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This English translation of the Civil Code has been translated (through the revisions of Act No. 87 of 2005 (Effective May 1, 2006)) in compliance with the Standard Bilingual Dictionary (March 2006 edition).

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Civil Code (Act No. 89 of 1896)

Part I General Provisions

Chapter 1 Common Provisions

Article 1 (Fundamental Principles)

- (1) Private rights must conform to the public welfare.
- (2) The exercise of rights and performance of duties must be done in good faith.
- (3) No abuse of rights is permitted.

Article 2 (Standard for Construction)

This Code must be construed in accordance with honoring the dignity of individuals and the essential equality of both sexes.

Chapter 2 Person

Section I Capacity to Hold Rights

Article 3

- (1) The enjoyment of private rights shall commence at birth.
- (2) Unless otherwise provided by applicable laws, regulations or treaties, foreign nationals shall enjoy private rights.

Section II Capacity to Act

Article 4 (Age of Majority)

The age of majority is reached when a person has reached the age of 20.

Article 5 (Juristic Act of Minors)

- (1) A minor must obtain the consent of his/her statutory agent to perform any juristic act; provided, however, that, this shall not apply to an act merely intended to acquire a right or to be relieved of a duty.
- (2) A juristic act in contravention of the provision of the preceding paragraph may be rescinded.
- (3) Notwithstanding the provision of paragraph 1, in cases the statutory agent permits the disposition of property by specifying the purpose thereof, a minor may freely dispose of the same to the extent of such purpose. The same shall apply in cases his/her statutory agent permits the disposition of the property without specifying any purpose.

Article 6 (Permission for Minors to Carry on Business)

- (1) A minor who is permitted to carry on one or more kinds of business shall have the same capacity to act as a person of the age of majority as far as such business is concerned.
- (2) In the case set forth in the preceding paragraph, if the minor may be unable to perform the relevant business for any reason, his/her statutory agent may revoke or limit permission in accordance with the provisions of Part IV (Relatives).

Article 7 (Order for Commencement of Guardianship)

With respect to any person who constantly lacks the capacity to discern right and wrong due to mental disability, the family court may order the commencement of guardianship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the curator, the supervisor of the curator, the assistant, the supervisor of the assistant, or a public prosecutor.

Article 8 (Adult Ward and Guardian of Adult)

A person who has become subject to the order of commencement of guardianship shall be an adult ward, and a guardian of an adult shall be appointed for him/her.

Article 9 (Juristic Act of an Adult Ward under Guardianship)

A juristic act performed by an adult ward may be rescinded; provided, however, that, this shall not apply to any act relating to daily life, such as the purchase of daily household items.

Article 10 (Rescission of Order for Commencement of Guardianship)

When the cause set forth in Article 7 ceases to exist, the family court must rescind the order of the commencement of guardianship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian (hereinafter referring to the guardian of a minor and the guardian of an adult), the supervisor of the guardian (hereinafter referring to the supervisor of the guardian of a minor and the supervisor of the guardian of an adult), or a public prosecutor.

Article 11 (Order of Commencement of Curatorship)

With respect to any person whose capacity is extremely insufficient to appreciate right or wrong due to any mental disability, the family court may order the commencement of curatorship upon a request by the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian, the supervisor of the guardian, the assistant, the supervisor of the assistant, or a public prosecutor; provided however, that, this shall not apply to any person in respect of whom a cause set forth in Article 7 exists.

Article 12 (Person under Curatorship and his/her Curator)

A person who has become subject to the order of commencement of curatorship shall be the person under curatorship, and a curator shall be appointed for him/her.

Article 13 (Acts Requiring Consent of Curator)

(1) A person under curatorship must obtain the consent of his/her curator if he/she intends to perform any of the following acts; provided, however, that, this shall not apply to the acts provided for in the proviso of Article 9:

- (i) receive or use any principal^{*1};
- (ii) borrow any money or guarantee any obligation;
- (iii) perform any act with the purpose of obtaining or relinquishing any right regarding real estate or other valuable property;
- (iv) take any procedural action;
- (v) make a gift, make any settlement, or agree to arbitrate (referring to the agreement to arbitrate as provided in paragraph 1, Article 2 of the Arbitration Act (Act No. 138 of 2003));
- (vi) accept or renounce any inheritance, or partition any estate;

*1 The term "principal" in this section refers to any principal fund which can bear fruit, such as interest.

- (vii) refuse an offer of a gift, renounce any bequest^{*2}, accept the offer of gift with burden, or accept any bequest with burden;
 - (viii) effect any new construction, renovation, expansion, or major repairs; or
 - (ix) make any lease agreement with a term which exceeds the period set forth in Article 602.
- (2) At the request of the person provided in the main clause of Article 11, or any curator or any supervisor of the curator, the family court may make an order that the person under curatorship must obtain the consent of his/her curator even in cases he/she intends to perform any act other than those set forth in each item of the preceding paragraph; provided, however, that this shall not apply to the acts provided for in the proviso to Article 9,
- (3) With respect to any act which requires the consent of the curator, if the curator does not give consent in cases where the interest of the person under curatorship is unlikely to be prejudiced, the family court may, at the request of the person under curatorship, give permission in lieu of the consent of the curator.
- (4) An act which requires the consent of the curator may be rescinded if it was performed without such consent or any permission in lieu thereof.

Article 14 (Rescission of Order of Commencement of Curatorship)

- (1) When the cause provided in the main clause of Article 11 ceases to exist, the family court must rescind the order of the commencement of curatorship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the curator, the supervisor of the curator, or a public prosecutor.
- (2) At the request of the person prescribed in the preceding paragraph, the family court may rescind, in whole or in part, the order under paragraph 2 of the preceding Article.

Article 15 (Order of Commencement of Assistance)

- (1) With respect to any person who has insufficient capacity to appreciate right or wrong due to any mental disability, the family court may order the commencement of assistance upon a request by the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian, the supervisor of the guardian, the curator, the supervisor of the curator, or a public prosecutor; provided, however, that, this shall not apply to any person who has the cause set forth in Article 7 or the main clause of Article 11.
- (2) The order of commencement of assistance at the request of any person other

*2 "bequest" may be appropriate since it refers to personal property.

than the person in question shall require the consent of the person in question.

- (3) The order of commencement of assistance must be made concurrent with the order under paragraph 1 of Article 17 or the order under paragraph 1 of Article 876-9.

Article 16 (Person under Assistance and Assistant)

A person who has become subject to the order of commencement of assistance shall be a person under assistance, and an assistant shall be appointed for him/her.

Article 17 (Order Requiring Person to Obtain Consent of Assistant)

- (1) At the request of the person provided in the main clause of paragraph 1 of Article 15, or any assistant or supervisor of the assistant, the family court may make the order that the person under assistance must obtain the consent of his/her assistant if he/she intends to perform any particular juristic act; provided, however, that the act for which such consent must be obtained pursuant to such order shall be limited to the acts provided in paragraph 1 of Article 13.
- (2) The order set forth in the preceding paragraph at the request of any person other than the person in question shall require the consent of the person in question.
- (3) With respect to any act which requires the consent of the assistant, if the assistant does not give consent in cases where the interest of the person under assistance is unlikely to be prejudiced, the family court may, at the request of the person under assistance, give permission which is in lieu of the consent of the assistant.
- (4) An act which requires the consent of the assistant may be rescinded if it was performed without such consent or any permission in lieu thereof.

Article 18 (Rescission of Order of Commencement of Assistance)

- (1) When the cause provided in the main clause of paragraph 1 of Article 15 ceases to exist, the family court must rescind the order of commencement of assistance at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the assistant, the supervisor of the assistant, or a public prosecutor.
- (2) At the request of the person prescribed in the preceding paragraph, the family court may rescind, in whole or in part, the order under paragraph 1 of the preceding Article.
- (3) In cases the order under paragraph 1 of the preceding Article and the order under paragraph 1 of Article 876-9 are to be rescinded in their entirety, the family court must rescind the order of commencement of assistance.

Article 19 (Relationship between Orders)

- (1) In cases any order for commencement of guardianship is to be made, and the person in question is a person under curatorship or the person under assistance, the family court must rescind the order of commencement of curatorship or commencement of assistance pertaining to such person in question.
- (2) The provisions of the preceding paragraph shall apply mutatis mutandis in cases where the person in question, upon order of commencement of curatorship, is an adult ward or a person under assistance, or in cases where the person in question is, at the time of the order for commencement of assistance, an adult ward or a person under curatorship.

Article 20 (Right of Demand by Person who is Counterparty to Person with Limited Capacity)

- (1) The person who is the counterparty to a person with limited capacity (hereinafter referring to any minor, an adult ward, a person under curatorship, and a person under assistance who has become subject to the order under paragraph 1 of Article 17) may, after such person with limited capacity has become a person with capacity (hereinafter referring to a person free of any limitation on capacity to act), issue to such person a notice which demands, by establishing a certain period which is one month or more, that he/she should give a definite answer on whether or not such person will ratify such act which may be rescinded within such period. In such case, if such person fails to send any definite answer within such period, he/she is deemed to have ratified such act.
- (2) The second sentence of the preceding paragraph shall likewise apply in cases where, while such person with limited capacity has not yet become a person with capacity, the person who is the counterparty to the person with limited capacity issues to the statutory agent, curator, or assistant of such person a notice prescribed in the preceding paragraph with respect to any act which is under the authority of any such officer, and the statutory agent, curator or assistant fails to issue any definite answer within the period referred to in such paragraph.
- (3) With respect to any act which requires any special formalities, if no notice to the effect that the perfection of such formalities has been completed is issued within the period set forth in the preceding two paragraphs, it is deemed that such act has been rescinded.
- (4) The person who is the counterparty to a person with limited capacity may issue a notice to any person under curatorship, or to any person under assistance who has been made subject to the order under paragraph 1 of Article 17 which demands that he/she should obtain the ratification of his/her curator or assistant, as the case may be, within the period set forth in paragraph 1 above. In such case, if the person under curatorship or person under assistance fails to issue,

within the applicable period, a notice to the effect that such ratification has been obtained, it is deemed that such act has been rescinded.

Article 21 (Fraudulent Means Committed by Person with Limited Capacity)

If a person with limited capacity manipulates any fraudulent means to induce others to believe that he/she is a person with capacity, his/her act may not be rescinded.

Section III Domicile

Article 22 (Domicile)

The principal place wherein a person lives shall be his/her domicile.

Article 23 (Residence)

- (1) If the domicile of a person is unknown, his/her residence is deemed to be his/her domicile.
- (2) If a person does not have the domicile in Japan, his/her residence is deemed to be his/her domicile, whether he/she is a Japanese or a foreign national; provided, however, that, this shall not apply where the law of domicile controls in accordance with the applicable provision of the Act Concerning the Application of Laws (Act No. 10 of 1898) or other laws which provide the governing law.

Article 24 (Temporary Domicile)

If any temporary domicile is selected for any act, such temporary domicile is deemed to be the domicile as far as such act is concerned.

Section IV Management of Absentee Property and Adjudication of Disappearance

Article 25 (Administration of Absentee Property)

- (1) In cases any person who has left his/her domicile or residence (hereinafter referred to as "absentee") did not appoint an administrator of his/her property (hereinafter in this Section referred to simply as "administrator"), the family court may, at the request of any interested person or a public prosecutor, issue an order for necessary actions for the administration of such property. The same shall apply in cases the authority of the administrator ceases to exist during the absence of the absentee.
- (2) If, after the issuance of the order pursuant to the provision of the preceding paragraph, the absentee appoints an administrator, the family court must rescind the order at the request of his/her administrator, any interested person, or a public

prosecutor.

Article 26 (Replacement of Administrator)

In cases an absentee appoints an administrator, and if it is not clear whether such absentee is dead or alive, the family court may replace such administrator with another at the request of any interested person or a public prosecutor.

Article 27 (Duties of Administrator)

- (1) An administrator who is appointed by the family court pursuant to the provision of the preceding two Articles must prepare a list of the property he/she is to administer. In such case, the expenses incurred shall be disbursed from the property of the absentee.
- (2) In cases it is not clear whether an absentee is dead or alive, if so requested by any interested person or a public prosecutor, the family court may also order the administrator appointed by the absentee to prepare the list set forth in the preceding paragraph.
- (3) In addition to provisions of the preceding two paragraphs, the family court may issue an order to the administrator to effect any action which the court may find to be necessary for the preservation of the property of the absentee.

Article 28 (Authority of Administrator)

If an administrator needs to perform any act beyond the authority set forth in Article 103, he/she may perform such act by obtaining the permission of the family court. The same shall likewise apply if the administrator needs to perform any act beyond the authority stipulated by the absentee in cases it is not clear whether the absentee is dead or alive.

Article 29 (Provision of Security by and Remuneration for Administrator)

- (1) The family court may require an administrator to provide reasonable security with respect to the administration and return of the property.
- (2) The family court may grant reasonable remuneration to the administrator from the property of the absentee with due regard to the relationship between the administrator and absentee and other circumstances.

Article 30 (Adjudication of Disappearance)

- (1) If it is not clear whether the absentee is dead or alive for 7 years, the family court may make the adjudication of disappearance at the request of any interested person.
- (2) The procedure of the preceding paragraph shall likewise apply with respect to any person who was engaged in any war zone, was aboard any vessel which later

sank, or was otherwise exposed to any danger which could be the cause of death, if it is not clear whether such person is dead or alive for one year after the end of the war, after the sinking of the vessel, or after the termination of such other danger, as the case may be.

Article 31 (Effect of Adjudication of Disappearance)

Any person who has become the subject of the adjudication of disappearance pursuant to the provision of paragraph 1 of the preceding Article is deemed to have died upon elapse of the period set forth in such paragraph, and a person who is the subject of the adjudication of disappearance pursuant to the provision of paragraph 2 of the same Article is deemed to have died upon the termination of such danger.

Article 32 (Rescission of Adjudication of Disappearance)

- (1) If there is any proof that an absentee is alive, or that he/she died at a time differing from that provided in the preceding Article, the family court must, at the request of the absentee himself/herself or any interested person, rescind the adjudication of disappearance. In such case, the rescission shall not affect the validity of any act which was performed without knowledge after the adjudication of disappearance but before the rescission thereof.
- (2) Any person who acquired any property by the adjudication of disappearance shall lose its/his/her right upon rescission thereof; provided, however, that such person shall have the obligation to return such property only to the extent he/she is actually enriched.

Section V Presumption of Simultaneous Death

Article 32-2

In cases more than one person dies, if it is not clear whether one of the deceased survived the other(s), it is presumed that they all died at the same time.

Chapter III Juridical Persons

Section I Establishment of Juridical Persons

Article 33 (Establishment of Juridical Person)

No juridical person can be formed unless it is formed pursuant to the applicable provisions of this Code or other laws.

Article 34 (Establishment of Public Interest Corporation)

Any association or foundation relating to any academic activities, art, charity,

worship, religion, or other public interest which is not for profit may be established as a juridical person with the permission of the competent government agency.

Article 35 (Restrictions on Use of Name)

Any person who is neither an incorporated association nor an incorporated foundation shall not use in its name the words "incorporated association" or "incorporated foundation", or other words which is likely to be mistaken for those words.

Article 36 (Foreign Juridical Person)

- (1) With the exception of any state, any administrative division of any state, and any commercial corporation, no establishment of a foreign juridical person shall be approved; provided, however, that, this shall not apply to any foreign juridical person which is approved pursuant to the provisions of a law or treaty.
- (2) A foreign juridical person which is approved pursuant to the provision of the preceding paragraph shall possess the same private rights as may be possessed by the juridical person of the same kind which can be formed in Japan; provided, however, that, this shall not apply to any right which may not be enjoyed by a foreign national, or a right for which special provision is made in a law or treaty.

Article 37 (Articles of Incorporation)

Any person who intends to form an incorporated association must prepare the Articles of incorporation and specify the following matters:

- (i) Purpose(s);
- (ii) Name;
- (iii) Location of the office;
- (iv) Provisions regarding the asset;
- (v) Provisions regarding the appointment and dismissal of directors; and
- (vi) Provisions regarding the acquisition and loss of membership status.

Article 38 (Change of Articles of Incorporation)

- (1) The articles of incorporation may be changed only if the consent of three-quarters or more of all members is obtained; provided, however, that, this shall not apply to the cases where it is otherwise provided in the articles of incorporation.
- (2) No change of the articles of incorporation shall take effect unless and until it is approved by the competent government agency.

Article 39 (Act of Endowment)

Any person who intends to form an incorporated foundation must provide for the

matters set forth in items 1 to 5 inclusive of Article 37 in the act of endowment which is intended to form such foundation.

Article 40 (Determination by Court of Name)

When the person who intends to form an incorporated foundation dies without determining the name, location of the office, and the procedure of the appointment or dismissal of directors of such foundation, the court must, at the request of the interested person or a public prosecutor, determine such matters.

Article 41 (Mutatis Mutandis Application of Provisions regarding Gifts and Bequests)

- (1) The provisions relating to gifts shall apply mutatis mutandis to acts of endowment in the form of inter vivos dispositions to the extent this is not inconsistent with the nature thereof.
- (2) If an act of endowment is done by a will, the provisions relating to bequests shall apply mutatis mutandis to the extent it is not inconsistent with the nature thereof.

Article 42 (Time of Vesting of Endowed Property)

- (1) If an act of endowment was in the form of an inter vivos disposition, the endowed property shall vest in the juridical person at the time permission is given for the establishment of such juridical person.
- (2) If an act of endowment was done by a will, the endowed property shall vest in the applicable juridical person upon effectuation of such will.

Article 43 (Capacity of Juridical Person)

A juridical person shall have rights and assume duties to the extent of the purpose provided in the applicable articles of incorporation or act of endowment subject to the applicable provisions of the laws and regulations.

Article 44 (Capacity of Juridical Person to Commit Tortious Acts)

- (1) A juridical person shall be liable for damage caused to others by its directors or other agents during the course of the performance of their duties.
- (2) If any damages are inflicted to others due to any ultra vires act beyond the scope of the purpose(s) of the applicable juridical person, the member(s) and director(s) who consented to the resolution pertaining to such act and the director(s) or other agent(s) who executed such resolution shall be jointly and severally liable for such damages.

Article 45 (Registration of Establishment of Juridical Person)

- (1) A juridical person must complete its registration within two weeks from the day of its establishment at the location of its principal office, and within three weeks at any location of its other office.
- (2) The establishment of a juridical person may not be asserted against a third party unless it is registered at the location of its principal office.
- (3) If, after the establishment of a juridical person, any new office is established, the registration at the location of such office must be filed within 3 weeks.

Article 46 (Matters to be Registered upon Registration of Formation and Registration of Change)

- (1) The following matters shall be registered upon registration of establishment of any juridical person:
 - (i) Purpose(s);
 - (ii) Name;
 - (iii) Location of the office;
 - (iv) Date of the permission of the establishment;
 - (v) Term of existence, if such term is stipulated;
 - (vi) Total amount of assets;
 - (vii) Method of contribution, if such method is defined; and
 - (viii) Name and domicile of each director.
- (2) If there is any change in any matter listed in the respective items of the preceding paragraph, the registration of the change must be filed within two weeks at the location of its principal office, and within three weeks at any location of its other office. In each of the above cases, the change may not be asserted against a third party before its registration.
- (3) If there is any ruling for the provisional disposition which suspends the execution of the duties of any director, or appoints any person who executes such duties in place of a director, or if there is any ruling to change or rescind such provisional disposition, the registration of such fact must be made at the location of the principal office or other office. The provision of the second sentence of the preceding paragraph shall apply mutatis mutandis to such case.

Article 47 (Period for Registration)

The period for the registration of any matter to be registered pursuant to the provision of paragraph 1 of Article 45 and the preceding Article which requires the permission of the government agency shall be calculated commencing from the day of the arrival of such permit.

Article 48 (Registration of Relocation of Office)

- (1) In cases a juridical person relocates its principal office, it must, within 2 weeks,

register the fact of such relocation at the old location, and the matters listed in the respective items of paragraph 1 of Article 46 at the new location.

- (2) In cases a juridical person relocates any office other than its principal office, it must register the fact of such relocation at the old location within 3 weeks, and must register the matters listed in the respective items of paragraph 1 of Article 46 at the new location within 4 weeks.
- (3) In cases any office is relocated to any location within the jurisdictional district of the same Registry, it shall be sufficient to register the fact of such relocation.

Article 49 (Registration of Foreign Juridical Person)

- (1) The provisions of paragraph 3 of Article 45, Article 46 and the preceding Article shall apply mutatis mutandis to the cases where any foreign juridical person establishes an office in Japan; provided, however, that, the period of registration for any matter which takes place in any foreign state shall be calculated commencing from the day of the arrival of the notice thereof.
- (2) When a foreign juridical person has established an office in Japan for the first time, a third party may deny the establishment of such juridical person until the registration has been completed at the location of such office.

Article 50 (Domicile of Juridical Person)

The domicile of a juridical person shall be at the location of its principal office.

Article 51 (Inventory of Property and Directory of Members)

- (1) A juridical person must prepare its inventory of property at the time of its establishment, and at any time between January and March of each year, and must keep it at its principal office at all times; provided, however, that, in cases a juridical person establishes any specific fiscal year, it must prepare the inventory of property at the time of its establishment and at the end of its respective fiscal year.
- (2) An incorporated association must keep its directory of members and make necessary changes whenever there is any change in the members.

Section II Management of Juridical Persons

Article 52 (Director)

- (1) A juridical person must have one or more director(s).
- (2) In cases there is more than one director, unless otherwise provided in the articles of incorporation or act of endowment, the business of the juridical person shall be determined by the majority of all directors.

Article 53 (Representative of Juridical Person)

The director(s) shall represent the juridical person with respect to any and all business of the juridical person; provided, however, that the director(s) may not act in contravention of the applicable provisions of the articles of incorporation or the purpose(s) of the act of endowment, and, in cases of an incorporated association, must comply with the applicable resolution of the general meeting.

Article 54 (Limitation on Director's Authority of Representation)

No limitation on a director's authority may be asserted against a third party without knowledge.

Article 55 (Delegation of Director's Authority)

A director may delegate his/her authority on a specific act to other person(s) only in cases such delegation is not prohibited by the applicable articles of incorporation, act of endowment, or resolution of the general meeting of the members.

Article 56 (Provisional Director)

In cases there is any vacancy in the office of directors, if any damage is likely to occur due to the delay in the business, the court must, at the request of any interested person or a public prosecutor, appoint a provisional director.

Article 57 (Conflict of Interest)

A director shall have no authority of representation as to any matter involving a conflict of interest between the juridical person and such director. In such case, the court must, at the request of any interested person or a public prosecutor, appoint a special agent.

Article 58 (Auditor-Secretary)

A juridical person may appoint one or more auditor-secretary(ies) under the authority of the articles of incorporation, act of endowment or the resolution of the general meeting of the members.

Article 59 (Duties of Auditor-Secretary)

The duties of an auditor-secretary shall be:

- (i) to audit the status of the property of the juridical person;
- (ii) to audit the status of the execution of the business by the director(s);
- (iii) to submit a report to the general meeting of the members or to the competent government agency when he/she finds any violation of the applicable laws and regulations, articles of incorporation or act of endowment, or any significant impropriety with respect to the status of the property or the

- execution of the business; and
- (iv) to convoke a general meeting of the members when it is necessary to submit the report set forth in the preceding item.

Article 60 (Ordinary General Meeting)

The director(s) of an incorporated association must convoke an ordinary general meeting of the members at least once a year.

Article 61 (Extraordinary General Meeting)

- (1) The director(s) of an incorporated association may convoke an extraordinary general meeting of the members whenever directors find it necessary.
- (2) The director(s) must convoke an extraordinary general meeting if one-fifth or more of all members so request by specifying the matter(s) which is/are the purpose(s) of the meeting; provided, however, that a ratio other than one-fifth may be stipulated by the articles of incorporation.

Article 62 (Convocation of General Meeting)

The notice of the convocation of the general meeting must be given at least five days prior to the scheduled day of the meeting in the manner provided in the articles of incorporation by specifying the matter(s) which is/are the purpose(s) of the meeting.

Article 63 (Execution of Business of the Incorporated Association)

The business of the incorporated association shall be carried out pursuant to the applicable resolution of the general meeting, except those delegated to the director (s) or other officer(s) by the articles of incorporation.

Article 64 (Matters for Resolution of the General Meeting)

The general meeting may adopt a resolution only with respect to any matter which is notified in advance pursuant to the provision of Article 62; provided, however, that, this shall not apply where the articles of incorporation provide otherwise.

Article 65 (Voting Right of Members)

- (1) The vote of each member shall be of equal value.
- (2) A member who is not present in the general meeting may vote in writing or by proxy.
- (3) The provisions of the preceding two paragraphs shall not apply if the articles of incorporation provide otherwise.

Article 66 (No Right to Vote)

In cases any resolution is to be made with respect to the relationship between the incorporated association and any particular member, such member shall have no vote.

Article 67 (Supervision of Business of Juridical Person)

- (1) The business of a juridical person shall be subject to the supervision by the competent government agency.
- (2) The competent government agency may issue to the juridical person any order which shall be necessary for the purpose its supervision.
- (3) The competent government agency may, by exercising its authority, inspect the status of the business and property of a juridical person at any time.

Section III Dissolution of Juridical Person

Article 68 (Causes of Dissolution of Juridical Person)

- (1) A juridical person shall be dissolved because of:
 - (i) the occurrence of any cause of dissolution provided in the articles of incorporation or act of endowment, as the case may be;
 - (ii) the successful consummation of the business which is the purpose of the juridical person, or the impossibility of such successful consummation;
 - (iii) the ruling to commence bankruptcy procedures; or
 - (iv) the rescission of the permission of the establishment.
- (2) In addition to the causes listed in the respective items of the preceding paragraph, an incorporated association shall be dissolved because of:
 - (i) the applicable resolution of the general meeting; or
 - (ii) the attrition of all members.

Article 69 (Resolution for Dissolution of Juridical Person)

An incorporated association may not adopt a resolution for dissolution without the affirmative votes of three-fourths or more of all the members; provided, however, that, this shall not apply to the cases where it is provided otherwise in the articles of incorporation.

Article 70 (Commencement of Bankruptcy Procedures with respect to Juridical Person)

- (1) In cases a juridical person is unable to pay its debts in full out of its property, the court shall, at the filing of any director or any obligee or by exercising its authority, provide the ruling to commence bankruptcy procedures.
- (2) In the case prescribed in the preceding paragraph, the director(s) must immediately file a petition for the commencement of bankruptcy procedure.

Article 71 (Rescission of Permission of Establishment of Juridical Person)

In cases a juridical person carries on any business which is outside the scope of its purpose(s), or violates any conditions on which it obtained the permission of the establishment or any supervisory order issued by the competent government agency, or otherwise commits any act which is to prejudice the public interest, if the purpose of supervision cannot be achieved by any other means, the competent government agency may rescind its permission. The same shall apply if the juridical person, without any justifiable reason, does not conduct any business for three consecutive years or more.

Article 72 (Vesting of Residual Assets)

- (1) The assets of a dissolved juridical person shall vest in the person who is designated in the articles of incorporation or act of endowment.
- (2) If the articles of incorporation or act of endowment does not designate any person with whom the right should be vested, or does not provide the manner to designate such person, the director(s) may, with the permission of the competent government agency, dispose of the assets of the relevant juridical person for any purpose which is similar to that of such juridical person; provided, however, that, in cases of an incorporated association, the resolution of the general meeting must be obtained.
- (3) Any asset which cannot be disposed of pursuant to the provisions of the preceding two paragraphs shall vest in the national treasury.

Article 73 (Juridical Person under Liquidation)

A dissolved juridical person is deemed to still continue to exist to the extent of the purpose of the liquidation until the conclusion of such liquidation.

Article 74 (Liquidator)

Except in cases of dissolution by the operation of the ruling to commence bankruptcy procedures, when a juridical person is dissolved, its director(s) shall become the liquidator(s); provided, however, that, this shall not apply to the cases where an applicable provision of any articles of incorporation or act of endowment otherwise provides, or any person other than the director(s) has been appointed as the liquidator(s) in the general meeting.

Article 75 (Appointment of Liquidator by Court)

If no liquidator is identified pursuant to the provisions of the preceding article, or if any damage is likely to occur due to the vacancy in the office of a liquidator, the court may appoint a liquidator at the request of any interested person or a public

prosecutor, or by exercising its authority.

Article 76 (Dismissal of Liquidator)

If there is any important reason for doing so, the court may dismiss a liquidator at the request of any interested person or a public prosecutor, or by exercising its authority.

Article 77 (Registration and Filing of Liquidators' Particulars and Dissolution)

- (1) Except in cases of the ruling to commence bankruptcy procedures and the rescission of the permission of the establishment, the liquidator must register his/her name and domicile as well as the cause and the date of the dissolution within two weeks from the dissolution at the location of the principal office, and within three weeks from the dissolution at the location of its other office, and file such matter with the competent government agency.
- (2) A liquidator who has assumed his/her office during the course of the liquidation must register his/her name and domicile within two weeks from the assumption of his/her office at the location of the principal office, and within three weeks from the assumption of his/her office at the location of its other office, and file such matter with the competent government agency.
- (3) The provisions of the preceding paragraph shall apply mutatis mutandis to the liquidator who has assumed his/her office in the case of dissolution due to the rescission of the permission of the establishment.

Article 78 (Duties and Authority of Liquidator)

- (1) A liquidator shall have the duties to:
 - (i) conclude the current business;
 - (ii) collect debts and perform obligations; and
 - (iii) deliver the residual assets.
- (2) The liquidator may perform any and all acts in order to perform its duties listed in the respective items of the preceding paragraph.

Article 79 (Request for Filing of Claims)

- (1) Within two months from the day when he/she takes office, the liquidator(s) must require the relevant obligees, by releasing a public notice on at least three occasions, to file their claims within a stated period, in which case such notice period may not be less than two months.
- (2) The public notice set forth in the preceding paragraph must note that any claim of an obligee shall be excluded from the liquidation procedure unless he/she submits his/her claim within the stated period; provided, however, that the liquidator may not exclude any known obligee.

- (3) The liquidator must require the filing of the claim to each of the known obligees.
- (4) The public notice pursuant to the provision of paragraph 1 above shall be given by publishing it in the Official Gazette.

Article 80 (Filing of Claim after Lapse of the Stated Period)

Any obligee who submits its claim after the lapse of the period set forth in paragraph 1 of the preceding Article shall be entitled to make its claim only to the assets which, after all debts of the juridical person have been fully paid, is not yet delivered to the person with vested rights.

Article 81 (Commencement of Bankruptcy Procedure with respect to Juridical Person under Liquidation)

- (1) When it has become apparent during the liquidation procedure that the assets of the relevant juridical person is not sufficient to fully pay its debts, the liquidator must immediately file a petition for the commencement of bankruptcy procedures and make a public notice of such fact.
- (2) In cases any juridical person under the liquidation procedure has become subject to the ruling of the commencement of bankruptcy procedures, if the administration of the relevant procedure has been transferred to the trustee in bankruptcy, it is deemed that the liquidator has completed his/her duties.
- (3) In the case prescribed in the preceding paragraph, if the juridical person under the liquidation procedure has already paid any money to the obligees, or has delivered any asset to the person with vested rights, the trustee in bankruptcy may retrieve such money or asset.
- (4) The public notice pursuant to the provision of paragraph 1 above shall be made by publishing it in the Official Gazette.

Article 82 (Supervision by the Court)

- (1) The dissolution and liquidation of a juridical person shall be subject to the supervision of the court.
- (2) The court may, by exercising its authority, conduct any inspection which may be necessary for the supervision set forth in the preceding paragraph.

Article 83 (Filing of Conclusion of Liquidation Procedure)

When any liquidation procedure has been concluded, the liquidator must file such fact with the competent government agency.

Section IV Supplementary Rules

Article 84 (Delegation of Authorities of Competent Government agency)

The authorities of the competent government agency provided in this Chapter may be delegated, in whole or in part, to any government agency of the national government pursuant to the applicable cabinet order.

Article 84-2 (Processing of the Business of the Competent Government agency by Executive Agency of Prefectural Government)

- (1) The execution of the authorities of the applicable competent government agency provided in this Chapter may be administered, in whole or in part, by the governor or other executive agency of the relevant prefectural government (hereinafter referred to as "prefectural executive agency") pursuant to the applicable cabinet order.
- (2) In the case set forth in the preceding paragraph, the applicable competent government agency may instruct the applicable prefectural executive agency with respect to the issuance of any order for supervisory purpose or the rescission of the permission of the establishment to the relevant juridical person pursuant to the applicable cabinet order.
- (3) In the case referred to in paragraph 1, the competent government agency may establish the standard to be complied with by the applicable prefectural executive agency in its administration.
- (4) When the applicable competent government agency establishes the standard set forth in the preceding paragraph, they must make a public announcement thereof.

Section V Penal Provisions

Article 84-3

- (1) A director, auditor-secretary, or liquidator of a juridical person shall be made subject to a civil fine of not more than 500,000 Yen if he/she:
 - (i) fails to effect any registration provided in this Chapter;
 - (ii) violates the provision of Article 51, or makes any false entry in the inventory of property or directory of members;
 - (iii) has obstructed any inspection by the competent government agency, any government agency of the national government to which the authorities of the competent government agency are delegated, or any prefectural executive agency which administers the execution of the authorities of the competent government agency, or the court pursuant to the provision of paragraph 3 of Article 67 or paragraph 2 of Article 82;
 - (iv) violates any order for supervisory purpose issued by the competent government agency, any government agency of the national government to which the authorities of the competent government agency are delegated, or any prefectural executive agency which administers the execution of the authorities

of the competent government agency pursuant to the provision of paragraph 2 of Article 67;

- (v) has made any misrepresentation to, or has concealed any fact from, any government agency, any prefectural executive agency which administers the execution of the authorities of the competent government agency, or the general meeting;
 - (vi) fails to file a petition for the commencement of bankruptcy procedures pursuant to the provision of paragraph 2 of Article 70 or paragraph 1 of Article 81; or
 - (vii) has failed to make the public notice required under paragraph 1 of Article 79 or paragraph 1 of Article 81, or has made any improper public notice.
- (2) Any person who violates the provision of Article 35 shall be subject to a civil fine of not more than Yen 100,000.

Chapter IV Things

Article 85 (Definition)

The term "Things" as used in this Code shall mean tangible thing.

Article 86 (Real Estate and Movables)

- (1) Land and any fixtures thereto are regarded as real estate.
- (2) Any Thing which is not real estate is regarded as movable.
- (3) A bearer certificate of claims is deemed to be movable.

Article 87 (Principal and Appurtenance)

- (1) If the owner of a Thing attaches to it any other Thing he/she owns to make other Thing available for the permanent use of the former Thing, such other Thing which was attached is regarded as appurtenance.
- (2) Appurtenance shall be subject to the disposition of the principal.

Article 88 (Natural Fruits and Legal Fruits)

- (1) Products which are obtained from the intended use of a Thing are regarded as Natural Fruits.
- (2) Money or other Thing to be obtained in exchange for the use of any Thing are regarded as Legal Fruits.

Article 89 (Vesting of Fruits)

- (1) Natural Fruits shall vest in the person who has the right to obtain them when they are severed from the origin.
- (2) Legal Fruits shall be acquired in proportion to the number of days depending on

the duration of the right to obtain them.

Chapter V Juristic Acts

Section I General Provisions

Article 90 (Public Policy)

A juristic act with any purpose which is against public policy is void.

Article 91 (Manifestation of Intention Inconsistent with Default Rules)

If any party to a juristic act manifests any intention which is inconsistent with a provision in any laws and regulations not related to public policy, such intention shall prevail.

Article 92 (Custom Inconsistent with Default Rules)

In cases there is any custom which is inconsistent with a provision in any law or regulation not related to public policy, if it is found that any party to a juristic act has the intention to abide by such custom, such custom shall prevail.

Section II Manifestation of Intention

Article 93 (Concealment of True Intention)

The validity of the manifestation of intention shall not be impaired even if the person who makes the manifestation knows that it does not reflect his/her true intention; provided, however, that, in cases the other party knew, or could have known, the true intention of the person who makes the manifestation, such manifestation of intention shall be void.

Article 94 (Fictitious Manifestation of Intention)

- (1) Any fictitious manifestation of intention made in collusion with another party (ies) shall be void.
- (2) The nullity of the manifestation of intention pursuant to the provision of the preceding paragraph may not be asserted against a third party without knowledge.

Article 95 (Mistake)

Manifestation of intention has no effect when there is a mistake in any element of the juristic act in question; provided, however, that the person who made the manifestation of intention may not assert such nullity by himself/herself if he/she was grossly negligent.

Article 96 (Fraud or Duress)

- (1) Manifestation of intention which is induced by any fraud or duress may be rescinded.
- (2) In cases any third party commits any fraud inducing any person to make a manifestation of intention to the other party, such manifestation of intention may be rescinded only if the other party knew such fact.
- (3) The rescission of the manifestation of intention induced by the fraud pursuant to the provision of the preceding two paragraphs may not be asserted against a third party without knowledge.

Article 97 (Manifestation of Intention to Person at a Distance)

- (1) Manifestation of intention to a person at a distance shall become effective at the time of the arrival of the notice to the other party.
- (2) The validity of manifestation of intention to a person at a distance shall not be impaired even if the person who made the manifestation dies or loses his/her capacity to act after the dispatch of the notice.

Article 98 (Manifestation of Intention by Public Notice)

- (1) Manifestation of intention may be made by means of public notice if the person who makes the manifestation is unable to identify the other party or is unable to identify the whereabouts of the other party.
- (2) The public notice set forth in the preceding paragraph shall be effected by posting the notice at the posting area of the relevant court and publishing the fact of such posting in the Official Gazette at least once in accordance with the applicable provisions of the Code of Civil Procedure (Act No. 109 of 1996) regarding the service of the public notice; provided, however, that the court may, if it finds it suitable, order to post the notice at a posting area of the city office, ward office, or town/village office or any facility equivalent to the above in lieu of the publication in the Official Gazette.
- (3) Manifestation of intention by means of public notice is deemed to have arrived at the other party upon elapse of two weeks after the day when the notice was last published in the Official Gazette, or the day on which any posting in lieu of such publication started, whichever comes first; provided, however, that the service of such notice shall not take effect if the person who makes the manifestation is negligent in not identifying the other party or not identifying the whereabouts of the other party.
- (4) The procedure regarding the public notice shall be subject to the jurisdiction of the summary court which has jurisdiction over the area where the person who makes the manifestation of intention has his/her domicile in cases he/she is unable to identify the other party, or over the area of the last known domicile of the other

party in cases the whereabouts of the other party cannot be identified.

- (5) The court must require the person who makes the manifestation of intention to prepay the expenses regarding the public notice.

Article 98-2 (Capacity to Receive the Manifestation of Intention)

In cases the other party to the manifestation of intention is a minor or an adult ward at the time when the other party receives such manifestation of intention, the person who made the manifestation of intention may not assert his/her manifestation of intention against such other party; provided, however, that, this shall not apply after the statutory agent of such other party has acquired the knowledge of such manifestation of intention.

Section III Agency

Article 99 (Requirements and Effect of Act of Agent)

- (1) A manifestation of intention made by an agent representing that the same is made on behalf of the principal within the scope of the agent's authority binds the principal.
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to any manifestation of intention made by a third party to an agent.

Article 100 (Manifestation of Intention made with no Indication that it is made on behalf of the Principal)

Any manifestation of intention made by an agent with no indication that it is made on behalf of the principal is deemed to have been made for the agent's own behalf; provided, however, that, in cases the other party knew, or could have known, that the agent is acting on behalf of the principal, the provision of the preceding paragraph shall apply mutatis mutandis.

Article 101 (Defect in Act of Agent)

- (1) In cases the validity of a manifestation of intention should be affected by any absence of intention, any fraud, any duress, or any negligence in knowing or not knowing any particular circumstance, whether or not such fact existed shall be determined with reference to the agent.
- (2) In cases an agent is entrusted to perform any specific juristic act, if the agent performs such act in accordance with the instructions of the principal, the principal may not assert that the agent did not know a particular circumstance which the principal knew. The same shall apply to any circumstance which the principal did not know due to his/her negligence.

Article 102 (Agent's Capacity to Act)

An agent need not to be a person with the capacity to act.

Article 103 (Authority of Agent with no Specified Authority)

An agent who has no specified authority shall have the authority to do the following acts only:

- (i) acts of preservation; and
- (ii) acts which have the purpose of using or improving any Thing or right which is the subject of the agency to the extent such act does not change the nature of such property or right.

Article 104 (Appointment of Sub-agent by Agent)

A privately appointed agent may not appoint its sub-agent unless the authorization of the principal is obtained or there is an unavoidable reason to do so.

Article 105 (Responsibility of Agent Who Appointed Sub-agent)

- (1) If an agent appoints a sub-agent pursuant to the provisions of the preceding Article, it shall be responsible vis-à-vis the principal for the appointment and supervision of such sub-agent.
- (2) A privately appointed agent shall not assume the responsibility set forth in the preceding paragraph if it appointed the sub-agent in accordance with the nomination by the principal; provided, however, that, this shall not apply to the cases where the agent knows that the sub-agent is unsuitable or untrustworthy, and fails to notify the principal thereof or to dismiss the sub-agent.

Article 106 (Appointment of Sub-agent by Statutory Agent)

A statutory agent may appoint a sub-agent on its own responsibility. In such case, if there is any unavoidable reason, it shall assume only the responsibility set forth in paragraph 1 of the preceding Article.

Article 107 (Authority of Sub-agent)

- (1) A sub-agent shall represent the principal with respect to any act within the scope of its authority.
- (2) A sub-agent shall have the same rights and obligations as those of the agent vis-à-vis the principal and third parties.

Article 108 (Self-Contract and Representation of both Parties)

An agent may not be the agent of the other party or the agent of both parties in the same juristic act; provided, however, that, this shall not apply where the act constitutes the performance of any obligation, or the act is authorized by the

principal in advance.

Article 109 (Apparent Authority due to Manifestation of Grant of Authority of Agency)

A person who manifested to a third party that he/she granted certain authority of agency to other person(s) shall be liable for any act performed by such other person (s) with third parties within the scope of such authority, unless such third parties knew, or were negligent in not knowing, that such other person(s) were not granted the authority of agency.

Article 110 (Apparent Authority of Act Exceeding Authority)

The provision of the main clause of the preceding Article shall apply mutatis mutandis to the case where an agent performs any act exceeding its authority and a third party has reasonable grounds for believing that the agent has the authority.

Article 111 (Ground of Termination of Authority of Agency)

- (1) The authority of agency shall be terminated upon:
 - (i) death of the principal; and
 - (ii) death of the agent, or ruling of the commencement of bankruptcy procedures or order for commencement of guardianship against the agent.
- (2) The authority of a privately appointed agent by mandate shall be terminated, other than on the grounds listed in the respective items of the preceding paragraph, upon the termination of the contract appointing him/her.

Article 112 (Apparent Authority After Termination of Authority of Agency)

Termination of the authority of agency may not be asserted vis-à-vis a third party without knowledge; provided, however, that, this shall not apply to the cases where such third party was negligent in not knowing such fact.

Article 113 (Unauthorized Agency)

- (1) Any contract concluded by a person who holds himself/herself out as an agent of others without authority of agency shall be void vis-à-vis the principal unless ratified by the principal.
- (2) Any ratification or refusal to ratify may not be asserted vis-à-vis the counterparty unless it is made to such counterparty; provided, however, that, this shall not apply to the cases where the counterparty has come to know such fact.

Article 114 (Right of Notice of Counterparty of Unauthorized Agency)

In the case referred to in the preceding Article, the counterparty may require the principal, by fixing a reasonable period of time, to make a definite answer on

whether or not he/she will ratify within such period of time. In such case, if the principal fails to make any definite answer within such period, he/she is deemed to have refused to ratify.

Article 115 (Right to Rescind of Counterparty of Unauthorized Agency)

A contract concluded by a person without any authority of agency may be rescinded by the counterparty until the principal ratifies it; provided, however, that, this shall not apply to the cases where the counterparty knew at the time of the conclusion of the contract that the agent had no authority of agency.

Article 116 (Ratification of Act of Unauthorized Agency)

Ratification shall be effective retroactively as of the time of the conclusion of the contract unless other intention is manifested; provided, however, that no right of a third party may be prejudiced.

Article 117 (Liability of Unauthorized Agent)

- (1) A person who concluded a contract holding himself/herself out as an agent of another person shall be liable to the counterparty for the performance of the contract or damages as chosen by such counterparty if he/she is unable to prove his/her authority of agency nor obtain the ratification of the principal.
- (2) The provisions of the preceding paragraph shall not apply if the counterparty knew, or was negligent in not knowing, that the person who concluded a contract holding himself/herself out as an agent of another person had no authority of agency, or if the person who concluded a contract holding himself/herself out as an agent of another person had no capacity to act.

Article 118 (Unauthorized Agency in Unilateral Juristic Act)

With respect to a unilateral juristic act, the provisions of Articles 113 to the preceding Article inclusive shall apply mutatis mutandis only in cases the counterparty, at the time of such act, agrees that the person who holds himself/herself as an agent will act without authority of agency, or did not contest the authority of agency of such person. The above provisions shall also apply mutatis mutandis in cases any person performs a unilateral juristic act vis-à-vis any person without authority of agency with the consent of such person.

Section IV Nullity and Rescission of Acts

Article 119 (Ratification of Acts which are Void)

An act which is void does not become effective by ratification; provided, however, that, if a party ratifies any act knowing that such act is void, it is deemed that

he/she acted de novo.

Article 120 (Persons with the Right to Rescind Act)

- (1) An act which may be rescinded on the grounds of the limited capacity to act of the person who performed such act may be rescinded only by the person whose capacity to act is limited, or its agent, successor, or a person who has the authority to give consent.
- (2) An act which may be rescinded on the grounds of fraud or duress may be rescinded only by the person who made such defective manifestation of intention, or his/her agent or successor.

Article 121 (Effect of Rescission)

An act which is rescinded is deemed void ab initio; provided, however, that a person with limited capacity to act shall have the obligation to reimburse to the extent that he/she is actually enriched as a result of such act.

Article 122 (Ratification of Rescindable Acts)

A rescindable act may not be rescinded from the time when the person set forth in Article 120 ratifies it; provided, however, that ratification may not prejudice the rights of third parties.

Article 123 (Method of Rescission and Ratification)

In cases the counterparty to a rescindable act is identified, the rescission or ratification of such act shall be made by the manifestation of intention to such counterparty.

Article 124 (Requirements for Ratification)

- (1) A ratification shall not be effective unless it is made after the circumstance(s) that made the act rescindable ceases to exist.
- (2) If an adult ward recognizes his/her act after he/she has become a person with capacity to act, he/she may ratify such act only after such recognition.
- (3) The provisions of the preceding two paragraphs shall not apply in cases the ratification is made by the statutory agent, or the curator or assistant of the person with limited capacity to act.

Article 125 (Statutory Ratification)

If, after the time when it has become possible to ratify an act pursuant to the provisions of the preceding Article, any of the following events occurs with respect to an act which is otherwise rescindable, it is deemed that ratification has been made, unless any objection is reserved:

- (i) performance of such act, in whole or in part;
- (ii) demand for the performance of such act;
- (iii) novation of such act;
- (iv) provision of security;
- (v) assignment, in whole or in part, of any right acquired as a result of such rescindable act; or
- (vi) compulsory execution of such act.

Article 126 (Limitation on Period of Right to Rescind)

The right to rescind an act shall be extinguished by the operation of the prescription if it is not exercised within five years from the time when it becomes possible to ratify the act. The same shall apply when twenty years has elapsed from the time of the act.

Section V Conditions and Time Limit

Article 127 (Effect of Fulfillment of Conditions)

- (1) A juristic act which is subject to a condition precedent shall become effective upon fulfillment of the condition.
- (2) A juristic act which is subject to a condition subsequent shall become ineffective upon fulfillment of the condition.
- (3) If the party manifests an intention to extend the effect of fulfillment of the condition retroactively to any time prior to the time of the fulfillment, such intention shall prevail.

Article 128 (Prohibition of Infringement of Interest of Counterparty Pending Fulfillment of Conditions)

Neither party to a juristic act which is subject to any condition may infringe the interests of the counterparty which should arise from such juristic act upon fulfillment of the condition while it is uncertain whether or not such condition has been fulfilled.

Article 129 (Disposition of Rights Pending Fulfillment of Conditions)

While it is uncertain whether or not a condition has been fulfilled, the rights and obligations of the party concerned may be disposed of, inherited or preserved, or any security may be provided therefor, in accordance with the usual provisions of the law.

Article 130 (Prevention of Fulfillment of Conditions)

In cases any party who will suffer any detriment as a result of the fulfillment of a

condition intentionally prevents the fulfillment of such condition, the counterparty may deem that such condition has been fulfilled.

Article 131 (Fulfilled Conditions)

- (1) In cases a certain condition is already fulfilled at the time of the performance of the applicable juristic act, if such condition is a condition precedent, such juristic act shall be unconditional, and if such condition is a condition subsequent, such juristic act shall be void.
- (2) In cases it is already established conclusively at the time of the performance of the applicable juristic act that a certain condition will not be fulfilled, if such condition is a condition precedent, such juristic act shall be void, and if such condition is a condition subsequent, such juristic act shall be unconditional.
- (3) In the cases referred to in the provisions of the preceding two paragraphs, the provisions of Article 128 and Article 129 shall apply mutatis mutandis while the relevant parties are not aware that the relevant condition has been, or has not been, fulfilled, as the case may be.

Article 132 (Unlawful Conditions)

Juristic act which is subject to an unlawful condition shall be void. The same shall apply to any act which is subject to the condition that an unlawful act not be performed.

Article 133 (Impossible Conditions)

- (1) Juristic act subject to a condition precedent which is impossible shall be void.
- (2) Juristic act subject to a condition subsequent which is impossible shall be unconditional.

Article 134 (Potestative Conditions)

A juristic act which is subject to a condition precedent shall be void if the condition is dependent upon the will of the obligor.

Article 135 (Effect of Arrival of Assigned Time)

- (1) If time of commencement of validity is assigned to a juristic act, the performance of such juristic act may not be demanded before the arrival of such time.
- (2) If time of expiration of validity is assigned to a juristic act, the validity of such juristic act shall expire upon the arrival of such time.

Article 136 (Benefit of Time and Its Waiver)

- (1) It is presumed that a time specified is provided for the benefit of the obligor.

(2) The benefit of time may be waived; provided, however, that such waiver may not prejudice the interest of the counterparty.

Article 137 (Forfeiture of Benefit of Time)

The obligor may not assert the benefit of time if:

- (i) the obligor has become subject to the ruling of the commencement of bankruptcy procedures;
- (ii) the obligor has destroyed, damaged, or diminished the security; or
- (iii) the obligor fails to provide security when it has the obligation to do so.

Chapter VI Calculation of Period

Article 138 (Common Rules on Calculation of Period)

The method of calculation of a period shall be subject to the provision of this Chapter unless otherwise provided in the laws and regulations or any judicial order, or unless the relevant juristic act otherwise specifies.

Article 139 (Commencement of Period)

When a period is defined by the hour, the period commences immediately at the specified time.

Article 140

When a period is defined by the day, week, month, or year, the first day of the period shall not be included for the purpose of the calculation; provided, however, that, this shall not apply to the cases where the period commences at twelve midnight.

Article 141 (Expiration of Period)

In the case referred to in the preceding Article, the period shall expire at the end of the last day of such period.

Article 142

If the last day of a period falls on a Sunday, a holiday as provided in the Act on National Holidays (Act No. 178 of 1948), or any other holiday, only when it is customary not to do business on such day, the period shall expire on the immediately following day.

Article 143 (Calculation of Period with Reference to Calendar)

(1) When a period is defined by the week, month, or year, the period shall be calculated with reference to the calendar week, month, or year.

(2) When a period does not commence at the beginning of the week, month, or year, such period shall expire in the last week, month, or year on the day immediately preceding the day which corresponds to the commencement day; provided, however, that if the period is defined by the month or year and the last month does not contain the corresponding day, the period shall expire on the last day of such month.

Chapter VII Prescription

Section I General Provisions

Article 144 (Effect of Prescription)

The prescription shall take effect retroactively as of the commencement day.

Article 145 (Invocation of Prescription)

The court may not make a judgment relying on the prescription unless the party invokes it.

Article 146 (Waiver of Benefits of Prescription)

The benefits of the prescription may not be waived in advance.

Article 147 (Ground of Interruption of Prescription)

The prescription shall be nullified upon issuance of:

- (i) any claim;
- (ii) any attachment, provisional seizure, or provisional disposition; or
- (iii) any acknowledgment.

Article 148 (Persons Affected by Interruption of Prescription)

The nullification of prescription pursuant to the provision of the preceding Article shall be effective solely among the parties with respect to whom the ground of such interruption arose, and their respective successors.

Article 149 (Judicial Claims)

A judicial claim shall not have the effect of interruption of the prescription in cases where the action is dismissed or withdrawn.

Article 150 (Demand for Payment)

A demand for payment shall not have the effect of interruption of the prescription in cases where it loses its effect because the obligee fails to file for the declaration of provisional execution within the period set forth in Article 392 of the Code of Civil

Procedure.

Article 151 (Filing for Settlement and Conciliation)

The filing for settlement or the filing for conciliation under the Civil Conciliation Act (Act No. 222 of 1951) or Family Affairs Adjudication Act (Act No. 152 of 1947) shall not have the effect of interruption of the prescription in cases where, when the counterparty fails to appear in the court or when the settlement or conciliation is not satisfactorily concluded, the action is not brought within one month.

Article 152 (Participation in Bankruptcy Procedures)

Participation in a bankruptcy procedures, participation in a rehabilitation procedures, or participation in a reorganization procedures shall not have the effect of interruption of the prescription when the obligee withdraws its filing, or its filing has been dismissed.

Article 153 (Demand)

A demand shall not have the effect of interruption of the prescription unless a judicial claim, filing for demand of payment, filing for settlement, filing for conciliation under the Civil Conciliation Act or Family Affairs Adjudication Act, participation in bankruptcy procedures, participation in a rehabilitation procedures, participation in a reorganization procedures, attachment, provisional seizure, or provisional disposition is commenced within six months.

Article 154 (Attachment, Provisional Seizure, and Provisional Disposition)

An attachment, provisional seizure, and provisional disposition shall not have the effect of interruption of the prescription if it is avoided at the request of any rights holder, or for failure to comply with any provisions of the law.

Article 155

When an attachment, provisional seizure, or provisional disposition is not effected vis-à-vis a person who acquires any benefit of the prescription, it shall not have the effect of interruption of the prescription unless a notice is given to such person.

Article 156 (Acknowledgment)

An acknowledgment which has the effect of interruption of the prescription shall not require the capacity to act or authority with respect to the disposition of the rights of the counterparty.

Article 157 (Running of Prescription following Interruption)

(1) A prescription which is interrupted shall resume running at the time the

applicable grounds for suspension cease to exist.

- (2) Any prescription which is interrupted by a judicial claim shall resume running at the time of the final and binding judgment.

Article 158 (Minor or Adult Ward and Suspension of Prescription)

- (1) If a minor or an adult ward, as the case may be, has no statutory agent during the period of six months preceding the expiration of period of the prescription, the prescription shall not be completed with respect to such minor or adult ward until six months elapse from the time when such minor or adult ward becomes a person with a capacity to act, or a statutory agent is appointed.
- (2) In cases where a minor or an adult ward has any right vis-à-vis his/her father, mother, or guardian who manages his/her property, the prescription shall not be completed with respect to such right until six months elapse from the time when such minor or adult ward becomes a person with a capacity to act, or a succeeding statutory agent is appointed.

Article 159 (Suspension of Prescription of Rights Between Husband and Wife)

With respect to any right which either husband or wife has vis-à-vis the other spouse, the prescription shall not be completed until six months elapse from the time of the dissolution of the relevant marriage.

Article 160 (Suspension of Prescription Regarding Inherited Property)

With respect to any inherited property, the prescription shall not be completed until six months elapse from the time when the applicable heir is identified, the administrator is appointed, or the ruling of the commencement of bankruptcy procedures is made.

Article 161 (Suspension of Prescription due to Natural Disaster)

If the prescription may not be interrupted upon expiration of period of the prescription due to any natural disaster or other unavoidable contingency, the prescription shall not be completed until two weeks elapse from the time when such impediment has ceased to exist.

Section II Acquisitive Prescription

Article 162 (Acquisitive Prescription of Ownership)

- (1) A person who possesses any property of another for 20 years peacefully and openly with an intention to own shall acquire the ownership thereof.
- (2) A person who possesses any property of another for 10 years peacefully and openly with an intention to own shall acquire the ownership thereof if he/she was

without knowledge and was not negligent when the possession started.

Article 163 (Acquisitive Prescription of Property Rights other than Ownership)

A person who exercises any property right other than the ownership peacefully and openly with an intention to do so on his/her own behalf shall acquire such right after the elapse of 20 years or 10 years consistent with the distinction provided in the preceding Article.

Article 164 (Interruption of Acquisitive Prescription due to Discontinuation of Possession)

The prescription pursuant to the provision of Article 162 shall be interrupted when the possessor discontinues the possession voluntarily, or he/she is deprived of his/her possession by others.

Article 165

The provision of the preceding Article shall apply mutatis mutandis to the case under Article 163.

Section III Extinctive Prescription

Article 166 (Running of Extinctive Prescription)

- (1) The extinctive prescription commences to run when it has become possible to exercise the right.
- (2) The provision of the preceding paragraph shall not preclude the commencement of acquisitive prescription for the benefit of a third party who possesses any subject matter which is a right subject to the time of commencement or a right subject to a condition precedent, at the time of commencing such possession; provided, however, that the holder of the right may demand the possessor to give his/her acknowledgment at any time to interrupt the prescription.

Article 167 (Extinctive Prescription of Claim)

- (1) A claim shall be extinguished if not exercised for ten years.
- (2) Any property right other than the claim or ownership shall be extinguished if not exercised for twenty years.

Article 168 (Extinctive Prescription of Periodic Payments)

- (1) A claim for periodic payments shall be extinguished if not exercised for twenty years after the first due date. The same shall apply if not exercised for ten years after the last due date.
- (2) The obligee of periodic payments may require its obligor at any time to issue a

written acknowledgment in order to acquire the evidence of the interruption of the prescription.

Article 169 (Short-term Extinctive Prescription of Claim for Periodic Performance)

Any claim for the delivery of money or other Thing for periodic performance of one year or shorter shall be extinguished if not exercised for five years.

Article 170 (Short-term Extinctive Prescription of Three Years)

The claims listed below shall be extinguished if not exercised for three years; provided, however, that the prescription of the claims listed in item (ii) shall commence upon completion of the work referred to in the same item:

- (i) any claim regarding a diagnosis, assistance in baby delivery, or the preparation of medicine by a doctor, delivery assistant, or pharmacist; or
- (ii) any claim, regarding the construction work, of a person engaged in design, execution, or supervision of the work.

Article 171

An attorney or a legal professional corporation, or a notary public shall be relieved of their responsibility for any document received in connection with its/his/her service upon the elapse of three years after the termination of the relevant case with respect to an attorney or a legal professional corporation, and after the execution of his/her duties with respect to a notary public.

Article 172 (Short-term Extinctive Prescription of Two Years)

- (1) Any claim regarding the duties of an attorney, a legal professional corporation, or a notary public shall be extinguished if not exercised for two years after the close of the case which was the cause of such claim.
- (2) Notwithstanding the provisions of the preceding paragraph, if five years have elapsed after the close of any particular matter included in the case referred to in such paragraph, the claim regarding such matter shall be extinguished even in the middle of the period set forth in such paragraph.

Article 173

The following claims shall be extinguished if not exercised for two years:

- (i) a claim pertaining to the price of any product or goods sold by a manufacturer, wholesale merchant, or retail merchant;
- (ii) a claim regarding the work of any person whose business is to manufacture any Thing or to perform the work in his/her own workplace for the benefit of others upon placement of an order using his/her own skill; and
- (iii) a claim possessed by any person who provides education in the arts and

sciences, or technical skills, with respect to the price of the education, food and clothing and accommodation for students.

Article 174 (Short-term Extinctive Prescription of One Year)

The following claims shall be extinguished if not exercised for one year:

- (i) a claim pertaining to the salary of an employee which is fixed by one month or any shorter period;
- (ii) a claim pertaining to the remuneration of any person whose business is to provide his/her own labor or entertainment, or the price of any Thing supplied by such person;
- (iii) a claim pertaining to freight for transportation;
- (iv) a claim pertaining to room charges, food and beverage charges, admission fees, entrance fees, the price of goods consumed or monies to be reimbursed to any hotel, establishment providing food and beverages^{*3}, seating hire facility, or place of amusement; and
- (v) a claim pertaining to the rent for movables.

Article 174-2 (Extinctive Prescription of Right Established in Judgment of Court)

- (1) The period of prescription of any right established in a unappealable judgment shall be ten years even if any period of prescription shorter than ten years is provided. The same shall apply to any right which is established in a settlement in a court proceeding or conciliation, or any other action which has the effect equivalent to that of the unappealable judgment.
- (2) The provision of the preceding paragraph shall not apply to any claim which is not yet due and payable yet at the time when the judgment becomes unappealable.

Part III Claims

Chapter I General Provisions

Section I Subject of Claim

Article 399 (Subject of Claim)

Even a matter that cannot be given an estimated monetary value may be the subject of a claim.

Article 400 (Duty of Care in cases of Delivery of Specified Things)

*3 The term "eating establishment" is commonly used in the U.S.A.

If the subject of a claim is the delivery of any specified things, the obligor must take custody of such property with due care of a prudent manager until the completion of such delivery.

Article 401 (Fungible Claim)

- (1) In cases the subject of the claim is specified only with reference to a type and if the quality of such property cannot be identified due to the nature of the juristic act or intention of the relevant party(ies), the obligor must deliver the property of intermediate quality.
- (2) In the case set forth in the preceding paragraph, if the obligor has completed the acts necessary to deliver the Thing, or has identified the Thing he/she is to deliver with the consent of the obligee, such Thing shall thenceforth constitute the subject of the claim.

Article 402 (Monetary Claim)

- (1) If the subject of the claim is money, the obligor may, at his/her choice, make the payment in currency of any kind; provided, however, that, this shall not apply to the cases where the delivery of specific kind of currency is identified as the subject of the claim.
- (2) If the specific kind of currency that is the subject of the claim is no longer in mandatory circulation at the time of the payment, the obligor must make payment in other currency.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the cases where the delivery of the currency of a foreign state is the subject of the claim.

Article 403

When the amount of the claim is specified in the currency of a foreign state, the obligor may make the payment in the legal currency of Japan using the foreign exchange rate current in the place of the performance.

Article 404 (Statutory Interest Rate)

Unless the parties otherwise manifest their intention with respect to a claim which bears interest, the rate of such interest shall be 5% per annum.

Article 405 (Incorporation of Interest into Principal)

In cases the payment of interest corresponding to one year or more is delayed, and if the obligor does not pay such interest notwithstanding the demand by the obligee, the obligee may incorporate such interest into the principal.

Article 406 (Attribution of Right of Choice in cases of Alternative Obligation)

If the subject of the claim is to be identified by way of choice among more than one performance, the right to make the choice shall vest in the obligor.

Article 407 (Exercise of Right of Choice)

- (1) The right of choice under the preceding Article shall be exercised by manifesting the intention to the counterparty.
- (2) The manifestation of intention set forth in the preceding paragraph may not be revoked without the acknowledgment of the counterparty.

Article 408 (Transfer of Right of Choice)

In cases a claim is due and, notwithstanding a demand by the counterparty stipulating a reasonable period of time, the party who holds the right of choice does not exercise the right within such period of time, the right of choice shall be transferred to the counterparty.

Article 409 (Right of Choice of Third Party)

- (1) In cases a third party holds the right of choice, such choice shall be made by manifesting its intention to either the obligee or the obligor.
- (2) In the case prescribed in the preceding paragraph, if the third party is unable to make the choice or has no intention to make the choice, the right of choice shall be transferred to the obligor.

Article 410 (Identification of Alternative Obligation due to Impossibility)

- (1) If any performance which is included in the subject of a claim is impossible from the beginning, or later becomes impossible, the claim shall exist to the extent of the performance which still remains.
- (2) If any performance has become impossible due to the negligence of any party who does not have any right of choice, the provision of the preceding paragraph shall not apply.

Article 411 (Effect of Choice)

The choice shall become effective retroactively as of the time of the accrual of the claim; provided, however that this shall not prejudice the rights of a third party.

Section II Effect of Claims

Subsection I Responsibility for Default

Article 412 (Time for Performance and Delay in Performance)

- (1) If any specified due date is assigned to the performance of an obligation, the obligor shall be responsible for the delay on and after the time of the arrival of such time limit.
- (2) If any unspecified due date is assigned to the performance of a claim, the obligor shall be responsible for the delay on and after the time when he/she becomes aware of the arrival of such time limit.
- (3) If no time limit is assigned to the performance of an obligation, the obligor shall be responsible for the delay on and after the time he/she receives the request for performance.

Article 413 (Obligee's Delay in Acceptance)

If the obligee refuses, or is unable, to accept the tender of the performance of any obligation, the relevant obligee shall be responsible for the delay on and after the time of the tender of the performance.

Article 414 (Enforcement of Performance)

- (1) If an obligor voluntarily fails to perform any obligation, the obligee may request the enforcement of specific performance from the court; provided, however, that, this shall not apply where the nature of the obligation does not permit such enforcement.; provided, however, that, this shall not apply to the cases where the nature of the obligation does not permit such enforcement.
- (2) In cases the nature of the obligation does not permit the enforcement of the specific performance, if it is an obligation for an act, the obligee may request the court to cause a third party to perform such act at the expense of the obligor; provided, however, that with respect to any obligation for any juristic act, the manifestation of intention of the obligor may be achieved by a judgment.
- (3) With respect to any obligation for an inaction, a request may be made to the court at the expense of the obligor seeking the removal of the outcome of the action performed by the obligor, or an appropriate ruling against any future action.
- (4) The provisions of the preceding three paragraphs shall not preclude demanding damages.

Article 415 (Damages due to Default)

If an obligor fails to perform consistent with the purpose of its obligation, the obligee shall be entitled to demand damages arising from such failure. The same shall apply in cases it has become impossible to perform due to reasons attributable to the obligor.

Article 416 (Scope of Damages)

- (1) The purpose of the demand for the damages for failure to perform an obligation

shall be to demand the compensation for damages which would ordinarily arise from such failure.

- (2) The obligee may also demand the compensation for damages which arise from any special circumstances if the party did foresee, or should have foreseen, such circumstances.

Article 417 (Method of Compensation for Damages)

Unless other intention is manifested, the amount of the damages shall be determined with reference to monetary value.

Article 418 (Comparative Negligence)

If the obligee is negligent regarding the failure of performance of the obligation, the court shall determine the liability for damages and the amount thereof by taking such elements into consideration.

Article 419 (Special Provisions for Monetary Debt)

- (1) The amount of the damages for failure to perform any obligation for the delivery of any money shall be determined with reference to the statutory interest rate; provided, however, that, in cases the agreed interest rate exceeds the statutory interest rate, the agreed interest rate shall prevail.
- (2) The obligee shall not be required to prove his/her damages with respect to the damages set forth in the preceding paragraph.
- (3) The obligor may not raise the defense of force majeure with respect to the damages referred to in paragraph 1.

Article 420 (Liquidated Damages)

- (1) The parties may agree on the amount of the liquidated damages with respect to the failure to perform the obligation. In such case, the court may not increase or decrease the amount thereof.
- (2) The liquidated damages shall not preclude the demand for performance or the exercise of the cancellation right.
- (3) Any penalty is presumed to constitute liquidated damages.

Article 421

The provisions of the preceding Article shall apply mutatis mutandis to the cases where the parties agree in advance to allocate anything other than money to the compensation for damages.

Article 422 (Subrogation for Damages)

If an obligee receives the full value of any Thing or right which is the subject of

the claim as the compensation for damages, the obligor shall be subrogated to the creditor in relation to such property or right by operation of law.

Subsection II Obligee's Subrogation Right and Obligee's Right to Demand Rescission of Fraudulent Act

Article 423 (Obligee's Subrogation Right)

- (1) An obligee may exercise the right vested in the obligor in order to preserve his/her own claim; provided, however, that, this shall not apply to rights which are exclusive and personal to the obligor.
- (2) Until exercised by way of subrogation admitted in a judicial proceeding, the obligee may not exercise the right set forth in the preceding paragraph unless and until his/her claim has become due; provided, however, that, this shall not apply to any act of preservation.

Article 424 (Obligee's Right to Demand the Rescission of Fraudulent Act)

- (1) An obligee may demand the court to rescind any juristic act which an obligor commits knowing that it will prejudice the obligee; provided, however, that, this shall not apply to the cases where any person who benefits from such act, or any person who succeeds to such benefit, did not know, at the time of such act or succession, the fact that the obligee is to be prejudiced.
- (2) The provision of the preceding paragraph shall not apply to a juristic act with a subject other than property rights.

Article 425 (Effect of Rescission of Fraudulent Act)

The rescission pursuant to the provision of the preceding Article shall have an effect for the benefit of all obligees.

Article 426 (Limitation Period of Obligee's Right to Rescind Fraudulent Act)

The right to rescind pursuant to the provision of Article 424 shall be extinguished by operation of prescription if not exercised within two years from the time that the obligee acquired knowledge of the cause of the rescission. The same shall apply if twenty years pass from the time of the act.

Section III Claims and Obligations of Multiple-Parties

Subsection I General Provisions

Article 427 (Divisible Claims and Divisible Obligations)

In cases there are more than one obligee or obligor, unless any other intention is

manifested, each obligee or each obligor shall have the equally proportionate rights or obligations.

Subsection II Indivisible Claims and Indivisible Obligations

Article 428 (Indivisible Claim)

In cases the subject of a claim is indivisible by its nature or due to the manifestation of intention of the parties involved, if there are more than one obligees, each obligee may demand the performance for the benefit of all obligees, and the relevant obligor may tender its performance to each obligee for the benefit of all obligees.

Article 429 (Effect of Circumstances on Particular Circumstance which Arises with respect to One Indivisible Obligee)

- (1) Even in cases where there is a novation or release between one indivisible obligee and the obligor, other indivisible obligee(s) may request the obligor to tender the entire performance. In such cases, the benefit which would have been allocated to the above-mentioned one indivisible obligee if he/she did not lose his/her right must be reimbursed to the relevant obligor.
- (2) Other than as prescribed in the preceding paragraph, any act of one indivisible obligee, or any circumstance which arises with respect to one indivisible obligee shall not have any effect on the other indivisible obligee(s).

Article 430 (Indivisible Obligation)

The provisions of the preceding Article, and the provisions of the following Subsection III (Joint and Several Obligation) (excluding the provisions of Articles 434 to 440 inclusive) shall apply mutatis mutandis to the cases where more than one person bears any indivisible obligation.

Article 431 (Changing into Divisible Claims or Divisible Obligations)

If any indivisible claim becomes a divisible claim, each obligee may request the performance only to the extent of such portion of the claim on which he/she has his/her own right, and if any indivisible obligation becomes a divisible obligation, each obligor shall bear his/her responsibility only to the extent of the portion of the obligation which he/she bears.

Subsection III Joint and Several Obligations

Article 432 (Request for Performance)

If more than one person bears a joint and several obligation, the obligee may

request one of the joint and several obligors, or all of such joint and several obligors, simultaneously or successively, to perform the obligation, in whole or in part.

Article 433 (Invalidity of Juristic Act with respect to One Joint and Several Obligor)

Even if there are any grounds for the voidance or rescission of a juristic act with respect to only one joint and several obligor, the validity of the obligation(s) of other joint and several obligor(s) shall not be impaired.

Article 434 (Request for Performance to One Joint and Several Obligor)

A request for performance made to one joint and several obligor shall also be effective with respect to other joint and several obligor(s).

Article 435 (Novation with One Joint and Several Obligor)

If there is any novation between one joint and several obligor and the obligee, the claim shall be extinguished for the benefit of all joint and several obligors.

Article 436 (Setoffs by One Joint and Several Obligor)

- (1) In cases one joint and several obligor has a claim vis-à-vis the obligee, if such joint and several obligor invokes a setoff, the claim shall be extinguished for the benefit of all joint and several obligors.
- (2) So long as the joint and several obligor who has the claim set forth in the preceding paragraph does not invoke the set-off, other joint and several obligor(s) may invoke the set-off solely to the extent of the portion of the obligation which is borne by such joint and several obligor.

Article 437 (Releases of One Joint and Several Obligor)

A release of an obligation effected for one joint and several obligor shall also be effective for the benefit of other joint and several obligor(s) solely to the extent of the portion of the obligation which is borne by such joint and several obligor.

Article 438 (Merger with One Joint and Several Obligor)

If there is any merger between one joint and several obligor and the relevant obligee, it is deemed that such joint and several obligor has performed his/her obligation.

Article 439 (Completion of Prescription with respect to One Joint and Several Obligor)

If the prescription is completed with respect to one joint and several obligor, the other joint and several obligors also shall be relieved of liability to the extent of the portion of the obligation which is borne by such joint and several obligor.

Article 440 (Principle of Relative Effect)

Except as set forth in Articles 434 to the preceding Article inclusive, any circumstance which arises with respect to one joint and several obligor shall be void vis-à-vis other joint and several obligor(s).

Article 441 (Commencement of Bankruptcy Procedures for Joint and Several Obligors)

When some or all of the joint and several obligors have become subject to the ruling of the commencement of bankruptcy procedures, the obligee may participate in the distribution of each bankruptcy estate with respect to the entire amount of his/her claim.

Article 442 (Right to Obtain Reimbursement among Joint and Several Obligors)

- (1) If one joint and several obligor performs the obligation, or has otherwise acquired any common discharge in exchange for his/her own property, such joint and several obligor shall have right to obtain reimbursement from other joint and several obligors to the extent of the respective portion of the obligations which is borne by each of other joint and several obligors.
- (2) The reimbursement pursuant to the provision of the preceding paragraph shall include the compensation of the statutory interest which accrue on or after the day of the performance of the obligation or other discharge, any unavoidable expenses, and other damages.

Article 443 (Limitation on Reimbursement to Joint and Several Obligor who Failed to give Notice)

- (1) When one joint and several obligor performs his/her obligation or has otherwise acquired any common discharge in exchange for his/her own property without giving to the other joint and several obligor(s) a notice that there was the request for the performance from the relevant obligee, if any of the other joint and several obligor(s) has any defense vis-à-vis the obligee, such joint and several obligor may raise such defense vis-à-vis the joint and several obligor who acquired the discharge to the extent of the portion of the obligation which is borne by himself/herself. In such case, if any defense vis-à-vis the joint and several obligor who acquired the discharge is raised on the grounds of set-off, the negligent joint and several obligor may request the relevant obligee to perform the obligation which should have been extinguished due to set-off.
- (2) When one joint and several obligor performs the obligation or has otherwise acquired any common discharge in exchange for his/her own property and has failed to give notice of such fact to other joint and several obligor(s), and as a

result of such failure, any other joint and several obligor acquires discharge by performing the obligation or otherwise in exchange for an act performed for consideration without knowledge, the joint and several obligor who was so discharged shall be entitled to regard his/her act to perform or other act to acquire the discharge as effective.

Article 444 (Allocation of Portion of Person who does not have Sufficient Financial Resources for Reimbursement)

If there is any person among the joint and several obligors who does not have the sufficient financial resources to make the reimbursement, the portion that cannot be reimbursed shall be borne among the person(s) who demand(s) the reimbursement and other person(s) who has/have the financial resources, in proportion to the respective portion which is borne by each of such persons; provided, however, that the person who requests the reimbursement may not demand other joint and several obligor(s) to bear the burden if he/she is negligent.

Article 445 (Release from Joint and Several Obligations and Allocation of Portion of Burden of Person who does not have Sufficient Financial Resources to Pay)

In cases any one joint and several obligor is released from the joint and several obligation, if there is any person among other joint and several obligors who does not have the sufficient financial resources to pay the obligation, the obligee shall bear such portion of the obligation which may not be performed by such person without sufficient financial resources as should have been borne by the person who was released from the joint and several obligation.

Subsection IV Guarantee Obligation

Division I General Provisions

Article 446 (Responsibility of Guarantor)

- (1) A guarantor shall have the responsibility to perform the obligation of the principal obligor when the latter fails to perform such obligation.
- (2) No contract of guarantee shall be effective unless it is made in writing.
- (3) If a contract of guarantee is concluded by electromagnetic record (meaning a record produced by electronic means, magnetic means, or any other means unrecognizable by natural sensory functions that is for computer data-processing use) which records the contents thereof, the contract of guarantee is deemed to be made in writing, and the provision of the preceding paragraph shall apply.

Article 447 (Scope of Guarantee Obligation)

- (1) The guarantee obligation shall include interest, penalty and compensation for damages in connection with the principal obligation, and all other charges incidental to such obligation.
- (2) A guarantor may stipulate the amount of penalty or compensation for damages with regard to his/her own guarantee obligation only.

Article 448 (Cases where Burden of Guarantor is More Onerous than That of the Principal Obligor)

If the burden of a guarantor is more onerous than that of the principal obligor as to either its subject or its terms, it shall be reduced to the extent of the principal obligation.

Article 449 (Guarantee of Rescindable Obligation)

If a guarantor, who has guaranteed an obligation which may be rescinded by reason of the principal obligor's limited capacity to act, was aware, at the time of entering into a contract guarantee, of the cause for its voidability, such guarantor shall be presumed to have assumed an independent obligation of the same subject in the event of nonperformance by the principal obligor or rescission of the obligation.

Article 450 (Requirements for Guarantor)

- (1) Where an obligor has the obligation to furnish a guarantor, such guarantor must:
 - (i) be a person with capacity to act; and
 - (ii) have sufficient financial resources to pay the obligation.
- (2) If the guarantor ceases to meet the requirement set forth in item (ii) of the preceding paragraph, the obligee may demand that some other person meeting the requirements listed in any item of such paragraph be substituted for such guarantor.
- (3) The provisions of the preceding two paragraphs shall not apply in the case the obligee has designated the guarantor.

Article 451 (Providing Other Security)

If the obligor is unable to furnish a guarantor meeting the requirements listed in any item of paragraph 1 of the preceding Article, he/she may furnish other security in lieu thereof.

Article 452 (Defense of Demand)

If an obligee has demanded performance of an obligation from the guarantor, the guarantor may demand the obligee to demand performance of the principal obligor first; provided, however, that, this shall not apply to the cases where the principal

obligor has received a ruling for the commencement of bankruptcy procedures or where his/her whereabouts are unknown.

Article 453 (Defense of Reference)

Even after the obligee has made a demand to the principal obligor in accordance with the provision of the preceding Article, the obligee must first execute on the property of the principal obligor if the guarantor has proved that the principal obligor has the financial resource to pay his/her obligation and that the execution would be easily performed.

Article 454 (Special Provisions for Joint and Several Guarantee)

If a guarantor has assumed an obligation jointly and severally with the principal obligor, the guarantor shall not have the rights set forth in the preceding two Articles.

Article 455 (Effect of Defense of Demand and Defense of Reference)

Where demand has been made or proof has been given by a guarantor pursuant to the provisions of Article 452 or Article 453, if the obligee fails to demand or to levy execution and is subsequently unable to obtain full performance from the principal obligor, the guarantor shall be relieved of liability to the extent that the obligee would have received performance if the obligee had immediately demanded or levied execution.

Article 456 (Cases where More Than One Guarantor Exists)

Where there is more than one guarantor for a single obligation, the provision of Article 427 shall apply even if they have assumed their obligations by separate acts.

Article 457 (Effect of Circumstance which Arises with respect to the Principal Obligor)

- (1) The nullification of prescription by operation of a demand vis-à-vis the principal obligor or on any other grounds shall also be effective vis-à-vis the guarantor.
- (2) A guarantor may raise a defense vis-à-vis the obligee by setting off any claim which the principal obligor may have vis-à-vis the obligee.

Article 458 (Effect of Circumstance which Arises with respect to Jointly and Severally Liable Guarantor)

The provisions of Articles 434 to 440 inclusive shall apply mutatis mutandis to the cases where the principal obligor assumes an obligation jointly and severally with the guarantor.

Article 459 (Right to Obtain Reimbursement of Guarantor Entrusted by the Principal Obligor)

- (1) In cases where a guarantor has given a guarantee as entrusted by the principal obligor, if he/she has, without negligence, had a judgment ordering him/her to perform the obligation to the obligee, or has performed the obligation on behalf of the principal obligor, or has otherwise in exchange for his/her own property performed any other act intended to cause the obligation to be extinguished, such guarantor shall have a right to obtain reimbursement from the principal obligor.
- (2) The provision of paragraph 2 of Article 442 shall apply mutatis mutandis to the cases set forth in the preceding paragraph.

Article 460 (Entrusted Guarantor's Right to Obtain Reimbursement in Advance)

In cases where a guarantor has given a guarantee as entrusted by the principal obligor, the guarantor may exercise in advance his/her right to obtain reimbursement vis-à-vis the principal obligor if:

- (i) the principal obligor is subject to a ruling for the commencement of bankruptcy procedures, and the obligee does not participate in the distribution of the bankruptcy estate;
- (ii) the obligation is due; provided, however, that, no extension of time granted by the obligee to the principal obligor after the conclusion of the contract of guarantee may be raised as a defense vis-à-vis the guarantor; and
- (iii) ten years have elapsed after the conclusion of the contract of guarantee in the cases where the time for performing the obligation is uncertain and even its maximum duration cannot be ascertained.

Article 461 (Cases where Principal Obligor Reimburses Guarantor)

- (1) In cases where a principal obligor reimburses a guarantor pursuant to the provisions of the preceding two Articles, the principal obligor may demand the guarantor to provide security or to obtain the discharge of the principal obligor until and unless the obligee has received the full satisfaction of the entire obligation.
- (2) In the case prescribed in the preceding paragraph, the principal obligor may be relieved of liability for reimbursement by making a deposit with an official depository, by providing security, or by procuring the discharge of the liabilities of the guarantor.

Article 462 (Right to Obtain Reimbursement of Guarantor Not Entrusted by Principal Obligor)

- (1) If a person, who has become a guarantor without the entrustment of the principal obligor, has performed the obligation or has otherwise in exchange for

his/her own property procured the release from liability of the principal obligor, the principal obligor must reimburse the guarantor to the extent that the principal obligor was enriched at the time of such performance of the obligation.

- (2) A person who has become a guarantor against the will of the principal obligor shall have the right to obtain reimbursement only to the extent that the principal obligor is actually enriched. In such case, if the principal obligor asserts that he/she had, prior to the day of the demand for reimbursement, grounds for set-off against the obligee, the guarantor may demand that the obligee perform the obligation which would have been extinguished by operation of such set-off.

Article 463 (Limitation on Reimbursement for Guarantor who Failed to give Notice)

- (1) The provisions of Article 443 shall apply mutatis mutandis to a guarantor.
- (2) In cases where a guarantor has become a guarantor as entrusted by the principal obligor, if he/she performed the obligation or otherwise in exchange for his/her own property performed any act to cause the obligation to be extinguished without knowledge, the provision of Article 443 shall apply mutatis mutandis also with respect to the principal obligor.

Article 464 (Right to Obtain Reimbursement of Guarantor for Jointly and Several Obligation or Indivisible Obligation)

A person who has become a guarantor for one of the jointly and several obligors or for one of the indivisible obligors shall have the right to obtain reimbursement from the other obligors only to the extent of such portion of the obligation which he/she bears.

Article 465 (Right of Joint Guarantors to Obtain Reimbursement for One Obligation)

- (1) Where there are several guarantors, if one guarantor has paid the entire amount of the obligation or any amount exceeding the portion which is borne by such guarantor because the principal obligation is indivisible, or because there is a special provision that each guarantor should pay the entire amount, the provisions of Articles 442 to 444 inclusive shall apply mutatis mutandis.
- (2) Except in cases provided in the preceding paragraph, if one of the guarantors who are not jointly and severally liable has paid the entire amount or any amount exceeding the portion to be borne by that guarantor, the provisions of Article 462 shall apply mutatis mutandis.

Division II Revolving Guarantee on Loans

Article 465-2 (Liability of Guarantor of Contract for Revolving Guarantee on Loans)

- (1) A guarantor to a contract of guarantee the principal obligation of which is one or more unidentified obligations within a certain specified scope (hereinafter referred to as a "contract for revolving guarantee") whereby the scope of such obligation includes any obligation which is incurred as a result of the transaction of lending money or accepting discount of a negotiable instrument (hereinafter referred to as an "loan obligation") (excluding any contract in which the guarantor is a juridical person, hereinafter referred to as a "contract for revolving guarantee on loans") shall be liable for the satisfaction of the amount of the principal of the relevant principal obligation, interest, any penalty and damages in connection with such principal obligation, and all other amounts incidental to such obligation, as well as the amount of any penalty and damages which are agreed on with regard to such guarantee obligation, which liability shall be limited in aggregate, however, to a certain maximum amount which pertains to all of the above-mentioned amounts.
- (2) A contract for revolving guarantee on loans shall not be effective unless the maximum amount set forth in the preceding paragraph is stipulated.
- (3) The provisions of paragraph 2 and paragraph 3 of Article 446 shall apply mutatis mutandis to the stipulation of a maximum amount in a contract for revolving guarantee on loans provided in paragraph 1.

Article 465-3 (Principal Determination Date for Contract for Revolving Guarantee on Loans)

- (1) In the cases where a contract for revolving guarantee on loans provides the date on which the principal of the principal obligation should be determined (hereinafter referred to as the "principal determination date"), if it is provided that such principal determination date shall fall on any day on and or after the day on which five years have elapsed after the day of the conclusion of the relevant contract for the revolving guarantee on loans, such provision for the principal determination date shall not be effective.
- (2) In the cases where a contract for revolving guarantee on loans does not provide a principal determination date (including cases where the provision on the principal determination date is not effective pursuant to the provision of the preceding paragraph), the principal determination date thereof shall fall on the day on which three years have elapsed after the day of the conclusion of the relevant contract for revolving guarantee on loans.
- (3) In the cases where any change of the principal determination date provided in a contract for revolving guarantee on loans is to be effected, if the principal determination date as changed falls on a day on and or after the day on which five years have elapsed after the day of such change, such change of the principal determination date shall not be effective; provided, however, that, this shall not apply to the cases where the change of the principal determination date is effected

within two months immediately preceding the principal determination date, and the principal determination date as changed falls on a day within five years from the original principal determination date.

- (4) The provisions of paragraph 2 and paragraph 3 of Article 446 shall apply mutatis mutandis to the provisions of a principal determination date set forth in a contract for revolving guarantee on loans and a change thereof (excluding any provision which provides to the effect that the principal determination date shall fall on a day within three years from the day of the conclusion of such contract for revolving guarantee on loans, and any change which is intended to change the principal determination date to a day preceding the original principal determination date).

Article 465-4 (Grounds for Determination of Principal in Contract for Revolving Guarantee on Loans)

The principal for the principal obligation under a contract for revolving guarantee on loans shall be determined if:

- (i) an obligee has filed a petition for compulsory execution or exercise of any security interest with respect to a claim the subject-matter of which is payment of money on any property of the relevant principal obligor or guarantor; provided, however, that this provision shall apply only in cases where the proceedings for the compulsory execution or exercise of the security interest have been commenced;
- (ii) the relevant principal obligor or guarantor has become subject to a ruling of the commencement of bankruptcy procedures; or
- (iii) the relevant principal obligor or guarantor has died.

Article 465-5 (Right to Obtain Reimbursement in Contract for Revolving Guarantees for Loan Obligation in cases where Guarantor is Juridical Person)

In cases of a contract for revolving guarantee under which the guarantor is a juridical person and the scope of the principal obligation thereof includes an obligation on loans, if the maximum amount provided in paragraph 1 of Article 465-2 is not provided, if the principal determination date is not specified, or if the provision on the determination date or any change thereof would not be effective should the provisions of paragraph 1 or paragraph 3 of Article 465-3 be applied, a contract of guarantee with regard to the right to obtain reimbursement of the guarantor for the contract for revolving guarantee against the principal obligor (excluding cases where the guarantor is a juridical person) shall not be effective.

Section IV Assignment of Claims

Article 466 (Assignability of Claims)

- (1) A claim may be assigned; provided, however, that, this shall not apply to the cases where its nature does not permit the assignment.
- (2) The provisions of the preceding paragraph shall not apply in cases where the parties have manifested their intention to the contrary; provided, however, that such manifestation of intention may not be asserted against a third party without knowledge.

Article 467 (Requirement for Assertion of Assignment of Nominative Claim against Third Parties)

- (1) The assignment of a nominative claim may not be asserted against the applicable obligor or any other third party, unless the assignor gives a notice thereof to the obligor or the obligor has acknowledged the same.
- (2) The notice or acknowledgement set forth in the preceding paragraph may not be asserted against a third party other than the obligor unless the notice or acknowledgement is made using an instrument bearing a fixed date.

Article 468 (Defense of Obligor upon Assignment of Nominative Claim)

- (1) In the cases where the obligor has given the acknowledgement referred to in the preceding Article without objection, even if there are grounds which could have been raised as a defense against the assignor, he/she may not raise such grounds as a defense against the assignee. In such case, if the obligor has paid any money or delivered anything or assumed a new obligation to or for the benefit of the assignor to obtain the extinction of his/her obligation, the obligor may recover the money paid or other thing delivered, or may deem that the new obligation had not been assumed, as the case may be.
- (2) In cases where the assignor has merely given notice of the assignment, the obligor may raise any ground as a defense against the assignee which accrues vis-à-vis the assignor before he/she receives such notice as a defense against the assignee.

Article 469 (Requirement for Assertion of Assignment of Debt Payable to Order against Third Parties)

The assignment of any debt payable to order may not be asserted against the relevant obligor or any other third party unless the certificate representing such claim is tendered to the assignee with the endorsement of the relevant assignment.

Article 470 (Examination Right of Obligor of Debt Payable to Order)

The obligor of any debt payable to order shall have the right, but not the obligation, to examine the authenticity of the identity of the bearer of the relevant

certificate and the signature and seal affixed thereon; provided, however, that the performance of the applicable obligation shall be void if the obligor has knowledge or is grossly negligent.

Article 471 (Examination Right of Obligor of Claim Payable to Obligee or Holder)

The provisions of the preceding Article shall apply mutatis mutandis to the cases where any certificate regarding the claim specifies the name of the obligee and note that the payment should be made to the bearer of such certificate.

Article 472 (Limitation on Defense of Obligor in cases of Assignment of Debt Payable to Order)

The obligor of a debt payable to order may not use any grounds which could have been raised as defenses against the obligee before the assignment of the relevant debt payable to order as defenses against an assignee without knowledge, except for the matter specified on the relevant certificate or any result which necessarily arises from the nature of such certificate.

Article 473 (Limitation on Defense of Obligor in cases of Assignment of Bearer Certificate of Claims)

The provisions of the preceding Article shall apply mutatis mutandis to a bearer certificate of claims.

Section V Extinction of Claims

Subsection I Performance

Division I General Provisions

Article 474 (Performance by Third Parties)

- (1) The performance of an obligation may be effected by a third party; provided, however, that, this shall not apply in cases where the nature of such obligation does not permit such performance or the parties have manifested their intention to the contrary.
- (2) A third party who has no interest in an obligation may not perform the obligation against the will of the obligor.

Article 475 (Recover of any Property Tendered to Perform Obligation)

In cases where a person who performed his/her obligation delivered any property owned by others as the performance of the obligation, the person who made such performance may not recover such property unless he/she effects an effective

performance de novo.

Article 476

In cases where any possessor who has limited capacity to act with respect to the act of assignment delivers any property to perform any obligation, and later rescinds such performance, the relevant possessor may not recover such property unless he/she effects an effective performance de novo.

Article 477 (Effect of Performance in cases Any Property Delivered to Perform Obligation is Consumed or Assigned)

In the case referred to in the preceding two Articles, if an obligee without knowledge consumes or assigns any property which he/she received as the performance of the obligation, such performance shall be effective. In such case, if the relevant obligee has received any request for compensation from a third party, he/she shall not be precluded from seeking reimbursement from the person who performed the obligation.

Article 478 (Performance to a Holder of Quasi-Possession of Claim)

Any performance made vis-à-vis a holder of quasi-possession of the claim shall remain effective to the extent the person who performed such obligation acted without knowledge, and was free from any negligence.

Article 479 (Performance to Person Without Authority to Receive Performance)

Except as provided in the preceding Article, any performance made vis-à-vis any person who has no authority to receive the performance shall have the effect only to the extent the relevant obligee is enriched as a result thereof.

Article 480 (Performance to Bearer of Receipt)

A bearer of a receipt is deemed to have the authority to accept performance; provided, however, that, this shall not apply to the cases where the person who made the performance knew, or was negligent in not knowing, that the bearer did not have the authority.

Article 481 (Performance by Third-party Obligor who had been Ordered to Suspend Payment)

- (1) If a third-party obligor who has been enjoined from making payment has paid his/her obligation to his/her own obligee, the relevant attaching obligee shall be entitled to request such third-party obligor to make payment de novo to the extent he/she suffered the damages.
- (2) The provision of the preceding paragraph shall not preclude the relevant

third-party obligor from exercising his/her right to obtain reimbursement from his/her obligee.

Article 482 (Substitute Performance)

If an obligor, in lieu of the performance he/she originally incurred, provided any other type of performance with the acknowledgment of the obligee, such performance shall have the same effect as that of the original performance.

Article 483 (Delivery of Specific Thing in its Existing State)

If the subject of a claim is the delivery of a specific thing, the person who intends to effect any performance must deliver such thing on an "as-is" basis as of the time when the delivery is due.

Article 484 (Place of Performance)

Unless any other intention is manifested with respect to the place where the performance should take place, the delivery of a specific thing must be effected at the place where such thing was located when the relevant claim accrued, and the discharge of any other obligation must be effected at the current domicile of the obligee, respectively.

Article 485 (Expense of Performance)

Unless any other intention is manifested with respect to the expense of performance, such expenses shall be borne by the obligor; provided, however, that, in cases the relevant obligee caused the expense of performance to increase by relocating his/her domicile or taking any other actions, such incremental amount shall be borne by the obligee.

Article 486 (Request for Issuance of Receipt)

Any person who made the performance shall be entitled to request the person who received the performance to issue a receipt.

Article 487 (Request for Return of Claim Instrument)

In the cases where there is any instrument which evidences the claim, if the person who makes the performance has completed his/her entire performance, he/she may demand the return of such instrument.

Article 488 (Designation of Obligations to be Performed)

(1) In the cases where an obligor owes to a single obligee more than one obligations which requires the performance of the same kind, if any performance tendered to discharge the obligation is not sufficient to extinguish all obligations, the person

who tenders the performance may, at the time of such tender, designate particular obligations to which such performance should be allocated before any others.

- (2) If the person who tenders the performance does not make the designation pursuant to the provision of the preceding paragraph, the person who receives the performance may, at the time of such receipt, designate a particular obligation to which such performance should be allocated before any others; provided, however, that, this shall not apply to the cases where the person who tenders the performance immediately raises his/her objection to such allocation.
- (3) The designation of the performance under the preceding two paragraphs shall be effected by manifesting the intention to the counterparty.

Article 489 (Statutory Allocation)

In cases where neither the person who tenders the performance nor the person who receives such performance does not designate the allocation of performance pursuant to the provision of the preceding Article, the allocation shall be effected as stipulated in each of the following items:

- (i) if the obligations include those which are due and those which are not due yet, the applicable performance shall be allocated to those which are due;
- (ii) if all obligations are due, or none of the obligations are due, the applicable performance shall be allocated in the order of the obligations which shall result in more benefit to the obligor when performed;
- (iii) if all obligations would have equal benefit to the obligor when performed, the applicable performance shall be allocated in the order of the obligations which have, or should have, the earliest due date; and
- (iv) the performance of obligations which are equal in terms of the matters listed in the preceding two items shall be allocated in proportion to the amount of each obligation.

Article 490 (Allocation in cases More than One Performance Should be Tendered)

In the cases where more than one performance should be tendered to discharge a single obligation, if the person who must perform tenders any performance which is not sufficient to extinguish such obligation in its entirety, the provision of the preceding two Articles shall apply *mutatis mutandis*.

Article 491 (Allocation in cases Principal, Interest, and Expenses Should be Paid)

- (1) In cases where the obligor should pay the principal as well as the applicable interest and expenses with respect to one or more obligation(s), if the person who must perform tenders any performance which is not sufficient to extinguish such obligation in its entirety, such performance must be allocated first to the expense, and then to the interest and principal, in this order.

(2) The provision of Article 489 shall apply mutatis mutandis to the cases set forth in the preceding paragraph.

Article 492 (Effect of Tender of Performances)

Upon tendering the performance, the relevant obligor shall be relieved from any and all responsibilities which may arise from the nonperformance of the obligation.

Article 493 (Method of Tender of Performances)

The tender of the performance must be made actually consistent with the main purport of the obligation; provided, however, that, if the obligee refuses to accept such performance in advance, or any act is required on the part of the obligee with respect to the performance of the obligation, it shall be sufficient if the obligor demands the acceptance thereof by giving a notice that the tender of the performance has been prepared.

Division II Deposit of Subject-Matter of Performance

Article 494 (Deposit)

If an obligee refuses, or is unable, to accept the performance, the person who can make the performance (hereinafter in this Division referred to as the "performer") may be relieved from his/her obligation by depositing the subject-matter of the performance with an official depository. The same shall apply in cases the performer is unable to ascertain the obligee without any negligence on the part of the performer.

Article 495 (Method of Deposit)

- (1) The deposit pursuant to the provision of the preceding Article must be made with the official depository having jurisdiction over the district where the relevant obligation must be performed.
- (2) In cases where there is no specific provision in the laws and regulations with respect to the official depository, the court must, at the request of the performer, designate the depository and appoint a custodian of the property to be deposited.
- (3) A person who has effected a deposit pursuant to the provision of the preceding Article must notify the obligee of the deposit without delay.

Article 496 (Recovery of Deposited Property)

- (1) As long as the obligee does not accept the deposit, or the judgment which pronounces that the deposit is effective does not become unappealable, the performer may recover the deposited property. In such case, it is deemed that no deposit has been effected.

(2) The provision of the preceding paragraph shall not apply in cases any pledge or mortgage has been extinguished due to the deposit.

Article 497 (Property Not Suitable for Deposit)

If any subject of the performance is not suitable for deposit, or such property is likely to suffer any loss or damage, the performer may, with the permission of the court, sell such property at public auction and deposit the proceeds of such sales with the official depository. The same shall apply in cases excessive expenses are required for the preservation of such property.

Article 498 (Requirements for Acceptance of Deposited Property)

In cases where the obligor is required to perform in exchange for the performance of the obligee, the obligee may not accept the relevant deposited property unless he/she tenders his/her performance.

Division III Subrogation by Performance

Article 499 (Voluntary Subrogation)

- (1) A person who has performed the obligation for the benefit of an obligor may be subrogated to the claim of the obligee by acquiring the acknowledgment of the obligee upon such performance.
- (2) The provision of Article 467 shall apply mutatis mutandis to the case set forth in the preceding paragraph.

Article 500 (Statutory Subrogation)

A person who has legitimate interest in effecting performance shall be subrogated by operation of law to the claim of the obligee by effecting performance.

Article 501 (Effect of Subrogation by Performance)

A person who is subrogated to the claim of the obligee pursuant to the provisions of the preceding two articles may exercise any and all rights possessed by such obligee as the effect of, and as a security for, such right to the extent he/she may seek reimbursement under his/her own right; provided, however, that:

- (i) unless the fact of subrogation is noted in advance in the register of an applicable statutory lien, pledge of real estate, or mortgage, a guarantor may not be subrogated to the claim of the obligee vis-à-vis any third party acquirer of the real estate which is encumbered by such statutory lien, pledge of real estate, or mortgage;
- (ii) a third party acquirer may not be subrogated to the claim of the obligee vis-à-vis the guarantor;

- (iii) one of the third party acquirers of the real estate shall be subrogated to the claim of the obligee vis-à-vis other third party acquirers in proportion to the value of each real estate;
- (iv) one of the third party pledgors shall be subrogated to the claim of the obligee vis-à-vis other third party pledgors in proportion to the value of each property;
- (v) as between a guarantor and a third party pledgor, the subrogation to the claim of the obligee shall be effected depending on the number of such persons involved; provided, however, that, if there are more than one third party pledgor, such persons shall be subrogated to the claim of the obligee in proportion to the value of each property with respect only to the residual amount which remains after deduction of the portion to be borne by the guarantor; and
- (vi) in the cases referred to in the preceding item, if the property in question is real estate, the provisions of item 1 shall apply mutatis mutandis.

Article 502 (Subrogation by Partial Performance)

- (1) If any performance by subrogation occurs with respect to any portion of a claim, the subrogee shall exercise his/her right together with the obligee in proportion to the value of his/her performance.
- (2) In the case set forth in the preceding paragraph, the cancellation of a contract based on the failure to perform the obligation may be effected only by the obligee. In such case, the obligee must reimburse to the subrogee the value of the performance he/she effected plus interest.

Article 503 (Delivery of Claim Instrument by Obligee)

- (1) An obligee who has received full performance by way of performance by subrogation must deliver to the subrogee the instruments regarding the claim and any security he/she possesses.
- (2) In cases where any performance by subrogation occurs with respect to any portion of a claim, the obligee must enter such subrogation in the instruments regarding the claim and allow the subrogee to supervise the preservation of the security he/she possesses.

Article 504 (Loss of Security by Obligee)

In cases where there exists a person who has the right of subrogation pursuant to the provision of Article 500, if the obligee lost, or diminished, his/her security due to his/her intentional act or negligence, the person who has the right of subrogation shall be relieved to the extent he/she can no longer seek the reimbursement due to such loss or diminution.

Subsection II Set-offs

Article 505 (Requirements for Set-offs)

- (1) In cases where two persons mutually owe to the other any obligation with the same kind of purpose, if both obligations are due, each obligor may be relieved from his/her own obligation by setting off each value thereof against the corresponding amount of the obligation of the other obligor; provided, however, that, this shall not apply to the cases where the nature of the obligation does not permit such set-off.
- (2) The provisions of the preceding paragraph shall not apply in cases where the relevant party manifests his/her intention to the contrary; provided, however, that such manifestation of intention may not be asserted against a third party without knowledge.

Article 506 (Method and Effect of Set-offs)

- (1) Set-offs shall be effected by means of manifestation of one party's intention to the other. In such case, no condition or time limit may be added to such manifestation of intention.
- (2) The manifestation of intention set forth in the preceding paragraph shall take effect retroactively as of the time when the obligations of both parties became due and suitable for set-off.

Article 507 (Set-offs between Obligations with Different Places of Performance)

Set-offs may be effected even if the place of performance of both obligations are different. In such case, the party who intends to effect the set-off shall be liable for any damages suffered by the counterparty as result of such set-off.

Article 508 (Set-offs Intended to Invoke a Claim Extinguished by Prescription)

In cases where any claim which was extinguished by a prescription had been suitable for set-off prior to such extinguishment, the relevant obligee may effect the set-off.

Article 509 (Prohibition of Effecting Set-offs Against Any Claim Arising from Tortious Acts)

If any claim arises from a tortious act, the relevant obligor may not assert the set-off against the obligee.

Article 510 (Prohibition of Set-offs Against Any Claim Immune from Attachment)

If any claim is immune from any attachment, the relevant obligor may not assert the set-off against the obligee.

Article 511 (Prohibition of Set-offs Against Any Claim Subject to Injunction)

A third-party obligor who has been enjoined from making payment may not assert the set-off against any after-acquired claim against the relevant attaching obligee.

Article 512 (Allocation of Set-off)

The provisions of Articles 488 to 491 inclusive shall apply mutatis mutandis to the set-off.

Subsection III Novation

Article 513 (Novation)

- (1) If the parties conclude a contract which changes any element of an obligation, such obligation shall be extinguished by novation.
- (2) It is deemed that an element of obligation has been changed if a conditional obligation is made an unconditional obligation, if a condition is added to an unconditional obligation, or if any condition on an obligation is changed.

Article 514 (Novation by Substitution of Obligor)

A novation by substitution of obligor may be effected between the obligee and a person who becomes the obligor after the novation; provided, however, that, this shall not apply to the cases where it is contrary to the intention of the obligor prior to the novation.

Article 515 (Novation by Substitution of Obligee)

A novation by substitution of obligee may not be asserted against a third party unless it is made using an instrument bearing a fixed date.

Article 516

The provisions of paragraph 1 of Article 468 shall apply mutatis mutandis to the novation by substitution of obligee.

Article 517 (Cases where Obligations Existing Prior to Novation are not Extinguished)

If any obligation which arises by novation is not established or is rescinded on the ground of illegality or due to reasons unknown to the parties, the obligation which existed prior to the novation shall not be extinguished.

Article 518 (Conversion of Security to Obligation After Novation)

To the extent of the purpose of the obligation in effect prior to the novation, the

parties to the novation may convert the pledge or mortgage created as the security of such obligation to the obligation in effect after the novation; provided, however, that, in cases where any third party created such security, the acknowledgment of such third party must be obtained.

Subsection IV Release

Article 519

If an obligee manifests his/her intention to release an obligation to the obligor, such obligation shall be extinguished.

Subsection V Merger

Article 520

If a claim and obligation becomes vested in the same person, such claim shall be extinguished; provided, however, that, this shall not apply to the cases where such claim is the subject-matter of the right of a third party.