conduct a business other than those listed in the same paragraph.
- (5) In the event that the general partners of a Partnership (excluding Specified Partnerships, and the same shall apply hereafter in this paragraph) conduct business activities other than the Business of acquiring shares, etc. of unlisted small or medium sized enterprises, the partners may not ratify such act. The same shall apply in the event that any persons other than the general partners conduct such business.

Article 8. Maintenance and Inspection, Etc. of Financial Statements, Etc.

- (1) The general partners shall prepare within three months after the end of each business year and maintain at the principal office for a period of five years thereafter the balance sheet, profit and loss statement and business report, along with their detailed attachments (referred to as "Financial Statements, Etc." in paragraph 3) for the business year concerned.
- (2) Further to paragraph 1, the general partners shall also maintain the Partnership Contract and the audit report (with respect to the business report and its detailed attachments only the portion relating to accounting with the same to apply in the succeeding paragraph) prepared by either a certified public accountant (including a foreign certified public accountant) or an accounting firm.
- (3) A partner or a creditor of the Partnership may inspect or request a copy of the Financial Statements, Etc. and the Partnership Contract and audit report described in the preceding paragraph at anytime during normal business hours.

Article 9 ( Responsibility of Partners )

- (1) In the case where there are two or more general partners each of the general partners shall be jointly and severally liable for the obligations of the Partnership
- (2) A limited partner shall be liable for the Partnership's obligations only to the extent of its capital investment.
- (3) Notwithstanding the preceding paragraph, in the case that a limited partner has misled a third party into believing that it is a partner having the authority to execute the business of the Partnership, the limited partner shall have the same responsibilities as the general partners *vis-a-vis* such third party who entered into a transaction with the Partnership on the basis of such misunderstanding.

Article 10 ( Restrictions on Distribution of Partnership Assets )

- (1) The assets of a Partnership may not be distributed in an amount exceeding the amount of the Partnership's net asset value as shown on the balance sheet.
- (2) If a limited partner receives a distribution in violation of the preceding paragraph the limited partner shall be liable for the obligations of the Partnership to the extent of the amount so received; provided, however, that the foregoing shall not apply after five years have elapsed since the limited partner received the distribution.

### **Chapter 3 Withdrawal by Partners**

Article 11 ( Voluntary Withdrawal )

No partner may withdraw from a Partnership except in unavoidable circumstances.

Article 12 ( Involuntary Withdrawal )

In addition to the cases covered by the preceding Article, a partner shall withdraw from the Partnership in the following cases:

- (i) Loss of qualification to be a partner;

- (ii) Death;
- (iii) Bankruptcy;
- (iv) Order for commencement of guardianship; and
- (v) Expulsion.

#### **Chapter 4 Dissolution and Liquidation of a Partnership**

##### Article 13 ( Events of Dissolution )

A Partnership shall be dissolved if any of the following occur; provided, however, that with respect to the event listed in item (2) below the foregoing shall not apply if new general partners or limited partners are admitted by unanimous agreement of the remaining partners within two weeks from the occurrence of such event and if the registration of dissolution has not yet been made:

- (i) Achievement of its business purposes or if such achievement becomes impossible;
- (ii) Withdrawal by a general partner or by all of the limited partners;
- (iii) The expiration of the duration of the Partnership; or
- (iv) If any event other than those listed in the preceding three items is stipulated to be an event of dissolution in the Partnership Agreement, the occurrence of such event.

##### Article 14 ( Liquidators )

In the event that a Partnership is dissolved, the general partners shall become the liquidators; provided, however, that the foregoing shall not apply if other persons are elected as liquidators by a majority of all partners.

##### Article 15 ( Liquidators' Manner of Execution of Business )

Paragraphs 2 and 3 of Article 7 shall apply *mutatis mutandis* when there are two liquidators or more.

#### **Chapter 5 Mutatis Mutandis Application of the Civil Code**

##### Article 16 ( Mutatis Mutandis Application of the Civil Code )

Articles 668 (joint ownership of partnership assets), 669 (responsibility of persons delaying in making cash contribution), 671 through 674 (*mutatis mutandis* application of provisions for entrustment, resignation or removal of an executor of business, partners right of inspection of the state of business and assets and proportion in respect of distribution of profits and losses to partners), 676 (restriction on disposal of equity interest by partners and prohibition of split of partnership assets), 677 (prohibition of set-off by debtors to the partnership), 680 (expulsion), 681 (return of equity interest to withdrawing partners), 683 (request for dissolution by partners), 684 (non-retroactiveness of effect of termination), 687 (resignation or removal of partner liquidators) and 688 (authority of liquidators and method of distribution of remaining assets) of the Civil Code (Act No. 89 of 1896) shall apply *mutatis mutandis* with respect to a Partnership.

## Chapter 6 Registration

### Article 17 ( Registration of a Partnership Agreement taking effect )

When a Partnership Agreement takes effect, the following matters shall be registered within two weeks at the location of the principal office and within three weeks at the secondary offices:

- (i) The matters listed in Article 3 paragraph 2 items (1) (2) (6) and (7);
- (ii) The names and addresses of the general partners;
- (iii) The total number of partners;
- (iv) The offices of the Partnership; and
- (v) If any event other than those listed in Article 13 items (1) through (3) is stipulated as a event of dissolution in the Partnership Agreement such event.

### Article 18 ( Registration of Establishment of a Secondary Office )

- (1) In the event that a secondary office is established after the registration of the Partnership Agreement taking effect, such establishment of a secondary office shall be registered at the district of the principal office within two weeks and the matters listed in the preceding Article shall be registered at the district of such secondary office within three weeks and the establishment of such secondary office shall be registered at the districts of other secondary offices within the same period.
- (2) If a secondary office is established in the jurisdictional district of the registration office that is in charge of the district of the principal office, or any secondary office, it is sufficient to register the fact that such new secondary office has been established.

### Article 19 ( Registration of Office Move )

- (1) If a Partnership relocates its principal office, the relocation shall be registered within two weeks at the district in which the former office was located and the matters listed in Article 17 shall be registered at the district in which the new office is located. If a Partnership relocates a secondary office, the relocation shall be registered within three weeks at the district in which the former office was located and the matters listed in the same Article shall be registered within four weeks at the district in which the new office is located.
- (2) If the principal office or a secondary office is only being relocated within the jurisdictional district of the same registration office, it is sufficient to register such relocation.

### Article 20 ( Registration of Changes )

If a change in any of the matters listed in Article 17 occurs, such change shall be registered within two weeks at the district of the principal office and within three weeks at the districts of the secondary offices.

### Article 21 ( Registration of Suspension of Business Execution by General Partner )



If a provisional disposition is ordered suspending the execution of the business by a general partner or designating a person to execute business on its behalf or that such provisional disposition is changed or canceled, said fact shall be registered at the districts of the principal office and the secondary offices.

#### Article 22 ( Registration of Dissolution )

If a Partnership is dissolved, the dissolution shall be registered within two weeks at the district of the principal office and within three weeks at the districts of the secondary offices.

#### Article 23. Registration of Liquidators

- (1) If the general partners become the liquidators, the names and addresses of the liquidators shall be registered within two weeks from the date of dissolution at the district of the principal office and within three weeks at the districts of the secondary offices.
- (2) If a liquidator is elected, the name and address of the liquidator shall be registered within two weeks at the district of the principal office and within three weeks at the districts of the secondary offices.
- (3) Article 20 shall apply mutatis mutandis with respect to the registration set forth in the preceding two paragraphs and Article 21 shall apply mutatis mutandis with respect to liquidators.

#### Article 24 ( Registration of Completion of Liquidation )

Upon completion of the liquidation of a Partnership, the completion of the liquidation of the Partnership shall be registered within two weeks from the date of completion of the liquidation at the district of the principal office and within three weeks at the districts of the secondary offices.

#### Article 25 ( Competent Registration Office and Registry )

- (1) The Legal Affairs Bureau or local Legal Affairs Bureau or a branch or sub-office thereof in the district where the office of a Partnership is located shall be the competent registration office with respect to the registration of the Partnership Agreement.
- (2) A Registry of Limited Partnership Agreements for Investment shall be maintained in each registration office.

#### Article 26 ( Application for Registration )

- (1) The registrations pursuant to the provisions of Articles 17 through 20 shall be made upon application by a general partner and those pursuant to the provisions of Articles 22 through 24 shall be made upon application by a liquidator.
- (2) In the event that the general partner or liquidator who applies for registration pursuant to the preceding paragraph is a juridical person, a certificate evidencing the authority to represent such juridical person shall be attached to the application.

Article 27 ( Attachment to Registration of Partnership Agreement Taking Effect )

The Partnership Contract shall be attached to the application for registration of the occurring of effect of the Partnership Agreement.

Article 28 ( Attachment to Registration of Changes )

In an application for registration of an establishment or relocation of office or registration of any change in the matters listed in Article 17, a written document evidencing the establishment or relocation of the office or the change in the registered matters shall be attached to the application.

Article 29 ( Attachment to Registration of Dissolution )

In an application for registration of dissolution, a written document evidencing the occurrence of an event of dissolution shall be attached to the application.

Article 30 ( Attachment to Registration of Liquidators )

In an application for registration of a liquidator who has been elected by a majority of all partners, a written document evidencing the agreement by a majority of all partners and a written document evidencing the acceptance of office by such person, shall be attached to the application.

Article 31 ( Attachment to Registration of Change in the Registration of Liquidators )

- (1) In an application for registration of change in the registration by reason of resignation of a liquidator, a written document evidencing such resignation shall be attached to the application.
- (2) In an application for registration of change in the name or address of a liquidator, a written document evidencing such change in the registered matters shall be attached to the application.

Article 32 ( Attachment to Registration of Completion of Liquidation )

In an application for registration of completion of liquidation, a written document executed by all partners evidencing that the disposal of the Partnership's assets has been completed shall be attached to the application.

Article 33 ( Mutatis Mutandis Application of the Commercial Registration Act, Etc. )

Articles 2 through 5 (Register Office and Registrar), 7 through 18, 19-2 through 23, 24 (excluding item (xvi)), 26 (General Rules for Registry, etc. and Registration Procedure), 27 (Prohibition on Use of Similar Trade Names), 56 through 59, 61(1) (Registration of Incorporated General Partnership (*gōmei gaisha*)) and 107 through 127 (Revision or Cancellation of Registration, Special Rules on Registration by Electronic Information Processing Organization and Miscellaneous Provisions) of the Commercial Registration Act (Act No. 125 of 1963) and Articles 56 (Entrustment of Registration of Provisional Dispositions Concerning Suspension of Business Execution by a Representative of a Juridical person, etc.) of the Civil Preservation Act (Act No 91 of 1989) shall apply *mutatis mutandis* with respect to the registration of a Partnership. In application of the foregoing provisions of the

Commercial Registration Act, the phrase "Article 64(1) of the Commercial Code" in Article 56(3) of the Commercial Registration Act shall be replaced with "Article 17 of the Limited Partnership Act for Investment (Act No 90 of 1998)" and the phrases "a representative of the juridical person or other executives of the juridical person" and "the head office or principal office and branches or secondary offices of the juridical person" in Article 56 of the Civil Preservation Act shall respectively be replaced with "a general partner or a liquidator of the Investment LPS" and "the principal office and secondary offices of the Investment LPS".

## **Chapter 7 Penalties**

### **Article 34**

In the following cases general partners or liquidators shall be punished by a fine of no more than 1,000,000 yen:

- (i) If they fail to perform the registrations required by this Act; or
- (ii) If they fail to maintain the required documents, fail to record the required information in these documents or record false information or refuse to allow inspection or copying of these documents without reasonable justification, in violation of the provisions of Article 8.

### **Article 35**

Any person who uses a registered name of a Partnership or a similar name for the purpose of unfair competition shall be punished by a fine of no more than 200,000 yen. The forgoing shall also apply to persons who violate Article 21(1) of the Commercial Code as applied under Article 5(3) of this Act.